

International Bankruptcy Syllabus

2025 Spring Term

Course Description

Today's business bankruptcy practice seldom centers around one debtor filing one case in a single nation's bankruptcy court. Most corporations of any size have operations and assets in more than one country. In addition, many troubled corporations are part of a "corporate group" that includes affiliated entities operating in numerous countries, many of which will file their own insolvency proceedings in their countries of incorporation. The most obvious example of this trend is the Lehman Brothers group of companies: approximately 80 Lehman affiliates commenced insolvency proceedings in 16 countries. The International Bankruptcy is a course designed to deal with this world of multi-jurisdictional business insolvency.

The class is offered simultaneously by zoom link at many law schools. Professor Lapowsky facilitates the course for all of the participating schools. Each class is taught by visiting lecturers who are among the leading academics, practitioners and judges in the field of international bankruptcy.

Disclaimer

This syllabus is intended to give the student guidance in what may be covered during the semester and will be followed as closely as possible. However, the professor reserves the right to modify, supplement and make changes as the course needs arise.

Learning Outcomes

The goals of this course are to provide the student with a comprehensive knowledge of the use of Chapter 15 of the United States Bankruptcy Code to support foreign insolvency proceedings, a more generalized understanding of the coordination of insolvency proceedings in the European Union and an overview of the insolvency laws of certain select foreign jurisdictions.

Course Communications

Communications regarding the course will be posted to the Canvas site. In addition, students may communicate with the professor by email at robert.lapowsky@stevenselee.com.

Office Hours

Professor Lapowsky does not have established office hours. However, he is generally available upon request by email to robert.lapowsky@stevenselee.com.

Course Materials

Students are not required to purchase any course materials. All course materials will be posted to a TWEN site for the course. Students will be provided with access information for the TWEN site prior to the first class and the access information will be posted to Canvas. In addition, recordings of each class will be posted to the TWEN site within 48 hours of the date of the applicable class.

Attendance

This course is offered on a remote only basis through zoom. The zoom link will be provided to students and posted to Canvas prior to the first class. Student are expected to attend all classes. Attendance will be excused during Spring break (the March 11 class) and for religious holidays, bereavement etc. and any other reason communicated to and approved by the professor. If a student is unable to attend a class, the student is required to watch the recorded session of the class prior to the following class.

Grading

The course is graded primarily (95%) based on a final exam and, to a lesser extent, on class attendance and participation. The final exam is open-book and take away. It will include 2 to 3 essay questions designed to test the student's ability to spot issues and analyze appropriate resolutions. The exam does not have a time limit but does have a 10 page overall limit. Students may not collaborate on the exam. The final exam will be made available on the first day of the exam period and will be due to be returned one week later.

Calendar

The course calendar is as follows:

WEEK 1: GENERAL INTRODUCTION (January 14)

This session summarizes aspects of United States Bankruptcy Law that are relevant to many cross-border issues and to comparisons of foreign insolvency systems to that of the United States.

Lecturer:

Professor G. Ray Warner, St. Johns University School of Law

WEEK 2: COMPLETION GENERAL INTROCUCTION AND INTRODUCTION TO CHAPTER 15 (January 21)

This session introduces the UNCITRAL Model Law on Cross-Border Insolvency, as embodied in Chapter 15 of the U.S. Bankruptcy Code. The session focuses on the history of the law and basic concepts.

Lecturers:

Professor G. Ray Warner, St. Johns University School of Law

Daniel M. Glosband, Esq., Goodwin Proctor, Boston, Massachusetts

WEEK 3: CHAPTER 15 – COMMENCEMENT & RECOGNITION (January 28)

This session focuses on the commencement of a Chapter 15 case and the concept of recognition of a foreign representative.

Lecturers:

Daniel M. Glosband, Esq., Goodwin Proctor, Boston, Massachusetts

Hon. Martin Glenn, U.S. Bankruptcy Court (S.D.N.Y.)

WEEK 4: CHAPTER 15 – ACCESS TO COURTS AND RELIEF (February 4)

This session focuses on the relief available to a foreign representative from the bankruptcy court and the foreign representative's access to other U.S. courts.

Lecturers:

Daniel M. Glosband, Esq., Goodwin Proctor (Ret.), Boston, Massachusetts

Hon. Christopher Klein, U.S. Bankruptcy Court (E.D. CA.)

WEEK 5: CHAPTER 15 – COMITY AND AVOIDANCE ACTIONS (February 11)

This session analyzes the principle of comity and the limits on assistance given by U.S. courts. It also explores the special rules for avoidance actions (e.g., preference actions) in Chapter 15 cases.

Lecturers:

Daniel M. Glosband, Esq., Goodwin Proctor, Boston, Massachusetts

Hon. Allan L. Gropper, U.S. Bankruptcy Court (S.D.N.Y) (Ret.)

WEEK 6: FOREIGN COMPANIES FILING FOR CHAPTER 11 (February 18)

This session explores the extent to which a non-U.S. entity can use the U.S. Bankruptcy Code to restructure its worldwide operations.

Lecturers:

Zack Clement, Esq., Fulbright & Jaworski (Ret.), Houston, Texas

Richard Mason, Mason Pollick & Schmahl LLC Chicago Illinois

WEEK 7: E.U. REGULATION ON INSOLVENCY PROCEEDINGS (February 25)

This session introduces the E.U. Regulation and analyzes the principles it establishes for cross-border coordination of insolvency proceedings in the European Union.

Lecturer:

Adrian J. Walters, Ralph L. Brill Professor of Law, IIT Chicago-Kent College of Law, formerly the Geldards LLP Professor of Corporate and Insolvency Law at Nottingham Law School, Nottingham Trent University, United Kingdom

Professor Michael Veder, Business & Law Research Centre of the Faculty of Law, Radboud University Nijmegen, The Netherlands

WEEK 8: E.U. REGULATION (Continued) (March 4)

This session continues the exploration of the E.U. Regulation and adds a continental perspective of the Regulation.

Lecturers:

Adrian J. Walters, Ralph L. Brill Professor of Law, IIT Chicago-Kent College of Law, formerly the Geldards LLP Professor of Corporate and Insolvency Law at Nottingham Law School, Nottingham Trent University, United Kingdom

Professor Michael Veder, Business & Law Research Centre of the Faculty of Law, Radboud University Nijmegen, The Netherlands

WEEK 9: WESTERN EUROPE (March 11)

This session provides a comprehensive overview of the insolvency processes of Austria, Germany and the Netherlands.

Lecturers:

Robert van Galen, NautaDutilh N.V. Amsterdam, Netherlands

Robert Hanel, Anchor Rechtsanwalt, Wellheim, Germany

WEEK 10: ENGLAND AND WALES (March 18)

This session provides a comprehensive overview of the English insolvency process.

Lecturers:

Adrian J. Walters, Ralph L. Brill Professor of Law, IIT Chicago-Kent College of Law, formerly the Geldards LLP Professor of Corporate and Insolvency Law at Nottingham Law School, Nottingham Trent University, United Kingdom

WEEK 11: MEXICO (March 25)

This session provides a comprehensive overview of the Mexican insolvency process.

Lecturer:

Agustin Berdeja-Prieto, Esq., Berdeja y Asociados, S.C., Mexico City, Mexico

WEEK 12: CANADA (April 1)

This session provides a comprehensive overview of the Canadian insolvency process.

Lecturers:

Justice Geoffrey B. Morawetz, Ontario Superior Court of Justice

Tracy Sandler, Osler, Hoskin & Harcourt, LLP, Toronto, Canada

WEEK 13: JAPAN AND CHINA (INCLUDING INVOLVEMENT OF HONG KONG, SINGAPORE AND OFFSHORE VENUES IN CHINESE CROSS-BORDER INSOLVENCY CASES) (April 8)

This session will provide an overview of the Japanese and Chinese insolvency processes. The discussion of Chinese cross-border insolvency law will also include a discussion of the new cross-border arrangement between the PRC and Hong Kong and the role played by Singapore and Offshore courts in the restructuring process.

Lecturers:

Professor Charles D. Booth, University of Hawaii at Manoa,

Hon. Allan L. Gropper, U.S. Bankruptcy Court (S.D.N.Y.) (Ret.)

Shi Jingxia (Josie), Renmin University of China