

## **International & Comparative Bankruptcy Program Fall 2012**

**Version September 9, 2012**

### **Introduction**

This is a short introductory syllabus for the International & Comparative Bankruptcy Program for the Fall 2012.

The purpose of this program is to give the students a general information on international and comparative bankruptcy law, both for businesses and for natural persons. Furthermore, it allows students to obtain insight in existing differences between bankruptcy laws in different countries in the world and the practical problems which occur as a result thereof (including issues of cross borders insolvencies).

The course also deals with the economic aspects of debt restructuring and with out of court debt restructuring. The course not only deals with the existing laws, but also takes a look at initiatives to change the existing laws going forward.

Special emphasis is put on the bankruptcy laws of the US and the Netherlands. Other legal systems which are dealt with are Chinese law and the laws of Mexico. For comparative purposes, some bankruptcy law issues of other countries will be mentioned. In the globalised world of today, cross border bankruptcy are becoming more and more important. The course therefore will also cover the relevant legal issues in relation to cross border insolvencies.

The program starts as of **October 3, 2012** and ends on **December 9, 2012**.

Each week two sessions will available: one two hour live session (**each Wednesday between 10 and 12 AM San Diego time**) and one 1,5 hour pre-recorded session. Most of the sessions will be hosted by Johan Jol. For some sessions guests speakers are invited:

#### **Week 1**

**October 3, 2012:** Live session: Economic Drivers behind Restructuring and Bankruptcy (Johan Jol)

Pre-recorded session: Explaining the need for International & Comparative Bankruptcy in a Globalised World and Dealing with Sovereign Debt (Johan Jol) (New recording)

#### **Week 2**

**October 10, 2012:** Live session: Purpose of Bankruptcy: Basic Concepts (Johan Jol)

Pre-recorded session: Business Bankruptcy Systems Comparisons and Consumer Insolvency Systems Comparison (Jason Kilborn Lecture)

#### **Week 3**

**October 17, 2012:** Live session: Bankruptcy Law in US (Charles Axelrod)

Pre-recorded session: How to avoid Bankruptcies of Too Big Too Fail Institutions and Governments going forward, suggestions and alternatives? (Johan Jol) (New Recording)

#### **Week 4**

**October 24, 2012:** Live session: EU Initiative on harmonisation of Bankruptcy law (Johan Jol)(New Recording)

Pre-recorded session: Pre-recorded session: Consumer bankruptcy in Europe and US (Prof. Arnold Rosenberg)

#### **Week 5**

**October 31, 2012:** Live session: Claims Issues: Treatment of secured creditors, priorities, claim procedure (Johan Jol)

Comparing US Consumer Mortgages with NL Consumer Mortgages (includes the so called securitisation chain) (Johan Jol) (New Recording)

#### **Week 6**

**November 7, 2012:** Live session: Fraudulent Treatment, Voidable Preferences and Set off (Johan Jol)

Pre-recorded session: Third Party Issues (Corporate Officers, Directors, Shareholders and Related Entities; Spousal Liability) (Arnold Rosenberg)

#### **Week 7**

**November 14, 2012:** live session: Bankruptcy in the Netherlands (Johan Jol)

Pre-recorded session: Bankruptcy in China (Arnold Rosenberg)

#### **Week 8**

**November 21, 2012:** live session: Cross Border Insolvency US and EU (Johan Jol)

Pre-recorded lecture: Cross Border Insolvency, Recent Developments (Johan Jol) (New Recording)

#### **Week 9**

**November 28, 2012:** live session Mexico (including cross border aspects) (David Vallerino)  
Directors and other in the twilight zone, the Dutch Experience (Johan Jol)

#### **Week 10**

**December 5, 2012:** Restructuring of business (including EU perspective and forum shopping and cross border work outs) (Johan Jol)

Pre-recorded lecture: Samples of Cross borders cases (Johan Jol)(New Recording)

### **Assignments and Study material**

No specific book is prescribed as mandatory reading material. For every week, pre-reading material will be posted for the students on the website. Such pre-reading material may include suggested reading in addition to mandatory reading. Most of the pre-reading material will be made available on line. The main assignment will be a paper to be written by the students. Further information is posted separately under Assignment and Grading.

## **Class participation**

Participation during the live session is **mandatory** and is also taking into account while grading. See for exceptions and specifics the separate note re Assignments and Grading.

Please note that participation could also consist of questions posted (or mailed) by the student to Johan Jol (e-mail: [jtjol@legalthoudini.nl](mailto:jtjol@legalthoudini.nl)). Johan is also available to discuss issues on the telephone, in the classroom or on Skype. Given the different times zone we are in, it is suggested to mail Johan to pre-arrange timing for calls.

Students are stimulated to try to bring their own real life samples exposures and/or experiences in the course and/or to suggest live news events (including news paper articles) for discussion in the course. We live currently in an economic (and legal) environment in which new (comparative) bankruptcy law questions are popping up almost an a daily basis. Let's make use of this lively environment.

Also, make sure you visit the website of the course regular and check in any event the announcement since some specific announcements will be made during the course.

## **Grading**

The grading for the course consists of two parts, one paper (**80%**) and live sessions attendance (**20%**). It is only possible to get a grading after:

1. you have been either attending or reviewed the live sessions;
2. to the extent you were not actually present during a live version, provide Johan Jol with written answers posted in relation to a certain live session; and
3. you have reviewed and confirmed to Johan Jol by mail that you have reviewed all pre-recorded sessions.

As mentioned earlier, the exact means how to participate during the live sessions is left open to each of the students, as long as it is apparent that the students are **actively participating** in the live sessions. See also separate note re Assignment and Grading.

Please make sure that to the extent you are using material not suggested as (mandatory) material that you make sure this is available to Johan Jol.