<u>Restructuring in Emerging Markets</u>

Emerging-market restructurings face legal and practical challenges stemming from uneven legal regimes, institutional weaknesses, and a broader lack of predictability. The panel will examine domestic bottlenecks and cross-border challenges alike—including DIP financing, asset tracing, priority rankings and disputes, clawback risks, pre-packs, and recognition, among other issues. While the discussion will focus on Latin America (including U.S. cross-border interfaces), India, and Southeast Asia, the panel will also reference common issues across emerging-market restructurings.

1. Context and bottlenecks
"Could you briefly describe the main features of your restructuring framework—both out-of-court and in-court—and highlight the key bottlenecks you see in practice in your jurisdiction?"

2. Tools to address holdouts
"A recurring issue across jurisdictions is the challenge posed by holdout creditors. How does your system deal with this problem—both out-of-court and in-court—and how effective are those tools in practice?"

3. Institutional capacity and predictability
"How would you assess the institutional capacity of your system—courts, judges, administrators—and its impact on speed, predictability, and restructuring outcomes?"

- **India (Pooja)**
  → "You mentioned out-of-court tools like OTS and RBI frameworks—why do these struggle with holdouts, and how might the proposed **hybrid mechanism** change that?"

- **Colombia (Cristina)**
  → "You described the new expedited process where a **single class can negotiate and bind dissenters**. How significant is that shift in overcoming holdouts compared to prior practice?"

- **Malaysia (Sharon)**
  → "To what extent does the **scheme of arrangement and cross-class cram-down** address this issue—and does it explain why restructurings gravitate toward court?"

- **South Africa / Africa (Prof. Boraine)**
  → "Are holdout solutions primarily court-driven through **business rescue**, and how does the lack of effective cross-border tools affect coordination?"

- **India (Pooja)**
→ "You highlighted **judicial delays** as a key bottleneck—how does that affect incentives to file under the Code versus staying out of court?"
- **Colombia (Cristina)**
→ "You contrasted long processes at the Superintendency with a new **3-month expedited regime**—do you see this changing behavior in practice?"
- **Malaysia (Sharon)**
→ "You mentioned differences between **Kuala Lumpur and other courts**—how does that affect predictability for creditors, especially cross-border ones?"
- **South Africa / Africa (Prof. Boraine)**
→ "With the introduction of **dedicated insolvency divisions**, are you seeing improvements in efficiency or consistency?"