



OFFICIAL RECEIVER'S OFFICE

破產管理署

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16 December 2015

來函請註明本署檔號

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OFFICIAL RECEIVER'S OFFICE CIRCULAR NO. 2/2015

Affidavit of Fitness

This circular sets out the general arrangement on provision of affidavit of fitness to the Official Receiver's Office ("ORO") when insolvency practitioners are being appointed as liquidators in compulsory winding-up or trustees in bankruptcy.

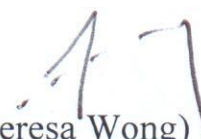
Compulsory Winding-up

2. Rule 45(4A) of the Companies (Winding-Up) Rules provides that for the purposes of appointing a person to be a liquidator, the Official Receiver may, if he considers desirable, require an affidavit as to the fitness of such person to be so appointed. Furthermore, the court has directed that a proper affidavit of fitness should be prepared for each individual case. In this connection, the nominated insolvency practitioners are required to submit an affidavit of fitness for **each** compulsory winding-up case to the ORO, which can be done after resolution for their appointment is passed at the meeting of creditors or contributories but before preparation of the application to court for appointment of liquidators by the ORO.

Bankruptcy

3. Under section 17(1) of the Bankruptcy Ordinance, the power to appoint some fit person as trustee (whether the first such trustee or a trustee appointed to fill any vacancy) is exercisable, except at a time when an order for the summary administration of the bankrupt's estate is in force, by a general meeting of the bankrupt's creditors. In this regard, the nominated insolvency practitioners are required to provide an affidavit of fitness to the ORO prior to the meeting of creditors to show that they are fit to take up the appointment of trustees.

4. Insolvency practitioners may rely on the same affidavit of fitness for multiple bankruptcy cases so long as it is made within 6 months. If an affidavit of fitness was made more than 6 months ago, a new one must be made and submitted to the ORO.


(Ms. Teresa Wong)
Official Receiver

To all insolvency practitioners

via (1) The Hong Kong Institute of Certified Public Accountants
(2) The Hong Kong Institute of Chartered Secretaries
(3) The Law Society of Hong Kong