



**From discord to harmony:**  
the future of cross-border insolvency  
Executive summary



# From discord to harmony: the future of cross-border insolvency

## Executive summary

How might cross-border insolvencies involving offshore jurisdictions, a complex and interconnected area of law, be improved upon in future? Which offshore jurisdictions are perceived to be high performers and what can be learned from these jurisdictions? These questions were asked of leading practitioners involved in cross-border insolvency today and their answers form the basis for *From discord to harmony*.

South Square and Grant Thornton have joined together to commission this research. The report explores the factors regarded by participants as shaping the attractiveness of an offshore jurisdiction, and to what extent different jurisdictions meet these criteria. *From discord to harmony* explores strategies for fostering greater collaboration between jurisdictions to improve cooperation and consistency, and ends by focusing on perspectives of eight of the offshore jurisdictions: Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Hong Kong, Ireland, Isle of Man and Jersey.

Figure 1

Do you think that the courts in different jurisdictions should collaborate more to make multi-jurisdictional insolvencies a fairer, more efficient process?

An overwhelming majority believe that courts in different jurisdictions should collaborate more.

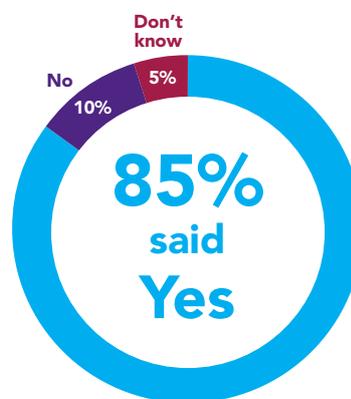
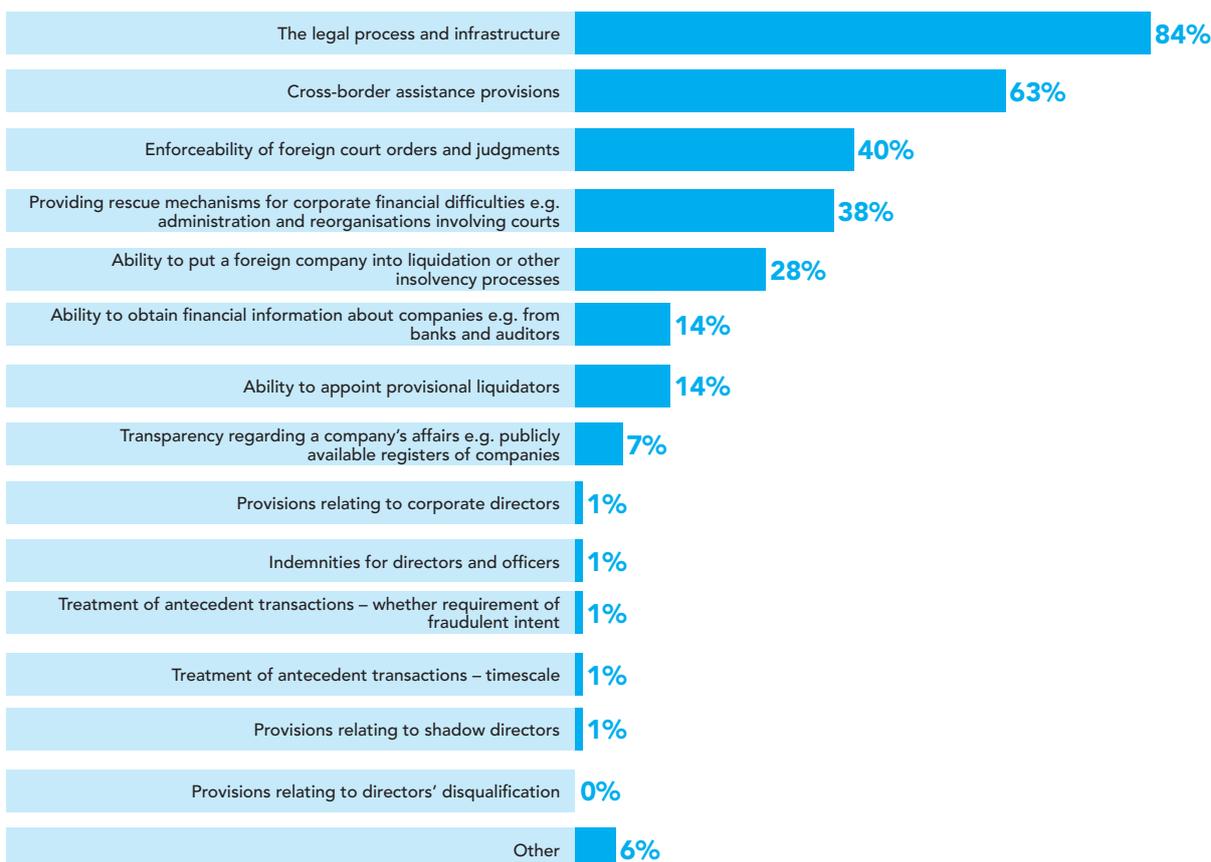


Figure 2

Which of the following are the three most important factors when evaluating the attractiveness of a jurisdiction's insolvency legal framework? – Aggregated top three factors

Legal process and infrastructure is cited as one of the top three factors for evaluating the attractiveness of offshore jurisdictions by over four out of every five respondents.



# Six important headlines emerge from this research:

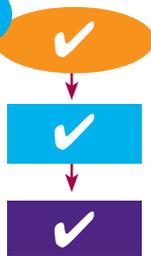
1



## Respondents anticipate an increase in future cross-border insolvencies.

63% of research respondents say the number of insolvencies involving offshore jurisdictions will increase over the next three years. This includes one in five respondents (19%) who say the level of activity will 'increase considerably' over this period. This will largely be driven by an uplift in activity in the financial services sector.

2



## Jurisdictions need to ensure their basic legal process and infrastructure is fit for purpose.

Getting the basics right is critical for effective cross-border insolvency proceedings, yet respondents expressed the view that these basics are not implemented consistently at the moment. Legal process and infrastructure is cited by two-thirds (67%) of respondents as the most important attribute for evaluating the attractiveness of an offshore jurisdiction, but on average they score current performance as less than seven out of 10.

3



## The Cayman Islands emerges strongly as a preferred jurisdiction, resulting from what are viewed as effective insolvency laws.

Among all the offshore jurisdictions explored in this research, the Cayman Islands is most frequently cited by our respondents as the jurisdiction with the most effective insolvency laws. Almost two-thirds of respondents (63%) place the Cayman Islands among the three most effective offshore jurisdictions. This is followed by the British Virgin Islands (48%) and Hong Kong (37%).

4



## Singapore is a very strong location for cross-border insolvency, but those with no experience of its processes are not aware of its strengths.

Three-quarters (75%) of respondents with direct experience of undertaking multi-jurisdictional insolvency in Singapore place it among the three most effective offshore jurisdictions. However, Singapore is not scored so highly by respondents who provided feedback on the jurisdiction without direct experience there. This suggests a significant perception gap exists.

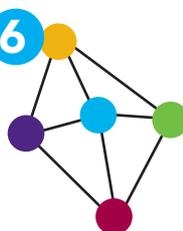
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## All jurisdictions show room for improvement, with perception scores noticeably low.

It is clear that no single jurisdiction has got everything right, with each offshore location demonstrating both strengths and weaknesses according to research respondents. When asked to rate each jurisdiction against a range of different attributes the average scores received are noticeably low, and in most cases below 6 out of 10.

6



## Respondents want to see collaboration rise further up the agenda for offshore jurisdictions.

85% of respondents say that courts in different jurisdictions should collaborate more to make multi-jurisdictional insolvencies fairer and more efficient. Suggestions for fostering further collaboration range from formal mechanisms such as enacting the UNCITRAL Model Law, through to informal channels for greater dialogue and information sharing between judges.

From *discord to harmony* provides interesting and useful insights into the perceptions of leading practitioners on undertaking cross-border insolvencies in major offshore jurisdictions, and some of the potential challenges that they have encountered. We hope our research will be a trigger for wider debate about how all those involved in the legislative and judicial process might learn from each other and work more closely together.

#### About the research

Grant Thornton and South Square commissioned independent consultancy Meridian West to conduct research among lawyers and other insolvency professionals with experience of conducting multi-jurisdictional insolvencies involving offshore jurisdictions. In total 81 people based around the world took part in the online research, together representing views from 50 of the leading firms involved in cross-border insolvency. This online research was supported by a series of in-depth interviews.

**For a copy of the full report  
and to join the debate, contact:**

**Joanna Colton**  
South Square  
joannacolton@southsquare.com  
southsquare.com

**Charlotte Devlin**  
Grant Thornton  
Charlotte.H.Devlin@uk.gt.com  
grant-thornton.com