

**H. R. 975**

**108<sup>TH</sup> CONGRESS, 1<sup>ST</sup> SESSION**

**An Act to amend title 11 of the United States Code, and for other purposes**

**TITLE VIII – ANCILLARY AND OTHER  
CROSS-BORDER CASES**

*Adding Chapter 15 to Title 11, United States Code  
(adopting the text of the UNCITRAL  
Model Law on Cross-Border Insolvency)*

1       **TITLE VIII—ANCILLARY AND**  
 2       **OTHER CROSS-BORDER CASES**

3       **SEC. 801. AMENDMENT TO ADD CHAPTER 15 TO TITLE 11,**  
 4                               **UNITED STATES CODE.**

5       (a) IN GENERAL.—Title 11, United States Code, is  
 6 amended by inserting after chapter 13 the following:

7       **“CHAPTER 15—ANCILLARY AND OTHER**  
 8                               **CROSS-BORDER CASES**

“Sec.

“1501. Purpose and scope of application.

“SUBCHAPTER I—GENERAL PROVISIONS

“1502. Definitions.

“1503. International obligations of the United States.

“1504. Commencement of ancillary case.

“1505. Authorization to act in a foreign country.

“1506. Public policy exception.

“1507. Additional assistance.

“1508. Interpretation.

“SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND  
 CREDITORS TO THE COURT

“1509. Right of direct access.

“1510. Limited jurisdiction.

“1511. Commencement of case under section 301 or 303.

“1512. Participation of a foreign representative in a case under this title.

“1513. Access of foreign creditors to a case under this title.

“1514. Notification to foreign creditors concerning a case under this title.

“SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING  
 AND RELIEF

“1515. Application for recognition.

“1516. Presumptions concerning recognition.

“1517. Order granting recognition.

“1518. Subsequent information.

“1519. Relief that may be granted upon filing petition for recognition.

“1520. Effects of recognition of a foreign main proceeding.

“1521. Relief that may be granted upon recognition.

“1522. Protection of creditors and other interested persons.

“1523. Actions to avoid acts detrimental to creditors.

“1524. Intervention by a foreign representative.

“SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND  
 FOREIGN REPRESENTATIVES

“1525. Cooperation and direct communication between the court and foreign courts or foreign representatives.

“1526. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.

“1527. Forms of cooperation.

“SUBCHAPTER V—CONCURRENT PROCEEDINGS

“1528. Commencement of a case under this title after recognition of a foreign main proceeding.

“1529. Coordination of a case under this title and a foreign proceeding.

“1530. Coordination of more than 1 foreign proceeding.

“1531. Presumption of insolvency based on recognition of a foreign main proceeding.

“1532. Rule of payment in concurrent proceedings.

1 **“§ 1501. Purpose and scope of application**

2       “(a) The purpose of this chapter is to incorporate the  
3 Model Law on Cross-Border Insolvency so as to provide  
4 effective mechanisms for dealing with cases of cross-bor-  
5 der insolvency with the objectives of—

6               “(1) cooperation between—

7                       “(A) courts of the United States, United  
8 States trustees, trustees, examiners, debtors,  
9 and debtors in possession; and

10                      “(B) the courts and other competent au-  
11 thorities of foreign countries involved in cross-  
12 border insolvency cases;

13               “(2) greater legal certainty for trade and in-  
14 vestment;

15               “(3) fair and efficient administration of cross-  
16 border insolvencies that protects the interests of all  
17 creditors, and other interested entities, including the  
18 debtor;

1           “(4) protection and maximization of the value  
2 of the debtor’s assets; and

3           “(5) facilitation of the rescue of financially  
4 troubled businesses, thereby protecting investment  
5 and preserving employment.

6           “(b) This chapter applies where—

7           “(1) assistance is sought in the United States  
8 by a foreign court or a foreign representative in con-  
9 nection with a foreign proceeding;

10           “(2) assistance is sought in a foreign country in  
11 connection with a case under this title;

12           “(3) a foreign proceeding and a case under this  
13 title with respect to the same debtor are pending  
14 concurrently; or

15           “(4) creditors or other interested persons in a  
16 foreign country have an interest in requesting the  
17 commencement of, or participating in, a case or pro-  
18 ceeding under this title.

19           “(c) This chapter does not apply to—

20           “(1) a proceeding concerning an entity, other  
21 than a foreign insurance company, identified by ex-  
22 clusion in section 109(b);

23           “(2) an individual, or to an individual and such  
24 individual’s spouse, who have debts within the limits  
25 specified in section 109(e) and who are citizens of

1 the United States or aliens lawfully admitted for  
2 permanent residence in the United States; or

3 “(3) an entity subject to a proceeding under the  
4 Securities Investor Protection Act of 1970, a stock-  
5 broker subject to subchapter III of chapter 7 of this  
6 title, or a commodity broker subject to subchapter  
7 IV of chapter 7 of this title.

8 “(d) The court may not grant relief under this chap-  
9 ter with respect to any deposit, escrow, trust fund, or  
10 other security required or permitted under any applicable  
11 State insurance law or regulation for the benefit of claim  
12 holders in the United States.

13 “SUBCHAPTER I—GENERAL PROVISIONS

14 “§ 1502. Definitions

15 “For the purposes of this chapter, the term—

16 “(1) ‘debtor’ means an entity that is the subject  
17 of a foreign proceeding;

18 “(2) ‘establishment’ means any place of oper-  
19 ations where the debtor carries out a nontransitory  
20 economic activity;

21 “(3) ‘foreign court’ means a judicial or other  
22 authority competent to control or supervise a foreign  
23 proceeding;

1           “(4) ‘foreign main proceeding’ means a foreign  
2 proceeding pending in the country where the debtor  
3 has the center of its main interests;

4           “(5) ‘foreign nonmain proceeding’ means a for-  
5 eign proceeding, other than a foreign main pro-  
6 ceeding, pending in a country where the debtor has  
7 an establishment;

8           “(6) ‘trustee’ includes a trustee, a debtor in  
9 possession in a case under any chapter of this title,  
10 or a debtor under chapter 9 of this title;

11           “(7) ‘recognition’ means the entry of an order  
12 granting recognition of a foreign main proceeding or  
13 foreign nonmain proceeding under this chapter; and

14           “(8) ‘within the territorial jurisdiction of the  
15 United States’, when used with reference to property  
16 of a debtor, refers to tangible property located with-  
17 in the territory of the United States and intangible  
18 property deemed under applicable nonbankruptcy  
19 law to be located within that territory, including any  
20 property subject to attachment or garnishment that  
21 may properly be seized or garnished by an action in  
22 a Federal or State court in the United States.

23 **“§ 1503. International obligations of the United States**

24           “To the extent that this chapter conflicts with an ob-  
25 ligation of the United States arising out of any treaty or

1 other form of agreement to which it is a party with one  
2 or more other countries, the requirements of the treaty  
3 or agreement prevail.

4 **“§ 1504. Commencement of ancillary case**

5 “A case under this chapter is commenced by the filing  
6 of a petition for recognition of a foreign proceeding under  
7 section 1515.

8 **“§ 1505. Authorization to act in a foreign country**

9 “A trustee or another entity (including an examiner)  
10 may be authorized by the court to act in a foreign country  
11 on behalf of an estate created under section 541. An entity  
12 authorized to act under this section may act in any way  
13 permitted by the applicable foreign law.

14 **“§ 1506. Public policy exception**

15 “Nothing in this chapter prevents the court from re-  
16 fusing to take an action governed by this chapter if the  
17 action would be manifestly contrary to the public policy  
18 of the United States.

19 **“§ 1507. Additional assistance**

20 “(a) Subject to the specific limitations stated else-  
21 where in this chapter the court, if recognition is granted,  
22 may provide additional assistance to a foreign representa-  
23 tive under this title or under other laws of the United  
24 States.

1       “(b) In determining whether to provide additional as-  
2 sistance under this title or under other laws of the United  
3 States, the court shall consider whether such additional  
4 assistance, consistent with the principles of comity, will  
5 reasonably assure—

6           “(1) just treatment of all holders of claims  
7 against or interests in the debtor’s property;

8           “(2) protection of claim holders in the United  
9 States against prejudice and inconvenience in the  
10 processing of claims in such foreign proceeding;

11           “(3) prevention of preferential or fraudulent  
12 dispositions of property of the debtor;

13           “(4) distribution of proceeds of the debtor’s  
14 property substantially in accordance with the order  
15 prescribed by this title; and

16           “(5) if appropriate, the provision of an oppor-  
17 tunity for a fresh start for the individual that such  
18 foreign proceeding concerns.

19 **“§ 1508. Interpretation**

20       “‘In interpreting this chapter, the court shall consider  
21 its international origin, and the need to promote an appli-  
22 cation of this chapter that is consistent with the applica-  
23 tion of similar statutes adopted by foreign jurisdictions.



1 “SUBCHAPTER II—ACCESS OF FOREIGN REP-  
2 RESENTATIVES AND CREDITORS TO THE  
3 COURT

4 “§ 1509. Right of direct access

5 “(a) A foreign representative may commence a case  
6 under section 1504 by filing directly with the court a peti-  
7 tion for recognition of a foreign proceeding under section  
8 1515.

9 “(b) If the court grants recognition under section  
10 1515, and subject to any limitations that the court may  
11 impose consistent with the policy of this chapter—

12 “(1) the foreign representative has the capacity  
13 to sue and be sued in a court in the United States;

14 “(2) the foreign representative may apply di-  
15 rectly to a court in the United States for appropriate  
16 relief in that court; and

17 “(3) a court in the United States shall grant  
18 comity or cooperation to the foreign representative.

19 “(c) A request for comity or cooperation by a foreign  
20 representative in a court in the United States other than  
21 the court which granted recognition shall be accompanied  
22 by a certified copy of an order granting recognition under  
23 section 1517.

24 “(d) If the court denies recognition under this chap-  
25 ter, the court may issue any appropriate order necessary

1 to prevent the foreign representative from obtaining com-  
2 ity or cooperation from courts in the United States.

3 “(e) Whether or not the court grants recognition, and  
4 subject to sections 306 and 1510, a foreign representative  
5 is subject to applicable nonbankruptcy law.

6 “(f) Notwithstanding any other provision of this sec-  
7 tion, the failure of a foreign representative to commence  
8 a case or to obtain recognition under this chapter does  
9 not affect any right the foreign representative may have  
10 to sue in a court in the United States to collect or recover  
11 a claim which is the property of the debtor.

12 **“§ 1510. Limited jurisdiction**

13 “The sole fact that a foreign representative files a  
14 petition under section 1515 does not subject the foreign  
15 representative to the jurisdiction of any court in the  
16 United States for any other purpose.

17 **“§ 1511. Commencement of case under section 301 or**  
18 **303**

19 “(a) Upon recognition, a foreign representative may  
20 commence—

21 “(1) an involuntary case under section 303; or

22 “(2) a voluntary case under section 301 or 302,  
23 if the foreign proceeding is a foreign main pro-  
24 ceeding.

1       “(b) The petition commencing a case under sub-  
2 section (a) must be accompanied by a certified copy of  
3 an order granting recognition. The court where the peti-  
4 tion for recognition has been filed must be advised of the  
5 foreign representative’s intent to commence a case under  
6 subsection (a) prior to such commencement.

7       **“§ 1512. Participation of a foreign representative in a**  
8                                       **case under this title**

9       “Upon recognition of a foreign proceeding, the for-  
10 eign representative in the recognized proceeding is entitled  
11 to participate as a party in interest in a case regarding  
12 the debtor under this title.

13       **“§ 1513. Access of foreign creditors to a case under**  
14                                       **this title**

15       “(a) Foreign creditors have the same rights regarding  
16 the commencement of, and participation in, a case under  
17 this title as domestic creditors.

18       “(b)(1) Subsection (a) does not change or codify  
19 present law as to the priority of claims under section 507  
20 or 726, except that the claim of a foreign creditor under  
21 those sections shall not be given a lower priority than that  
22 of general unsecured claims without priority solely because  
23 the holder of such claim is a foreign creditor.

24       “(2)(A) Subsection (a) and paragraph (1) do not  
25 change or codify present law as to the allowability of for-

1 eign revenue claims or other foreign public law claims in  
2 a proceeding under this title.

3 “(B) Allowance and priority as to a foreign tax claim  
4 or other foreign public law claim shall be governed by any  
5 applicable tax treaty of the United States, under the con-  
6 ditions and circumstances specified therein.

7 **“§ 1514. Notification to foreign creditors concerning a**  
8 **case under this title**

9 “(a) Whenever in a case under this title notice is to  
10 be given to creditors generally or to any class or category  
11 of creditors, such notice shall also be given to the known  
12 creditors generally, or to creditors in the notified class or  
13 category, that do not have addresses in the United States.  
14 The court may order that appropriate steps be taken with  
15 a view to notifying any creditor whose address is not yet  
16 known.

17 “(b) Such notification to creditors with foreign ad-  
18 dresses described in subsection (a) shall be given individ-  
19 ually, unless the court considers that, under the cir-  
20 cumstances, some other form of notification would be  
21 more appropriate. No letter or other formality is required.

22 “(c) When a notification of commencement of a case  
23 is to be given to foreign creditors, such notification shall—

1           “(1) indicate the time period for filing proofs of  
2 claim and specify the place for filing such proofs of  
3 claim;

4           “(2) indicate whether secured creditors need to  
5 file proofs of claim; and

6           “(3) contain any other information required to  
7 be included in such notification to creditors under  
8 this title and the orders of the court.

9           “(d) Any rule of procedure or order of the court as  
10 to notice or the filing of a proof of claim shall provide  
11 such additional time to creditors with foreign addresses  
12 as is reasonable under the circumstances.

13           “SUBCHAPTER III—RECOGNITION OF A  
14 FOREIGN PROCEEDING AND RELIEF

15 **“§ 1515. Application for recognition**

16           “(a) A foreign representative applies to the court for  
17 recognition of a foreign proceeding in which the foreign  
18 representative has been appointed by filing a petition for  
19 recognition.

20           “(b) A petition for recognition shall be accompanied  
21 by—

22           “(1) a certified copy of the decision com-  
23 mencing such foreign proceeding and appointing the  
24 foreign representative;

1           “(2) a certificate from the foreign court affirm-  
2           ing the existence of such foreign proceeding and of  
3           the appointment of the foreign representative; or

4           “(3) in the absence of evidence referred to in  
5           paragraphs (1) and (2), any other evidence accept-  
6           able to the court of the existence of such foreign  
7           proceeding and of the appointment of the foreign  
8           representative.

9           “(c) A petition for recognition shall also be accom-  
10          panied by a statement identifying all foreign proceedings  
11          with respect to the debtor that are known to the foreign  
12          representative.

13          “(d) The documents referred to in paragraphs (1)  
14          and (2) of subsection (b) shall be translated into English.  
15          The court may require a translation into English of addi-  
16          tional documents.

17          **“§ 1516. Presumptions concerning recognition**

18          “(a) If the decision or certificate referred to in section  
19          1515(b) indicates that the foreign proceeding is a foreign  
20          proceeding and that the person or body is a foreign rep-  
21          resentative, the court is entitled to so presume.

22          “(b) The court is entitled to presume that documents  
23          submitted in support of the petition for recognition are  
24          authentic, whether or not they have been legalized.

1       “(c) In the absence of evidence to the contrary, the  
2 debtor’s registered office, or habitual residence in the case  
3 of an individual, is presumed to be the center of the debt-  
4 or’s main interests.

5 **“§ 1517. Order granting recognition**

6       “(a) Subject to section 1506, after notice and a hear-  
7 ing, an order recognizing a foreign proceeding shall be en-  
8 tered if—

9               “(1) such foreign proceeding for which recogni-  
10 tion is sought is a foreign main proceeding or for-  
11 eign nonmain proceeding within the meaning of sec-  
12 tion 1502;

13               “(2) the foreign representative applying for rec-  
14 ognition is a person or body; and

15               “(3) the petition meets the requirements of sec-  
16 tion 1515.

17       “(b) Such foreign proceeding shall be recognized—

18               “(1) as a foreign main proceeding if it is pend-  
19 ing in the country where the debtor has the center  
20 of its main interests; or

21               “(2) as a foreign nonmain proceeding if the  
22 debtor has an establishment within the meaning of  
23 section 1502 in the foreign country where the pro-  
24 ceeding is pending.

1       “(c) A petition for recognition of a foreign proceeding  
2 shall be decided upon at the earliest possible time. Entry  
3 of an order recognizing a foreign proceeding constitutes  
4 recognition under this chapter.

5       “(d) The provisions of this subchapter do not prevent  
6 modification or termination of recognition if it is shown  
7 that the grounds for granting it were fully or partially  
8 lacking or have ceased to exist, but in considering such  
9 action the court shall give due weight to possible prejudice  
10 to parties that have relied upon the order granting rec-  
11 ognition. A case under this chapter may be closed in the  
12 manner prescribed under section 350.

13 **“§ 1518. Subsequent information**

14       “From the time of filing the petition for recognition  
15 of a foreign proceeding, the foreign representative shall  
16 file with the court promptly a notice of change of status  
17 concerning—

18               “(1) any substantial change in the status of  
19 such foreign proceeding or the status of the foreign  
20 representative’s appointment; and

21               “(2) any other foreign proceeding regarding the  
22 debtor that becomes known to the foreign represent-  
23 ative.



1 **“§ 1519. Relief that may be granted upon filing peti-**  
2 **tion for recognition**

3 “(a) From the time of filing a petition for recognition  
4 until the court rules on the petition, the court may, at  
5 the request of the foreign representative, where relief is  
6 urgently needed to protect the assets of the debtor or the  
7 interests of the creditors, grant relief of a provisional na-  
8 ture, including—

9 “(1) staying execution against the debtor’s as-  
10 sets;

11 “(2) entrusting the administration or realiza-  
12 tion of all or part of the debtor’s assets located in  
13 the United States to the foreign representative or  
14 another person authorized by the court, including an  
15 examiner, in order to protect and preserve the value  
16 of assets that, by their nature or because of other  
17 circumstances, are perishable, susceptible to devalu-  
18 ation or otherwise in jeopardy; and

19 “(3) any relief referred to in paragraph (3),  
20 (4), or (7) of section 1521(a).

21 “(b) Unless extended under section 1521(a)(6), the  
22 relief granted under this section terminates when the peti-  
23 tion for recognition is granted.

24 “(c) It is a ground for denial of relief under this sec-  
25 tion that such relief would interfere with the administra-  
26 tion of a foreign main proceeding.

1       “(d) The court may not enjoin a police or regulatory  
2 act of a governmental unit, including a criminal action or  
3 proceeding, under this section.

4       “(e) The standards, procedures, and limitations ap-  
5 plicable to an injunction shall apply to relief under this  
6 section.

7       “(f) The exercise of rights not subject to the stay  
8 arising under section 362(a) pursuant to paragraph (6),  
9 (7), (17), or (27) of section 362(b) or pursuant to section  
10 362(n) shall not be stayed by any order of a court or ad-  
11 ministrative agency in any proceeding under this chapter.

12 **“§ 1520. Effects of recognition of a foreign main pro-**  
13 **ceeding**

14       “(a) Upon recognition of a foreign proceeding that  
15 is a foreign main proceeding—

16               “(1) sections 361 and 362 apply with respect to  
17 the debtor and the property of the debtor that is  
18 within the territorial jurisdiction of the United  
19 States;

20               “(2) sections 363, 549, and 552 apply to a  
21 transfer of an interest of the debtor in property that  
22 is within the territorial jurisdiction of the United  
23 States to the same extent that the sections would  
24 apply to property of an estate;

1           “(3) unless the court orders otherwise, the for-  
2           foreign representative may operate the debtor’s busi-  
3           ness and may exercise the rights and powers of a  
4           trustee under and to the extent provided by sections  
5           363 and 552; and

6           “(4) section 552 applies to property of the debt-  
7           or that is within the territorial jurisdiction of the  
8           United States.

9           “(b) Subsection (a) does not affect the right to com-  
10          mence an individual action or proceeding in a foreign  
11          country to the extent necessary to preserve a claim against  
12          the debtor.

13          “(c) Subsection (a) does not affect the right of a for-  
14          eign representative or an entity to file a petition com-  
15          mencing a case under this title or the right of any party  
16          to file claims or take other proper actions in such a case.

17          **“§ 1521. Relief that may be granted upon recognition**

18          “(a) Upon recognition of a foreign proceeding, wheth-  
19          er main or nonmain, where necessary to effectuate the  
20          purpose of this chapter and to protect the assets of the  
21          debtor or the interests of the creditors, the court may, at  
22          the request of the foreign representative, grant any appro-  
23          priate relief, including—

24                  “(1) staying the commencement or continuation  
25          of an individual action or proceeding concerning the

1 debtor's assets, rights, obligations or liabilities to the  
2 extent they have not been stayed under section  
3 1520(a);

4 “(2) staying execution against the debtor's as-  
5 sets to the extent it has not been stayed under sec-  
6 tion 1520(a);

7 “(3) suspending the right to transfer, encumber  
8 or otherwise dispose of any assets of the debtor to  
9 the extent this right has not been suspended under  
10 section 1520(a);

11 “(4) providing for the examination of witnesses,  
12 the taking of evidence or the delivery of information  
13 concerning the debtor's assets, affairs, rights, obliga-  
14 tions or liabilities;

15 “(5) entrusting the administration or realiza-  
16 tion of all or part of the debtor's assets within the  
17 territorial jurisdiction of the United States to the  
18 foreign representative or another person, including  
19 an examiner, authorized by the court;

20 “(6) extending relief granted under section  
21 1519(a); and

22 “(7) granting any additional relief that may be  
23 available to a trustee, except for relief available  
24 under sections 522, 544, 545, 547, 548, 550, and  
25 724(a).

1       “(b) Upon recognition of a foreign proceeding, wheth-  
2 er main or nonmain, the court may, at the request of the  
3 foreign representative, entrust the distribution of all or  
4 part of the debtor’s assets located in the United States  
5 to the foreign representative or another person, including  
6 an examiner, authorized by the court, provided that the  
7 court is satisfied that the interests of creditors in the  
8 United States are sufficiently protected.

9       “(c) In granting relief under this section to a rep-  
10 resentative of a foreign nonmain proceeding, the court  
11 must be satisfied that the relief relates to assets that,  
12 under the law of the United States, should be adminis-  
13 tered in the foreign nonmain proceeding or concerns infor-  
14 mation required in that proceeding.

15       “(d) The court may not enjoin a police or regulatory  
16 act of a governmental unit, including a criminal action or  
17 proceeding, under this section.

18       “(e) The standards, procedures, and limitations ap-  
19 plicable to an injunction shall apply to relief under para-  
20 graphs (1), (2), (3), and (6) of subsection (a).

21       “(f) The exercise of rights not subject to the stay  
22 arising under section 362(a) pursuant to paragraph (6),  
23 (7), (17), or (27) of section 362(b) or pursuant to section  
24 362(n) shall not be stayed by any order of a court or ad-  
25 ministrative agency in any proceeding under this chapter.

1 **“§ 1522. Protection of creditors and other interested**  
2 **persons**

3 “(a) The court may grant relief under section 1519  
4 or 1521, or may modify or terminate relief under sub-  
5 section (c), only if the interests of the creditors and other  
6 interested entities, including the debtor, are sufficiently  
7 protected.

8 “(b) The court may subject relief granted under sec-  
9 tion 1519 or 1521, or the operation of the debtor’s busi-  
10 ness under section 1520(a)(3), to conditions it considers  
11 appropriate, including the giving of security or the filing  
12 of a bond.

13 “(c) The court may, at the request of the foreign rep-  
14 resentative or an entity affected by relief granted under  
15 section 1519 or 1521, or at its own motion, modify or  
16 terminate such relief.

17 “(d) Section 1104(d) shall apply to the appointment  
18 of an examiner under this chapter. Any examiner shall  
19 comply with the qualification requirements imposed on a  
20 trustee by section 322.

21 **“§ 1523. Actions to avoid acts detrimental to creditors**

22 “(a) Upon recognition of a foreign proceeding, the  
23 foreign representative has standing in a case concerning  
24 the debtor pending under another chapter of this title to  
25 initiate actions under sections 522, 544, 545, 547, 548,  
26 550, 553, and 724(a).

1       “(b) When a foreign proceeding is a foreign nonmain  
2 proceeding, the court must be satisfied that an action  
3 under subsection (a) relates to assets that, under United  
4 States law, should be administered in the foreign nonmain  
5 proceeding.

6       **“§ 1524. Intervention by a foreign representative**

7       “Upon recognition of a foreign proceeding, the for-  
8 eign representative may intervene in any proceedings in  
9 a State or Federal court in the United States in which  
10 the debtor is a party.

11       **SUBCHAPTER IV—COOPERATION WITH FOR-**  
12       **EIGN COURTS AND FOREIGN REPRESENTA-**  
13       **TIVES**

14       **“§ 1525. Cooperation and direct communication be-**  
15                       **tween the court and foreign courts or for-**  
16                       **oreign representatives**

17       “(a) Consistent with section 1501, the court shall co-  
18 operate to the maximum extent possible with a foreign  
19 court or a foreign representative, either directly or  
20 through the trustee.

21       “(b) The court is entitled to communicate directly  
22 with, or to request information or assistance directly from,  
23 a foreign court or a foreign representative, subject to the  
24 rights of a party in interest to notice and participation.

1 **“§ 1526. Cooperation and direct communication be-**  
2 **tween the trustee and foreign courts or**  
3 **foreign representatives**

4 “(a) Consistent with section 1501, the trustee or  
5 other person, including an examiner, authorized by the  
6 court, shall, subject to the supervision of the court, cooper-  
7 ate to the maximum extent possible with a foreign court  
8 or a foreign representative.

9 “(b) The trustee or other person, including an exam-  
10 iner, authorized by the court is entitled, subject to the su-  
11 pervision of the court, to communicate directly with a for-  
12 eign court or a foreign representative.

13 **“§ 1527. Forms of cooperation**

14 “Cooperation referred to in sections 1525 and 1526  
15 may be implemented by any appropriate means,  
16 including—

17 “(1) appointment of a person or body, including  
18 an examiner, to act at the direction of the court;

19 “(2) communication of information by any  
20 means considered appropriate by the court;

21 “(3) coordination of the administration and su-  
22 pervision of the debtor’s assets and affairs;

23 “(4) approval or implementation of agreements  
24 concerning the coordination of proceedings; and

25 “(5) coordination of concurrent proceedings re-  
26 garding the same debtor.



1 “SUBCHAPTER V—CONCURRENT PROCEEDINGS

2 **“§ 1528. Commencement of a case under this title**

3 **after recognition of a foreign main pro-**

4 **ceeding**

5 “After recognition of a foreign main proceeding, a  
6 case under another chapter of this title may be commenced  
7 only if the debtor has assets in the United States. The  
8 effects of such case shall be restricted to the assets of the  
9 debtor that are within the territorial jurisdiction of the  
10 United States and, to the extent necessary to implement  
11 cooperation and coordination under sections 1525, 1526,  
12 and 1527, to other assets of the debtor that are within  
13 the jurisdiction of the court under sections 541(a) of this  
14 title, and 1334(e) of title 28, to the extent that such other  
15 assets are not subject to the jurisdiction and control of  
16 a foreign proceeding that has been recognized under this  
17 chapter.

18 **“§ 1529. Coordination of a case under this title and a**

19 **foreign proceeding**

20 “If a foreign proceeding and a case under another  
21 chapter of this title are pending concurrently regarding  
22 the same debtor, the court shall seek cooperation and co-  
23 ordination under sections 1525, 1526, and 1527, and the  
24 following shall apply:

1           “(1) If the case in the United States pending  
2 at the time the petition for recognition of such for-  
3 eign proceeding is filed—

4           “(A) any relief granted under section 1519  
5 or 1521 must be consistent with the relief  
6 granted in the case in the United States; and

7           “(B) section 1520 does not apply even if  
8 such foreign proceeding is recognized as a for-  
9 eign main proceeding.

10          “(2) If a case in the United States under this  
11 title commences after recognition, or after the date  
12 of the filing of the petition for recognition, of such  
13 foreign proceeding—

14          “(A) any relief in effect under section  
15 1519 or 1521 shall be reviewed by the court  
16 and shall be modified or terminated if incon-  
17 sistent with the case in the United States; and

18          “(B) if such foreign proceeding is a foreign  
19 main proceeding, the stay and suspension re-  
20 ferred to in section 1520(a) shall be modified or  
21 terminated if inconsistent with the relief grant-  
22 ed in the case in the United States.

23          “(3) In granting, extending, or modifying relief  
24 granted to a representative of a foreign nonmain  
25 proceeding, the court must be satisfied that the re-

1        relief relates to assets that, under the laws of the  
2        United States, should be administered in the foreign  
3        nonmain proceeding or concerns information re-  
4        quired in that proceeding.

5            “(4) In achieving cooperation and coordination  
6        under sections 1528 and 1529, the court may grant  
7        any of the relief authorized under section 305.

8        **“§ 1530. Coordination of more than 1 foreign pro-**  
9            **ceeding**

10        “In matters referred to in section 1501, with respect  
11        to more than 1 foreign proceeding regarding the debtor,  
12        the court shall seek cooperation and coordination under  
13        sections 1525, 1526, and 1527, and the following shall  
14        apply:

15            “(1) Any relief granted under section 1519 or  
16        1521 to a representative of a foreign nonmain pro-  
17        ceeding after recognition of a foreign main pro-  
18        ceeding must be consistent with the foreign main  
19        proceeding.

20            “(2) If a foreign main proceeding is recognized  
21        after recognition, or after the filing of a petition for  
22        recognition, of a foreign nonmain proceeding, any  
23        relief in effect under section 1519 or 1521 shall be  
24        reviewed by the court and shall be modified or termi-

1 nated if inconsistent with the foreign main pro-  
2 ceeding.

3 “(3) If, after recognition of a foreign nonmain  
4 proceeding, another foreign nonmain proceeding is  
5 recognized, the court shall grant, modify, or termi-  
6 nate relief for the purpose of facilitating coordina-  
7 tion of the proceedings.

8 **“§ 1531. Presumption of insolvency based on recogni-  
9 tion of a foreign main proceeding**

10 “In the absence of evidence to the contrary, recogni-  
11 tion of a foreign main proceeding is, for the purpose of  
12 commencing a proceeding under section 303, proof that  
13 the debtor is generally not paying its debts as such debts  
14 become due.

15 **“§ 1532. Rule of payment in concurrent proceedings**

16 “Without prejudice to secured claims or rights in  
17 rem, a creditor who has received payment with respect to  
18 its claim in a foreign proceeding pursuant to a law relating  
19 to insolvency may not receive a payment for the same  
20 claim in a case under any other chapter of this title re-  
21 garding the debtor, so long as the payment to other credi-  
22 tors of the same class is proportionately less than the pay-  
23 ment the creditor has already received.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters  
 2 for title 11, United States Code, is amended by inserting  
 3 after the item relating to chapter 13 the following:

“15. Ancillary and Other Cross-Border Cases ..... 1501”.

4 **SEC. 802. OTHER AMENDMENTS TO TITLES 11 AND 28,**  
 5 **UNITED STATES CODE.**

6 (a) APPLICABILITY OF CHAPTERS.—Section 103 of  
 7 title 11, United States Code, is amended—

8 (1) in subsection (a), by inserting before the pe-  
 9 riod the following: “, and this chapter, sections 307,  
 10 362(n), 555 through 557, and 559 through 562  
 11 apply in a case under chapter 15”; and

12 (2) by adding at the end the following:

13 “(k) Chapter 15 applies only in a case under such  
 14 chapter, except that—

15 “(1) sections 1505, 1513, and 1514 apply in all  
 16 cases under this title; and

17 “(2) section 1509 applies whether or not a case  
 18 under this title is pending.”.

19 (b) DEFINITIONS.—Section 101 of title 11, United  
 20 States Code, is amended by striking paragraphs (23) and  
 21 (24) and inserting the following:

22 “(23) ‘foreign proceeding’ means a collective ju-  
 23 dicial or administrative proceeding in a foreign coun-  
 24 try, including an interim proceeding, under a law re-  
 25 lating to insolvency or adjustment of debt in which

1 proceeding the assets and affairs of the debtor are  
2 subject to control or supervision by a foreign court,  
3 for the purpose of reorganization or liquidation;

4 “(24) ‘foreign representative’ means a person  
5 or body, including a person or body appointed on an  
6 interim basis, authorized in a foreign proceeding to  
7 administer the reorganization or the liquidation of  
8 the debtor’s assets or affairs or to act as a rep-  
9 resentative of such foreign proceeding;”.

10 (c) AMENDMENTS TO TITLE 28, UNITED STATES  
11 CODE.—

12 (1) PROCEDURES.—Section 157(b)(2) of title  
13 28, United States Code, is amended—

14 (A) in subparagraph (N), by striking  
15 “and” at the end;

16 (B) in subparagraph (O), by striking the  
17 period at the end and inserting “; and”; and

18 (C) by adding at the end the following:

19 “(P) recognition of foreign proceedings  
20 and other matters under chapter 15 of title  
21 11.”.

22 (2) BANKRUPTCY CASES AND PROCEEDINGS.—  
23 Section 1334(c) of title 28, United States Code, is  
24 amended by striking “Nothing in” and inserting

1       “Except with respect to a case under chapter 15 of  
2       title 11, nothing in”.

3           (3) DUTIES OF TRUSTEES.—Section 586(a)(3)  
4       of title 28, United States Code, is amended by strik-  
5       ing “or 13” and inserting “13, or 15”.

6           (4) VENUE OF CASES ANCILLARY TO FOREIGN  
7       PROCEEDINGS.—Section 1410 of title 28, United  
8       States Code, is amended to read as follows:

9       **“§1410. Venue of cases ancillary to foreign pro-**  
10       **ceedings**

11       “A case under chapter 15 of title 11 may be com-  
12       menced in the district court of the United States for the  
13       district—

14           “(1) in which the debtor has its principal place  
15       of business or principal assets in the United States;

16           “(2) if the debtor does not have a place of busi-  
17       ness or assets in the United States, in which there  
18       is pending against the debtor an action or pro-  
19       ceeding in a Federal or State court; or

20           “(3) in a case other than those specified in  
21       paragraph (1) or (2), in which venue will be con-  
22       sistent with the interests of justice and the conven-  
23       ience of the parties, having regard to the relief  
24       sought by the foreign representative.”.

1 (d) OTHER SECTIONS OF TITLE 11.—Title 11 of the  
2 United States Code is amended—

3 (1) in section 109(b), by striking paragraph (3)  
4 and inserting the following:

5 “(3)(A) a foreign insurance company, engaged  
6 in such business in the United States; or

7 “(B) a foreign bank, savings bank, cooperative  
8 bank, savings and loan association, building and  
9 loan association, or credit union, that has a branch  
10 or agency (as defined in section 1(b) of the Inter-  
11 national Banking Act of 1978 in the United  
12 States.”;

13 (2) in section 303, by striking subsection (k);

14 (3) by striking section 304;

15 (4) in the table of sections for chapter 3 by  
16 striking the item relating to section 304;

17 (5) in section 306 by striking “, 304,” each  
18 place it appears;

19 (6) in section 305(a) by striking paragraph (2)  
20 and inserting the following:

21 “(2)(A) a petition under section 1515 for rec-  
22 ognition of a foreign proceeding has been granted;  
23 and



1           “(B) the purposes of chapter 15 of this title  
2 would be best served by such dismissal or suspen-  
3 sion.”; and

4           (7) in section 508—

5           (A) by striking subsection (a); and

6           (B) in subsection (b), by striking “(b)”.