



Ulrich Payne Analyzes Offshore Insolvency and Litigation Finance Trends with Burford Capital

September 16, 2020

Publication: ***The Burford Quarterly***

Despite, and in some cases because of, the pandemic, offshore jurisdictions such as the Cayman Islands and the British Virgin Islands (BVI) central to global restructuring efforts have been undergoing notable changes. Kobre & Kim's Ulrich Payne sat down with Burford Capital's *The Burford Quarterly* as part of a roundtable discussion to examine these ongoing trends.

The most immediate changes in offshore jurisdictions have been the result of the COVID-19 pandemic. Offshore-registered funds are triggering their gating provisions and seeking insolvency regime protections "to give themselves breathing room," Payne noted. Cayman and BVI courts have adapted well, and their legal systems have learned the lessons of 2008 and become well prepared for complex insolvencies, such as with the establishment of the Financial Services Division of the Grand Court in the Cayman Islands.

In a longer-term trend, offshore jurisdictions have also become generally more accepting of litigation funding. While litigation funding in the BVI remains underdeveloped, BVI courts are influenced by English practice, Payne pointed out, with a 2011 decision hinting at acceptance of third-party funding. Litigation funding is more common, but still limited, in the Cayman Islands, though Payne suggests that the proposed Private Funding of Legal Services Bill of 2015 could bring "substantial improvement to the options available to litigants" and increase access to justice.

[Click here to access the latest edition of The Burford Quarterly.](#)