



Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151) Signed into law on June 21, 2022

- Purpose:
 - Modify certain eligibility requirements for personal and small business debtors Make certain other technical modifications
 - \bullet







Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)

- proceedings = \$2.7 million
 - [Amending 11 U.S.C. § 109(e)]



• Raises debt cap for individuals in Chapter 13





Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)

- - [Amending 11 U.S.C. § 1182(1)(A)]
- Originally raised in response to Covid-19

• Reinstates the upper limit for "small business debtors" qualifying for Subchapter V = \$7.5 million Sunsets after 2 years (June 21, 2024)





Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)

- Narrows the "issuer affiliate" exception
 - [Amending 11 U.S.C. § 1182(1)(B)]
- Disqualified if affiliate of "issuer"
 - Issuer = Securities Exchange Act = public company



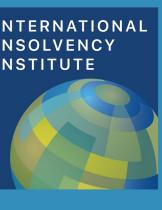


Bankruptcy Threshold Adjustment and Technical Corrections Act (Pub. L. No. 117-151)

- - [Amending 11 U.S.C. § 1183(d)]



Subchapter V trustee can operate business in the event debtor ceases to be "in-possession"





- Bankruptcy Clause
 - [US Const., Art. I, § 8]



• 2017 increases of US Trustee system fees violated the uniformity requirement of the US Constitution's





- US Trustee system:
 - 48 states
 - Self-funded
- Bankruptcy Administrator system
 - 2 states
 - General judiciary fund







- programs

 - Significant disparity = \$500k!



• 2017 fee increases applied differently across

Different rates in time and location





"[The Congress shall have Power . . .] To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;"







MOAC Mall Holdings v. Transform Holdco, No. 21-1270, cert. granted June 27, 2022 • Granted to resolve a circuit-split re: Section 363(m) and the scope of appellate jurisdiction of bankruptcy sale orders







MOAC Mall Holdings v. Transform Holdco, No. 21-1270, cert. granted June 27, 2022

Section 363(m): The reversal or modification on appeal . . . of a sale or lease of property does not affect the validity of a sale or lease . . . to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal





In re Black Gold S.A.R.L BAP No. NC-21-1068-BGT (B.A.P. 9th Feb. 2022)

Chapter 15 recognition

• 9th Circuit BAP holding that alleged bad faith conduct does not provide sufficient basis to deny





In re Black Gold S.A.R.L BAP No. NC-21-1068-BGT (B.A.P. 9th Feb. 2022) Bankruptcy court is not "helpless" post-recognition

- Chapter 15 has "other tools" to deal with misconduct and cases filed in bad faith Abstention and dismissal powers
- - Relief from stay
 - Termination of recognition







In re Talal Qais Abdulmunen al Zawawi 2022 WL 596836 (M.D. Fla. Feb. 28, 2022) • "[C]ompliance with Section 109(a) is not a

- 15"
- F.3d 238 (2d Cir. 2013)



prerequisite to obtaining recognition under Chapter

Rejects contrary decision in *Drawbridge Special* **Opportunities Fund LP v. Barnet (In re Barnet), 737**





In re Talal Qais Abdulmunen al Zawawi 2022 WL 596836 (M.D. Fla. Feb. 28, 2022)

- "Debtor" vs. "foreign representative"
- Section 109 vs. Section 1502





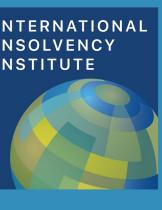


In re Modern Land (China) Co., Ltd. No. 22-10707 (MG) (Bankr. S.D.N.Y. July 18, 2022)

- - recognition of foreign main proceeding



Clarifying debtor's ability to receive substantive discharge of debt governed by New York law upon





In re Modern Land (China) Co., Ltd. No. 22-10707 (MG) (Bankr. S.D.N.Y. July 18, 2022)

- J), June 6, 2022
 - debt."



Respectfully disagreeing with the High Court of Hong Kong in *Rare Earth*, [2022] HKCFI 1686 (Harris

"[Chapter 15] recognition does not appear as a matter of United States' law to discharge the





Stream TV Networks v SeeCubic, Case No. 360-2021(Del. June 15, 2022) • Delaware Supreme Court case repudiating

- company's property

"insolvency exception" under the D.G.C.L. • Insolvency does not circumvent requirement for majority consent to authorize the sale or exchange of all or substantially all of the





Mass Tort Liabilities

- In re LTL Management, LLC, Case No. 21-03032-MBK (Bankr. D. N.J. Feb. 25, 2022) • In re Aearo Technologies LLC, Case No. 22-02890 (Bankr. S.D. Ind. Aug. 26, 2022)







Student Loan Debt

- student loans
 - Up to \$20,000 per borrower

• Wolfson v. DeVos (In re Wolfson), Case No. 19-11618(LSS) (Bankr. D. Del. Jan 14, 2022) • Permitting discharge but applying *Brunner* Presidential executive action forgiving federal

Based on indirect "emergency" legislation

