



NEW GUIDELINES FOR CROSS-BORDER INSOLVENCY IN BVI

MAY 2017

On the 18 May, the BVI implemented new guidelines and practice directions in relation to the communication and cooperation between courts in cross-border insolvency cases.

While the main focus is to encourage cooperation and coordination amongst all parties where parallel proceedings are involved, there must also be consideration given to minimizing litigation costs and any inconvenience for parties (the meaning of "*parties*" in this context will be given a broader interpretation in comparison with the traditional interpretation of the word). The new guidelines address the running of parallel proceedings in order to make them more efficient and be completed in a timely manner. They also promote maximizing the value of debtor's business and assets in a way that is proportionate to the amount of money involved in each case.

The guidelines helpfully outline that the court may now receive communications from a foreign court and can also respond directly to them. This further contributes to solving communication and coordination issues which once may have been problematic in the running of parallel proceedings.

In streamlining cross-border insolvency proceedings, the guidelines also permit notices of proceedings to be given to parties in other jurisdictions. It allows all types of legal documents such as notices, motions and applications to be provided to parties electronically and by other stated means.

The court may now grant a party or an appropriate person to appear before a foreign court in relation to proceedings or on a specific matter. However, a restriction is placed as approval is subject to the foreign court.

Finally, what is most notable is the courts power to now conduct joint hearings with another court. This guideline is likely to save in costly multiple trials in different jurisdictions and the overlapping of cases. The guidelines go one step further in its protocol to improve coordination and communication in joint hearings in allowing courts to communicate with one another in the absence or indeed the presence of counsel as to the coordination of proceedings relating to procedural, administrative or preliminary matters.

The guidelines and new practice directions illustrates the Judicial Committees' commitment in making parallel proceedings in cross-border insolvency more streamline which is evident from the guidelines focus and priority on coordination and communication in such cases. These set of guidelines and practice directions will no doubt be of considerable assistance in the running of parallel proceedings in cross-border insolvency matters going forward.

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