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Voluntary Winding-up of a Cayman Islands Company

A Cayman Islands company can be dissolved by the appointment of a liquidator or it can be dissolved without such appointment if the company is struck off the register as a result of an application to the Registrar of Companies for the purpose.

Voluntary liquidation

In circumstances where the company has been active and has substantial assets and liabilities, it is normal and recommended for the company to be liquidated.

If a liquidation is pursued the company would normally agree the liquidation fee with the liquidator and will often be requested to provide the liquidators with an indemnity. Voluntary winding-up (liquidation) pursuant to the Companies Law (as Revised) (the “**Law**”) involves the following procedures:

Directors meeting

The Directors commence a voluntary winding-up by holding a meeting of the Board of Directors to give notice to the shareholders that an Extraordinary General Meeting of Shareholders is to be held to consider the passing of a Special Resolution that the company be placed in voluntary liquidation.

Shareholders’ meeting

The Directors, or if one is appointed, the secretary of the company should circulate the appropriate notice convening the meeting. The appropriate period of notice will be determined by reference to the company’s Articles of Association and the Companies Law as the period for a special resolution. The shareholders of the company pass a special resolution that the company be voluntarily wound up and a liquidator appointed. Alternatively, if the Articles of Association permit it, a written resolution may be signed by all the members of the company.

A special resolution is one which is passed by a two thirds majority of the shareholders present at a meeting duly convened by notice specifying the time and place of the meeting and the resolution to be passed. Alternatively, and if so provided for in the Articles of Association of the company, the special resolution may take the form of a circular resolution. However, this type of resolution has to be approved in writing by all of the members entitled to vote at a general meeting of the company.

A copy of the special resolution is then filed with the Registrar of Companies and the liquidation commences.

Public notice

Notice of the special resolution winding up the company and appointing the joint liquidators is published in the Cayman



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Islands Gazette advising of the liquidation and advertising for creditors to come forward. The Liquidator then proceeds to collect the assets and discharge the liabilities of the company.

If the date of the final meeting of shareholders can be established at this stage (i.e. the company has no assets or liabilities) notice of the date of the final meeting can be placed in the Gazette at this time.

As soon as the affairs of the company are fully wound up, the liquidators advertise by public notice or otherwise as the Registrar of Companies may direct, the time, place and object of the final general meeting of the company, which is to be held not less than one month after the date the notice is published, for the purposes of explaining the final accounts of the liquidation.

If the company has no assets or liabilities and the date of the final meeting has already been set at the time that the notice of liquidation was published, the liquidator may proceed to hold the final meeting.

Liquidators' reports

In the terms of the statutory insolvency provisions, the liquidators must report back to the shareholders of the company periodically through the liquidation process so as to keep them informed of the collection and realisation of assets and the settlement of liabilities. All such meetings will be convened at the instance of the joint liquidators.

An interim report by the liquidators will provide detail of the assets identified and the liabilities claimed and accepted as being due and owing. The report may also indicate what, if any, dividend is to be paid on liabilities including any distribution that is anticipated for the benefit of the shareholders.

The liquidation itself is concluded after the liquidators have provided their final report to the shareholders. The liquidators will, once again, convene the appropriate meeting and present their final report. After the conclusion of that final meeting, the liquidators must file a notice confirming that the meeting has been held and the appropriate resolutions approved to conclude liquidation.

Consequences of Voluntary winding-up

The following consequences shall ensue upon the voluntary winding-up of the company:

- i. Voluntary winding-up and dissolution is taken to have commenced on the date of the special resolution referred to above.
- ii. The company from the date of commencement of winding up ceases to carry on its business, except in so far as may be required for the beneficial winding up thereof. However all of the company's corporate powers shall continue until the affairs of the company are wound up.
- iii. The property of the company shall be applied in satisfaction of its liabilities *pari passu* and subject thereto, shall, unless it be otherwise provided by regulations of the company, be distributed amongst the members according to their rights and interests in the company.



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- iv. Upon appointment of the liquidators all the powers of the directors shall cease, except insofar as the company, by resolution of its shareholders or the liquidators, may sanction the continuation of such powers. All transfers of shares and any alteration to the status of the shareholders of the company requires the sanction of the liquidator.

This publication is not intended to be a substitute for specific legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and general guidance only. For more specific advice on voluntary winding-up of Cayman Islands companies, please contact:

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