

# Filing Timelines in Cross-Border Insolvency Proceedings Across Jurisdictions: A Comparative Study

## Abstract

This study examines the timing of foreign insolvency filings in five jurisdictions: the United States of America, Australia, the European Union, the United Kingdom, and Singapore, which collectively experience a significant volume of cases worldwide. The current United Nations Commission on International Trade Law (UNCITRAL) Cross-Border Insolvency (CBI) law, established under the UNCITRAL, does not adequately implement the timing protocol under the determination of the Centre of Main Interests (COMI). The study addresses inconsistencies in applying the timing protocol, focusing on its uniformity, recognition standards, and relief measures through comparative analysis.

**KEYWORDS:** Centre of Main Interest (COMI), Cross-Border Insolvency (CBI), United Nations Commission on International Trade Law (UNCITRAL), recognition, relief

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# 1 | Introduction

Cross-border insolvency has emerged as a crucial domain in legal and economic interest, largely attributable to the globalization of business operations.<sup>[1]</sup> As companies operate across multiple jurisdictions, financial failures often transcend national borders, creating complex legal and practical challenges.<sup>[2]</sup> The scope of cross-border insolvency highlights the cases where the insolvency laws of multiple jurisdictions come into play or where a debtor's assets and creditors span more than one country.<sup>[3]</sup> MLCBI provides a framework to address these challenges by promoting international cooperation, ensuring fairness to creditors, and offering mechanisms for recognizing and coordinating foreign insolvency proceedings.<sup>[4]</sup> The Model Law on Cross-Border Insolvency (MLCBI) has been adopted by 60 states across 63 jurisdictions.<sup>[5]</sup> The adopters include regions from various jurisdictions and different legal systems.

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<sup>1</sup> Bob Wessels, Gert-Jan Boon, *Cross-border insolvency law* (Wolters Kluwer, 2015).

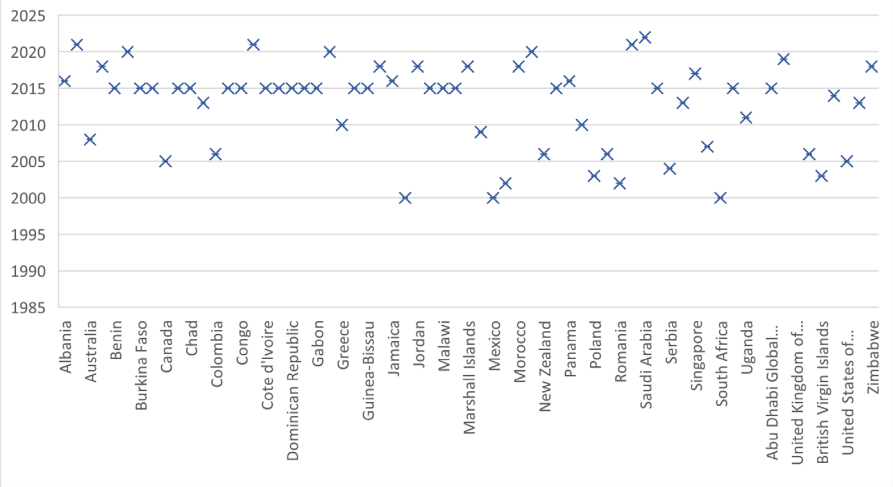
<sup>2</sup> Victoria Thakur, Siddharth Keswani, "Examining Cross-Border Insolvency: Global Challenges and Collaborative Solutions" *International Journal for Multidisciplinary Research*, No. 1 (2024).

<sup>3</sup> Andrew T. Guzman, "International bankruptcy: In defense of universalism" *Michigan Law Review*, No. 7 (2000): 2177-2215.

<sup>4</sup> Aahana, "The UNCITRAL Model Law: A Harmonized Approach to Cross-Border Insolvency Challenges" *International Journal For Multidisciplinary Research*, No. 5 (2024): 27219.

<sup>5</sup> 'Status: UNCITRAL Model Law on Cross-Border Insolvency (1997) | United Nations Commission On International Trade Law'. Accessed 6 May 2025. [https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border\\_insolvency/status](https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border_insolvency/status).

Figure 1: Adopters of the UNCITRAL Model Law on Cross Border Insolvency



Source: Status: UNCITRAL Model Law on Cross Border Insolvency (1997)

Key non-adopters of the MLCBI include China, India, Hong Kong, Malay-sia, Thailand, and most EU members, such as Germany, France, Italy, Aus-tria, Belgium, and Spain.<sup>[6]</sup> The Hong Kong Special Administrative Region (HKSAR)-Mainland China bilateral framework highlights an alternative to the MLCBI for jurisdictions that have yet to implement it, focusing on mutual recognition and cooperation in insolvency cases.<sup>[7]</sup> The Record of Meeting signed in 2021 allows courts in the HKSAR and Mainland China to recognize and assist in each other’s insolvency proceedings, filling gaps that the MLCBI typically addresses through harmonized legal standards. A key element of the CBI involves identifying the COMI, which establishes jurisdiction and facilitates coordination between legal systems. The absence of COMI determination in bilateral treaties such as the HKSAR-Mainland can pose challenges, as COMI is pivotal in resolving jurisdictional disputes,

<sup>6</sup> UNCCA-Report on “UNCITRAL National Coordination Committee for Australia, Annual May Seminar 2022”, 25<sup>th</sup> Anniversary of the UNCITRAL Model Law on Cross-Border Insolvency, (2024).

<sup>7</sup> Scott Atkins, *The Model Law on Cross-Border Insolvency turns 25, a time for celebration and recalibration in Pursuit of a global approach to recognition and judicial cooperation* (Norton Rose Fulbright, 2022). <https://www.nortonrosefulbright.com/en/knowledge/publications/87d4ce21/the-model-law-on-cross-border-insolvency-turns-25>.

harmonizing creditor claims, and ensuring procedural consistency. The HKSAR-Mainland agreement demonstrates how bilateral arrangements can address such challenges through localized solutions while underscoring the importance of COMI, a key principle in cross-border insolvency under the MLCBI framework. This approach ensures clarity and cooperation while reflecting the flexibility needed in diverse legal systems.

Jurisdictions differ in identifying the debtor's COMI; some jurisdictions consider the application date, while others, including Japan, Australia, and the United Kingdom, base their assessments on the commencement date of foreign proceedings. This divergence results in inconsistencies in the determination of insolvency cases.<sup>[8]</sup> The growing relevance of insolvency underscores the reliance upon a global perspective and specialized legal frameworks that prioritize both procedural efficiency and substantive justice.

## 2 | Centre of Main Interest Determination and Timing of Cross-Border Insolvency Filings- Literature Review

The international framework for insolvency cases emphasises the processes involved, the timelines for filing, and the measures for relief. These frameworks are largely based on the principles of the Model Law, which includes recognizing foreign proceedings and safeguarding of assets through expedited filings.<sup>[9]</sup> Jurisdictions adopt differing approaches to determining a debtor's centre of main interests (COMI) in the context of cross-border insolvency. Hong Kong, Australia, and the United States each have possess unique approaches to the timing of this determination, which may occur either at the point of filing the recognition application or at the initiation

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<sup>8</sup> UNCITRAL National Coordination Committee for Australia, Samira Musayeva, Jenny Clift, Scott Atkins, Emma Beechey, Morgan Kelly, Stewart Maiden, and Brigitte Markovic. 2022. *Annual May Seminar 2022. UNCITRAL National Coordination Committee for Australia*. [https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/uncca\\_may\\_seminar\\_2022\\_recap.pdf](https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/uncca_may_seminar_2022_recap.pdf). [accessed: 21.11.2024].

<sup>9</sup> Andrew Godwin, Risham Garg, and Debaranjan Goswami, "Cross-border insolvency law in India: Are the principles of comity of courts and inherent common law jurisdiction relevant?" *International Insolvency Review*, No. 2 (2023): 228-252.

of foreign proceedings.<sup>[10]</sup> The effectiveness of consolidated filings in multi-jurisdictional bankruptcy cases involves recognizing foreign creditors and comparing various insolvency frameworks, such as universality and territoriality. The European Union enforces automatic recognition with restricted discretion, whereas the UNCITRAL Model provides a more adaptable, case-by-case recognition process, underscoring the diverse methodologies applied to cross-border insolvency.<sup>[11]</sup> A clear inclination towards modified universalism is apparent, as it seeks to balance the interests of creditors with the need for judicial cooperation across international boundaries. Relief measures frequently depend on the principle of reciprocity, while courts utilize their inherent powers to fill existing legal voids.<sup>[12]</sup>

The historical background and development of Regulation (EC) No. 1346/2000 highlight the importance of COMI with jurisdiction; however, the uncertainty surrounding its definition presents certain difficulties.<sup>[13]</sup> The procedure of recognizing foreign bankruptcy judgments in China is characterized by ambiguous legal standards and restricted options for relief, resulting in unpredictability regarding both timing and procedural aspects.<sup>[14]</sup>

Jurisdictional differences in the identification of COMI result in varying outcomes. The European framework assesses COMI at the initiation of foreign proceedings, whereas the United States and Singapore consider it at the point of recognition filing. In contrast, Australia maintains an ambiguous position on this matter.<sup>[15]</sup> The Model Law on insolvency proceedings differentiates between foreign main (primary) and non-main (secondary) proceedings, highlighting the standard for automatic recognition grounded

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<sup>10</sup> Vij Sachika, Kartikeya Misra, "Not So Universal: Differing Timing Approaches to COMI and the Policy Challenge for India" *Centre for Business and Commercial Laws*, (2023). <https://cbcl.nliu.ac.in/insolvency-law/not-so-universal-differing-timing-approaches-to-comi-and-the-policy-challenge-for-india/>. [accessed 12.12. 2024].

<sup>11</sup> Story Sean E., "Cross-Border Insolvency: A Comparative Analysis" *Arizona Journal of International and Comparative Law*, No. 2 (2015): 431-461.

<sup>12</sup> Adrian Walters, "Modified universalisms & the role of local legal culture in making cross-border insolvency law" *American Bankruptcy Law Journal*, 93 (2019): 47.

<sup>13</sup> Alexander J. Bělohávek, "Center of main interest (COMI) and jurisdiction of national courts in insolvency matters (insolvency status)" *International Journal of Law and Management*, No. 2 (2008): 53-86.

<sup>14</sup> Zinian Zhang, "Globalized Cross-Border Insolvency Law: The Roles Played by China" *European Business Organization Law Review*, (2022).

<sup>15</sup> Lan Fox, David McIntosh, Geraldine Yeong, "Timing is everything: different approaches to the relevant date for determining COMI in cross-border recognition proceedings" *Corporate Rescue and Insolvency*, (2019): 142-144.

in objective criteria, while also allowing for discretionary relief in the context of ancillary proceedings.<sup>[16]</sup> Foreign main proceedings, associated with the debtor's COMI, are granted more automatic protections, including stays on creditor actions. In contrast, non-main proceedings are subject to a greater degree of discretionary relief.<sup>[17]</sup>

The EU Regulations (2000, 2015) provide a comprehensive framework for the determination of the main interests and their automatic recognition, in contrast to the limited guidance offered by the UNCITRAL Model Law.<sup>[18]</sup> The intricacies of aligning EU insolvency law require a thorough evaluation of the concerns of both debtors and creditors, indicating that treaties might prove to be more effective than directives in addressing procedural and policy-related issues.<sup>[19]</sup> The approach of sharing fiscal burdens during banking crises aligns expenses with advantages via asset-based schemes, thereby reducing coordination failures.<sup>[20]</sup>

Australia has implemented the Cross-Border Insolvency Act (CBIA) 2008, which highlights the importance of communication between courts and advocates for international judicial standards to enhance procedural efficiency.<sup>[21]</sup> Acknowledgment of international insolvency proceedings aids in the preservation of assets, the protection of creditors, and the promotion of international collaboration. However, the differences in jurisdiction regarding the determination of main Interests create challenges for consistency and foster the practice of forum shopping.<sup>[22]</sup> Singapore has

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<sup>16</sup> Irit Mevorach, "Overlapping International Instruments for Enforcement of Insolvency Judgements: Undermining or strengthening Universalism?" *European Business Organization Law Review*, (2021).

<sup>17</sup> John J. Kenney, et, al., *Cross-border insolvency and United States assets*. <https://www.ibanet.org/article/4BDCDC74-334D-415E-8AEB-56D4FFEE93FF>. [accessed 12.12.2024].

<sup>18</sup> Poliakov Rodion, "The Applicable Law and the "Centre of Main Interests" in Cross-Border Insolvency: A Comparison of the Legal Regulation in the UNCITRAL Model Law on Cross-Border Insolvency 1997 and the EU Regulations 2000 and 2015 on insolvency proceedings" *Visegrad Journal on Human Rights*, (2023).

<sup>19</sup> Jan H. Dalhuisen, "Harmonization of substantive insolvency law in the EU" *Maandblad voor Vermogensrecht*, 5 (2021): 159-165.

<sup>20</sup> Charles Goodhart, Dirk Schoenmaker, "Fiscal burden sharing in cross-border banking crises" *International Journal of Central Banking*, No. 16 (2009).

<sup>21</sup> Sheryl Jackson, Rosalind Mason, "Developments in Court-to-court Communications in International Insolvency Cases" *University of New South Wales Law Journal*, No. 2 (2014).

<sup>22</sup> Harshith Sai Boddut, "Need for International Harmonisation of Cross-Border Insolvency Laws: Challenges and Prospects" *SCC Online Times*, (2024).

emerged as a key hub for cross-border insolvency, owing to its emphasis on multi-jurisdictional coordination and flexible legal structures.<sup>[23]</sup>

Brexit has introduced further difficulties for cross-border insolvency, as insolvency practitioners in the UK are encountering increased expenses and procedural complexities resulting from the absence of automatic identification within the member states of the EU.<sup>[24]</sup> The ruling of the Court of Justice of the EU regarding the transfer of the COMI in insolvency cases underscores the importance of retaining jurisdiction according to the original application, regardless of any subsequent relocation of the COMI. This decision highlights potential issues related to the insufficient attention given to fraudulent transfers of COMI, which could have a negative impact on creditors. Furthermore, the judgment carries significant implications for CBI proceedings in the aftermath of Brexit.<sup>[25]</sup> The lack of clear guidelines for recognizing foreign insolvency judgments reveals a significant limitation in cross-border insolvency frameworks, leading to inconsistent enforcement and varying timelines for relief, despite ongoing efforts to achieve legal harmonization.<sup>[26]</sup> Efforts to address the issues of transnational insolvency emphasize the importance of harmonization and judicial cooperation, leveraging frameworks like the UNCITRAL Model Law to effectively resolve procedural inefficiencies.<sup>[27]</sup>

This literature reflects the evolving discourse on cross-border insolvency frameworks. It highlights jurisdictional challenges, the role of COMI, the time of filing the proceedings, and the ongoing need for harmonized approaches.

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<sup>23</sup> “Singapore’s latest push as a restructuring and insolvency hub-Amendments to SICC rules” *Withersworldwide* (2022).

<sup>24</sup> Herbert Smith Freehills, *Cross Border Insolvencies in the UK and EU post-Brexit guide*, 2021.

<sup>25</sup> Mariscal González, Ada Lucía, *The (dis) interest of the CJEU in the transfer of the centre of main interests in insolvency proceedings in times of Brexit. Commentary to CJEU Ruling of 24th March 2022, Galapagos BidCo, C-723/20 | El (des) interés del TJUE del traslado del centro de intereses principales en un procedimiento de insolvencia en tiempos de Brexit, a propósito de la STJUE de 24 de marzo de 2022, Galapagos BidCo, asunto C-723/20* (PhD dissertation. Área de Derecho Internacional Privado-Universidad Carlos III de Madrid, 2023).

<sup>26</sup> Sethi Sadhika, Rajat Srivastava, ‘Cross Border Insolvency’: The Indian Legal Regime v Rest of the World. Part 2” *Indian Journal of Integrated Research in Law*, No. 3 (2022): 1.

<sup>27</sup> Ricardo Perlingeiro, “International Judicial Co-operation in Response to Transnational Crisis” *Revista Juris Poiesis*, (2021).

## 3 | Time for determination of the Centre of Main Interest (COMI) in Foreign Proceedings

### 3.1. Date of Commencement of foreign Insolvency Proceedings (European Union Approach)

The European Insolvency Regulation (Recast) 2015/848 establishes the rules for initiating foreign insolvency proceedings within the European Union, offering a standardized framework for handling cross-border insolvencies.<sup>[28]</sup> It guarantees that insolvency proceedings are acknowledged and upheld throughout EU member states, providing a definitive framework for identifying the COMI of a debtor.<sup>[29]</sup> Under this framework, the initiation date of international insolvency proceedings is pivotal in establishing jurisdiction within this framework, indicating that such proceedings are deemed officially acknowledged in the EU upon their commencement in the debtor's country of origin.<sup>[30]</sup> The European Court of Justice has clarified that, under Article 3(1) of the Recast (EIR), the relevant date for establishing jurisdiction is the date on which the application to initiate insolvency proceedings is filed, marking the commencement of the main proceedings.<sup>[31]</sup>

The Recast Regulation prioritizes predictability and uniformity, establishing a consistent framework for the acknowledgment of foreign proceedings, especially in cross-border cases.<sup>[32]</sup> It enables courts to collaborate and coordinate effectively, thereby enhancing the recognition of proceedings and the enforcement of judicial rulings across various jurisdictions.<sup>[33]</sup> This is crucial for businesses operating internationally and for creditors with claims in different EU countries. The regulation outlines procedures

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<sup>28</sup> Bob Wessels, "The European Union Regulation on Insolvency Proceedings (Recast): The First Commentaries" *European Company Law*, No. 4 (2016): 129.

<sup>29</sup> Carla Stamegna, *New EU insolvency rules give troubled businesses a chance to start anew* (Members' Research Service, 2018).

<sup>30</sup> Vij, Misra, "Not So Universal: Differing Timing Approaches to COMI and the Policy Challenge for India".

<sup>31</sup> Herman Jeremiah, Kia Jeng Koh, *Timing is Everything: Different Approaches to the Relevant Date for Determining COMI in Cross-Border Recognition Proceedings*, 2019.

<sup>32</sup> David Rhodin, *A look at the recast EC regulation on insolvency proceedings-with particular focus on corporate insolvencies*, 2016.

<sup>33</sup> Boddut, "Need for International Harmonisation of Cross-Border Insolvency Laws: Challenges and Prospects".



for managing secondary proceedings in jurisdictions where the debtor is present, with primary proceedings based on the debtor's Centre of Main Interests.<sup>[34]</sup>

The regulation promotes collaboration among courts, enabling the acknowledgment of primary proceedings and the management of secondary proceedings in the jurisdiction where the debtor conducts business activities. In Romania, the Bucharest Court,<sup>[35]</sup> dismissed a request for recognition of a foreign main proceeding, citing exclusions stipulated by Romanian law, which underscores the discrepancies between national and international regulations. The timing of the Centre of Main Interests (COMI) was indirectly pertinent, as jurisdiction depended on its evaluation at the commencement of the proceedings.

A distinct Romanian case concerning a debtor registered in Italy necessitated that the creditor present proof of the Centre of Main Interests (COMI) at the pertinent time. Should COMI be validated in Italy, Romanian courts would be limited to managing secondary or territorial proceedings. These instances underscore the significant importance of timing in COMI assessments and highlight the necessity of aligning international principles with national insolvency regulations.

### 3.2. Date of Filing the Recognition Application (United States Approach)

The framework for CBI in the United States is chiefly governed by Chapter 15 of the U.S. Bankruptcy Code, which integrates the UNCITRAL Model Law on Cross-Border Insolvency.<sup>[36]</sup> A foreign representative can begin a case in the United States by filing a petition in a bankruptcy court.<sup>[37]</sup> The filing can be initiated in the framework of an ongoing foreign insolvency

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<sup>34</sup> "Secondary Insolvency Proceedings – European Union Regulation on Insolvency Proceedings." Accessed May.

<sup>35</sup> 2025, <https://library.net/document/yj814l2q.pp.32-36>. (accessed 12<sup>th</sup> December 2024).

<sup>36</sup> Garry M. Graber, "Cross-Border Insolvency in the U.S. under Chapter 15 of the Bankruptcy Code" *Ontario Bar Association*, (2013).

<sup>37</sup> Paul Keenan, Mark Bloom and James Leshaw, "Chapter 15: the US cross-border insolvency law", [in:] *Cross-Border Restructuring and Insolvency Handbook 2007/2008* (Practical Law Company, 2008).

process, particularly when there are assets, creditors, or operations within the United States that necessitate coordination.<sup>[38]</sup> Timing is essential for obtaining recognition and interim relief under Chapter 15. Courts have specified that the foreign proceeding must be either “pending or imminent” at the moment of filing, as seen in the case of *In re Betcorp Ltd.*.

Timeliness plays a vital role in determining the approval of interim measures such as stays or asset freezes. For instance, in *re Pro-Fit Holdings Ltd.*, the court evaluated the timing of the filing to ensure it was consistent with the ongoing foreign proceedings. Additionally, a delay in pursuing recognition may result in complications, including conflicting claims or the potential dissipation of assets as highlighted in *In re Creative Finance Ltd.*

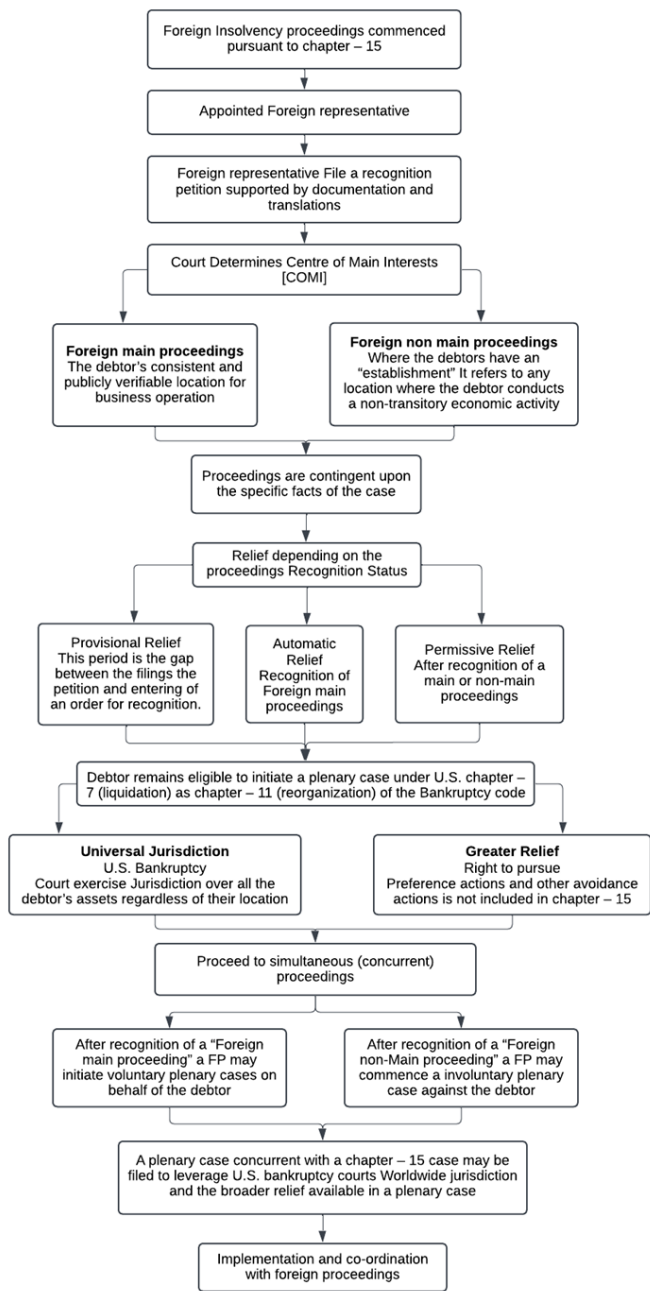
The filing procedure typically commences when the foreign representative presents a petition to the bankruptcy court, requesting either the acknowledgment of a foreign main /foreign non-main proceeding, defined by the debtor’s (COMI) centre of main interest.<sup>[39]</sup> The COMI determination at the time of filing is crucial, as demonstrated in the case of *Re Fairfield Sentry Ltd.*, which shows that timing holds a prominent position in the court’s jurisdiction and recognition assessment.

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<sup>38</sup> Elizebeth McColm, Sean A. Mitchell, *Restructuring and Insolvency Laws and Regulations USA*, 2024.

<sup>39</sup> Selinda A. Melnik, “Caveat International Lawyers: Meet the New US Jurisdiction Entry Visa-US Bankruptcy Code Chapter 15” *Business Law International*, (2006).

Figure 2: Chapter 15: Proceedings in the United States (Cross-Border Insolvency)



Source: author source

### 3.3. Date of Hearing the Recognition Application (Australian Approach)

The Australian Cross-Border Insolvency Act (CBIA) 2008, which incorporates the UNCITRAL Model Law on Cross-Border Insolvency, serves as a fundamental legislative framework for managing concerns about cross-border insolvency.<sup>[40]</sup> At the heart of the CBIA revolves around the debtor's "Centre of Main Interests," which is crucial for assessing whether a foreign insolvency process qualifies as a main proceeding/non-main proceeding.<sup>[41]</sup> Section 6 of CBIA, 2008, the integration of the Model Law into Australian legislation fosters consistency and enhances international collaboration. A significant concern within the CBIA focus is on the timing associated with the identification of the Centre of Main Interests. Courts have elucidated that this determination should correspond with the debtor's operational circumstances at the instant the application for acknowledgement is made, rather than at the initiation of insolvency proceedings.<sup>[42]</sup> This schedule guarantees transparency and safeguards creditors by facilitating an equitable assessment grounded in current conditions.

In *Akers v. Saad Investments Co Ltd.*, the Federal Court evaluated the determination of the primary location of interests involves an analysis of various factors, including the geographical placement of business activities and the management decision-making. The court emphasized the necessity of making the COMI clear to third parties, especially creditors, to promote fairness in insolvency proceedings. Similarly, in *Yu v STX Pan Ocean Co Ltd.*, it was noted that COMI ought to be assessed as at the recognition application of the filing date, concentrating on the debtor's current activities rather than past operations. These cases reflect the Australian courts' focus on contemporaneity in COMI evaluation, consistent with international standards under the UNCITRAL Model Law. In the *Kellow*

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<sup>40</sup> Matthew Wilson, *Cross-Border Insolvency and Ancillary Relief-UNCITRAL Model Law on Cross-Border Insolvency*, 2014.

<sup>41</sup> Anil Hargovan, "Centre of main interests under the Australian Cross-Border Insolvency Act 2008: lessons from the United States" *Journal of the Australasian Law Teachers Association*, No. 1-2 (2008): 11-20.

<sup>42</sup> Rosanna Pittiglio, Filippo Reganati, Claudia Tedeschi, "To What Extend Do Differences in Legal Systems Affect Cross-Border Insolvency? Evidence from Foreign-Owned Italian Firms," [in:] *Dead Firms: Causes and Effects of Cross-Border Corporate Insolvency* (Bradford: Emerald Group Publishing, 2016).

Case regarding Advanced Building and Construction Limited, the Federal Court of Australia also determined the COMI at the recognition hearing, considering factors such as the registered office location, operational base, creditors, and management.

The CBIA delivers a procedural framework for international representatives to seek the recognition of international bankruptcy proceedings within the courts of Australia.<sup>[43]</sup> Recognition as a primary foreign proceeding activates automatic consequences, including stays on creditor actions, as stipulated in Article 20 of the CBIA. Conversely, recognition as a secondary foreign proceeding offers restricted relief, which is contingent upon the discretion of the court as outlined in Article 21. The CBIA, while acknowledging its strengths, advocates for reforms aimed at clarifying ambiguities and consolidating overlapping provisions, especially in relation to foreign tax claims and the dissolution of foreign companies operating in Australia.<sup>[44]</sup> An exhaustive legislative reform is proposed by these critics, which would improve Australia's framework for handling insolvency across jurisdictions, thereby fostering enhanced international collaboration and legal clarity.

### 3.4. Adopting the UNCITRAL Model Law on International Insolvency: Singapore's Alignment with the U.S. Framework for COMI Determination

Singapore has achieved notable progress in its insolvency framework to meet international standards, particularly through the integration of the UNCITRAL Model Law on cross-jurisdictional Insolvency and improvements to its Scheme of Arrangement framework.<sup>[45]</sup> These reforms incorporate elements of the US Chapter 11 system, such as super priority for rescue financing and automatic moratoriums. The creation of the Judicial Insolvency Network (JIN) further highlights Singapore's dedication to

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<sup>43</sup> Global Restructuring and Insolvency, *Australia: Lost at Sea-The position on Claw-back proceedings for foreign insolvency proceedings recognized under the Cross-Border Insolvency ACT*. 2024.

<sup>44</sup> Gerard McCormack, Anil Hargovan, "Australia and the International Insolvency Paradigm" *Sydney Law Review*, (2015).

<sup>45</sup> International Association of Defense Counsel, *Cross-Border Insolvency in Singapore*. 2006.

fostering international judicial collaboration.<sup>[46]</sup> These changes signify a strategic transition from a territorial to a universalist perspective in insolvency issues.<sup>[47]</sup> Ultimately, the reforms undertaken by Singapore are designed to reinforce its status as a global centre for debt restructuring and cross-border insolvency processes.

**Table 1: Comparing the Divergence Between Singapore, US Bankruptcy Laws, and the UNCITRAL Model Law**

ASPECT	SINGAPORE	U.S. Bankruptcy (Chapter 15)	UNCITRAL Model Law
Key Legislation	Companies Act 2017 (Cap. 50) (repealed, now Omnibus Insolvency Act), UNCITRAL Model Law (Third Schedule, Insolvency, Restructuring and Dissolution Act 2018)	Chapter 15 of the U.S. Bankruptcy Code, reflecting principles from the UNCITRAL Model Law	UNCITRAL Model Law on Cross-Border Insolvency
Definition of COMI	Not explicitly defined, inferred through case law and the IRDA 2018 provisions.	Defined through case law (In re Bear Stearns) and factors in § 1516(c).	Defined under Article 16(3) as the “debtor’s principal place of business.”
Timing of COMI Assessment	At the time of court recognition, but flexible to consider recent changes if justified.	Fixed at the application filing time for recognition.	At the time of application for recognition of proceedings.
Key Sections for COMI	IRDA 2018: Part 3 (recognition of foreign proceedings), Third Schedule.	11 U.S.C. § 1502 (definitions), § 1509 (recognition), § 1516 (presumptions).	Articles 2 (definitions), 16 (presumptions), and 17 (recognition criteria).
Flexibility in COMI shifts	Higher flexibility, allowing shifts in COMI if linked to genuine commercial reasons.	Less flexible, prioritizing predictability for creditors.	Adopts a neutral stance; leaves interpretation to domestic courts.
Presumptions of COMI	Presumes the registered office unless contrary evidence exists, though courts assess a wider array of factors.	Presumes the registered office unless rebutted by objective evidence.	Presumes the registered office unless proven otherwise.

<sup>46</sup> Casey Watters, Paul J. Omar, “The Evolution of Cross-Border Insolvency in Singapore” *Singapore Academy of Law Journal*, Vol. XXXV (2023): 618.

<sup>47</sup> Harold FOO, “Universalism on the Ascent: Singapore’s Cross-Border Insolvency Journey” *Singapore Academy of Law Journal*, (2023).

ASPECT	SINGAPORE	U.S. Bankruptcy (Chapter 15)	UNCITRAL Model Law
Creditor Interests	Balances creditor protection with restructuring efficiency; creditor-friendly.	Strong creditor protection; focus on stability in cross-border matters.	Neutral, focusing on harmonization and cooperation across jurisdictions.
Foreign Representative	Recognizes foreign representatives under IRDA, Articles 2(i) and 11 of the Model Law.	Recognized under § 1509 and § 1515; must prove COMI for recognition.	Defined broadly in Article 2(i) as a person authorized to act in insolvency.
Practical use cases	Preferred for flexibility, particularly in restructuring large cross-border entities.	Commonly used for stable, predictable COMI determinations.	Serves as the baseline framework for harmonized insolvency laws.

Source: [author source](#)

Table 1 highlights the significant intricacies in aligning the treatment of COMI under Singapore law, U.S. bankruptcy law, and the UNCITRAL Model Law, reflecting a lack of uniformity across these frameworks. While all three recognize the assumption that the debtor’s registered office serves as the COMI, their approaches to determining and challenging this presumption differ considerably. In Singapore, courts adopt a practical and fact-driven approach, allowing for the recognition of COMI shifts when they are genuine and reflect the economic and operational realities of the debtor. This approach is consistent with Singapore’s emphasis on flexibility and its role as a global restructuring hub. In contrast, U.S. insolvency law determines COMI strictly as of the date of the insolvency filing, providing predictability for creditors but limiting opportunities for restructuring strategies that might involve relocating or realigning the debtor’s operations. The UNCITRAL Model Law adopts a general framework focusing on international harmonization but leaves room for local interpretation, resulting in varied practices. Singapore’s adaptability and its ability to recognize genuine COMI changes for legitimate commercial purposes make it more responsive to the needs of modern cross-border insolvency cases compared to the stricter U.S. framework. This flexibility, coupled with Singapore’s efficiency and creditor-friendly regime, often makes it a preferred authority for intricate bankruptcy proceedings, as seen in the cases below.

In *Re Rams Challenge Shipping Pte Ltd.*, the court determined that the “centre of main interests” (COMI) was in Japan, despite the company’s incorporation in Singapore, emphasizing that COMI must reflect the situation

at the time of insolvency filing, based on pre-insolvency activities and management decisions. The court stressed that COMI should be identifiable by external parties, ensuring transparency for creditors. In *Re Tantleff Alan*, the court reaffirmed that while COMI is presumed to align with the registered office, this can be displaced by objective factors. Here, significant creditors and governing agreements in the US led to COMI being situated in the US at the time of the recognition application. Similarly, in *Re Zetta Jet Pte Ltd.*, the court emphasized that the COMI assessment made during the recognition application focuses on the actual operational circumstances of the debtor's reality rather than historical factors. These cases showcase Singapore's contemporary and rigorous approach to COMI, aligning with global insolvency standards and integrating the UNCITRAL Model Law. By promoting international cooperation through frameworks like the Judicial Insolvency Network and adopting features of the US Chapter 11 regime, Singapore has established itself as a leading hub for cross-border insolvency proceedings, enhancing predictability, efficiency, and fairness.

### 3.5. The UK's Dual Approach to COMI Determination: Balancing Pre-Brexit Traditions (EU approach) and Post-Brexit Flexibility (Australian Approach)

The blueprint for cross-border insolvency in the United Kingdom is overseen by the Cross-Border Insolvency Regulations 2006 and the UNCITRAL Model Law, which facilitates judicial collaboration; however, it does not offer the automatic recognition that is available under the EU Insolvency Regulations.<sup>[48]</sup> Following Brexit, ambiguities have emerged concerning the recognition of entities within European Union (EU) countries and the assessment of the Primary Centre of Interests. Prior to Brexit, the UK adhered to the EU Insolvency Regulation, which provided explicit jurisdictional direction based on the COMI and facilitated efficient recognition processes. In the current context, the UNCITRAL Model Law introduces a framework that permits judicial discretion and evaluations tailored to

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<sup>48</sup> "Leading from the Front: UK's Cross-Border Insolvency Regime to Be Upgraded Following UNCITRAL Consultation" *Ashurst*. <https://www.ashurst.com/en/insights/uks-cross-border-insolvency-regime-to-be-upgraded-following-uncitral-consultation/>. [accessed: 16.12.2024].



individual cases, taking into account factors such as time of filing the proceedings.<sup>[49]</sup> In the instance of *Re Videology Ltd.*, the judicial authority analysed the concept of COMI to ascertain recognition under the Model Law, placing significant emphasis on the debtor's practical operations. Likewise, in the case of *Re NMC Healthcare Ltd.*, the court addressed the issues surrounding COMI and the creditors' interests within the context of a multi-jurisdictional insolvency. Both instances illustrate the intricacies associated with establishing the Centre of Main Interests (COMI), specific to the context of the post-Brexit landscape. The United Kingdom's exit from the EU standardized framework (Recast EIR) has resulted in greater judicial discretion.<sup>[50]</sup> The transition to the UNCITRAL Model Law prioritizes a case-by-case evaluation over fixed criteria, thereby complicating predictability and consistency. These situations underscore the UK's growing dependence on judicial discretion, akin to Australia's methodology, where assessments of COMI are determined on an individual basis instead of strictly defined parameters.

### 3.5.1. Pre-Brexit Strategy

Prior to Brexit, the UK was governed by the EU Insolvency Regulation (Council Regulation (EC) No. 1346/2000 and subsequently Regulation (EU) 2015/848), which standardized cross-border insolvency processes among European Union Member States.<sup>[51]</sup> The regulation employed the COMI as a foundation for establishing jurisdiction, assuming it to be the debtor's registered office unless evidence suggests. Otherwise, insolvency proceedings initiated in a single member state were acknowledged and upheld

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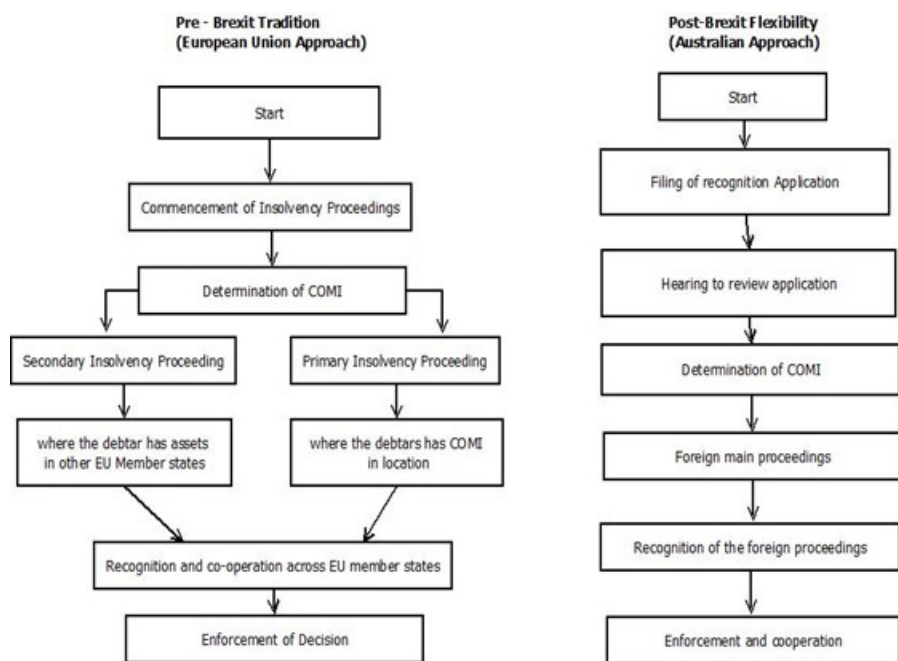
<sup>49</sup> Chris Umfreville, Paul Omar, Heike Lücke, Irene Lynch Fannon, Michael Veder, Laura Carballo Pineiro, "Recognition of UK Insolvency Proceedings Post-Brexit: The Impact of a 'No Deal' Scenario" *International Insolvency Review*, No. 3 (2018): 422-444.

<sup>50</sup> Gibson Leigh, Graeme Cowie, *The end of REUL? Progress in reforming retained EU law*. 2024.

<sup>51</sup> The Insolvency Service, *Cross-border Insolvencies: Recognition and Enforcement in EU Member States*, 2021. <https://www.gov.uk/government/publications/cross-border-insolvencies-recognition-and-enforcement-in-eu-member-states/cross-border-insolvencies-recognition-and-enforcement-in-eu-member-states>. [accessed: 16.12.2024].

across other partner States by default, thereby facilitating processes and minimizing jurisdictional disputes.<sup>[52]</sup>

**Figure-3: Pre-Brexit and Post-Brexit Shifts in the UK's Pathway to Cross-Border Insolvency**



Source: author source

The framework differentiates between primary proceedings, which are determined by the COMI, and the secondary proceedings, which are associated with entities located in other jurisdictions, thereby safeguarding creditor rights across various legal systems.<sup>[53]</sup> It also promoted collaboration among courts and insolvency professionals, enhancing the exchange of information and the effectiveness of resolutions. Instruments such as

<sup>52</sup> Prashanth Shivadass, G Nithin, "The Viewpoint Centre of Main Interest in cross-border insolvency proceedings" *Bar and Bench*, (2022). <https://www.baran-bench.com/law-firms/view-point/centre-of-main-interest-in-cross-border-insolvency-proceedings>. [accessed: 16.12.2024].

<sup>53</sup> Ann-Kathrin Ziegler et. al., "European Court of Justice Rules on Centre of Main Interests: Neither Assets nor Human Resources Required" *International Restructuring Newswire*, (2024).

standardized claim forms significantly bolstered creditor involvement.<sup>[54]</sup> This system offered a level of predictability and simplified the complexities associated with cross-border insolvencies for the UK. Nevertheless, following Brexit, the UK no longer had access to this cohesive framework and transitioned to a more disjointed system that depends on domestic legislation and the UNCITRAL Model Law, thereby introducing new difficulties in the management of cross-border insolvencies.<sup>[55]</sup>

### 3.5.2. Post-Brexit Regime

The UK Post-Brexit strategy for determining the COMI exhibits certain parallels with Australia's methodology, especially in its dependence on the Model Law (UNCITRAL) for transnational Insolvency.<sup>[56]</sup> Both jurisdictions emphasise the importance of flexibility and tailored evaluations when it comes to acknowledging foreign insolvency proceedings. However, the UK exhibits certain unique characteristics, including its ongoing dependence on principles derived from EU law within its domestic legal framework, whereas Australia has established a more independent structure through its Cross-Border Insolvency Act, 2008. While both approaches highlight the importance of judicial discretion and practical implications; However, the UK's method is shaped by its transitional period following Brexit, which brings forth distinct complexities absent in Australia's more established framework.

## 4 | Findings and Discussions

This comprehensive analysis focuses on key domains of recognition, filing timelines, and relief in international insolvency proceedings, and is based on a study of 56 cases spanning five jurisdictions: the United Kingdom, Singapore, the European Union, the United States, and Australia.

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<sup>54</sup> S.S. Rana & Co., *Insolvency Claim Verification*, 2024. <https://ssrana.in/litigation/insolvency-and-bankruptcy/insolvency-claim-verification-india/>. [accessed: 16.12.2024].

<sup>55</sup> Freehills, *Cross Border Insolvencies in the UK and EU post-Brexit guide*.

<sup>56</sup> John Wood, John Wood, "Cross Border Insolvencies After Brexit: Challenges and Recommendations" *Nottingham Insolvency and Business Law e-Journal*, (2017).

Table 2: Key Insights from CLOUT Database: Recognition, Duration and Relief

Centre of Main Interest (COMI) Determination Cases	Recognition			Timing			Relief		
	Foreign Main Proceedings	Foreign Non-main Proceedings	Domestic proceedings	Commencement of foreign Insolvency Proceedings	Date of Filing of Proceedings	Date of Hearing the Recognition Application	Reorganization proceedings	Liquidation /Termination / No relief	Relief for administration and realization of assets
<b>Australia</b> In re Legend International Holdings Inc. VSC 308 [2016]			✓		✓			✓	
Yakushiji V. Daiichi Chuo Kisen Kaisha FCA 1170 [2015]	✓					✓			✓
King, in the matter of Zetta Jet Pte Ltd. FCA 1932 [2018]		✓		✓					✓
Kellow, in the matter of Advanced Building and Construction Ltd. v. Advanced Building and Construction Ltd. FCA 781 [2022]	✓				✓			✓	
Re: Gainsford, in the matter of Tannenbaum vs Tannenbaum FCA 904 [2012]			✓			✓			✓
Lehman Brothers Australia Limited FCA 1449 [2011]		✓			✓			✓	
Bank of Western Australia v. David Stewart Henderson FMCA 840 [2011]			✓	✓				✓	
Lawrence v. Northern Crest Investment Limited FCA 672 [2011]	✓				✓				✓
Re Chow Cho Poon (private Ltd.) NSWSC 300 [2011]			✓		✓			✓	
Ackers v Saad Investments Company Ltd. FCA 1221 [2010]	✓				✓			✓	
<b>United Kingdom</b> Re 19 Entertainment Limited EWHC 1545 [2016]	✓					✓	✓		
Re OGX Petroleo E Gas S.A., EWHC 25 (ch) [2016]	✓					✓	✓		
Sturgeon Central Asia Balanced Fund Ltd. EWHC 1215 [2019]	✓			✓				✓	
H&C S Holdings Pte. Ltd. v. Glencore International AG EWHC 1459 [2019]	✓			✓			✓		
OJSC International Bank of Azerbaijan EWHC 2075 [2017]	✓			✓			✓		

Centre of Main Interest (COMI) Determination Cases	Recognition			Timing			Relief		
	Foreign Main Proceedings	Foreign Non-main Proceedings	Domestic proceedings	Commencement of foreign Insolvency Proceedings	Date of Filing of Proceedings	Date of Hearing the Recognition Application	Reorganization proceedings	Liquidation /Termination / No relief	Relief for administration and realization of assets
Gunel Bakhshiyeva (In Her Capacity as the Foreign Representative of the OJSC International Bank of Azerbaijan) v. Sberbank of Russia, Franklin Global Trust EWCA Civ 2802 [2018]	√				√		√		
Videology Limited EWHC 2186 [2018]		√			√				√
Rubin & Anor v. Euro Finance SA UKSC 46 [2012]	√					√	√		
In re Chesterfield United Inc and in re Partridge Management Group SA EWHC 244 [2012]	√					√			√
In re HIH Casualty and General Insurance Ltd., EWHC 1986 (ch) [2008]		√				√		√	
Re New Paragon Investments Ltd. BCC 371 [2012]	√				√			√	
Atlas Bulk Shipping A/S v. Navios International Inc. EWHC [2011]	√					√	√		
Re Cimolai SpA and Re Luigi Cimolai Holding SpA EWHC 923 [2023]	√				√		√		
Luc A. Despins v Ho Wan Kwok v Harcus Parker Ltd., Dawn State Ltd., Ace Decade Holdings Limited EWHC 74 (Ch), [2023]	√				√		√		
<b>United States of America</b>									
In re Sanjel (USA) Inc., No. 16-50778-CAG (Bankr. W.D. Tex.28 July 2016)	√				√		√		
In re Creative Fin. Ltd., 543 B.R. 498 (Bankr. S.D.N.Y.2016)		√			√			√	
In re Petroforte Brasileiro de Petroleo Ltd.a., 542 B.R. 899 (Bankr. S.D. Fla. 2015)	√				√			√	
In re Daebo Int'l Shipping Co., Ltd., 543 B.R. 47 (Bankr. S.D.N.Y. 2015)	√				√		√		
In re Berau Capital Resources Pte Ltd., 540 B.R. 80 (Bankr. S.D.N.Y. 2015)	√				√		√		

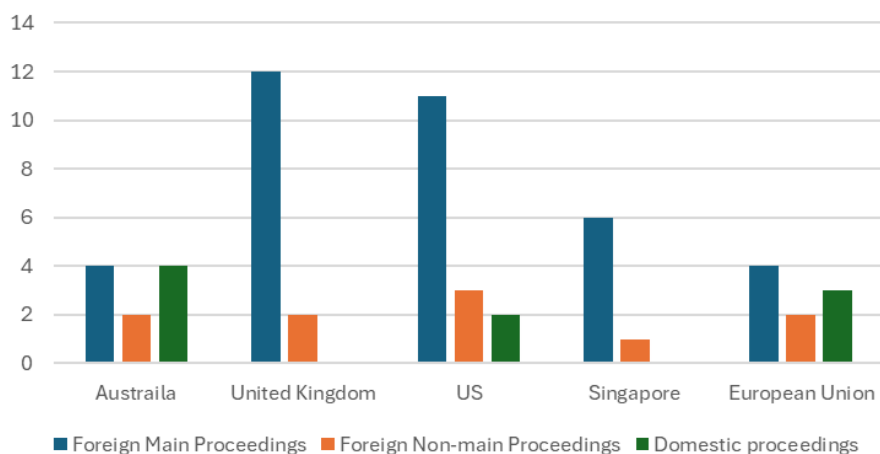
Centre of Main Interest (COMI) Determination Cases	Recognition			Timing			Relief		
	Foreign Main Proceedings	Foreign Non-main Proceedings	Domestic proceedings	Commencement of foreign Insolvency Proceedings	Date of Filing of Proceedings	Date of Hearing the Recognition Application	Reorganization proceedings	Liquidation /Termination / No relief	Relief for administration and realization of assets
Flynn v. Wallace (In re Irish Bank Resolution Corp.), 538 B.R. 692 (D.Del. 2015)	√			√				√	
In re OAS S.A., 533 B.R. 83 (Bankr. S.D.N.Y.2015)	√				√		√		
In re Rede Energia S.A., 515 B.R. 69 (Bankr. S.D.N.Y 2014)	√				√		√		
Cinram International Inc., (Re), 2012 ONSC 3767	√				√		√		
In re Paul Zeital Kemsley 489 B.R. 346 (Bankr. S.D.N.Y. 2013)			√	√				√	
In re: Gerova Financial Group, Ltd. 482 B.R. 86 (Bankr. S.D.N.Y. 2012)	√			√				√	
Lavie v. Ran (In re Ran), 607 F.3d 1017 (5th Cir. 2010)			√		√			√	
In re: Atlas Shipping A/S 404 B.R.726 (Bankr. S.D.N.Y. 2009)	√				√				√
In re Modern Land (China) Co. 641 B.R. 768 (Bankr. S.D.N.Y. 2022)	√				√		√		
In re Glob. Cord Blood Corp., 22-11347 (DSJ) (Bankr. S.D.N.Y. Dec. 5, 2022)		√			√			√	
In re Shimmin, No. 22-10039-JDL (Bankr. W.D. Okla. Oct. 14, 2022)		√			√			√	
<b>Singapore</b> Re: Zetta Jet Pte Ltd. and Others SGHC 16 [2018]		√			√				√
Re: Zetta Jet Pte Ltd. and Others (Asia Aviation Holdings Pte Ltd., intervener) SGHC 53 [2019]	√				√				√
Re Rams Challenge Shipping Pte Ltd. and others matters SGHC 220 [2022]	√			√			√		
Re Tantleff Alan SGHC 147 [2022]	√			√			√		
Ascentra Holdings Inc (in official liquidation) v. SPGK Pte Ltd. SGCA 32 [2023]	√				√			√	
Re Genesis Asia Pacific Pte Ltd. SGHC 240 [2023]	√				√		√		

Centre of Main Interest (COMI) Determination Cases	Recognition			Timing			Relief		
	Foreign Main Proceedings	Foreign Non-main Proceedings	Domestic proceedings	Commencement of foreign Insolvency Proceedings	Date of Filing of Proceedings	Date of Hearing the Recognition Application	Reorganization proceedings	Liquidation /Termination / No relief	Relief for administration and realization of assets
Re Thresh, Charles and another (British Steamship Protection and Indemnity Association Ltd. and another, non-parties) SGHC 337 [2023]	√				√			√	
<b>European Union</b> Romania: Bucharest Court, VII Civil Section Case No. 3220/25.05.2018			√		√			√	
Romania: Bucharest Court, VII Civil Section Case No. 8767/3/2019 (36638/3/2018)		√			√		√		
Eurofood IFSC Ltd.. (C-341/04)	√				√			√	
Interedil Srl (C-396/09)	√				√			√	
Staubitz-Schreiber (C-1/04)			√		√			√	
Jet Airways case C.P. (IB) No. 2205/MB/2019).	√					√			√
Bank Handlowy and Ryszard Adamiak v. Cristianapol sp.z.o.o. (C-116/11) 24 May 2012.		√			√			√	
MG Probud Gdynia (C-444/07)	√				√			√	
Serbia: Commercial Court of Belgrade Case No. St. 157/2017			√		√			√	

Source: Case Law on UNCITRAL Texts (CLOUT)[<sup>57</sup>]

In terms of recognition, primary (foreign main) proceedings are pre-dominant on a global scale, with the UK (12 cases) and the U.S. (11 cases) leading in frequency. Notable cases such as Re OGX Petroleo e Gas S.A. In the UK and In re Bear Stearns High-Grade Structure Credit Strategies Master Fund in the US, underscore the importance of Main Interests determination being a pivotal factor for the acknowledgement of primary main proceedings.

<sup>57</sup> Case Law on UNCITRAL Texts (CLOUT) available at: [https://uncitral.un.org/en/case\\_law#:~:text=In%20order%20to%20support%20consistency%20in%20decisions%20and,Law%20on%20UNCITRAL%20texts%2C%20otherwise%20known%20as%20%E2%80%98CLOUT%E2%80%99](https://uncitral.un.org/en/case_law#:~:text=In%20order%20to%20support%20consistency%20in%20decisions%20and,Law%20on%20UNCITRAL%20texts%2C%20otherwise%20known%20as%20%E2%80%98CLOUT%E2%80%99). [accessed 14.12.2024].

**Figure 4: Recognition of International Insolvency Proceedings**

Source: author source

In the European Union, cases like *Eurofood IFSC Ltd.* emphasize that the assumption of COMI is derived from the geographical position of the registered office, unless countered by objective and verifiable evidence. Although the foreign recognition of non-main proceedings is less common in all the five countries together (with only 10 cases), instances such as *Re Chow Cho Poon (Private Ltd. in Australia and Re Zetta Jet Pte Ltd. in Singapore)* demonstrate that such recognition can occur when substantial business activities exist, even in the absence of a principal place of business. Domestic Proceedings are relatively minimal (9 cases), indicating a global inclination towards the acknowledgement of international insolvency structure, akin to the UNCITRAL Model Law.

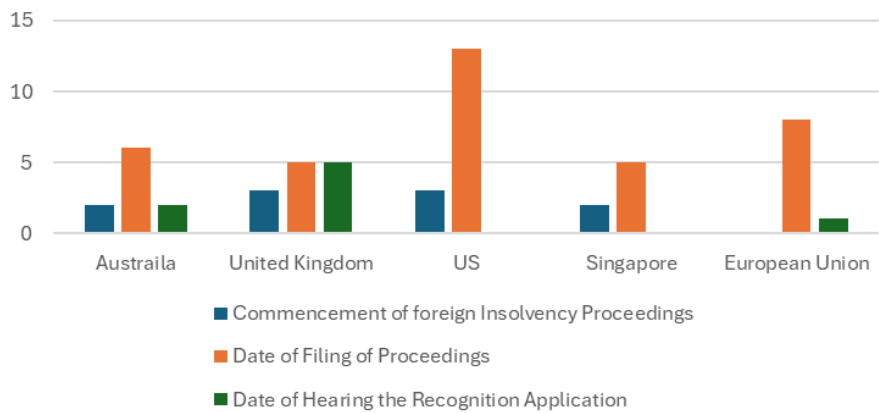
The emphasis on timing varies across different jurisdictions. In the United States, as illustrated by (13 cases), including *In re Fairfield Sentry Ltd.* and in the European Union (8 cases), such as *Interedil Srl*, the date of lodging insolvency proceedings is deemed crucial for establishing the COMI and jurisdictional validity.

Conversely, the United Kingdom (represented by 6 cases including *Re Stanford International Bank Ltd.*) places importance as of the hearing date for recognition applications, thereby demonstrating judicial discretion in acknowledging foreign proceedings. In Australia, the promulgation of the Model Law underscores the significance of timing in determining COMI, as seen in *Zetta Jet Pte Ltd.*, which highlights its procedural intricacies. In Singapore (5 cases), particularly in the case of *Re Tantleff Alan*, the



case clarifies the influence of recognition timing on procedural outcomes. Comparatively, the commencement of foreign insolvency proceedings is less emphasized across these jurisdictions, with both the UK and Singapore prioritizing procedural fairness and compliance.

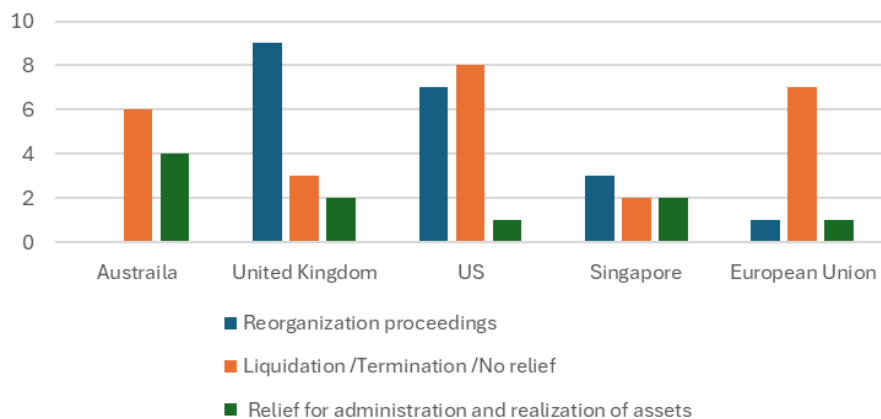
Figure 5: Timing of Filing the proceedings in different Jurisdictions



Source: author source

Different jurisdictions adopt varied strategies concerning relief, reflecting the unique characteristics of their insolvency frameworks. In US (7 cases) and UK (9 cases), reorganization proceedings are prevalent, indicative of creditor-oriented systems aimed at maintaining business value, as demonstrated in *In re ABC Learning Centres Ltd.* and *Re Pacific Andes Resources Development Ltd.*

In the United States (8 cases), relief measures focused on administration and asset realization are prevalent, as seen in the *In re OGX Petroleo e Gas S.A.* This trend is also observed in Australia (4 cases), which is consistent with the Model Law’s objective of optimizing asset recovery. Conversely, outcomes involving liquidation or termination or instances with no relief are more frequently encountered in the European Union (7 cases) and Australia (6 cases), as exemplified by *Akai Pty Ltd. v. People’s Insurance Co Ltd.* European Cases, such as *Staubitz-Schreiber*, highlight the necessity of balancing creditor protection with the orderly processes of liquidation.

**Figure 6: Strategies concerning Relief**

Source: author source

A comparative analysis indicates that the European Union adheres to regional guidelines instituted by the EU Insolvency Regulation, which underscores the importance of consistency in the ascertainment of the central place of main interests and the measures for relief. In contrast, both the United Kingdom and the United States exhibit strong frameworks that prioritise early recognition and extensive discretionary relief, often serving as benchmarks in the realm of transnational insolvency. Meanwhile, Singapore and Australia implement effective mechanisms for asset realisation but enforce more stringent criteria for relief to guarantee adherence to procedural standards. The global impact of the Model Law is apparent across various jurisdictions, promoting harmonisation while permitting regional modifications. For example, in Singapore, the public policy exception is interpreted in a manner that is both narrow and adaptable, allowing for the consideration of local specificities, as illustrated in the case of *Re Zetta Jet Pte Ltd*.

The current procedural emphasis exhibits notable variations, with the United Kingdom (12 cases) and the United States (11 cases) demonstrating advanced recognition practices. By contrast, the European Union (15 cases) prioritizes consistency in timing and relief measures. Australia (8 cases) and Singapore (10 cases) focus on effective coordination in asset realization. Noteworthy cases, such as *In re Basis Yield Alpha Fund (Master)*<sup>[58]</sup> in the

<sup>58</sup> UnitedNation2008, *CASE LAW ON UNCITRAL TEXTS*. <https://documents.un.org/doc/undoc/gen/v08/557/57/pdf/v0855757.pdf>. [accessed: 18.12.2024].

United States and *Re Tantleff, Alan* in Singapore, highlight the dynamic nature of COMI analysis and the implications of timing. Collectively, these findings emphasize the necessity for tailored relief strategies, well-defined timing protocols, and strong recognition frameworks to promote procedural equity and safeguard creditor interests in cross-border insolvency.

## 5 | Conclusion

The UNCITRAL Model Law on International Insolvency sets forth an extensive structure aimed at harmonizing and optimizing international insolvency processes. By focusing on the identification of the principal centre of Interests (COMI) at the point of filing and presuming the debtor's registered office as the COMI, the Model Law promotes transparency, predictability, and uniformity across different jurisdictions. It reduces the potential for forum shopping by requiring brevity of the objective, third-party ascertainable factors to determine jurisdiction. The provision for provisional relief under Article 19 of the UNCITRAL Model Law empowers the courts to address the urgent risks, such as asset dissipation, through mechanisms like temporary asset freezes and preservation orders. Additionally, the Model Law incorporates protections for exceptional situations, enabling member states to reconcile international collaboration with national interests when public policy or significant domestic issues are at stake. Overall, it bolsters judicial cooperation, safeguards creditor interests, and facilitates the effective administration of cross-border insolvencies, all while aligning with various domestic insolvency frameworks. This unified approach promotes fairness, predictability, and stability within global insolvency practices.

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