

# Comparative Overview of Five Key Jurisdictions



When a winding-up order is made, does the law provide for a **moratorium on claims being made in arbitration?**



## England and Wales

Yes, under section 130(2) of the Insolvency Act 1986 ("IA").



## Hong Kong

Yes, under section 186 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap.32) ("CWUO").



## Singapore

Yes, under the Insolvency, Restructuring and Dissolution Act 2018.



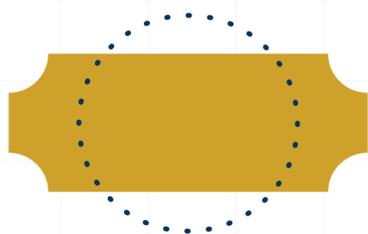
## Cayman Islands

Yes, under section 97(1) of the Cayman Companies Act. Notably however, such moratorium does not extend to restrict the rights of secured creditors who stand outside of the insolvency process.



## People's Republic of China

Article 20 of the Enterprise Bankruptcy Law ("EBL") provides that after the People's Court accepts an application for insolvency, any civil action or arbitration involving the debtor shall be stayed.



Does an insolvency proceeding trigger a **general prohibition of individual enforcement actions** by other creditors?



## England and Wales

Yes, under sections 128 and 183 of the IA 1986.



## Hong Kong

Yes, under section 186 of the CWUO.



## Singapore

Yes, under the Insolvency, Restructuring and Dissolution Act 2018.



## Cayman Islands

Yes, but such prohibition does not extend to restrict the rights of secured creditors.



## People's Republic of China

Yes, under Article 19 of the EBL.

Does the insolvency court have jurisdiction to **make an order to stay arbitration proceedings?**



## England and Wales

The court has power to issue orders requiring arbitration proceedings seated in England and Wales be stayed.

In respect of arbitrations seated in other jurisdictions, the court has jurisdiction to order anti-suit injunctions against arbitration proceedings.



## Hong Kong

The court has jurisdiction to order anti-suit injunctions against arbitration proceedings regardless of the seat of the arbitration.



## Singapore

Yes, if the arbitration is seated in Singapore, the court has the power to issue an injunction where the arbitration was continued or commenced in breach of the statutory moratorium.



## Cayman Islands

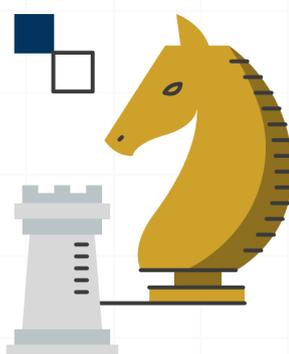
The court has jurisdiction to order anti-suit injunctions against arbitration proceedings regardless of the seat of the arbitration.



## People's Republic of China

Insolvency courts do not have power to issue an order to stop arbitration under PRC law.

However, the insolvency court may issue a request to arbitral tribunals requesting a stay of the arbitration proceedings based on Article 20 of the EBL.



Under what circumstances would **insolvency proceedings be stayed in favor of arbitration?\***



## England and Wales

Insolvency proceedings should be stayed, save in wholly exceptional circumstances.



## Hong Kong

Insolvency proceedings should generally be stayed, save in exceptional circumstances, on the condition that the debtor has taken steps required under the arbitration clause.



## Singapore

Insolvency proceedings will be stayed, provided the dispute is not being raised in abuse of the court's process.



## Cayman Islands

Insolvency proceedings will be stayed if there is a bona fide dispute on substantial grounds.



## People's Republic of China

Insolvency proceedings will not be stayed in favor of arbitration.

\*Assuming that there are factual disputes capable of being referred under the relevant arbitration clause.