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**MEDIA RELEASE**

**Better protection for creditors of insolvent companies is timely - advocate**

Recent high profile Guernsey liquidations have underlined the importance of changes to the island's corporate insolvency regime which are expected to come into force early next year, according to Babbé Partner Todd McGuffin.

The reforms provide stronger measures to protect creditors and consumers when businesses fail by requiring more clarity and certainty when a company is to be wound up.

Sarnia Estate Agents and Waves Technologies Limited, the parent company of local airline Waves, have both made the headlines with news of their insolvency.

Advocate McGuffin said the changes to The Companies Law (Guernsey) 2008 will be of benefit both to creditors and consumers and will enhance Guernsey's international reputation as a transparent and creditor-friendly jurisdiction.

Reforms include the requirement for a liquidator in an insolvent voluntary liquidation to give notice of their appointment to creditors, to hold at least one meeting with creditors and to report to creditors on an ongoing basis. Creditors will be better able to engage with the liquidator and understand their rights.

"Previously it was not uncommon for directors or shareholders of companies to be appointed as liquidators to conduct an insolvent voluntary liquidation. However, where such liquidators might benefit from refusing to acknowledge the claims of some creditors, potential conflicts of interest may arise. The changes will require the appointment of independent liquidators to insolvency voluntary winding ups," said Advocate McGuffin.

Additional powers will be given to liquidators, whether the liquidation is voluntary or compulsory, to demand the production of information from directors at the earliest opportunity. This should allow liquidators to understand more quickly and efficiently the state of the company's assets, liabilities, debts and creditors. Liquidators will also be able to apply to the Royal Court for an order requiring other individuals with knowledge of the company's affairs to be examined and be compelled to provide information.

These new powers will sit alongside a proposed ongoing obligation on liquidators to report any findings or suspicions of misconduct on the part of directors or officers of a company which will assist the authorities in identifying delinquency and potential wrong doing.

The changes to the corporate insolvency regime follow input from local insolvency lawyers and practitioners. They were approved by the States in March 2017 and amending legislation is expected to come into force by the end of March next year.

**ENDS**

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### **Notes to Editors**

There are two corporate liquidation processes in Guernsey. Compulsory winding up is where the Royal Court orders that a company be wound up (usually as it is proven to be insolvent), appoints an independent liquidator and the court supervises the winding up process. There is also voluntary winding up where the shareholders of the company agree that the company should be wound up. A voluntary winding up can be solvent (where there is enough money to pay all creditors in full) or insolvent (where creditors will not get paid in full or at all). In all cases, liquidators are under a duty to act in the best interests of all creditors.

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