

Guernsey

Appointment

In a *désastre*, (ie an informal insolvency procedure where the assets of the debtor are distributed pro rata amongst his or her creditors) the insolvency is administered by one of the creditors under the supervision of the court. Where an individual is declared insolvent, a committee of creditors is appointed to follow the insolvency process. There is no separate regime in respect of the insolvency of an insurance company.

Qualifications

There are no formal or minimum qualifications that are required to be satisfied by a person to be appointed as an insolvency practitioner. In practice, in a compulsory winding up, the Royal Court will only appoint qualified accountants (not necessarily Guernsey qualified accountants) to be the liquidator of a company. Similarly, in a voluntary liquidation in most cases a qualified accountant or lawyer would act as an IP. The court has the power to appoint a receiver or administrator in Guernsey only in relation to a protected cell company and although no practice has yet to be developed in respect of such appointments, the court is likely to follow the approach adopted in relation to the appointment of a liquidator.

Selection

In a compulsory liquidation, the liquidator is nominated by the party seeking the liquidation although the court has the power to override that request. In a voluntary liquidation, the shareholders choose the liquidator. If, however, the creditors are able to show good cause to have a new insolvency practitioner appointed, then they have the right to seek an order from the court. In respect of a declaration of insolvency, the committee of creditors is appointed by the Court and is supervised by a Jurat, sitting as a commissioner of the court. A receiver or administrator of a protected cell company is nominated by the person seeking the appointment and is under the court's supervision.

Supervision

In a compulsory liquidation a commissioner of the court supervises the liquidator's actions as well as the debtors. In a voluntary liquidation, the shareholders initially supervise the liquidator, although interested parties have the right to seek directions from the court. In a *désastre*, the judgment creditor who has initiated the *désastre*, supervises the process under the supervision of the court. A receiver or administrator appointed by the court in respect of a protected cell company is responsible to the court.

Remuneration

In a compulsory liquidation, the liquidator's remuneration is subject to the confirmation of the court and is generally calculated on a time-spent basis. In a voluntary liquidation, the members of the company will approve the liquidator's remuneration although a creditor may have the right to object. In a *désastre* and in a declaration of insolvency, the costs of the commissioner appointed by the court to supervise various stages of the procedure are fixed on a statutory scale. The costs of an administrator or receiver appointed in relation to a protected cell company are subject to the supervision of the court.

Regulation

There is no regulation of insolvency professionals.