

## **SECTION P – FOREIGN/CROSS-BORDER ELEMENTS**

### **P1. Claims of foreign creditors:**

Under the Korean law, the foreigner creditors have the same rights as Korean creditors and the foreign creditors are treated equally as the Korean creditors in the Composition, Reorganization and Bankruptcy proceedings. However, the foreign creditor shall receive such treatment only if the foreign creditor's nation would also provide the same treatment and protection to the Korean creditors in the foreign nation in its Composition, Reorganization or Bankruptcy proceedings.

We further note that just because the creditor is a foreigner, it does not mean that the foreign creditor will receive any type of preference over the Korean creditors. Both Korean and the foreign creditors are treated equally and have the equal rights in the insolvency proceedings mentioned above.

### **P2. & P5. Jurisdiction over foreign assets:**

If the Composition, Reorganization or Bankruptcy proceeding is held in Korean courts in the republic of Korea, only the debtor's assets in Korea may be contemplated by the court and the debtor's assets located outside of Korea may not be contemplated.

### **P3. Foreign insolvency procedures:**

If the Composition, Reorganization or Bankruptcy proceeding has been initiated in a foreign country, the judgement obtained from the foreign court has no effect on the assets located in Korea. Thus, the Insolvency proceeding in a foreign court may not have any effect on the assets located in Korea.

### **P.4 Foreign insolvency administrators:**

The capacity of insolvency administrators appointed in foreign insolvency procedure depends on the question of whether the administrator has the authority to administer the assets located in Korea on behalf of the corporate debtor of the foreign insolvency proceeding. The capacity of insolvency administrator depends on the law of the insolvency administrator's country. Therefore, if the law of the insolvency administrator allows the administrator to administer the assets in Korea, the

administrator is deemed to exercise its authority in Korea on behalf of the corporate debtor.

**P.5** see P2. & P5.

**P.6** None.

**P.7** None.

**P.8** None.