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Introductory Certificate in Insolvency Law & Practice in the Cayman Islands

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Education Committee Member

Introduction

- Speaker background
- Genesis of the course
- Aims of the course
- Timing of session
- Questions welcomed throughout, however if insufficient time happy to take questions by email afterwards at prudence.pryce@uk.gt.com
- Course notes contain details of lecture

Agenda

- Chapter 1 – 30/35 mins
 - Cayman Islands judicial system
 - Sources of law
 - Regulations (AML, FATCA & CRS, ES, DPA, BOR)
- 10 Mins Break
- Chapter 2 – 30/35 mins
 - Court system/Oversight of insolvency process
 - Insolvency Practitioners – regulations, eligibility
 - Ethics (CILPA & CIIPA)
 - Litigation/Liquidation 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
 - Privy Council (London)
↑
 - Cayman Islands Court of Appeal (CICA)
↑
 - Grand Court
↑
 - Summary Court
- [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) (“the Act”) – PART V.
 - The Companies Winding Up Rules (2023 Consolidation) (“CWRs”)
 - The Insolvency Practitioners Regulations (2023 Consolidation) (“IPRs”)
 - The Financial Services Division Guide (Second Edition, August 2015)
- Link to legislation: [Cayman Islands Legislation - Current \(gov.ky\)](https://www.gov.ky)

Regulations

- IPs must be mindful of legislation that cross over into insolvency & restructuring matters. These include (but not limited to):
- Anti-Money Laundering (AML) framework
- FATCA & CRS
- Economic Substance (ES)
- Beneficial Ownership Regime (BOR)
- Data Protection Act (DPA)
- Confidential Information Disclosure Act (CIDA)

Chapter 2 – Court system/IP Oversight

- Court system hierarchical, as discussed in Chapter 1
- Cayman has an Insolvency Rules Committee s.154 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
- No RPBs for IPs – e.g. in the UK where IPs are subject to regulatory body inspections on a regular basis
- Court monitors IP conduct

Who can act as an Official Liquidator?

- Set out in the IPRs in detail
- Eligibility test:
 - Qualification
 - Residency
 - Insurance
 - Independence
- Foreign practitioners

Ethical considerations

- CILPA – provides governance of lawyers
 - Adopts 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: Integrity, Objectivity, Professional/Technical competence, Confidentiality and Professional behaviour

Litigation Funding

- Permissible under Private Funding of Legal Services Act, 2020
- 3 types of funding agreements:
 - third party funding agreement
 - Conditional fee agreements
 - Contingency fee agreements
- Liquidators will need Court approval/sanction
- Court will have regard to, funder financial condition & fees, control of litigation, stakeholder/Liquidation Committee views

Questions??

- Contact details:

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