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Seminar

**Regulating the Credit Rating Agencies:
Governing the Financial Oracle**

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Tuesday, 8 December 2009, 1:00 - 2:00 pm

Room LG102, LG1 Floor, KK Leung Building, University of Hong Kong

This paper examines the role of credit rating agencies (CRAs) in the current global financial crisis and whether they should be subject to a new form of regulation. CRAs made possible the creation, valuation and dealing in a range of exotic securities and obligations. This paper provides a comparison of Australian, US and EU laws and discusses the shortcomings of current regulations. As entire markets and nations rely on CRA ratings, the issue of conflict of interests is pivotal in understanding whether ratings are tainted. In light of the criticism and increasing litigation against CRAs, the ratings methodology employed by CRAs and the enforceability and extent of their reliance on disclaimers it will be argued has distorted both the regulation and the markets. In addition, the scope, consequences and limitations of proposed regulatory reforms of CRAs are described, and issues which may assist regulators in shaping future policies are identified. The paper examines whether CRA's current exemptions from fiduciary and other statutory duties set out in Australia and other national regulatory regimes need to be balanced with perhaps imposing prudential regulatory standards, and prohibiting CRAs from engaging in activities other than the rating of entities, sovereigns and financial instruments.

Michael Kyriacou Peters has a Bachelor of Arts (UNSW), Bachelor of Law (Sydney), Master of Commerce (UNSW) Master of Law (London), admitted as a solicitor and barrister of the Supreme Court of New South Wales, High Court of Australia, with an unrestricted legal practising certificate and appointed arbitrator to the Local Court of NSW (Civil Claims) 2003-2008, President Law Society of New South Wales Arbitration panel. Mr Peters is an author of a number of commercial law texts, chapters, articles, discussion papers and submissions to Parliamentary Committees and commentator on banking finance and competition law on television and financial press. He is an honorary director of a mutual bank based in Sydney. He teaches and writes in the area of finance law and regulation, corporate governance and competition law in the finance and telco sectors. He is the co-ordinator of the Masters of Commerce research course at the University of New South Wales, Sydney, Australia.

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