

UPDATE

BVI High Court publishes Guidelines for Communication and Cooperation between Courts in Cross-border Insolvency Matters

Update prepared by Eleanor Morgan (Partner, BVI) and Catriona Hunter (Associate, BVI)

BVI adopts Judicial Insolvency Network's Guidelines for Communication and Cooperation between Courts in Cross-border Insolvency Matters

On 18 May 2017 the BVI adopted the Judicial Insolvency Network's Guidelines for Communication and Cooperation between Courts in Cross-border Insolvency Matters (the **Guidelines**).

The overarching objective of the Guidelines is to improve the efficiency and effectiveness of cross-border proceedings relating to insolvency or adjustment of debt, opened in more than one jurisdiction (**Parallel Proceedings**) by enhancing coordination and cooperation amongst courts under whose supervision such proceedings are being conducted.

The Guidelines were first drafted at the inaugural meeting of the Judicial Insolvency Network, which took place in Singapore, in October 2016. That meeting was attended by judges from ten jurisdictions, including the BVI and Cayman Islands together with, amongst others, the USA (Delaware and the Southern District of New York), England & Wales, Australia (Federal and New South Wales) and Canada (Ontario).

The Guidelines are designed to help minimise cost and increase efficiency in cross-border insolvency cases involving the BVI. Their adoption reinforces the BVI's place as a forward-looking, sophisticated, business-friendly jurisdiction.

Key features of the Guidelines include:

- the active encouragement of office-holders in different jurisdictions (including liquidators, receivers and debtors-in-possession) appointed by the court, to cooperate with each other in all aspects of such cases;
- the adoption, in appropriate cases, of cross-border protocols to clearly define the procedures by which such cross-border proceedings will be carried out;
- such protocols should promote the efficient and timely administration of cross-border proceedings including, where possible, the coordination of requests for court approvals of related decisions, to avoid unnecessary court hearings;
- permitting direct court-to-court communications, for purposes including the orderly making of submissions and rendering of decisions, and to coordinate and resolve any procedural, administrative or preliminary matters relating to joint hearings;
- permitting a court in cross-border proceedings to direct that notices, applications, motions and other materials be provided to parties in overseas proceedings, in appropriate cases;
- permitting appearances by overseas parties before the BVI Court and vice-versa, in appropriate cases;
- dispensing with certain formalities required to evidence foreign statutes, regulations or court orders, where appropriate; and importantly
- facilitating joint hearings between the BVI Court and overseas courts.

To date, the Guidelines have been adopted by the BVI, England and Wales, USA (Southern District of New York and Delaware), Singapore and Bermuda. It is anticipated that more countries will adopt the Guidelines over the coming months.

The BVI's participation in the Judicial Insolvency Network and its adoption of the Guidelines are both welcome developments, which are indicative of the jurisdiction's continuing efforts to remain at the forefront of efficient and cost-effective access to justice in international financial cases.

Contacts



Eleanor Morgan
Partner, Mourant Ozannes
BVI
+1 284 852 1712
eleanor.morgan@mourant.com



Catriona Hunter
Associate
BVI
+1 284 852 1724
catriona.hunter@mourant.com

This update is only intended to give a summary and general overview of the subject matter. It is not intended to be comprehensive and does not constitute, and should not be taken to be, legal advice. If you would like legal advice or further information on any issue raised by this update, please get in touch with one of your usual contacts. © 2018 MOURANT OZANNES ALL RIGHTS RESERVED