



Order in the court!

**US bankruptcy courts
release guidelines to
harmonise cross-border
insolvency proceedings**

By Theresa A. Driscoll

In February 2017, the US Bankruptcy Courts for New York and Delaware – the two bankruptcy courts in the US with the largest volumes of Chapter 15 filings – released guidelines for best practices in cross-border insolvency cases (the “Guidelines”).

The Guidelines are designed to, inter alia, (i) aid in the efficient coordination and administration of parallel proceedings, (ii) facilitate communication and cooperation and provide for joint hearings between courts and (iii) benefit stakeholders by reducing legal costs and preserving the value of financially distressed businesses. The Guidelines also resolve concerns about the appropriateness of judges communicating with each other and promote discourse among judges. The Guidelines assume, but do not

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require, the cooperation of foreign courts. Though it is not certain that court-to-court communication will be favourably received by a foreign court, the Guidelines provide the courts and the parties in a cross-border case with the framework for a protocol to govern the conduct of a cross-border case in a manner consistent with the for-

eign court’s law and practice.

Given the many complexities of cross-border cases, formal procedures tailored to the needs of each case will serve to provide order and aid in managing expectations for the benefit of the courts, debtors, stakeholders and parties in interest.