

Download free Cross border insolvency (PDF)

this book presents an analysis of the effectiveness of european union cross border insolvency proceedings it provides a thorough assessment of the development of cross border insolvency proceedings established in the regulation on insolvency proceedings eu 2015 848 and how they contribute to the general goals of the eu internal market insolvency law has not been subject to a global mandatory harmonization process with no globally binding legal act instead the landscape of international insolvency law is characterized by a patchwork of national laws that seek to accommodate cross border insolvencies and soft law agreements in the eu cross border insolvency law holds significant importance in ensuring the smooth operation of the internal market fostering international investments and legal foreseeability in insolvency proceedings it upholds the fundamental freedoms within eu law this book covers the main elements of eu cross border insolvency law such as jurisdiction applicable law recognition and enforcement of judgments it also focuses on previously unexplored areas such as the exercise of creditors rights in cross border insolvency cases and the tracing and recovery of assets and discusses the application of the restructuring and insolvency directive eu 2019 1023 in relation to the rescue of viable companies and the discharge of debts for insolvent entrepreneurs this book will be of interest to students and practitioners of insolvency law eu law and private international law it will also be useful for national legislators and eu institutions working on the development of eu insolvency law with insolvency issues increasingly extending across national borders practitioners in this area need specialist guidance on the particular problems which apply in cross border insolvency the new third edition of this acclaimed book has been extensively revised and updated to provide a practical analysis of the fundamental changes to cross border insolvency law and practice in england as result of the european insolvency regulation as well as the cross border insolvency regulations 2006 which implemented the uncitral model law on cross border insolvency with illustrations at the end of each chapter showing how to avoid practical problems this thoroughly researched text gives an insight into the impact and potential difficulties of the law enabling the practitioner to anticipate problems before they arise with recent high profile cases such as maxwell barings and bcci highlighting the fact that insolvency increasingly extends across national borders practitioners in this area need specialist guidance on the particular problems which apply in cross border insolvency the second edition of this acclaimed book has been extensively revised to provide a practical analysis of the impact of new developments in cross border insolvency law fully updated and expanded this unique guide looks at recent case law as well as statutory developments most notably the civil jurisdiction and judgments act 1982 interim relief order 1997 with illustrations at the end of each chapter showing how to avoid practical problems this thoroughly researched text gives insight into the impact and potential difficulties of the law enabling the practitioner to anticipate problems before they arise cross border insolvency 4th edition provides a comprehensive and up to date consideration of the topic of cross border insolvency written in a clear and accessible manner it guides the user seamlessly through this complex area of law the coverage of the book is divided into two parts the first part describes the key cross border insolvency regimes including the ec insolvency regulation the uncitral model law on cross border insolvency section 426 of the insolvency act 1986 and the common law the second part focuses on specific issues in more detail such as the court s insolvency jurisdiction ancillary winding up enforcement of foreign insolvency judgments foreign discharge of debts and insolvency set off the fourth edition gives full analysis of the fundamental changes to cross border insolvency law and practice in england including the impact of the supreme court decision in rubin v eurofinance the revised uk insolvency rules proposals for revision of the ec insolvency regulation scope of section 426 hsbk v tambrook jersey developments in offshore jurisdictions primeo fund and saad investments cayman re c bvi kelmsley v barclays bank plc previous print edition isbn 9781845921040 this book examines the effect of the adoption of the united nations committee on international trade law uncitral model law on cross border insolvency in five common law jurisdictions namely australia canada new zealand the united kingdom and the united states of america it examines how each of those states has adopted interpreted and applied the provisions of the model law and highlights the effects of inconsistencies by examining jurisprudence in each of these countries specifically how the model law affects existing principles of recognition of insolvency proceedings the book examines how the uncitral guide to enactment of the model law has affected the interpretation of each of its articles and in turn the courts ability to interpret and hence give effect to the purposes of the model law it also considers the ability of courts to refer to amendments made to the guide after enactment of the model law in a state thereby questioning whether the current inconsistencies in interpretation can be overcome by uncitral amending the guide the united nations commission on international trade law uncitral model law on cross border insolvency aims to provide legal certainty and efficient administration of cross border insolvencies this volume covers national implementation of the uncitral model law in 10 jurisdictions this book covers the pressing issues of cross border cases involving admiralty and bankruptcy law for example what should happen when a shipowner files an insolvency proceeding in one country while at the same time facing an in rem action against its vessel in another country should the in rem action arising in one country be stayed or dismissed because of the existence of insolvency proceedings in another country the book discusses the relevant issues regarding the treatment of maritime creditors throughout insolvency proceedings the determination of the centre of main interest of an offshore shipping company and the scope of a debtor s assets the author uses a comparative law analysis selecting four leading shipping countries australia the uk the us and singapore and examines their approaches to the above three problems when applying the uncitral model law regime the book also proposes a solution to help eliminate the ambiguity arising from maritime cross border insolvency cases under the uncitral model law regime with a view to enhancing the development of the shipping industry a fresh and insightful guide to post financial crisis cross border insolvency this book interrogates the current regime and sets out a pattern to improve its future

in recent decades and especially since the global financial crisis a number of important initiatives have focused on developing effective solutions for managing the insolvency of multinational enterprises and financial institutions irit mevorach here takes stock of the varying success of previous policy and identifies the gaps and biases that could be bridged by a new approach the book first sets out the theoretical debates regarding cross border insolvency and surveys the strengths and weaknesses of the prevailing method modified universalism synthesizing divergences into a rubric for both commercial entities and financial institutions adhering to these norms more robustly mevorach argues would enhance global welfare and produce the best outcomes for businesses and institutions drawing upon sources from international law as well as behavioural and economic theory mevorach considers how to translate modified universalism into binding international law and how to choose the right instrument for cross border insolvency the impact instrument design has on decisions and choices and how to encourage compliance in particular the book proposes guidelines that could potentially overcome or at least take into account behavioural biases in decision making in order to create a system that works for businesses and offers a blueprint for the future of cross border insolvency maritime cross border insolvency is a comprehensive comparative examination of both insolvency regimes uncitral and eu in shipping with reference to the main jurisdictions having adopted the uncitral regime i e usa uk greece reports primarily in english some in french or spanish cross border insolvency protocols play a critical role in facilitating the efficient resolution of complex international corporate insolvencies this book constitutes the first in depth study of the use of insolvency protocols enriching existing knowledge about them and serving as a comprehensive introduction to their application in the context of multinational enterprise group insolvency it traces the rise of insolvency protocols and discusses their legal basis contents effects major characteristics and limitations recent insolvency cases highlight the growing importance of cross border insolvency matters in international transactions in order to obtain relevant information essential for conduct in such transactions an insolvency lawyer needs to have access to the many relevant instruments that have been introduced and implemented in recent years but that until now have not been available in any single place this very useful volume collects for the second time in one source all important international and regional legal instruments relating to insolvency of companies and consumers as well as to corporate rescue law the book includes international and regional conventions model laws eu regulations and directives and guiding principles produced by various international bodies such as the world bank the united nations committee on international trade law uncitral the american law institute insol international and insol europe and international and european restatements of insolvency law by scholars in addition to reproducing the complete texts of these instruments the editors provide insightful commentary covering such important matters as the following key issues of each text expected amendments and revisions and comparative analysis of instruments a unique resource bringing together core material in the field of cross border insolvency law and legislation this book will be welcomed by international insolvency practitioners worldwide insolvency proceedings have increasingly cross border effects which are regulated by many international regulations this book answers the fascinating question of what the underlying principles of international cross border insolvency laws are and how they can be used for the purpose of further harmonising cross border insolvency law in the eu and beyond the uncitral model law on cross border insolvency adopted in 1997 is designed to assist states to equip their insolvency laws with a modern harmonized fair framework to address more effectively instances of cross border insolvency those instances include cases where the insolvent debtor has less assets in more than one state or where some of the creditors are not from the state where insolvency proceeding is taking place the advanced introduction to cross border insolvency law provides a clear and concise overview of cross border insolvency law with particular focus on the rules that govern insolvency proceedings that occur between and across countries increasingly such proceedings have an international dimension which may involve for example debtors with assets abroad foreign creditors contractual agreements with counterparties in different jurisdictions or companies with offices or subsidiaries in a different country the book expertly steers the reader through the complex interactions between national and supra national rules international model laws and the principles that underpin them cross border insolvency law in australia engages with several current multi billion dollar insolvencies such as those of nortel networks and lehman brothers to provide the reader with state of the art knowledge of the complex problems posed by transnational insolvency as the number of transnational insolvencies grows due to prevailing economic conditions practitioners are increasingly required to navigate the mass of legal rules applicable to cross border insolvency situations the associated challenges are heightened by the diversity of legal structures employed by modern business entities and a patchwork of costly inefficient and unpredictable national legal rules the response has been a proliferation of international legal instruments such as the uncitral model law supra national rules such as the eu insolvency regulation and judicial practice adding further layers of complexity writing from an australian perspective the authors analyse this network of legal rules and subsequent case law in addition they explain the theoretical underpinnings of these rules in an accessible manner to build a solid foundation for practice facilitate advanced reasoning and enable the development of sophisticated arguments for law reform comparative case law from jurisdictions such as the united states and united kingdom is also included this book is highly relevant to insolvency practitioners faced with the recovery of assets transnationally transactional lawyers for whom knowledge of potential insolvency pitfalls is essential and academics it is invaluable for students at both undergraduate and postgraduate level seeking a sound understanding of this challenging area of law features oAeo provides a concise theoretical account of international insolvency to develop clear understanding of the concepts underpinning the cross border insolvency practice oAeo includes a comparative overview of key international developments and case law oAeo highlights key trends in practice to ensure practitioners remain current oAeo offers innovative arguments and approaches to this complex area of law related titles assaf shields kincaid voidable transactions in company insolvency 2014 brown symes wellard australian insolvency law cases materials 2015 rodrigo demand guarantees operation enforcement and the autonomy principle 2015 symes australian insolvency law 3rd ed 2015 this book presents a comprehensive analysis of the regulation of cross border insolvencies in europe council regulation 1346 2000 on insolvency proceedings forms the natural focal point of

such a study however while this book explores in detail the background legal basis as well as the substance of the regulation it also contains an examination of the regulation from two wider perspectives that of international cross border insolvency regulation and community law the approach adopted by the regulation to the problems raised by cross border insolvency forms part of a paradigmatic shift at the global level the struggle over jurisdiction the natural state of affairs under the old principles of universality territoriality is increasingly being replaced by co operation between the jurisdictions involved the regulation must be understood against the backdrop of these new cooperative approaches including the uncitral model law and ancillary proceedings doing so this book argues that the co operative framework of the regulation is limited and may ultimately not suffice to realise the efficient and effective cross border proceedings it is aiming for although the regulation is an exponent of this global shift towards cooperation the legal context in which it operates is nevertheless very different community law as an autonomous legal order has limited the private international law autonomy of member states and generated a comitas europaea this book argues that community law and its comitas must be taken seriously they are an important source of principles to guide courts in the interpretation and application of the regulation and may reinforce and expand the co operative mechanisms of the regulation jona israel obtained his ll m at the university of east anglia norwich in 1994 and graduated at the university of maastricht in 1995 from 1995 to 1998 he was researcher at the european university institute in florence italy since 1998 he has been lecturer at the university of maastricht teaching private international law insolvency law and commercial law why do firms die this volume explores international and cross disciplinary perspectives carrying out a forensic examination of how and why companies die in order to understand the lessons dead firms may have to offer this book provides an analysis and comparison of international insolvency rules maritime laws and their inevitable intersection in maritime cross border insolvencies until today the on going shipping crisis resulted in the insolvency of numerous shipping companies all over the world the tensions arising between the legal systems of maritime and insolvency law paired with conflicts of law in maritime insolvencies are a major source of legal uncertainty and risk in 2010 the comité maritime international installed an international working group on international maritime insolvencies and until today it is work in progress this book gives an overview on maritime insolvencies with a focus on germany england wales and the usa and assesses the chances of achieving meaningful harmonization in the complex scenarios where ships as mobile assets add a further complication to international insolvency proceedings written by specialists from each jurisdiction this new edition provides an in depth article by article analysis of the local enactment and application of the model law in each of the jurisdictions concerned alongside consideration of the relationship between the model law and any existing cross border insolvency jurisprudence each chapter adopts the same format for ease of reference addressing key concepts such as the centre of main interests court to court communication enforcement of security interests and the protection of debtors and creditors this study discusses the position of secured creditors in cross border insolvency proceedings the book contains a comparative analysis of inter alia the cross border effects of insolvency proceedings and the enforcement of security rights present dutch customary private international law contrasts sharply with recent international developments such as the ec insolvency regulation and german legislation based on it and the uncitral model law on cross border insolvency the author argues for the introduction of a set of rules that in accordance with the uncitral model law on cross border insolvency subject the recognition of insolvency proceedings commenced outside the eu to judicial review with respect to the determination of the effects of insolvency proceedings the conflict rules of the eu insolvency regulation should be followed this leads to a coherent system of international insolvency law also the far reaching yet simple and clear rule of article 5 of the ec insolvency regulation should be adopted in dutch customary private international law regardless of the jurisdictions involved the opening of insolvency proceedings will not affect security rights on assets situated in other states uncitral model law on cross border insolvency guide to enactment and interpretation of the uncitral model law on cross border insolvency general assembly resolution 52 158 of 15 december 1997 decision of the united nations commission on international trade law going for broke focuses on insolvency as an additional civil remedy in the arsenal of asset recovery practitioners specifically in the context of grand corruption investigations and proceedings the recovery of corruption proceeds is often sought through criminal prosecution and confiscation or civil lawsuits insolvency proceedings can also be an effective mechanism in the right circumstances with their own advantages and disadvantages the scenario that is most likely to benefit from this type of remedy is one in which bribes and stolen funds have been routed through special purpose companies this guidebook is intended as a practical tool to help policy makers public officials and those who have been entrusted with recovering their nations stolen assets it informs them about the ways that insolvency can be used to pursue proceeds of corruption it may also serve as a quick reference for other practitioners insolvency professionals auditors financial institutions in house counsel and other professionals who deal with corruption this work undertaken by the insolvency and creditors rights committee of the international bar association s section on business law gathers together a critical assessment of some of the most pressing current issues in cross border insolvency and reorganization under the following headings the proposed european community insolvency convention comparative analysis of chapter 11 with the uk administration system maxwell communication new aspects of co operation in international insolvency the olympia york reorganization parallel international reorganization proceedings treatment of international insolvency issues in japan cross border insolvency issues in canada aspects of international insolvency administration in germany practical problems in cross border insolvencies recognition of foreign insolvency and legal proceedings in italy the new insolvency regimes in russia and the cis shareholder liability consolidation and pooling the model international insolvency co operation act effects of foreign bankruptcy judgments and power of foreign receivers a french perspective this book provides a distilled and accessible analysis of the european cross border insolvency law with reference to the amended insolvency regulation eir and related sources it examines the issues involved in intra member state cross border insolvency the book analyses in depth the main areas of change brought about by the eir such as the restatement of the meaning of centre of main interest comi and the rules on international jurisdiction the new specific measures for multi national enterprises and the

move towards co operation between insolvency practitioners and courts the eir represents a very significant development in european insolvency law which will have an impact on all insolvencies with an international element involving a european state all practitioners advising on the area need a clear grasp of the implications of the changes and this book aims to deliver just that international cooperation in bankruptcy and insolvency is published in cooperation with the international insolvency institute and the american college of bankruptcy the honorable bruce a markell dr bob wessels and prof jason kilborn provide readers with invaluable insights into the origin development and future of communication and cooperation in cross border insolvency cases between insolvency practitioners and the courts the globalization of the world s economy has led to highly complex international aspects of financial reorganization and restructuring this publication analyzes the structures systems and practices that have developed and are quickly emerging to coordinate and enhance international administrations the publication includes a new guide to enactment and interpretation of the model law on cross border insolvency that provides more information and guidance on the interpretation and application of selected aspects of the model law in particular the concept of the debtor s center of main interests and the factors relevant to rebuttal of the presumption in article 16 3 the use of the word insolvency in the model law and various elements of the definition of foreign proceeding in article 2 the revisions do not in any way affect the text of the model law as drafted it is increasingly common for commercial insolvencies to involve more than one jurisdiction and the ec regulation on insolvency proceedings now provides a framework within which the different insolvency regimes in the eu can interact this new looseleaf provides a practical guide to european cross border insolvency procedures in each european country taking a country by country approach each section conforms to a standard template allowing easy access to information and quick comparisons between jurisdictions only publication available covering the practical aspects of cross border insolvencies following introduction of the ec regulation considers the insolvency laws of each member state showing how procedures work in each country analyses all case law since the introduction of the regulation regular releases keep practitioners up to date with developments in all eu countries supplies at a glance guidance in a series of summary tables which can be further explored in the relevant section written by a team from allen overy llp the leading firm in the area of insolvency in order to deal effectively with such emerging factors as multi jurisdictional intellectual property rights and contractual issues surrounding employment or immovable property a system of international bankruptcy and insolvency law is sorely needed this important monograph shows how such a system is ready to hand in europe and potentially available at a global level as an obvious step in this direction professor torremans examines the eu regulation on insolvency proceedings he analyses all its provisions in detail and sets out the solution it puts in place partial and imperfect as it may be he concludes that within the eu this regulation promises to improve matters substantially and that it bodes well to become a model for international co operation in this area to demonstrate the need for a coherent cross border insolvency law regime professor torremans first describes two very different national approaches those of belgium and the united kingdom he explores these two traditional approaches in detail stressing their practical applications and finds neither system can offer a satisfactory solution in a cross border context finally recognising that this problem does not stop at the eu s borders professor torremans examines the uncitral model law in detail to see whether it does indeed make a useful contribution this is a valuable and highly practical analysis that can immediately be put to good use by practitioners and officials charged with the organisation of bankruptcy and insolvency proceedings anywhere in the world this publication contains a set of 26 eu cross border insolvency court to court cooperation principles eu judgeco principles along with 18 eu cross border insolvency court to court communications guidelines eu judgeco guidelines these eu judgeco principles will strengthen efficient and effective communication between eu member courts in insolvency cases with cross border effects they have been produced in a period of two years 2013 2014 developed by a team of scholars at leiden law school and nottingham law school in collaboration with some 50 experts including 25 judges representing just as many different eu countries the principles are set in eu stone in that they especially function within the framework of the eu insolvency regulation the texts have been aligned with the text of the recast of the regulation as published early december 2014 the eu judgeco principles try to overcome present obstacles for courts in eu member states such as formalistic and detailed national procedural law concerns about a judge s impartiality uneasiness with the use of certain legal concepts and terms and evidently language the texts further build on existing experience and tested resources especially in cross border cases in north america but are tailor made into an eu insolvency law context these principles include a set of very practical eu judgeco guidelines to facilitate communications in individual cross border cases the project was funded by the european union and the international insolvency institute iii global org and we thank both sponsors for their continued support librarians ebook available on proquest and ebSCO series european and international insolvency law studies vol 1 subject eu law insolvency law commercial law comparative law the global marketplace brings with it significant benefits to businesses but it also increases the risk of cross frontier insolvencies although there have been steps in recent years towards creating a more uniform system insolvency practitioners are still finding themselves confronted by the problems of widely differing insolvency regimes on an international scale the question of access to foreign jurisdictions and recognition of foreign insolvency orders is critical if practitioners are to successfully carry out their appointed tasks recognition and enforcement of cross border insolvency covers 36 countries and provides a succinct and invaluable practical guide to their policies and laws when dealing with insolvency proceedings originating in another jurisdiction each country chapter is uniformly structured around the following headings under general law assisting legislation insolvency practice examples this expertly constructed approach allows the reader instant access to practical information and actual case studies while pointing out the key sources of the national rules without having to navigate through extensive amounts of time consuming text recognition and enforcement of cross border insolvency is essential reading for all insolvency practitioners both lawyers and accountants and all financial institutions operating within the international business arena

Cross-Border Insolvency Proceedings

2024-04-30

this book presents an analysis of the effectiveness of european union cross border insolvency proceedings it provides a thorough assessment of the development of cross border insolvency proceedings established in the regulation on insolvency proceedings eu 2015 848 and how they contribute to the general goals of the eu internal market insolvency law has not been subject to a global mandatory harmonization process with no globally binding legal act instead the landscape of international insolvency law is characterized by a patchwork of national laws that seek to accommodate cross border insolvencies and soft law agreements in the eu cross border insolvency law holds significant importance in ensuring the smooth operation of the internal market fostering international investments and legal foreseeability in insolvency proceedings it upholds the fundamental freedoms within eu law this book covers the main elements of eu cross border insolvency law such as jurisdiction applicable law recognition and enforcement of judgments it also focuses on previously unexplored areas such as the exercise of creditors rights in cross border insolvency cases and the tracing and recovery of assets and discusses the application of the restructuring and insolvency directive eu 2019 1023 in relation to the rescue of viable companies and the discharge of debts for insolvent entrepreneurs this book will be of interest to students and practitioners of insolvency law eu law and private international law it will also be useful for national legislators and eu institutions working on the development of eu insolvency law

Cross Border Insolvency

2011-01-01

with insolvency issues increasingly extending across national borders practitioners in this area need specialist guidance on the particular problems which apply in cross border insolvency the new third edition of this acclaimed book has been extensively revised and updated to provide a practical analysis of the fundamental changes to cross border insolvency law and practice in england as result of the european insolvency regulation as well as the cross border insolvency regulations 2006 which implemented the uncitral model law on cross border insolvency with illustrations at the end of each chapter showing how to avoid practical problems this thoroughly researched text gives an insight into the impact and potential difficulties of the law enabling the practitioner to anticipate problems before they arise

Cross-border Insolvency

1998

with recent high profile cases such as maxwell barings and bcci highlighting the fact that insolvency increasingly extends across national borders practitioners in this area need specialist guidance on the particular problems which apply in cross border insolvency the second edition of this acclaimed book has been extensively revised to provide a practical analysis of the impact of new developments in cross border insolvency law fully updated and expanded this unique guide looks at recent case law as well as statutory developments most notably the civil jurisdiction and judgments act 1982 interim relief order 1997 with illustrations at the end of each chapter showing how to avoid practical problems this thoroughly researched text gives insight into the impact and potential difficulties of the law enabling the practitioner to anticipate problems before they arise

Cross-Border Insolvency

2015-04-17

cross border insolvency 4th edition provides a comprehensive and up to date consideration of the topic of cross border insolvency written in a clear and accessible manner it guides the user seamlessly through this complex area of law the coverage of the book is divided into two parts the first part describes the key cross border insolvency regimes including the ec insolvency regulation the uncitral model law on cross border insolvency section 426 of the insolvency act 1986 and the common law the second part focuses on specific issues in more

detail such as the court s insolvency jurisdiction ancillary winding up enforcement of foreign insolvency judgments foreign discharge of debts and insolvency set off the fourth edition gives full analysis of the fundamental changes to cross border insolvency law and practice in england including the impact of the supreme court decision in rubin v eurofinance the revised uk insolvency rules proposals for revision of the ec insolvency regulation scope of section 426 hsbc v tambrook jersey developments in offshore jurisdictions primeo fund and saad investments cayman re c bvi kelmsley v barclays bank plc previous print edition isbn 9781845921040

Cross-Border Insolvency

2017-08-21

this book examines the effect of the adoption of the united nations committee on international trade law uncitral model law on cross border insolvency in five common law jurisdictions namely australia canada new zealand the united kingdom and the united states of america it examines how each of those states has adopted interpreted and applied the provisions of the model law and highlights the effects of inconsistencies by examining jurisprudence in each of these countries specifically how the model law affects existing principles of recognition of insolvency proceedings the book examines how the uncitral guide to enactment of the model law has affected the interpretation of each of its articles and in turn the courts ability to interpret and hence give effect to the purposes of the model law it also considers the ability of courts to refer to amendments made to the guide after enactment of the model law in a state thereby questioning whether the current inconsistencies in interpretation can be overcome by uncitral amending the guide

Cross-border Insolvency

2006

the united nations commission on international trade law uncitral model law on cross border insolvency aims to provide legal certainty and efficient administration of cross border insolvencies this volume covers national implementation of the uncitral model law in 10 jurisdictions

Maritime Cross-Border Insolvency under the UNCITRAL Model Law Regime

2020-12-10

this book covers the pressing issues of cross border cases involving admiralty and bankruptcy law for example what should happen when a shipowner files an insolvency proceeding in one country while at the same time facing an in rem action against its vessel in another country should the in rem action arising in one country be stayed or dismissed because of the existence of insolvency proceedings in another country the book discusses the relevant issues regarding the treatment of maritime creditors throughout insolvency proceedings the determination of the centre of main interest of an offshore shipping company and the scope of a debtor s assets the author uses a comparative law analysis selecting four leading shipping countries australia the uk the us and singapore and examines their approaches to the above three problems when applying the uncitral model law regime the book also proposes a solution to help eliminate the ambiguity arising from maritime cross border insolvency cases under the uncitral model law regime with a view to enhancing the development of the shipping industry

The Future of Cross-Border Insolvency

2018-03-01

a fresh and insightful guide to post financial crisis cross border insolvency this book interrogates the current regime and sets out a pattern to improve its future in recent decades and especially since the global financial crisis a number of important initiatives have focused on developing effective solutions for managing the insolvency of multinational enterprises and financial institutions irit mevorach here takes stock of the varying success of previous policy and identifies the gaps and biases that could be bridged by a new approach the book first

sets out the theoretical debates regarding cross border insolvency and surveys the strengths and weaknesses of the prevailing method modified universalism synthesizing divergences into a rubric for both commercial entities and financial institutions adhering to these norms more robustly mevorach argues would enhance global welfare and produce the best outcomes for businesses and institutions drawing upon sources from international law as well as behavioural and economic theory mevorach considers how to translate modified universalism into binding international law and how to choose the right instrument for cross border insolvency the impact instrument design has on decisions and choices and how to encourage compliance in particular the book proposes guidelines that could potentially overcome or at least take into account behavioural biases in decision making in order to create a system that works for businesses and offers a blueprint for the future of cross border insolvency

Maritime Cross-Border Insolvency

2017-11-02

maritime cross border insolvency is a comprehensive comparative examination of both insolvency regimes uncitral and eu in shipping with reference to the main jurisdictions having adopted the uncitral regime i e usa uk greece

Cross-border Insolvency : National and Comparative Studies : Reports Delivered at the XIII International Congress of Comparative Law, Montreal, 1990

1992

reports primarily in english some in french or spanish

Cross-Border Protocols in Insolvencies of Multinational Enterprise Groups

2021-04-30

cross border insolvency protocols play a critical role in facilitating the efficient resolution of complex international corporate insolvencies this book constitutes the first in depth study of the use of insolvency protocols enriching existing knowledge about them and serving as a comprehensive introduction to their application in the context of multinational enterprise group insolvency it traces the rise of insolvency protocols and discusses their legal basis contents effects major characteristics and limitations

Cross-Border Insolvency Law

2015-09-24

recent insolvency cases highlight the growing importance of cross border insolvency matters in international transactions in order to obtain relevant information essential for conduct in such transactions an insolvency lawyer needs to have access to the many relevant instruments that have been introduced and implemented in recent years but that until now have not been available in any single place this very useful volume collects for the second time in one source all important international and regional legal instruments relating to insolvency of companies and consumers as well as to corporate rescue law the book includes international and regional conventions model laws eu regulations and directives and guiding principles produced by various international bodies such as the world bank the united nations committee on international trade law uncitral the american law institute insol international and insol europe and international and european restatements of insolvency law by scholars in addition to reproducing the complete texts of these instruments the editors provide insightful commentary covering such important matters as the following key issues of each text expected amendments and revisions and comparative analysis of instruments a unique resource bringing together core material in the field of cross border insolvency law and legislation this book will be welcomed by international insolvency practitioners worldwide

Principles of Cross-border Insolvency Law

2017

insolvency proceedings have increasingly cross border effects which are regulated by many international regulations this book answers the fascinating question of what the underlying principles of international cross border insolvency laws are and how they can be used for the purpose of further harmonising cross border insolvency law in the eu and beyond

Judicial cooperation in cross-border insolvency cases

2008

the uncitral model law on cross border insolvency adopted in 1997 is designed to assist states to equip their insolvency laws with a modern harmonized fair framework to address more effectively instances of cross border insolvency those instances include cases where the insolvent debtor has less assets in more than one state or where some of the creditors are not from the state where insolvency proceeding is taking place

UNCITRAL Model Law on Cross-border Insolvency, with Guide to Enactment

1999

the advanced introduction to cross border insolvency law provides a clear and concise overview of cross border insolvency law with particular focus on the rules that govern insolvency proceedings that occur between and across countries increasingly such proceedings have an international dimension which may involve for example debtors with assets abroad foreign creditors contractual agreements with counterparties in different jurisdictions or companies with offices or subsidiaries in a different country the book expertly steers the reader through the complex interactions between national and supra national rules international model laws and the principles that underpin them

Advanced Introduction to Cross-Border Insolvency Law

2023-06-01

cross border insolvency law in australia engages with several current multi billion dollar insolvencies such as those of nortel networks and lehman brothers to provide the reader with state of the art knowledge of the complex problems posed by transnational insolvency as the number of transnational insolvencies grows due to prevailing economic conditions practitioners are increasingly required to navigate the mass of legal rules applicable to cross border insolvency situations the associated challenges are heightened by the diversity of legal structures employed by modern business entities and a patchwork of costly inefficient and unpredictable national legal rules the response has been a proliferation of international legal instruments such as the uncitral model law supra national rules such as the eu insolvency regulation and judicial practice adding further layers of complexity writing from an australian perspective the authors analyse this network of legal rules and subsequent case law in addition they explain the theoretical underpinnings of these rules in an accessible manner to build a solid foundation for practice facilitate advanced reasoning and enable the development of sophisticated arguments for law reform comparative case law from jurisdictions such as the united states and united kingdom is also included this book is highly relevant to insolvency practitioners faced with the recovery of assets transnationally transactional lawyers for whom knowledge of potential insolvency pitfalls is essential and academics it is invaluable for students at both undergraduate and postgraduate level seeking a sound understanding of this challenging area of law features oAeo provides a concise theoretical account of international insolvency to develop clear understanding of the concepts underpinning the cross border insolvency practice oAeo includes a comparative overview of key international developments and case law oAeo highlights key trends in practice to ensure practitioners remain current oAeo offers innovative arguments and approaches to this complex area of law related titles assaf shields kincaid voidable transactions in company insolvency 2014 brown symes wellard australian insolvency law cases materials 2015 rodrigo demand guarantees operation enforcement and the autonomy principle 2015 symes

australian insolvency law 3rd ed 2015

Cross-Border Insolvency Law

2015-10-16

this book presents a comprehensive analysis of the regulation of cross border insolvencies in europe council regulation 1346 2000 on insolvency proceedings forms the natural focal point of such a study however while this book explores in detail the background legal basis as well as the substance of the regulation it also contains an examination of the regulation from two wider perspectives that of international cross border insolvency regulation and community law the approach adopted by the regulation to the problems raised by cross border insolvency forms part of a paradigmatic shift at the global level the struggle over jurisdiction the natural state of affairs under the old principles of universality territoriality is increasingly being replaced by co operation between the jurisdictions involved the regulation must be understood against the backdrop of these new cooperative approaches including the uncitral model law and ancillary proceedings doing so this book argues that the co operative framework of the regulation is limited and may ultimately not suffice to realise the efficient and effective cross border proceedings it is aiming for although the regulation is an exponent of this global shift towards cooperation the legal context in which it operates is nevertheless very different community law as an autonomous legal order has limited the private international law autonomy of member states and generated a comitas europaea this book argues that community law and its comitas must be taken seriously they are an important source of principles to guide courts in the interpretation and application of the regulation and may reinforce and expand the co operative mechanisms of the regulation jona israel obtained his ll m at the university of east anglia norwich in 1994 and graduated at the university of maastricht in 1995 from 1995 to 1998 he was researcher at the european university institute in florence italy since 1998 he has been lecturer at the university of maastricht teaching private international law insolvency law and commercial law

European Cross-border Insolvency Regulation

2005

why do firms die this volume explores international and cross disciplinary perspectives carrying out a forensic examination of how and why companies die in order to understand the lessons dead firms may have to offer

Dead Firms

2016-07-05

this book provides an analysis and comparison of international insolvency rules maritime laws and their inevitable intersection in maritime cross border insolvencies until today the on going shipping crisis resulted in the insolvency of numerous shipping companies all over the world the tensions arising between the legal systems of maritime and insolvency law paired with conflicts of law in maritime insolvencies are a major source of legal uncertainty and risk in 2010 the comité maritime international installed an international working group on international maritime insolvencies and until today it is work in progress this book gives an overview on maritime insolvencies with a focus on germany england wales and the usa and assesses the chances of achieving meaningful harmonization in the complex scenarios where ships as mobile assets add a further complication to international insolvency proceedings

Principles Cross Border Insolvency

2017-01-05

written by specialists from each jurisdiction this new edition provides an in depth article by article analysis of the local enactment and application of the model law in each of the jurisdictions concerned alongside consideration of the relationship between the model law and any existing cross border insolvency jurisprudence each chapter adopts the same format

for ease of reference addressing key concepts such as the centre of main interests court to court communication enforcement of security interests and the protection of debtors and creditors

Maritime Cross-Border Insolvency

2019-04-03

this study discusses the position of secured creditors in cross border insolvency proceedings the book contains a comparative analysis of inter alia the cross border effects of insolvency proceedings and the enforcement of security rights present dutch customary private international law contrasts sharply with recent international developments such as the ec insolvency regulation and german legislation based on it and the uncitral model law on cross border insolvency the author argues for the introduction of a set of rules that in accordance with the uncitral model law on cross border insolvency subject the recognition of insolvency proceedings commenced outside the eu to judicial review with respect to the determination of the effects of insolvency proceedings the conflict rules of the eu insolvency regulation should be followed this leads to a coherent system of international insolvency law also the far reaching yet simple and clear rule of article 5 of the ec insolvency regulation should be adopted in dutch customary private international law regardless of the jurisdictions involved the opening of insolvency proceedings will not affect security rights on assets situated in other states

Cross-border Insolvency

2009

uncitral model law on cross border insolvency guide to enactment and interpretation of the uncitral model law on cross border insolvency general assembly resolution 52 158 of 15 december 1997 decision of the united nations commission on international trade law

Cross-Border Insolvency Proceedings and Security Rights

2005-01-01

going for broke focuses on insolvency as an additional civil remedy in the arsenal of asset recovery practitioners specifically in the context of grand corruption investigations and proceedings the recovery of corruption proceeds is often sought through criminal prosecution and confiscation or civil lawsuits insolvency proceedings can also be an effective mechanism in the right circumstances with their own advantages and disadvantages the scenario that is most likely to benefit from this type of remedy is one in which bribes and stolen funds have been routed through special purpose companies this guidebook is intended as a practical tool to help policy makers public officials and those who have been entrusted with recovering their nations stolen assets it informs them about the ways that insolvency can be used to pursue proceeds of corruption it may also serve as a quick reference for other practitioners insolvency professionals auditors financial institutions in house counsel and other professionals who deal with corruption

UNCITRAL Model Law on Cross-border Insolvency

2012

this work undertaken by the insolvency and creditors rights committee of the international bar association s section on business law gathers together a critical assessment of some of the most pressing current issues in cross border insolvency and reorganization under the following headings the proposed european community insolvency convention comparative analysis of chapter 11 with the uk administration system maxwell communication new aspects of co operation in international insolvency the olympia york reorganization parallel international reorganization proceedings treatment of international insolvency issues in japan cross border insolvency issues in canada aspects of international insolvency administration in germany practical problems in cross border insolvencies recognition of foreign insolvency and legal proceedings in italy the new insolvency regimes in russia and the cis shareholder

liability consolidation and pooling the model international insolvency co operation act effects of foreign bankruptcy judgments and power of foreign receivers a french perspective

Cross-border Insolvency

1999-01-01

this book provides a distilled and accessible analysis of the european cross border insolvency law with reference to the amended insolvency regulation eir and related sources it examines the issues involved in intra member state cross border insolvency the book analyses in depth the main areas of change brought about by the eir such as the restatement of the meaning of centre of main interest comi and the rules on international jurisdiction the new specific measures for multi national enterprises and the move towards co operation between insolvency practitioners and courts the eir represents a very significant development in european insolvency law which will have an impact on all insolvencies with an international element involving a european state all practitioners advising on the area need a clear grasp of the implications of the changes and this book aims to deliver just that

UNCITRAL Model Law on Cross-border Insolvency with Guide to Enactment and Interpretation

2014-10-22

international cooperation in bankruptcy and insolvency is published in cooperation with the international insolvency institute and the american college of bankruptcy the honorable bruce a markell dr bob wessels and prof jason kilborn provide readers with invaluable insights into the origin development and future of communication and cooperation in cross border insolvency cases between insolvency practitioners and the courts the globalization of the world s economy has led to highly complex international aspects of financial reorganization and restructuring this publication analyzes the structures systems and practices that have developed and are quickly emerging to coordinate and enhance international administrations

Going for Broke

2019-12-06

the publication includes a new guide to enactment and interpretation of the model law on cross border insolvency that provides more information and guidance on the interpretation and application of selected aspects of the model law in particular the concept of the debtor s center of main interests and the factors relevant to rebuttal of the presumption in article 16 3 the use of the word insolvency in the model law and various elements of the definition of foreign proceeding in article 2 the revisions do not in any way affect the text of the model law as drafted

Current Issues in Cross-Border Insolvency and Reorganizations

1994-07-26

it is increasingly common for commercial insolvencies to involve more than one jurisdiction and the ec regulation on insolvency proceedings now provides a framework within which the different insolvency regimes in the eu can interact this new looseleaf provides a practical guide to european cross border insolvency procedures in each european country taking a country by country approach each section conforms to a standard template allowing easy access to information and quick comparisons between jurisdictions only publication available covering the practical aspects of cross border insolvencies following introduction of the ec regulation considers the insolvency laws of each member state showing how procedures work in each country analyses all case law since the introduction of the regulation regular releases keep practitioners up to date with developments in all eu countries supplies at a glance guidance in a series of summary tables which can be further explored in the relevant section written by a team from allen overy llp the leading firm in the area of insolvency

Guide to Cross-border Insolvency in the United States

2008-11-01

in order to deal effectively with such emerging factors as multi jurisdictional intellectual property rights and contractual issues surrounding employment or immovable property a system of international bankruptcy and insolvency law is sorely needed this important monograph shows how such a system is ready to hand in europe and potentially available at a global level as an obvious step in this direction professor torremans examines the eu regulation on insolvency proceedings he analyses all its provisions in detail and sets out the solution it puts in place partial and imperfect as it may be he concludes that within the eu this regulation promises to improve matters substantially and that it bodes well to become a model for international co operation in this area to demonstrate the need for a coherent cross border insolvency law regime professor torremans first describes two very different national approaches those of belgium and the united kingdom he explores these two traditional approaches in detail stressing their practical applications and finds neither system can offer a satisfactory solution in a cross border context finally recognising that this problem does not stop at the eu s borders professor torremans examines the uncitral model law in detail to see whether it does indeed make a useful contribution this is a valuable and highly practical analysis that can immediately be put to good use by practitioners and officials charged with the organisation of bankruptcy and insolvency proceedings anywhere in the world

European Cross-border Insolvency Law

2016

this publication contains a set of 26 eu cross border insolvency court to court cooperation principles eu judgeco principles along with 18 eu cross border insolvency court to court communications guidelines eu judgeco guidelines these eu judgeco principles will strengthen efficient and effective communication between eu member courts in insolvency cases with cross border effects they have been produced in a period of two years 2013 2014 developed by a team of scholars at leiden law school and nottingham law school in collaboration with some 50 experts including 25 judges representing just as many different eu countries the principles are set in eu stone in that they especially function within the framework of the eu insolvency regulation the texts have been aligned with the text of the recast of the regulation as published early december 2014 the eu judgeco principles try to overcome present obstacles for courts in eu member states such as formalistic and detailed national procedural law concerns about a judge s impartiality uneasiness with the use of certain legal concepts and terms and evidently language the texts further build on existing experience and tested resources especially in cross border cases in north america but are tailor made into an eu insolvency law context these principles include a set of very practical eu judgeco guidelines to facilitate communications in individual cross border cases the project was funded by the european union and the international insolvency institute iii iiglobal org and we thank both sponsors for their continued support librarians ebook available on proquest and ebsco series european and international insolvency law studies vol 1 subject eu law insolvency law commercial law comparative law

International Cooperation in Bankruptcy and Insolvency Matters

2009-04-16

the global marketplace brings with it significant benefits to businesses but it also increases the risk of cross frontier insolvencies although there have been steps in recent years towards creating a more uniform system insolvency practitioners are still finding themselves confronted by the problems of widely differing insolvency regimes on an international scale the question of access to foreign jurisdictions and recognition of foreign insolvency orders is critical if practitioners are to successfully carry out their appointed tasks recognition and enforcement of cross border insolvency covers 36 countries and provides a succinct and invaluable practical guide to their policies and laws when dealing with insolvency proceedings originating in another jurisdiction each country chapter is uniformly structured around the following headings under general law assisting legislation insolvency practice examples this expertly constructed approach allows the reader instant access to practical information and actual case studies while pointing out the key sources of the national rules without having to navigate through extensive amounts of time consuming text recognition and enforcement of cross border insolvency is essential reading for all insolvency practitioners both lawyers and accountants and all financial institutions operating within the international business arena

European Cross Border Insolvency

2005

UNCITRAL Model Law on Cross-border Insolvency with Guide to Enactment and Interpretation

2014

European Cross Border Insolvency

2004

Cross-border Insolvency

1990

Cross-border Insolvency II

2012

Cross-border Insolvency

1997

Cross Border Insolvencies in EU, English and Belgian Law

2002-07-10

EU Cross-border Insolvency Court-to-court Cooperation Principles

2015

Recognition & Enforcement of Cross-Border Insolvency

1996-08-01

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