

TITLE 30 - CIVIL REMEDIES AND SPECIAL PROCEEDINGS
CHAPTER 7 - UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY
IMPLEMENTATION ACT, 2018



Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

UNCITRAL MODEL LAW ON CROSS-BORDER
INSOLVENCY IMPEMENTATION ACT, 2018

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AN ACT to implement the UNCITRAL Model Law on Cross-Border Insolvency to provide effective mechanisms for dealing with cases of cross-border insolvency so as to promote the objectives of: (a) Cooperation between the High Court and other competent authorities of the Republic and foreign States involved in cases of cross-border insolvency; (b) Greater legal certainty for trade and investment; (c) Fair and efficient administration of cross-border insolvencies that protects the interests of all creditors and other interested persons, including the debtor; (d) Protection and maximization of the value of the debtor's assets; and (e) Facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

Commencement:

March 15, 2018

Source:

P.L. 2018-60

§700. Short Title.

This Act may be cited as the *UNCITRAL Model Law on Cross-Border Insolvency Implementation Act 2018*.

§701. Scope of application.

(1) This Act applies where:

- (a) Assistance is sought in the Republic by a foreign court or a foreign representative in connection with a foreign proceeding;
or

- (b) Assistance is sought in a foreign State in connection with a proceeding under the laws of the Republic relating to insolvency; or
 - (c) A foreign proceeding and a proceeding under the laws of the Republic relating to insolvency in respect of the same debtor are taking place concurrently; or
 - (d) Creditors or other interested persons in a foreign State have an interest in requesting the commencement of, or participating in, a proceeding under the laws of the Republic relating to insolvency.
- (2) This Act does not apply to a proceeding concerning entities, such as banks and insurance companies, that are subject to a special insolvency regime in the Republic and the Republic wishes to exclude from this Act.

§702. Definitions.

For the purposes of this Act:

- (a) “Foreign proceeding” means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;
- (b) “Foreign main proceeding” means a foreign proceeding taking place in the State where the debtor has the center of its main interests;
- (c) “Foreign non-main proceeding” means a foreign proceeding, other than a foreign main proceeding, taking place in a State where the debtor has an establishment within the meaning of subparagraph (f) of this section;
- (d) “Foreign representative” means a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of the foreign proceeding;

- (e) “Foreign court” means a judicial or other authority competent to control or supervise a foreign proceeding; and
- (f) “Establishment” means any place of operations where the debtor carries out a non-transitory economic activity with human means and goods or services.

§703. International obligations of the Republic.

To the extent that this Act conflicts with an obligation of the Republic arising out of any treaty or other form of agreement to which it is a party with one or more other States, the requirements of the treaty or agreement prevail to the extent they have been enacted into law.

§704. The competent court or authority.

The functions referred to in this Act relating to recognition of foreign proceedings and cooperation with foreign courts shall be performed by the High Court.

§705. Authorization of a person or body administering reorganization or liquidation under the law of the Republic to act in a foreign State.

A person or body administering a reorganization or liquidation under the law of the Republic is authorized to act in a foreign State on behalf of a proceeding under the laws of the Republic relating to insolvency, as permitted by the applicable foreign law.

§706. Public policy exception.

Nothing in this Act prevents the High Court from refusing to take an action governed by this Act if the action would be manifestly contrary to the public policy of the Republic.

§707. Additional assistance under other laws.

Nothing in this Act limits the power of the High Court or a person or body administering a reorganization or liquidation under the law of the Republic to provide additional assistance to a foreign representative under other laws of the Republic.