

CYPRUS FIDUCIARY ASSOCIATION

CYFA 2022 Seminar #4: “Induction Course in Administrative Services”



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CYPRUS FIDUCIARY ASSOCIATION

“GENERAL PRINCIPLES OF CYPRUS COMPANIES LAW”



04 May 2022

Live Online

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GENERAL PRINCIPLES OF CYPRUS COMPANIES LAW

- ❖ Cyprus Companies' Law
- ❖ Concept of a Cyprus Company
- ❖ General Principles
- ❖ Memorandum and Articles
- ❖ Share Capital and Variations thereof
- ❖ Shares
- ❖ Members of a company
- ❖ General Meetings and Resolutions
- ❖ Directors: Role, Duties and Liabilities
- ❖ Role of the Company Secretary
- ❖ Winding up
- ❖ Striking off
- ❖ Main points on Corporate Administration



- ❖ The applicable law is the Cyprus Companies Law, Cap. 113, as amended (the “**Law**”).
- ❖ The Law initially mirrored the provisions of the English Companies Act of 1948.
- ❖ The Law has been amended more than 65 times so far to incorporate all relevant European directives, as well as for the purposes of modernisation; but it has not followed the subsequent amendments of the UK legislation.
- ❖ The Law applies both to private and public companies.
- ❖ It includes a wide range of provisions covering the incorporation, functioning, administration, reorganisation and dissolution of Cyprus companies.
- ❖ Cyprus companies may adopt wholly or partly the model regulations contained in Table A of the Law.

USEFUL INFORMATION!

First tip of the day:

- ❖ Print out or save a copy of Table A on your desktop. Table A should always be easily accessible to Company Administrators!



The Companies Section of the Department of the Registrar of Companies and Intellectual Property (“**ROC**”) is responsible for:

- ❖ **Incorporation of entities;**
- ❖ **Updating particular of registered entities;**
- ❖ **Annual Return recording;**
- ❖ **Issuance of certificates;**
- ❖ **Strike off and Restoration of companies.**

*** The ROC is a record keeping authority ***

ROLE OF THE REGISTRAR OF COMPANIES

Problem Question 1:

- ❖ What do you do if you want to find out who is the shareholder of a particular Cyprus company?



Problem Question 1 Solution:

- ❖ It might be a good idea to perform a company search on line.
- ❖ But, can I rely on the search?
- ❖ Remember that the ROC is a record keeping authority.
- ❖ Register of members constitutes prima facie evidence – section 113 of the Law.
- ❖ Right to inspect, or request a copy of, the register of members – section 108 of the Law; this right is available both to shareholders and third parties.

CONCEPT OF A CYPRUS COMPANY

❖ What is a Company?



continued→

CONCEPT OF A CYPRUS COMPANY

- ❖ **Company:** Any one or more persons associated for any lawful purpose by subscribing their names to a memorandum of association and otherwise complying with the requirements of the Law in respect of registration.
- ❖ **Section 15(2) of the Law:** *From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its wound up as mentioned in the Law.*

GENERAL PRINCIPLES

- ❖ Company → A legal person with **separate legal personality**.
- ❖ The members of the company are not personally liable for its debts and liabilities → **Limited Liability**: to contribute to the share capital.
- ❖ Principle developed in **Salomon v Salomon** (1897) A.C. 22.
- ❖ A registered Company is a legal entity distinct from its members. As such it enjoys rights and is subject to duties which are not the same as those borne by its members; it has as it is frequently put a legal personality of its own (**Michael James Hickman** (1988) 1 CLR 98).
- ❖ **Perpetual Succession**: The existence of the company does not depend on the existence or continuation of its members. The company shall continue to exist if a member dies or otherwise ceases to be a member.

PRIVATE VS PUBLIC COMPANIES

PUBLIC COMPANIES	PRIVATE COMPANIES
Minimum number of shareholders: 7	Minimum number of shareholders: 1
Maximum number of shareholders: -	Maximum number of shareholders: 50
Minimum capital: EUR 25.650	Minimum capital: -
Directors: At least 2	Directors: At least 1
Invitation to the public to subscribe for shares: Allowed	Articles prohibit any invitation to the public to subscribe for shares
No restriction to the right to transfer shares	Articles restrict the right of members to transfer shares
Required to have statutory meeting	No statutory meeting required
Commence business only after the issuance of a trading certificate	Commence business with the certificate of incorporation

MEMORANDUM AND ARTICLES

Memorandum of Association:

- ❖ The name together with the word 'ltd' or 'plc'.
- ❖ The objects of the company.
- ❖ That the liability of its members is limited.
- ❖ The amount of the share capital and the division thereof into shares of fixed amount.
- ❖ Each **subscriber** must write opposite to his/her name the number of shares he/she takes.

Articles of Association:

The regulations of the company, prescribing rules for the operation of the company.

Effect of Memorandum and Articles of Association:

When registered they shall bind the company and its members to the same extent as if they respectively had been signed and sealed by each member and contained covenants on the part of each member to observe the provisions of the Memorandum and Articles.

continued→

MEMORANDUM AND ARTICLES

Relationship between Articles and Shareholders' Agreement ('SHA'):

- ❖ **SHA:** An agreement between the members of a company regulating their rights and obligations as shareholders thereto.
- ❖ The provisions of a SHA must be incorporated in the articles of association of a company to be binding on the directors.
- ❖ If not incorporated into the articles then the provisions of the SHA do not bound the directors of the company but remain contractual obligations amongst the shareholders signing the SHA.



MEMORANDUM AND ARTICLES

Problem Question 2:

- ❖ A private Cyprus Company has four (4) shareholders. The shareholders have entered into a SHA, which has not been incorporated into the articles. The articles of CypCo adopt Table A of the Law. The SHA includes a provision, that at a general meeting of CypCo all members present shall be a quorum. At an extraordinary general meeting (EGM) of CypCo only three of the shareholders are present. The members present unanimously pass the resolutions for which the EGM was convened.

- Is the EGM properly held?



MEMORANDUM AND ARTICLES

Problem Question 2 Solution:

- ❖ The SHA has not been incorporated in the articles of CypCo.
- ❖ Therefore, it does not bind the directors of the Company.
- ❖ Only the articles of CypCo apply.
- ❖ The articles adopt Table A.
- ❖ Table A provides that for private companies the quorum in shareholders' meetings is two (2) shareholders present.
- ❖ Thus the EGM was properly held and the resolutions were duly passed.

USEFUL INFORMATION!

Second tip of the day:

- ❖ A Company Administrator should be familiar with the articles of association of a company under administration!



SHARE CAPITAL

- ❖ The memorandum of association must state the amount of share capital and the division thereof into shares of fixed amount → **Authorised Capital**.
- ❖ No subscriber may take less than one share. Each subscriber must write opposite his name the number of shares he takes.
- ❖ **Nominal value of shares** → the value given to a share by the memorandum.
- ❖ **Issued share capital** → the amount of the authorised capital allotted to the shares issued to the shareholders.
- ❖ Paid up share capital: the amount so far paid on shares which have been issued.
- ❖ Uncalled share capital: the amount which the company is entitled to call on shareholders to contribute.

VARIATIONS OF CAPITAL

- ❖ **Section 60 of the Law:** A company if so authorized by its articles may alter the condition of its memorandum as follows:
 - **Increase** its share capital by new shares;
 - **Consolidate and divide** its share capital into shares of larger amount;
 - **Convert** its shares into stock;
 - **Subdivide** its shares into shares of smaller amount; and
 - **Cancel** shares.

- ❖ **Reduction of share capital (and share premium):** Special resolution for reducing share capital – Petition to the court for confirming the reduction – The court order confirming the reduction and the minutes for reduction approved by the court must be registered by the ROC.

SHARES

- ❖ **Shares** are considered to be movable property asset.
- ❖ The **basic rights** that shares confer to their holders are the right to receive dividends, the right to vote at the general meetings of the company and the right to participate in the distribution of the company's assets in case of liquidation. The main duty of a shareholder is the payment of the nominal value of the shares.
- ❖ **Classes of Shares:** Different shares may have different rights, according to the articles of association. Most common classes are:
 - ❖ **Ordinary Shares** having the usual rights, without any special definition.
 - ❖ **Preference Shares** having preferential rights to dividend and/or return of capital.



MEMBERS

Definition of Members:

Section 27 - (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

Subscribers: The first shareholders/founders of a company.

Register of Members: every company must keep a register.

Trusts not to be entered on the register: No notice of any trust, expressed, implied or constructive, shall be entered on the register, or be receivable by the registrar (Section 112).

Register to be evidence: prima facie evidence (Section 113).

MEMBERS

Transfer of Shares

- ❖ It shall not be lawful for the company to register a transfer of shares unless a proper **instrument of transfer** has been delivered.
- ❖ The articles usually provide that the directors may decline to register a transfer to a person they do not approve.
- ❖ On the application of the transferor, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions.
- ❖ Notice of the refusal of transfer must be send to the transferee within two months after the date on which the transfer was lodged.
- ❖ The company shall within two months issue the **share certificate**.
- ❖ Certificate under the common seal of the company, specifying any shares held by any member shall be *prima facie* evidence of the title of the member to the shares.
- ❖ Notification to the ROC within fourteen days.

MEMBERS

Problem Question 3:

- ❖ You are the secretary of a CypCo. Someone presents to you a fully signed and dated Instrument of Transfer from the sole shareholder of the company and claims he is the sole shareholder of the company, as from the date of the Instrument of Transfer and requests that you issue the corresponding Share Certificate.
- What do you do?



MEMBERS

Problem Question 3 Solution:

- ❖ Contact the current shareholder and ensure that the transfer actually took place.
- ❖ Investigate the basis of the relevant transfer and obtain supporting documents.
- ❖ Have in mind any KYC and other AML considerations.
- ❖ A directors' resolution must be passed approving the transfer.
- ❖ Remember that the directors have the right to decline a transfer.
- ❖ Section 27 of the Law – a person becomes a shareholder in a CypCo from the date that such person's name is entered in the register of members (and not from the date of the instrument of transfer).
- ❖ Within two (2) months the new share certificate should be issued.

USEFUL INFORMATION!

Third tip of the day:

- ❖ Proper procedures should be in place. All requests should be screened and be processed in accordance with the Law, the articles and of course the engagement/management documentation! Also remember the obligations under AML Laws...



GENERAL MEETINGS AND RESOLUTIONS

- ❖ **Statutory Meeting:** Only for public companies. Must be held within a period of 1 to 3 months from the date of which the company is entitled to commence business. The Statutory Report must be sent to every member at least 13 days before the meeting.

- ❖ **Annual General Meeting (AGM):**
 - Every company must in each year hold an AGM.
 - First AGM must be held within 18 months from the incorporation of the company.
 - Not more than 15 months must lapse between AGMs.

- ❖ **Extraordinary General Meeting (EGM):** General meeting other than an AGM. Business transacted at an EGM is considered special business. An EGM is held when necessary.

- ❖ **Quorum:** Prescribed by the articles. The minimum number of members that must be present for a general meeting to be properly/validly held.

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GENERAL MEETINGS AND RESOLUTIONS

❖ **Business transacted at an AGM → Ordinary business**

- Review of financial statements, directors' and auditors' report;
- Appointment of directors;
- Appointment and remuneration of auditors; and
- Declaration of dividends.

❖ **Convening an EGM on requisition:** The directors must convene a meeting within 21 days upon the requisition of 1/10 of the members of the company. If the directors fail to convene the EGM, the requisitionists can call it themselves within 3 months from the requisition.

❖ **Notices:**

- AGM – 21 days.
- EGM – 14 days.
- General meeting for a special resolution – 21 days.
- Resolutions requiring special notice – 28 days notice to the company.

continued→

RESOLUTIONS

- ❖ **Ordinary resolutions:** The Law does not provide a definition. Simple majority is required: 50% plus 1 share of the members present in person or by proxy.
- ❖ **Extraordinary resolutions:** Passed by a majority of not less than $\frac{3}{4}$ of the members at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been given.
- ❖ **Special resolutions:** Passed by a majority of not less than $\frac{3}{4}$ of the members at a general meeting of which not less than 21 days notice has been given.

continued→

RESOLUTIONS

- ❖ **Resolutions requiring special notice:** Special resolutions for which a 28-day notice is required. As prescribed by the Law (e.g. section 178 for the removal of directors).
- ❖ **Resolutions for which the articles of association prescribe a greater majority:** Section 136A of the Law provides that the articles may require a greater majority than the one prescribed by the Law. This does not apply for the removal of a director.
- ❖ **Written resolutions:** Should be signed by **all** members of the company.

Problem Question 4:

- ❖ Can the articles of association of a CypCo provide that the resolution for the amendment of the articles must be passed by a majority of 90% of the members voting?



Problem Question 4 Solution:

- ❖ Section 12 of the Law – a **special** resolution is required to change the articles of a company.
- ❖ Special resolution: Majority of $\frac{3}{4}$ of the members present and voting.
- ❖ Remember section 136A of the Law.
- ❖ The requirement for a greater majority is possible.
- ❖ Section 136A of the Law does not apply for the removal of a director (section 178 provides that a director may be removed with an ordinary resolution).

USEFUL INFORMATION!

Fourth tip of the day:

- ❖ Specimens are useful, but remember to adjust them in accordance with the regulations of each company!



Concept of a “Director”

- ❖ Responsible for the management of the company.
- ❖ Section 2(1) of the Law provides that “director includes any person occupying the position of director by whatever name called”.
- ❖ Have actual and apparent authority to act on behalf of the company.
- ❖ Every private company must have at least one director and every public company must have at least two directors.
- ❖ A director can also be a legal person.
- ❖ The Law does not have any special provisions for nominee directors - they are treated by the law exactly like all other directors.
- ❖ Nominee directors do not owe any fiduciary duties to the persons who appointed them only contractual ones.

continued→

USEFUL INFORMATION!

Fifth tip of the day:

- ❖ Remember that the concept of the Nominee Director does not exist in the Law. If you are appointed as director you have all the rights, duties and liabilities prescribed by the laws and regulations.



DIRECTORS

Appointment of directors

- ❖ As provided for by the articles.
- ❖ Appointed by the general meeting of the company.
- ❖ The articles may entitle the directors to appoint a director either to fill a casual vacancy or as an additional director.

Removal of directors

- ❖ A company may by ordinary resolution remove a director before the expiration of his office notwithstanding anything in its articles (Section 178).
- ❖ The director concerned has the right to make representations in writing.

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Problem Question 5:

- ❖ The three shareholders of a CypCo, each holding 30% - 30% - 40% of the issued share capital respectively, have entered into a SHA, which includes a provision that each of them has the right to appoint and remove at any time one director to the board of directors of the CypCo. Their intention is to incorporate the provisions of the SHA into the articles of association.
- You are the company administrator of CypCo. What would you recommend to the shareholders of CypCo?



Problem Question 5 Solution:

- ❖ Is it possible?
- ❖ Directors are appointed by the general meeting; thus an ordinary resolution is required to be passed.
- ❖ For the removal of a directors remember the provisions of section 178 of the Law.
- ❖ The simple answer is NO.
- ❖ However the articles can include provisions to enable the shareholders to reach the specific intention: i.e. weighted voting rights.

USEFUL INFORMATION!

Sixth tip of the day:

- ❖ For specialised drafting the services of a professional lawyer should be retained! When in doubt go to the experts!



DUTIES AND LIABILITIES OF DIRECTORS

FIDUCIARY DUTIES

- ❖ The fiduciary duties stem from the fiduciary position that a director holds towards the company. The role of the director is considered to be a combined role of a trustee and agent.
- ❖ Fiduciary duties are owed towards the company, not to individual shareholders (**Percival v Wright** [1902]).



continued→

DUTIES AND LIABILITIES OF DIRECTORS

FIDUCIARY DUTIES

❖ Good Faith

- Directors have the duty to act in good faith (*bona fide*) in the company's best interests.
- Directors should act in accordance with what they consider to be in the company's best interests, not what a third party or the court may consider appropriate to promote the interests of the Company (**Re Smith & Fawcett** [1942]).

continued→

DUTIES AND LIABILITIES OF DIRECTORS

FIDUCIARY DUTIES

❖ **Duty to use their powers for a proper purpose**

- Directors are obliged to act in accordance with the powers conferred on them by the memorandum and articles of association and to exercise these powers for the attainment of the objectives for which they were conferred.
- Those who accept office as directors undertake duties which are imposed by the company's memorandum and articles of association, the provisions of the Law, as well as the general applicable laws and regulations.

continued→

DUTIES AND LIABILITIES OF DIRECTORS

FIDUCIARY DUTIES

❖ **Duty to make independent judgments**

- Duty to make independent and unfettered judgments.
- Directors cannot validly agree as to how they will vote in future board meetings.
- Nominee directors are prohibited from acting solely in accordance with the instructions of the person who appointed them but they should act in accordance to their own judgment and for the best interests of the company as a whole.

continued→

DUTIES AND LIABILITIES OF DIRECTORS

FIDUCIARY DUTIES

❖ **Duty to avoid conflicts of interest**

- Directors should not put themselves in a position where the interests of the company conflict with their own interests or their obligations to third parties.
- They should disclose any personal interest they have in a transaction.
- They should not make use for their own benefit of any information or opportunity arising from holding their office.
- Directors have a duty not to make any secret profits due to their position in the company.

continued→

DUTIES AND LIABILITIES OF DIRECTORS

DUTY OF SKILL AND CARE

- ❖ Directors owe a duty of care to the company in common law not to act negligently in managing the affairs of the company.
- ❖ *“A director need not exhibit in the performance of his duties a greater degree of skill than may reasonably be expected from a person of his knowledge and experience.”* (Re **City Equitable Fire Insurance Co.** [1925])



continued→

DUTIES AND LIABILITIES OF DIRECTORS

Problem Question 6:

- ❖ A CypCo has two directors, Mr. A and Mrs B. Mrs. B receives an email from a Real Estate Agent who frequently cooperates with the company, informing her of a building for sale that may be of interest for the company – the sale price for the building is below market value. Mrs. B proceeds and purchases the property personally (on her own name). However, CypCo was at the time insolvent and therefore, was not able to acquire the immovable property itself.
- Did the director breach any of her duties towards CypCo?



DUTIES AND LIABILITIES OF DIRECTORS

Problem Question 6 Solution:

- ❖ Must check how the director was informed about the relevant opportunity.
- ❖ Knowledge acquired as director (i.e. the information would not be given to her if she wasn't the director of the particular CypCo).
- ❖ She should have offered the opportunity to the company first. It doesn't matter that CypCo appears to be insolvent at the time.
- ❖ The director breached her duty to avoid conflicts of interest.
- ❖ If she offered the opportunity to the company first (by calling a meeting of the board of directors) and the company rejected it, then Mrs. B could have purchased the land herself.

DUTIES AND LIABILITIES OF DIRECTORS

STATUTORY DUTIES OF DIRECTORS

❖ Financial Statements

- Section 141 of the Law imposes an obligation on the directors to ensure the keeping of proper books of accounts which are considered necessary for the preparation of financial statements.

❖ Duty to disclose conflicts of interest

- Section 191 of the Law provides that it shall be the duty of the director who is in any way whether directly or indirectly interested in a contract or proposed contract with the company to declare the nature of his/her interest at a meeting of the directors of the company.

continued→

DUTIES AND LIABILITIES OF DIRECTORS

STATUTORY DUTIES OF DIRECTORS

❖ **Duty to disclose dealings with the company**

- Register of directors' shareholdings.
- Disclosure of directors' salary, pension and other emoluments.
- Company's accounts contain details of any loans.

❖ **Duties where the company is insolvent**

- Section 311: Fraudulent Trading - Business conducted with the intention to defraud its creditors or for any fraudulent purpose.
- Section 312: Damages against directors if in the course of winding up they have misapplied or retained or become liable or accountable for any money or property of the company or been guilty of any misfeasance or breach of trust.

continued→

DUTIES AND LIABILITIES OF DIRECTORS

STATUTORY DUTIES OF DIRECTORS

❖ Duties imposed by other laws

- Tax Legislation.
- VAT Legislation – Section 48(1) of VAT Law of 2000 → According to a Supreme Court Judgment proof of intention to commit VAT wrongdoing is not necessary to substantiate the criminal offence. Directors bear personal criminal liability for their companies' failure to comply with the VAT law.
- Social Insurance Law.



continued→

DUTIES AND LIABILITIES OF DIRECTORS

LIABILITY FOR BREACH OF DUTY

- ❖ The Law does not specify the exact level of skill and care directors owe to the company. If directors act in good faith and in the best interests of the company they cannot be held responsible, unless they are found guilty of gross negligence (recklessness).
- ❖ Section 197: Any provisions in any contract with the company exempting any officer or indemnifying him against any liability which would otherwise attach to him in respect of any negligent act or default, breach of duty or breach of trust of which he may be guilty in relation to the company, shall be void.
- ❖ If in any proceeding for negligence, default, breach of duty or breach of trust, it appears to the court that the director may be liable, but that he has acted honestly and reasonably, the court may relieve him of any liability (section 383).

continued→

DUTIES AND LIABILITIES OF DIRECTORS

Problem Question 7:

- ❖ The sole director of CypCo, with two shareholders each holding 50% of the shares, receives instructions from one of the shareholder to enter into a loan agreement to receive funds necessary for the continuation of the business operations of the company. The other shareholder disagrees and provides the sole director with conflicting instructions.
- What should the sole director do?



DUTIES AND LIABILITIES OF DIRECTORS

Problem Question 7 Solution:

- ❖ The director should not just rely on instructions.
- ❖ A director has a duty to make independent judgments.
- ❖ Obtain information about the financial position of CypCo.
- ❖ When in doubt engage professionals.
- ❖ Get familiarized with the transaction documents and the particular terms and conditions of the loan agreement.
- ❖ Take the decision to the best interests of the Company.

ROLE OF THE COMPANY SECRETARY

- ❖ *‘Every company shall have **one** secretary and a sole director shall not also be the secretary: Provided that in the case of a limited liability company with one and only member the sole director may also be the secretary.’ (Section 171)*
- ❖ ‘The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them’. (Regulation 11, Table A)
- ❖ The duties of the company secretary are provided in various sections of the Law. The secretary mainly has an administrative function.
- ❖ The secretary can be a natural or legal person.

ROLE OF THE COMPANY SECRETARY



“Do I need a separate Company Secretary if I am the Sole Director?”

WINDING UP



WINDING UP

❖ **Winding up:**

- The end of a company as a separate legal entity.

❖ **Liquidation of a company:**

- The process by which the operations of a company are terminated and its assets are sold/liquidated/distributed for the benefit of its creditors and members.

- ❖ The priority of payment of the preferential debts are provided for by section 300 of the Law.



continued→

WINDING UP

Winding up by the Court

Reasons provided for by Section 211 of the Law:

- ❖ The company has by special resolution resolved that the company be wound up by the court.
- ❖ Default is made in delivering the statutory report to the ROC or in holding the statutory meeting.
- ❖ Does not commence its business within a year or suspends business for a whole year.
- ❖ In case of public companies the number of members reduced below 7.
- ❖ Unable to pay its debts (section 212).
- ❖ The court is of the opinion that it is just and equitable to wind up the company (e.g. deadlock).

continued→

WINDING UP

Winding up by the court – Procedure:

Filing of the Petition

Publication in the Official Gazette

Winding up order (usually the Registrar is appointed as the liquidator)

Copy of the winding up order to be sent to the ROC

continued→

WINDING UP

Voluntary Winding Up

❖ By members

- Period fixed for duration expires or event occurs.
- Special Resolution that the company be wound up.
- Extraordinary resolution that it cannot by reason of its liabilities to continue its business.

- ❖ A declaration of solvency must be issued by the directors that the company can within 12 months pay its debts.

continued→

WINDING UP

Voluntary Winding Up

❖ By creditors

- If a declaration of solvency cannot be issued by the directors then the voluntary winding up is by creditors.
- Creditors' general meeting – proposes a person to be appointed as liquidator.
- In case that the liquidator appointed by the members is different from the liquidator appointed by the creditors, then the proposal of the creditors prevails.

continued→

WINDING UP

Winding Up Commences:

- Date of Petition.
- Date of Resolution.

Effects of Winding Up:

- The company seizes its business operations.
- Any transfer of shares and any alteration to the status of the members is void.
- Powers of the directors transferred to the liquidator.
- Liquidator calls general meetings of members and creditors and files report to the ROC.
- The liquidator after disposing the property of the company distributes the assets to the creditors according to the Law and any surplus thereof to its members.

continued→

WINDING UP

Dissolution:

- ❖ Once the affairs of the company are fully wound up the liquidator shall make up an account of the winding up.
- ❖ General meeting is called by advertisement in the Official Gazette.
- ❖ Within one week from the final general meeting the liquidator must send the account and the report on the final meeting to the ROC.
- ❖ The ROC registers the statement of accounts and the return and within three months the company is dissolved.



STRIKING OFF

- ❖ **Strike off:** The deregistration of a company from the register maintained with the ROC.
- ❖ The ROC has the right to strike off a company from the register if it has reasonable cause to believe that the company is not carrying on any business or is not in operation. Directors can also apply for striking off provided that the Company has fulfilled all obligations under the Law.
- ❖ A company that has been struck off can be reinstated within twenty years from the publication of the relevant notice in the official gazette by a petition filed by the company or any of its members or creditors.
- ❖ **Effect of strike off:** The company can no longer carry out normal business operation. However the liability of its officers still remains.

CORPORATE ADMINISTRATION

Main points to remember:

- ❖ Know your client.
- ❖ Proper cooperation with management and Compliance department.
- ❖ Proper engagement/management agreements, registration procedures, client acceptance procedures, indemnity letters etc must be in place.
- ❖ Be familiarized with the corporate documents of the company – especially the Memorandum and Articles of Association. Do not just use specimens.
- ❖ Proper review and understanding of the transaction documents and the transaction itself. Transaction Monitoring.
- ❖ Requests should be properly screened – reasonable, commercially rational, at arm's length, to the best interest and for the benefit of the company.
- ❖ Do not simply rubber stamp documents.
- ❖ If not sure – obtain expert advice.

QUESTIONS



Thank you.



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