



Legal Note - Foreign LLCs

As discussed in a prior column, domestic limited liability companies generally provide substantial protection from creditors of LLC members. Specifically, several state LLC statutes offer so called “charging order” protection. Such protection generally limits the creditors of a member to company distributions paid to the debtor member. Unlike corporate stock, which may be attached by the creditors of a shareholder, claims on LLC interests are generally limited to a charging order. Such statutory protection therefore generally prevents involuntary transfers of LLC equity or voting rights.

A few foreign countries have also adopted limited liability company statutes. Several such foreign laws include the protections afforded by domestic LLCs, with enhanced creditor protection. Such countries, in addition to offering charging order protection, further restrict the collection rights of creditors. Such laws generally allow for redemption of the charged membership interest and prevent the foreign court (with jurisdiction over the off-shore entity) from recognizing U.S. judgments as the basis for a claim to a membership interest.

Foreign entities also usually facilitate the holding of assets off-shore. Assets held off-shore are usually not within the jurisdiction of a U.S. court and are therefore generally farther from the reach of creditors.