

IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION



FSD CAUSE NO: 3 OF 2020 ( )

IN THE MATTER OF THE COMPANIES LAW (2018 REVISION)

AND IN THE MATTER OF TOF CAYMAN SPV



WINDING UP PETITION



TO THE GRAND COURT

The humble petition of IIG GLOBAL TRADE FINANCE FUND LTD. (IN OFFICIAL LIQUIDATION)  
c/o Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 70 Harbour Drive,  
George Town, Grand Cayman KY1- 1104, Cayman Islands (the "**Petitioner**") shows that:

INTRODUCTION

1. The Petitioner presents this petition for the winding up of TOF Cayman SPV (the "**Company**") and seeks the appointment of joint official liquidators over the Company.
2. The Petitioner is a creditor of the Company and seeks the winding up of the Company pursuant to Section 92(d) of the Companies Law of the Cayman Islands (2018 Revision) (the "**Companies Law**") on the ground that the Company is unable to pay its debts.
3. The Company is an exempted limited company incorporated under the laws of the Cayman Islands on 2 February 2006, with company number 161860.
4. The registered office of the Company is at Trident Trust Company (Cayman) Limited, P.O. Box 847, One Capital Place, Shedden Road, Grand Cayman, Cayman Islands.

## THE PETITIONER

5. The Petitioner is an exempted limited company incorporated under the laws of the Cayman Islands on 12 August 2015, with company number 303124. A winding up order was made by this Honourable Court on 23 October 2019 in respect of the Petitioner and Alexander Lawson and Christopher Kennedy of Alvarez & Marsal Cayman Islands Limited were appointed as the joint official liquidators of the Petitioner.

## THE UNPAID DEBT

### *Loan to the Company*

6. Pursuant to a promissory note dated 17 July 2018 and entered into between the Company (as borrower) and the Petitioner and IIG Structured Trade Finance Fund Ltd. (as lenders) (the "**Lenders**") (the "**Promissory Note**"), the Lenders (including the Petitioner) loaned the Company the amount of US\$16 million (the "**Loan**").
7. The Company promised to repay the principal amount of the Loan plus interest on the unpaid principal balance at the rate of 9% per annum upon the terms of the Promissory Note.
8. The Loan (including principal and interest) matured on 17 July 2019 and became due and payable in one instalment on that date.
9. The Loan was supported by:
  - (a) a security agreement dated 17 July 2018 and entered into between the Company and the Lenders (the "**Security Agreement**"); and
  - (b) a guarantee dated 17 July 2018 and granted by IIG Trade Opportunities Fund N.V. (an open-ended investment company organised and existing under the laws of Curacao) in favour of the Lenders,(together with the Promissory Note, the "**Loan Documents**").

*Letter of demand for payment*

10. By way of letter dated 26 November 2019 from the Lenders to the Company (the "**Demand**"), the Petitioner, in accordance with the terms of the Loan Documents, *inter alia*:
- (a) notified the Company that the Promissory Note matured on 17 July 2019 (the "**Maturity Date**") (paragraph 2 of the Demand);
  - (b) notified the Company that it had failed to repay the principal balance of the Loan (together with all accrued and unpaid interest and other obligations) on the Maturity Date (paragraph 2 of the Demand);
  - (c) notified the Company that interest at the default rate of eleven percent (11%) per annum continues to accrue on the Loan until all obligations are paid in full (paragraph 2 of the Demand);
  - (d) demanded payment from the Company of all obligations due under the Promissory Note (paragraph 3 of the Demand);
  - (e) notified the Company that the failure to pay any principal or interest due under the Promissory Note within two days of the Demand would constitute an Event of Default (as defined therein) under the Loan Documents (paragraph 3 of the Demand);
  - (f) notified the Company that it was responsible for the payment of all fees and expenses incurred by the Lenders in connection with the collection of amounts payable under the Promissory Note and the enforcement of the Security Agreement (paragraph 4 of the Demand); and
  - (g) notified the Company that the Lenders reserved all rights to take any and all such actions as the Lenders may deem appropriate to protect their interests with respect to the Promissory Note and collect amounts due thereunder including, without limitation, pursuing the rights and remedies set out in Section 7 of Security Agreement (paragraph 5 of the Demand).

11. To date, the Company has failed to repay the Loan (together with the accrued and unpaid interest and default interest thereon) (as set out in the Demand) being US\$15,846,0440.35 to the Lenders (including the Petitioner) as at 30 November 2019.

*Relief sought*

12. In the premises:
  - (a) the Petitioner is a creditor of the Company and has standing to present this petition under section 94(1)(b) of the Companies Law; and
  - (b) the Company is unable to pay its debts pursuant to section 92(d) of the Companies Law and is therefore insolvent and should be wound up.
13. The Petitioner nominates Mr Alexander Lawson and Mr Christopher Kennedy and of Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 70 Harbour Drive, George Town, Grand Cayman KY1-1104, Cayman Islands to act as the joint official liquidators of the Company.

**Your Petitioner therefore humbly prays that:**

1. The Company be wound up by the Court in accordance with the Companies Law.
2. Alexander Lawson and Christopher Kennedy of Alvarez & Marsal Cayman Islands Limited, Flagship Building, PO Box 2507, 70 Harbour Drive, George Town, Grand Cayman KY1-1104, Cayman Islands be appointed as joint official liquidators of the Company (the "JOLs").
3. The JOLs shall not be required to give security for their appointment.
4. The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
5. The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and / or their appointment and / or their powers in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.

6. In addition to the powers set out in Part II of the Third Schedule to the Companies Law, the JOLs be authorised to exercise all of the powers set out in paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11 of Part 1 of the Third Schedule to the Companies Law and section 110(2) thereof without further sanction or intervention of the Court.
7. The JOLs be authorised to do any act or thing considered by them to be necessary or desirable in connection with the liquidation of the Company and the winding up of its affairs in the Cayman Islands and/or elsewhere.
8. The JOLs be at liberty to appoint such counsel, attorneys, professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with Order 25 of the Companies Winding Up Rules 2018.
9. No disposition of the Company's property by or with the authority of the JOLs in carrying out their duties and functions and exercise of their powers under this Order shall be voided by virtue of section 99 of the Companies Law.
10. Subject to section 109(2) of the Companies Law and the Insolvency Practitioners Regulations 2018, the JOLs be authorised to render and pay invoices out of the assets of the Company for their own remuneration.
11. The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
12. The JOLs be at liberty to apply generally.
13. The Petitioner's costs of and incidental to the Petition shall be paid forthwith out of the assets of the Company as an expense of the liquidation, such costs to be taxed on an indemnity basis if not agreed with the JOLs.

14. Such further or other relief be granted as the Court deems appropriate.

**AND** your Petitioner will ever pray etc.

**DATED** this 6 day of January 2020.

*Walkers*

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**WALKERS**

Attorneys at Law for the Petitioner

**NOTE:** This Petition is intended to be served on the Company.

**THIS PETITION** was presented by Walkers of 190 Elgin Avenue, George Town, Grand Cayman KY1- 9001, Cayman Islands, Attorneys-at-Law of the Petitioner whose address for service is that of its said Attorneys.  
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## NOTICE OF HEARING

**TAKE NOTICE THAT** the hearing of this Petition will take place at the Law Courts, George Town, Grand Cayman on 1st April 2020 at 10 am~~pm~~.

Any correspondence or communication with the Court relating to the hearing of this Petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1-1106, telephone no. 349 949 4296.