

- the order is enforceable in the state in which it was given;
- there is no ground for non-recognition under the PILS (for example public policy); and
- reciprocity is granted by the state in which the order was made.

Special provisions apply if the bankrupt debtor has a branch in Switzerland.

An order based on a debt restructuring agreement or on a similar procedure, if made by the foreign authority having jurisdiction, is recognised in Switzerland under the conditions which apply to the recognition of a foreign bankruptcy order.

- **Concurrent proceedings.** Generally, the recognition of a foreign bankruptcy order only applies to the debtor's assets which are located in Switzerland. The recognition has the same legal consequences as bankruptcy under Swiss law for these assets. However, only the following claims are included in the schedule of admitted claims in Switzerland:
 - claims secured by pledge according to the Federal Statute on Debt Enforcement and Bankruptcy;
 - privileged claims of creditors domiciled in Switzerland and not secured by pledge.

Generally, any surplus remaining after the satisfaction of these creditors is made available to the foreign bankruptcy administrator or to the creditors in bankruptcy. The surplus may only be made available after the foreign schedule of claims has been recognised by the competent Swiss court. The court must examine whether the claims of creditors domiciled in Switzerland were adequately considered in the foreign schedule of admitted claims.

- **International treaties.** Switzerland is not party to any international treaties at national level.
- **Procedures for foreign creditors.** There are no special procedures that apply to foreign creditors. Swiss and foreign creditors are treated equally.

PROPOSED REFORMS

12. Please summarise any proposals for reform and state whether they are likely to come into force and, if so, when.

In 2003, the Federal Council appointed an expert group to analyse regulatory requirements and to draft proposals for the reform of debt restructuring and insolvency law. In its report and preliminary draft of June 2008, the expert group set out a moderate approach to reform by suggesting only a partial revision of the current law. The expert group's conclusions included that:

- Some procedural rules in restructuring law should be amended.
- In relation to groups of companies the present "atomistic" approach should be retained (that is, substantive consolidation by pooling of assets and administrative consolidation in debt restructuring and insolvency proceedings were not suggested).

In January 2009, the Federal Council submitted its proposal for a partial revision of the current law for consultation (*Vernehmlassung*). This proposal is largely based on the preliminary draft by the expert group. However, it is not currently foreseeable if and when the Federal Statute on Debt Enforcement and Bankruptcy will be revised by Parliament.

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