

LA9A8-20 Business and Financial Distress in a Global Context

23/24

Department

School of Law

Level

Taught Postgraduate Level

Module leader

Irit Mevorach

Credit value

20

Module duration

10 weeks

Assessment

100% coursework

Study location

University of Warwick main campus, Coventry

Description

Introductory description

In this course we will discuss key issues and challenges concerning the governance of business and financial distress, taking a comparative and international perspective. We will consider in this regard the spectrum of business and financial institutions' sizes, from the small, medium sized to the large multinationals. We will discuss the objectives and key policies in the design of effective insolvency, restructuring, and resolution regimes, and debate whether harmonisation or standardisation is desirable and feasible. We will also discuss the problem of cross-border corporate and bank default, taking various perspectives, including theoretical, interdisciplinary, and practical. We will review and analyse the development and application of key international frameworks for cross-border insolvency, including those advanced by international organisations and standard setters such as the World Bank, UNCITRAL (United Nations Commission on International Trade Law), UNIDROIT (International Institute for the Unification of Private Law) and the FSB (Financial Stability Board).

Topics covered include: business sizes and stakeholders; objectives of restructuring and insolvency regimes, harmonisation, and international standard-setting; cross-border insolvency theories and challenges; cross-border insolvency in Europe; global governance of cross-border insolvency; recognition and enforcement of insolvency related judgments; multinational enterprise

groups restructuring and insolvency; asset tracing and recovery in international insolvency; cross-border bank resolution.

[Module web page](#)

Module aims

Students will gain updated and timely knowledge about global, legal, and policy issues concerning the handling and governance of business and financial institutions in distress. They will learn to critically evaluate and think creatively, in an interdisciplinary fashion, about the role of international organisations in this field and the application of key regional and international instruments, legal norms and doctrines. The course also develops analytical skills, particularly with regard to a range of international and comparative legal materials and the operations of the law in highly complex scenarios involving a range of business and financial institutions structures.

Outline syllabus

This is an indicative module outline only to give an indication of the sort of topics that may be covered. Actual sessions held may differ.

Course outline:

Introduction to business sizes and stakeholders, insolvency, resolution, and international aspects

Objectives of restructuring and insolvency regimes, harmonisation, and international standard-setting

Cross-border insolvency theories and challenges

Cross-border insolvency in Europe

Global governance of cross-border insolvency

Recognition and enforcement of insolvency related judgments

Multinational enterprise groups reconstructing and insolvency

Asset tracing and recovery in international insolvency

Cross-border bank resolution

Learning outcomes

By the end of the module, students should be able to:

- demonstrate current knowledge about global, legal, and policy issues concerning the handling and governance of business and financial institutions in distress
- critically evaluate and think creatively, in an interdisciplinary fashion, about the role of international organisations in this field
- critically evaluate the application of key regional and international instruments, legal norms and doctrines

Indicative reading list

Kristin van Zwieten, Goode on Principles of Corporate Insolvency Law (Sweet & Maxwell, 2019);
Ian F Fletcher, Insolvency in Private International Law (Oxford University Press Oxford, 2005);
Irit Mevorach, Insolvency within Multinational Enterprise Groups (Oxford University Press, 2009);
Irit Mevorach, The Future of Cross-Border Insolvency: Overcoming Biases and Closing Gaps (Oxford University Press Oxford, 2018);
Ronald Davis, Stephan Madaus, Alberto Mazzoni, Irit Mevorach, Riz Mokal, Madam Justice Barbara Romaine, Janis Sarra, and Ignacio Tirado, Micro, Small, and Medium Enterprise Insolvency, a Modular Approach (Oxford University Press, 2018);
Rosa Lastra et al, Cross- Border Bank Insolvency (OUP 2011)

Interdisciplinary

There will be some interdisciplinary aspects

International

The perspective is international.

Subject specific skills

Knowledge of relevant legal rules
ability to contextualise the rules
ability to critique legal rules

Transferable skills

Independent study
Oral skills

Study

Study time

Type	Required
Seminars	9 sessions of 2 hours (7%)
Online learning (scheduled sessions)	9 sessions of 1 hour (3%)
Online learning (independent)	9 sessions of 1 hour (3%)
Private study	182 hours (67%)
Assessment	54 hours (20%)
Total	272 hours

Private study description

No private study requirements defined for this module.

Other activity description

Consultation

Costs

No further costs have been identified for this module.

Assessment

You must pass all assessment components to pass the module.

Students can register for this module without taking any assessment.

Assessment group A2

	Weighting	Study time
4000 word essay	100%	54 hours

Students must write a 4000 word essay on one of the given titles.

Feedback on assessment

Individual feedback provided electronically

Generic feedback provided via Moodle

Availability

Courses

This module is Optional for:

- Year 1 of TIMA-L981 Postgraduate Social Science Research
- Year 1 of TLAA-M3PJ Postgraduate Taught Advanced Legal Studies
- Year 1 of TLAS-M3P7 Postgraduate Taught International Economic Law
- Year 1 of TLAS-M221 Postgraduate Taught LLM in International Corporate Governance and Financial Regulation

This module is Core option list A for:

- Year 1 of TLAA-M3PJ Postgraduate Taught Advanced Legal Studies
- Year 1 of TLAA-M223 Postgraduate Taught International Commercial Law
- Year 1 of TLAS-M3P7 Postgraduate Taught International Economic Law
- Year 1 of TLAS-M221 Postgraduate Taught LLM in International Corporate Governance and Financial Regulation

This module is Option list A for:

- Year 1 of TLAA-M223 Postgraduate Taught International Commercial Law

This module is Option list C for:

- TPOS-M9PE Double MA in Politics and International Studies (with NTU Singapore)
 - Year 1 of M91F Globalisation and Development (Double Degree - NTU)
 - Year 1 of M91L International Development (Double Degree - NTU)
 - Year 1 of M91B International Political Economy (Double Degree - NTU)
 - Year 1 of M91C International Politics and East Asia (Double Degree - NTU)
 - Year 1 of M91D International Politics and Europe (Double Degree - NTU)
 - Year 1 of M91G International Security (Double Degree - NTU)
 - Year 1 of M91K Political and Legal Theory (Double Degree - NTU)
 - Year 1 of M91J United States Foreign Policy (Double Degree - NTU)
 - Year 2 of M91L International Development (Double Degree - NTU)
 - Year 2 of M91B International Political Economy (Double Degree - NTU)
 - Year 2 of M91C International Politics and East Asia (Double Degree - NTU)
- TPOS-M9PP Double MA in Politics and International Studies (with Universität Konstanz, Germany)
 - Year 1 of M92L International Development (Double Degree - Konstanz)
 - Year 1 of M92B International Political Economy (Double Degree - Konstanz)
 - Year 1 of M92C International Politics and East Asia (Double Degree - Konstanz)
 - Year 1 of M92D International Politics and Europe (Double Degree - Konstanz)
 - Year 1 of M92E International Relations (Double Degree - Konstanz)
 - Year 1 of M92G International Security (Double Degree - Konstanz)
 - Year 1 of M92K Political and Legal Theory (Double Degree - Konstanz)
 - Year 1 of M92H Public Policy (Double Degree - Konstanz)
 - Year 2 of M92B International Political Economy (Double Degree - Konstanz)
 - Year 2 of M92C International Politics and East Asia (Double Degree - Konstanz)
 - Year 2 of M92D International Politics and Europe (Double Degree - Konstanz)
 - Year 2 of M92E International Relations (Double Degree - Konstanz)
 - Year 2 of M92G International Security (Double Degree - Konstanz)
 - Year 2 of M92K Political and Legal Theory (Double Degree - Konstanz)
 - Year 2 of M92H Public Policy (Double Degree - Konstanz)
- Year 2 of TPOS-M9PT MA in International Development
- Year 2 of TPOS-M1P8 Postgraduate Taught International Politics and East Asia
- Year 2 of TPOS-M9PS Postgraduate Taught Political and Legal Theory
- Year 2 of TPOS-M9PQ Postgraduate Taught United States Foreign Policy