

## Litigation funding in British Virgin Islands liquidations: practical guidance for liquidators - Japanese

Insights - 05/06/2023

British Virgin Islands (BVI) law prohibits champerty and maintenance. This prohibition was clarified in *Crumpler v Exential Investments Inc* (BVIHC (COM) 2020/0081; 29 September 2020) and further reinforced in *Jack*.

The prohibition on champerty and maintenance also applies to litigation funding. This was confirmed in *Leremeieva v Estera Corporate Services (BVI) Ltd* (BVIHCM 2017/0118; 4 April 2019), where the court held that litigation funding is prohibited as it involves the purchase of a claim for the purpose of prosecuting it.

The prohibition on champerty and maintenance also applies to litigation funding. This was confirmed in *Leremeieva v Estera Corporate Services (BVI) Ltd* (BVIHCM 2017/0118; 4 April 2019), where the court held that litigation funding is prohibited as it involves the purchase of a claim for the purpose of prosecuting it.

### Introduction

The purpose of this guidance is to provide practical advice to liquidators on how to identify and deal with litigation funding in BVI liquidations. It covers the identification of litigation funding, the assessment of its impact on the liquidation process, and the steps that should be taken to deal with it.

### Identification of litigation funding

Litigation funding can be identified in a number of ways. The most common is through the review of the liquidator's records, including the list of creditors and the list of claims.

*Brewer v Iqbal* [2019] BCC 746 is a recent decision of the UK Supreme Court which clarified the law on champerty and maintenance. It held that the prohibition on champerty and maintenance applies to litigation funding.







people.

## Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

## Meet the Author



[Hiroyuki Fujimoto](#) 冨島 博行

Legal Manager 冨島 博行

[Hong Kong](#)

E: [hiroyuki.fujimoto@ogier.com](mailto:hiroyuki.fujimoto@ogier.com)

T: [+852 3656 6057](tel:+85236566057)

## Key Contacts



[Shane Quinn](#)

Senior Associate 冨島 博行

[Hong Kong](#)

E: [shane.quinn@ogier.com](mailto:shane.quinn@ogier.com)

T: [+852 3656 6067](tel:+85236566067)



Justin Davis 000

Partner 000

Hong Kong

E: justin.davis@ogier.com

T: +852 3656 6141

## Related Services

Legal

Dispute Resolution

Corporate and Financial Services Disputes

## Related Sectors

Restructuring and Insolvency