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Recent Developments: Approval of Liquidator

On 21.1.2020, the Accountant General^[1] issued the “Guidelines for Approval of Liquidator under the Companies Act 2016” (**Guidelines**) elaborating on the application process to become a licensed liquidator in Malaysia.

The Guidelines, among other things, spell out the “experience and capacity” required under s 433(4) of the Companies Act 2016. In summary, the applicant:

- (1) must be a citizen or permanent resident of Malaysia;
- (2) must be a member of either the Malaysian Institute of Accountants or the Malaysian Institute of Certified Public Accountants,^[2] with a valid Practising Certificate;
- (3) must not be an undischarged bankrupt within or outside of Malaysia;
- (4) has not been convicted of any offence involving fraud or dishonesty within the last five years;
- (5) has not been convicted of any offence relating to the promotion, formation or management of any corporation;
- (6) possesses the following experience:
 - (a) at least five years of full-time working experience in insolvency practice;
 - (b) has not left insolvency practice for more than three years from the date of application;
 - (c) if the applicant has left insolvency practice for more than three years, or, if the working experience in the field of insolvency was gained outside of Malaysia, the applicant must have practised insolvency in Malaysia for at least a year before he or she can make an application;
- (7) must have a sponsor letter from an approved liquidator responsible for supervising the applicant’s work. The sponsor cannot be a client or family member of the applicant. The

sponsor letter must elaborate on the applicant's work experience, ability to carry out insolvency work and the sponsor's role in the insolvency work mentioned;

(8) must have the ability and capacity to carry out the duties of a liquidator.

As it stands, the qualifying conditions are still rather restrictive. Perhaps expanding the list of recognised professional bodies besides accountancy is the way forward. This is because not all insolvency practitioners have accounting qualifications, which is not a requirement for one to be in insolvency practice. A change in this requirement will surely help to enlarge the pool of potential new liquidators.

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^[1] Effective from 5.12.2019, the Minister of Finance has delegated his powers in relation to the appointment, renewal and revocation of liquidators to the Accountant General pursuant to s 433(4c) of the Companies Act 2016.

^[2] Prescription of Recognized Professional Body [PU(B) 123/2018]