**Universalism is dead. Long live modified universalism.**

**The extent to which the principle of universalism still applies in the common law: An analysis by reference to English and Cayman Islands law.**

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# INTRODUCTION

Co-operation between courts and officeholders across the globe is essential to preserving a debtor’s international asset pool during a restructuring or demise. The ideal is well accepted by the common law courts. What they seemingly struggle with is how this goal can be achieved in practice when legislation primarily rules the field and how to ensure the protection of local interests if other courts adopt a different approach.

Over the past two decades some of the greatest legal minds have grappled with this issue – and have even disagreed with their own previous decisions. Following this interesting, yet somewhat tumultuous period of judicial intervention, does the Board’s recommendation in *Singularis[[1]](#footnote-1)* (which emphasized that any cross-border support must be grounded in the law of the country where the assistance is being sought)now represent the limits of “universalism”?

This paper seeks (i) to trace the development of the common law in this area in England and the Cayman Islands; (ii) to draw conclusions as to the current state of the law; and (iii) to ask, what next?

# THE THEORY

Universalism can be thought of as a system in which bankruptcies involve “*unified global proceedings, administered by one principal court under a single governing law, but potentially with the assistance of courts in other jurisdictions. Assets located in ‘secondary jurisdictions’ are either transferred to the main one or simply subject to the same bankruptcy regime…*”[[2]](#footnote-2)

The practical problem with universalism is that, absent one rule book applied everywhere with equal force, it does not work. Take the English position as a case in point: English law (as with most other territories) ascribes a universal effect to its own insolvency proceedings, and assumes that such proceedings will take effect wherever the assets are.[[3]](#footnote-3) Practically, the English court is restricted in its ability to deal with assets abroad (that is where assistance comes in); but strictly, it considers that the assets should be dealt with within the English (statutory) regime. Further, how can the English court’s position be reconciled with the position of any other court where that court also believes itself to be seized of insolvency proceedings in respect of an entity (or a group)? Such potential conflict is acute and real in circumstances where England (and the Cayman Islands) provide for the winding up of a foreign company. The fear of lack of reciprocity by other courts, and therefore the fear of potential prejudice against creditors in a court’s own jursidiction lead judges to be somewhat circumspect. That, combined with the understanding that treaties and legislations occupy most of the field, has led some judges to be cautious about using the common law to fill any perceived gap between the legislative framework and theory of universalism. This is particularly so given that the principle of universalism is just that: It is a principle, not a rule.

***Modified Universalism***

Therefore, while many academics – and judges – laud the ideal of universalism, most concede that it is not a practical reality in the common law in its purest form. Some academics go so far as to suggest that if the principle cannot be made into a practical reality, it should not influence the interpretation of international insolvency agreements.[[4]](#footnote-4)

In the context of this discussions, the term “modified universalism” was coined. The underlying premise remains that the assets of a debtor should be collected and distributed on a worldwide basis in a single proceeding, with fairness between creditors. However, the application of universalism is not automatic and depends upon the local court satisfying itself that the main proceedings are fair.

# IMPLEMENTATION AND DEVELOPMENT

## Early examples

The eighteenth-century decision in *Solomons v Ross* (1764) 1 H B1 131 is oft credited with being the first example of universalism applied in cross-border insolvency.[[5]](#footnote-5) Evidence before the English court showed that English creditors would be treated equally in the Dutch bankruptcy that was already ongoing. Thus, the English court required creditors based in England to prove in the foreign bankruptcy.

Arguably, the decision was years before its time. But looking through the prism of international trade via shipping, it demonstrates a fact pattern that could be reminiscent of modern times – principal creditors in Britain, with the debtor’s assets in foreign jurisdictions.

## The rise of legislation and the “arrested development” [[6]](#footnote-6) of the common law in England

At an early stage of the development of the law of corporate insolvency, the potential conflict between the locally effective winding-up of an overseas company in England, and a universal winding-up in the country of the debtor’s incorporation was resolved by a judge made principle which treated the English proceedings as ancillary to the principal winding-up.[[7]](#footnote-7)

Over time, the common law power to recognise and grant assistance to foreign insolvency proceedings has been somewhat relegated to a supplementary power which can only be utilized where legislation does not occupy the field. Currently the main applicable legislation in England is:

(1) *Section 426 of the Insolvency Act 1986*: This provides a statutory power to assist corporate as well as personal insolvency proceedings in countries specified in the Act or designated for that purpose by the Secretary of State; and

(2) *The Cross-Border Insolvency Regulations* (**CBIR**): The CIBR came into force on 4 April 2006

implementing the UNCITRAL Model Law on Cross-Border Insolvency (the **Model Law**).

It is worth noting that there are or, at least, were, other applicable rules, particularly in the context of the UK’s European membership[[8]](#footnote-8) and the highly regulated industries (such as insurance).

## The limited legislation in Cayman

The Cayman Islands, like many British offshore jurisdictions, has not implemented the Model Law. Instead, the Cayman Islands has established its own framework for international cooperation in insolvency matters, which includes the application of common law principles to support foreign insolvency proceedings.

Under Section 241 of the Companies Act, "foreign representatives" — which includes liquidators, trustees, or other insolvency practitioners appointed in other jurisdictions — may petition the Grand Court of the Cayman Islands for ancillary orders related to foreign insolvency proceedings. These orders can encompass several measures, such as:

* 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.

However, this legislation does not extend to foreign insolvency proceedings concerning Cayman Islands companies. In such cases, recognition and assistance must be sought through common law principles, which historically have only limitedly recognized the rights of foreign officeholders appointed over Cayman Islands companies. As a result, parallel insolvency proceedings are often necessary within the Cayman Islands to secure the protections afforded by insolvency laws.

## Cambridge Gas – Crossing the Rubicon to an extreme version of the principle of universality?

The central thesis of the key reasoning in *Cambridge Gas Transportation Corporation v Official Committee of Unsecured Creditors of Navigator Holdings Plc* [2007] 1 AC 508 was the importance of recognizing and cooperating with foreign insolvency proceedings to facilitate the efficient administration of cross border insolvency.

Cambridge Gas Transport Corporation (**Cambridge Gas**) was involved in a dispute regarding the insolvency proceedings of Navigator Holdings PLC (**Navigator**), a company that had gone through a Chapter 11 restructuring process in the United States. The primary legal issue was whether the US bankruptcy court's decisions regarding the restructuring of Navigator, specifically the transfer of shares owned by Cambridge Gas to Navigator’s creditors, could be recognized and enforced in the Isle of Man, where Cambridge Gas was incorporated.

Delivering the recommendation on behalf of the Board, Lord Hoffman described universality as having “*long been an aspiration, if not always fully achieved*” of the common law, partly because “*a good deal of the ground has been occupied by statutory provisions.*”[[9]](#footnote-9) However, he said, the issue in that case was not covered by any such legislation, so the Privy Council[[10]](#footnote-10) unanimously recommended that it could give effect to a New York-based Chapter 11 order so as to give effect to the enforcement of collective rights. In so doing, the Board considered the nature of bankruptcy proceedings is not to determine or establish the existence of rights; rather, to serve as a collective mechanism for creditors to execute against a debtor’s property. And against such a backdrop, the principles governing insolvency were deemed adequate for the Manx court to assist the creditors' committee, recognized under the New York court's orders, to enforce the restructuring plan.

The Board also considered the boundaries of judicial assistance in cross-border insolvency cases, outlining the role of both statutory and common law frameworks. Under statutory provisions, such as section 426(5) of the Insolvency Act 1986, an English court is authorized to apply its own insolvency laws or those of a foreign court, provided there is a direct request from the foreign jurisdiction and the matters are comparable to those within its own jurisdiction.

The Board considered that at common law the extent of assistance is more restricted. They thought it doubtful that a domestic court could apply foreign insolvency laws that are not part of its domestic legal system, but that nonetheless, the domestic court is expected to provide assistance by utilizing the tools and processes available under its own insolvency laws, akin to what it would do in a domestic insolvency scenario.

They considered that the overarching purpose of recognizing foreign insolvency proceedings is to prevent the need for initiating parallel proceedings in multiple jurisdictions. This recognition aims to enable foreign officeholders or creditors to access remedies they would have been entitled to if the proceedings had occurred domestically, thus facilitating a more streamlined and efficient handling of cross-border insolvencies.

The final point of contention addressed a misunderstanding regarding the nature of company shares. As a shareholder, Cambridge Gas was subject to the transactions Navigator entered into, including the Chapter 11 reorganization plan in the US. Despite not formally submitting to the New York jurisdiction, Cambridge Gas had no economic stake in the proceedings and had sufficient opportunity to participate. Therefore, it was deemed fair for the reorganization plan to proceed, and the Court of Appeal’s decision to enforce this plan was upheld.

The case emphasized the importance of the "universal approach" to insolvency, wherein an insolvency proceeding in one jurisdiction can potentially have a worldwide effect on the debtor’s assets and liabilities.

The recommendation was significant as it expanded the then understanding of cross-border insolvency recognition. The Privy Council noted that the cooperation between courts in different jurisdictions is essential to manage the assets and liabilities of insolvent debtors effectively.

To summarise by reference to the inimitable Lord Sumption,[[11]](#footnote-11) *Cambridge Gas* supported three propositions:

1. The principle of modified universalism exists. Thus, the court “*has a common law power to assist foreign winding-up proceedings so far as it properly can*”.
2. This assistance “*includes doing whatever [the local court] could properly have done in a domestic insolvency, subject to its own law and public policy*”.
3. By implication, “*this power is itself the source of [the local court’s] jurisdiction over those affected, and […] the absence of jurisdiction in rem or in personam according to ordinary common law principles is irrelevant*”.

## HIH: Modified universalism prevails in England – albeit in the context of the legislative regime

In what was another significant judgment of its time,[[12]](#footnote-12) and following quickly on the heels of *Cambridge Gas*, in *Re HIH Casualty and General Insurance Ltd* [2008] 1 WLR 852, the then called House of Lords (the highest court in England & Wales), with an esteemed panel of Lord Hoffman, Lord Neuberger, Lord Walker, Lord Phillips and Lord Scott, re-visited the first two of the *Cambridge Gas* propositions in a decision which considered how assets should be distributed among creditors in different countries when an insurance company went insolvent across multiple jurisdictions.

The issue before the House of Lords was whether to acede to a letter of request from the Australian court to remit assets back to Australia in circumstances where four Australian companies were the subject of winding up proceedings in both Australia and England. The Court of Appeal had determined it had jursidiction but had declined to exercise it on the basis that English creditors would be worse off under a distribution pursuant to the Australian regime. Carnworth LJ determining that there was no “*rule of private international law, or any other countervailing benefit”* that would require the court to disregard the principles applicable under English insolvency law.[[13]](#footnote-13)

Lord Millett disagreed with this. He considered that:

“*The primary rule of private international law which seems to me applicable to this case is the principle of (modified) universalism, which has been the golden thread running through English cross-border insolvency law since the 18th century. That principle requires that English courts should, so far as is consistent with justice and UK public policy, co-operate with the courts in the country of the principal liquidation to ensure that all the company's assets are distributed to its creditors under a single system of distribution. That is the purpose of the power to direct remittal.*”

Being satisfied, amongst other things, that the companies were incorporated in Australia, their central management were in Australia and the overwhelming majority of their assets and liabilities are situated in Australia, Lord Millett concluded that “*this is a case in which it is appropriate to give the principle of universalism full rein*.”

What was particularly interesting about this case is that it left open the question as to whether assets could be remitted to a liquidator in a country whose insolvency scheme is not in accordance with English law: In the instant case it was somewhat irrelevant because s426 occupied the field. But the panel was split as to whether there was any discretion outside of s426: Lords Hoffman and Walker said there was still an inherent power under common law that so far as consistent with justice and UK public policy (in this context, including legislation) then co-operation should be given; but Lords Scott and Neuberger thought there was no such discretion beyond the application of s426.

## Cayman embraces Cambridge Gas

Shortly after *Cambridge Gas* and *HIH*, Cayman had its own opportunity to consider the breadth of applicable universalism principles in *In the Matter of FUJI Food and Catering Services Holdings Limited* (FSD Cause No: 222 of 2010, Grand Court of the Cayman Islands), when the High Court of Hong Kong sought the assistance of the Grand Court of the Cayman Islands to stay proceedings in Cayman to enable a restructuring to be effected in Hong Kong and to afford the Hong Kong appointed provisional liquidators the same powers as they would have been afforded had they been appointed in Cayman. The restructuring would have been unattainable if creditors continued to have the ability to initiate winding-up proceedings in the Cayman Islands, where the company was incorporated and domiciled, or to pursue debt recovery through the Cayman courts. Consequently, the company sought a stay of proceedings from the Cayman Courts and authorization for its Joint Provisional Liquidators (**JPLs**) to represent it locally, thus prompting the request to the High Court of Hong Kong.

The Grand Court acknowledged its inherent common law jurisdiction to send or receive requests for judicial assistance. It recognized the restructuring's aim to safeguard the interests of all creditors and the company itself, allowing it to resume trading on the HKSE as a going concern. The court deemed the request from the High Court as justified, noting no public policy concerns and affirming the application of the universality principle. It referenced *Cambridge Gas*, emphasizing the recognition's purpose to prevent parallel insolvency proceedings and provide remedies as if the proceedings were domestic.

The Grand Court recognized the substantial connection of FUJI Food Ltd to Hong Kong, where the company managed its main business operations and secured financing. The restructuring intended to re-list the company on the HKSE and sustain its Hong Kong operations post-provisional liquidation without leading to winding up.

It was ruled that the JPLs be fully recognized as if appointed by the Grand Court, including the authority to modify the company's capital structure as per their Appointment Order. Furthermore, section 97 of the Cayman Islands Companies Law (as it then was) was applied, prohibiting any legal actions against the company without court approval. The JPLs were also granted the liberty to approach the Grand Court regarding any relevant matters during their tenure.

However, the court noted potential complications in aligning with foreign insolvency proceedings, especially if there are compelling reasons for local winding up or existing local proceedings. Such challenges would be addressed on an individual basis, guided by principles of private international law as delineated in Article 29 of the UNCITRAL Model Law, which typically prioritizes local proceedings over foreign ones.

## Rubin

Four years after the *Cambridge Gas* decision, common law universalism faced significant challenges following the Supreme Court[[14]](#footnote-14) decision in *Rubin*.[[15]](#footnote-15)

The *Rubin* decision involved two cases where liquidators were seeking to enforce in England two default judgments made by foreign insolvency courts (New York and New South Wales respectively) setting aside prior transactions entered into by an insolvent company on the ground that it involved a fraudulent preference or the like.

Lord Collins, with agreement from Lords Walker and Sumption, applied conventional private international law conflict rules. They ruled that a foreign court's *in personam* orders could only be enforced against individuals who had submitted to its jurisdiction, as seen in the Australian case, not the U.S. case.

Lord Collins argued against creating a new rule to enforce foreign insolvency judgments in England unless they conformed with established principles. He emphasized that creating such a rule would represent a radical departure[[16]](#footnote-16) from established law without guaranteed reciprocity from other jurisdictions. He also emphasized that developing such a principle without assured reciprocity from other jurisdictions would disadvantage the UK. Consequently, Lord Collins acknowledged that this reasoning supported the view that *Cambridge Gas* had been incorrectly decided. Lord Mance concurred with Lord Collins but did not definitively state whether *Cambridge Gas* had been decided in error. On the other hand, Lord Clarke dissented, fully endorsing Lord Hoffmann's broader perspective on universalism.

This decision suggested a shift from the more expansive universalism of *Cambridge Gas* to a more cautious approach. It essentially put recognition of foreign insolvency judgments back on level footing with the recognition of any foreign judgment; rather than the exalted status that arguably existed immediately following *Cambridge Gas.*

# THE CURRENT STATE OF PLAY: SINGULARIS PREVAILS

To this day, modified universalism persists, as seen in the Privy Council’s recommendation in *Singularis Holdings Ltd v PricewaterhouseCoopers (Bermuda)* [2014] UKPC 3.[[17]](#footnote-17)

In this case the Privy Council was asked to consider whether the Bermuda court could compel auditors to provide information to liquidators appointed by the Cayman court. The Board considered two issues:

* On the first, the majority, advised that the Bermudian court, unable to wind up overseas companies, had a common-law power to assist foreign insolvency proceedings (with limitations).
* On the second, the Board unanimously recommended that the Bermuda court could not order PwC to provide information because it would exceed the powers available in a domestic insolvency context under Bermuda law.

The decision was significant in clarifying the boundaries of judicial assistance that can be provided in cross-border insolvency cases. Like the majority in *Rubin,* the Board indicated that the broad approach in *Cambridge Gas* could not be supported.[[18]](#footnote-18) It affirmed the principle of modified universalism but emphasized that such assistance must align with the statutory and common law powers of the assisting court, as well as local public policy

Per Lord Sumption:

*“In the Board’s opinion, the principle of modified universalism is part of the common law, but it is necessary to bear in mind, first, that it is subject to local law and local public policy and, secondly, that the court can only ever act within the limits of its own statutory and common law powers. What are those limits? In the absence of a relevant statutory power, they must depend on the common law, including any proper development of the common law. The question how far it is appropriate to develop the common law so as to recognise an equivalent power does not admit of a single, universal answer. It depends on the nature of the power that the court is being asked to exercise.”*

## Recent examples of modified universalism (or not) in the Grand Court

In *In the Matter of China Agrotech Holdings Limited* [2017 2 CILR 526] involved a Cayman incorporated company that was wound up in Hong Kong. The Hong Kong court issued a letter of request seeking an order that Cayman court recognise the Hong Kong appointed liquidators as though they had been appointed in Cayman, and a separate application was made by the Hong Kong liquidators for an order in Cayman that section 97 of the Companies Act shall apply to the company such that no action or other proceedings shall continue or be commenced against the company before the Grand Court expect with leave.

Having considered in detail *Cambridge Gas, Rubin and Singularis*, Segal J concluded that he was unable to issue the requested order, observing that relief under section 97 was contingent upon the appointment of a provisional liquidator by the court itself. Granting such relief as if the court had made the appointment would constitute the same type of "heresy" that Lord Collins identified as impermissible in both the *Rubin* and *Singularis* cases.

Despite this constraint, Justice Segal implemented a practical approach by ordering that any ongoing or newly initiated proceedings against the company in the Cayman Court be assigned to him. This measure thereby aimed to ensure that these proceedings were either stayed or adjourned, thereby maintaining the integrity of the scheme until its completion.

Indeed, Cayman continues to show a reasonable amount of flexibility when it comes to seeking solutions to assist other courts wherever it can.

One interesting subsequent example is *In the Matter of Silk Road Funds Ltd* (Unreported, 8 February 2018, Smellie CJ), when the Cayman court evaluated the criteria for granting orders to recognize and enforce the powers of receivers appointed by a foreign court.

Smellie CJ assessed various mechanisms through which an officeholder could seek recognition, examining them in the context of the specific circumstances of their appointment. The principal methods considered were legislation (Part XVII of the Companies Act); "modified universalism" and common law. The purpose in that case of distinguishing modified universalism from the common law was because it was considered that modified universalism is only applicable to the universality of insolvency and bankruptcy proceedings due to their specific legal consequences, rather than applying broadly to general receivership scenarios.

In that case instance, the Chief Justice determined that the court has an inherent jurisdiction to recognize foreign receivers according to the terms of their appointment in the following circumstances (the underlying principle being to demonstrate a significant connection between the company and the jurisdiction appointing the receiver):

1. The company in respect of whose assets the receiver and manager has been appointed, has been made a defendant in the action in the foreign court;
2. The company in respect of whose assets the receiver and manager has been appointed, has been incorporated in the country which appointed the receiver and manager;
3. If the courts of the country of incorporation recognise a foreign appointed receiver; and
4. The company carried on business in the jurisdiction of the appointment or the seat of its central management and control is located there.

However, if recognizing a receiver would serve to enforce the penal, revenue, or other public law of a foreign state, the Cayman Court would not grant recognition, regardless of whether the specified criteria were met.

But since the somewhat pragmatic decisions in *China Agrotech* and *Silk Road Funds*, the Grand Court has seemingly become more conservative in its approach to the application of modified universalism. In both *In the Matter of Sun Cheong Creative Development Holdings Limited* [2020 2 CILR 942] and *In the Matter of GTI Holdings Limited* [2022 1 CILR 472] comity concerns came to the fore. Both cases involved competing proceedings in Hong Kong and Cayman in respect of Cayman incorporated companies. In both cases, the court took a somewhat territorial approach – in *Sun Cheong* the court indicated that it should be slow to give primacy to pure winding up proceedings brought overseas in respect of a Cayman company where it was satisfied that there was an intention on the part of the company to present a plan of reorganization for the benefit of creditors; and a similar view was reached in *GTI Holdings* where Doyle J, notwithstanding that the Hong Kong court had purported to wind up the company, appointed liquidators in Cayman and indicated that he hoped the Cayman appointment to be given primacy.

# WHAT NEXT?

Ultimately, the legal trajectory moved from broad universalism in *Cambridge Gas* toward a more refined "modified universalism" in *Singularis*, aligning with a cautious yet progressive judicial approach. This approach recognizes the need for incremental legal developments, avoiding the pitfalls of drastic changes without sufficient judicial consensus (the irony being that *Cambridge Gas* was the only decision that at the time had the unanimous support of its Board/panel).

The proposition from Cambridge Gas that lives on “*The principle of modified universalism, namely that the Court has a common law power to assist foreign winding up proceedings so far as it possibly can*,” may be a thread that judges cling to in their judgments. But as some of the recent Cayman judgments show, there is a lot of judicial discretion involved in determining quite what assistance ought to be provided based on the relevant facts.

# CONCLUSION

Even in countries such as England, with broad legislation on cross-border recognition, there remains a place for common law recognition. The extent of that place is a question that has been answered quite differently over the course of the past 20 years. And while that debate could theoretically be reopened in the wake of Brexit, it seems unlikely that the English court will depart from the principles set out in *Singularis* anytime soon.

Whether the same can be said for Cayman remains to be seen, particularly in circumstances where Cayman has limited legislation relating to cross-border recognition and assistance in insolvency proceedings yet, by its very location and the nature of the corporate structures in which Cayman vehicles are used (usually as holding or intermediary holding companies for assets held by onshore subsidiaries, where the corporate group’s operations are far from Cayman), the court will likely continue to be subjected to myriad cross-border requests. While the judges will likely continue to follow *Singularis* in spirit, the substance of their decisions may well ensure that in the case of Cayman incorporated vehicles, the emphasis in their decisions is on the modified part of universalism.

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* [*HIH Casualty & General Insurance Ltd, Re*](https://uk.westlaw.com/Document/I10CE7D50FA9511DA9D7CC210083E0BB2/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI10CE7D50FA9511DA9D7CC210083E0BB2%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=11&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=(sc.Search)&comp=wluk) [2007] 1 All E.R. 177
* [*HIH Casualty & General Insurance Ltd, Re*](https://uk.westlaw.com/Document/I0C1BA6E006BC11DD9648D6D9C2D79D32/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI0C1BA6E006BC11DD9648D6D9C2D79D32%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=10&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29)[[2008] 1 W.L.R. 852](https://uk.westlaw.com/Document/IEA42C7D0173A11DD93A0C12E1F02CB89/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI0C1BA6E006BC11DD9648D6D9C2D79D32%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=10&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=(sc.Search)&comp=wluk)
* *Hunt v. Transworld Payment Solutions U.K. Ltd.* [2020] SC (Bda) 14 Com
* *In re African Farms Ltd* [1906] TS 373
* *In re Grand TG Gold Holdings Ltd*.(Cause No. FSD 84 of 2016, Grand Ct., August 29th, 2016, unreported)
* *In re Guoan Intl. Ltd.* [2021 (2) CILR 625]
* *In the Matter of Ardent Harmony Fund Inc* (unreported, 30 May 2016)
* *In the Matter of China Agrotech Holdings Limited* [2017 2 CILR 526]
* *In the Matter of GTI Holdings Limited* [2022 1 CILR 472]
* *In the Matter of HQP Corporation Ltd (In official liquidation)* (unreported, 7 July 2023, Doyle J)
* *In the Matter of LATAM Finance Limited et.al* (unreported, 24 August 2020, Kawaley J)
* *In the Matter of Sun Cheong Creative Development Holdings* [2020 2 CILR 942]
* *Mitchell v Carter* [1997] 1 BCLC 673
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* *Re Guoan Intl. Ltd.* [2021 (2) CILR 625]
* *Re International Tin Council* [1987] Ch. 219; [1987] 2 W.L.R. 1229
* *Re Silver Base Group Holdings Ltd.*(Cause No. FSD 329 of 2021, Grand Ct., December 8th, 2021, unreported)
* [*Re Stanford International Bank Ltd (In Receivership)*](https://uk.westlaw.com/Document/ID9F374D0228511DFB0DC96FD2EC6B83D/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DID9F374D0228511DFB0DC96FD2EC6B83D%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=9&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29) [[2010] 3 W.L.R. 941](https://uk.westlaw.com/Document/I1DAB1FB0D26811DF81A1BA800504861D/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DID9F374D0228511DFB0DC96FD2EC6B83D%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=9&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29)
* *Rubin and Lan v Eurofinance SA and others* [2010] EWCA Civ 895
* [*Rubin v Eurofinance SA*](https://uk.westlaw.com/Document/I01D9D0B01E3811E2BFA6A8332BD758D7/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI01D9D0B01E3811E2BFA6A8332BD758D7%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=5&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29) [2012] UKSC 46
* [*Schmitt v Deichmann*](https://uk.westlaw.com/Document/I00153DD0462211E1BBADBFFAB830B8B2/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI00153DD0462211E1BBADBFFAB830B8B2%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=6&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29)[[2012] 3 W.L.R. 681](https://uk.westlaw.com/Document/I2142FAD0172611E2B192B2541B1B1573/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DI00153DD0462211E1BBADBFFAB830B8B2%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=6&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29)
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* *Singularis Holdings Ltd v PricewaterhouseCoopers* (2014) 87 WIR 215
* *Singularis Holdings Ltd. v. PricewaterhouseCoopers* [2014] UKPC 36
* [*Societe Eram Shipping Co Ltd v Compagnie Internationale de Navigation*](https://uk.westlaw.com/Document/IB0518C10E42811DA8FC2A0F0355337E9/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DIB0518C10E42811DA8FC2A0F0355337E9%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=14&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=(sc.Search)&comp=wluk)[[2003] 3 W.L.R. 21](https://uk.westlaw.com/Document/IB051B320E42811DA8FC2A0F0355337E9/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad62af00000018e483c4ecc9b5ac21e%3Fppcid%3D3004e0eff79b488f91a795e4be3fbd5a%26Nav%3DRESEARCH_COMBINED_WLUK%26fragmentIdentifier%3DIB0518C10E42811DA8FC2A0F0355337E9%26parentRank%3D0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=fbf23494f01732399fbbc12f9e5edf23&list=RESEARCH_COMBINED_WLUK&rank=14&sessionScopeId=e7a513e2a6f3f17075d7a3f117bfe45b624aafa7e10756909d48b35a5d26dd39&ppcid=3004e0eff79b488f91a795e4be3fbd5a&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29)

**Articles**

* John Verrill, The Snipping of the Golden Thread and the Sacking of the Temple of Universalism [INSOL technical paper], read 18 March 2024
* Andrew Godwin, Timothy Howse & Ian Ramsay, The Inherent Power of Common Law Courts to Provide Assistance in Cross-Border Insolvencies: From Comity to Complexity, 26 INT’I INSOLVENCY REV.5 (2017), read 18 March 2024
* Michael Crystal, ‘The Golden Thread: Universalism and Assistance in International Insolvency’, Jersey & Guernsey Law Review, February 2011, read 18 March 2024
* Yuri Saunders, Stanbrook Prudhoe, Modified Universalism and its Parallel in the South African Common Law, April 2023, read 18 March 2024
* ‘Insolvency, internationalism and Supreme Court judgments’, speech by Lord Neuberger to the Insolvency Lawyers Association, 16 November 2009, read 18 March 2024

1. *Singularis Holdings Ltd v PricewaterhouseCoopers (Bermuda)* [2014] UKPC 3 [↑](#footnote-ref-1)
2. Per note 21 Fabio Weinberg Crocco, When Deference Makes a Difference: The Role of U.S. Courts in Cross-Border Bankruptcies, 28 NORTON J. BANKR. L. & PRAC. (2019), as quoted in Eric Sokol, The Fate of Universalism in Global Insolvency: Neoconservatism and New Horizons Volume 33 Number 1 Winder 2021 Article 4 Hastings International and Comparative Law Review [↑](#footnote-ref-2)
3. *Mitchell v Carter* [1997] 1 BCLC 673, 686-7 (Millett LJ) [↑](#footnote-ref-3)
4. Gerard McCormack, Universalism in Insolvency Proceedings and the Common Law, *Oxford Journal of Studies,* Vol. 32, No. 2 (2012) [↑](#footnote-ref-4)
5. Michael Crystal, ‘The Golden Thread: Univeralism and Assistance in International Insolvency’, Jersey & Guernsey Law Review, February 2011; Solomons v. Ross and International Bankruptcy Law, K.H. Nadelmann, The Modern Law Review, Vol. 9, No. 2 (July, 1946) pp, 154-168 [↑](#footnote-ref-5)
6. *Re HIH Casualty and General Insurance Ltd* [2008] 1 W.L.R. 852 [↑](#footnote-ref-6)
7. *Re International Tin Council* [1987] Ch. 419, 446-447 (Millett J) [↑](#footnote-ref-7)
8. Prior to the United Kingdom exiting from the EU, the EC Regulation on Insolvency Proceedings was also applicable in England. However, since the transition arrangements came to an end, this Regulation is no longer applicable. It remains to be seen quite what impact the inapplicability of the EC Regulation will have on cross-border insolvency with an English nexus [↑](#footnote-ref-8)
9. Domestic, EU and international [↑](#footnote-ref-9)
10. The Privy Council is the apex court of appeal for, among other courts, those of many current and former Commonwealth countries, as well as the United Kingdom’s overseas territories, crown dependencies, and military sovereign base areas, including of the Cayman Islands [↑](#footnote-ref-10)
11. Per paragraph 15 of *Singularis* [↑](#footnote-ref-11)
12. And subsequently – for example, this decision was has been referenced in discussions around the adoption and implementation of international insolvency frameworks, such as the Model Law [↑](#footnote-ref-12)
13. [2007] Bus LR 250, paragraph 72 [↑](#footnote-ref-13)
14. The current name of England & Wales’ highest court [↑](#footnote-ref-14)
15. *Rubin v Eurofinance SA* [2012] UKSC 46 [↑](#footnote-ref-15)
16. It “*would not be an incremental development of existing principles, but a radical departure from substantially settled law*” [↑](#footnote-ref-16)
17. Per paragraph 9 of the Privy Council decision “*The common law of Bermuda is the same, in every relevant respect, as that of England*” [↑](#footnote-ref-17)
18. Paragraph 18 [↑](#footnote-ref-18)