



**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 2A**

**THE UNCITRAL MODEL LAWS RELATING TO INSOLVENCY**

This is the **summative (formal) assessment** for **Module 2A** of this course and is compulsory for all candidates who **selected this module as one of their compulsory modules from Module 2**. Please read instruction 6.1 on the next page very carefully.

If you selected this module as **one of your elective modules**, please read instruction 6.2 on the next page very carefully.

**The mark awarded for this assessment will determine your final mark for Module 2A.** In order to pass this module, you need to obtain a mark of 50% or more for this assessment.

## INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT

Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.
2. All assessments must be submitted electronically in MS Word format, using a standard A4 size page and a 11-point Arial font. This document has been set up with these parameters – **please do not change the document settings in any way. DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.
3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).
4. You must save this document using the following format: **[student ID.assessment2A]**. An example would be something along the following lines: 202223-336.assessment2A. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words “studentID” with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked.**
5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words.**
- 6.1 If you selected Module 2A as one of your **compulsory modules** (see the e-mail that was sent to you when your place on the course was confirmed), the final time and date for the submission of this assessment is **23:00 (11 pm) GMT on 1 March 2024**. The assessment submission portal will close at 23:00 (11 pm) GMT on 1 March 2024. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.
- 6.2 If you selected Module 2A as one of your **elective modules** (see the e-mail that was sent to you when your place on the course was confirmed), you have a **choice** as to when you may submit this assessment. You may either submit the assessment by **23:00 (11 pm) GMT on 1 March 2024** or by **23:00 (11 pm) BST (GMT +1) on 31 July 2024**. If you elect to submit by 1 March 2024, you **may not** submit the assessment again by 31 July 2024 (for example, in order to achieve a higher mark).

## **ANSWER ALL THE QUESTIONS**

**Please note that all references to the “MLCBI” or “Model Law” in this assessment are references to the Model Law on Cross-Border Insolvency.**

### **QUESTION 1 (multiple-choice questions) [10 marks in total] 7 marks**

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and **mark your selection on the answer sheet by highlighting the relevant paragraph in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

#### **Question 1.1**

Which one of the following international organisations' mandate is to further the **progressive harmonization of the law of international trade**?

- (a) World Trade Organization.
- (b) The United Nations Commission on International Trade Law.**
- (c) The United Nations Conference on Trade and Development.

#### **Question 1.2**

Which trend(s) and process(es) served as a **proximate cause** for the development MLCBI?

- (i) Rise of corporations.
- (ii) Internationalisation.
- (iii) Globalization.
- (iv) Universalism.
- (v) Territorialism.
- (vi) Technological advances.

Choose the correct answer:

- (a) Options (i), (ii), (iii), (iv) and (vi).**
- (b) Options (i), (ii), (iii) and (iv).
- (c) Options (ii), (iii), (iv) and (vi).

(d) All of the above. [Candidates who select more than one answer will receive no mark for that specific question].

### Question 1.3

Which of the following statements **incorrectly** describe the MLCBI?

- (i) It is legislation that imposes a mandatory reciprocity on the participating members.
- (ii) It is a legislative text that serves as a recommendation for incorporation in national laws.
- (iii) It is intended to substantively unify the insolvency laws of the foreign nations.
- (iv) It is a treaty that is binding on the participating members.

Choose the correct answer:

- (a) Options (ii), (iii) and (iv).
- (b) Options (i), (ii) and (iv).
- (c) Options (i), (iii) and (iv).
- (d) All of the above are incorrect.

### Question 1.4

Which of the below options reflect the **objectives** of the MLCBI?

- (i) To provide greater legal certainty for trade and investment.
- (ii) To provide protection and maximization of value of the debtor's assets.
- (iii) To provide a fair and efficient administration of cross-border insolvencies that protects all creditors and the debtors.
- (iv) To facilitate the rescue of financial troubled businesses.
- (v) To ensure substantive unification of insolvency laws of member-states.

Choose the correct answer:

- (a) Options (i), (ii), (iii) and (iv).
- (b) Options (ii), (iii) and (v).
- (c) Options (ii), (iv) and (v).
- (d) None of the above.

### Question 1.5

Which **two** of the below hypotheticals demonstrate a more likely **precursor to a “cross-border insolvency”**?

- (i) An insolvency proceeding is commenced in jurisdiction A, but a significant asset is located outside of jurisdiction A.
- (ii) An insolvency proceeding is commenced in jurisdiction A and immediately transferred to a foreign jurisdiction B.
- (iii) An insolvency proceeding is commenced in jurisdiction A, in which a group of affiliated debtors has its COMI as well as all assets and liabilities.
- (iv) An insolvency proceeding is commenced in jurisdiction A, but certain liabilities are governed by laws of a foreign jurisdiction B.
- (v) An insolvency proceeding is commenced in jurisdiction A, but all *de minimis* assets are located in foreign jurisdictions.

Choose the correct answer:

- (a) Options (i) and (ii).
- (b) Options (ii) and (iii).
- (c) Options (iii) and (v).
- (d) Options (i) and (v).**

### Question 1.6

A restructuring proceeding is commenced in jurisdiction A by a corporation with COMI in jurisdiction A and an overleveraged balance sheet. The court in jurisdiction A, overseeing the restructuring, entered a final and non-appealable order, approving the compromise and restructuring of the debt. The entered order, by its express terms, has a universal effect. Based on these facts alone, what is the **effect** of such order’s terms in jurisdiction B if jurisdictions A and B do **not** have a bilateral agreement?

- (a) Binding within jurisdiction B.
- (b) Binding within jurisdiction B, but certain actions need to be taken.
- (c) No effect within jurisdiction B.**
- (d) Likely no effect within jurisdiction B.
- (e) Not enough facts provided to arrive at a conclusion.

### Question 1.7

Which of the following statements set out the reasons for the development of the Model Law?

- (i) The increased risk of fraud by concealing assets in foreign jurisdictions.
- (ii) The difficulty of agreeing multilateral treaties dealing with insolvency law.
- (iii) To eradicate the use of comity.
- (iv) The practical problems caused by the disharmony among national laws governing cross-border insolvencies, despite the success of protocols in practice.

Choose the correct answer:

- (a) Options (i), (ii) and (iii).
- (b) Options (i), (ii) and (iv).**
- (c) Options (ii), (iii) and (iv).
- (d) All of the above.

### Question 1.8

Which of the statements below are incorrect regarding COMI under the MLCBI?

- (i) COMI is a well-defined term in the MLCBI.
- (ii) COMI stands for comity.
- (iii) The debtor's registered office is irrelevant for purposes of determining COMI.
- (iv) COMI is being tested as of the date of the petition for recognition.

Choose the correct answer:

- (a) Options (i), (ii) and (iii).**
- (b) Options (ii), (iii) and (iv).
- (c) All of the above.
- (d) None of the above.

### Question 1.9

In the event of the following concurrent proceedings, indicate the order of the proceedings in terms of their hierarchy / primacy:

- (i) Foreign main proceeding.
- (ii) Foreign non-main proceeding.
- (iii) Plenary domestic insolvency proceeding.

Choose the correct answer:

- (a) Options (ii), (i) and then (iii).
- (b) Options (i), (ii) and then (iii).**
- (c) Options (iii), (i) and then (ii).
- (d) Options (iii), (ii) and then (i).

### Question 1.10

Which of the statements below are correct under the MLCBI?

- (a) The foreign representative always has the powers to bring avoidance actions.
- (b) The hotchpot rule prioritises local creditors.
- (c) The recognition of a foreign main proceeding is an absolute proof that the debtor is insolvent.
- (d) None of the above are correct.**

## QUESTION 2 (direct questions) [10 marks in total] 7 marks

### Question 2.1 [maximum 3 marks] 0 mark

What is the key distinction between the application of the MLCBI and the European Union (EU) Regulation on insolvency proceedings? Also describe one key benefit and disadvantage of each approach.

The key distinction between the MLCBI and the EU Regulation on insolvency lies in their jurisdictional reach.

MLCBI is a global treaty (?) addressing tax avoidance, applicable to signatory countries worldwide, fostering international cooperation. However, it has a limited focus (?).

EU Regulation governs insolvency within EU member states, facilitating cooperation and efficiency within the EU. Its disadvantage lies in its limited application outside the EU, unlike MLCBI's global reach.

EIR is secondary EU law. ie. binding for all member states. MLCBI is a form of "soft law", i.e. a mere recommendation. Neither is a treaty... The response should also discuss (dis)advantages of EIR and Model Law.

**Question 2.2 [maximum 2 marks] 2 marks**

Explain what the court should primarily consider using its discretionary power to grant post-recognition relief under Article 21 of the MLCBI.

The court should primarily consider whether granting post-recognition relief under Article 21 of the MLCBI aligns with the Model Law's objectives and promotes efficient administration of the foreign insolvency proceeding, considering stakeholders' interests and maintaining comity between jurisdictions.

**Question 2.3 [2 marks] 2 marks**

Explain the protections granted to creditors in a foreign proceeding under Article 13 of the MLCBI.

Article 13 of the MLCBI grants creditors the rights to timely notification of the foreign insolvency proceeding, participation in the process, fair treatment without discrimination, the ability to challenge actions affecting their interests, and access to relevant information. These provisions ensure creditors' rights and promote fairness and transparency in cross-border insolvency proceedings.

**Question 2.4 [maximum 3 marks] 3 marks**

What is a key distinction with respect to the relief available in foreign main versus foreign non-main proceedings?

A notable difference lies in the scope of relief available between foreign main and foreign non-main proceedings. In foreign main proceedings, where the debtor's center of main interests (COMI) is located, the relief granted by the court applies universally to all of the debtor's assets, irrespective of their location. Conversely, in foreign non-main proceedings, typically occurring in jurisdictions where the debtor holds assets but isn't deemed its COMI, the relief is usually confined to the assets within the jurisdiction of that specific proceeding. This distinction underscores the broader applicability of relief in main proceedings compared to the more localized impact of relief in non-main proceedings.

**QUESTION 3 (essay-type questions) [15 marks in total] 2 marks**

**Question 3.1 [maximum 4 marks] 2 marks**

A debtor has its COMI in Germany and an establishment in Bermuda, and both foreign main and foreign non-main proceedings as well as the recognition proceedings in the US have been opened. In this scenario, explain where the foreign proceedings must have been filed, and the likely result.



In this scenario, since the debtor's center of main interests (COMI) is in Germany, the foreign main proceeding must have been filed in Germany. This is because the foreign main proceeding is typically commenced in the jurisdiction where the debtor's COMI is located.

As for the establishment in Bermuda, foreign non-main proceedings may have been filed there. Foreign non-main proceedings are typically commenced in jurisdictions where the debtor has assets but is not considered to have its COMI.

The likely result is that the relief granted in the foreign main proceeding filed in Germany would have universal effect and apply to all of the debtor's assets worldwide. On the other hand, the relief granted in the foreign non-main proceeding filed in Bermuda would likely be limited to the assets located within Bermuda.

Furthermore, since recognition proceedings have been opened in the US, the US court would likely recognize the foreign main proceeding filed in Germany and provide relief consistent with the recognition of that main proceeding. This recognition would facilitate cooperation and coordination between the US court and the German proceeding.

**Needs discussion on automatic and discretionary relief situations (Art 20, 21 MLCBI) for FMP and FNMP respectively.**

**Question 3.2 [maximum 3 marks] 0 mark**

Joint provisional liquidators commenced a recognition proceeding in the US and immediately were sued and served with discovery in connection with their alleged tortious interference with contract rights of the US-based vendors of the foreign debtor. Explain the likely outcome.

The likely outcome is that the recognition proceeding in the US would continue despite the lawsuit and discovery served on the joint provisional liquidators. Recognition proceedings are typically separate from other legal actions and are focused on acknowledging the foreign insolvency proceeding's validity and granting it certain legal effects within the jurisdiction.

However, the joint provisional liquidators may need to respond to the lawsuit and participate in the discovery process to address the allegations of tortious interference with contract rights. This could potentially delay or complicate the recognition proceeding but would not necessarily prevent it from moving forward.

Ultimately, the recognition proceeding would be determined based on whether the foreign insolvency proceeding meets the criteria for recognition under US law. If the US court determines that the foreign proceeding is valid and meets the necessary requirements, it would likely grant recognition despite the ongoing lawsuit against the joint provisional liquidators.

**Relates to Art.10 MLCBI**

**Question 3.3 [maximum 4 marks] 0 marks**

A foreign representative who administers assets in a debtor-in-possession-like restructuring proceeding in the UK commences a recognition proceeding in the US, setting the recognition hearing 35 days after the petition date due to the availability of the court. There is no litigation pending or threatened against the foreign debtor, but US-governed leases and intellectual property licenses have *ipso facto* clauses (that is, bankruptcy-triggered terminations) that are not enforceable under the US

Bankruptcy Code. Based on these facts, explain what steps, if any, should the foreign representative take to protect the assets and why?

To protect the assets during the US recognition proceeding, the foreign representative should take these steps:

1. **Seek Court Orders:** The foreign representative should petition the US court for protective orders or injunctions to prevent any enforcement of ipso facto clauses by US-based counterparties. This would safeguard the assets from any adverse actions triggered by the bankruptcy-like restructuring proceeding in the UK.
2. **Provide Notice:** The foreign representative should provide notice to all relevant parties, including lessors and licensors with ipso facto clauses, informing them of the pending recognition proceeding in the US and the protections sought against enforcement of such clauses. This ensures transparency and gives affected parties an opportunity to respond or seek clarification.
3. **Engage Legal Counsel:** It's advisable for the foreign representative to engage experienced legal counsel familiar with US bankruptcy laws and procedures to navigate the recognition proceeding effectively. Legal counsel can provide guidance on the best strategies to protect the assets and address any legal challenges that may arise during the process.
4. **Monitor Proceedings:** Throughout the recognition proceeding, the foreign representative should closely monitor developments and promptly respond to any objections or concerns raised by creditors or other interested parties. This proactive approach helps mitigate risks and ensures that the assets remain protected during the legal proceedings.

These actions will help safeguard the assets and ensure stability during the legal proceedings in the US.

Needs discussion upon Art.19, and a conclusion with reference to Art. 20 and/or 21 MLCBI

**Question 3.4 [maximum 4 marks] 0 marks**

A foreign representative, who administers the assets of an insolvent debtor in an insolvency proceeding pending in Country A (where the foreign debtor has its registered office and not much more), commenced a proceeding in Country B to recognise the foreign proceeding as the foreign main proceeding in order to sell certain assets within the territorial jurisdiction of Country B, but unfortunately the insolvency court considering the petition for recognition denied the recognition of the foreign proceeding as a foreign main proceeding. Explain what may or should the foreign representative do next? What should the foreign representative have done at the outset?

Following the denial of recognition in Country B, the foreign representative could:

1. **Appeal the Decision:** Consider appealing the denial to a higher court or appellate body.
2. **Pursue Alternative Recognition:** Explore other avenues for recognition, such as recognition as a foreign non-main proceeding or alternative legal mechanisms.

3. **Negotiate with Creditors:** Engage in direct negotiations with creditors in Country B to reach agreements on asset sales.
4. **Review Strategy:** Assess the initial recognition strategy and make necessary adjustments for future attempts.

At the outset, the foreign representative should have:

1. **Conducted Due Diligence:** Conducted thorough due diligence to assess success likelihood and identify challenges.
2. **Engaged Local Counsel:** Hired local counsel in Country B familiar with its insolvency laws.
3. **Prepared a Strong Petition:** Submitted a comprehensive petition addressing potential concerns and providing clear evidence for recognition.

By taking these steps, the foreign representative can effectively respond to the denial of recognition in Country B and pursue alternative strategies to achieve the desired outcomes in the administration of the foreign debtor's assets.

Answer requires a discussion on rebuttable COMI presumption with associated provisions and procedures in the MLCBI, eg. Art.16, 17, 15, 21, 6 ... MLCBI

**QUESTION 4 (fact-based application-type question) [15 marks in total] 1 mark**

**Assume you received a file for a new client of the firm. The file contains the facts described below. Based on these facts, analyse key filing strategy to ensure a successful restructuring – specifically, whether to apply for recognition of main or nonmain proceeding or both (in light of COMI / establishment analysis), what papers need to be submitted, and what relief should be requested on day one of the filing.**

The client is a Cayman Islands incorporated and registered entity. It is a financial service holding company for a number of direct and indirect subsidiaries that operate in the commercial automobile insurance sector in the United States. Globe Holdings was initially formed as a Canadian company in 2009, under the laws of Ontario, Canada. A year later, following certain reverse merger transactions, it filed a Certificate of Registration by Way of Continuation in the Cayman Islands to re-domesticate as a Cayman Islands company and changed its name to Globe Financial Holdings Inc. When it re-incorporated in the Cayman Islands in 2010 (from Canada), Globe Holdings provided various notices of its re-incorporation, including in the public filings with the Securities and Exchange Commission (SEC). Around that time, Globe Holdings retained its Cayman Islands counsel Cedar and Woods, which has regularly represented Globe Holdings for over a decade. Globe Holdings has a bank account (opened just a few days ago) in the Cayman Islands from which it pays certain of its operating expenses. Globe Holdings often holds its board meetings virtually, and not physically in the Cayman Islands, and, having obtained support for a bond restructuring, all its regular and special board meetings have been organized by its local Cayman counsel virtually. The client also maintains its books and records in the Cayman Islands. Its public filings with the SEC as well as the prospectus provided in connection with the issuance of the Notes disclosed that Globe Holdings is a Cayman Islands company and explained the related indemnification and tax consequences resulting from Globe Holdings' place of reformation.

Globe Holdings has no business operations of its own. The business is carried out through its non-insurance company non-debtor subsidiaries that are all incorporated under the US laws and operating in the US. All employees are in the US. The headquarters are also in the US.

In April 2017, Globe Holdings offered and issued USD 25,000,000 in aggregate nominal principal amount of 6.625% senior unsecured notes due in 2023 (referenced above as the Notes) governed by New York law.

In 2019, Globe Holdings recorded on its consolidated balance sheet a significant increase in liabilities. As a result, Globe Holdings worked with external professional advisors to undertake a formal strategic evaluation of its subsidiaries' businesses. In September 2020, Globe Holdings announced that it was informed its shares would be suspended from the NASDAQ Stock Market due to delinquencies in filing its 10-K. Thereafter, on November 6, 2020, its shares were delisted from the NASDAQ stock market.

An independent third party is actively marketing the sale of the corporate headquarters located in New York including the land, building, building improvements and contents including furniture and fixtures.

Despite these efforts to ease the financial stress, the culmination of incremental challenges consequently resulted in Globe Holdings being both cash flow and balance sheet insolvent.

Globe Holdings retained Cedar and Woods, its long-standing Cayman Islands counsel, to advise on restructuring alternatives. Upon consultations with Cayman counsel and its other professionals, Globe Holdings ultimately determined that the most value accretive path for the Noteholders was to commence a scheme under Cayman Islands law, followed by a chapter 15 recognition proceeding in the United States, most notably to extend the maturity of the Notes and obtain the flexibility to pay the quarterly interest "in kind".

Globe Holdings expeditiously secured the support of the majority of the Noteholders of its decision to delay interest payments and restructure the Notes through a formal proceeding. Thereafter, on August 31, 2021, about 57% of the Noteholders acceded to the Restructuring Support Agreement (RSA) governed by the New York law. The RSA memorialized the agreed-upon terms of the Note Restructuring. When Globe Holdings approached its largest Noteholders regarding the contemplated restructuring, their expectations were that any such restructuring would take place in the Cayman Islands, which is reflected in the RSA.

On July 4, 2023, the client, in accordance with the terms of the RSA, applied to the Cayman Court for permission to convene a single scheme meeting on the basis that the Noteholders, as the only Scheme Creditors, should constitute a single class of creditors for the purpose of voting on the Scheme.

On July 26, 2023 the Cayman Court entered a convening order (the Convening Order) on the papers, among other things, authorizing the client to convene a single Scheme Meeting for the purpose of considering and, through a majority vote, approving, with or without modification, the Scheme. The Scheme Meeting was held in the Cayman Islands at the offices of Cedar and Woods. Given the Covid-19 pandemic, Scheme Creditors were also afforded the convenience of observing the Scheme Meeting via Zoom and in person via a satellite location in New York. Following the Scheme Meeting, the chairman of the Scheme Meeting (presiding over the meeting in person) reported to the Cayman Court that the Scheme was overwhelmingly supported by the Noteholders, with 91.83% in number and 99.34% in value voting in favor of the Scheme. The Sanction Hearing was held, and an order sanctioning the Scheme (the Sanction Order), which was filed with the Cayman Islands Registrar of Companies the same day.

During all of this time, a class action litigation was in the US was brewing but has been filed yet.

Based on the extensive details provided, crafting a robust filing strategy for Globe Holdings to ensure a successful restructuring involves a thorough understanding of its corporate structure, jurisdictional considerations, and the intricacies of cross-border insolvency proceedings. Here's a comprehensive analysis:

#### **Recognition Proceedings:**

- Given Globe Holdings' COMI in the Cayman Islands and its Cayman Islands incorporation, the primary filing strategy should prioritize recognition of the restructuring proceedings as a foreign main proceeding in the United States under Chapter 15 of the Bankruptcy Code. This approach aims to extend the restructuring's effects to the US and obtain necessary relief.
- Seeking recognition in the US is critical to ensuring the enforceability of the restructuring plan, protecting assets located in the US, and facilitating cooperation with US creditors and stakeholders.

#### **Filing Strategy:**

- Globe Holdings should meticulously prepare a petition for recognition of the Cayman restructuring proceedings as a foreign main proceeding in the US Bankruptcy Court. The petition should adhere to all procedural requirements under Chapter 15 and provide comprehensive documentation to substantiate the legitimacy and effectiveness of the Cayman restructuring process.
- Supporting documents to be included in the petition may encompass the Convening Order, the Sanction Order, evidence of overwhelming support from Noteholders for the restructuring scheme, and any other relevant court orders or communications related to the restructuring.

#### **Requested Relief:**

- On the day of filing, Globe Holdings should strategically request immediate provisional relief from the US Bankruptcy Court to safeguard its assets and interests in the US. This relief may encompass a stay of litigation, an injunction against creditors' actions, and other protective measures aimed at preserving the integrity of the restructuring process and ensuring its success.
- Additionally, Globe Holdings should seek recognition of the automatic stay to prevent further adverse actions against its assets in the US, thereby fostering an environment conducive to successful restructuring negotiations and implementation.

#### **Addressing Class Action Litigation:**

- Proactively addressing the potential class action litigation looming in the US is paramount, notwithstanding its pending status.
- Globe Holdings should engage seasoned US counsel to assess the potential claims, devise a robust defense strategy, and prepare for potential litigation challenges. Gathering pertinent evidence and documentation to substantiate its position and protect its interests in the class action proceedings is imperative to mitigate legal risks and safeguard stakeholder value.

#### **Ongoing Compliance and Reporting:**

- Throughout the restructuring process, Globe Holdings must uphold ongoing compliance with all pertinent legal and regulatory requirements in both the Cayman Islands and the US jurisdictions.
- This entails adhering to court orders, complying with reporting obligations to the US Bankruptcy Court, and maintaining transparency with stakeholders regarding the progress of the restructuring efforts.

In summary, Globe Holdings must meticulously navigate the complexities of cross-border insolvency proceedings to ensure a successful restructuring outcome. By strategically pursuing recognition of its Cayman restructuring proceedings as a foreign main proceeding in the US under Chapter 15, Globe Holdings can extend the restructuring's efficacy to US jurisdictions. Proactive engagement with legal counsel, meticulous preparation of petition documentation, and strategic pursuit of immediate provisional relief are essential components of this approach.

Addressing potential class action litigation requires proactive vigilance and diligent preparation to mitigate legal risks and protect stakeholder value. By enlisting the expertise of seasoned legal counsel, Globe Holdings can navigate impending litigation while focusing on the successful execution of the restructuring plan.

Compliance, transparency, and stakeholder engagement remain paramount throughout the restructuring process. By upholding these principles and adhering to rigorous reporting standards and legal obligations, Globe Holdings can instill confidence among its stakeholders and foster an environment conducive to achieving a mutually beneficial restructuring outcome.

**As this is a fact-based application-type question, it requires an answer applying the MLCBI provisions to the facts of the case. To receive full marks, the answer should contain to the minimum:**

- Definitions eg (COMI, establishment, foreign main proceedings etc) with respective articles
- A discussion on the rebuttable presumption of the COMI per Article 16(3) MLCBI
- The necessary papers to be submitted to the US Court per Article 15 MLCBI
- Conclusive remarks with reference to Articles 19-22 MLCBI and 6 MLCBI.

**\* End of Assessment \***

**Marks awarded: 17 out of 50**