

Administration management - new legislation confirms court's powers subject to provisions of companies law

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On 6 June 2016, Ogier published an article about the GFSC's interventionist powers and the Royal Court's approach following the decision in *In the matter of Global Mutual Fund PCC Ltd (In Administration) & Ors* . A link to that article can be found [here](#).

In terms, the Court held it had power to override legislative provisions contained in other Bailiwick Laws (i.e. in this case, the Companies (Guernsey) Law 2008) in exceptional circumstances where there were risks to investors. This was to ensure the protection of the reputation of the Bailiwick of Guernsey as a place to do business. The result in the *Global Mutual* case was that one cell of a Protected Cell Company ("PCC") could be ordered to pay the liabilities of another.

The decision was surprising locally, since one of the specific purposes of a PCC is to ensure that other cells are protected in the event that another cell is compromised.

Since the *Global Mutual* decision, the States of Guernsey have drafted and approved an ordinance^[1] which ensures that where the Court is exercising its powers to protect investors^[2], that is always subject to the provisions in the Companies Law in respect of PCCs such that one cell will not be ordered to pay the liabilities of another.

Although it was anticipated that the *Global Mutual* decision was exceptional, such that there were unlikely to be many, if any, future decisions where one cell would be ordered to meet the liabilities of another, the Amendment Ordinance removes any such uncertainty.

For further information, please contact Mathew Newman, Partner, Ogier dispute resolution team

[1] The Protection of Investors (Administration and Intervention)(Bailiwick of Guernsey) (Amendment) Ordinance 2016 which came into force on 25 July 2016

[2] Under the Protection of Investors (Administration and Intervention)(Bailiwick of Guernsey) Ordinance 2008

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