



UNITED STATES

Chapter 15 of the U.S. Bankruptcy Code

- Ancillary to an existing insolvency or restructuring proceeding in another country
- Requires i) collective; ii) judicial or administrative proceeding; iii) in a foreign country; iv) under a law relating to insolvency or the adjustment of debt; v) where foreign court has control/supervision over assets and affairs of the debtor; vi) for purpose of reorganization or liquidation of the debtor.
- Domicile, residence, place of business or property in the US required
 - Can be satisfied with minimal deposit or account in US (lawyer's escrow) or a cause of action

What is Chapter 15?

- Recognition as foreign “main” or “non-main” proceeding
 - “Main” proceeding is commenced in the entity’s “center of main interests” (COMI)
 - “Non-main” proceeding is commenced where entity had an “establishment” or “non-transitory” business
- “Main” proceeding gets more automatic relief
- All relief is available if appropriate and equitable
- Recognition may be refused only if remedy would be “manifestly” contrary to U.S. public policy.

- Automatic stay of ongoing litigation
- Stay of enforcement of judgments, liens, or set-offs
- Control of debtor's business, assets, real estate in the U.S.
- Discovery
- Additional stays or injunctions.
- Other remedies as may be justified in equity.
- No right to avoid preference or claw back, but may avoid set off

- Permits adjustment of debt based on approval of some majority of creditors (by class) – generally 75%
- Requires court sanction
- “Hook” for Chapter 15 proceeding
 - Available in UK-based legal systems – England, Bermuda, Cayman, Singapore
 - Forum Shopping?
- Injunctions
- Enforcement of Releases

Chapter 15: Schemes of Arrangement

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