IN-DEPTH

Asset Tracing And Recovery

CAYMAN ISLANDS

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In-Depth: Asset Tracing and Recovery (formerly The Asset Tracing and Recovery Review) is a practical overview of asset recovery rules and procedures across key jurisdictions worldwide. Focusing on recent developments, it examines the primary processes and limitations for following and tracing fraudulently appropriated property, with due regard to the relevant legal rights and remedies, issues surrounding seizure and evidence rules.

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Cayman Islands

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Introduction

The Cayman Islands is a major offshore financial centre. As of the first quarter of 2026, there were over 30,000 mutual funds and private funds registered in the Cayman Islands (the majority of which, save for maintaining a registered office within the jurisdiction as required by the Companies Act (2025 Revision) (the Companies Act), conduct business elsewhere).[1] The jurisdiction is the number one domicile for hedge funds and the second-largest jurisdiction for captive insurance.[2] The Cayman Islands is also a leader in the digital asset space, and it is home to more than half of the world's crypto hedge funds and some of the largest (by treasury size) decentralised autonomous organisations (DAOs).[3] While the Cayman Islands' financial services industry plays a significant role in the global economy (eg, because of tax neutrality), it is unsurprising that Cayman Islands' corporate structures have been used for nefarious purposes and have featured in some of the most notorious international fraud scandals such as the BLMIS (Bernie Madoff), *AHAB v Saad* and the 1MDB fraud scandals.

The Cayman Islands’ judiciary and legal profession are well equipped and experienced in all matters concerning multi-jurisdictional fraud disputes. The Cayman Islands' legal system is based on the English common law and statute. Therefore, case law from England and various Commonwealth jurisdictions is persuasive.

While the jurisdiction is often seen by outsiders as being shrouded in secrecy, the reality is that there is publicly available information that could be useful in facilitating the recovery of assets. This includes the identities of the directors of a company, land registry records, the aircraft registry and vessel transcripts for maritime vessels registered in the jurisdiction. Victims of wrongdoing will have recourse through the courts of the Cayman Islands (the Cayman Court)[4] to assist with asset recovery efforts, including, but not limited to, freezing orders and disclosure orders. The Cayman Court has recently confirmed that there is a strong public interest in allowing victims of fraud to vindicate their rights and to deter the use of Cayman Islands' corporate structures and professionals to facilitate the commission of fraud.[5] The Cayman Court will also construe legislation and rules in a manner to avoid denying or impairing a litigant’s right of access to justice and to avoid conflicting with the "recognised public interest in protecting the reputation of the Cayman Islands as a well-regulated financial centre".[6]

Year in review

As of December 2025, there were 395 filings in the Financial Services Division (FSD) of the Grand Court of the Cayman Islands.

In April 2025, Phase Two of the Virtual Asset Service Providers (VASPs) legislative framework came into effect and provides more regulatory clarity with respect to entities already licensed under other regulatory regimes in the Cayman Islands. Where the virtual asset services offered by those entities does not alter the scope of the regulated activities already being undertaken by them, those entities may now apply for a waiver under the new amendments.

The amendments also impose enhanced obligations on all VASPs that operate a virtual asset trading platform or provide virtual asset custody. This includes introducing mandatory licensing requirements with respect to both types of service providers, stronger prudential standards and requiring that both types of VASPs have at least three directors.

Changes with respect to the Proceeds of Crime Act also came into force on 2 January 2025 concerning the Defence Against Money Laundering regime (DAML), which now requires that if a transaction is ongoing, a DAML Suspicious Activity Report must be submitted to the Cayman Islands Financial Reporting Authority (FRA) and explicit consent must be obtained from the FRA before a transaction can proceed.

Legal rights and remedies

Civil and criminal remedies

Civil remedies

The Cayman Court routinely deals with complex and multi-jurisdictional matters. The time frame for each case depends on the complexity of the matter, the court's availability and the level of opposition. The *AHAB v Saad* litigation, which commenced in 2009, was the largest matter litigated in the Cayman Islands and was based on claims of fraud, conspiracy, dishonest assistance and knowing receipt. The trial lasted more than 120 days over the course of more than one year and resulted in a 1,300-page judgment. The matter was appealed to the Cayman Islands Court of Appeal (CICA), and was heard between 21 May 2019 and 20 June 2019, resulting in a 276-page appeal judgment released about two and a half years later in December 2021.

Breach of trust

A person in a position of trust (a trustee) owes fiduciary and other duties to a person for whose benefit the trustee holds the property (a beneficiary). A trustee must:

1. act bona fide when dealing with the trust;
2. take steps to preserve and protect the assets of the trust and exercise care and skill in administering the trust;
3. make investment decisions as a prudent person would for another person to whom they are morally obligated;
4. forego any profit from the trust; and
5. avoid conflicts of interest with the trust.

A breach of trust may lead to a claim for restitution or monetary compensation. A claim for deceit may also give rise to a breach of trust.

Liability for having assisted in a breach of trust is not restricted to the person whose breach of trust or fiduciary duty causes the original diversion of money or who assisted with the original breach but extends to everyone who consciously assisted in the continuing diversion of the money. The Cayman Court will likely consider the state of mind in cases where there has been a breach of fiduciary duty and the defendant has received the proceeds of fraud. The state of mind of a company that has received the proceeds of fraud is determined by whether the person who was the directing mind (eg, a director) and will of the company knew that the funds received were the proceeds of fraud. The attribution of the state of mind of a director to the company depends on the nature and factual context of the claim in question.

Breach of fiduciary duty

Fiduciary and other duties are not codified in the Cayman Islands but derive from English common law.

Directors (whether de jure, de facto, shadow, nominee, executive or non-executive) owe fiduciary duties (and non-fiduciary ones, such as the duty of care, skill and diligence) to the company to which they are appointed. These fiduciary duties include to:

1. act bona fide (loyally, honestly and in good faith in what they consider to be in the best interests of the company);
2. act for the proper purpose of the company and not for some personal or collateral, or some other improper purpose;
3. have unfettered discretion in the future exercise of their powers; and
4. avoid conflicts of interest between their duty to the company and their personal interests or duty owed to another person.

The elements of a claim for breach of fiduciary duty include:

1. a duty must be owed;
2. there was a breach of that duty; and
3. damages or loss were caused by the breach.

The trustee of a trust also owes fiduciary duties to the trust. Among other things (like a director of a company), a trustee must act bona fide, in the best interests of the trust, and with unfettered discretion; and must exercise care and skill in their judgment, and act in good faith when dealing with the trust. The general partner of an exempted limited partnership (ELP) owes a duty of loyalty and good faith to act in the best interests of the ELP and its limited partners. An agent also owes a fiduciary duty to their principal because the relationship is one of trust and confidence.

When fiduciaries misuse their powers, the claim for breach of duty belongs to those whom they owe their fiduciary duties (eg, to the company in the case of a director, and to the beneficiaries, in respect of a trustee). The company may sue a director for breach of duty by the director for wrong done to the company. Without an action by the company against the director, a shareholder of the company may bring a derivative action against the director on behalf of the company and in the company's name. In the case of a trustee, because contracts are made in the trustee's name, not the trust's, a third-party with whom a trustee has contracted with in relation to the trust may be able to make a claim against the trustee personally. It was also determined by CICA in 2023 for the first time, that a limited partner of a Cayman Islands ELP can bring a derivative claim for and on behalf of the ELP pursuant to section 33(3) of the Exempted Limited Partnership Act (2025 Revision).[7] The test for a limited partner to bring a derivative claim was clarified by the Judicial Committee of the Privy Council in 2024.[8]

Personal claims

If it is alleged that a third party received money or assets that represent the proceeds of misappropriated funds, a claimant may bring a proprietary claim as well as a personal claim, such as a claim for unjust enrichment, dishonest assistance or unlawful means conspiracy, against the third party. A successful claim may result in an award for damages or equitable compensation. In a liquidation, the claim would rank *pari passu* with other unsecured creditors of the relevant respondent in respect of any such damages or compensation.[9]

Unjust enrichment

At common law, a claimant has a right to restitution against a defendant where it can be shown that:

1. the defendant was enriched;
2. the defendant's enrichment was at the claimant's expense;
3. the enrichment was unjust; and
4. there are no available defences.[10]

A claim for restitution for unjust enrichment seeks to restore parties to the position they were in before the defendant was enriched.

Unlawful means conspiracy

A claimant may be able to bring a conspiracy claim if they have suffered consequential loss or damage by the unlawful action (or lawful action with unlawful means) of two or more persons combined to act in an unlawful manner.[11]

Dishonest assistance

A proprietary claim may be brought against a third party, where the claimant's property is misappropriated in breach of a fiduciary duty owed to the claimant.[12] A claimant may bring a claim for dishonest assistance if it can be shown that:

1. the claimant was owed a fiduciary duty but the person who owed the fiduciary duty breached that fiduciary duty; and

2. the third party induced, or assisted, the breach of a fiduciary duty and did so dishonestly.

The claimant must also show that by receiving monies, the third party was aware of the misappropriation at the time of assistance. A mere receipt of funds cannot constitute "assistance" for a claim of dishonest assistance. It is immaterial that the third party received any of the misappropriated funds in breach of trust or a fiduciary duty.

If the misappropriated property is traceable into the hands of a third party (other than a bona fide purchaser for value), the claimant may bring a proprietary claim to recover property (or its traceable proceeds) from the third party.[13]

Knowing receipt

A claimant may also rely on the equitable remedy of knowing receipt at common law.

Where a third party receives property with the knowledge that the property was transferred in breach of trust, a duty is imposed on the third party to treat the property as though they are a trustee of the property and to restore it to the trust.

The effect of a claim for knowing receipt is to prevent a party from receiving and retaining property, for their own benefit, to which they are not entitled, knowing that the transfer to them was of property that beneficially belonged to a third party or claimant. To establish knowing receipt, it must be shown that:

1. there was a disposal of the claimant's assets in breach of a fiduciary duty;
2. the defendant beneficially received the assets that are traceable to the claimant's assets; and
3. the defendant has knowledge that the assets they received are traceable to the breach of a fiduciary duty.[14]

Proprietary/tracing claims

In some cases, misappropriated funds are funnelled through elaborate schemes to disguise fraudulent transactions and to obstruct tracing. When such funds are misappropriated in breach of a fiduciary duty, a claimant can bring a proprietary claim to recover their property (or the traceable proceeds) from the third party.[15]

Fraudulent dispositions

Where a victim of fraud believes that a transaction was made at an undervalue and with an intent to defeat obligations owed to them, they may apply for an order to set aside the transaction under the Fraudulent Dispositions Act (1996 Revision). Section 4 of the Fraudulent Dispositions Act provides that "every disposition of property made with an intent to defraud and at an undervalue shall be voidable at the instance of a creditor thereby prejudiced". It is an essential element of such a claim under the Fraudulent Dispositions

Act that the transaction was intended to defraud the victim. A six-year limitation period applies from the date of the relevant disposition.[16]

Deceit

A claimant may seek damages in deceit against a defendant. In an action for deceit, the claimant must establish that:

1. representations were made by or on behalf of the defendant;
2. with knowledge of the falsity of those representations or recklessness as to their truth or falsity;
3. that the defendant intended the claimant to rely on those representations; and
4. the reliance by the claimant on those representations resulted in loss and damage to the claimant.

Fraudulent misrepresentation

Where a person is induced to enter into a contract on the reliance of an untrue statement that causes the person to suffer loss, they may make a claim for misrepresentation at common law. It must be shown that a false statement, whether implied, by words or conduct, or both, was made by or on behalf of the defendant knowing that the statement was false or reckless as to whether the statement was true or false, and the defendant intended for the claimant to rely on the false statement. Inducement occurs when the person is "materially influenced by the misrepresentation merely in the sense that it had some impact on his thinking" or "was actively present to his mind".[17] Inducement is presumed thereafter.[18]

In general, there are two types of remedies available to a victim of fraudulent misrepresentation:

1. rescission; and
2. damages (in contract or in tort, depending on the circumstances of the case).

Defences to fraud claims

The respondent to a fraud claim may resist those claims by relying on one or more defences. A typical defence to a fraud claim is the limitation period for bringing the claim. The Limitation Act (1996 Revision) describes the ordinary time limits for different classes of actions. For example, an action based on a simple contract has a limitation period of six years from the date on which the cause of action occurred; actions in tort have a six-year limitation period; and actions to recover immovable property have a limitation period of 12 years.

There is no period of limitation for actions by a beneficiary under a trust in respect of any fraud or fraudulent breach of trust to which the trustee was a party or privy to; or to recover from the trustee trust property, or the proceeds of trust property in the possession of the trustee or previously received by the trustee and converted to their use.

Deceit claims must be brought within six years of the date the cause of action occurred.[19] In respect of actions based on fraud, or deliberate concealment of relevant facts upon which a claimant can rely or claims for relief from the consequences of a mistake, the limitation period will not begin to run until the applicant has discovered or could have reasonably discovered the fraud, concealment or mistake.[20]

The deliberate commission of a breach of duty in circumstances in which it is unlikely to be discovered for some time amounts to the deliberate concealment of the facts involved in that breach of duty.

The defence of illegality may apply in circumstances where the claim is founded upon the claimant's own criminal or immoral act (eg, fraud, dishonesty or breach of the law) or where the claimant lacks clean hands and is disallowed from relying on equitable remedies. There are strong public policy grounds to refuse the enforcement of an illegal arrangement. The Cayman Court is likely to allow the defence if allowing the claim to proceed would conflict with public policy and cause damage to the integrity of the Cayman Islands' legal system.

Seizure and evidence

Securing assets and proceeds

There are a few procedures that should be considered where a party is seeking to seize or secure assets or the proceeds of a fraud in the Cayman Islands. The context and timing will likely determine the appropriateness of the procedure ultimately utilised.

The main four procedures available in the Cayman Islands both for domestic matters and to assist foreign proceedings are:

1. freezing injunctions (*Mareva* injunctions) and proprietary injunctions;
2. *Anton Piller* orders;
3. appointment of provisional liquidators; and
4. appointment of receivers.

Freezing injunctions (Mareva injunctions) and proprietary injunctions

Freezing injunctions, *Anton Piller* orders and the appointment of receivers are considered draconian as they have the effect of freezing all assets upon the order being made or compelling the surrender of access to and control of property. Both the appointment of provisional liquidators and the appointment of receivers are usually the procedures used in an insolvency context, but are powerful tools in combating fraud, especially if fraudulent activity is ongoing.

Proprietary injunctions seek to preserve assets that a claimant may have a legal or equitable claim against. For that reason, a claimant need not prove a risk of dissipation. But a claimant must prove the following:

1. there is a serious issue to be tried on the merits;
2. the balance of convenience favours granting an injunction; and
3. it is just and convenient to grant the injunction.

Freezing injunctions are designed to freeze assets, in effect securing them from further dissipation for a period to be determined, pending a further order, or often pending the outcome of either foreign or domestic proceedings. Those seeking freezing injunctions often also seek ancillary or specific disclosure orders.

An applicant seeking to obtain a *Mareva* injunction must establish that:

1. they have a good arguable case on the merits of their claim;
2. there is a real risk that any judgment would go unsatisfied because of dissipation of the assets by the defendant unless the defendant is restrained by the court from disposing of the assets; and
3. it would be just and convenient in all the circumstances to grant the freezing order.-[21]

An applicant is typically required to give a cross-undertaking in damages, and the Cayman Court may order the fortification of the undertaking. In this regard, the Cayman Court will consider where the parties and assets are based before considering whether a payment into court is required.

A proprietary injunction and freezing injunction can both be obtained with worldwide effect, and can be obtained both pre- and post-judgment.[22] Worldwide injunctive relief may be more readily available in circumstances where the applicant has proprietary or tracing claims, in comparison to an applicant seeking to enforce a monetary judgment.[23]

It is also possible to seek *Chabra* relief against third parties (non-cause of action parties).

Anton Piller orders

Anton Piller orders, which are available in the Cayman Islands, permit an applicant to inspect a respondent's premises to facilitate a search and seizure of documents or other items, or to obtain information (copy documents or computer hard drives). *Anton Piller* orders are used where there is a need to preserve evidence that may be at risk of destruction. Given the intrusive nature of such relief, there is a heavy burden on an applicant to establish:

1. an extremely strong prima facie case;
2. there is serious potential or actual damage to those applying for the relief; and
3. the evidence shows that those against whom the relief is sought possess incriminating documents or other evidence and that there is a real possibility or

clear likelihood that the documents or other evidence may be destroyed if the order is not granted.[24]

Appointment of provisional liquidators

Provisional liquidations are another powerful tool to combat fraud and assist in asset recovery efforts. A provisional liquidator may be appointed after the presentation of a winding-up petition, but before a final winding-up order is made. A provisional liquidator's powers are set out in the appointment order. In the context of fraud, a company's directors are likely to be stripped of their powers, and the provisional liquidator would be given a full set of powers by the Cayman Court to take control of the company. The Companies Winding Up Rules (2023 Consolidation) Order 4, Rule 1(2) states that a company is entitled to four days' clear notice of an application to appoint a provisional liquidator under section 104 of the Companies Act, unless exceptional circumstances justify the application being made *ex parte*. For example, an applicant may be able to proceed on an *ex parte* basis where providing notice would enable the alleged wrongdoers in control of assets to defeat the object of the applications entirely or to some significant extent, including:

1. the dissipation and misuse of assets;
2. inappropriate actions by the company's principals; and
3. the risk of destruction or fabrication of documents and records.

An applicant must comply with the duty to provide full and frank disclosure.

Under section 104 of the Companies Act, a creditor or a contributory (or in limited circumstances, CIMA) may make an application to appoint a provisional liquidator where:

1. there is a prima facie case for making a winding-up order; and
2. the appointment is necessary to prevent:
    - the dissipation or misuse of a company's assets;
    - the oppression of minority shareholders; or
    - mismanagement or misconduct on the part of the company's directors.

An applicant must also establish that they have standing as a creditor or contributory to bring the winding-up petition and application for the appointment of a provisional liquidator. In the Cayman Islands, standing as a creditor is quite broad and can include conditional and contingent creditors.[25]

To ensure an appointment will have effect outside the jurisdiction of the Cayman Islands, the provisional liquidator is likely to need to apply for recognition of their appointment in one or more foreign jurisdictions. The procedural steps for obtaining recognition will depend on the foreign jurisdiction, and consideration must always be given to this aspect in advance, to ensure that the desired effect of the appointment aligns strategically.

Receiverships

A receiver may be appointed with respect to proceedings before the Cayman Court under section 11 of the Grand Court Act (as revised).[26] A receiver may also be appointed for proceedings that have already been commenced or are to be commenced outside of the Cayman Islands where the proceedings are capable of giving rise to a judgment that is enforceable in the Cayman Islands.[27]

The appointment of a receiver is typically aimed at taking control of a company's assets until the Cayman Court has determined the matter, preventing the dissipation of assets. The Cayman Court may also sanction the receiver to collect and deal with certain assets. This application can be made in parallel with a freezing injunction where it is considered that the freezing order may be insufficient to prevent the dissipation of assets.

A receiver may be appointed where the applicant establishes:

1. a good arguable case on the merits;
2. a real risk of unjustified dissipation; and
3. it is just and convenient to grant the requested relief.

Official liquidation

Another alternative is to petition a company to be wound up and appoint official liquidators. This can be based on insolvency grounds or on a just and equitable basis (the need for an investigation or the company was formed for fraudulent or illegal purposes). The need for an investigation is considered to be a free-standing basis upon which to wind up a company on just and equitable grounds in the Cayman Islands.[28]

Once appointed, official liquidators are empowered to investigate the affairs of a company and have strong statutory tools to:

1. compel certain individuals involved with a company to provide a statement of affairs;
2. compel "relevant persons" (eg, directors, officers and service providers) to turn over property to the official liquidator or to be subjected to an oral or written examination; and
3. seek an order compelling any person holding property or documents belonging to a company to turn the property or documents over to the official liquidator.[29]

Obtaining evidence

As for obtaining evidence, save as referred to already above, there are further options including:

1. *Norwich Pharmacal* orders;
2. *Bankers Trust* orders;
3. New Rule 7A pre-action disclosure; and

4. letters rogatory.

The relief (or combinations of them) that would be the most appropriate will depend on the specific circumstances of the matter.

Norwich Pharmacal orders

Norwich Pharmacal orders are generally made pre-action, but can be made post-judgment,[30] and are granted against third parties who find themselves innocently involved in a fraud or some kind of wrongdoing. The aim of this type of relief is to obtain disclosure of documents or information held by that third party that may then be used in subsequent substantive proceedings.

To obtain this type of relief, an applicant must demonstrate that:

1. a wrong must have been carried out, or arguably carried out, by a wrongdoer;
2. there must be a need for an order to enable action to be brought against the wrongdoer; and
3. the person against whom the order is sought must be:
    - mixed up in so far as to have facilitated the wrongdoing; and
    - able or likely to be able to provide the information necessary to enable the ultimate wrongdoer to be sued.

In *In the matter of AA v UU* [2025] CIGC (FSD) 42, Kawaley J found that the facilitation of wrongdoing is not required and that a respondent must have been involved in or connected to the wrongdoing in a way that makes them more than a mere bystander.

Sealing and gagging orders are often sought before or along with *Norwich Pharmacal* orders to prevent "tipping off" and to give an applicant time to take necessary actions following the receipt of the materials disclosed under the *Norwich Pharmacal* order.

In the Cayman Islands, these types of orders are often sought against a company's registered office, which holds beneficial ownership, "know your customer" records and other due diligence information that a *Norwich Pharmacal* order can seek to obtain.

Bankers Trust orders

Bankers Trust [31]orders are aimed at third-party banks and other organisations to obtain disclosure that will assist in tracing and preserving assets. This relief is granted in exceptional circumstances where:

1. there are good grounds for concluding that the money or assets about which the information is sought belonged to the claimant;
2. there must be a real prospect that the information sought will lead to the location or preservation of the assets;
3.

the order should, so far as possible, be directed at uncovering the particular assets that are to be traced, and should not be wider than is necessary in the circumstances;

4. the applicant's interests in obtaining the order must be balanced against the possible detriment to the respondent in complying with the order, including any infringement, or potential infringement, of rights of privacy or confidentiality; and
5. the applicant must provide undertakings:
   - to pay the expenses of the respondent in complying with the order;
   - to compensate the respondent in damages (should loss be suffered as a result of the order); and
   - to use only the documents or information obtained to trace the assets or their proceeds.[32]

New Rule 7A disclosure

In early 2026, the new Rule 7A was introduced into Order 24 of the Grand Court Rules providing two additional mechanisms by which to gain evidence:

1. pre-action disclosure against a likely defendant in future Grand Court proceedings; and
2. interlocutory non-party disclosure once Grand Court proceedings have been commenced.

The new Rule 7A disclosure has been introduced to fill the gap in the previously available powers of the Grand Court, namely *Norwich Pharmacal* orders and *Bankers Trusts* orders discussed above. It provides a streamlined mechanism to obtain existing (or previously held) documents only. It is not designed to compel narrative explanations akin to deposition testimony. Applicants must be able to specify or describe the documents requested such as to avoid fishing expeditions or requests for wide ranging discovery.

Pre-action disclosure

An application for pre-action disclosure may be made before proceedings are commenced. The applicant must show that:

1. the respondent is likely to be a defendant in future proceedings;
2. the documents sought are likely to be relevant to the proceedings; and
3. the respondent is likely in possession, custody or power of the documents sought.

Non-party disclosure

An application for non-party disclosure can be brought against a person who is not a party to proceedings. It is important to note that as well as serving the application on the non-party respondent, it must also be served on every party to the proceedings.

In both applications for disclosure under Rule 7A, the applicant has to provide security for the costs of the person against whom the application is made.

The new Rule 7A mechanism is a significant and welcome enhancement to the already wide ranging powers of the Grand Court. The announcement of the new rule by the Honourable Chief Justice noted that the new mechanisms "allow potential plaintiffs to obtain documentary evidence that might otherwise be denied to them to undertake a more fully informed assessment of the merits of their proposed claim before embarking upon legal proceedings".[33]

Letters rogatory

Under the Evidence (Proceedings in Other Jurisdictions) (Cayman Islands) Order 1978 (the Evidence Order), a party may seek to obtain evidence for use in overseas litigation, including, but not limited to, orders for:

1. the examination of witnesses (orally or in writing);
2. the production of documents; and
3. the inspection, photocopying, preservation, custody or detention of any property.

The Cayman Court has jurisdiction to make orders with respect to criminal and civil proceedings. In a recent ruling from the Grand Court in *Shen v Inspire Inc (No. 2)* [2025] CIGC (FSD 55), Asif J held that as a matter of judicial and international comity, the Grand Court will ordinarily give effect to a letter of request from a foreign court – and afford the foreign court the fullest help possible.

Fraud in specific contexts

Banking and money laundering

The Cayman Islands has established and maintains a regulatory framework consistent with international standards. Some of the relevant legislation includes:

1. the Proceeds of Crime Act (2025 Revision) (POCA); and
2. the Anti-Money Laundering Regulations (2025 Revision).

Where a business is registered and regulated by CIMA, CIMA has the authority and powers to examine the affairs of the company's business, and by extension, may identify assets for recovery.

The Financial Reporting Authority (FRA) also has responsibility for identifying specific assets and tracking particular activities or transactions, under the POCA. The FRA's functions are performed through the director of the FRA.

Financial services providers and their employees can face criminal liability under the POCA for money laundering and related offences.

The Director of Public Prosecutions (DPP) is permitted under section 77 of POCA to recover property that is, or represents, property obtained through unlawful conduct. Under this section, the DPP may also forfeit cash or property that has been obtained or is intended to be used in unlawful conduct. Recoveries under this section are commenced by the DPP initiating civil proceedings before the Cayman Court and are not dependent on whether any proceedings have been brought for an offence in connection with that property.

Insolvency

The Companies Act sets out a number of fraud-related provisions that aim to recover assets for an estate (and its stakeholders) and to penalise individuals for fraud-related offences.

Fraud in anticipation of winding-up

Where a company is ordered to be wound up or passes a resolution for voluntary winding-up, any person who was an officer, professional service provider, controller of the company, voluntary liquidator or restructuring officer can be held liable on conviction to a fine or five years' imprisonment if they, with the intent to defraud the company's creditors or contributories,[34] within the 12 months immediately preceding the winding-up:

1. concealed company property (with a value of more than US$10,000) or any debt due to or from the company;
2. removed any part of the company's property to the value of US$10,000 or more;
3. concealed, destroyed, mutilated or falsified documents affecting or relating to the company's property or affairs;
4. made any false entry in any documents affecting or relating to the company's property or affairs;
5. parted with, altered or made any omission in any document affecting or relating to the company's property or affairs; or
6. pawned, pledged or disposed of any company property obtained on credit and has not been paid for.

Transactions in fraud of creditors

Any officer, restructuring officer, controller or professional services provider who made or caused to be made a transaction (as defined) of the company's property or concealed or removed any part of the company's property with the intent to defraud the company's creditors or contributories can be held liable on conviction to a fine and five years' imprisonment.[35]

Fraudulent trading

Section 147 of the Companies Act provides a powerful remedy, which is generally untested before the Cayman Court. This provision states that if during the winding-up of a company, it appears that any business of the company was carried on with the intent to defraud creditors of the company, or creditors of any other person, or for any fraudulent purpose, the liquidator may apply to the Cayman Court for a declaration that any persons who were knowingly parties to the carrying on of the business in a fraudulent manner are liable to contribute to the company's assets as the Cayman Court thinks proper.

Voidable preference and fraudulent dispositions

Section 145 of the Companies Act permits a liquidator to apply to the Cayman Court for an order to set aside any conveyance or transfer of property by a company that occurred in a six-month period immediately preceding the company's winding-up, in favour of any creditor at a time when the company is insolvent with a view to give that creditor a preference.

Section 146 of the Companies Act permits an official liquidator to apply to the Cayman Court to set aside any disposition of property where the disposition of property was made at an undervalue with the intent to defraud the company's creditors. There is a six-year limitation from the date of the transaction.

Other considerations

Re Real Estate and Finance Fund[36] dealt with an application to restore an exempted company dissolved following a voluntary liquidation on the basis that the dissolution should be set aside because the winding-up was vitiated by fraud. Section 159 of the Companies Act allows for the restoration of a struck off company. However, there is no provision that specifically provides for restoration of a company that has been dissolved. The common law and the Cayman Court's inherent jurisdiction were successfully relied upon in this case. After a fraud was found to have occurred (transactions made to accounts for personal gain), the Cayman Court found that this aspect completely undermined the statutory procedure for voluntary liquidations and granted the restoration. This is a valuable development of the law in the Cayman Islands for creditors or liquidators, in circumstances where there has been a fraud and the company was utilised to facilitate that fraud and was then dissolved. This development will help recover assets that have been dissipated or concealed.

Arbitration

The relevant legislation for arbitration proceedings and the enforcement of domestic and foreign arbitral awards in the Cayman Islands are as follows:

1. the Arbitration Act (2012 Revision) (the Arbitration Act); and

2. the Foreign Arbitral Awards Enforcement Act (1997 Revision) (FAAEA).

The Arbitration Act is based on the UNCITRAL Model Law on International Commercial Arbitration and the English Arbitration Act 1996, and governs arbitration within the Cayman Islands and for recognising New York Convention[37] and non-convention awards. The FAAEA[38] is designed to deal with New York Convention awards.[39]

In the Cayman Islands, there is no legal reason why contentious matters relating to fraud cannot be referred to arbitration. The Arbitration Act provides a discretion for the Cayman Court to carve out the fraud element, so that it may be dealt with separately by the court rather than within an arbitration.[40] The Cayman Court can revoke the authority of the arbitrator and order that the agreement will cease to have effect, so far as may be necessary to enable that question of fraud to be determined by the Cayman Court. Following an arbitral award, the Cayman Court can also set aside an award if it is found that the award made was induced or affected by fraud, corruption or misconduct of an arbitrator[41] and there is clear evidence of an arguable case for setting aside.[42] Section 7(3) of the FAAEA provides that the enforcement of a New York Convention award may be refused if it would be contrary to Cayman Islands' public policy to enforce the award.

Fraud's effect on evidentiary rules and legal privilege

In civil cases, the standard of proof is on a balance of probabilities. This standard does not change when alleging fraud in civil cases. Allegations of fraud must be specifically pleaded and be supported by cogent evidence.[43] It is often hard to prove the subjective state of mind of the wrongdoer in fraud cases, and the Cayman Court is usually invited to draw inferences from the evidence. Furthermore, when going through the discovery process in fraud cases, it is imperative that disclosure lists and evidence are properly analysed.

Crime/fraud exception

As to both legal advice privilege and litigation privilege, the position is similar to that in the United Kingdom, which is that communications, instructions and information exchanged for the purposes of giving and receiving legal advice are protected by legal professional privilege. That said, where communications and documents exist as a result of fraud then those documents and communications are likely to be subject to the crime/fraud exception, where they are no longer afforded the protections of privilege.

Fraud as a defence to enforcement of judgments granted abroad

It is possible to rely on fraud as a common law defence to the enforcement of judgments granted abroad but it is a difficult defence to succeed on, as the defendant must show that there was a fraud upon the court.[44]

Although not concerned with the enforcement of a foreign judgment, it is also worth noting that the English Supreme Court in *Takhar v Gracefield Developments Ltd* recently confirmed (subject to certain qualifications) that where it can be shown that a judgment has been obtained by fraud, and where no allegation of fraud had been raised at the trial that led to that judgment, a requirement of reasonable diligence should not be imposed on the party seeking to set aside the judgment.[45]

The relevant principles in English law that govern applications to set aside judgments for fraud were summarised in *Royal Bank of Scotland plc v Highland Financial Partners lp* as follows:

1. there has to be a "conscious and deliberate dishonesty" in relation to the relevant evidence given, or action taken, statement made or matter concealed that is relevant to the judgment sought to be impugned;
2. the relevant evidence, action, statement or concealment (performed with conscious and deliberate dishonesty) must be "material"; and
3. the question of materiality of the fresh evidence is to be assessed by reference to its impact on the evidence supporting the original decision, not by reference to its impact on what decision might be made if the claim were to be retried on honest evidence.[46]

Separately, and as noted above, it is also possible for an arbitral award to be set aside in the Cayman Islands where the respondent can satisfy the court that the making of the arbitral award was induced or affected by fraud, corruption or misconduct on the part of the arbitrator.[47]

International aspects

Conflict of law and choice of law in fraud claims

The Cayman Court has jurisdiction "to entertain a claim *in personam* only if a defendant is served with process in the circumstances authorised by and in the manner prescribed by statute or statutory order".[48] Order 11, Rule 1 of the Grand Court Rules permits service out of the Cayman Islands with leave of the court provided that the circumstances of the claim fall within the enumerated gateways. In *Conway & Others v Air Arabia PJSC* [2025] CIGC (FSD) 41, Asif J of the Grand Court held that section 147 (fraudulent trading) of the Companies Act has extraterritorial effect, and that claims under section 147 can be brought against persons outside of the Cayman Islands – and such claims can be served out of the jurisdiction without leave of the Court.

The Cayman Court will have regard to the doctrine of *forum non conveniens* where a dispute arises as to the forum. Where a party wishes to assert that the Cayman Islands is best placed to bring a claim, the Cayman Court must be persuaded that it is best placed to deal with the allegations of a fraud on a just and convenient basis. For example, relevant factors may include the *situs* of shares in a company or where the company mainly operates (if applicable).

As for assisting overseas governments, although the Cayman Court broadly has no jurisdiction to recognise or enforce foreign sovereign acts in the Cayman Islands, the question of what constitutes a foreign sovereign act will depend on the substance of the right sought to be enforced and the central interest of the foreign government in seeking to bring an action. For example, the Cayman Court may enforce an action by a foreign government where the foreign government asserts proprietary rights on behalf of private parties as part of a regime to compensate victims of fraud.[49]

Collection of evidence in support of proceedings abroad

Applicants may seek to obtain information and evidence in support of proceedings abroad under the Cayman Court's *Norwich Pharmacal* and *Bankers Trust* jurisdiction, as well as under the Evidence Order. In *Essar Global Fund & Essar Capital Fund v ArcelorMittal*, the Cayman Islands Court of Appeal held that there was no overlap between the *Norwich Pharmacal* jurisdiction and the Evidence Order regime if the *Norwich Pharmacal* jurisdiction is confined to its proper scope (the equitable remedy of discovery).[50]

The Cayman Court may grant certain orders under section 242 of the Companies Act to a trustee, liquidator or other official appointed in respect of a debtor in foreign bankruptcy proceedings. These orders include requiring a person in possession of information relating to the relevant business or affairs of a debtor to be examined by, and produce documents to, that foreign representative.

Seizure of assets or proceeds of fraud in support of the victim of fraud

There are a range of tools available to applicants to seize assets or the proceeds of a fraud in support of victims of fraud. These include:

1. freezing (*Mareva*) injunctions and proprietary injunctions;
2. *Anton Piller* orders;
3. the appointment of provisional liquidators; and
4. the appointment of receivers.

The seizure of digital assets is less straight forward, as digital assets may be stored in cold wallets (in which case, physical seizure of the cold storage device through an *Anton Piller* order may be possible), or in hot wallets that sit on the blockchain.

In each case, seizure of misappropriated digital assets will depend on obtaining the private keys to the target wallets, which may not be straightforward. For example, private keys (which are a series of letters and numbers) can be concealed in JPEG images, in hard and cloud storage drives or by physically hiding them (where the keys have been written down). This unique feature to blockchain-related frauds and thefts can make recovery efforts far more challenging than in traditional fraud cases.

The English courts have made great strides in their approach to digital asset recovery. Most recently (while noting the existence of conflicting judgments in England, the English High Court in *Mooij v Persons Unknown and others* [2024] EWHC 814 (Comm) (14 February 2024) granted a victim of a cryptocurrency scam non-proprietary relief against two classes of persons unknown by way of summary judgment, although it acknowledged the challenges that would arise with enforcing the order.

An order was also made for the delivery up of "followable" cryptocurrencies in part against entities related to a cryptocurrency exchange (which hosts hot wallets as a third-party custodian) in which the claimant's followable cryptocurrencies had been traced. The order for delivery up was made on the basis that the victim had a superior proprietary interest against those entities.

Helpfully, the English High Court also considered in *Mooij* that jurisdiction for granting proprietary and non-proprietary relief can be established whereby service of legal process is effected by a non-fungible token airdrop on a target wallet address.

While no equivalent issues have been brought before the Cayman Court and no domestic judgments have been rendered that deal with the proprietary status of digital assets, it is likely that the Cayman Court would also consider adopting a flexible approach to digital asset seizure and recovery.

Enforcement of judgments granted abroad in relation to fraud claims

A foreign judgment will generally be treated as incapable of recognition in the Cayman Islands where:

1. the foreign judgment was obtained by fraud;
2. the foreign court was not competent;
3. the foreign judgment arose in circumstances contrary to natural justice; or
4. the foreign judgment is contrary to Cayman public policy.[51]

The Cayman Court also has no jurisdiction to recognise *in personam* judgments of a foreign court if it would be contrary to public policy to do so (for example, where this would involve recognition of a foreign sovereign act (discussed above)).[52]

Special considerations

The Cayman Islands continues to experience major growth in the digital asset space, with the widespread adoption of tokenised funds and DeFi projects, and a significant increase in DeFi and Web3 service providers. One segment of the digital asset industry in the Cayman Islands that has experienced continued growth is the incorporation and use of foundation companies, which are being adopted by DAOs as the preferred legal wrapper (as opposed to LLCs, decentralised unincorporated non-profit associations, etc.) for a host of purposes, which includes interacting with and participating in off-chain activities. Such activities include opening bank accounts, entering into legal agreements and for the purposes of being legally recognised as an investor or owner of real-world enterprises and assets. The other major advantage a DAO gains in adopting a legal wrapper is the increased legal certainty with respect to the liability of its members. In cases where a DAO (without a legal wrapper) may be sued, there is an increased risk that a court may consider the DAO to be a general partnership (or an unincorporated association), and therefore its members (general partners) may be jointly and severally liable for the DAO's actions.[53] In two such US cases, the plaintiffs took different approaches as to the liability of the general partners:

1. in *Samuels v Lido DAO*, the plaintiff argued that only those entities or persons with the capacity for meaningful participation in management of the DAO (a higher percentage token holding or direct involvement in the management or promotion of the DAO) should be considered as partners; and
2. in*Sarcuni v bZx DAO*, the plaintiff argued that all token holders should be considered partners with unlimited liability.

What is a DAO?

DAOs are virtual associations that sit on a secure, open-source blockchain ledger, making them completely decentralised (in principle, but often not in practice), open and transparent. They are governed by codes that run on a blockchain that will often require a set of pre-determined conditions to be satisfied before a DAO may take any steps. For example, and depending on the parameters of its protocol, a DAO may be dependent on a proposal (which is similar to a shareholder resolution) being put forward and approved by its token holders, before it can act. Successful proposals may also be subject to a quorum being achieved and a requisite proportion of votes in favour of being obtained.

Tokens that carry voting rights may also be referred to as governance tokens. By selling or issuing such tokens to its members, DAOs democratise executive functions by operating a ground-up member voting-based system.

As a result, (and subject to certain other factors being present, which are considered below), there may be instances where it is impossible to enforce a court order against a DAO if the token holders or other key participants are opposed to complying with it, or if the DAO is abandoned.

Tokens are typically purchased on apps or on cryptocurrency exchanges using stablecoins. However, tokens can also be transferred to any nominated wallet address at the point of issuance for no or minimal consideration.

The objectives and parameters of each DAO can vary from fundraising for social and charitable causes (in which members may waive the prospect of redeeming their tokens for cryptocurrencies), to behaving closer to a decentralised venture capital fund for start-ups (whereby tokens producing financial returns are offered to the public and can be traded for value) or protocol DAOs that manage and govern decentralised finance platforms (ie, MakerDao) or decentralised exchanges (ie, Uniswap).

A DAO’s assets (which can also comprise the cryptocurrencies that token holders use to purchase their tokens) are stored at the DAO’s treasury wallet address (which is akin to a publicly visible virtual bank account, and is otherwise referred to as a DAO's treasury assets). The DAO's treasury wallet is normally (but not always) administered by multiple signatories.

Foundation companies: legal wrappers for DAOs

Foundation companies are primarily governed by the Companies Act and the Foundation Companies Act (2025 Revision) (FCA) (but are also subject to certain provisions of the

Trusts Act (2021 Revision)). Depending on the circumstances of each case, the foundation company may also require registration with CIMA as a virtual asset service provider (VASP) (pursuant to the VASP Act).

The FCA has a number of quasi-trust features that support the ethos of a DAO, which champions anonymity, transparency, democratic governance and decentralisation (because a foundation company can be "ownerless") and seeks the exclusion of liability for its members.

The FCA can achieve the DAOs objectives in the following ways:

1. A foundation company is incorporated with shares held by members (just like a traditional company). In the case of a DAO, the initial members can be anyone, including the founders of the DAO, collaborators, software engineers, nominees and proxies.
2. These shares can then be cancelled and the structure becomes memberless (and therefore ownerless), which is permitted under the FCA, subject to a supervisor being appointed in the member's place.
3. A secretary is also appointed, who is licensed or permitted to provide company management services by the Companies Management Act (2024 Revision). In effect, the secretary offers the foundation company a registered office in the Cayman Islands and can reasonably request directors, the foundation company and interested persons (defined below) to supply information to the secretary concerning the foundation company, for the purposes of complying with anti-money laundering, proceeds of crime and counter-terrorism legislation.
4. The foundation company may or may not have beneficiaries, who have no statutory rights against the foundation company itself or its directors.
5. The foundation company is answerable to "interested persons" (which does not include beneficiaries). Interested persons may be members or supervisors, someone who has a right to be a member or supervisor of the foundation company, or someone declared under the foundation company's constitution to be an interested person. Under the FCA, interested persons play a key role in that, unless otherwise expressly provided by the foundation company's constitution, they may bring an action in the name of the foundation company (or on behalf of the foundation company) for enforcement of duties or liabilities of directors in the same manner as a member of an ordinary company would. Interested persons can also issue written requests to directors for information concerning the affairs and business of the foundation company, its accounts and an explanation concerning the discharge of the director's duties.
6. In practice, it is understood that directors of the foundation company will be primarily responsible for the day-to-day running of the DAO and can be (but is not always) one of the signatories to the DAOs multi-signature treasury wallet. Under the FCA, directors do not need to be domiciled in the Cayman Islands or licensed with CIMA.
7. Token issuance, though a regulated activity in the Cayman Islands, can also be carried out by an issuer domiciled outside of the Cayman Islands (often in an unregulated jurisdiction). In either case, the tokens (once issued) are "donated" to

the Cayman foundation company and can be sent to any other nominated wallet address as the case may be.

Challenges with asset recovery and investigations

Although there are clear advantages to DAOs in adopting Cayman Islands foundation companies as their legal wrapper, there are risks associated with this structure. The legislation currently permits directors to be interested persons, which means that there is no statutory requirement that the person who has standing under the FCA to exert oversight as to how the foundation company is being managed, be separate and independent from those who manage the foundation company.

This may have unintended consequences from a regulatory perspective, which includes an increased risk that a foundation company may fail to register as a VASP with CIMA (in circumstances where the VASP Act applies). This lack of checks and balances can also increase the risks of mismanagement, which is an important consideration given that there is legal uncertainty as to the rights and entitlements of DAO token holders. For example, if a court were, on the facts of the case, to find that DAO token holders are beneficiaries under the FCA, then they may have no rights against the foundation company or its management. It remains to be seen whether a case could be made that DAO token holders should in fact be regarded as having a right to be a member of the foundation company (and thus an interested person).

Another important and general consideration for DAOs from a fraud and asset recovery perspective (which is not specific to the Cayman Islands and its legal wrapper) is that a DAOs membership may not always be weighted, so that it is in fact ownerless with no centralised control. In reality, governance tokens can be issued directly to any wallet addresses (the ownership of which can be split across multiple addresses). This creates an opportunity for DAOs to be indirectly controlled at the outset, with the outcome of proposals being subject to the risk of manipulation.

Although it is important to acknowledge the pace at which tools are being developed and deployed on the blockchain to prevent such circumstances from arising, these are risks that asset recovery practitioners ought to be alive to when considering DAOs, particularly when dealing with cases that involve allegations of fraud or money laundering, or both.

Legal uncertainties

There are many legal uncertainties concerning DAOs, which practitioners worldwide are facing. From a Cayman perspective, this includes whether a Cayman court has jurisdiction to wind up a DAO (without a legal wrapper) and whether the court will classify DAO token holders (also referred to as DAO members) as:

1. "beneficiaries" under the FCA, which may deprive them from bringing any claim against the foundation company or its directors, or both (including a breach of fiduciary claim, which is generally accepted as the easier claim to bring rather than a claim in fraud);
2.

interested persons (if a court finds that a DAO's token holder has a right to be a member of the foundation company); or

3. creditors (whether contingent or otherwise) for the purposes of any available insolvency process.

The legal treatment of a DAO's treasury assets will also need clarifying (noting that the Cayman Islands currently has no case law confirming the proprietary status of digital assets). For example, will the Cayman Court find that a DAO's treasury and its digital assets constitute the foundation company's property or will it be legally orphaned where the Cayman Court holds that it belongs to the DAO? This is a critical question for the purposes of understanding what assets (if any) a court-appointed liquidator, receiver and restructuring officer can safeguard.

It also remains to be seen how a court order could be enforced against a DAO that does not pass a proposal sanctioning and whether it will be through the transfer of a DAO's treasury assets to a custodian wallet by a court appointed officer or compliance with a court order, or both.

It also remains to be seen how the DAO's treasury assets may be safeguarded where the signatories of the DAO's treasury wallet are uncooperative and their real identities are unknown. At present, there is no legal requirement that signatories to a DAO's treasury wallet be recorded on a register that is verified with high-quality know-your-customer information.

In circumstances where enforcement of a court order seems impossible, and where a DAO's protocol is not capable of modification or amendment, applicants may have to seek the court's sanction to commission an ethical hack of the DAO (the success of which is not guaranteed) where a DAO is either totally disabled or non-compliant with a court order.

Outlook and conclusions

The asset recovery space is constantly evolving and several topics not canvassed in this chapter may be instrumental in future asset recovery and investigative efforts.

For example, with the exponential advancement of artificial intelligence (AI). AI will likely be deployed to facilitatefinancial crimes (both in the real and virtual worlds through the use of "bots" and "deepfakes"), but also to prevent and detect financial crimes including the automation of tracing and freezing of assets and beyond.

Demands for asset recovery services may also increase with the growing prevalence of ransomware and cyberattacks, crypto investment scams, pig butchering scams (otherwise known as romance scams), address poisoning scams, thefts perpetrated by deepfakes, hacks and liquidations of virtual structures such as DAOs.

The extraction of wealth from investment scams in particular is global, systematic and high in value, and can disproportionately affect less sophisticated or vulnerable investors, or both. Civil recovery under these circumstances can be immensely challenging in jurisdictions where the costs to commence and litigate proceedings can be disproportionately high and where the value of individual claims can be comparably low (despite losses in some circumstances representing a person's entire life savings). This is especially applicable if there is no collective process for mass redress, and where the availability of funding to pursue these types of claims is hard to obtain (as the prospects of recovery can be deemed too remote, complex and expensive to realise). For all of these reasons, the ability to pursue viable claims in this area can be severely constrained and, without further reform in those jurisdictions, these barriers will likely remain to the detriment of vulnerable investors and other victims of financial crimes who seek justice in the civil arena.

Although the advancement of technology may pose significant challenges in the future in the fraud and asset recovery realm, the Cayman Court remains flexible and resolute in assisting victims of fraud and other financial crimes and will continue to adjust to the changing times.

Endnotes

1 According to the Cayman Islands Monetary Authority's (CIMA) "Mutual Fund, Private Funds, and Administrator Statistics", https://www.cima.ky/investment-statistics (29 June 2026). ^ Back to section

2 According to CIMA's Frequently Asked Questions about CIMA Explaining Its Role. ^ Back to section

3 Cayman Finance, Annual Global Crypto Hedge Fund Report 2025, https://caymanfinance.ky/2025/11/13/majority-of-hedge-funds-now-invest-in-crypto-report-finds/. ^ Back to section

4 The Cayman Court's definition constitutes references to the first instance court, the Grand Court of the Cayman Islands, as well as its specialist Financial Services Division and the Cayman Islands Court of Appeal. The final appellate court for the Cayman Islands is the Judicial Committee of the Privy Council (Privy Council) in England. ^ Back to section

5 *In the matter of Norwich Pharmacal Relief* (FSD 295 of 2022 (IKJ)) (Unreported, 15 December 2022) at 13. ^ Back to section

6 *In the matter of Atom Holdings* (FSD 54 of 2023 (IKJ)) (Unreported, 18 May 2023). ^ Back to section

7 *Kuwait Ports Authority & Ors v Port Link GP Ltd & Ors* (CICA (Civil) 002 & 003 of 2022), (Unreported, 20 January 2023). ^ Back to section

8 *Kuwait Ports Authority and Ors (Respondents) v Mark Eric Williams & Ors (Appellants)* [2024] UKPC 32. ^ Back to section

9 *AHAB v SAAD Investments Company Limited et al.*, 2021 (2) CILR 704 at 958. ^ Back to section

10 ibid at 698. ^ Back to section

11 ibid at 702. ^ Back to section

12 ibid. ^ Back to section

13 ibid. ^ Back to section

14 *Autumn Holdings v Renova Resources* 2017 (2) CILR 136. ^ Back to section

15 *AHAB v SAAD Investments Company Limited et al.* (CICA (Civil) Appeal 15 of 2018) (Unreported, 21 December 2021). ^ Back to section

16 Section 4(3) of the Fraudulent Dispositions Act. ^ Back to section

17 H. G. Beale,*Chitty on Contracts* (34th ed.), Sweet and Maxwell: London (2025), at paragraph 9-047; *Ross River v Cambridge City Football Club Ltd* [2007] EWHC 2115 (Ch) at paragraph 202. ^ Back to section

18 *BV Nederlandse Industrie Van Eiprodukten v Rembrandt Enterprises Inc* [2020] Q.B. 551 at paragraph 25. ^ Back to section

19 Section 4 of the Limitation Act (1996 Revision). ^ Back to section

20 Section 37 of the Limitation Act (1996 Revision). ^ Back to section

21 *Scully Royalty Ltd et al. v Raiffeissen Bank Int* (CICA (Civil) Appeal 21 of 2020) (Unreported, 30 December 2021). ^ Back to section

22 *Samir Bandali v Coinpayments Inc et al.* (G 51 of 2021 (RWJ)) (Unreported, 9 November 2021) citing Gross LJ at paragraph 40 in *Emmott v Michael Wilson & Partners Ltd* [2019] EWCA Civ 219. See also *Banco Intl de Costa Rica SA v Banana Intl Corp* 2018 (2) CILR 125 (post-judgment freezing order). ^ Back to section

23 *Hampshire Cosmetic Labs Ltd v Mutschmann*, 1999 CILR 21 at p. 34. ^ Back to section

24 *Anton Piller KG v Manufacturing Processes Ltd* [1976] CH. 55 at 62. ^ Back to section

25 See *In the Matter of Atom Holdings* (FSD 54 of 2023 (IKJ)) (Unreported, 18 May 2023) for an analysis of the standing issue for contingent creditors. *In the Matter of AuBit International* (FSD 271 of 2023 (DDJ)) (Unreported, 19 October 2023) for further analysis of contingent creditor standing and following*Atom Holdings*. ^ Back to section

26 The Cayman Court has the same authority as the English High Court pursuant to the (UK) Senior Courts Act, 1981. ^ Back to section

27 Section 11A of the Grand Court Act. ^ Back to section

28 *In the Matter of Principal Investing Fund I Ltd* (FSD 268 of 2021 (DDJ)) (Unreported, 29 September 2021). ^ Back to section

29 See sections 101–103 and 138 of the Companies Act. ^ Back to section

30 *Essar Global Fund Limited and Essar Capital Limited v ArcelorMittal USA LLC* (CICA (Civil) Appeal 15 of 2019) (Unreported, 3 May 2021). ^ Back to section

31 *Bankers Trust Co v Shapira* [1980] 1 WLR 1274 (CA). ^ Back to section

32 *LMN v Bitflyer and Others* [2022] EWHC 2954 (Comm). ^ Back to section

33 Cayman Islands Law Courts, New Rule 7A Added to Order 24 - Pre-action Discovery and Discovery from Non-parties, Cayman Islands Law Courts, https://judicial.ky/new-rule-7a-added-to-order-24-pre-action-discovery-and-discovery-from-non-parties/ (29 June 2026). ^ Back to section

34 Section 134 of the Companies Act. ^ Back to section

35 Section 135 of the Companies Act. ^ Back to section

36 (FSD 135 of 2023 (IKJ)) (unreported, 6 July 2023). *Re Cradle Holdings Inc* (FSD 318 of 2022 (MRHCJ)) followed the principle in *Re Real Estate*. ^ Back to section

37 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958). ^ Back to section

38 The FAAEA gives effect to the New York Convention. ^ Back to section

39 *In re China CVS (Cayman Islands) Holding Corp*, 2019 (1) CILR 266; *In the matter of Ren Ci & Ors* (FSD 210 of 2022); Arbitration Act, section 4. ^ Back to section

40 Arbitration Act, section 74(2). ^ Back to section

41 ibid, section 75. ^ Back to section

42 *In re China Hospitals Inc,* 2018 (2) CILR 335. ^ Back to section

43 Grand Court Rules, Order 18, Rule 8(1). ^ Back to section

44 *Elliot v Cayman Islands Health Service Authority* [2007 CILR 163] (20 April 2007). ^ Back to section

45 *Takhar v Gracefield Developments Ltd* [2020] UKSC 13 at [54] [*Takhar*]. ^ Back to section

46 *Royal Bank of Scotland plc v Highland Financial Partners lp* [2013] 1 CLC 596 and paragraph 56 of *Takhar*. ^ Back to section

47 Arbitration Act, section 75(1)(vi). ^ Back to section

48 *T Co v AA, BB, CC, DD, EE (A Minor)* (FSD 188 of 2017 (RPJ)) (Unreported, 13 March 2018). ^ Back to section

49 *TMSF v Merrill Lynch Bank & Trust Co (Cayman) Ltd,* 2008 CILR 267. ^ Back to section

50 *Essar Global Fund & Essar Capital Fund v ArcelorMittal USA LLC* (CICA (Civil) Appeal 15 of 2019) (Unreported, 3 May 2021). ^ Back to section

51 *Lakatamia Shipping Co Ltd v Su* (Grand Ct.), 2017 (1) CILR 416. ^ Back to section

52 *TMSF v Merrill Lynch Bank & Trust Co (Cayman) Ltd*. ^ Back to section

53 *Christian Sarcuni et al. v bZx DAO, et al*., No. 22-cv-618-LAB-DEB (S.D. Cal. Mar. 27, 2023). See also *Samuels v Lido DAO*, No. 23-cv-06492 (N.D. Cal. Nov. 18, 2024). ^ Back to section

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