



## **HKCML Conference: Future of Insolvency Law in Hong Kong**

Hong Kong Commercial and Maritime Law Centre organized a conference titled ‘Future of Insolvency Law in Hong Kong’ on 1-2 June 2023. Scholars, experts, and professionals from world-leading universities and institutions gathered to share their research findings and observations from both academic and practical perspectives.

**Prof Wan Wai Yee** (City University of Hong Kong, School of Law, School of Law) and **Prof Gerard McComack** (University of Leeds, School of Law) introduced their research entitled “Incentivising Early-Stage Debt Restructuring for Large Firms: A Study of Hong Kong and some United Kingdom Comparisons.” Although Hong Kong and the United Kingdom share a similar legislative framework, Hong Kong is less successful than the United Kingdom in using the scheme for early going-concern restructuring. The paper discussed the measures required to incentivize directors to address problems in the early stages. **Prof Andrew Godwin** (Australian Law Reform Commission, The University of Melbourne, Melbourne Law School) commented from the perspective of Australian law. **Ms Tiffany Wong** (Alvarez & Marsal) and **Mr Daniel Chow** (FTI Consulting, Inc) shared their observations as practitioners in Hong Kong. They both agreed that

cultural factors in Hong Kong often prevents companies from taking actions early when faced with financial crises.

**Prof Wan** presented another research paper on "Insolvency Law Reforms in Hong Kong for SMEs". She noted that Hong Kong has only implemented economic measures to address the impact of the pandemic on small and medium-sized enterprises. However, relying solely on economic measures has its limitations. Therefore, she proposed a simplified restructuring and liquidation framework. **Dr Stefan Lo (Faculty of Law, The University of Hong Kong)** commented on Prof Wan's proposal, comparing it to the statutory corporate rescue proposal that the Hong Kong government has been examining. **Associate Professor Akshaya Kamalnath (Australian National University, College of Law)** commented on Prof Wan's paper by introducing the insolvency regimes in Australia and providing suggestions for law reform in Hong Kong. Another commentator, **Mr. Alan HH Cheung (Wing United CPA Limited)**, suggested simplifying the restructuring regime to reduce costs.

In the following panel discussion, **Mr. Sumant BATRA (Insolvency Law Academy, India)**, **Prof Andrew Godwind (Australian Law Reform Commission, The University of Melbourne, Melbourne Law School)**, **Mr. Wang Lingqi (Fanda Partner, Mainland China)**, and **Ms. Tiffany Wong (Alvarez & Marsal)** shared the legal, market, and institutional factors that affect the choice of the governance model for insolvency and restructuring proceedings in different jurisdictions.

**Prof Mo Lai Lan Phyllis (City University of Hong Kong, Department of Accountancy)** and **Prof Li Che Lan Linda (City University of Hong Kong, Department of Public and International Affairs)** presented a study on "Financing

Small and Medium-Sized Enterprises in Times of COVID-19 in Hong Kong". Their findings showed that the economic measures under the Anti-Epidemic Fund are insufficient to meet the needs of many SMEs. They recommended that the design of relevant economic measures be reconsidered. **Dr Wilson Chan (City University of Hong Kong, College of Business)** and **Mr Michael Li (Zhonghui Anda CPA)** provided comments from the perspectives of business scholarship and practitioner observation respectively. **Dr Qi Yaxuan (City University of Hong Kong, Department of Economics and Finance)** spoke about "Bankruptcy Reforms and Corporate Debt Structure", observing that bankruptcy law reforms promoting debt restriction could potentially have a negative impact on credit supply and impede the debt financing of some types of firms. **Dr Felix Steffek (University of Cambridge, Faculty of Law)** commented on the motivation, findings, and conclusion of the research. He suggested that the research could be a starting point for further exploring the impact of different classes of debt.

**Dr Kelvin Kwok (The University of Hong Kong, Faculty of Law)** and **Dr Alwin Chan (The University of Hong Kong, Faculty of Law)** presented their research on "Leases and COVID-19," arguing that the doctrines of frustration unfairly affect tenants and legal reform is needed to better protect them. **Prof Alexander Loke (City University of Hong Kong)** and provided comments on the paper.

In the following panel discussion, **Mr Terry Kan (SHINEWING Hong Kong)**, **Mr Ian Mann (Harneys)**, **Dr Stefan Lo (The University of Hong Kong, Faculty of Law)**, and **Mr Wang Lingqi (Fangda Partner, Mainland)** discussed the theme "The Future of Cross-Border Insolvency in Hong Kong." The discussion covered points such as whether Hong Kong should adopt the UNCITRAL Model Law on

Cross-border Insolvency, and whether the separate restructuring of offshore and onshore debts will continue.



