



SDFL Adopts Guidelines For Cooperation On Int'l Bankruptcies

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By Carolina Bolado

The Southern District of Florida's bankruptcy court has adopted guidelines for communication and cooperation between courts in cross-border insolvency matters that practitioners say will help courts efficiently handle the increasing number of Chapter 15 cases filed in the region as its ties to Latin America continue to strengthen.

In an order issued Feb. 1, Chief Judge Laurel Myerson Isicoff said the court would adopt the Judicial Insolvency Network's guidelines for cooperation on Chapter 15 bankruptcies, making the district the third, after Delaware and the Southern District of New York, to implement the toolkit for cross-border cooperation.

“Together with the District of Delaware and the Southern District of New York, we have the vast majority of the Chapter 15 cases filed in the country, so it makes sense that at least in our jurisdictions that we would adopt these guidelines,” Judge Isicoff said.

The guidelines, created by JIN in late 2016, are meant to improve communication and cooperation between courts handling parallel bankruptcy proceedings. Courts that adopt the guidelines agree to accept orders made in proceedings in other jurisdictions, barring an objection by one of the parties. The guidelines also provide frameworks for holding joint hearings and for judge-to-judge communication.

Greg Grossman of [Sequor Law](#), which files a large percentage of the Chapter 15 cases in the Southern District of Florida, called the guidelines a “really large toolkit.”

“In some cases, you're going to need a wrench; some will need a Phillips-head screwdriver, and some will need a hammer,” he said. “This is an opportunity to encourage more direct communication with each other.”

Under the guidelines, bankruptcy courts should encourage administrators of estates in parallel proceedings to work together. A bankruptcy judge should also share all orders, judgments, opinions, transcripts of proceedings and other court documents with his or her counterpart in a different jurisdiction, according to the guidelines.

The guidelines also lay out procedures for communications between courts by requiring notice of any judge-to-judge communication and allowing the parties to be present. In addition, they allow courts to authorize a party in a foreign proceeding to appear and be heard on a specific matter without making the party subject to that court's jurisdiction for any other purpose.

After the guidelines were drafted, Singapore and the District of Delaware were the first jurisdictions to adopt them in early February 2017. The Southern District of Florida followed shortly thereafter, as did Bermuda, England, Wales and the British Virgin Islands. New South Wales in Australia agreed to the guidelines in September.

So far, the Southern District of Florida averages about two Chapter 15 cases per month, but it's a number that is growing as Miami in particular deepens its ties with Latin America, according to Grossman.

This move by the Southern District of Florida's bankruptcy court could encourage courts in Latin America to get on board, he said.

“Nobody in Latin America has passed it, but it's coming,” he said. “It took them awhile to get Chapter 15, so baby steps.”

Already they appear to be moving in that direction. Two bankruptcy judges in Latin America, one in Sao Paulo, Brazil, and another in Buenos Aires, Argentina, joined JIN, though Grossman said it is not clear whether they have adopted the guidelines for cooperation. But the action by the judges marked JIN's first foray into Latin America.

“Our best guess — but we are by no means certain — is that these individual judges would follow the guidelines in their own cases, but they are not able to have their courts adopt the guidelines,” Grossman said.

Judge Isicoff said that these communication and coordination issues have not come up in any Chapter 15 cases she has overseen, and her fellow judges on the bench reported no problems so far when they sat down to discuss whether to adopt the guidelines. But she said that didn't mean it didn't make sense for the court to get on board.

“Just because something hasn't come up yet doesn't mean it won't come up, especially as more and more Chapter 15 cases get filed,” Judge Isicoff said. “We just felt it makes sense for us to be consistent with the Southern District of New York and the District of Delaware.”