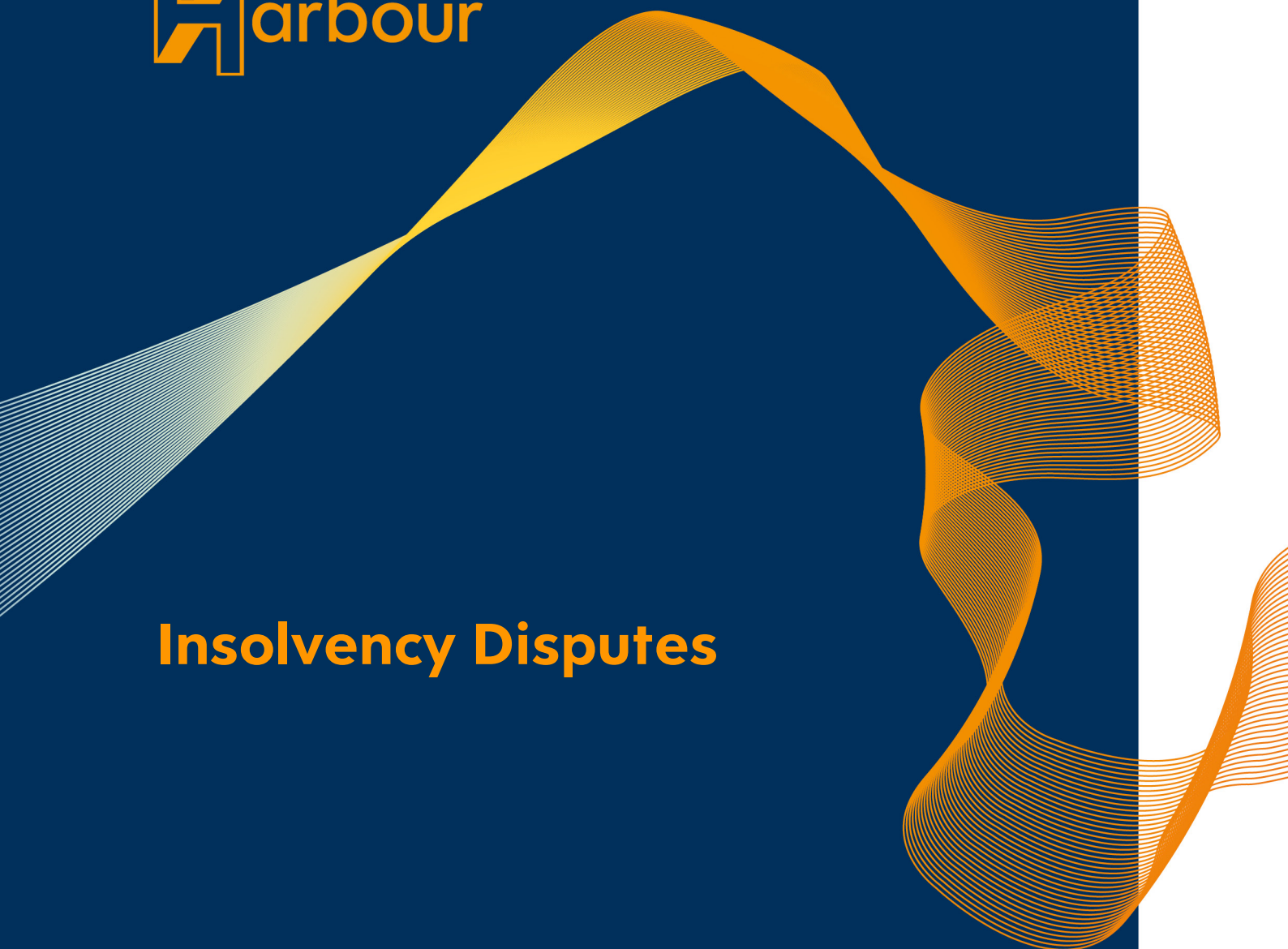




Insolvency Disputes





What are insolvency disputes?

When an organisation or individual cannot meet its financial obligations, it may become subject to formal insolvency proceedings. Procedures vary between those which seek to save the business (like administration) and those which seek to wind up the affairs of the business and distribute any remaining funds to stakeholders (like liquidation).

Disputes may arise either from the circumstances which led to the insolvency or the relative rights to distributions of the stakeholders.

Is funding right for your claim?

We need to understand the details of your claim to ascertain whether it could be funded. It is also important for us to know we can rely on your support in bringing the claim to a successful resolution. Answers to the following questions will help us to quickly assess your claim.

Recoverability	<ul style="list-style-type: none">• Where, and against whom, will claims be brought?• Who are the creditors, and how much are they owed?• Has the defendant sufficient assets, or an insurance policy, to satisfy a judgment against them?
Economics	<ul style="list-style-type: none">• How much funding do you need to succeed in the claim? We can fully fund, share costs, fund disbursements only, or purchase entitlement to claims.• What is the budget for each stage of proceedings, for both lawyers and insolvency practitioners?• How long do you expect the case will take?
Experience	<ul style="list-style-type: none">• What is the track record of running this type of claim, for both the insolvency practitioners and the lawyers? Has this team worked together successfully before?• Is there a creditors committee and what is their involvement in the ongoing prosecution of the case?• What is the enforcement strategy for this case?
Merits	<ul style="list-style-type: none">• On what basis are the claims to be brought (e.g. breach of contract, breach of statutory duty, transaction at undervalue, wrongful trading, preferential treatment of creditors, unlawful dividends, etc)?• Is there written legal advice about the strengths and weaknesses of the claim?• Have the creditors been consulted about whether they will fund the claim and if not whether they want to seek funding?



What sets us apart?

Harbour is amongst the largest and most experienced funders in the world, having supported cases in 14 jurisdictions and 6 arbitral forums since 2007. Our experience of reviewing over 4,000 claims means we can quickly review the responses to the questions above and provide an indicative view on pricing, before guiding you through our due diligence process.

Our pricing

Harbour provides a flexible and tailored solution to suit your needs. We can cover all or part of your legal fees and disbursements, including potential adverse costs and funding for security for costs.

The pricing of our funding is bespoke and is informed by our view of the specific risks involved. We consider factors such as the claim value, the budget required, the merits, the jurisdiction of your claim, and any potential difficulties with enforcement.

A number of pricing options are available, with non-recourse funding being the most popular, where Harbour only receives a return when proceeds are recovered. Should the claim be unsuccessful, the risk is entirely ours, and you owe Harbour nothing. Pricing is generally structured as a return of capital plus the greater of a percentage of proceeds and a multiple of our capital.

Recourse funding is also available, which allows a claimant to maximise their return and free up capital. This financing is repayable at the end of the process, regardless of the outcome of the case.

We can also acquire interests in claims and judgments, providing immediate cash payments of an agreed percentage of the claim or judgment value, potentially with more to follow upon successful recoveries if the claimant wishes to remain involved.

We seek to agree pricing which fairly rewards the risk you and we are taking.

Pricing is agreed with our investment team at an early stage in our discussions, and before the case is presented to our investment committee you will know what the pricing is and how an agreement will be structured. More information on pricing and our processes is available on our website.



Insolvency dispute case study

Harbour funded the liquidator of an insolvent logistics business in Hong Kong. As the company was failing, the company's owner transferred company assets into the name of a family member. These assets included, amongst others, \$2bn of stock in a listed company.

Before being introduced to Harbour, and although the creditors had more than sufficient means to fund the claim, the length of time required to do so, the costs already incurred, and the complexities thrown up by the insolvency process caused them to consider discontinuing the case.

With uncertainty over where the defendant's assets were located, a primary concern for Harbour was to ensure funds could be recovered for the claimants. Early in the proceedings we funded an application to appoint a receiver over the listed shares that had been transferred, pending the outcome of the litigation. Harbour was also able to arrange an insurance policy to provide a cross-undertaking in damages of £20m, which, in the event the case was unsuccessful, protected the claimants from having to cover any losses occasioned by preventing the defendants dealing with their frozen asset.

The defendant sought to overturn the appointment of the receiver, and though they initially succeeded, we funded a successful appeal. As it became clear to the defendant that thanks to Harbour's funding the case was not going away, and that any judgement could be successfully enforced upon the value of the listed shares, they agreed to a favourable settlement for the creditors.



+44 20 3829 9320

8 Waterloo Place, London, SW1Y 4BE

harbourlitigationfunding.com