

# **THE JUDICIAL INSOLVENCY NETWORK: A READY RESPONSE IN AN IMPERFECT WORLD**

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### **I. Introduction**

1. I feel very privileged to be here today. Having listened to the presentations made before this, I find myself struck by both the ingenuity of the insights and innovations that have been shared and the genuine enthusiasm with which they have been received. It is apparent that there is here a palpable sense of a shared desire to exchange ideas, build bridges and construct frameworks in the endeavour to forge practical solutions to common legal problems.

2. Today, I hope to leverage this diverse and energetic platform to speak about a topic that demands our immediate attention, namely, cross-border insolvency. I have chosen this subject because a set of twin realities have resulted in an incongruous state of affairs. The first of these realities is that

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commerce has become increasingly transnational in nature, with the consequence that the collapse of even a single corporate entity can frequently engage the legal systems of multiple jurisdictions – what more the collapse of multinational corporate groups. Juxtaposed against that, however, is the opposite reality that the philosophical underpinning and content of many of those legal systems still very much rest within a parochial frame, thus militating against the orderly, efficient and fair recycling of the fallen corporate’s global assets.<sup>1</sup>

3. In an ideal world, both these hemispheres—the commercial and the legal—would be turning harmoniously upon the same axis. Unfortunately, we are not in that happy equilibrium.<sup>2</sup> Yet as important stakeholders and stewards of the law, we *are* in the driver’s seat from which we can effect meaningful change. This is my message to you today: that we have both the privilege and the responsibility to apply our minds carefully, creatively and collaboratively to help our insolvency laws catch up to the realities of modern commerce that they are after all intended to govern and support.

4. In this address, I want to bring to your attention recent efforts that have been directed towards this salutary objective and which have already borne fruit in the form of the Judicial Insolvency Network, or “JIN” for short. I shall elaborate on various aspects of the JIN later but, for the moment, allow me to paint the backdrop which stimulated its creation in the first place. Here, I return

to flesh out the twin realities which I spoke of just a moment ago.

## **II. A landscape transformed**

5. Let me begin with the commercial side of the equation. As I have said, it has changed dramatically. Business used to be conducted and understood as a largely domestic proposition but it has now become unmistakably global.

6. The momentum for this change became truly discernible in the aftermath of the Second World War. Isolationist economic policies that grew out of a period of sustained conflict were discarded as policymakers turned to embrace free market economics and international trade as essential drivers for economic progress.<sup>3</sup> The birth of the World Trade Organisation and its precursor, the General Agreement on Tariffs and Trade, are testament to the recognition that states gave to the promotion of multilateral trade and their active commitment towards that end. And gradually, as national economies liberalised and trade partnerships formed, the idea of a truly *global* market began to materialise, epitomised by the remarkable proliferation of bilateral investment treaties in the 1990s – a decade which had begun with some 900 such treaties ended with almost 3,000.<sup>4</sup> In like fashion, the number of regional trade agreements have also grown exponentially by almost sixfold in the last 30 years.<sup>5</sup>

7. If the overarching story since the conclusion of the Second World War

has been one of sustained economic convergence, there is plenty to suggest that much of its next chapter is likely to be written here in Asia.<sup>6</sup> A few recent developments will help make this point. First, the ASEAN Economic Community (“AEC”) was formed at the end of 2015. The AEC aims to integrate the diverse economies of ASEAN’s 10-member grouping in a single market and, with the anticipated lowering of trade barriers, it is projected to propel the region towards becoming the fourth largest economy in the world by 2030.<sup>7</sup> Second, the 16 Asian nations seeking to conclude the Regional Comprehensive Economic Partnership (“RCEP”) also appear from last November’s negotiations to be on the final lap. Indications are that the RCEP is poised for completion this year and, if that comes to pass, the world’s largest trading bloc comprising a third of global gross domestic product (“GDP”) will have come into being.<sup>8</sup> And finally, the Belt and Road Initiative (“BRI”) announced by President Xi Jinping in 2013 promises to make commerce even more global than it already is by opening up a vast network of new overland and maritime trading arteries. From South-east Asia to Eastern Europe and Asia, infrastructural projects along the BRI will span 71 countries that account for half the world’s population and a quarter of global GDP.<sup>9</sup>

8. In this increasingly integrated world, business has been rendered borderless. This is a truism of modern commercial life and it finds expression in the way that many large Chinese conglomerates conduct their business in connection with the BRI. But what is perhaps more remarkable about today’s

global economy is how simple it has become for even modest enterprises to elevate their businesses on to a transnational plane. The reason for this is technology. As the McKinsey Global Institute has coined it, this is the age of “*digital globalization*” where “[e]ven the smallest enterprises can be born global” because a multitude of online platforms exist for them to plug into and, in so doing, unlock global markets.<sup>10</sup> It has in fact been observed by the United Nations Conference on Trade and Development that the increased participation of small and medium enterprises in global trade might well drive trade growth in the future.<sup>11</sup>

9. The natural corollary of businesses going global is that their failures, too, will trigger repercussions that transcend borders. Take for example, the collapse of Lehman Brothers in 2008, which led to more than 75 proceedings being instituted across a range of jurisdictions, including the United States, Australia, the United Kingdom, Switzerland and Singapore.<sup>12</sup> Or the liquidation of the Nortel group of companies a year later. The fall of this Canadian telecommunications giant with more than 130 subsidiaries in 100 countries resulted in proceedings being commenced across Europe, the United States and Canada.<sup>13</sup>

10. As my colleague, Justice Kannan Ramesh, a leading international insolvency judge, has said, the “big question” to be asked in these circumstances is whether our insolvency laws have adjusted satisfactorily to

meet the transformed commercial landscape.<sup>14</sup> It is therefore to the legal side of the equation that I now turn.

### **III. A distant dream**

11. The UNCITRAL Legislative Guide on Insolvency Law gives us this succinct but sobering snapshot of the current state of our insolvency laws:<sup>15</sup>

... [N]ational insolvency laws have by and large not kept pace with the trend [of increasing cross-border insolvencies] ... This frequently results in inadequate and inharmonious legal approaches, which hamper the rescue of financially troubled businesses, are not conducive to a fair and efficient administration of cross-border insolvencies, impede the protection of the assets of the insolvent debtor against dissipation and hinder maximization of the value of those assets.

12. In a word, the problem is one of fragmentation. That the commercial fact of the collapse of a single multinational entity or group should often translate into the legal reality of multiple proceedings commenced in multiple fora that apply a multitude of laws independent of one another is not ideal for the orderly collection, distribution and maximisation of the debtor's assets. Rather, the splintered nature of proceedings is likely to pose a variety of difficult legal questions such as those relating to the recognition and enforcement of foreign insolvency proceedings and judgments, the recognition of claims of foreign creditors, and the assistance to be rendered by national courts to foreign insolvency administrators.<sup>16</sup> It also increases the

risk of inconsistent decisions,<sup>17</sup> forum shopping,<sup>18</sup> and arbitrariness, given that “individual outcomes would depend on where the assets, debtors, and creditors happened to be”.<sup>19</sup> The end result is one of higher costs, prolonged delays, and a debilitating uncertainty that is anathema to commerce.

13. For many in the international insolvency community, the solution to these problems is “universalism”, which is the idea that there should be a single forum applying a single set of laws to govern each multinational insolvency.<sup>20</sup> Imagine the possibilities if such an idea could be crystallised in a binding international convention. A single court could command a worldwide stay of all related proceedings to most effectively protect the debtor’s assets prior to sale.<sup>21</sup> It could also significantly improve the prospects of rehabilitation by serving as the sole authority to whom the insolvency administrator reports, and before whom a mechanism for adjusting the interests of stakeholders on a worldwide scale can be agreed.<sup>22</sup> At the same time, a single, unified insolvency law would create a single set of priorities, rules of avoidance, and method of distribution, “ensuring equality for stakeholders with similar legal rights everywhere in the world”.<sup>23</sup>

14. But if this is the ideal to which we should aspire, we are far from its realisation. As Sir Peter Millett, the esteemed former Law Lord observed extrajudicially, a number of English judges were already drawing attention to the “crying need” for an international insolvency convention as early as some 30

years ago.<sup>24</sup> Since then, commerce has only grown more transnational to underscore the profound difference that such a convention might make. Yet the international community remains some distance away from reaching the kind of broad and hard-won consensus that would form the basis for a binding insolvency treaty.

15. This should hardly come as a surprise because bridging towards that distant dream would require a significant amount of ideological and practical compromise and substantive legal convergence. After all, the design of each country's insolvency laws is a product of a "multitude of social and economic considerations and compromises";<sup>25</sup> each is a response to a unique set of political exigencies and a reflection of the particular policy preferences of its citizens.<sup>26</sup> The inevitable result is a high degree of variance in insolvency laws across national systems. These differences can range from specific legal rules, such as those concerning the treatment of foreign creditors, to the overarching goals of the insolvency process altogether, such as whether it aims to prioritise creditor returns or job preservation.<sup>27</sup>

16. Given this "patchwork"<sup>28</sup> of national insolvency laws, it will not be easy to forge a common consensus at a supranational level for the governance of international insolvencies that can obtain in a binding legislative instrument. But once this reality is accepted, attention must then turn swiftly to consider more reachable alternatives. In this regard, it is pertinent to note that there is



a growing convergence today towards the ideological middle ground known as “modified universalism”.<sup>29</sup> As explained by Lord Hoffman, modified universalism envisages that “[local] courts should, so far as is consistent with justice and [local] public policy, co-operate with the courts in the country of the principal liquidation to ensure that all the company’s assets are distributed to its creditors under a single system of distribution”.<sup>30</sup> In other words, what modified universalism seeks to do is to reach, by means of sensible judicial co-operation, as unified a system of distribution as possible within the constraints of multiple concurrent proceedings and while maintaining respect for domestic public policy concerns.

17. As one might notice, it is integral to this particular approach that there be *co-operation between courts*. Indeed, if the many problems associated with cross-border insolvencies stem from the fragmentation of proceedings, the logical solution must lie in building a sense of coherence and cohesion among the different courts to replicate, if not the fact of, then at least the *effect* of what a single unified set of proceedings might achieve. This is precisely what the JIN hopes to encourage and I shall turn now to consider it in greater detail.

#### **IV. A ready response**

18. The JIN is a network of insolvency judges from around the world who have come together in common recognition of the important contributions that courts can make towards addressing the challenges of cross-border

insolvency.<sup>31</sup> Through the platform which the JIN provides, these judges are able to convene regularly, engage in sustained conversation, and undertake a number of projects, all in furtherance of the network's salutary aims of facilitating court-to-court communications and cooperation, developing best practices, and providing judicial thought leadership.

19. The JIN was established at its inaugural conference held in Singapore in October 2016. That conference was attended by judges from Australia (Federal Court and New South Wales), Bermuda, the British Virgin Islands, Canada (Ontario), the Cayman Islands, England & Wales, Singapore and the United States of America (Delaware and Southern District of New York), as well as a judge from Hong Kong SAR, who joined as an observer. Since then, the JIN's ranks have steadily grown. At the JIN's second conference held last September in New York, it brought together judges from close to 20 courts. Among the new participants were judges from the state of Florida in the United States of America, Sao Paulo in Brazil, and Argentina. Judges from the US Bankruptcy Court for the Southern State of Texas, the Seoul Bankruptcy Court, the Tokyo District Court and the Supreme Court of Japan also attended that conference as observers.

20. The confident growth of the JIN over such a relatively short space of time certainly owes much to the integrity of its mission and the import of its early accomplishments. Indeed, it is apt that I return briefly to the JIN's

inaugural conference to mention that it culminated in the issuance of a set of “Guidelines for Communication and Cooperation between Courts in Cross-Border Insolvency Matters”.<sup>32</sup> Better known as the JIN Guidelines, these guidelines represent the first time that a common framework has been developed by judges, for judges, to communicate and coordinate with each other in cross-border insolvency matters on a global level.<sup>33</sup> In this regard, key areas that the JIN Guidelines encourage cooperation in include the sharing of orders, judgments and other court papers relating to the parallel proceedings; the recognition of foreign court orders without further proof; the giving of notice of proceedings in one jurisdiction to parties in proceedings in another jurisdiction; and even the conduct of joint hearings where appropriate. The landmark significance of the JIN Guidelines has not been lost on the international insolvency community; indeed, it was recognised at the Global Restructuring Review Awards in 2017 as the “Most Important Overall Development”. To-date, they have been adopted by 10 courts from around the world.

21. It is perhaps useful that I illustrate with an example the potential benefits to be gained from a coordinated approach between insolvency courts. And here, I would gratefully borrow from Professor Jay L Westbrook’s case study on the collapse some years ago of InverWorld, a North American financial company that was found to have defrauded investors in the United States and Latin America of hundreds of millions of dollars.<sup>34</sup> In the wake of

InverWorld's collapse, insolvency proceedings were commenced in the United States, the Cayman Islands and England. However, a protocol was then agreed which led to the English proceedings being discontinued, subject to certain conditions protecting the creditors in those proceedings. Provision was also made for the allocation of different functions among the two other courts. In this regard, it was left to the United States court to resolve the legal and factual issues relating to the entitlements of the remaining classes of creditors, while the Cayman Islands court was given oversight of the creation and operation of a mechanism for the distribution of proceeds to the claimants. To avoid parallel litigation, the protocol also provided that each court's decisions would be binding on the other. Ultimately, as Professor Westbrook observes, "the process agreed to in the protocol led to a worldwide settlement at a cost far less than would have attended a three-court struggle".<sup>35</sup>

22. The InverWorld case is a striking example of how meaningful cross-court communication and cooperation can change the complexion of an entire case. Just as an approach of judicial apathy or antagonism to parallel foreign proceedings will no doubt stymie the liquidation process, so conversely can an enlightened approach of judicial communication, cooperation and comity streamline it into an efficient and coordinated exercise. The JIN Guidelines are an embodiment of precisely these values and, encouragingly, they formed the basis of a cross-border protocol that was approved last year by the Singapore High Court and the US Bankruptcy Court (Southern District of New York) to

jointly manage the insolvency of Ezra Holdings Ltd, a leading global offshore services provider.<sup>36</sup>

23. As Singapore's Chief Justice, Sundaresh Menon, has observed, the creation of the JIN Guidelines, its steady adoption by states, and, now, its invocation in a real-life case are "ground-breaking changes which were unimaginable a few years ago".<sup>37</sup> These are no doubt milestones that the JIN can rightly take pride in but, at the same time, it is crucial to keep our focus on the future, to think of new innovations, and to pursue them with conviction. I therefore personally found it most reaffirming to be part of the lively exchanges that took place at last year's JIN Conference, where the continued commitment of my fellow judicial colleagues to improving the cross-border insolvency experience was plain to see. Indeed, the discussions at that conference led to the swift formation of several sub-committees to spearhead different projects that have a focus on certain pressing issues in cross-border insolvency law and practice. For example, one sub-committee of JIN judges will be looking to produce a set of core principles on the recognition of foreign insolvency proceedings, while another sub-committee will be devising a set of modalities for court-to-court communication to guide international stakeholders on how courts from diverse legal, cultural and language backgrounds can communicate effectively.<sup>38</sup>

24. It is clear that the JIN has built impressively on its promising

beginnings and my hope today is that many of you, especially the relevant Chinese courts dealing with insolvency matters, will be inspired to be a part of this exciting initiative. Indeed, it goes without saying the doors to the JIN are always open and your interest in it will be most welcomed. It is after all the JIN's objective to foster a convergence in judicial attitudes and philosophies on cross-border insolvency matters on a *global* scale. That entails a deeper understanding of all the different legal systems of the world and what better way to acquire it than through your intimate participation in the broader conversation. I therefore urge you to seriously consider being involved in the JIN – to bring your expertise to bear on its work, to collaborate with fellow judges just as we are doing today, and in time, to benefit from a deep “spirit of trust”<sup>39</sup> between courts that will give to the international business community the same kind of certainty, stability, and confidence that they might expect only from hard laws. If this appeals to you but you would like to know more about the JIN before joining as a member, then do consider coming on board first as an observer. Take the opportunity for yourself to see up close how we operate. Then, if you are convinced about the work that we do and committed to the vision that we hope to achieve, pledge your formal support. I eagerly await your participation in the JIN in one capacity or the other.

## **V. Conclusion**

25. Let me conclude with the observation with which I began. We live in an imperfect world where the circumstances of commerce have parted

company with the logic of the law. In response to this disconnect, many have presented universalism as the perfect solution; yet the reality is that an international insolvency convention organised around this animating principle remains tantalisingly out of reach. That, however, should not lead to despair. For even though the making of hard laws may be a bridge too far for our policymakers today, there is still room for our courts to take the lead and the initiative in order to develop soft law norms that can guide the international insolvency community towards a common understanding of how parallel insolvency proceedings might be conducted. That is precisely what the JIN seeks to do. It is not, of course, a complete answer to all the challenges of cross-border insolvency. But I daresay that its practicality in the present allied with its promising vision of the future makes it as attractive a proposition as any to ameliorate the ills of fragmentation. On that note, do indulge me as I echo my earlier call for you to join the JIN; to use it as a platform from which you might contribute towards the shaping of frameworks and attitudes in an area of the law that is increasingly intertwined with the social and economic prosperity of our communities.

26. Thank you all very much.

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<sup>1</sup> See the speech delivered by Justice Kannan Ramesh at the International Association of Insolvency Regulators' Annual Conference and General Meeting 2016, "Cross-Border Insolvencies: A New Paradigm" at para 11, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/IAIR%202016%20Speech%206%20September%202016.pdf>.

<sup>2</sup> See Sir Peter Millett, "Cross-Border Insolvency: The Judicial Approach" (1997) 6 *INSOL International Insolvency Review* 99, observing that "[l]egal theory, based on the territorial jurisdiction of the courts of the national state, has parted company with commercial reality and the needs of modern business".

<sup>3</sup> See, generally, Andrew G Terborgh, "The Post-War Rise of World Trade: Does the Bretton Woods System Deserve Credit?" (September 2003), Economic History Working Paper No 78/03, London School of Economics and Political Science, accessible at <http://eprints.lse.ac.uk/22351/1/wp78.pdf>.

<sup>4</sup> See M Sornarajah, *The International Law on Foreign Investment* (Cambridge University Press, 3<sup>rd</sup> Ed, 2010) at p 35.

<sup>5</sup> See the World Bank's website on Regional Trade Agreements, reporting that while there were only 50 regional trade agreements in force in 1990, this number had grown to more than 280 by 2017, accessible at <https://www.worldbank.org/en/topic/regional-integration/brief/regional-trade-agreements>.

<sup>6</sup> Indeed, we are in an era which is often described in the literature as the "Asian Century", a term which reflects the growing economic might of Asia as fuelled by regional cooperation and convergence: see, for example, the report by the Asian Development Bank, "Asia 2050: Realizing the Asian Century", accessible at <https://www.adb.org/sites/default/files/publication/28608/asia2050-executive-summary.pdf>; see also the Forbes article, "One easy way to invest in the "Asian Century" (15 June 2017), accessible at <https://www.forbes.com/sites/greatspeculations/2017/06/15/one-easy-way-to-invest-in-the-asian-century/#f214603364b1>.

<sup>7</sup> See the Straits Times article, "6 things you need to know about ASEAN Economic Community" (13 October 2015), accessible at <https://www.straitstimes.com/business/6-things-you-need-to-know-about-asean-economic-community>.

<sup>8</sup> See the Straits Times article, "Talks on RCEP trade pact taking 'much longer than usual, but set for 2019 completion: PM Lee" (14 November 2018), accessible at <https://www.channelnewsasia.com/news/singapore/talks-rcep-longer-than-usual-2019-completion-lee-hsien-loong-10930098>.

<sup>9</sup> See the Guardian article, "What is China's Belt and Road Initiative" (30 July 2018), accessible at <https://www.theguardian.com/cities/ng-interactive/2018/jul/30/what-china-belt-road-initiative-silk-road-explainer>.

<sup>10</sup> See the McKinsey Global Institute report, *Digital Globalization: The New Era of Global Flows* (March 2016) at p 7, accessible at <https://www.mckinsey.com/~media/mckinsey/business%20functions/mckinsey%20digital/our%20insights/digital%20globalization%20the%20new%20era%20of%20global%20flows/mgi-digital-globalization-full-report.ashx>.

<sup>11</sup> See the United Nations Conference of Trade and Development report, *Key Statistics and Trends in International Trade 2015*, at p 10, accessible at [https://unctad.org/en/PublicationsLibrary/ditctab2015d1\\_en.pdf](https://unctad.org/en/PublicationsLibrary/ditctab2015d1_en.pdf).

<sup>12</sup> See the speech delivered by Justice Kannan Ramesh at the International Association of Insolvency Regulators' Annual Conference and General Meeting 2016, "Cross-Border Insolvencies: A New Paradigm" at para 8, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/IAIR%202016%20Speech%206%20September%202016.pdf>.



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<sup>13</sup> See LexisNexis article, “Implementing a global settlement of disputes (Re Nortel Networks UK Ltd and other companies)” (19 December 2016), accessible at <https://blogs.lexisnexis.co.uk/content/restructuring-and-insolvency/implementing-a-global-settlement-of-disputes-re-nortel-networks-uk-ltd-and-other-companies>; see also Mondaq article, “Nortel – Finally, the ground-breaking cross-border bankruptcy settlement” (18 January 2017), accessible at <http://www.mondaq.com/uk/x/561154/Insolvency+Bankruptcy/Nortel+finally+the+groundbreaking+crossborder+bankruptcy+settlement>.

<sup>14</sup> See the speech delivered by Justice Kannan Ramesh at the International Association of Insolvency Regulators’ Annual Conference and General Meeting 2016, “Cross-Border Insolvencies: A New Paradigm” at para 10, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/IAIR%202016%20Speech%206%20September%202016.pdf>.

<sup>15</sup> See UNCITRAL Legislative Guide on Insolvency Law (2005) at p 310, accessible at [https://www.uncitral.org/pdf/english/texts/insolven/05-80722\\_Ebook.pdf](https://www.uncitral.org/pdf/english/texts/insolven/05-80722_Ebook.pdf).

<sup>16</sup> See S Chandra Mohan, “Cross-border Insolvency Problems: Is the UNCITRAL Model Law the Answer” (2012) 21(3) International Insolvency Review 199 at p 2.

<sup>17</sup> See, generally, Professor Rosalind Mason and John Martin, “Conflict and Consistency in Cross-border Insolvency Judgments”, accessible at [http://www.uncitral.org/pdf/english/congress/Papers\\_for\\_Programme/46-MASON\\_and\\_MARTIN-Conflict\\_and\\_Consistency\\_in\\_Cross\\_border\\_Insolvency\\_Judgments.pdf](http://www.uncitral.org/pdf/english/congress/Papers_for_Programme/46-MASON_and_MARTIN-Conflict_and_Consistency_in_Cross_border_Insolvency_Judgments.pdf).

<sup>18</sup> See, generally, Wolf-Georg Ringe, “Insolvency Forum Shopping, Revisited” (2017) Hamburg Law Review 38.

<sup>19</sup> See the keynote address delivered by Chief Justice Sundaresh Menon at the 18<sup>th</sup> Annual Conference of the International Insolvency Institute 2018, “The Future of Cross-Border Insolvency: Some Thoughts on a Framework Fit for a Flattening World” at para 20(c), accessible at [https://www.supremecourt.gov.sg/docs/default-source/default-document-library/\(iii-conference-2018\)-keynote-address-by-sundaresh-menon-cj.pdf](https://www.supremecourt.gov.sg/docs/default-source/default-document-library/(iii-conference-2018)-keynote-address-by-sundaresh-menon-cj.pdf).

<sup>20</sup> See Jay Lawrence Westbrook, “A Global Solution to Multinational Default” (2000) 98 Michigan Law Review 2276 at p 2292; see also Sandeep Gopalan and Michael Guihot, “Recognition and Enforcement in Cross-Border Insolvency Law: A Proposal for Judicial Gap-Filling” (2015) 48 Vanderbilt Journal of Transnational Law 1225 at p 1228.

<sup>21</sup> See Jay Lawrence Westbrook, “A Global Solution to Multinational Default” (2000) 98 Michigan Law Review 2276 at p 2293.

<sup>22</sup> See Jay Lawrence Westbrook, “A Global Solution to Multinational Default” (2000) 98 Michigan Law Review 2276 at p 2293.

<sup>23</sup> See Jay Lawrence Westbrook, “A Global Solution to Multinational Default” (2000) 98 Michigan Law Review 2276 at p 2293.

<sup>24</sup> See Sir Peter Millett, “Cross-Border Insolvency: The Judicial Approach” (1997) 6 INSOL International Insolvency Review 99 at p 109.

<sup>25</sup> See the Singapore Court of Appeal’s judgment in *Beluga Chartering GmbH (in liquidation) and others v Beluga Projects (Singapore) Pte Ltd (in liquidation) and another (deugro (Singapore) Pte Ltd, non-party)* [2014] 2 SLR 815 at [81].

<sup>26</sup> See Sandeep Gopalan and Michael Guihot, “Recognition and Enforcement in Cross-Border Insolvency Law: A Proposal for Judicial Gap-Filling” (2015) 48 Vanderbilt Journal of Transnational Law 1225 at p 1227.

<sup>27</sup> See Nora Wouters and Alla Raykin, “Corporate Group Cross-Border Insolvencies between the United States and European Union: Legal and Economic Developments” (2013) 29 Emory Bankruptcy Developments Journal 387.

<sup>28</sup> See Sandeep Gopalan and Michael Guihot, “Recognition and Enforcement in Cross-Border Insolvency Law: A Proposal for Judicial Gap-Filling” (2015) 48 Vanderbilt Journal of Transnational Law 1225 at p 1228.

<sup>29</sup> See the lecture delivered by Sir Geoffrey Vos in the Supreme Court of Singapore on 26 October 2017, “Modified Universalism: <sup>17</sup>Do we know what it means?”, accessible at

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<https://www.supremecourt.gov.sg/docs/default-source/default-document-library/sjc/modified-universalism-do-we-now-know-what-it-means.pdf>.

<sup>30</sup> See *In re HIH Casualty and General Insurance* [2008] 1 WLR 852 at [30].

<sup>31</sup> For more information on the JIN, please see the JIN's official website, "About us", accessible at <http://www.jin-global.org/about-us.html>.

<sup>32</sup> For more information on the JIN Guidelines, see the JIN's official website, "Initiatives", accessible at <http://www.jin-global.org/jin-guidelines.html>.

<sup>33</sup> See the Ministry of Law press release, "Singapore recognised as most improved jurisdiction at inaugural global restructuring review awards" (22 June 2017) at para 6, accessible at <https://www.mlaw.gov.sg/content/minlaw/en/news/press-releases/singapore-recognised-as-most-improved-jurisdiction-at-inaugural-.html>.

<sup>34</sup> See Jay Lawrence Westbrook, "Global Insolvency Proceedings for a Global Market: The Universalist System and the Choice of a Central Court" (2018) *Texas Law Review* 101 at pp 138–139.

<sup>35</sup> See Jay Lawrence Westbrook, "Global Insolvency Proceedings for a Global Market: The Universalist System and the Choice of a Central Court" (2018) *Texas Law Review* 101 at p 139.

<sup>36</sup> See the Straits Times article, "Ezra gets nod here for cross-border bankruptcy protocol" (14 March 2018), accessible at <https://www.straitstimes.com/business/ezra-gets-nod-here-for-cross-border-bankruptcy-protocol>; see also See Chief Justice Sundaresh Menon's Mass Call Address 2018, "Constancy and Change", at para 9, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/Mass%20Call%202018%20-%20Address%20by%20the%20Chief%20Justice.pdf>.

<sup>37</sup> See Chief Justice Sundaresh Menon's Mass Call Address 2018, "Constancy and Change", at para 9, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/Mass%20Call%202018%20-%20Address%20by%20the%20Chief%20Justice.pdf>.

<sup>38</sup> See the JIN's official website, "News and Events", accessible at <http://www.jin-global.org/news-events.html>.

<sup>39</sup> See the speech delivered by Justice Kannan Ramesh at the International Association of Insolvency Regulators' Annual Conference and General Meeting 2016, "Cross-Border Insolvencies: A New Paradigm" at para 37, accessible at <https://www.supremecourt.gov.sg/Data/Editor/Documents/IAIR%202016%20Speech%206%20September%202016.pdf>.