

BVI: Required Filings on Appointment of a Receiver under an English Law Legal Charge

Where English property is held by a British Virgin Islands ("BVI") company and is subject to enforcement action by the lender under the relevant charge, there are certain steps that must be taken by the receivers under BVI legislation, as summarised below.

In the event of the appointment of a receiver under an English law legal charge (or other instrument) granted by a BVI company, the provisions of the BVI Insolvency Act, 2003 (the "Act") impose certain obligations on the receiver and require certain filings to be made in the BVI.

It should be noted that failure to comply with the requirements of the Act will expose the receiver to financial penalties as set out further below.

Notice of Appointment

It is a requirement of the Act that a notice of appointment of the receiver be sent to the Company (at its registered office) as well as being filed with the Registrar of Companies in the BVI (the "Registrar") 'forthwith' upon the appointment being made.

The filing with the Registrar will be effected through the online VIRRGIN portal in the BVI and a stamped copy of the notice will be provided by the Registrar. It should be noted that filings may only be made through the

VIRRGIN portal where a company is in good standing. In the event that the company is struck off or 'inactive', a filing will still be required however this must be done by hand (requesting a stamped copy of the letter from the Registrar).

While failure to file the required notice does not impact the validity of the appointment of the receiver, it is an offence under the Act not to do so. Failure to make the required filing will make the receiver liable, on summary conviction, to a penalty of US\$2,000.

Accounts

The Act further requires that a receiver prepare accounts of his receipts and payments covering the period of 12 months following the receiver's appointment and each subsequent period of six months. A further set of accounts will be required on completion of the receivership.

Required Filings on Completion of a Receivership

On completion of the receivership, the receiver must give notice to the Registrar and the company (at its registered office) and file the final accounts (as set out above) with the Registrar within 30 days.

Should you require assistance with making the filings as set out above, please do not hesitate to contact your usual Maples Group contact or one of the individuals listed below.

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