

GENERAL REGISTRY



Procedural Manual

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REGISTRATION TYPES

- ▶ Registration of newly formed Cayman Limited Liability Companies (LLCs)
- ▶ Re-registration of Exempted Company (except Segregated Portfolio Companies)
- ▶ Registration of foreign corporate entities by way of continuation.

Registration –newly formed Cayman LLC (Section 5)

Smart form

- ▶ Name of Limited Liability Company/dual foreign name (S5)
- ▶ Type (values: LLC, LLC SEZ, Continuation of Foreign Entity)
- ▶ For LLC Special Economic Zone the name MUST contain the words “special economic zone” or “SEZ” S6(1)(c)
- ▶ Term/Expiration Date (optional – If the limited liability company has not been formed for unlimited duration S5(2)(c))
- ▶ Checkbox Option – Unlimited Duration (Checked if the Term/Expiration Date is left blank)
- ▶ Formation Date
- ▶ Registration Date (Restricted to ROC approved users)
- ▶ Local Registered Office **S7**
 - **Local service provider – S7(5)**
- ▶ Physical address
- ▶ Mailing Address
- ▶ Checkbox Option – Registered Office for this LLC? (yes/No)
- ▶ Service Option - Express or regular

Documents Required

- ▶ Signed S5(1) - Registration Statement. **(APPENDIX 1)**
- ▶ LLC agreement (optional) S16(3)
- ▶ Registered Office for this LLC? (yes/No)
 - ▶ If yes
 - ▶ consent letter
 - ▶ If No,
 - ▶ Consent letter of RO
- ▶ CIMA Consent Letter (optional)
- ▶ Registrar's Consent
- ▶ Other Consent Letter (if applicable)
- ▶ Dual foreign name
 - Certified Translator's Certificate
 - Foreign Language Characters

Output

- Stamped documents
- Certificate of Registration

Registration by Continuation - Section 54

Smart form

- ▶ Name of Limited Liability Company/dual foreign name (S5)
- ▶ Type (values: LLC, LLC SEZ, Continuation of Foreign Entity)
- ▶ For LLC Special Economic Zone the name MUST contain the words "special economic zone" or "SEZ" S6(1)(c)
- ▶ Term/Expiration Date (optional – If the limited liability company has not been formed for unlimited duration S5(2)(c))
- ▶ Checkbox Option – Unlimited Duration (Checked if the Term/Expiration Date is left blank)
- ▶ Formation Date
- ▶ Registration Date (Restricted to ROC approved users)
- ▶ Local Registered Office **S7**

- **Local service provider – S7(5)**
 - ▶ Physical address
 - ▶ Mailing Address
 - ▶ Checkbox Option – Registered Office for this LLC? (yes/No)
 - ▶ Service Option - Express or regular

- ▶ Name of the LLC prior to application for continuation of a LLC
- ▶ Place of Formation
- ▶ Registration effective date (May be a date later than the filing date) S54(1)(iv)
- ▶ Register of Managers/managing members ¹

Documents Required

- ▶ Signed registration statement S5(1) (*signed by or on behalf of any person forming the limited liability company*)
- ▶ Notice of application for continuation 54(1)(a) – **APPENDIX 2**
- ▶ Voluntary declaration/Affidavit S54(3) – **APPENDIX 3**
- ▶ Voluntary declaration S54(3)(a) – **APPENDIX 4**
- ▶ Undertaking S54(2)(j) – **APPENDIX 5**
- ▶ **Policy requirement:** ²
 - ▶ Good standing
 - ▶ Formation/Incorporation certificate
 - ▶ Certified copy of charter documents

Output

- Stamped copies of all documents filed
- Certificate of registration by way of continuation
- Gazette Notice

¹ Omitted from the Limited Liability Companies Law – to be included in amendment

² Omitted from the Limited Liability Companies Law – to be included in amendment

Re-Registration/Conversion S56

Exempted Companies may convert to LLCs (Non Segregated Portfolio Companies Only)

Smart form

- ▶ Name of Limited Liability Company/dual foreign name
- ▶ Term/Expiration Date (optional – If the limited liability company has not been formed for unlimited duration S5(2)(c))
- ▶ Checkbox Option – Unlimited Duration (Checked if the Term/Expiration Date is left blank)
- ▶ Registration Date (Restricted to ROC approved users)
- ▶ Service Option - Express or regular

Documents Required

- ▶ Signed special resolution
- ▶ Signed Application – **APPENDIX 5.1**
- ▶ Registration statement S5(1)
- ▶ LLC Agreement (optional)
- ▶ CIMA Consent Letter (if applicable)
- ▶ Registrar's Consent (if applicable)
- ▶ Other Consent Letter(s) (if applicable)
- ▶ Certified Translator's certificate (if applicable) – See Regulations
- ▶ Foreign Characters (if applicable)

Output

- ▶ Stamped documents
- ▶ Certificate of Registration

Name of LLC (Section 6)

- ▶ May, but need not, contain as a suffix the words "Limited Liability Company" or the abbreviation "L.L.C" or "LLC"
- ▶ For SEZ – must contain the words "Special Economic Zone" or the letter SEZ
- ▶ May have a dual foreign name
- ▶ CANNOT Be identical with another LLC or Exempted Company – except with consent from the Company that is being dissolved
- ▶ CANNOT contain excluded words under Companies Law – except with consent from Registrar –S30(2) of the Companies Law (2013 Revision)
- ▶ CANNOT contain words that suggest it's regulated.
- ▶ May reserve name up to 120 days

REMOVAL FROM REGISTER

- ▶ **De-registration – transfer to another jurisdiction**
- ▶ **merge with:**
 - Another LLC
 - With an Exempted Company
 - With an overseas company
- ▶ **Strike off (in accordance with the Companies Law)**
 - voluntary
 - by Registrar
- ▶ **Liquidation – PART 8**
 - Compulsory - by order of the Court;
 - voluntary
 - Under the supervision of the Court.

De-registration

Requirements:

- ▶ Must be in good standing
- ▶ Notice of de-registration S55(2)(c) – **APPENDIX 6**
 - Proposed change of name
 - Proposed registered office or equivalent
- ▶ Signed undertaking that notice has been or will be given within 21 days to creditors S55(2)(i) – **APPENDIX 7**
- ▶ Signed voluntary declaration/affidavit S55(3) - **APPENDIX 8**
- ▶ Other consent document S55(2)(m) (CIMA Approval, where applicable)

De-registration: Output

- Certificate of de-registration
- Gazette notice

Merger

There are 5 possibilities

1. Merger of Cayman LLCs – **APPENDIX 9**

Documents Required:

- ❖ Plan of Merger or consolidation
- ❖ Amended Registration Statement for surviving entity, if applicable
- ❖ Authorization from other registered office, if applicable

For each constituent LLC:

- ❖ Certificate of good standing
- ❖ Manager's declaration 46(9)(b)(c)(d)(e)(g)
- ❖ Undertaking 46(9)(f)
- ❖ CIMA approval, if applicable

Outputs:

- ❖ Certificate of merger S46(11)
- ❖ Strike off Certificate, if requested
- ❖ Gazette notice S158 Companies Law

2. Merger of LLC with Exempted – LLC surviving-APPENDIX 10 **Non-segregated portfolio companies only**

Documents Required:

- ❖ Plan of Merger or consolidation
- ❖ Amended Registration Statement for surviving entity, if applicable
- ❖ Authorization from other registered office, if applicable

For each constituent LLC:

- ❖ Certificate of good standing
- ❖ Manager's declaration 46(9)(b)(c)(d)(e)(g)
- ❖ Undertaking 46(9)(f)
- ❖ CIMA approval, if applicable

For each constituent Exempted Company

- ❖ Special resolution of the members of the company
- ❖ Certificate of good standing
- ❖ Director's declaration S233(9)(b)(c)(d)(e)(f)(h)
- ❖ Undertaking 233(9)(g) – secured creditors

Output

- ❖ Merger certificate
- ❖ Strike off certificate – Companies
- ❖ Gazette notice

3. Merger of LLC with Exempted – Exempted surviving - **APPENDIX 11**

Documents Required:

- ❖ Plan of Merger or consolidation
- ❖ Amended memorandum and articles, if applicable
- ❖ Authorization from other registered office, if applicable

For each constituent LLC:

- ❖ Certificate of good standing
- ❖ Manager's declaration 46(9)(b)(c)(d)(e)(g)
- ❖ Undertaking 46(9)(f)
- ❖ CIMA approval, if applicable

For each constituent Exempted Company

- ❖ Special resolution of the members of the company
- ❖ Certificate of good standing
- ❖ Director's declaration S233(9)(b)(c)(d)(e)(f)(h) – [S233(9)(f) – retirement from fiduciary office (**ONLY for non-surviving exempted companies**)]
- ❖ Undertaking 233(9)(g) – secured creditors

Output

- ❖ Merger certificate under the Companies Law
- ❖ Strike off certificate–non-surviving Companies & LLCs
- ❖ Gazette notice

4. LLC with overseas – LLC surviving (APPENDIX 12)
Foreign entity MUST have separate legal identity

Documents Required:

- ❖ Plan of Merger or consolidation
- ❖ Amended registration statement, if applicable
- ❖ Authorization from other registered office, if applicable

For each constituent LLC:

- ❖ Certificate of good standing
- ❖ Manager's declaration 46(9)(b)(c)(d)(e)(g)
- ❖ Undertaking 46(9)(f)
- ❖ CIMA approval, if applicable

For Each Foreign Entity

- ❖ A declaration of manager of the surviving entity S51(2)(a)to(g) (must include a statement of A&L)

Output

- ❖ Merger certificate
- ❖ Strike off certificate (all constituent LLCs)
- ❖ Gazette notice

5. LLC with Foreign entity – Foreign surviving - APPENDIX 13

Documents Required:

- ❖ Plan of Merger or consolidation
- ❖ Authorization from other registered office, if applicable

For each constituent LLC:

- ❖ Certificate of good standing
- ❖ Manager's declaration 46(9)(b)(c)(d)(e)(g)
- ❖ CIMA approval, if applicable

Regarding each Foreign Entity

- ❖ A declaration of a manager of each constituent LLC S51(8)

The surviving foreign entity shall file:

- ❖ An undertaking S51(10)(a) – pay to dissenting members
- ❖ Evidence of the merger (merger certificate)

Output

- ❖ Strike off certificate
- ❖ Gazette notice

What to look for

1. **Constituent companies MUST be Non-segregated portfolio companies**
2. **All constituent companies MUST have separate legal identity**
3. **A declaration under S46(9)**
 - ❖ shall be in writing
 - ❖ signed
 - ❖ Shall include the full name and address of, the manager making the declaration.
4. The names and addresses of managers who have signed the declarations are previously filed with ROC
5. The name of the surviving or consolidated LLC entity complies with section 6

Strike off – S40

(Companies Law S156-162 applies)

- ▶ May be struck voluntarily
- ▶ May be struck by Registrar for non-compliance

Non-compliance

- ▶ Failure to file managers – same as directors & officers for Companies
- ▶ Failure to have a registered office
- ▶ Conducting Business on island with the public S9(2)
- ▶ Failure to pay annual fees, penalties and file annual returns S57(3)
 - Notice period is 6 months (S57(4))
- ▶ No liquidator acting

Pending Strike Status

A LLC may be restored to active:

IF THERE IS NO REGISTERED OFFICE

- ▶ A new registered office is appointed
- ▶ Penalty for having no registered office is paid
- ▶ All outstanding annual fees paid and returns filed

IF FOR NON-PAYMENT OF FEES

- ▶ All outstanding annual fees paid and returns filed

Reinstatement

Once the LLC is struck they may only be reinstated by Court Order

- Court Order required within 10 years of being struck
- All fees to be paid
- Registered office appointed

Liquidation

Under the Companies Law:

- ▶ Compulsory - by order of the Court;
- ▶ Voluntary
- ▶ Under the supervision of the Court.

Voluntary Winding up

36. (1) A limited liability company shall be wound up voluntarily -

- a) when the **term**, if any, fixed for the duration of the limited liability company in its LLC agreement **expires**;
- b) when an **event**, if any, specified in the LLC agreement following which the limited liability company is to be wound up, **occurs**;
- c) subject to subsections (4) and (5), at any time when the limited liability company has **no members**; or
- d) upon the affirmative vote or written consent of at least two-thirds in number of the members of the limited liability company, provided that the LLC agreement may expressly disapply the provisions of this subsection, or provide for an alternative vote or written consent to be provided.

Documents to file

Within **28 days** of the commencement of the liquidation:

- ▶ **Form 19** Notice of Voluntary winding up
 - Signed by manager or liquidator
 - If signed by a manager – full name, address and contact detail must be provided below signature
 - Manager must be on record
 - Commencement date **MUST** agree with resolution

- ▶ **Form 20** Voluntary Liquidator's consent to Act
 - Details must agree with Form 19

- ▶ **Form 21** Declaration of Solvency
 - Must be signed by all managers
 - All manager must appear on the Register previously filed with ROC
 - The status will be changed to “LI” “LIQUIDATION IN PROGRESS-VOLUNTARY”

If this is not provided then

- ▶ **Form 22** Advertisement (application for Supervision Order)
- ▶ **Special Resolution** – if winding up is under S36(1)(d)

Effective date of Voluntary Winding up

Adopting the effective date of a winding up as specified in the Companies Law (2013 Revision) S117.

A voluntary winding up is deemed to commence-

- (a) at the **time of the passing of the resolution** for winding up; or
- (b) on the **expiry of the period or the occurrence of the event** specified in the LLC agreement,
- (c) Upon the time when the LLC has **no members**

notwithstanding that a supervision order is subsequently made by the Court.

Output

- ▶ Stamped copies
- ▶ Proof of debt – **APPENDIX 18**

Voluntary Dissolution

Documents:

- ▶ Notice of Final General Meeting

127(3) The liquidator shall, no later than **seven days after the meeting**, make a return to the Registrar in the prescribed form specifying-

- (a) the **date** upon which the meeting was held; and
- (b) if a **quorum was present, particulars of the resolutions**, if any, passed at the meeting.

Liquidation Under Court Supervision

CL S.124. (1) Where a company is being wound up voluntarily its liquidator shall apply to the Court for an order that the liquidation continue under the supervision of the Court unless, **within twenty-eight days of the commencement of the liquidation**, the directors have signed a **declaration of solvency** in the prescribed form in accordance with subsection (2).

CL S.131. When a resolution has been passed by a company to wind up voluntarily, the liquidator or any contributory or creditor may apply to the Court for an order for the continuation of the winding up under the supervision of the Court, notwithstanding that the declaration of solvency has been made in accordance with section 124, on the grounds that-

- (a) the company is or is likely to become insolvent; or
- (b) the supervision of the Court will facilitate a more effective, economic or expeditious liquidation of the company in the interests of the contributories and creditors

Documents to file

- ▶ After the filing of voluntary liquidation with a **form 22** - Advertisement (application for Supervision Order)
- ▶ **Form 23** Supervision Order should follow
- ▶ The status will be changed to “LS” “LIQUIDATION UNDER COURT SUPERVISION” (effective date: date of Court order)

Output:

- Stamped copies
- Proof of debt – **APPENDIX 18**

Dissolution – Under Court Supervision

Document Required:

- ▶ Court Order

Compulsory Liquidation by order of the Court

CL S.92. A company may be wound up by the Court if:
(Modified as provided by S37)

- (a) the limited liability company has passed a **special resolution** requiring the limited liability company; to be wound up by the Court;
- (b) the limited liability company; does **not commence its business within a year** from its incorporation, or suspends its business for a whole year;
- (c) the period, if any, **fixed for the duration** of the company limited liability company; by the LLC Agreement expires, or whenever the **event**, if any, occurs, upon the occurrence of which it is provided by the LLC Agreement that the limited liability company; is to be wound up;
- (d) the limited liability company; is unable to pay its debts; or
- (e) the Court is of opinion that it is just and equitable that the limited liability company; should be wound up.
- (f) 37(2) Where expressly provided for in an LLC agreement, a manager or, if no **manager** has been appointed, a member or members, shall have authority to **present a winding up petition** on behalf of the limited liability company upon the affirmative vote or written consent of at least two-thirds in number of the members or such other alternative vote or written consent as expressly provided for in the LLC agreement.

Documents to File

Form 6 – Winding Up Order

Filed within 7 business days of order

Output:

Stamped copies

FORM 24 - Proof of debt

Dissolution – Court Order

- ▶ Upon completion of Winding up
- ▶ **Form 36** – Order for Dissolution

Output:

Dissolution Certificate

Appointment of liquidator

- ▶ Designated in the LLC agreement
- ▶ By Court Order
 - Effective upon commencement of liquidation
- ▶ Appointed by managers in general meeting
 - Effective upon date of filing consent to act with the Registrar S119(3)

Resignation/removal of liquidator

- ▶ Death
- ▶ Filing resignation notice/Court Order with Registrar (so long as at least 1 liquidator continues to act)

Power to Stay Winding Up/Liquidation S111

- ▶ Can only be done by the Court
- ▶ Anytime between commencement of liquidation and final meeting

Documents to file to stay liquidation – S111

- ▶ Special Resolution
- ▶ Court Order – within 7 days

Entities in Liquidation - Good Standing

Considering Sections 111 and 200A of the Companies Law good standing certificates should **NOT** be issued for companies in liquidation.

The registered office or liquidator upon application and payment of \$125 may obtain a letter stating that all fees and penalties have been paid. – **APPENDIX 19**

FILING



- ❖ Name/Dual Foreign Name
- ❖ Registered Office
- ❖ Term

General provisions – Changes S8(1)

- ▶ File certificate of amendment to the registered statement (**APPENDIX 14**)
 - Name of the LLC
 - The amendment to the Registration statement -
- ▶ Has 30 days to file the changes
- ▶ Penalty \$200/day after 30 days – maximum \$5,000

Registered Office - Appointment

- ▶ Has to be to another local service provider – S7(5)
- ▶ Documents required:
 - ▶ Registered office Consent S7(6) – **APPENDIX 15**
 - ▶ Certificate of amendment

Registered office – Resignation

- ▶ Serve notice on any manager or member of the LLC – **APPENDIX 16**
- ▶ File a copy of the S3(a) notice with Registrar

Penalties - No Registered Office



- ▶ \$200 per day – MAX \$5,000
- ▶ Beginning first business date following the filing date of S3(a) notice

Name Changes S8 (3)

- ▶ Name to conform with S6
- ▶ Document required – Certificate of amendment
- ▶ **Output:** Certificate of Registration on Change of Name

Registration of Managers (Section 62)

An LLC shall maintain a register of managers and register of mortgages and charges in similar manner to an exempted company incorporated or registered under the Companies Law in respect of its register of directors and officers.

- ▶ Details – same as D&O
- ▶ Penalties – same as D&O

Register of Members

Failure to maintain a register of members - \$5,000 S61(6)

Annual Returns – S57 – Appendix 17

Per Diem Penalty - S65

- ▶ Per diem less than \$200 – cap at \$1,000
- ▶ Per diem \$200 or more – cap at \$5,000

Disclosure of Information

S7(7) Any member of the public shall be entitled to be informed by the Registrar, on request, of the **location of the registered office** of any limited liability company registered under this Law. Such information may be obtained by the public on the General Registry's website www.ciregistry.gov.ky or by subscribers on CORIS.