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Does a Chapter 11 Bankruptcy Have Extraterritorial Effects?

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The recent large-scale Chapter 11 bankruptcies involving multinational corporations with multinational assets and liabilities serve as a reminder of the importance of understanding the effects of U.S. bankruptcy proceedings in the international context.

The extraterritorial effects of a Chapter 11 bankruptcy primarily arise from the automatic stay and the bankruptcy court's jurisdiction over the debtor's property, wherever located. Under U.S. law, the automatic stay, which halts actions against the debtor and its property, applies both domestically and extraterritorially. For instance, in *In re Soundview Elite, Ltd.*, 503 B.R. 571 (Bankr. S.D.N.Y. 2014), the court held that the automatic stay became effective immediately upon the filing of the Chapter 11 petition and applied extraterritorially, rendering subsequent proceedings in a foreign court void under U.S. law. Further, a U.S. bankruptcy court has jurisdiction over all debtor property, including assets located abroad.

However, the enforcement of these extraterritorial effects depends on the cooperation of foreign courts and the ability to hold foreign creditors accountable. *In Soundview Elite*, the court clarified that the automatic stay having extraterritorial effect does not mean a U.S. court can exercise control over a foreign court, and the court emphasized that a bankruptcy court can enforce the automatic stay extraterritorially only against entities over which it has personal jurisdiction. In addition, while as a matter of U.S. law the U.S. bankruptcy court has jurisdiction over all debtor property, including assets located abroad, this is not necessarily true as a matter of foreign national laws. Therefore, the practical enforcement of its orders often requires assistance from foreign courts, particularly in jurisdictions that have adopted the UNCITRAL Model Law on Cross-Border Insolvency, which includes both the U.S. and Japan. This reliance on foreign cooperation underscores the challenges in enforcing U.S. bankruptcy court orders internationally.

In summary, while Chapter 11 bankruptcy has significant extraterritorial effects, particularly through the automatic stay and the court's jurisdiction over worldwide assets, the practical enforcement of these effects often hinges on international cooperation and the specific statutory provisions at issue.

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