

## SECTION P - FOREIGN/CROSS-BORDER ELEMENTS

### P1. Claims of foreign creditors

- a) *In relation to each type of insolvency procedure available in the legal system of this economy, to what extent are the claims of foreign creditors recognized in the context of administration of that procedure?*

Foreign creditors' claims are recognized according to Section 91 of the Bankruptcy Act. B.E.2541.

- b) *What principles or rules apply to the recognition and admission of claims by foreign creditors?*

If a creditor resides outside of the Kingdom, it is required to submit its claim with the receiver within two months (extendible by not more than another two months) following the date of publication of the order of absolute receivership.

- (i) *Are claims by foreign creditors subject to particular rules in relation to priority of payment?*

No, they are not.

- (ii) *Do foreign creditors have to satisfy special or additional requirements in order for their claims to be admitted?*

Section 178 requires proof that creditors in the Kingdom are similarly entitled to so claim under the laws of the country of which the foreign creditors reside. Also, on showing the amount that the foreign creditor is entitled to receive, or has received in a distribution from the same debtor's property outside the Kingdom, if any, the foreign creditor must agree to deliver such portion of the debtor's property to be added to the debtor's property in the Kingdom.

- c) *What law is applied to establish the validity of foreign claims?*

The Conflict of Law Act and the Bankruptcy Act, B.E.2541.

**P2. Jurisdiction over foreign assets**

- a) *To what extent does the insolvency law of this economy claim jurisdiction over assets of a corporate debtor situated abroad?*

There are no instances where the insolvency law of Thailand claims jurisdiction over assets of a corporate debtor situated abroad. Section 177 states that the Act only applies to property of the debtor within the Kingdom.

**P3. Foreign insolvency procedures**

- a) *To what extent do the rules of private international law of the legal system of this economy recognise insolvency procedures commenced in foreign jurisdictions?*

There are no rules of private international law of the legal system of Thailand that recognise insolvency procedures commenced in foreign jurisdictions.

- b) *Under what circumstances, if any, may orders or judgments resulting from foreign insolvency procedures or administrations be recognized or enforced in the legal system of this economy?*

No orders or judgments resulting from foreign insolvency procedures or administrations will be recognized or enforced in Thailand.

**P4. Foreign insolvency administrators**

- a) *What recognition is accorded in the legal system of this economy to the status and capacity of insolvency administrators (for example trustees, liquidators, receivers) appointed in foreign insolvency procedures?*

There is no recognition of insolvency administrators appointed in foreign insolvency procedures in Thailand.

- b) *To what extent are foreign insolvency administrators entitled to claim, take control of, and realise or deal with property of the corporate debtor situated within the jurisdiction of the legal system of this economy?*

They have to instigate their claims against the corporate debtor in Thailand in order to claim for repayment. Section 177 stipulates that the control of property and the bankruptcy law of other countries has no effect on property in the Kingdom.

**P5. Foreign security holders**

- a) *To what extent does the legal system of this economy recognise the validity of rights of security asserted by foreign creditors over assets of the corporate debtor?*

The validity of rights of security asserted by foreign creditors over assets of the corporate debtor is recognised only when such security has been registered or complies with Thai law.

- b) *Are any special rules applicable to determine the validity, extent and ranking of such security rights?*

Section 177 states that the Act only applies to property of the debtor within the Kingdom, and that the control of property and the bankruptcy law of other countries has no effect on property in the Kingdom.

**P6. International conventions**

- a) *To which international conventions having some application in insolvency matters is this country a party?*

Thailand is not a member to any international conventions concerning insolvency matters. Thailand has just become a member of the

International Association of Insolvency Regulators. Additionally, Thailand, represented by the Ministry of Justice, has also appointed its representatives to attend the Working Group on Insolvency Law undertaken by the United Nations Commission on International Trade Law to prepare the instrument, tentatively entitled the draft UNCITRAL Model Legislative Provision on Cross-Border Insolvency.

- b) *When were these conventions entered into, and what other states are parties?*

Not applicable.

- c) *What observations can be made about the practical results achieved under these international instruments?*

The working group on cross-border insolvency are still preparing the instrument based on the draft UNCITRAL Model Legislative Provision on Cross-Border Insolvency. The Thai government is tentatively considering amending the law on cross-border insolvency in order to comply with the UNCITRAL Model Legislative Provisions.

**P7. Cross-border insolvency**

- a) *Are there any other particular issues or special problems in the field of cross-border insolvency, not included in the answers supplied above, which have presented themselves before the courts of the legal system of this economy?*

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**P8. Uncitral Model Law on Cross-Border Insolvency**

- a) *Is the government of this economy aware of the UNCITRAL model law on cross-border insolvency, approved by the United Nations in June 1997?*

Yes, the government of Thailand is aware of the UNCITRAL model

Law on cross-border insolvency (see P6 above).

*b) If so, are you aware of whether the government has any proposals to enact the terms of the model law?*

There are no firm proposals from the government to enact the terms of the model law at this moment, but the Ministry of Justice has appointed its representatives to attend the Working Group on Insolvency Law undertaken by the United Nations Commission on International Trade Law to prepare the instrument, entitled the draft UNCITRAL Model Legislative Provision on Cross-Border Insolvency.