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A photograph of a modern glass skyscraper with a grid-like facade, viewed from a low angle. The building is partially obscured by a semi-transparent blue overlay containing text. The foreground shows a paved plaza with a pattern of light and dark tiles.

Cayman Islands Exempted Limited Duration Companies

Preface

This publication has been prepared for the assistance of those who are considering the formation of companies in the Cayman Islands. It deals in broad terms with the requirements of Cayman law for the establishment and operation of such entities. It is not intended to be exhaustive but merely to provide brief details and information which we hope will be of use to our clients. We recommend that our clients and prospective clients seek legal advice in the Cayman Islands on their specific proposals before taking steps to implement them.

Before proceeding with the incorporation of a company in the Cayman Islands, persons are advised to consult their tax, legal and other professional advisers in their respective jurisdictions.

Persons considering establishing companies to carry on insurance or mutual fund business should request separate publications prepared by this Firm on these topics.

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1. INTRODUCTION

The principal statute governing the formation and operation of a Cayman Islands company is the Companies Act (the “Act”). Pursuant to the Act, any one or more persons may, by subscribing their names to a Memorandum of Association and complying with the requirements in respect of registration, form an incorporated company, with or without limited liability. There are three types of companies which are commonly registered in the Cayman Islands: Ordinary Resident Companies, Exempted Companies and Exempted Limited Duration Companies. The focus of this publication is on the formation of an Exempted Limited Duration Company (“LDC”) which is addressed in Part VIII of the Act.

2. CHARACTERISTICS OF A LIMITED DURATION COMPANY

As only exempted companies may register as limited duration companies, the LDC shares many features in common with exempted companies (for further information on exempted companies, please refer to our separate publication), namely:

- (a) The company is ‘created’ by filing a Memorandum of Association and on incorporation the relationship between the company, its director(s) and its member(s) is regulated by the company’s Articles of Association;
- (b) The company is not entitled to trade within the Cayman Islands with any person except in furtherance of business carried on outside the Cayman Islands;
- (c) The company must maintain a registered office in the Cayman Islands; and
- (d) Shares may be issued at a premium over par value, or may be without nominal or par value. Fractional shares may also be issued.

In addition, the LDC has several characteristics that clearly differentiate it from an exempted company:

- (a) The Memorandum of Association of the LDC must limit the life of the company to a period not exceeding 30 years, on the expiry of which period the company is deemed to have commenced winding-up;
- (b) The company name must include the words “Limited Duration Company” or the abbreviation “LDC”; and
- (c) The LDC must have at least two members at all times.

3. INCORPORATION OF A LIMITED DURATION COMPANY

An application to be registered as an LDC may be made at the same time as the application for incorporation as an exempted company; or at the time of re-registration of an ordinary non-resident company as an exempted company; or by way of an application for continuation into the Cayman Islands as an exempted company.

If the proposed company is to carry on a regulated activity, such as trust or insurance business, the appropriate licence may also be required.

4. OPERATION OF A LIMITED DURATION COMPANY

During its life span, the LDC operates much in the same way as any other exempted company. A board of directors may be appointed and may meet to conduct the day-to-day business. However, unlike most other exempted companies, the Articles of Association of an LDC may provide that the management of the company is vested in the members either per capita or in proportion to their share or interest in the company, or in some other manner. In these circumstances, the members of the company are also to be regarded as the directors and if permitted by the Articles of Association they may delegate their responsibilities to other parties (e.g. a properly appointed board of directors).

The Act specifically provides that exempted LDCs are not prohibited from offering, by electronic means, and supplying real or personal property, services or information from a place of business in the Cayman Islands or through a local internet or other electronic service provider¹.

5. WINDING UP OF A LIMITED DURATION COMPANY

Special provisions of the Act govern the circumstances in which an LDC is subject to voluntary winding up and dissolution. Broadly, an LDC is to be taken as having commenced voluntary winding up and dissolution:

- when the period fixed for the duration of the company expires;
- where the Memorandum or Articles of Association so provides:
- on the termination of any period; or
- on the happening of any event;
- if the members of the company pass a special resolution that the company be wound up voluntarily; or
- subject to anything in the Memorandum or Articles of Association to the contrary, on the expiry of a period of ninety days starting on:
- the death, insanity, bankruptcy, dissolution, withdrawal, retirement or resignation of a member of the company;
- the redemption, repurchase or cancellation of all the shares of a member of the company;
- the occurrence of any event which, under the Memorandum or Articles of Association, terminates the membership of a member of the company.

6. DE-REGISTERING

An exempted company may apply to deregister as an LDC upon making the appropriate amendments to its name, its Memorandum and Articles of Association and paying the appropriate fee.

¹ Section 182 of the Act

This publication should not be construed as legal advice and is not intended to be relied upon in relation to any specific matter. It deals in broad terms only and is intended merely to provide a brief overview and give general information.

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