



INSOL
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Introductory Certificate in Insolvency Law & Practice in the Cayman Islands

Chapter 1 – Overview & Introduction

Chapter 2 – Ethics & Professional Practice

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Introduction

- Speaker background
- Genesis of the course
- Aims of the course
- Timing of session
- Course notes contain comprehensive details of what we'll discuss
- Questions welcomed throughout, however if insufficient time happy for any delegate to email me at john.royle@uk.gt.com at any stage during the entire course

Agenda

- Chapter 1 – 35/40 mins
 - Cayman judicial system
 - Sources of law/legislation
 - Regulations (AML, FATCA, Data Protection, Economic substance, Beneficial Ownership regime)
- Chapter 2 – 35/40 mins
 - Court systems/Oversight of insolvency process
 - Insolvency Practitioners – regulations, qualifications, eligibility
 - Ethics (CILPA & CIIPA)
 - Litigation Funding

Chapter 1 - Cayman judicial system

- Cayman, BOT, some laws adopted from UK, and look to common law jurisprudence as well as strong local laws and case law
- Grand Court tries all civil disputes including some of the most complex commercial, trust and fraud disputes in the Caribbean. In particular, the FSD deals with all insolvency & restructuring related matters
- Above that we have the CICA – the highest Court in Cayman that hears appeals flowing from the Grand Court. Typically sit quarterly
- Then higher, ultimate disputes/appeals go to the Privy Council in London
- Cause lists are published on a weekly basis, where the public can view all cases to be heard during any particular week and by specific Grand Court divisions (link below if interested):
- [Cause Lists – Cayman Islands Judicial & Legal Website | An official website of the Cayman Islands Government](#)

Sources of Law

- The main sources of law pertinent to insolvency and restructuring procedures lie within the following legislation
 - The Companies Act (2023 Revision) – PART V (“the Act”)
 - The Companies Winding Up Rules 2018 (As amended) (“CWRs”)
 - The Insolvency Practitioners Regulations 2018 (As amended) (“IPRs”)
 - The FSD Division Guide
- NB – the course notes provide a link to all the above legislation

Regulations

- Thankfully you'll be pleased to hear I'm not going to go into too much detail regarding the various regulations, but practitioners need to be mindful of certain legislation where it crosses over into insolvency & restructuring matters. These include (but not limited to):
 - AML
 - FATCA/CRA (Common Reporting Standards)
 - Economic Substance ("ES")
 - Data Protection Act
 - Beneficial Ownership Regime ("BOR")
 - Confidential Disclosure of Information Law ("CDIL")

Chapter 2 – Court system/Oversight of IPs

- Court system hierarchical, as discussed in Chapter 1
- No RPBs for Insolvency Practitioners – ie in the UK for example you'd be subject to regulatory body inspections on a regular basis
- We do have an Insolvency Rules Committee p.t s154 of the Act
- Purpose of the Committee is to make rules and prescribe forms for insolvency & restructuring processes, IPR scale rates re remuneration, Court fees etc
- Court monitors IP conduct

Who can act as an Official Liquidator?

- Set out in the IPRs in detail
- Qualification, residency, insurance & independence tests
- Foreign practitioners?

Ethical considerations

- CILPA – provides governance of lawyers
 - Adopt International Principles on Conduct, 10 key principles for lawyers to consider. Independence, Honesty/Integrity, Conflicts, Confidentiality, Clients' interests, Lawyers undertakings, Clients' freedom to be represented, Protection of Property, Competence, Fees
- CIIPA – provides governance of accountants/IPs
 - Code of Ethics broadly taken from the Joint Insolvency Committee (UK)
 - Fundamental principles concern; Integrity, Objectivity, Professional/Technical competence, Confidentiality and Professional behaviour

Litigation Funding

- Now permissible p.t Private Funding of Legal Services Act 2020
- Liquidators will need Court sanction
- Court will have regards to, funder financial condition, control of litigation, fees to be charged by funder, stakeholder/Committee views
- Conditional Fee agreements also now permitted
- Contingent Fee agreements now also permitted

Questions??

- Contact details below for anyone who has any further follow up questions at any time during your studies:

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