

Restructuring and Insolvency measures in Cayman – April 2020

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Background

The Cayman Government has restricted entry to the Island since mid-March and is currently operating a curfew system day and night for residents other than essential workers, with the exception of exercise or essential trips such as to the supermarket or for medical reasons.

The financial services sector has adapted well to the new restrictions and continues to operate effectively through the use of electronic filing and payment systems. Court hearings are conducted by video link using electronic bundles, with multiple parties able to participate just as they did before the restrictions, and with Court staff working hard in the background to ensure that the administrative requirements are met. Government finance bodies are also functioning remotely, though there are some exemptions to the curfew for essential workers.

On 31 March 2020 a virtual meeting was held between the heads and delegates of financial services industry associations in Cayman, in order for the Government to engage directly with the industry associations to consider various business continuity plans relating to the financial services industry. It is hoped that whatever action is taken will be taken swiftly consistent with the Cayman Government's stated desire to assist those who are users of the financial products the jurisdiction has to offer.

The following measures are either in the process of implementation or anticipated in the near future.

Domestic Cayman Business

Many small businesses in Cayman, particularly those in the tourism industry, are expected to struggle during the coming months. In anticipation of a continued lockdown, the Cayman Government is implementing a \$14.5 million support plan for small and micro businesses impacted by COVID-19.

The plan includes a loan program that will require no repayment on principal or interest within the first six months and a grant programme to help businesses survive the loss of revenue in the coming months.

Regulated Cayman Business

The Government has undertaken a number of measures to assist with the administrative challenges of the financial services industry, including extending the deadline for industry feedback on consultations, deferring annual fees and filing deadlines, and extending the Economic Substance Notification filings.

International Cayman Business

The Cayman Government is also currently considering legislation aimed at facilitating the restructuring of Cayman entities operating overseas.

Many consider this to be an opportunity for the Government to introduce practical assistance in the form of an automatic stay at the point that entities file for the appointment of a restructuring professional (rather from the date of appointment), provided that appropriate safeguards exist for the interests of creditors.

Other expected areas of reform include the ability to recognise and directly enforce foreign plans of reorganisation such as those put together under Chapter 11 of the United States Bankruptcy Code, and the ability for companies to pass a resolution for the appointment of restructuring officers without first obtaining a resolution of their shareholders.

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