Cross Border Insolvency: The COMI Issue in the Stanford Case

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I. Introduction

With the development of international trade, there are no longer borders to conducting business. As companies expand, their assets begin to spread across the world. When these companies fail, and become subject to insolvency proceedings, the assets located in many different countries must be protected. However, Bankruptcy laws are typically territorial, meaning they only apply to assets located within that country. "A foreign forum has no power to seize local assets or to enforce a local freeze unless the local forum permits it to do so."[1] To complicate the issue, there is a conflict of laws amongst the different jurisdictions governing the control of the assets. This requires unity and cooperation of all countries throughout the world to ensure fair and equitable distribution of an insolvent debtor's assets.

What happens when two courts of different countries apply the law of their respective country but result in conflicting opinions concerning the control of a debtor's assets and where creditors can collect? The location of the center of main interests (COMI) determines which country's insolvency laws will apply. The determination of a company's COMI is difficult when it is a multinational enterprise with several affiliated companies operated under the control of a common entity.

This paper will examine the issue of cross-border insolvency and how courts determine a company's center of main interests. First, it is necessary to understand the UNCITRAL Model Law on Cross-Border Insolvency that was created to provide a harmonized method for countries to handle cross-border insolvency cases. Next, this paper will discuss how this Model Law has been applied in Europe and in the United States. Additionally, this paper will highlight two

[1] Alexandra C.C. Ragan, *COMI Strikes a Discordant Note: Why U.S. courts are not in complete harmony despite Chapter 15 directives*, 27 Emory Bankr. Dev. J. 117, 118 (2010). (citing Philip R. Wood, *Principles of International Insolvency* 291 (1995).

landmark decisions in this area and how these cases applied similar laws but focused on different factors in the interpretation of the terms of those laws. Finally, this paper will analyze the current, controversial case involving Stanford International Bank, Ltd. to show the problems in determining COMI.

This is an emerging, but complicated issue. The analysis in this paper will support the recommendations that the United Nations seek world-wide acceptance of the Model Law, the Model Law should be amended to more clearly define the terms and encourage courts to consider the application of the terms in foreign jurisdictions, and the Model Law, as well as the laws of the countries that have adopted the Model Law, should include a provision to better define COMI when dealing with multinational enterprises.

II. The UNCITRAL Model Law

Recognizing that many enterprises and individuals have assets in more than one state that may be impacted upon that enterprise or individual becoming insolvent, and some of the creditors are not from the state where the insolvency proceeding is taking place, the United Nations Commission on International Trade Law (UNCITRAL) created a Model Law on Cross-Border Insolvency (Model Law).[2] The Model Law, which was promulgated in 1997, "is designed to assist States to equip their insolvency laws with a modern, harmonized and fair framework to address more effectively instances of cross-border insolvency".[3] The Model Law encourages cooperation, allows foreign states to have access to courts, and provides for recognition of foreign insolvency proceedings. In order to continue development of international trade and investment, the Model Law promotes the need for cross-border cooperation, as explained in the following:

[2] U.N. Comm'n on Int'l Trade Law (UNCITRAL), Legislative Guide on Insolvency Law, U.N. Sales No. E.05.V.10, ISBN 92-1-133736-4 (2005).
[3] UNCITRAL Legislative Guide *supra* at note 2.

> [I]nadequate coordination and cooperation in cases of cross-border insolvency reduce the possibility of rescuing financially troubled but viable businesses, impede a fair and efficient administration of cross-border insolvencies, make it more likely that the debtor's assets would be concealed or dissipated and hinder reorganizations or liquidations of debtors' assets and affairs that would be the most advantageous for the creditors and other interested persons, including the debtors and the debtors' employees.[4]

The Model Law provides procedures for a foreign representative to apply for recognition of a foreign proceeding.[5] Under the Model Law, after an application for recognition has been received, the court has the power to grant provisional relief if it is urgently needed.[6] A "foreign main proceeding" is defined as "a foreign proceeding taking place in the State where the debtor has the centre of its main interests".[7] While the Model Law does not define "center of main interests", Article 16 of the Model Law provides a rebuttable presumption that the debtor's registered office is the debtor's center of main interests unless proven otherwise.[8] "COMI is designed to prevent forum shopping and to ensure that a sufficient nexus exist between the debtor and the court."[9]

If a court recognizes a foreign proceeding as a foreign main proceeding, then all actions against or "concerning the debtor's assets, rights, obligations, or liabilities" and the right to transfer or dispose of any assets is suspended.[10] A "foreign non-main proceeding" is a proceeding "taking place in a State where the debtor has an establishment".[11] "Establishment" is defined as "any place of operations where the debtor carries out a non-transitory economic

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[4] United Nations, Resolution Adopted by the General Assembly [*on the report of the Sixth Committee (A/52/649)*], 52/158. "Model Law on Cross-Border Insolvency of the United Nations Commission on International Trade Law" (Model Law), retrieved from http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N98/764/77/PDF/N9876477.pdf?OpenElement.
[5] Model Law, Article 15.
[6] Model Law, Article 19.
[7] Model Law, Article 2 (b).
[8] Model Law, Article 16 § 3.
[9] Ragan, *supra* note 1, at 132.
[10] Model Law, Article 20 § 1.
[11] Model Law, Article 2 (c).

activity with human means and goods or services".[12] While relief granted upon recognition of a foreign main proceeding is automatic, the relief granted upon recognition of a non-main proceeding is discretionary and may be granted by the court upon request of the foreign representative.[13] Chapter IV of the Model Law sets forth provisions to encourage cooperation with foreign courts and foreign representatives.

III. US Law: Chapter 15 of the US Bankruptcy Code

In 2005, the United States adopted the Model Law when it added Chapter 15 to the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the Bankruptcy Code). The purpose of Chapter 15 is to "facilitate cooperation between U.S. and foreign courts and to clarify administration of three types of international insolvency proceedings":

1) full or "main" bankruptcy proceedings, commenced either in the U.S. with cooperation sought from foreign courts or vice versa;

2) ancillary proceedings, such as limited requests to administer specific assets under U.S. jurisdiction; and

3) requests to suspend or dismiss U.S. proceedings so as to avoid conflicts with foreign proceedings already in progress.[14]

Chapter 15 repealed the former method for initiating cases ancillary to foreign proceedings in order to reach property located within the U.S. pursuant to 11 U.S.C. § 304.[15]

Under Chapter 15, a foreign representative is granted access to courts within the U.S. by filing a petition for recognition under 11 U.S.C. § 1504.[16] "Recognition" is defined as "the entry of an order granting recognition of a foreign main proceeding or foreign nonmain proceeding

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[12] Model Law, Article 2 (f).
[13] Model Law, Article 21.
[14] Georgine Marie Kryda, *Chapter 15 of the U.S. Bankruptcy Code: Ancillary and Cross-Border Cases*, CRS Report for Congress (July 14, 2006), p. 1, http://congressionalresearch.com/RL33562/document.php?study=Chapter+15+of+the+U.S.+Bankruptcy+Code+Ancillary+and+Cross-Border+Cases.
[15] 11 U.S.C. § 1501.
[16] 11 U.S.C. § 1509.

under this chapter".[17] Like the Model Code, the only apparent significance of the difference between a main and nonmain proceeding is that the relief in a foreign main proceeding is automatic while it is discretionary in a nonmain proceeding. Additionally, a U.S. trustee or other entity is authorized to act as a representative in a foreign country as permitted by the laws of that country.[18]

a. Definition of "Center of Main Interests"

Chapter 15 follows the presumption that the center of a debtor's main interest is where its registered office is located. However, the Code does not define the center of main interests. Instead, U.S. law relies on case law to define the factors used to determine the debtor's center of main interests. "The factors include the location of the debtor's headquarters; the location of those who actually manage the debtor; the location of the debtor's primary assets; the location of the majority of the debtor's creditors or of a majority of the creditors who would be affected by the case; and/or the jurisdiction whose law would apply in most disputes."[19] U.S. case law also follows the concept of "principal place of business" when determining COMI.[20]

b. Comity and Reciprocity

The concept of comity is "the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws."[21] Similarly, reciprocity is an agreement between two

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[17] 11 U.S.C. § 1502.
[18] 11 U.S.C. § 1505.
[19] Evan Hollander et al., *US Recognition of Non-US Insolvency Proceedings: more than a rubber stamp*, Euromoney Global Insolvency & Restructuring Review 2008/09 (June 11, 2008), http://www.whitecase.com/files/Publication/ebdf7150-c456-43db-8386-1383a07c26ff/Presentation/PublicationAttachment/ae0b8c7e-e9b2-4a6f-978c-97f81ef96db0/article_EuromoneyYearbook_1.pdf.
[20] *Id*.
[21] Jeremy Smith, *Approaching Universality: The role of comity in international bankruptcy proceedings litigated in America*, 17 B.U. Int'l L.J. 367, 368 (1999).

countries to recognize the laws and acts of the other. "Chapter 15 (…) aspires to promote comity and reciprocity with regard to the substantive law in order to enhance the efficiency and equity of international insolvency proceedings."[22] Accordingly, under U.S. law, courts have discretion to recognize proceedings from any country but are required to recognize those proceedings, when recognition is warranted, in countries with which the U.S. has agreed to provide reciprocity. Critics have argued that since Chapter 15 proscribes specific circumstances where recognition of a foreign proceeding is granted, the discretionary ability to grant comity has been removed.

IV. EC Insolvency Regulations

In recognizing the need for effective and efficient cross-border insolvency proceedings, the Eurpoean Union enacted the European Community Regulation on Insolvency Proceedings (EC Regulations).[23] "The European Union Regulation on Insolvency Proceedings, which is similar in many respects to Chapter 15, became effective in all but one member country of the European Union in May 2002."[24] The EC Regulations follow the Model Law and provides a framework for insolvency proceedings and creates a harmonized arrangement so as to prevent debtors from moving assets to other member countries seeking more favorable treatment.[25]

The provisions of the EC Regulations are similar to the Model law in that a company's center of main interests, for purposes of determining which court has jurisdiction to hear the "main proceeding", is where its registered office is, absent evidence to the contrary.[26] The recitals further clarify that the center of main interests should be "the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by

[22] Georgine Marie Kryda, *Chapter 15 of the U.S. Bankruptcy Code: Ancillary and Cross-Border Cases* at p. 2.
[23] Council Regulation 1346/2000 of 29 May 2000 on Insolvency Proceedings 200 O.J. (L. 160) 1 (EC).
[24] Jeffrey W. Levitan, Adam Berkowitz, *Proskauer on International Litigation and Arbitration: Managing, Resolving, and Avoiding Cross-Border Business or Regulatory Disputes*, Chapter 15 – U.S. Bankruptcy Cases Ancillary to Foreign Proceedings, http://www.proskauerguide.com/law_topics/26/II (retreived May 20, 2011).
[25] Council Regulation 1346/2000 of 29 May 2000 on Insolvency Proceedings 200 O.J. (L. 160) 1 (EC).
[26] EC Regulations, Article 3(1).

third parties".[27] Secondary proceedings may be opened in other member states where the debtor company has an establishment.[28] Courts in other member countries must recognize decisions by the court presiding over the main proceeding (except where it is against public policy).[29]

V. Great Britain Cross-Border Insolvency Regulations 2006

In 2006, Great Britain adopted the Model Law in the Cross-Border Insolvency Regulations of 2006 (Insolvency Regulations). These regulations were adopted by Great Britain, not the United Kingdom, and as such, apply only in England, Scotland, and Wales and do not apply to Northern Ireland.[30] While the EC Regulations were adopted in 2002 and apply to Great Britain, the Insolvency Regulations compliment the EC Regulations and apply also to cross-border insolvency matters involving countries outside of the European Union member states.[31]

The Insolvency Regulations implement the same concepts from the Model Law, including direct access to the courts and the right to initiate an insolvency proceeding for a foreign representative, the criteria for recognizing a foreign proceeding as a main or non-main proceeding, and cooperation and coordination with foreign courts.[32] A decision made by a court in one part of Great Britain shall have effect in other parts of Great Britain.[33]

VI. Significant Cases

Because the legislation in cross-border insolvency is relatively new, courts are experiencing difficulties in the application of the law. While the intention of the legislation is to create a harmonized manner in which to handle insolvency proceedings, courts of different countries are applying different standards in determining the location of a company's center of main interests.

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[27] EC Regulations, Recital ¶ 13.
[28] EC Regulations, Article 3 (2).
[29] EC Regulations, Article 16.
[30] Explanatory Memorandum to the Cross-Border Insolvency Regulations, 2006 No. 1030, http://www.legislation.gov.uk/uksi/2006/1030/pdfs/uksiem_20061030_en.pdf (last visited May 27, 2011).
[31] *Id*.
[32] *Id*.
[33] Insolvency Regulation 7.

The following cases illustrate how EU member countries favor upholding the presumption that the center of main interests is the location of the registered office, and placing less weight on factors that suggest otherwise, while the U.S. courts are more willing to allow evidence to rebut this presumption.

a. Eurofood

In the case of *In re* Eurofood IFSC Ltd., the European Court of Justice attempted to define COMI. Eurofood is a company that conducted business in and was registered in Ireland but is a wholly owned subsidiary of Parmalat, which is incorporated in Italy.[34] Eurofood was more of a "letterbox company" in that its operations and administration were controlled by the parent company. On December 23, 2003, the Italian Ministry of Production Activities admitted Parmalat to extraordinary administration proceedings and appointed Dr. Enrico Bondi as the extraordinary administrator.[35] On January 27, 2004, Bank of America petitioned for a compulsory winding up against Eurofood with the High Court of Ireland (Irish court) and requested the court to appoint a liquidator.[36] The Irish court appointed Mr. Pearse Farrell as the provisional liquidator with powers over the affairs and assets of Eurofood.[37] Upon a hearing before the District Court in Parma, Italy (Italian court), the Italian court held that Eurofood's center of main interests was Italy, since Parmalat controlled the operations of Eurofood in Italy.[38] Accordingly, the Italian court found that it had international jurisdiction to determine whether the company was insolvent.[39] However, the Irish court determined that since Eurofood was registered in Ireland, Eurofood's COMI was Ireland and the proceedings before the Irish court

[34] *Eurofood IFSC Ltd.*, EU: Case C-341/04, 2006 WL 1142304, ¶ 17 (May 2, 2006).
[35] *Id.* at ¶ 18.
[36] *Id.* at ¶ 19.
[37] *Eurofood* at ¶ 20.
[38] *Id.* at ¶ 22.
[39] *Id.* at ¶ 22.

were the main proceedings.[40] As such, the Irish court refused to recognize the decision of the Italian court.[41] Dr. Bondi appealed the Irish court's decision to the Irish Supreme Court, but the Supreme Court stayed the proceedings and referred the case to the European Court of Justice (ECJ) for a preliminary ruling on several issues, including the proper location of Eurofood's COMI.[42]

The ECJ ruled that the presumption that the center of main interests is the location of the registered office and this presumption "can be rebutted only if factors which are both objective and ascertainable by third parties" suggest that the center of main interests is in a different location.[43] The ECJ further explained that when a "subsidiary conducts the administration of its interests on a regular basis in a manner ascertainable by third parties" in the member state wherein it is registered, "the mere fact that its economic choices are or can be controlled by a parent company in another Member State is not enough to rebut the presumption laid down by that Regulation".[44] Finally, and of equal significance, the ECJ ruled that the EC Regulations require courts to recognize main proceedings in other member states, the Italian courts could not review the Irish court's determination of jurisdiction.[45]

The Eurofood decision seemed to have two significant impacts on the European legal community as it relates to insolvency proceedings. First, by neglecting to provide relevant facts in support of its decision, the ECJ's ruling strengthened the presumption that the center of main interest is the location of the company's registered office, making it more difficult to rebut.[46]

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[40] *Eurofood* at ¶ 23.
[41] *Id.* at ¶ 23.
[42] *Id.* at ¶ 24.
[43] *Eurofood*, Ruling at ¶ 1.
[44] *Id*.
[45] Eurofood, Ruling at ¶ 2.
[46] Ragan, 27 Emory Bankr. Dev. J. at p. 140.

Second, the decision emphasized the mandatory recognition requirement, encouraging a "race to the court" to be the first to obtain a judgment in order to receive recognition elsewhere.[47]

b. In re Bear Stearns

In the case of *In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd*. (Bear Stearns), the United States District Court for the Southern District of New York refused to recognize insolvency proceedings taking place in the Cayman Islands, as they were neither main nor nonmain proceedings.[48] Foreign Representatives were appointed in insolvency proceedings that were initiated against Bear Sterns in the Cayman Court.[49] On the same day, the Foreign Representatives filed a petition for recognition in the Bankruptcy Court.[50] The Court denied recognition of the Cayman Island proceeding as a main proceeding because Bear Stearns' center of main interests was in the United States since the fund's investment manager, the books and records, and most of the liquid assets were located in the United States.[51] Additionally, the Court reasoned that none of the investors knew or had reason to know that Bear Stearns was incorporated anywhere other than in New York.[52] The Court found these factors sufficient enough to rebut the presumption, albeit an uncontested presumption, that the debtor's center of main interest was the location of its registered office. The Court further concluded that since Bear Stearns did not conduct economic activity in the Cayman Islands and there were no assets located in the Cayman Islands prior to the petition, it did not have an establishment so the proceedings could not be recognized as nonmain proceedings either.[53] "*Bear Searns* is significant not only because it demonstrates that some U.S. courts have been reluctant to fully

[47] *Id*. at pp. 139-140.
[48] *In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd*., 389 B.R. 325 (S.D.N.Y. 2008).
[49] *Id*. at 329.
[50] *Id*.
[51] *Bear Stearns* at 330.
[52] *Id*. at 338.
[53] *Id*.

embrace foreign decisions, but also because it is perhaps the best example of a U.S. decision looking beyond the presumption of § 1516."[54]

VII. Stanford Case

On February 16, 2009, the Securities Exchange Commission (SEC) filed a complaint in the Northern District of Texas for fraud committed by R. Allen Stanford and James M. Davis, both U.S. citizens, through companies they controlled, including Stanford International Bank, Ltd. (SIB), Stanford Trust Company Limited (STCL), Stanford Financial Group (SFG), and more than 100 other affiliates.[55] While SIB and STCL are domiciled in Antigua, as they are both incorporated and registered in Antigua, all of SIB's financial operations took place in the United States.[56] The complaint alleged that SIB sold over $8 billion in certificates of deposit (CDs) to over 50,000 investors by making false representations about the performance of the portfolio and promising a unique investment strategy resulting in a higher rate of return than CDs offered by traditional banks.[57] SIB allegedly failed to hold the investor's money in separate accounts and instead used the money to buy assets and to pay other investors with older CDs.[58]

In its complaint, the SEC requested the court to freeze all of Stanford's assets and to appoint a receiver to take possession and control of the assets in order to protect the victims of the fraudulent investment scheme.[59] The U.S. District Court appointed Ralph S. Janvey to be the U.S. receiver and to identify and secure assets for the benefit of the estate. The U.S. receiver quickly determined that none of the Stanford companies were viable since their continued

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[54] Ragan, *supra* note 1, at 148.
[55] *SEC v. Stanford International Bank, et al.*, Complaint at p. 1 (Feb. 16, 2009).
[56] *SEC v. Stanford International Bank, et al.*, Report of the Receiver at p. 7 (Apr. 23, 2009).
[57] *SEC v. Stanford International Bank, et al.*, Complaint at p. 1 (Feb. 16, 2009).
[58] Stanford Receivership Home, http://www.stanfordfinancialreceivership.com/#chap15req (last visited May 13, 2011).
[59] *Stanford* Complaint at pp. 5-6.

operations relied heavily on the fraudulent CD investments.[60] "The lack of financial viability is further explained by what appears to have been manipulation of financial records of the Stanford companies, in an apparent attempt to hide the true financial condition of the businesses from regulators and other outsiders."[61] The U.S. receiver concluded that there were four main categories of claimants affected by the lack of financial viability: the CD investors, owners of securities held in trust by Stanford entities, trade creditors, landlords, and service providers, and employees.[62] The remaining available assets identified by the U.S. receiver would only cover a small fraction of the potential claims of these creditors.

In a case in Antigua, a purported creditor of SIB along with the Financial Services Regulatory Commission of Antigua and Barbuda (FSRC) filed to have SIB liquidated. At that time, Nigel Hamilton-Smith and Peter Wastell were appointed as liquidators of SIB's and STCL's assets.[63] The U.S. receiver sought to intervene in the Antiguan case, asserting that the U.S. is the center of main interests for most of the Stanford entities and the Antigua case is a "non-main" proceeding to the U.S. receivership.[64] However, the Antigua court denied the U.S. receiver's request based upon lack of standing to intervene.[65] The legal system of Antigua lacks any process for recognition of a cross-border insolvency proceeding. Subsequently, the Antiguan liquidators filed a petition in the U.S. District Court for recognition under Chapter 15 of the U.S. Bankruptcy Code.[66] The Antiguan liquidators also filed for recognition as "foreign representatives" in Canada without notice to the U.S. receiver.[67]

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[60] *SEC v. Stanford International Bank, et al.*, Report of the Receiver at pp. 8-9 (Apr. 23, 2009).
[61] *Id*. at p. 9.
[62] *Id*. at pp. 11-12.
[63] *Stanford* Report of the Receiver at p. 18.
[64] *Id*. at p. 19.
[65] *Id*.
[66] *Stanford* Report of the Receiver at p. 21.
[67] *Id*. at p. 20.

Additionally, both the U.S. receivers and the Antiguan liquidators filed for recognition with the United Kingdom, since SIB had assets located in an account in the UK. On July 3, 2009, the UK High Court of Justice issued a judgment determining Antigua as SIB's center of main interests and recognizing the Antiguan liquidators as the foreign representatives of this main proceeding, granting them control over all of the assets located within the UK and remit them to Antigua to be liquidated according to the insolvency laws of that country.[68] The Court reasoned that SIB was not simply a "letterbox company" since its physical headquarters and employees were in Antigua, thus reinforcing the presumption that the COMI is in Antigua where the company was registered.[69]

VIII. Conclusion and Recommendations

There are significant differences in the ways that countries handle the distribution of assets in insolvency cases. Additionally, countries differ in their interpretation of the terms of the Model Law. When this effort is designed to promote harmonization and equity, the different interpretations and applications is actually hindering this process. The UN can further this effort by providing additional clarification and seeking wider acceptance of the Model Law.

a. The UN should seek world-wide acceptance of the Model Code.

In order to achieve cross-border cooperation and to promote equity in the distribution of assets in an insolvency case, the United Nations should seek world-wide acceptance of its model code on cross-border insolvency. If every nation had the same laws to deal with cross-border insolvency, courts could focus more on the substantive issues in the insolvency case, such as securing the assets in order to protect the creditors, instead of wasting time and money fighting

[68] *In the Matter of Stanford International Bank Ltd*., et al., (2009) EWHC 1441 (Ch) at ¶70.
[69] *Id*. at ¶ 97.

over which jurisdiction should control the proceedings. Additionally, harmonization would prevent forum shopping by debtors and creditors seeking the best resolution for their situation.

b. The Model Law should more clearly define COMI and the relevant factors used.

The Model Law provides for a presumption that a company's center of main interests is the location of its registered office. The cases make clear that there are other factors that should be considered when determining COMI. Accordingly, the UN should amend the Model Law to include specific factors courts should consider when determining whether there is a rebuttal to the presumption that COMI is the location of a company's registered office. Additionally, the UN should engage courts on an international basis to promote uniformity in the interpretation of the terms of the Model Law. This could be accomplished by encouraging courts in every jurisdiction to apply foreign sources of law to resolve questions of interpretation.

c. Groups of companies should be treated as one entity.

Some countries, such as Antigua, treat each individual entity within a group of related companies as a separate debtor. This results in several companies with different COMIs being administrated differently. In order to promote fair and efficient administration the UN should amend the Model Law, and the countries that have adopted the Model Law should respectively amend their laws, to provide a more detailed approach to determining COMI when there are large multinational enterprises, or groups of affiliated companies that operate under a larger company. This would include looking at all of the companies as one single entity and determining which country is the location of the majority of the operations for all of the companies. For example, if the Stanford International Bank case combined all of the related companies and determined the location with the most signification presence from the combined operations, the proceeding in that country would be the main proceeding. This would assist

courts in determining COMI and the proper jurisdiction for the insolvency case so that the court in a location that is able to control the majority of the assets will be in a better position to protect the majority of the creditors.

The Model Law is a notable effort to create unity and harmonization of cross-border insolvency law amongst various jurisdictions. The creation of a standard for determining the center of main interests for a multinational enterprise is a step in the right direction. Laws are always subject to judicial interpretation but now that that interpretation has begun, the UN, and the countries involved in global reform, must continue to evolve with the changing needs of the global legal community.