



# INSOL EUROPE ACADEMIC FORUM & CENTRE FOR EUROPEAN COMPANY LAW JOINT INSOLVENCY CONFERENCE

FEATURING GUEST SPEAKER:  
DENNIS TURNER – CHIEF ECONOMIST, HSBC



## CROSS-BORDER CRISIS MANAGEMENT IN THE BANKING SECTOR

### 1 & 2 JULY 2010

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# WELCOME



**Bob Wessels**

**Chairman, INSOL Europe  
Academic Forum**

Professor of International  
Insolvency Law

University of Leiden Law School

## About Centre for European Company Law (CECL)

The Centre for European Company Law was established in 2004 as an academic partnership between the Dutch universities of Leiden, Utrecht and Maastricht. The purpose of CECL is to promote the study and further development of company law by focusing on supranational issues. These include both developments in the EU and on other international levels, as well as comparative law. Leiden University acts as the leading partner in CECL, with Professor Dr. Steef M. Bartman, head of the corporate law department of the same University, as co-ordinating director. The main activities of CECL are the publication of the bi-monthly legal periodical **ECL** (*European Company Law*), the development of a series of books (**European Company Law Series**, also published by Kluwer Law International) and bringing together scholars in this field through conferences at two-year intervals.

## Dear Colleagues and Guests,

The Academic Forum of INSOL Europe is organising its third half-year event on 1 – 2 July 2010 at the Faculty of Law of the University of Leiden, in collaboration with the Center for European Company Law, a research institute of the Universities of Maastricht, Utrecht and Leiden. It is the Academic Forum's fifth conference since 2008, including its usual annual meetings held in conjunction with the Annual Congress of INSOL Europe, which this year will be held in Vienna on 13 – 14 October 2010.

The programme of the Joint Insolvency Conference on 1 – 2 July, with the title "Towards a New EU framework for Crisis Management in the Banking Sector" is most promising in at least two respects. The financial crisis has highlighted the importance of putting into place effective cross-border arrangements to handle banking crises. There have been a number of high profile banking failures over the past 18 months (Fortis, Lehman Brothers, Icelandic banks), which have revealed serious shortcomings in the existing arrangements. According to the European Commission's proposals, a new legal framework must be put in place to equip the authorities with the right tools and provide legal certainty for the handling of cross-border banking failures, in ways that minimise costs to taxpayers and allow even the largest banks to fail without damaging overall financial stability. A broad ranging approach to the complex and interlinked issues surrounding crisis management has been suggested: 'early intervention', 'bank resolution' (to consider the inclusion of cross-border banking groups in Directive 2001/24/EC on the Reorganisation and Winding up of Credit Institutions) and 'insolvency', with a binding framework for cooperation and the exchange of information between courts and insolvency practitioners responsible for proceedings relating to affiliated entities in a banking group.

These themes are of tremendous importance for banks and their management, for the insolvency profession and for scholars, where the limits of principles of corporate law and insolvency law will be tested. The topics will be discussed by academics and practitioners, not just from the Netherlands, but from a further ten jurisdictions.

In addition to sharing a wealth of knowledge, I hope you will be able to meet new colleagues and to refresh existing contacts. We hope to be able to launch an initiative for young scholars and academics, whilst INSOL Europe expects to formalise a "lenders group", chaired by Patricia Godfrey, as a platform for continuing (cross-border) discussions, the sharing of views and exchange of experiences. I also trust that you will be able to find some time to visit the beautiful city of Leiden. May I extend a warm welcome to you at the Academic Forum's joint conference, here in Leiden, which at the same time may mark the start of these initiatives going beyond the location of this conference and the University of Leiden Law School.

We are extremely grateful to the following conference sponsors for their support:

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# INTRODUCTION

## Introduction to the Academic Forum

The Academic Forum of INSOL Europe, founded in 2004, is a constituent body of INSOL Europe, a Europe-wide association of practitioners in insolvency. The Academic Forum's primary mission is to engage in the representation of members interested in insolvency law and research, to encourage and assist in the development of research initiatives in the insolvency field and to participate in the activities organised by INSOL Europe. The membership of the Academic Forum includes insolvency academics, insolvency practitioners with recognised academic credentials as well as those engaged in the research and study of insolvency. The Academic Forum meets annually in conjunction with the main conference of INSOL Europe and also arranges half-yearly conferences around suitable themes of interest to the practice and academic communities. Previous meetings have taken place in Prague (2004), Amsterdam (2005), Monaco (2007), Leiden and Barcelona (2008), as well as Brighton and Stockholm (2009).

At the Monaco Conference, Professor Bob Wessels, Professor in International Insolvency Law at the University of Leiden, was elected Chair of the Management Board for a three-year term. Dr. Paul Omar, (University of Sussex, Brighton, United Kingdom) was elected to serve as Secretary to the Board, while Florian Bruder (Max Planck Institute, Hamburg, Germany) and Jessica Schmidt (University of Jena, Germany) are ordinary members of the Board. A Supervisory Committee has also been established as a consultative board for Academic Forum projects. Its membership includes senior insolvency academics and practitioners.

With sponsorship made available by Edwin Coe LLP over a three-year period from 2007 – 2010, the Academic Forum has been able to offer young scholars travel grants to attend its conferences, research grants for scholarly projects as well as prizes for outstanding legal scholarship awarded on the basis of monographs and publications. Edwin Coe LLP has also kindly sponsored an annual lecture to be given by a scholar of international repute. In Barcelona, Professor Jay Westbrook (University of Texas), a distinguished researcher and author within the field of international insolvency, gave the first such lecture, while the second Edwin Coe lecture was presented in Stockholm by Gabriel Moss QC (3/4 South Square), a renowned practitioner and author of numerous works on European insolvency law.

A series of publications arising from Academic Forum conferences was inaugurated in 2009 by reports of the Joint Insolvency Conference at Leiden (5 – 6 June 2008) on the theme of "Crossing (Dutch) Borders in Insolvency" and the Annual Conference in Barcelona (1 – 2 October 2008) on the theme of "The Intersection of Company and Insolvency Law". These have also been joined by papers from the Sussex and Stockholm conferences in early 2010. The publications contain papers delivered by the speakers and panellists at those conferences. Ancillary texts (draft laws/rules) debated at the conferences are also included and it is intended that the publications form a comprehensive report of the conferences and contain accounts of recent research in the insolvency field that will be useful for academics and practitioners alike.

Enhancing existing links within the academic insolvency world, the Academic Forum has embarked on a new phase of co-operation with the INSOL International Academic Group, under the chairmanship of Professor Ian Fletcher (University College London), with view to expanding the membership base and attracting researchers and scholars to attend and deliver papers at the conferences of both organisations. This co-operation will also see reciprocal advertising of group conferences and events and the development of links through the websites of the respective groups.



**Paul Omar**  
**Secretary, INSOL Europe**  
**Academic Forum**

University of Sussex, UK

## Next meeting

The Academic Forum's next meeting after Leiden will be the Annual Conference taking place in conjunction with the INSOL Europe conference in Vienna on 13 – 14 October 2010. Details of this conference and other academic events sponsored by the Academic Forum will be posted at the Academic Forum website: [www.insol-europe.org/academic/](http://www.insol-europe.org/academic/) as and when available. On-line registration for academic conferences will also feature on the website.

## Information

Further information about the work of the Academic Forum can be obtained via the Academic Forum website or from the Secretary via email at: [paulo@sussex.ac.uk](mailto:paulo@sussex.ac.uk)

# PROGRAMME



## Thursday 1 July 2010

- 13.00 – 13.30 **Registration – Coffee**
- 13.30 – 13.35 **Welcome to the Conference**  
Patricia Godfrey, Nabarro LLP  
Professor Bob Wessels, Leiden Law School
- 13.35 – 13.45 **Welcome to Leiden Law School: Internationalisation of education and research in law in Leiden**  
Professor Carel Stolker, Dean, Leiden Law Faculty
- 13.45 – 14.55 **Session 1: Supervision and Early Intervention by Supervisors**  
Chair: Paul Omar, University of Sussex
- 13.45 – 14.05 **Beyond the Banking Crisis: strategic responses to risk management and level and quality of capital**  
Michiel Boots, Deputy Head of Financial Stability, Ministry of Finance, The Netherlands
- 14.05 – 14.25 **Renewed approaches to supervision of the banking sector in the EU**  
Prof. Dr. Rogier Raas, Partner, Stibbe; Professor of Banking and Securities Law, Leiden Law School
- 14.25 – 14.45 **Commentary**  
Martine Gerber, Partner  
Oostvogels Pfister Feyten, Luxembourg
- 14.55 – 15.15 **Coffee/Tea break**
- 15.15 – 17.30 **Session 2: Supervision and Early Intervention by Supervisors (continued)**  
Chair: Eric Selander, Swedbank, Sweden
- 15.15 – 15.30 **Response to Commentary**  
Michiel Boots  
Rogier Raas
- 15.30 – 15.50 **Role and Function of the European Banking Authority**  
Andrew Campbell – Reader in International Banking & Finance Law, School of Law, Leeds University, UK
- 15.50 – 16.10 **Early intervention measures**  
Simon Lelieveldt, Head of Department on Banking Supervision and Financial Markets Nederlandse Vereniging van Banken (Dutch Bankers Association)
- 16.10 – 16.30 **Commentary**  
Martin E. Lybecker, Partner,  
Wilmer Cutler Pickering Hale and Dorr LLP, Washington DC
- 16.30 – 16.45 **Response to Commentary**  
Andrew Campbell & Simon Lelieveldt
- 16.45 – 17.10 **Country overview of intervention measures**  
Vincenzo De Sensi, Studio Visentini, Italy  
& Patrick Molloy, Matheson Ormsby Prentice, Ireland
- 17.10 – 17.30 **Q&A from the floor**
- 17.30 – 18.00 **Drinks Reception in Academy Building**
- 18.45 – 21.15 **Dinner in Woods Restaurant**  
*(18.15 Coach departs from Witte Singel near the Patersbrug;  
21.30 Coach return to Leiden Molen, Molenwerf)*  
Guest Speaker: Dennis Turner, Chief Economist, HSBC, UK

## Friday 2 July 2010

- 08.15 – 09.00 **Registration – Coffee**
- 09.00 – 10.10 **Session 3: Resolution and Insolvency in Cross-border Banking Cases**  
Chair: Sijmen de Ranitz, Past President INSOL International
- 09.00 – 09.25 **The present EU legislative framework on reorganisation and winding-up of banks**  
Professor Bob Wessels, Leiden Law School
- 09.25 – 09.50 **The case of Fortis bank**  
Prof. Steef M. Bartman, Professor Corporate Law, Leiden Law School, Counsel to DLA, Amsterdam
- 09.50 – 10.00 **Commentary**  
Ben Knüppe, Chairman, Dexia Bank Nederland N.V.
- 10.00 – 10.10 to be announced
- 10.10 – 10.30 **Coffee/Tea break**
- 10.30 – 12.30 **Session 4: Resolution and Insolvency in Cross-border Banking Cases (continued)**  
Chair: Tomas Richter; Lecturer, Institute of Economic Studies, Charles University, Prague
- 10.30 – 10.55 **Banking resolution tools**  
to be announced
- 10.55 – 11.05 **Commentary**  
to be announced
- 11.05 – 11.30 **Mechanisms for cross-border sharing of information and cooperation**  
Reinhard Dammann, Partner Clifford Chance LLP, Paris
- 11.30 – 11.40 **Commentary**  
Carlos Mack, White & Case LLP, München
- 11.40 – 12.05 **What should be the Central Bank response to cases such as Icesave and DSB Bank?**  
Prof. Hélène M. Vletter-Van Dort, Securities Law Groningen
- 12.05 – 12.15 **Commentary**  
Andrew Spiers, Hawkpoint Partners Ltd, London
- 12.15 – 12.30 **Q&A from the floor**
- 12.30 – 13.45 **Lunch**
- 13.45 – 15.15 **Session 5: Towards a harmonised insolvency regime for banks?**  
Chair: Prof. Stefania Bariatti, Chiomenti/Professor of Private International Law, University of Milan
- 13.45 – 14.15 **The problems in practice: Landsbanki/Icesave**  
Jasper Berkenbosch, assistant to the Administrators of Icesave (Dutch branch Landsbanki), Partner DLA Piper, Amsterdam
- 14.15 – 14.45 **The problems in practice: Kaupthing Norway**  
Siv Sandvik, administrator Kaupthing, DLA Piper, Oslo
- 14.45 – 15.15 **The problems in practice: Lehman Brothers Treasury Co. B.V.**  
Rutger Schimmelpennick, administrator Lehman Brothers Treasury Co. B.V.; Houthoff Buruma, Amsterdam
- 15.15 – 16.10 **Session 6: Round-Table**  
Chair: Patricia Godfrey, Nabarro LLP  
Speakers to include: Martin E Lybecker (Wilmer Cutler Pickering Hale and Dorr LLP, Washington DC)  
Reinhard Dammann (Clifford Chance & Partners, Paris)  
Paolo Castagna (Unicredit HVB)  
Loes Lennarts (Professor of Company Law, Molengraaff Institute of Private Law, University of Utrecht)  
Andrew Spiers (Hawkpoint Partners Ltd, London)
- 16.10 – 16.15 **Closing Remarks**  
Professor Bob Wessels, Leiden Law School



# GENERAL INFORMATION



## Introduction to Leiden

Leiden is an authentic Dutch city with a rich tradition of knowledge, science, culture and international relations. Education, research and modern forms of employment at every level are characteristic of the city. Leiden, strategically situated in the west of Holland, is the location for national and international companies. The city is close to the international airports of Amsterdam (Schiphol) and Rotterdam. Main highways are within easy reach. There is an excellent public transport system. All these factors combine to make Leiden a dynamic and attractive home for companies. A picturesque, historic city center, a pleasant residential climate, comfortable housing and top-class facilities complete the picture.

When walking through Leiden its rich history still seems very much alive. This is where Rembrandt was born and developed his painting skills and where Clusius brought the first Dutch tulips into flower. Leiden has 12 museums, all worth a visit. The priceless and unique collections on show enjoy international fame. Leiden's atmosphere is largely determined by the first university in Holland (1575), which has developed into a world-famous centre of science, while its many students contribute to the lively and convivial atmosphere in the city.

For further information on Leiden, please visit

[www.visitors.leiden.edu/buildings/academiegebouw.html](http://www.visitors.leiden.edu/buildings/academiegebouw.html)

## Travelling to Leiden

Leiden can be reached easily by air and railway. Schiphol is a major hub in international air transportation, and The Hague, Schiphol and Amsterdam are linked to two high speed train connections: to the south (Brussels and Paris) and to the east (Cologne and Frankfurt). Regular Dutch railways offer excellent connections to Leiden, even at night. If you consider flying low-cost: easyJet offers flights to Schiphol from the UK (many cities), Italy (Milan) and Switzerland. Other low cost airlines are Transavia.com and Ryanair.com (which only fly to Eindhoven, still 2 hours by train from Leiden). The link 'Low cost airline connections' offers an overview of all connections to the Netherlands.

## Hotel Information

INSOL Europe have negotiated a corporate rate at the 4\* Golden Tulip Leiden Centre Hotel ([www.goldentulipleidencentre.nl](http://www.goldentulipleidencentre.nl)) of €125 per room per night to include breakfast. We would encourage early booking as Leiden is a popular destination during the summer months. To make a reservation, please contact [reservations@goldentulipleidencentre.nl](mailto:reservations@goldentulipleidencentre.nl) quoting the group code INSOL Europe 93879

## Joining Instructions

Final joining instructions will be sent by email early June 2010.

## Cancellation Of Attendance

Refunds will not be given for any cancellations received after 15 June 2010.

## Travel & Health Insurance

INSOL Europe and CECL shall not be responsible for, and shall be exempt from, all liability in respect of any loss, damage, injury, accident, delay or inconvenience to any person during the Conference. It is the delegate's own responsibility to be adequately insured in case of claims pertaining to travel/accidents for the duration of their visit.

For further information, please contact [carolinetaylor@insol-urope.org](mailto:carolinetaylor@insol-urope.org) or telephone +44 (0) 115 8780584

# REGISTRATION FORM



Please note that this form is for registration only and does not include accommodation

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Registration Fees:	INSOL Europe Member	€795
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	Full time academic	€250
	Student (excluding dinner on 1 July)	€100
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