

	Australia	England & Wales	Hong Kong	Singapore	USA
Is insolvency always required?	No, both solvent and insolvent liquidations can occur.	No, both solvent and insolvent liquidations can occur.	No, both solvent and insolvent liquidation can occur.	No, both solvent and insolvent liquidations can occur.	No, both solvent and insolvent liquidations can occur, but upon challenge, the debtor must be able to show that the case was filed in good faith and for no improper purpose.
What forms of liquidation are available?	<p>Compulsory liquidation: An application is made to the court to wind up the company, and an order is made by the court to liquidate the company.</p> <p>Creditors' voluntary liquidation (CVL): After a company becomes insolvent, the members can resolve to wind up the company.</p> <p>Members' voluntary liquidation (MVL): If the directors believe the company will be able to pay its debts in within 12 months from the commencement of the liquidation, then the members can resolve to wind up the company.</p>	<p>Compulsory liquidation: A petition is presented to the court to wind up the company. A winding-up petition may be presented on several grounds, but the most commonly used ground is that the company is unable to pay its debts. Following presentation of the petition, the court may make an order that the company be wound up.</p> <p>CVL: After a company becomes insolvent, the members can pass a special resolution (which requires a majority of members representing not less than 75% of the total voting rights of eligible members to vote in favour) to wind up the company.</p> <p>MVL: If the directors are prepared to swear a statutory declaration of solvency (stating that the company will be able to pay its debts in full, together with any interest, within a specified period not exceeding 12 months from the commencement of the liquidation), then the members can pass a special resolution (requiring a majority of members representing not less than 75% of the total voting rights of eligible members to vote in favour) to wind up the company.</p>	<p>Compulsory liquidation: A petition is made to the court to wind-up the company, and an order is made by the court to liquidate the company.</p> <p>CVL: After a company becomes insolvent, the members can resolve to wind up the company.</p> <p>MVL: If the directors believe, after full enquiry into the company's affairs, the company will be able to pay its debts in full within 12 months from the commencement of the liquidation (and sign a certificate of solvency), then the members can resolve to wind up the company.</p>	<p>Compulsory liquidation: An application is made to the court to wind up the company, and an order is made by the court to liquidate the company.</p> <p>CVL: After a company becomes insolvent, the members can resolve to wind up the company. This is followed by a meeting of creditors, where creditors may nominate their choice of liquidator.</p> <p>MVL: If the directors believe the company will be able to pay its debts in within 12 months from the commencement of the liquidation and lodge a statutory declaration to that effect, then the members can resolve to wind up the company.</p>	<p>Chapter 7 bankruptcy: A petition for relief under chapter 7 is filed with the court of proper jurisdiction to liquidate the company.</p> <p>Upon entry of the order for relief, a bankruptcy trustee is appointed as the debtor's representative to marshal the company's property and distribute the proceeds to creditors.</p>
Who can initiate the process?	<p>Compulsory liquidation: The company, directors, members, contributories, a liquidator, ASIC or creditors can all apply to the court to commence liquidation.</p> <p>CVL: The members, or a liquidator in situations where the company is already undergoing an MVL and the liquidator determines that the company is insolvent.</p> <p>MVL: The directors or members.</p>	<p>Compulsory liquidation: The company, its directors, members, creditors, contributories, or a designated officer for a magistrates' court.</p> <p>CVL: The members.</p> <p>MVL: The members.</p>	<p>Compulsory liquidation: The company, shareholders, liquidators, and creditors.</p> <p>CVL: The directors or members.</p> <p>MVL: The members.</p>	<p>Compulsory liquidation: The company, contributories, directors, judicial manager, liquidator, or creditors.</p> <p>CVL: The members, or a liquidator in situations where the company is already undergoing an MVL and the liquidator determines the company is insolvent..</p> <p>MVL: The directors, who initiate the process by making a statutory declaration of solvency. The members subsequently resolve to wind up the company.</p>	The company or its creditors.

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Role of the court in commencing the procedure and approving the plan	<p>Compulsory liquidation: The court hears the application for winding up, and passes orders commencing the liquidation.</p> <p>CVL & MVL: No mandatory role in either situation, although the court has various ancillary powers exercisable on application.</p>	<p>Compulsory liquidation: A winding-up petition is presented to the court, and then a hearing is conducted where the court will decide whether it is appropriate to make a winding-up order. The court has discretion to dismiss or adjourn the petition.</p> <p>CVL & MVL: No mandatory role in either situation, although the court has various ancillary powers exercisable on application.</p>	<p>Compulsory liquidation: A winding-up petition is presented to the court, and the court makes a winding-up order against the company if the court is satisfied that the grounds for winding-up are established.</p> <p>CVL & MVL: No mandatory role in either situation, although the court has various powers to give directions or orders, exercisable on application, and may, on cause shown, appoint or remove the liquidator</p>	<p>Compulsory liquidation: The court hears the application for winding up, and passes orders commencing the liquidation.</p> <p>CVL & MVL: No mandatory role in either situation, although the court has various ancillary powers exercisable on application.</p> <p>Notably, the court may terminate or stay all forms of winding up on the application of a liquidator or creditor.</p>	<p>Whether the case is filed on a voluntary or involuntary basis, the bankruptcy court presides over the case and where necessary, adjudicates claims asserted against the debtor, and authorizes specific actions by the trustee and other parties in interest.</p>
Committee of creditors?	<p>Referred to as a "committee of inspection". Liquidator must have regard to the directions of the committee but does not have to adhere to them.</p>	<p>In a compulsory liquidation or creditors' voluntary liquidation, a small group of representative creditors may be appointed by all creditors to assist the liquidator in the discharge of their functions and to approve their remuneration. If appointed, this group is referred to as a "liquidation committee". The liquidator must have regard to the directions of the committee but does not have to adhere to them.</p>	<p>Referred to as a "committee of inspection". A committee of inspection may not be appointed in every liquidation. Where there is a committee of inspection the Liquidator must have regard to the directions of the committee but does not have to adhere to them, even though in practice it is rare for a liquidator to act against the wishes of the committee.</p>	<p>Referred to as a "committee of inspection". Liquidator must have regard to the directions of the committee but does not have to adhere to them.</p> <p>Certain powers can only be exercised by the liquidator with the approval of either the Court or the committee.</p>	<p>Where a case is converted from chapter 11, any creditors' or ad hoc committee appointed during chapter 11 is typically dissolved. Although a creditors' committee may be appointed during a chapter 7 case, such appointment is not typical and allows for a more proscribed role and duties than committees appointed in a chapter 11 case.</p>
Moratorium on claims against the company	<p>Upon liquidation an automatic moratorium on claims against the company applies.</p> <p>However, secured creditors who are entitled to enforce a security interest in the whole, or substantially the whole, of the property of the company retain the right to appoint a receiver and may also enforce their security despite the moratorium.</p>	<p>In a compulsory liquidation, there is an automatic stay on the commencement or continuation of proceedings against the company without the leave of the court.</p> <p>There is no automatic stay on proceedings against a company in a CVL or an MVL. However, the court has discretion to order that any particular proceedings are stayed on application by the liquidator or a creditor.</p>	<p>No moratorium with respect to voluntary liquidations, although the court has discretion to stay legal proceedings on the application of a creditor, contributory or the liquidator.</p> <p>In a compulsory liquidation, there is a stay on proceedings against the company without the leave of the court.</p>	<p>Upon liquidation an automatic moratorium applies on claims against the company, although this does not prohibit secured creditors from enforcing their security.</p>	<p>In a voluntary Chapter 7 liquidation, an immediate injunction applies against nearly any act by a creditor or party in interest to continue collection efforts or exercise control over the property of the bankruptcy estate.</p> <p>In an involuntary Chapter 7 liquidation, an automatic stay enjoining creditors from acting applies.</p>
Does the liquidator have the ability to disclaim contracts	<p>Liquidator has power to disclaim certain property and unprofitable contracts.</p>	<p>Yes, liquidator has power to disclaim onerous property or contracts.</p>	<p>Yes, liquidator has power to disclaim onerous property or contracts.</p>	<p>Yes, liquidator has power to disclaim onerous property, which includes unprofitable contracts.</p>	<p>Yes. The trustee must petition the court for authority to assume any executory contract or unexpired lease by the 60th day after the petition date, otherwise such contracts and leases are deemed to be rejected.</p> <p>The assumption of leases and contracts in chapter 7 typically occurs when the trustee wishes to assign it to a third-party buyer of estate property.</p>

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Does the liquidator have the ability to avoid prior transactions	Yes, the liquidator can avoid pre-liquidation transactions on numerous bases, including: <ul style="list-style-type: none"> • unfair preferences; • uncommercial transactions; • transactions with the purpose of obstructing creditors' rights; • unfair loans; and • unreasonable director-related transactions. 	Yes, the liquidator can avoid pre-liquidation transactions on numerous bases, including: <ul style="list-style-type: none"> • transactions at an undervalue; • preferences; • extortionate credit transactions; • invalid floating charges; and • transactions defrauding creditors 	Yes, the liquidator can avoid pre-liquidation transactions on numerous bases, including: <ul style="list-style-type: none"> • transactions at an undervalue; and unfair preferences.	Yes, the liquidator can avoid pre-liquidation transactions on numerous bases, including: <ul style="list-style-type: none"> • transactions at an undervalue; • unfair preferences; and • extortionate credit transactions. 	Yes, the trustee can avoid pre- and post-petition transactions on numerous bases, including: <ul style="list-style-type: none"> • unperfected liens; • actual or constructively fraudulent transfers; and • preferential transfers.
Can directors be personally liable for the company trading while insolvent?	Yes (referred to as 'insolvent trading').	Yes (referred to as 'wrongful trading').	No (but the legislature of Hong Kong is in the process of considering and enacting insolvent trading provisions).	Yes (referred to as 'wrongful trading').	No.
Do employee entitlements rank above floating charges?	Yes. (Note that floating charges are now referred to as security interests in circulating assets.)	Yes, employees are 'preferential creditors' in relation to arrears of wages, accrued holiday pay, unpaid contributions to occupational pension schemes and state scheme premiums (within certain limits). To this extent, employees' claims will rank above floating charges.	Yes, employee entitlements (subject to limits) will rank above floating charge holders.	Yes, employee entitlements (subject to limits) will rank above floating charge holders.	Yes, employee claims for unpaid wages, benefits, and commissions will rank above general unsecured claims up to a statutory threshold so long as the compensation was earned within 180 days before the petition date or the date of cessation of debtor's business. Any wages above the statutory cap will be treated as general unsecured claims.