



Frequently Asked Questions (“FAQs”)

RISA in collaboration with INSOL is developing and plans to implement an introductory course to be named “*Foundation Certificate in Insolvency Law and Practice in the Cayman Islands*” (“*the Course*”).

It is hoped these FAQs provide members with answers to questions they have regarding the Course which is aimed to be a useful aide memoir for members when deciding whether or not they or any of their colleagues would be suitable to enrol for the Course.

What is the target audience of the Course?

- The Course is an introductory course aimed at juniors and trainees (especially Caymanians) or those new to the Island who would like to obtain a basic understanding as to the Cayman Islands insolvency legislation

What will I receive upon completion of the Course?

- You will receive a certificate issued by INSOL International and RISA Cayman stating that you have successfully completed the Course

Will taking the Course allow me to practice law in the Cayman Islands?

- No

Will taking the Course allow me to become a qualified insolvency practitioner and take formal appointments in the Cayman Islands?

- No

What will be the required pass mark for the course?

- A minimum of 50% is required to pass the course

What will the exam format be?

- The examination will be a mix of multiple choice, direct, essay-type and application-type questions and candidates will likely have a 24-hour window to complete the assessment, to be supported by a declaration of honesty to support the candidates submission, thereby ensuring that the candidate has submitted his or her own work.

Is there a risk that the Course will cut across or duplicate other long-standing education programmes and courses, both internal and external?

- At present, RISA and INSOL provide two similar training programmes relating to Cayman.

First, RISA provides a one-day Refresher Course to junior practitioners every 4-5 years. Whilst take-up for this is normally very good, speakers and attendees have previously expressed that even when dealing with introductory material, there is still a lot of content to deliver and absorb within one day and that perhaps spacing it out over a long period might be preferable, if this could be achieved.

Second, INSOL has, for several years now, provided a Foundation Certificate in International Insolvency Law (<https://www.insol.org/Education/The-Foundation-Certificate>). This is a one-year, assessed course. It includes elective modules covering 37 jurisdictions, including all of the major Offshore Financial Centres, such as the Cayman Islands. Written materials are accessed online and are downloadable as PDFs. The Cayman guidance text is over 50-pages long. Whilst take-up for this certificate is good, we understand from previous participants that (a) some regret the fact that candidates may **not** select their own jurisdiction, given that many Cayman candidates would prefer to receive similar foundational training in Cayman insolvency; and (b) some would prefer training that involves a little more interaction / teaching.

What if the Course cuts across the existing in-house training offered by firms on Island?

To the extent that the Course may duplicate firms' own existing training programs, RISA recognises that such firms may prefer not to have their trainee and junior employees undertake the Course. However, RISA's understanding that for a substantial proportion of firms such a Course would be welcome and RISA considers that there is benefit for the jurisdiction in providing some foundational training which is available to all potential future Cayman practitioners.

One of RISA's aims is to promote and support the strengths of the insolvency and restructuring sector in the Cayman Islands. RISA views the provision of training that is available to all Cayman practitioners as wholly consistent with those aims, and with the aim of improving the overall standard of practice within this sector.

Is RISA confident that it has the capacity to take on a task of this magnitude?

- The Course will certainly require a significant time commitment, especially for the authors in the first few years as the course materials are drafted. For this reason, and to ensure that as inclusive an approach as possible is taken, RISA has approached a large number of firms to ask whether they would like to share the work of establishing and running this course. Whilst it is always impossible to be certain that adequate resources will be available, RISA believes – both from the level of positive response received, along with RISA's experience of running other training events (such as the Refresher Course), that this course will be implemented properly.

One key benefit of the collaboration with INSOL is that it will bring to bear INSOL's considerable experience of setting-up and running these courses, together with the fact that on an annual basis INSOL will take care of running the more administrative aspects of the course, including applications, collecting fees, publishing course materials and liaising with candidates regarding assessment deadlines.

RISA was established for the primary purpose of promoting this jurisdiction via education and technical events. RISA is therefore fully committed to executing the Course properly, in a way that benefits the jurisdiction.

Is RISA confident that the right people have 'bought in' to providing the Course, such that there will be an adequate quality of provision?

- Yes, from the list of volunteers collected, RISA is confident that sufficient numbers of suitably qualified and experienced practitioners have volunteered to play a part in running the Course. Furthermore, we are hopeful that there may yet be more volunteers, especially if in future years the Course proves successful. RISA would welcome such contributions.

Will RISA continue to run their "Refresher" course?

- Currently it is envisaged that the Course will run on an annual basis and therefore there is unlikely to be a requirement for the Refresher course as a majority of the Course material will cover aspects previously covered by the Refresher. RISA will however continue to monitor the demands of its members and if there is a desire to continue with the Refresher course then consideration will be given to the same.

Is there a risk of detailed course materials becoming a de facto textbook on Cayman insolvency law, to the detriment of Cayman Islands practitioners?

- As we all know, there are strict qualification and licensing conditions, which must always be complied with before someone can practice Cayman Islands insolvency. This is obviously something of which both RISA and INSOL are very mindful.

We are equally mindful of the commercial consequences of publishing a *de facto* textbook that may ultimately make its way into the public sphere.

However, we note that the current INSOL Foundation Certificate in International Insolvency Law has been running for several years and, having checked with INSOL, we are not aware of any practitioners having elected to take the Cayman Islands module who have then gone onto either mass-produce that (copyrighted) material for wider dissemination, or to use their knowledge from the course engage in the practice of Cayman Islands law (which would, in all likelihood be illegal). INSOL's Education System is set up in such a way that only registered, paying students have access to the course material. The course materials are provided in PDF-format and these documents have security settings applied to prevent the copying and pasting of the course content.

In our view, a number of additional factors address the question's potential concern:

First, the planned Course is intended to be foundational (only). It shall be aimed at trainees and junior practitioners. As such, it will not seek to replicate much of the more advanced material that most firms deliver as part of their own professional development programs. Nor will it seek to include firms' own precedents, skeleton arguments, pleadings or material of that nature. We therefore regard the likelihood of the Course materials being used as a *de facto* textbook on such matters as remote.

Second, it would be extremely foolish (and, most likely, illegal) for anyone to seek to use the Course material in this manner. RISA and INSOL agree that clear and prominent warnings that the Course does not entitle anyone to practice Cayman Islands insolvency will display prominently at the beginning of all relevant written material. There will also be full written explanation that the Course covers a foundational level only.

Third, a good proportion of the materials published as part of the planned Course will substantially duplicate and be based on existing legislation and rules that are already publicly available and will most likely not be materially dissimilar from the written material that has already been available to overseas practitioners as part of the Cayman Islands module of the INSOL Foundational Certificate in International Insolvency for several years. The objective is not to author a *de facto* practitioners' textbook and the materials are very unlikely to provide the level of detail and analysis to enable someone to use them for this purpose.

Finally, as noted above, written material of this nature has been available to overseas practitioners for several years, most notably as part of the INSOL Foundation Certificate in International Insolvency module on the Cayman Islands. RISA and INSOL have no experience of those materials ever being used by Onshore practitioners, or anyone else, as a *de facto* textbook. And, in RISA's views, these risks would not materially increase as a result of this planned Course.

Is there a risk that the Course will be viewed as a qualification, enabling people (including onshore professionals) to market themselves and provide services in relation to Cayman Islands insolvency work?

- To be absolutely clear, the proposed Course is not intended, nor will it be any form of qualification entitling anyone to practice in the field of Cayman Islands insolvency. It will be a training course aimed at providing foundational level content to juniors and trainees. As stated above, all of the written material will consider clear and explicit 'health warnings' that the Course does not qualify anyone to practice Cayman insolvency.

As part of the Course materials, one subject to be covered is what qualifications *are* required to enable them to practice insolvency in the Cayman Islands. This should further reduce the scope for any possible misunderstanding on this point.

As mentioned above, we are not aware of any foreign practitioners who have chosen the Cayman Islands module of INSOL's Foundation Certificate in International Insolvency Law holding themselves as admitted in this jurisdiction upon completion of that course.

What will be the likely cost of the Course?

- The Course will cost £750 for Cayman nationals; £900 for RISA/INSOL members and £1,000 for other applicants.

How long will the Course last?

- 12 months

What is the format of the Course?

- Combination of home/distance learning with online modules and assessments. RISA will also be offering classroom-type revision classes for those delegates who enrol in the Cayman Islands.

What specific areas of the Cayman legislation will the Course cover?

- The Course will cover both personal insolvency and corporate insolvency regimes in the Cayman Islands.

If you have any further queries in respect of the Course, please do not hesitate to email RISA risa@dominioncayman.com