

The logo for 'The Legal 500' is displayed in a stylized, bold font. The word 'The' is in a smaller font above 'LEGAL', which is above '500'. The background of the cover features silhouettes of three business professionals in a meeting, with a cityscape visible through a window behind them. The scene is set during sunset or sunrise, with a warm glow. The silhouettes are reflected in a dark surface below. A dark blue diagonal shape is in the bottom right corner.

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2019

The Legal 500
Restructuring & Insolvency
country comparative
guide – Q&A

Cayman Islands

CAREY OLSEN

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At Carey Olsen, we always look at the bigger picture. In the face of opportunities or challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with outstanding client service, technical excellence and commercial insight.

BIGGER PICTURE

Security and enforcement

What forms of security can be granted over immovable and movable property? What formalities are required and what is the impact if such formalities are not complied with?

Security rights that may be granted over property in the Cayman Islands include:

- **Legal mortgage.** A legal mortgage arises when a creditor lends money to the debtor and holds legal title to the debtor's property as security for the debt. The debtor will retain possession of the property, and the mortgage is discharged upon full payment of the debt.
- **Equitable mortgage.** An equitable mortgage arises where the beneficial or equitable interest in the debtor's property subject to the mortgage is transferred to the lender, but the debtor retains the legal title and possession of the property. An equitable mortgage will not take priority over a third party purchaser of the property, who purchases the property for value, in good faith, and without notice of the lender's interest in the property.
- **Charge.** Unlike a mortgage, title to the debtor's property is not transferred to the lender pursuant to a charge. Rather, the lender is granted rights over the debtor's property as security for the debt, such as the right to take possession if the debtor defaults on the loan. A charge may be fixed or floating. A fixed charge attaches to specific assets which cannot be sold by the debtor without the lender's consent. Under a floating charge, the debtor can deal with the assets subject to the charge until a default occurs. Upon an event of default, the charge crystallises over the debtor's property at the time of default and becomes a fixed charge, with the lender having the power to sell the assets in order to satisfy the debt.
- **Lien.** A lien arises by operation of law and may be used when a creditor is in possession of the debtor's property and is owed monies for services provided to the debtor. The creditor cannot sell the property to satisfy the debt, but can retain possession of the property until the debtor makes payment.
- **Pledge.** Under a contract to pledge, the debtor's property is deposited with the lender as security for a debt. The right to the property vests in the lender to the extent necessary to secure the debt, and the lender has the power to sell the property in the event of a default by the borrower.

Legal mortgages must be created by deed and validly executed, and equitable mortgages and fixed charges must be in writing (and are typically created by deed). There may also be formalities in the debtor's articles of association in relation to the process to be followed for the company to grant security over its assets.

The Cayman Islands has centrally maintained ownership registers for land, ships, aircraft and motor vehicles on which mortgages or charges can be registered. Any third-party purchaser will be deemed to have notice of any interest registered at the time of the purchase of the asset and will acquire the asset subject to the creditor's security interest.

Cayman Islands companies are required to maintain a register of mortgages and charges, which is available for inspection by any creditor or member of the company but is not publicly searchable. The security does not have to be recorded on the register in order to be valid, and failure to record the security on the register will not automatically render the security void. However, the directors, managers or officers of the company can face a fine if the security is not recorded on the company's register. Any lender to a Cayman Islands company should review the company's register of mortgages and charges prior to making a loan, and ensure that the register is updated following the loan being made.

What practical issues do secured creditors face in enforcing their security (e.g. timing issues, requirement for court involvement)?

A secured creditor may enforce its security rights in accordance with the terms of the relevant security document(s) without reference to the Cayman Islands Grand Court (the "Cayman Court"). These rights are unaffected by the commencement of Cayman Islands law insolvency proceedings in respect of the debtor company, as the automatic stay that applies in provisional and official liquidation does not prevent the enforcement of security.

A receiver appointed pursuant to a security document is not subject to the supervision of the Cayman Court and will owe their primary duty to the secured creditor appointing them, and not to the debtor company or the general body of creditors.

Local insolvency proceedings

What is the test for insolvency? Is there any obligation on directors or officers of the debtor to open insolvency procedures upon the debtor becoming distressed or insolvent? Are there any consequences for failure to do so?

A company may be wound up by the Court if it is unable to pay its debts. A company will be deemed to be unable to pay its debts if:

- it fails to satisfy a statutory demand exceeding \$100;
- execution of a judgment is returned unsatisfied in whole or in part; or
- it is proved to the satisfaction of the Court that the company is unable to pay its debts. The Court will apply a cash flow insolvency test for this purpose.

There is no statutory obligation on a company's directors to commence liquidation proceedings upon the debtor becoming distressed or insolvent. However, the directors have a duty to act in the best interests of the company, which requires them to consider the interests of its creditors in the event that the company becomes distressed or insolvent. Directors may incur personal liability to the company for any losses which they cause to the company if they act in breach of their duties, for example by causing the company to incur further debts when they knew or should have known that there was no reasonable prospect of the company avoiding an insolvent liquidation. Directors can also face liability if they carry on the business of the company with the intent to defraud its creditors or for any fraudulent purpose.

[What insolvency procedures are available in the jurisdiction? Does management continue to operate the business and / or is the debtor subject to supervision? What roles do the court and other stakeholders play? How long does the process usually take to complete?](#)

The main insolvency procedures in the Cayman Islands are official liquidation under the supervision of the Cayman Court, or voluntary liquidation. The Court can also appoint liquidators on a provisional basis ("provisional liquidators") pending the hearing of a petition to place the company into official liquidation (see question 8 below).

Official liquidation

A company may be placed into official liquidation by the Court making a winding up order upon a petition by the company, a creditor, any shareholder, or the Cayman Islands Monetary Authority. The Court will appoint official liquidators over the company, and their primary duty will be to collect in the company's assets and distribute them to the company's creditors, with any surplus assets distributed to the company's shareholders.

The powers of the company's directors cease upon the appointment of official liquidators, who will control the company's affairs subject to the Court's supervision.

On the making of a winding up order, an automatic stay is imposed prohibiting any suit, action or other proceeding from being proceeded with or commenced against the company without the leave of the Court. However, secured creditors are not prohibited from enforcing any valid security interest without reference to the liquidator.

The length of the liquidation process varies on a case by case basis and will largely depend on the nature and complexity of the company's business and the issues required to be dealt with in winding up the company's affairs. There is no timeframe within which an official liquidation must be completed.

Voluntary liquidation

The shareholders of a company can resolve by ordinary resolution that the company be wound up voluntarily because it is unable to pay its debts as they fall due, or by special resolution that the company be wound up voluntarily.

On the appointment of the voluntary liquidator, all of the powers of the directors cease, except so far as the company in general meeting or the liquidator sanctions their continuance. Any person, including a director or officer of the company, may be appointed as its voluntary liquidator.

The voluntary liquidator must apply to the Court for an order bringing the voluntary liquidation under the Court's supervision unless, within 28 days of the commencement of the voluntary liquidation, the directors swear a declaration of solvency stating that the company will be able to pay its debts in full (with interest) within a period not exceeding 12 months after the commencement of the liquidation. Creditors and contributories of the company can also apply to the Court for a supervision order if the company is or is likely to become insolvent, or the Court's supervision will facilitate a more effective, economic or expeditious liquidation in the interests of the creditors and contributories. If a supervision order is made, the liquidation will proceed in the same manner as an official liquidation.

[How do creditors and other stakeholders rank on an insolvency of a debtor? Do any stakeholders enjoy particular priority \(e.g. employees, pension liabilities\)? Could the claims of any class of creditor be subordinated \(e.g. equitable subordination\)?](#)

Secured creditors can enforce their security by taking possession of and selling any secured asset in satisfaction of the debt without reference to the liquidator (regardless of the stay that arises on the commencement of an official liquidation). If the sale proceeds realised from a secured asset are insufficient to discharge the outstanding debt to the secured creditor, the creditor can claim as an unsecured creditor in the liquidation for the balance of the debt.

Cayman Islands law provides for a very limited class of preferential creditors. Preferred debts include wages accrued during the four months immediately preceding the commencement of the liquidation, payments due in respect of any medical health insurance premium and any taxes due to the Cayman Islands Government. Under the Companies Law, preferred creditors rank ahead of unsecured creditors and ahead of secured creditors where the secured creditor's security is in the form of a floating charge, but behind the liquidator's remuneration and expenses.

Unsecured creditors rank *pari passu* in respect of their claims in the liquidation. The quantum of any distribution made to unsecured creditors will be determined by the value of any realisations achieved by the liquidator.

Any subordination agreements made between the company and a creditor prior to the commencement of the liquidation are binding on the company in liquidation and will be enforced by the official liquidator.

[Can a debtor's pre-insolvency transactions be challenged? If so, by whom, when and on what grounds? What is the effect of a successful challenge and how are the rights of third parties impacted?](#)

Pre-insolvency transactions can be challenged if they constitute a voidable preference, a disposition at an undervalue, or fraudulent trading or dispositions. Property dispositions and transfers of shares made after the presentation of a winding up petition will also be void if the Court makes a winding up order, unless the Court orders otherwise.

Voidable preferences

Voidable preferences arise where a company has, within the six months immediately preceding the commencement of the liquidation of the company and at a time when it was unable to pay its debts, made a transfer of property, granted a charge, or made payment to a creditor, if the transaction is made with a view to preferring that creditor over other creditors. The liquidator of the company may seek an order from the Court to declare the transaction void and to order that the property be returned to the company.

Where the recipient of the property is a related party to the company, the transaction is deemed to have the requisite intention to prefer.

Transactions at an undervalue

A transaction will constitute a disposition at an undervalue where a company has disposed of property at an undervalue with the intent to defraud its creditors (which requires an intention to wilfully defeat an obligation owed to a creditor). Any disposition at an undervalue made by the company in the six years prior to the commencement of the liquidation with an intent to defraud its creditors shall be voidable at the instance of the liquidator of the company.

The liquidator of the company may seek an order from the Court to declare the transaction void and for restitution. If the recipient can satisfy the Court that it had not acted in bad faith in respect of the transaction, the recipient will have a first ranking charge over the property of an amount equal to the costs properly incurred by the recipient in defending any proceedings challenging the relevant disposition, and the disposition will be set aside subject to the proper costs, pre-existing rights, claims and interests of the recipient.

Fraudulent trading

If the company's business was carried on with the intent to defraud its creditors or for any fraudulent purpose, the liquidator may apply to Court for a declaration that any persons who were knowingly parties to the fraudulent trading shall contribute to the company's assets in the amount that the Court thinks proper.

Fraudulent dispositions

If any of the company's property has been disposed of with an intent to defraud and at an undervalue, then any creditor prejudiced by the disposition can seek an order from the Court that the transaction is void. Any such claim must be brought within six years of the relevant transaction.

Avoidance of property dispositions and transfers of shares

When a winding up order has been made, any disposition of the company's property and any transfer of shares or alteration in the status of the company's shareholders made after the commencement of the winding up (which usually deemed to be at the time of the presentation of the winding up petition) is void, unless the Court orders otherwise. The liquidator of the company can seek appropriate relief from the Court for the property to be returned to the company.

[What form of stay or moratorium applies in insolvency proceedings against the continuation of legal proceedings or the enforcement of creditors' claims? Does that stay or moratorium have extraterritorial effect? In what circumstances may creditors benefit from any exceptions to such stay or moratorium?](#)

An automatic stay is imposed following the appointment by the Cayman Court of provisional or official liquidators. The stay prohibits any suit, action or other legal proceedings from being commenced or continued against the company without the leave of the Cayman Court. However, it does not prevent secured creditors from enforcing their security.

The Cayman Court may also order a stay in advance of the appointment of provisional or official liquidators, but after the presentation of a winding up petition. On the application of a creditor, member or the company itself, the Cayman Court may stay any proceedings against the company before the Cayman Court and/or restrain any proceedings from being pursued before a foreign Court.

For the automatic stay to take effect outside of the Cayman Islands, the liquidators will usually need to apply for recognition and enforcement of the stay in the Courts of the foreign jurisdiction, and it is a matter of the law of the foreign jurisdiction as to whether such relief will be granted.

Local restructuring proceedings

What restructuring and rescue procedures are available in the jurisdiction, what are the entry requirements and how is a restructuring plan approved and implemented? Does management continue to operate the business and / or is the debtor subject to supervision? What roles do the court and other stakeholders play?

Provisional liquidation is currently the only rescue / restructuring insolvency procedure under Cayman Islands law. However, while not strictly an insolvency process, the scheme of arrangement procedure under the Companies Law may be employed to implement a restructuring (often within a provisional liquidation).

Provisional liquidation

After the presentation of a winding up petition (which can be presented by the company itself if necessary), the company may apply for the appointment of provisional liquidators for the purpose of presenting a compromise or arrangement to creditors. The company must be, or be likely to become, unable to pay its debts.

Creditors and members are not able to apply for the appointment of provisional liquidators for this purpose, but need to demonstrate that such an appointment is necessary to prevent mismanagement or misconduct by the directors, the dissipation or misuse of assets, or the oppression of minority shareholders. However, once appointed, provisional liquidators may in any case be in a position to investigate whether a restructuring is appropriate notwithstanding the initial purpose of their appointment.

Provisional liquidation is a flexible procedure. The powers that are given to the provisional liquidators are contained in the Court order appointing them, and may range from a "full powers" appointment (in which all of the directors' powers are removed and the provisional liquidators take full control of the company) to a "light touch" appointment (in which the directors retain day-to-day control of the company subject to broad oversight by the provisional liquidators). A "light touch" provisional liquidation is often employed in support of a restructuring of a Cayman Islands company taking place in foreign insolvency proceedings, such as under Chapter 11 of the United States Bankruptcy Code.

Once provisional liquidators have been appointed an automatic stay on the commencement or continuation of legal proceedings will apply, allowing breathing space for a restructuring to be pursued (although the provisional liquidation will not prevent secured creditors from enforcing their security).

Scheme of arrangement

Where the unanimous consent of stakeholders for a restructuring cannot be achieved, a restructuring may be implemented by a scheme of arrangement. This is a statutory procedure for varying the rights of a company's creditors or members (or any class of them). It is not an insolvency procedure and can be implemented by a solvent company, but in a restructuring context it is often employed within a provisional liquidation to take advantage of the automatic stay.

For a scheme of arrangement to be implemented, each class of creditor/member whose rights are being affected must vote to approve the scheme, and the Cayman Court must also sanction the scheme. For a class to approve the scheme, it must be supported by creditors/members representing a majority in number and 75% by value of the voting creditors/members.

Can a debtor in restructuring proceedings obtain new financing and are any special priorities afforded to such financing (if available)?

Subject to obtaining the approval of the Cayman Court, official liquidators and provisional liquidators can raise new finance and grant security over the company's assets. If no security is granted, the borrowing will rank as an expense of the liquidation and be payable in priority to the unsecured claims of the liquidation and even the liquidators' own fees.

Can a restructuring proceeding release claims against non-debtor parties (e.g. guarantees granted by parent entities, claims against directors of the debtor), and, if so, in what circumstances?

A scheme of arrangement (see question 8) may be used to release claims against non-debtor parties such as directors, employees, advisors as well as against guarantors.

Is it common for creditor committees to be formed in restructuring proceedings and what powers or responsibilities to they have? Are they permitted to retain advisers and, if so, how are they funded?

In an official liquidation, the liquidator must form a liquidation committee unless the Court orders otherwise. The committee will be comprised of creditors for insolvent companies and shareholders for solvent companies, and for companies of doubtful solvency the committee must have a majority of creditors and at least one shareholder representative. Committee members are elected at meetings of creditors and/or shareholders (as appropriate). The Court may also order a liquidation committee to be established in a provisional liquidation.

The liquidator is required to report to the liquidation committee on matters that are of concern to it with respect to the liquidation. The committee's role is to act as a "sounding board" for the liquidators on issues arising in the liquidation and to also scrutinise the liquidators' fees and expenses.

The liquidator is not required to obtain the committee's consent for actions in the liquidation, but may ask the committee to approve certain matters by resolution if the liquidator intends to apply for Court sanction, for example in respect of disposing of company assets, obtaining litigation funding, and paying the liquidator's fees and expenses. Members of the liquidation committee will also have standing in the liquidation to make applications to Court for orders and directions in relation to the exercise or proposed exercise of the liquidator's powers

The committee is entitled to engage legal advisers to represent the committee, and the legal fees and expenses that the committee reasonably and properly incurs in obtaining legal advice will be paid out of the assets of the company as an expense of the liquidation.

Existing contracts and assets / business sales

[How are existing contracts treated in restructuring and insolvency processes? Are the parties obliged to continue to perform their obligations? Will termination, retention of title and set-off provisions in these contracts remain enforceable? Is there any ability for either party to disclaim the contract?](#)

An official liquidation of a company (but not a voluntary or provisional liquidation) will automatically terminate the employment contracts of all of its employees. For all other types of contract, voluntary, official or provisional liquidation will not release either party from their obligations under the contract unless there is an express provision to that effect. The company in liquidation will therefore continue to be bound by the contract, as will the counterparty unless the liquidation provides it with termination rights. However, unless there is a reason to cause the company to perform its obligations under the contract, the liquidator may choose to allow the company to default, in which case the counterparty may have no option other than to prove in the liquidation for any damages caused by the breach of contract.

Termination, retention of title and set-off provisions remain enforceable in the liquidation. Where the company had not entered into any set-off, non set-off or netting agreement prior to the commencement of the liquidation, the statutory set-off provisions will apply. Under statutory set-off, an account is taken of what is due between the insolvency company and the counterparty in respect of mutual dealings and the two amounts are set off against each other.

[What conditions apply to the sale of assets / the entire business in a restructuring or insolvency process? Does the purchaser acquire the assets "free and clear" of claims and liabilities? Can security be released without creditor consent? Is credit bidding permitted? Are pre-packaged sales possible?](#)

There is no prescribed marketing process for the sale of assets in liquidation, but the liquidator has a duty to take reasonable care to obtain the best price available in the circumstances. There is no provision of Cayman Islands insolvency law which enables the buyer to acquire the assets "free and clear", and the liquidators will usually only provide very limited representations as to title. Liquidators also cannot release any security without the consent of the secured creditor.

Where a sale is being conducted in provisional liquidation (as will often be the case where the company's business is being sold as part of a restructuring), the provisional liquidator will need the sanction of the Cayman Court to conduct the sale. The Court's sanction will also be required in official liquidation if the buyer is a related party. In either case, in determining whether to sanction the sale the Court will consider the sales process and the efforts by the liquidators to obtain the best price for the assets that is available in the circumstances.

Pre-packaged sales are permissible, but will usually attract more scrutiny from the Court when the provisional liquidator applies for sanction for the sale.

Credit bidding is permitted (with the sanction of the Court).

Liabilities of directors and others

[What duties and liabilities should directors and officers be mindful of when managing a distressed debtor? What are the consequences of breach of duty? Is there any scope for other parties \(e.g. director, partner, shareholder, lender\) to incur liability for the debts of an insolvent debtor?](#)

The directors of a distressed company have a duty to act in the best interests of the company and to consider the interests of its creditors (see question 3 above). If a director breaches this duty, then they can face personal liability to the company in the event that the liquidator of the company brings a claim against the director.

A person who was knowingly party to fraudulent trading will be liable to contribute to the company's assets in the liquidation (see question 6 above).

Do restructuring or insolvency proceedings have the effect of releasing directors and other stakeholders from liability for previous actions and decisions?

Any liabilities for previous actions and decisions are unaffected by the commencement of the liquidation and will continue until the date of dissolution of the company. The liquidator of the company can bring claims against the former directors in the liquidation. However, the liabilities of directors and other stakeholders may be released as part of a restructuring implemented by a scheme of arrangement (see question 8).

Foreign debtors and recognition issues

Will a local court recognise concurrent foreign restructuring or insolvency proceedings over a local debtor? What is the process and test for achieving such recognition? Has the UNCITRAL Model Law on Cross Border Insolvency or the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments been adopted or is it under consideration in your country?

The Cayman Islands has not adopted the UNCITRAL Model Law on Cross Border Insolvency, but it has enacted its own international cooperation legislation and also applies common law and comity principles in providing assistance to foreign insolvency proceedings.

Section 241 of the Companies Law allows “foreign representatives” (i.e. liquidators, trustees or other insolvency practitioners appointed over foreign companies and legal entities) to apply to the Cayman Court for orders ancillary to the foreign insolvency proceeding. The orders that may be granted include:

- recognizing the right of the foreign representative to act on behalf of the foreign debtor within the Cayman Islands;
- staying legal proceedings or the enforcement of judgments against the debtor;
- requiring persons with information relating to the business or affairs of the debtor to be examined and/or produce documents; and
- ordering the turnover of property to the foreign representative.

Section 241 of the Companies Law does not apply to foreign insolvency proceedings in respect of Cayman Islands companies, and therefore any recognition and assistance must be granted under common law principles. The circumstances in which the Cayman Court has been willing to recognise the rights of a foreign officeholder appointed over a Cayman Islands company to act on behalf of the company in the Cayman Islands are very limited. It is therefore usually necessary for parallel insolvency proceedings to be commenced in the Cayman Islands in order to obtain the benefits of any insolvency protection.

However, the Cayman Court is willing to co-operate and co-ordinate with foreign courts and officeholders in order to effect an orderly restructuring or winding up. For example, the Cayman Court frequently appoints Cayman Islands provisional liquidators on a “light touch” basis (see question 8) in order to support foreign restructuring proceedings. Additionally, the Cayman Islands has enacted legislation to provide for Cayman liquidators to enter into protocols with foreign officeholders for the purpose of promoting the orderly administration of the estate and avoid duplication and conflict between the foreign and Cayman officeholders. The legislation provides that Cayman liquidators have a duty to consider whether it is appropriate to enter into such a protocol.

Can debtors incorporated elsewhere enter into restructuring or insolvency proceedings in the jurisdiction?

The Cayman Islands Grand Court has the jurisdiction to wind up a foreign company or to sanction a scheme of arrangement in relation to a foreign company if the company:

- has property located in the Cayman Islands;
- has been carrying on business in the Cayman Islands;
- is the general partner of a Cayman Islands limited partnership; or
- is registered as a foreign company with the Cayman Islands Registrar of Companies.

Corporate groups

How are groups of companies treated on the restructuring or insolvency of one or more members of that group? Is there scope for cooperation between office holders?

In the absence of any material conflicts of interest between the estates and where appropriate to do so, the Cayman Court may appoint the same liquidators to different companies within the same group. However, this does not result in a consolidation of the estates and the assets of each will not be pooled, but will be separately distributed amongst the creditors with claims against each estate. An additional “conflict” liquidator may be appointed over one of the estates to deal with any issues of conflict between the estates.

Where different liquidators have been appointed to companies within the same group, stakeholders and the Court will expect a degree of cooperation between the estates on matters of common interest, but there is no legislative framework for cooperation.

Opinion

Is it a debtor or creditor friendly jurisdiction?

The Cayman Islands is considered to be a creditor friendly jurisdiction. Once a company is insolvent, the interests of its creditors are paramount and the Court will generally have regard to creditors' wishes in exercising its discretion. Most significantly, no Cayman Islands insolvency procedure prevents a secured creditor from enforcing its security.

Do sociopolitical factors give additional influence to certain stakeholders in restructurings or insolvencies in the jurisdiction (e.g. pressure around employees or pensions)? What role does the state play in relation to a distressed business (e.g. availability of state support)?

There is no state support available to distressed businesses in the Cayman Islands and sociopolitical factors do not generally play any part in restructurings and insolvencies.

What are the greatest barriers to efficient and effective restructurings and insolvencies in the jurisdiction? Are there any proposals for reform to counter any such barriers?

The inability to prevent secured creditors from enforcing their security presents a significant challenge to Cayman provisional liquidators seeking to implement a restructuring. However, the importance to the Cayman funds industry of maintaining the jurisdiction's creditor friendly reputation means that this is unlikely to change.

In 2015, the Cayman Court found that in the absence of an express power in the company's articles or a resolution of the company's shareholders, the company's directors are unable to present a petition to wind up the company. This caused significant uncertainty as to the circumstances in which a company can apply to be placed into provisional liquidation to implement a restructuring because: (i) an application to appoint provisional liquidators can only be made after a winding up petition had been presented; and (ii) as a result of ambiguously drafted legislation, it was not clear whether the application could be made after a creditor had presented a petition, or only after a petition by the company.

Consequently, without shareholder support, directors of an insolvent company (who have a duty to consider the interests of creditors) could have found themselves unable to take steps to either wind up the company or appoint provisional liquidators to implement a restructuring. However, the Cayman Court has on a number of recent occasions appointed provisional liquidators on the application of the company following a petition by creditors. The issue therefore appears to be resolved, but amendments to the legislation to clarify the position would be welcome.

Draft legislation has been proposed which would introduce a new restructuring regime to allow a company to obtain a restructuring moratorium on the appointment of "restructuring officers".

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About Carey Olsen

Carey Olsen is a leading offshore law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey from a network of nine international offices.

We provide legal services in relation to all aspects of corporate and finance, trusts and private wealth, investment funds, insolvency, restructuring and dispute resolution.

Our clients include global financial institutions, investment funds, private equity and real estate houses, multinational corporations, public organisations, sovereign wealth funds, high net worth individuals, family offices, directors, trustees and private clients.

We work with leading onshore legal advisers on international transactions and cases involving our jurisdictions.

In the face of opportunities and challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with consistently high levels of client service, technical excellence and commercial insight.

Our Restructuring and Insolvency practice

Our restructuring and insolvency lawyers apply their knowledge of insolvency, corporate and banking law, regulatory guidance and litigation to the full spectrum of cross-border restructuring, recovery and insolvency matters involving our offshore jurisdictions.

We work in partnership with the world's leading insolvency practitioners, onshore law firms, accountancy and forensic practices, advising the whole spectrum of stakeholders, including liquidators, receivers, creditors, investors, directors and professional service providers. Our institutional client base includes private equity, venture capital, banking, real estate, financial services, corporate and private trusts and investment managers.

Our lawyers have been involved in a very significant number of the major formal insolvency proceedings in recent years in the jurisdictions in which we practice, and have played a key role in the development of the law in many key areas. They have a practical and deep technical understanding of the issues that can arise in restructuring situations, whether around merger, acquisition, reorganisation, workout or recapitalisation activities. They focus their advice on furthering our clients' commercial aims; typically preserving the assets of a business or the value of an investment, and building a viable restructuring transaction, exit strategy or litigation plan.



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The Legal 500 & The In-House Lawyer

Comparative Legal Guide Cayman Islands: Restructuring & Insolvency (3rd edition)

This country-specific Q&A provides an overview to restructuring and insolvency laws and regulations that may occur in the Cayman Islands.

This Q&A is part of the global guide to Restructuring & Insolvency (3rd edition).



PLEASE NOTE

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This guide is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen 2020

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