

BVI adoption of Judicial Insolvency Network guidelines on cross-border insolvency a welcome step

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The adoption of new international guidelines on cross-border insolvency matters by the BVI courts has been welcomed by Ogier insolvency law specialist Nicholas Brookes.

The Judicial Insolvency Network guidelines – drafted in 2016 by ten insolvency judges from international jurisdictions, including a BVI Commercial Court Judge – aim to create co-operation and communication between courts on cross-jurisdiction proceedings, and to minimise the time and expense involved in litigation.

The guidelines have also been adopted in England and Wales, the Southern District of New York, Singapore, Bermuda and Delaware.

The Registry of the Supreme Court of the Virgin Islands has described the guidelines as a bold initiative to minimise the costs and expense of cross-border insolvency matters, adding that where adopted, the guidelines will create a real likelihood that all parties will see benefits from their use.

Nicholas, a senior associate in Ogier's BVI dispute resolution team specialising in restructuring and insolvency, said: "The adoption of the JIN guidelines as a 'best practice' model are a welcome step.

"Although they are not mandatory and will be used on a case-by-case basis, courts are encouraging their use.

"The published guidelines permit courts to authorise a person to appear before a foreign court, and introduce the idea of joint hearings with other adopting courts.

"Both of those measures demonstrate a flexibility and pragmatism that should reduce some of the difficulty and complexity that practitioners involved in cross-border insolvency issues

regularly experience."

It is expected that more courts will adopt the guidelines. Although they are voluntary, once parties enter into a court-approved protocol under the JIN guidelines, they will be expected to adhere to it as the litigation continues.

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