

CAYMAN ISLANDS



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PRACTICE DIRECTION NO. 4 OF 2017



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Filing of Winding Up Petitions

The filing of a petition to wind up a company if publicized can cause irreparable harm to its reputation, even if the petition is ultimately dismissed for lack of merit.

To address this mischief, the Companies Winding Up Rules (CWRs) prescribe a certain procedure for the filing of winding up petitions. These are in CWR Rules 5, 1 and 14, dealing respectively with the Creditor's, Contributory's and Cayman Islands Monetary Authority's petitions.

1. Creditor's Petition

- (a)** In keeping with CWR Rule 5, prior to presenting a creditor's petition, the petitioner's attorney must apply in writing (by letter or email) to the FSD Registrar to have the proceeding assigned to a Judge and to fix a hearing date.
- (b)** A creditor's petition shall not be filed or entered upon the Register of Writs and Actions (the "Register") unless and until the proceeding has been assigned to a Judge and a hearing date has been fixed and endorsed on the petition or stated in a notice of hearing filed simultaneously with the petition.
- (c)** Where the Judge has made an order restricting the filing or otherwise the publication of the petition, the petition may not be entered on the Register other than in keeping with the terms of the order or subsequent order.

2. Contributory's Petition

- (a) Upon presentation of a contributory's petition, the petitioner must at the same time issue a summons for direction in respect of the matters contained in CWR Rule 12, which will include directions as to whether or not the petition is to be advertised.
- (b) Prior to presenting a contributory's petition and issuing the summons for directions in respect of it, the petitioner's attorney must apply in writing (by letter or by email) to the FSD Registrar to have the proceeding assigned to a Judge and to fix a date for hearing the summons for directions.
- (c) Unless and until the Judge has fixed a date for hearing the summons for directions or otherwise directs, the petition shall not be entered upon the Register.

3. Authority's Petition

- (a) Prior to presenting a petition, the Authority's attorney must apply in writing (by letter or email) to the FSD Registrar to have the proceeding assigned to a Judge and to fix a date for hearing the summons for directions.
- (b) Upon the presentation of a petition by the Authority, the Authority must at the same time issue a summons for directions in respect of the matters contained in CWR Rule 15. A petition presented by the Authority shall not be advertised or entered in the Register unless and until the Judge otherwise directs.



Hon. Anthony Smellie
Chief Justice

4 August 2017