Restructuring & Insolvency

Contributors

BERMUDA
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Legal updates

Legal framework

Legislation

What is the primary legislation governing insolvency and restructuring proceedings in your jurisdiction?

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The Companies Act 1981 and the Winding-up Rules 1982 govern insolvencies and reorganisations in Bermuda. Part XIII of the Companies Act and the related rules are taken from the UK Companies Act 1948 and the 1949 related rules. English case law and principles govern the interpretation and application of these provisions. There are some omissions in Bermuda's version of the UK Winding-up Rules 1949, and the amendments to the UK Companies Act in 1985 and the UK Insolvency Act 1986 have not yet been adopted in Bermuda.

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Regulatory climate

On an international spectrum, is your jurisdiction more creditor or debtor friendly?

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In Bermuda, the court applies rules and processes for the enforcement of obligations which aim to achieve certainty and reliability for the purposes of international business and trade.

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Sector-specific regimes

Do any special regimes apply to corporate insolvencies in specific sectors (eg, insurance, pension funds)?

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Generally, no other special regimes apply to corporate insolvencies. Under the Banking (Special Resolution Regime) Act 2016, a separate regime will apply to the winding up of licensed banks.

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Reform

Are any reforms to the legal framework envisaged?

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The Banking (Special Resolution Regime) Act 2016, which introduces special rules for insolvent banks, has been passed, but has not yet come into force. The court intends to adopt a protocol for cross-border insolvency matters in 2017.

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Director and parent company liability

Liability

Under what circumstances can a director or parent company be held liable for a company's insolvency?

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Officers of a Bermuda company (including directors) may be held liable for breach of duty. A director owes a fiduciary duty to the company to act honestly and in the interests of the company as a whole. In the discharge of those duties, a director must exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Where a company becomes insolvent, the company's interests include those of its creditors.

Under Section 247 of the Companies Act 1981, a director may be found personally liable if he or she has:

- mismanaged money or property belonging to the company;
- retained or become liable or accountable for any money or property belonging to the company; or
- been found guilty of any misfeasance or breach of trust in relation to the company.

A director may also be found personally liable if he or she has permitted the company to trade fraudulently – for example, by continuing to incur liabilities when the director knows that the company has no prospect of being able to repay or discharge those liabilities.

A parent company is not liable for its subsidiaries' debts on insolvency.

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Defences

What defences are available to a liable director or parent company?

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An officer's duty is owed to the company, not to its shareholders or creditors; thus, a company acting through its liquidator is normally the only proper claimant in respect of breaches of duty on the part of a director. The bye-laws of the company may (and in most cases do) exonerate a director from liability to the company for any loss that has been sustained as a result of his or her breach of duty, except for breaches involving fraud or dishonesty. An indemnity provision is also usually included, which makes the company liable to reimburse and indemnify the officer for losses that he or she incurred or liabilities to which he or she may become subject as a result of serving as the company's director or officer.

Companies may purchase directors' and officers' liability insurance. The court has discretion to grant relief in respect of negligence, default or breach of duty or trust, provided that:

- the director acted honestly and reasonably; and
- the court considers that, in all circumstances, it is reasonable to excuse him or her for the alleged negligence or breach of duty of breach of trust either wholly or in part.

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Due diligence

What due diligence should be conducted to limit liability?

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Some companies will have different levels of exoneration and indemnity; however, the vast majority of companies will include exoneration provisions for any breach of duty, except for those involving fraud or dishonesty on the part of the individual officer. In addition, officers who are also employees may have separate employment contracts which contain exoneration provisions, and care should be taken to ensure that these contracts are consistent with the scope of the company bylaws. Where companies have purchased directors' and officers' liability insurance, the precise terms of that cover should be reviewed, and consideration should be given as to whether the cover is Side A, Side B or Side C-type liability.

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Position of creditors

Forms of security

What are the main forms of security over moveable and immoveable property and how are they given legal effect?

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In respect of immovable property, legal mortgages are the most common form of security taken over real property, aircraft and ships. An equitable mortgage may be taken over immovable property. Generally, charges over company assets may be registered on the Register of Charges maintained by the Registrar of Companies, and there are specific registers for Bermuda land, ships, aircraft and aircraft engines, and where these assets are owned by a Bermuda company, any charges over them must be recorded on the relevant specific register. Priority of security is determined by the registration date.

In relation to moveable property, the most common type of security is a charge, which can take the form of:

- a charge over shares;
- a debenture over shares and all assets of the chargor;
- an assignment of the proceeds of realisation of specific assets; or
- a general charge over book debts and future receivables.

Priority of security is determined by the registration date.

Chattel mortgages can also be taken over moveable assets which belong to natural persons, and these are registered on the Register of Chattel Mortgages.

Pledges can be registered on the Register of Charges. Equitable mortgages may also be taken in respect of intangible assets by way of an equitable assignment.

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Ranking of creditors

How are creditors' claims ranked in insolvency proceedings?

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Secured creditors may claim any shortfall between the value of the security and the actual amount of the debt. The priority of unsecured claims in a corporate insolvency is:

- liquidation costs;
- employee wage claims (including severance payments up to 26 weeks);
- preferred creditors (taxes and obligations owed to the government);
- floating charge holders (subject to the note below);
- ordinary unsecured creditors (*pari passu*);
- subordinated unsecured creditors;
- preferred shareholders (in the event of a surplus); and
- ordinary shareholders (in the event of a surplus).

In accordance with *Re Leyland Daf: Buchler v Talbot* (2004, UKHL9), floating charge holders are likely to be treated as fully secured creditors.

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Can this ranking be amended in any way?

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The ranking of creditors cannot normally be amended. Group companies commonly enter into subordination agreements so that inter-company group debt will rank behind third-party secured and unsecured debt. The drafting of subordination agreements is a complex area and care must be taken to ensure that the subordination does not seek to hinder the rights of other creditors in the context of a liquidation proceeding.

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Foreign creditors

What is the status of foreign creditors in filing claims?

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All creditors, irrespective of their place of origin, may file claims in a Bermuda liquidation and should expect to be treated on a *pari passu* basis. However, where cross-border insolvency proceedings are pending in more than one jurisdiction, care must be taken to ensure that there is no double recovery in two separate winding-up proceedings or an ancillary winding up being conducted under another legal system.

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Unsecured creditors

Are any special remedies available to unsecured creditors?

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Employees may seek to recover their accrued entitlements and severance pay equal to 26 weeks of their annual salary and benefits. Similarly, taxes and obligations owed to the government will be treated as preferred claims. In the event that the company is found guilty of fraudulent trading, the directors may be found personally liable for the amount incurred after they discovered that the company could not meet its debts as they fell due. The benefit of the recovery in respect of any fraudulent trading claim will go to the insolvent estate and be distributed among the creditors *pari passu*, subject to payment of costs expenses and preferred claims.

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Debt recovery

By what legal means can creditors recover unpaid debts (other than through insolvency proceedings)?

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A creditor will normally seek to:

- establish liability in civil proceedings;
- obtain a judgment against the debtor; and
- enforce the judgment by way of a writ of execution over the judgment debtor's property and assets.

The other means of obtaining recovery of unpaid debts are legal and equitable set-off.

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Is trade credit insurance commonly purchased in your jurisdiction?

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Trade credit insurance is not normally purchased in Bermuda.

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Liquidation procedures

Eligibility

What are the eligibility criteria for initiating liquidation procedures? Are any entities explicitly barred from initiating such procedures?

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To bring a winding-up petition against an ordinary company, the company must be either balance sheet or cash-flow insolvent.

Where a company fails or neglects to pay a debt of BDA$500 or more within 21 days of being served with a demand for payment at its registered office, it will be deemed to be insolvent and an application may be made to wind up the company.

In relation to licensed insurers, where the debt relied on is a contingent or prospective debt, the petitioners must have contingent or prospective claims exceeding BDA$50,000 that represent 10 or more policyholders on the basis of a *prima facie* case of insolvency supported by independent evidence.

No entities are explicitly barred from initiating these procedures.

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Procedures

What are the primary procedures used to liquidate an insolvent company in your jurisdiction and what are the key features and requirements of each? Are there any structural or regulatory differences between voluntary liquidation and compulsory liquidation?

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There are several different ways to commence a liquidation proceeding in Bermuda. The most conventional method is for a creditor to serve a statutory demand seeking payment of an undisputed liability owed by the company which exceeds BDA$500. If this demand is not paid within 21 days of the statutory demand being served on the company's registered office, the company is deemed to be insolvent.

A judgment creditor or the holder of a binding arbitration award may seek to use the same procedure.

Another common liquidation method is for the company to bring a petition on the grounds that the board has determined that the company is insolvent or is likely to be insolvent. The petition sets out the basis for the winding-up order and the appointment of a provisional liquidator.

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How are liquidation procedures formally approved?

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Court-supervised liquidation usually commences with the making of a winding-up order at the hearing of the winding-up petition. At the hearing, the winding-up order sets the date for evaluation of claims and set-off rights is made and a provisional liquidator is appointed.

At the first meeting of creditors and contributories, the general body of unsecured creditors (and contributories) vote on:

- the appointment of one or more permanent liquidator; and
- whether a creditors' committee is appropriate and, if so, who the committee members will be.

The appointed permanent liquidator and committee members are then approved by court order. After appointment, the permanent liquidator has a number of statutory powers, as well as a number of powers that he or she can invoke with the approval of the creditors' committee (if appointed) or the court.

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What effects do liquidation procedures have on existing contracts?

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Except in the case of employment contracts, there is no automatic discharge of contracts by operation of law, unless this has been established in a contractual provision within the agreement.

Section 33 of the Employment Act 2000 provides that the winding up or insolvency of an employer's business will result in the termination of employment contracts within one month of the winding-up order, unless the business continues to operate.

Where there are mutual obligations between a company and its creditors, an automatic set-off will occur once the winding-up order has been issued, whereby any mutual credits and debts will be set-off, such that only:

- the remaining unpaid obligations will be claimable in the liquidation; and
- the balance after set-off remaining due to the company may be recovered from the creditor.

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What is the typical timeframe for completion of liquidation procedures?

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The initiation of a winding-up process – that is, from the date of the presentation of the petition to the date of the making of a winding-up order – is usually completed within four to six weeks. Once liquidation has commenced, there is no set period within which the winding up must be completed.

A members' voluntary liquidation must be completed within 12 months. If it is not, it becomes a creditors' voluntary liquidation.

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Role of liquidator

How is the liquidator appointed and what is the extent of his or her powers and responsibilities?

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The court will appoint a provisional liquidator after hearing a winding-up petition.

Where there is an urgent need to appoint an interim provisional liquidator in order to preserve or protect assets or protect the interests of the creditors as a whole, an application for relief can be made to the court.

The provisional liquidator is initially responsible for gathering and protecting the company's assets, as well as gathering information from the directors concerning the company's financial position and the reasons for its failure, so that he or she can make a preliminary report to the creditors at the first meeting of the creditors and contributories.

Once voting is complete, the permanent liquidator and creditors' committee are formally appointed by the court. The permanent liquidator (with the creditors' committee's approval) has the power to:

- administer the liquidation;
- make claims and recover assets;
- compromise and settle claims;
- admit proofs of debt from creditors; and
- make interim distributions of assets to creditors by way of dividend.

If no creditors' committee is established, the court must approve the use of the permanent liquidator's powers to compromise claims and take actions to recover assets. The permanent liquidator may disclaim onerous contracts with court approval and on admittance of a claim for the appropriate value of any contract disclaimed in the liquidation.

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Court involvement

What is the extent of the court's involvement in liquidation procedures?

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The court appoints a provisional liquidator and, after the first meetings of creditors and contributories, the creditors' committee (if any) and the permanent liquidator. Where a creditors' committee is appointed, the permanent liquidator can usually take all necessary steps to administer the liquidation without the court's involvement, except where exceptional or unusual steps are being taken, in which case the permanent liquidator will normally seek the court's approval.

Where no creditors' committee is established, the court must approve the exercise of most of the liquidator's principal powers with regard to claims, proceedings and compromises with creditors.

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Creditor involvement

What is the extent of creditors' involvement in liquidation procedures and what actions are they prohibited from taking against the insolvent company in the course of the proceedings?

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After a winding-up order is made, there is a general automatic stay on all proceedings. The petitioning creditor will normally have an initial involvement in providing the provisional liquidator with information and assistance, and may have a role in providing initial funding for the provisional liquidator's expenses. Otherwise, the creditors have limited rights to pursue any claim against a company in liquidation.

Once the first creditors' meeting has been convened, the creditors will vote on the appointment of a permanent liquidator and the establishment of an official creditors' committee (formally known as a 'committee of inspection').

Once the creditors' committee is established, the permanent liquidator will:

- consult with the committee about the actions that it intends to take;
- obtain approval for the actions, where necessary; and
- inform the committee about the progress of the recovery of assets and the likely distributions to creditors on an interim basis.

The creditors' committee will:

- audit the permanent liquidator's receipts and payment accounts;
- approve annual accounts; and
- submit a report to the court annually.

The creditors' committee will often assist the permanent liquidator in determining whether to enter into a scheme of arrangement with the creditors and, if so, on what terms.

The members of the creditors' committee may be reimbursed for expenses, but may not be paid for the time that they devote to acting in this role. Vacancies may be filled if a member resigns.

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Director and shareholder involvement

What is the extent of directors' and shareholders' involvement in liquidation procedures?

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Shareholders
Shareholders generally have little involvement in the administration of an insolvent liquidation.

Directors
On the making of a winding-up order, the directors' powers cease. A representative of the directors must attend the first creditors' meeting, ostensibly to answer questions; but this requirement is often not met in practice.

Directors must assist the provisional liquidator in the preparation of the statement of affairs, but similarly this requirement is routinely not observed in practice.

In some cases, directors may continue to perform their duties (albeit under supervision) during a provisional liquidation, which may enable the company to continue to operate but enjoy protection from actions to enforce claims under the automatic stay provisions of the Companies Act 1981. This is often referred to as a 'light touch' provisional liquidation, which may be ordered (usually with the support of an informal creditors' committee) to protect creditors' interests and preserve the continuity of management. This is usually a temporary measure, but it can be helpful where a reorganisation is seriously contemplated by way of an agreed plan or scheme of arrangement.

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Restructuring procedures

Eligibility

What are the eligibility criteria for initiating restructuring procedures? Are any entities explicitly barred from initiating such procedures?

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The primary restructuring mechanism available under the Companies Act 1981 is a scheme of arrangement, which is set out in Section 99 therein. A scheme of arrangement may be proposed by the company (acting as liquidator) or its creditors or shareholders. The court must be satisfied that the proposal is realistic and likely to be accepted by the class or classes of creditor who will be asked to vote. The scheme of arrangement is usually proposed by the provisional or permanent liquidators and almost always with the support of a significant number and value of the whole creditor base, the creditors' committee (if one has been appointed) or an informal committee made up of significant creditor representatives.

There are no statutory bars to a company or its creditors or shareholders with regard to making a restructuring proposal.

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Procedures

What are the primary formal restructuring procedures available in your jurisdiction and what are the key features and requirements of each?

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A scheme of arrangement under Section 99 of the Companies Act 1981 is used to restructure insolvent companies.

The scheme of arrangement must be set out in a draft scheme document, together with an explanatory statement setting out:

- the terms of the scheme;

- what the scheme is meant to achieve; and
- what the result will be.

The draft scheme document will be provided to the court as an exhibit to an affidavit in support of the application for an order requiring the convening of meetings of constituent parties that will be affected by the scheme if adopted.

If the court considers the terms of the scheme to be proper (ie, the court believes that the relevant classes could support the scheme), it will order a meeting of those classes on terms that the court finds just and reasonable.

The scheme will be accompanied by the explanatory statement, which sets out the relevant details of the scheme, its effect and how and when it will be implemented if approved. This statement must be provided to all members of each participating class physically or electronically.

The court will expect proper consideration to be given to dividing the members of each class into those who have a sufficiently similar interest that they could reasonably vote on the scheme as a whole as members of the same class. Where there are interests that are sufficiently different in kind or nature so that they cannot be treated as members of the same class, they will be separated in a different class which will vote separate on the terms of the scheme.

If the terms of the scheme are approved by a majority in number and three-quarters in value of those members voting, then the scheme will be binding on all members of that class, whether they voted at all or if they voted and opposed the scheme. If the scheme is not approved by one class, then it may still bind other classes who vote in favour, although generally it will be a condition of the scheme that all classes affected by the proposed scheme must approve it by the relevant majority before the scheme will become binding on all classes.

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How are restructuring plans formally approved?

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A scheme of arrangement under Section 99 of the Companies Act 1981 is the method for restructuring insolvent companies.

Once the scheme has been approved by the relevant majorities of each class, the chair of the meetings will make a report and exhibit it to an affidavit in support of a petition for the approval of the scheme, and the court will hear that application and decide whether or not to approve the scheme. Usually, the court will give effect to the terms of the scheme as approved by the members of each class. However, the court will be astute to ensure that there are proper mechanisms built into the scheme for resolving disputed claims and valuations, and will not approve a scheme which is inherently unfair or contrary to public policy.

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What effects do restructuring procedures have on existing contracts?

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Once a scheme of arrangement has been approved by the relevant majorities and sanctioned by the court, and has subsequently been registered with the Registrar of Companies, it will modify the terms, conditions and enforcement of any contract which is affected by it. Complications can occur in cross-border situations where:

- the party to the relevant contract is not subject to the Bermuda court's jurisdiction;
- the contract is governed by foreign law; or
- the right to enforce a contractual right depends on recognition of the scheme by a foreign court.

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What is the typical timeframe for completion of restructuring procedures?

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It is not possible to give a general rule for the time required to complete the restructuring procedures. In a case which does not involve undue complexity and in which there are no disputed elements or opposition, a consensual scheme can be achieved in about six to eight weeks from the date the application is launched. By contrast, in the case of (for example) a contested takeover scheme, the time line will be much longer, and could extend over many months.

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Court involvement

What is the extent of the court's involvement in restructuring procedures?

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The court will:

- convene the scheme meetings for each class;
- supervise the process of dividing the classes appropriately; and
- require the promoter of the scheme to comply with the provisions of the Companies Act 1981 concerning the distribution of information in the explanatory statement and voting materials in order to reach all or as many or possible of the relevant class. The court will then consider approving the scheme once it has been approved by the requisite majority of votes – namely, the scheme must be approved by a majority in number of each class of members and three-quarters in value of all votes cast at each class meeting.

The court will then consider the fairness of the scheme and the inclusion of rights for dissenters in respect of adjudications as to the value of their claims or rights of appeal, as appropriate.

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Creditor involvement

What is the extent of creditors' involvement in restructuring procedures and what actions are they prohibited from taking against the company in the course of the proceedings?

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At the scheme meeting, the creditors can ask questions about the scheme and must then vote to accept or reject it. In order for a scheme to be approved, it must receive a majority in number and three-quarters in value of the votes cast by members of the class who attended and voted either in person or by proxy at the meeting. This is not a majority of all persons entitled to vote at the meeting, but rather a majority of those who attended the meeting and casted a vote either in person or by proxy.

The quorum requirements for a class meeting may vary, but generally only a small number of the total potential membership of the class is needed to constitute a quorum under the scheme. The result is that a small number of actual votes may pass a scheme which binds a much larger number of members.

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Under what conditions may dissenting creditors be crammed down?

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There are no specific cram-down provisions, except that no more than 25% of the rights of any class of creditors can be varied without their consent under a scheme. While dissenters may oppose the scheme at the sanction hearing even if they were outvoted during the scheme meetings, the grounds for successful opposition are limited and must include some inherent unfairness to a constituency of the creditors, including a failure to provide proper mechanisms for redress under the scheme.

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Director and shareholder involvement

What is the extent of directors' and shareholders' involvement in restructuring procedures?

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In most ordinary cases, the directors will have no involvement in a scheme after a winding-up order is made. However, if a provisional liquidator has been appointed in a so-called 'light touch' provisional liquidation, the directors may have the greatest knowledge and understanding of the company's affairs and may thus be in the best position to propose restructuring terms that would benefit creditors. As such, they may be involved in the process as the main proponents of the scheme.

Shareholders can also propose a scheme, but generally will not be in a position to do so unless:

- the terms therein will result in a surplus in which they will have an economic interest; and
- the creditors are likely to support the scheme on the terms proposed.

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Informal work-outs

Are informal work-outs available for distressed companies in your jurisdiction? If so, what are the advantages and disadvantages in comparison to formal proceedings?

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No provisions allow for an informal work-out. If all of the creditors agree, a work-out by consent can be achieved.

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Transaction avoidance

Setting aside transactions

What rules and procedures govern the setting aside of an insolvent company's transactions? Who can challenge eligible transactions?

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Under the Conveyancing Act 1983, a transaction which was entered into in order to put the property out of the creditors' reach and as an undervalue may be set aside on application by a creditor with a claim, including where this claim falls within the reasonable contemplation of the debtor (generally within six years of the date of the transaction).

It is possible to extend the six-year period for up to another two years if the cause of action which was reasonably foreseeable at the date of the transaction materialises within two years of the transaction.

Under the Companies Act 1981, a transfer of property made within six months of the commencement of the winding up (for this purpose, the date on which the petition was filed) may be set aside if the dominant intention was to prefer one creditor's interests over other creditors.

A floating charge granted by the company within 12 months of the date of the commencement of the winding up is liable to be set aside, unless it can be proven that immediately after the granting of the charge, the company was solvent, except for money paid in consideration of the granting of the charge.

A disposition of property after the filing of the petition is void unless the court declares otherwise.

Who can challenge eligible transactions?
Generally, a liquidator will challenge the transaction, but an aggrieved creditor may also make application to the court to:

- set aside a voidable preference;
- set aside a fraudulent conveyance; or
- seek relief against a director or officer who has been found guilty of fraudulent trading.

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Operating during insolvency

Criteria

Under what circumstances can a company continue to conduct business during an insolvency procedure?

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Generally, a company will not continue to trade or operate during insolvency, except to the extent that the collection of assets and receivables and payment of obligations after adjudication of claims constitutes operating.

However, the liquidator can operate the business if doing so protects and promotes the creditors' interests.

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Stakeholder and court involvement

To what extent are relevant stakeholders (eg, creditors, directors, shareholders) and the courts involved in any business conducted during an insolvency procedure?

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If a liquidator continues the business, the creditors will usually play a significant role in shaping the extent and period in which the business will continue to operate in a liquidation proceeding. In a provisional liquidation, the court will normally receive regular reports from the provisional liquidator concerning the progress of the restructuring proposal and the provisional liquidator must obtain the court's approval to continue to operate the business.

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Financing

Can an insolvent company obtain further credit or take out additional secured loans during an insolvency procedure?

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Normally, a company cannot continue to incur new additional liabilities after the commencement of a winding-up procedure. However, if a creditor is prepared to advance monies to fund the obligations required to wind up the company or gather in assets or pursue claims, the liquidator will typically enter into a funding agreement on court-approved terms regarding the priority of repayment and the payment of interest (if any) on sums advanced to the liquidator.

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Employees

Effect of insolvency on employees

How does a company's insolvency affect employees and the company's legal obligations to employees?

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Section 33 of the Employment Act 2000 provides that employment contracts will be terminated 30 days after the commencement of a winding up or the appointment of a receiver, unless the business continues notwithstanding the

appointment of a liquidator or receiver. While it is uncommon for employment contracts to continue after the making of a winding-up order, employment contracts often continue after the appointment of a receiver.

Section 33 also provides priority to employees in respect of unpaid wages, bonuses and severance pay for up to the equivalent of 26 weeks' pay.

There is no equivalent to the UK Transfer of Undertakings (Protection of Employment) Regulations 2006 for the automatic transfer of employment on the reorganisation of a business.

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Cross-border insolvency

Recognition of foreign proceedings

Under what circumstances will the courts in your jurisdiction recognise the validity of foreign insolvency proceedings?

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The Bermuda court will generally recognise an office holder appointed over a foreign insolvency proceeding which has interests in Bermuda. However, there is still lingering uncertainty as to the extent to which the Bermuda court has power to give judicial assistance to a foreign office holder seeking to obtain court assistance.

In accordance with the Privy Council's decision in *Singularis Holdings Ltd v PricewaterhouseCoopers (Bermuda)* ([2014] UKPC 36), no inherent jurisdiction is vested in the Bermuda court to wind up a foreign company.

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Winding up foreign companies

What is the extent of the courts' powers to order the winding up of foreign companies doing business in your jurisdiction?

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The Bermuda courts have no jurisdiction to wind up foreign companies.

The fact that a company is incorporated outside Bermuda but operates in Bermuda will be relevant to grant relief to an office holder seeking assistance from a foreign court to wind up the company's affairs in the jurisdiction of its incorporation or elsewhere.

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Centre of main interests

How is the centre of main interests determined in your jurisdiction?

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Bermuda has not adopted the UNCITRAL Model Law on cross-border insolvency and is unlikely to do so. The concept of 'centre of main interests' is not one which has direct application to Bermuda insolvency proceedings.

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Cross-border cooperation

What is the general approach of the courts in your jurisdiction to cooperating with foreign

courts in managing cross-border insolvencies?

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In general, the Bermuda court is open to cooperate with foreign courts in cross-border insolvencies. While jurisdictional limits have been imposed on the court's ability to cooperate (see *Singularis Holdings Ltd v PricewaterhouseCoopers (Bermuda)* ([2014] UKPC 36)), it is likely that the judicial attitude will remain flexible and cooperative as far as possible. The court recently proposed a draft protocol for communication and cooperation between courts in cross-border insolvency matters which will likely be implemented during 2017.

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Law stated date

Correct as of

Please state the date of which the law stated here is accurate.

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Correct as of February 2017.

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