



Where will the next crisis come from?

Ten years after the Lehman collapse, former Judge James Peck sees plenty of challenges for the global economy – and for the International Insolvency Institute.



The senior lawyer and former judge who supervised the Lehman Brothers bankruptcy for five and a half years thinks it is unlikely the next global financial crisis will come from within the banking sector.

Jim Peck, global co-chair of Morrison & Foerster's restructuring group and former President of International Insolvency Institute, reckons that the banking sector is significantly stronger than it was ten years ago, when Lehman collapsed.

No, said, Peck. "I do not see a systemic issue similar to the sub prime mortgage problem lurking in the financial undergrowth."

Far more likely, he feared, that the system will be hit from a completely unexpected direction.

"The problem now is figuring out where the next challenge will come from, in a world of political polarization and accelerating technological change," said Peck.

"I think we're at material risk from something we don't recognize or fully understand yet."

All this comes as a direct challenge to everything International Insolvency Institute (III) stands for, he said. But it also produces the exciting possibility that III's members could be in the front rank for solving the next crisis.

"Look around you," said Peck. "There is the crisis of the Turkish lira, the US/China trade war, Brexit uncertainty, and extreme political rhetoric coming from both sides of the Atlantic."

"In the internet age, there are very few indications of what's true and what is not. We rely heavily on the integrity of electronic media and there are so many indications of concerted efforts by state and non-state actors to undermine confidence in the data that support establishment institutions. I doubt that global

banks are immune from purposeful attacks.

"Financial institutions are much sounder than they were ten years ago, but that does not insure against the next panic."

Ten years since Lehman

Peck was prompted to these musings by the tenth anniversary of the collapse of Lehman Brothers, which ushered in the global financial crisis, the effects of which are still felt today.

On 15 September, 2008 Lehman filed for Chapter 11 in Peck's bankruptcy court in the Southern District of New York. Peck handled the case through to his retirement from the bench, when he passed the Lehman 'baton' on to Judge Shelley C. Chapman.

"Since joining Morrison & Foerster in 2014 I've been kept busy," said Peck. Lately he's acted as a mediator in several large Chapter 11 cases, including Pacific Drilling and Toisa, Ltd. He has advised Maxus Energy Corp in its Chapter 11, and the creditors' committee in the bankruptcy of Energy Future Holdings Corp., whose own collapse stemmed from the largest private equity buyout on record.

Peck is also deeply involved with III. He described III as "a group of world class leaders in the insolvency field who know and respect one another and can communicate across borders with the ability to find solutions to tough problems.

This ability to come up with solutions is needed as never before. Since Lehman

collapsed, the global financial crisis has caused a tremendous amount of lasting damage. With the exception of Lehman, Wall Street was saved and has prospered, prompting the 'occupy Wall Street' backlash.

There is a growing disparity between rich and poor, and a feeling that the recovery from the crisis has disproportionately benefited a small top tier of the population. He concluded,

"The most frightening aspect of the post-crisis world is the inability of Western democracies to function effectively,"

The institutions set up after the Second World War, like the United Nations, the IMF and the World Bank, are being challenged by a growing wave of isolationism. "We have the global system unravelling as we speak, and accepted norms being flouted. Collective action is threatened by the roar of self-interest.

"In this environment, the risk to the global financial system is mostly political," said Peck.

"I am encouraged that organisations like International Insolvency Institute continue to promote better understanding among leading insolvency judges, professors and professionals from all over the world."

Peck believes that a good way to mitigate systemic risk is for members of groups like III to maintain their collaborative approach to solving big cross-border insolvency problems.