



**INSOL**  
INTERNATIONAL



# Cross-border insolvency in the Cayman Islands

Presented by:

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# Introduction

- Missed the cut
- Relevance
- Legislation
- Common law
- Common issues

# Missed the cut

- Enforcement of foreign arbitral awards
- Cross border issues
- Niche enforcement issues

# Staying relevant

- Cayman Islands Court is frequently asked to recognize and enforce judgments obtained overseas against assets located in the Cayman Islands
- Recognition and enforcement may lead to the appointment of insolvency practitioners
- Note, however, that it is not necessary to obtain enforcement/recognition orders before petitioning to wind up a company

# Legislation

- The Foreign Judgments Reciprocal Enforcement Act (1996 Revision)
- Order 71 of the Grand Court Rules

...only relevant to Australia



# Niche enforcement legislation

- Merchant Shipping Act (2021 Revision)
- Maintenance Act (1997 Revision)
- Matrimonial Causes Act (2005 Revision)
- Civil Partnership Act 2020
- Bankruptcy Act (1997 Revision)
- UK State Immunity Act 1978, via the State Immunity Overseas Territories) Order 1979
- Crown Proceedings Act (1997 Revision)
- Trusts Act (2021 Revision)

# Common law

- Generally speaking, for a foreign money judgment to be enforceable, it must meet the following six conditions:
  1. The judgment must be final and conclusive in the foreign court
  2. The judgment was obtained in a court of law which had jurisdiction over the judgment debtor
  3. The judgment was not obtained by fraud

# Common law

4. The judgment must not be in respect of taxes, fines or penalties
5. The enforcement of the judgment would not contravene the public policy of the Cayman Islands
6. The rules of natural justice were observed in the foreign proceedings



# Common issues

- What if the foreign judgment is wrong?
- What if the foreign judgment is subject to appeal?
- What if the foreign judgment was obtained by default?
- What if the defendant is not in the Cayman Islands?