

## LAW & BANKING COLLOQUIUM

THURSDAY, 14 JANUARY 2016, 9.00AM TO 5.00PM [Registration begins at 8.30am]  
MOOT COURT, BESIDE THE SUMMIT CAFETERIA, FACULTY OF LAW, NUS BUKIT TIMAH CAMPUS

### About the Colloquium

The banking world is in turmoil. The credit crisis has generated major regulatory adjustments, both in quantitative and qualitative terms. At the same time, information technology developments are having a considerable impact on the provision and management of banking services. This Colloquium, the second in a series of NUS-ETH Conferences, aims at tackling some of the issues associated with these developments. More specifically, banking sector resilience will be addressed via contributions on capital and risk management whereas access to funding will be discussed via contributions on interbank markets and crowdfunding. In addition, the Colloquium will deal with two issues subject to significant media attention: consumer bankruptcy and banking secrecy.

### 0830 - 900 Registration

### 0900 - 915 Welcome and Introduction

### 0915 - 1010 *The Impact of Housing Credit on Personal Bankruptcy*

by **Sumit Agarwal, Low Tuck Kwong Professor, School of Business, National University of Singapore**

Commentator: Joseph Ooi, Dean's Chair Associate Professor, Department of Real Estate, School of Design and Environment, National University of Singapore

### 1010 - 1105 *The Promise and Perils of Crowdfunding*

by **Luca Enriques, Allen & Overy Professor of Corporate Law, Faculty of Law, University of Oxford**

Commentator: Tjio Hans, Professor, Faculty of Law, National University of Singapore

### 1105 - 1135 Tea Break

### 1135 - 1230 *Bank Capital: How Much is Enough?*

by **Lev Ratnovski, Economist, Research Department, The International Monetary Fund**

Commentator: Douglas W. Arner, Professor, Faculty of Law, University of Hong Kong; Peter Ellinger Visiting Professor, Faculty of Law, National University of Singapore

### 1230 - 1345 Lunch Break

### 1345 - 1440 *Risk Regulation and the New Corporate Governance in Banks*

by **Geoffrey Miller, Stuyvesant P. Comfort Professor of Law, School of Law, New York University**

Commentator: Lawrence Low, Managing Director, Office of Regulatory Affairs, J.P. Morgan

### 1440 - 1535 *Interbank Intermediation*

by **Jan Pieter Krahen, Professor of Finance, House of Finance, Goethe University**

Commentator: Christian Hofmann, Assistant Professor, Faculty of Law, National University of Singapore

### 1535 - 1605 Tea Break

### 1605 - 1700 *Bank Secrecy: Erosion and Legal Convergence?*

by **Dora Neo, Associate Professor, Faculty of Law, National University of Singapore**

Commentator: Gerard Hertig, Professor of Law, ETH Zurich

### THE ORGANISERS

The Centre for Banking & Finance Law (CBFL) at the Faculty of Law, National University of Singapore, seeks to generate scholarship and promote thinking about the vibrancy, robustness and soundness of the banking sector, capital markets and other financial services. Through the research our scholars undertake and the events we organise, we seek to create and share knowledge, to engage stakeholders in an exchange of ideas, and to enhance the appreciation of legal and regulatory issues. We aim to bring greater theoretical and analytical clarity to these issues, to examine their policy impact, and to be a catalyst for ideas on how to improve banking and financial systems at the national, regional and global levels.

ETH Zurich is one of the leading international universities for technology and the natural sciences. It is well-known for its excellent education, ground-breaking fundamental research and for implementing its results directly into practice. Founded in 1855, ETH Zurich today has more than 18,000 students from over 110 countries, including 3,900 doctoral students. To researchers, it offers an inspiring working environment, to students, a comprehensive education. Twenty-one Nobel Laureates have studied, taught or conducted research at ETH Zurich, underlining the excellent reputation of the university.

### REGISTRATION

Registration is complimentary but seats are limited. To register, please click [\[here\]](#) or scan:

Closing Date of Registration: Wednesday, 6 January 2016



Public CPD Points: 5.5  
Practice Area: Banking and Finance  
Training Level: General

Participants who wish to claim CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. This includes signing-in on arrival and signing-out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for the activity. Please refer to <http://www.sileCPDcentre.org.sg> for more information.

## Speakers & Abstracts

### **Sumit Agarwal** **Low Tuck Kwong Professor, School of Business, National University of Singapore**



Sumit Agarwal is the Vice Dean of Research and Low Tuck Kwong Professor at the School of Business and Professor in the departments of Economics, Finance, and Real Estate at the National University of Singapore. Previously, he was a senior financial economist in the research department at the Federal Reserve Bank of Chicago and prior to joining the Chicago Fed, he was a senior vice president and credit risk management executive in the Small Business Risk Solutions Group of Bank of America. Dr. Agarwal is the co-editor of *Real Estate Economics* and associate editor at *Management Science* and *Journal of Financial Services Research*. He has published over fifty research articles in journals such as the *American Economic Review*, *Quarterly Journal of Economics*, and *Journal of Political Economy*, among others. Additionally, he has co-edited a collected volume on Household Credit Usage: Personal Debt and Mortgages. He also runs a blog on household financial decision making called *Smart Finance*. He has also served as an adjunct professor and a scholar at the finance department at George Washington University, DePaul University, the Indian School of Business, Georgetown University, and the World Bank. Dr. Agarwal received a Ph.D. in economics from the University of Wisconsin-Milwaukee.

#### ***The Unintended Consequences of Credit: The Impact of Housing Credit on Personal Bankruptcy***

Standard economic theory suggests that housing credit can facilitate consumption-smoothing for house buyers. However, recent research in the US shows that increasing the flow of credit might be counterproductive. The expansion of mortgage credit leads to excessive household debt and mortgage default, causing individuals to spend less. However, it is not clear whether access to relatively low-interest credit, such as housing credit, is related to personal bankruptcy. In this paper, the existing literature is linked by studying the impact of housing credit on personal bankruptcy in Singapore. Using a difference-in-differences (DD) approach, it was found that an increase in housing credit increases the likelihood of personal bankruptcy by 0.15-0.22 percentage points for house buyers who have more exposure to the housing credit increase. To investigate the mechanisms, it was shown that the observed effect is unlikely to be driven by consumption effects and selection for irresponsible buyers. The effect is mainly due to the increasing debt burden from an increase in housing credit. Moreover, the study found that those who file for bankruptcy are more likely to sell their houses before bankruptcy with low return, suggesting that home owners use house sales to smooth consumption and mitigate negative shocks.

### **Luca Enriques** **Allen & Overy Professor of Corporate Law, Faculty of Law, University of Oxford**



Luca Enriques is the Allen & Overy Professor of Corporate Law at the Faculty of Law of Oxford University, where he is also a Fellow at Jesus College. He is ECGI Fellow and the Editor of the ECGI Law Working Paper Series. He has published widely in the fields of corporate law and financial regulation. He is one of the coauthors of *The Anatomy of Corporate Law* (2nd ed., OUP: 2009) and, together with John Armour, Daniel Awrey, Paul Davies, Jeffrey Gordon, Colin Mayer, and Jennifer Payne, of *Principles of Financial Regulation* (OUP: forthcoming). He currently advises the Italian Ministry of the Economy and Finance and large Italian corporations on corporate law and financial regulation matters. Luca Enriques has held visiting positions at the University of Cambridge, Interdisciplinary Center Hertzliya, Harvard Law School, and other Universities. Between 2007 and 2012 he was a commissioner at Consob, the Italian Securities and Exchange.

#### ***The Promise and Perils of Crowdfunding***

Crowdfunding—raising many small contributions of capital from individual funders via the internet—is a burgeoning phenomenon. We focus on two forms of crowdfunding that are especially fit for financing innovative start-ups, ‘reward’ crowdfunding and ‘equity’ crowdfunding. In the former, individuals contribute money in exchange for a reward—generally a new product, in the case of technology companies; in the latter, crowdfunders get an equity interest in the funded venture. We first contrast these two forms in terms of the risk crowdfunders bear, the motivations that may lead them to invest, and the potential for irrational herding behaviour. The comparison allows us to highlight the promise of reward crowdfunding and the perils of equity crowdfunding from the standpoint of the investing crowd. A comparison between retail investing at the IPO stage and equity crowdfunding further expose the riskiness of the latter, given the absence of most of the institutional mechanisms that have developed in decades to protect investors in the former, including securities regulations. After describing the legal regime in two sample jurisdictions, the US and the UK, we conclude with some tentative thoughts on the merits of introducing a light regime for equity crowdfunding and what its features could be.

### **Lev Ratnovski** **Economist, Research Department, The International Monetary Fund**



Lev Ratnovski is an economist at the International Monetary Fund. As a member of the macro-financial team in the Research Department, he is responsible for formulating Fund views and policies on bank regulation and structure, shadow banking, and global liquidity. In addition, Mr. Ratnovski is a team member for IMF programs in Ireland, Portugal, Spain and Ukraine. Prior to the current assignment, Mr. Ratnovski worked on U.S. and Canada desks of the IMF (2008-10), and in the Financial Regulation division of the Bank of England (2006-08). Lev Ratnovski has published in *Journal of Financial Intermediation*, *Journal of Banking and Finance*, *Review of Finance*, and *International Journal of Central Banking*. His work has been featured on Bloomberg, Reuters, and Businessweek. Mr. Ratnovski holds a B.Sc. from HSE-Moscow and a Ph.D. from the University of Amsterdam.

#### ***Bank Capital: How Much is Enough?***

Few issues in the post-crisis policy debate have been more contentious and elicited a wider range of firmly held views than the appropriate level of capital requirements. This paper explores how different levels of bank capital would have fared in past banking crises. Using alternative approaches, we find that, for advanced economies, the marginal benefits of higher bank capital in terms of banking crises avoided are substantial at first, but decline rapidly once bank capital reaches a few points above the 15.5 percent recommended under Basel III. Results are more nuanced for emerging and developing economies where banking crises were historically associated with greater bank losses. The paper also explores the literature on the costs associated with higher bank capital. Existing studies suggest that the steady-state (long-term) costs of higher bank capital are likely small. In contrast, the costs of transitioning to higher bank capital might be substantial. The key danger is that banks may temporarily constraint the supply of credit to comply with higher capital ratios. It follows that to minimize the transition costs, higher capital requirements should be imposed gradually, and supervision should encourage banks to increase capital ratios by raising equity rather than constraining asset growth.

**Geoffrey Miller**  
**Stuyvesant P. Comfort Professor of Law, School of Law, New York University**



Geoffrey Miller is the Stuyvesant P. Comfort Professor at New York University School of Law. He directs or co-directs the law school's Center on Financial Institutions, Center on Civil Justice, and Program on Corporate Compliance and Enforcement. Miller is the author or editor of six books on financial regulation, including "Economics of Financial Law;" "The Law of Banking and Financial Institutions" (co-authored with Jonathan Macey and Richard Scott Carnell), now in its Sixth Edition; "The Law of Governance, Risk-Management and Compliance;" "The Governance of International Banking" (co-authored with Fabrizio Cafaggi); and "Costly Policies: State Regulation and Antitrust Exemption in Insurance Markets" (co-authored with Jonathan Macey). Miller has published more than two hundred research papers, many focusing on risk management, compliance, company law, securities law, or financial institution regulation. Miller has been a visiting professor or scholar at Harvard, Columbia, Minnesota, and Cornell law schools, and at universities in Italy, Switzerland, Germany, The Netherlands, Australia, New Zealand, and Singapore. He was a visiting scholar at the Bank of Japan and a consultant at the Federal Reserve Bank of Chicago. He earned a BA from Princeton University, and a JD from Columbia University, where he was editor-in-chief of the Columbia Law Review.

***The Rise of Risk Management***

Risk management has emerged as a central feature both of modern corporate governance and of advanced approach to regulation and supervision. For highly regulated firms, management of compliance risk is an important part of this approach. A risk-based approach to compliance forces the organization to undertake a compliance risk assessment and facilitates efficient allocations of compliance resources within the organization. However, there is a possibility that the underlying risk assessment may be wrong. There is also tension between the concept of compliance violations as an acceptable risk and the notions of zero tolerance for legal infractions and "broken-windows" approaches to compliance violations. At the level of regulation and supervision, risk-based regulation focuses the attention and resources of regulators to areas posing greatest threats to the public interest; also, the attention of regulators influences the compliance-related activities of regulated firms. Risk-based regulation also promotes "principles-based" rather than "check-the-box" regulatory strategies, which may be more effective at deterring and sanctioning misconduct. However, there is a risk that the regulators' risk assessments will be wrong and that regulated firms will use their knowledge of the regulators' risk assessment to predict areas of heightened scrutiny and thereby avoid detection of wrongful behavior.

**Jan Pieter Krahn**  
**Professor of Finance, House of Finance, Goethe University**



Jan Pieter Krahn is a Professor of Finance at Goethe University's House of Finance. He is a Director of the Center for Financial Studies (CFS) and the Research Center SAFE. His current research interests focus on the implications of the 2007-2010 financial turmoil for banking, systemic risk, and financial market regulation. His publications appeared, among others, in the *Review of Economic Studies*, the *Journal of Financial Intermediation*, the *Journal of Banking and Finance*, and *Experimental Economics*. Krahn is a CEPR research fellow, and was President of the European Finance Association in 2011. Krahn has been involved in policy advisory on issues of financial market regulation, most recently as a member of the High Level Expert Group on Structural Reforms of the EU Banking Sector ("Liikanen Commission"), implemented by EU Commissioner Michel Barnier. From 2008 until 2012 he was a member of the Issing-Commission, advising the German government on the G-20 meetings. He is also a member of the Group of Economic Advisors (GEA) at the European Securities and Markets Agency (ESMA), Paris, and a member of the Academic Advisory Board of Germany's Federal Ministry of Finance.

***Understanding Interbank Markets: an Empirical Study of Short and Long Term Exposures among Banks in Germany***

We study the structure and the dynamics of interbank lending, based on a large data set of major borrowing and lending exposures between all German banks during the period 2002-2012. We find that the interbank loan book of banks tends to be large, persistent, with average maturity above 1 year, and with significant volume on both sides of the balance sheet. We then study the dynamics of the interbank loan book and find a strong relationship to the dynamics of the client loan book, where clients are defined as all counterparties other than banks, like retail or corporate customers. Finally, we try to relate our findings to the theoretical banking literature.

**Dora Neo**  
**Associate Professor, Faculty of Law, National University of Singapore**



Dora Neo is an Associate Professor and the Director of the Centre for Banking & Finance Law (CBFL) at the Faculty of Law, National University of Singapore (NUS). She specialises in banking, secured transactions and contract law. She is co-author of Ellinger & Neo, *The Law and Practice of Documentary Letters of Credit* (Hart Publishing, Oxford, 2010). She also researches on international economic law, particularly trade in services. A first class honours graduate from Oxford University, she also holds an LLM from Harvard Law School. She is a member of Gray's Inn, England, and an Advocate and Solicitor in Singapore. She holds a Certificate in Private Banking from the Wealth Management Institute, Singapore, and a Certificate in Real Estate Finance from the Department of Real Estate, NUS. She is a member of the Injunction Proposals Review Panel under the Consumer Protection (Fair Trading) Act, and of the Accreditation Committee of the Singapore Institute of Legal Education.

***Bank Secrecy: Erosion and Legal Convergence?***

Many countries have bank secrecy laws that oblige banks to keep their customers' information confidential. However, the fight against money laundering, terrorist financing and tax evasion; the advancement of technology; and the adoption of new business methods have led to an increasing number of exceptions to the bank's duty of secrecy, to the extent that a duty of disclosure might sometimes be imposed instead. Further, the work of international organisations such as the Financial Action Task Force (FATF) and the OECD, as well as unilateral action by the United States, have had the effect of requiring, or at least encouraging, national legislatures to modify their bank secrecy laws in response. This paper is a work in progress that aims to examine the erosion and convergence of bank secrecy laws using information from selected jurisdictions, and to assess the implication and effect of this.

## About the Commentators



**Joseph T.L. Ooi**  
**Dean's Chair Associate Professor, School of Design and Environment, National University of Singapore**

Joseph Ooi is concurrently the Deputy Head (Academic) and Director of the Graduate Certificate in Real Estate Finance at the Department of Real Estate as well as the Deputy Director (Development) at the Institute of Real Estate Studies in National University of Singapore (NUS). Joseph has published more than 50 peer-reviewed papers on Real Estate Investment Trusts (REITs) and Real Estate Development in top real estate journals, such as *Journal of Real Estate Finance & Economics* and *Journal of Money, Credit & Banking*. A multiple winner of international research awards, Joseph received the NUS Young Researcher Award in 2005 and more recently, the Dean's Chair in recognition of his outstanding scholarly accomplishments. Joseph is also a recipient of multiple teaching awards including the NUS Outstanding Educator Award. Joseph is the Associate Executive Director of the International Real Estate Society and a director of the Asian Real Estate Society. He sits on the editorial board of nine real estate journals. Besides receiving three outstanding service awards, Joseph is a recipient of the International Real Estate Society's Achievement Award (2008). Joseph obtained his B.Sc. (Estate Management) and M. Sc. (Real Estate) degrees from NUS and his PhD from the University of Manchester (formerly UMIST).



**Tjio Hans**  
**Professor, Faculty of Law, National University of Singapore**

Hans is a Professor of Law at the Faculty of Law, National University of Singapore and Co-Director of its Centre for Banking and Finance Law. He has written and edited books on securities regulation and trust law, and is a contributor to *Palmer's Company Law* (Geoffrey Morse ed). He was previously seconded to the Monetary Authority of Singapore and the Ministry of Law, and a member of the Ministry of Finance's Company Legislation and Regulatory Framework Committee. He is presently serving on the Securities Industry Council, and is a consultant with Linklaters Singapore. He has been a visiting lecturer in the law schools at Auckland and Shanghai's ECUP, and a visiting scholar at Stanford and Melbourne.



**Douglas W. Arner**  
**Professor, Faculty of Law, University of Hong Kong**

Douglas W. Arner is a Professor in the Faculty of Law of the University of Hong Kong and Project Coordinator of a major five-year project funded by the Hong Kong Research Grants Council Theme-based Research Scheme on "Enhancing Hong Kong's Future as a Leading International Financial Centre". In addition, he is Co-Director of the Duke University-HKU Asia-America Institute in Transnational Law, and a Senior Visiting Fellow of Melbourne Law School, University of Melbourne. He has published fifteen books and more than 100 articles, chapters and reports on international financial law and regulation, including most recently *Reconceptualising Global Finance and its Regulation* (Cambridge 2016) (with Ross Buckley and Emiliios Avgouleas). He has served as a consultant with, among others, the World Bank, Asian Development Bank, APEC and European Bank for Reconstruction and Development, and has lectured, co-organised conferences and seminars and been involved with financial sector reform projects in over 20 economies in Africa, Asia and Europe. He has been a visiting professor or fellow at the Universities of London, McGill, Melbourne, New South Wales, Singapore and Zurich, as well as the Shanghai University of Finance and Economics and Hong Kong Institute for Monetary Research.



**Lawrence Low**  
**Managing Director, Office of Regulatory Affairs, J.P.Morgan**

Lawrence Low joined the Office of Regulatory Affairs in 2014 and is involved in developing adaptive strategies for the complex and dynamic regulatory environment in the region. In this current role, he engages in dialogues with lawmakers and regulators across Asia Pacific advocating for clients and J.P. Morgan businesses throughout the cycle of policy-making, legislative and regulatory implementation processes. Prior to taking up his current role, he was co-head of Global Markets Legal for Asia Pacific as well as global co-head of the Regulatory Reform legal practice group in the JPMorgan legal department. He has more than 20 years of experience as a lawyer and has held a number of private practice as well as in-house legal positions in capital markets, derivatives, securitization and asset management, based in London, Hong Kong, Singapore and Tokyo. Lawrence is active on various committees of the Asia Securities Industry & Financial Markets Association and was a former co-chair of the Asia-Pacific Legal and Regulatory Committee of the International Swaps and Derivatives Association, Inc. He also chaired the J.P. Morgan Singapore Diversity Council from 2012 to 2013. He graduated from Cambridge University in 1990 and qualified as a Solicitor in England and Wales as well as Hong Kong.



**Christian Hofmann**  
**Assistant Professor, Faculty of Law, National University of Singapore**

Christian Hofmann holds a PhD ("Dr. iur.") from the University of Halle-Wittenberg, a professorial qualification ("Habilitation") from Humboldt-University Berlin, an LL.M. in Global Business Law from NYU and an LL.M. in Corporate and Financial Services Law from NUS. Prior to joining NUS law as an assistant professor, he held several faculty and research positions. He was a visiting professor at the University of Cologne (Germany) and Goethe-University Frankfurt (Germany), a visiting scholar and Humboldt Fellow at UC Berkeley, a Global Research Fellow at NYU School of Law and a law professor at the Private University in the Principality of Liechtenstein. He was also a senior legal counsel for the German Central Bank ('Bundesbank'). Christian's main research areas are regulation of financial institutions and markets, sovereign debt restructuring, company law and corporate governance, civil law and European Union law.



**Gerard Hertig**  
**Professor of Law, ETH Zurich**

Gerard Hertig has been Professor of Law at ETH Zurich since October 1995. Prior to that, he was Professor of Administrative Law at the University of Geneva Law School and Director of its Centre d'Etudes Juridiques Européennes (1987-1995). He has also been visiting professor of law at the College of Europe, Columbia, Louvain-la-Neuve, NYU, NUS and University of Tokyo. Principal research interests are in Law & Finance and European integration. Recent publications include 'Governance by Institutional Investors in a Stakeholder World' (forthcoming in *Handbook of Corporate Law and Governance*, OUP); 'Shadow Resolutions as a No-No in a Sound Banking Union' (with Luca Enriques, forthcoming in *Financial Regulation: A Transatlantic Perspective*, CUP); and 'Governments as Investors of Last Resort: Credit Crisis Comparative Case Studies' (2012 *Theoretical Inquiries in Law*). Gerard Hertig is also a co-author of 'The Anatomy of Corporate Law' with Reinier Kraakman et al. (2d ed., OUP 2009). He is ECGI (European Corporate Governance Institute) fellow and a member of CLEF (Comparative Law and Economics Forum). Professional appointments currently include memberships of the ECGI Board and Research Committee, Brussels; Research Advisory Council, SAFE (Sustainable Architecture for Finance in Europe), Frankfurt; Research Advisory Council, CFS (Center for Financial Studies, House of Finance), Frankfurt; Scientific Committee, IAST (Institute for Advanced Study in the Social Sciences), Toulouse; Conseil Scientifique, Labex ReFi (Laboratoire d'Excellence Regulation Financiere), ESCP Europe, Paris.