



OFFICIAL RECEIVER'S OFFICE

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31 December 2019

來函請註明本署檔號

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OFFICIAL RECEIVER OFFICE CIRCULAR NO. 1/2019

Pilot Scheme

Rule 198 of the Companies (Winding-up) Rules

Application to the Official Receiver for sanction to appoint a solicitor to assist a liquidator in the performance of liquidator's duties

Upon suggestion by the Sub-Committee on Companies and Insolvency Matters of the Civil Court Users' Committee and after liaison with stakeholders, a 12-month pilot scheme is to be implemented for the Official Receiver to exercise the power pursuant to rule 198 of the Companies (Winding-up) Rules (Cap. 32H) to grant sanction to a liquidator to employ a solicitor to assist him/her in performing duties as liquidator ("the Pilot Scheme"). The Pilot Scheme will commence on 2 January 2020 and will be reviewed after the 12-month period.

2. Under the Pilot Scheme, the Official Receiver will exercise the power under rule 198 of the Companies (Winding-Up) Rules to give sanction to a liquidator to appoint a solicitor to assist him / her in performing duties as liquidator provided all of the following conditions are met: -

- (i) The appointment of solicitor is for handling only the following non-contentious matters;
 - (a) conducting conveyancing on behalf of the wound-up company;
 - (b) drafting contracts to sell assets of the wound-up company; or
 - (c) giving legal advice on any specific issue (as set out in the application) other than on those issues or matters which in any event would require the court sanction for the liquidators' exercise of the power (e.g. to make a compromise or arrangement with creditors).

(ii) No committee of inspection (“COI”) has ever been appointed in the winding-up;

[Note: The Official Receiver will only exercise the power under rule 198 where no COI has ever been appointed and NOT where a COI has been appointed but is no longer functioning for any reason (e.g. the members have lost interest in the winding-up, some members failed to attend COI meetings nor respond to the liquidator etc.)

(iii) The number of creditors of the wound-up company as at the date of the application is 100 or more; and

(iv) The request for sanction relates only to an appointment which has not yet been made (i.e. application for retrospective sanction for an existing appointment will not be entertained).

3. When applying for the Official Receiver’s sanction under the Pilot Scheme, the liquidators should send in the application **in writing** together with:

(i) a cheque for HK\$360.00 payable to “The Official Receiver, Hong Kong” in settlement of the fees under Item 4A, Table A of Schedule 3 to Companies (Fees and Percentages) Order (Cap. 32C);

(ii) background and details of the winding-up case;

(iii) information on the specific issues/matters requiring the appointment of solicitor(s) and the details of the solicitor(s) proposed to be appointed;

(iv) confirmation that points (ii) – (iv) of Para. 2 above are satisfied; and

(v) confirmation by the liquidator that the proposed solicitor(s) to be appointed have no conflict of interest in respect of the winding up or the issues/matters for which they are proposed to be appointed and that in the opinion of the liquidator it is appropriate for the liquidator to appoint the solicitor(s).

4. Upon receiving the application for sanction from liquidator, the Official Receiver will verify whether all the required information and fees have been received and whether the written application of the liquidator has met all the conditions as specified above. Should there be any point or aspect in the application which the Official Receiver considers that additional information is required, clarification from the liquidator will be sought.

5. After consideration, the Official Receiver will inform the liquidator in writing whether sanction is granted or not.

6. Please note that primary objective of the Pilot Scheme is to save court time and expedite the liquidation process in dealing with those non-contentious matters where there is no COI. Where circumstances warrant, a liquidator may still exercise the power to employ a solicitor to assist him / her in performing duties as liquidator with the sanction of the court or by way of giving advance notice to the members of COI or the creditors as appropriate under section 199(4) of Cap. 32.

Signed

(Ms. Phyllis McKenna)
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