

Cayman Islands Investment Funds

Overview of voluntary liquidation
process and potential cost savings

Overview of the voluntary liquidation process

Included below is an overview of the statutory and best practice liquidation procedures as it relates to Cayman Islands investment funds registered as exempted companies or exempted limited partnerships under the Mutual Funds Act (2021 Revision) and the Private Funds Act (2021 Revision).

Funds that have reached their end of life can benefit from commencing a voluntary liquidation as there is potential for cost savings as a result of reduced or eliminated service provider fees. For example, the Cayman Islands Monetary Authority ("CIMA") does not require audited accounts from a registered fund from the date of commencement of the winding up where third party liquidator(s) have been appointed. In addition, it may be possible for a fund to obtain an audit exemption for the stub period covering the date of the last audit to the date of the commencement of the voluntary liquidation. Further information on the CIMA audit exemption is included in the subsequent page.

Pre-appointment and commencement of the voluntary liquidation

Exempted Company

- Directors resolve to cease operations and recommend that the fund be placed into voluntary liquidation.
- Shareholder(s) resolutions¹ are passed by the voting shareholder(s) to place the fund into voluntary liquidation and to appoint the liquidators.
- The fund's solvency is reviewed, and all directors are required to sign a Declaration of Solvency¹.
- The liquidators submit their Consents to Act, the Notice of Voluntary Winding Up, the shareholder(s) resolutions, and the Declaration of Solvency to the Cayman Islands Registrar, at which time their appointment is deemed to take effect.

Exempted Limited Partnership

- Voluntary winding up occurs in accordance with the provisions of the exempted limited partnership agreement (the "LPA"):
 - At the time or upon occurrence of any event specified in the LPA; or
 - If not specified in the LPA, upon the passing of a resolution of the general partner(s) and a two-thirds majority of limited partners.
- The liquidators submit the Notice of Voluntary Winding Up and resolution (as applicable) to the Cayman Islands Registrar, at which time their appointment is deemed to take effect.

Immediate actions following the commencement of the voluntary liquidation

- Upon appointment, the liquidators assume control of the fund and the powers of the directors/general partner automatically cease, except to the extent that the liquidators sanction their continuance.
- The liquidators will publish the Notice of Voluntary Winding Up in the Cayman Islands Gazette.
- CIMA does not require audited accounts from a registered fund for periods subsequent to the date of commencement of the voluntary liquidation where third party liquidators² have been appointed.

Ongoing matters

- The liquidators will review relationships with service providers and determine the most appropriate approach to their continuance and/or termination, reviewing costs and continuance of services needed during the liquidation.
- If necessary, the liquidators will manage the wind down of the remaining asset portfolio and take steps to realize any assets to generate maximum value and in accordance with stakeholder preferences.
- Distributions to investors will be instructed as appropriate during the period of the liquidation.
- If the liquidation period extends beyond one year, the liquidators will prepare an annual report and accounts and hold an annual meeting for the voting shareholder(s) (this is a statutory requirement for an exempted company only).
- The liquidators will ensure the fund complies with and meets its regulatory obligations.

¹Samples of all documents and guidance through this process can be provided if Deloitte is serving as liquidator.

²Per CIMA's Regulatory Policy, a "third party liquidator" means individuals, serving as liquidators in a voluntary liquidation of a fund, who are not the operators or currently engaged service providers (excluding an auditor of the fund).

Final matters and closure of the voluntary liquidation

- At the conclusion of the liquidation, the liquidators will prepare a final report and accounts and convene the final meeting of the fund (this is a statutory requirement for an exempted company only).
- The liquidators will submit the necessary documentation to CIMA to cancel the fund's registration.
- A Final Return is filed with the Cayman Islands Registrar and the fund is deemed to be dissolved three months after the date on which the Final Return is registered.

CIMA audit exemption

The Mutual Funds Act (2021 Revision) and the Private Funds Act (2021 Revision) require that CIMA registered Mutual Funds or Private Funds have their accounts audited annually. In certain circumstances, a Mutual Fund or Private Fund that has reached the end of its life may benefit from seeking an exemption from the requirement to have its final accounts audited.

This exemption may be granted by CIMA in circumstances where a fund is being voluntarily liquidated and a third party liquidator³ has been appointed to undertake a review of the unaudited period preceding the commencement of the voluntary liquidation. A review by a third party liquidator in lieu of a final audit can result in costs savings for a fund and facilitate the cancellation of its registration with CIMA.

Examples of when to consider an audit exemption

- The costs of an audit outweigh the benefit to investors.
- The investment manager and/or fund administrator has been terminated or has resigned and there is no party responsible for managing the fund or preparing accounting records.
- The fund is winding down and had limited financial activity since the date of its last audit period.

Liquidators' review

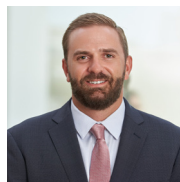
- The liquidators must be appointed under terms that require a review of the period since the last financial year end for which an audit has been filed to commencement of the voluntary liquidation.
- The review will cover the following:
 - Review of subscriptions and redemptions;
 - Reconciliations to bank accounts/statements;
 - Agreement of shareholder registers with net asset value statements;
 - Recalculation of performance and management fees;
 - Review of creditors and accruals;
 - Review for solvency; and
 - Report on matters relating to compliance with laws and regulations.
- The liquidators will submit a report summarising the results of their review and the recommendation to CIMA to provide an exemption (assuming this is the liquidators' conclusion).
- If approved by CIMA the fund does not need to conduct an audit for the relevant period and CIMA will proceed to cancel the fund's registration.

³Per CIMA's Regulatory Policy, a "third party liquidator" means individuals, serving as liquidators in a voluntary liquidation of a fund, who are not the operators or currently engaged service providers (excluding an auditor of the fund).

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