

INSOLVENCY LAW JOURNAL

Volume 32, Number 4

2024

EDITORIAL – *Editor: Dr David Morrison* 211

ARTICLES

China’s Bankruptcy Law Odyssey: Exploration, Promotion, and Reform (2007–2022) – *Casey G Watters and Jinlu Liu*

This article examines the Enterprise Bankruptcy Law of the People’s Republic of China (EBL), from its establishment in 2007 through 2022. It builds on the framework of Judge Zhang Hengzhu, segmenting the development into three stages: Exploration, Promotion, and Reform. The analysis commences with the Exploration Stage (2007–2011), highlighting initial challenges in establishing a corporate bankruptcy regime. It then transitions to the Promotion Stage (2011–2015), marked by the Wenzhou financial crisis and subsequent efforts to streamline and publicise bankruptcy procedures. The final phase, Reform, is broken into two periods. The early period (2015–2018), observed significant legal reforms leading to a surge in bankruptcy filings. The next period, (2019–2022) witnessed global reforms with China placing a revised EBL on the legislative agenda. The article underscores the EBL’s pivotal role in China’s economic transformation, detailing its influence on corporate restructuring, creditor rights, and the handling of “zombie companies”. 212

Why Looking at the Fall of FTX through the Lens of s 588G May Hold the Key to Cryptocurrency Policy Reform – *Luke Byrnes*

The fall of cryptocurrency exchange, FTX, has sent shockwaves throughout the cryptocurrency industry. Catalysed by dishonest and poor corporate governance by its Chief Executive Officer, Sam Bankman-Fried, FTX’s bankruptcy has undermined investor and institutional trust in the cryptocurrency industry. However, as Bankman-Fried currently faces several charges for fraudulent trading in the United States, does an examination of the fall of FTX through the lens of Australia’s director’s duty to prevent insolvent trading under s 588G of its Corporations Act 2001 (Cth) hold the key to ensuring that such conduct is detected earlier and mitigated? This article focuses on s 588G(1)(c) and the key indicators of insolvency outlined in Australian Securities & Investments Commission v Plymin and ASIC’s 217 Regulatory Guide – analysing their ability to provide key lessons for policy reform within the cryptocurrency industry. 226

INTERNATIONAL NOTES – *Editor: Dr David Morrison*

Comedy of Errors, or Errors of Comity: Recent Howlers, Stunners, and Missed Opportunities in Cross Border Cases – *Bruce A Markell* 248

NEW ZEALAND REPORT – *Editor: Professor Lynne Taylor*

Registrar’s Power to Prohibit Persons from Managing Companies: The Court of Appeal’s Guidance in *Olliver v Deputy Registrar of Companies* – *Lynne Taylor* 258

BOOK REVIEW – *Editor: Dr David Morrison*

Interpretation (3rd ed), by Perry Herzfeld and Thomas Prince – *Reviewed by Dr David Morrison* 264

VOLUME 32 – 2024

Table of Authors 269

Table of Cases 271

Index 285