INSOL INTERNATIONAL
FOUNDATION CERTIFICATE
in INTERNATIONAL INSOLVENCY LAW

SUMMATIVE (FORMAL) ASSESSMENT: MODULE 8E

SINGAPORE

This is the **summative (formal) assessment** for **Module 8E** of this course and must be submitted by all candidates who **selected this module as one of their elective modules**.

The mark awarded for this assessment will determine your final mark for Module 8E. In order to pass this module, you need to obtain a mark of 50% or more for this assessment.

INSTRUCTIONS FOR COMPLETION AND SUBMISSION OF ASSESSMENT

Please read the following instructions very carefully before submitting / uploading your assessment on the Foundation Certificate web pages.

1. You must use this document for the answering of the assessment for this module. The answers to each question must be completed using this document with the answers populated under each question.

2. All assessments must be submitted electronically in **Microsoft Word format**, using a standard A4 size page and an 11-point Arial font. This document has been set up with these parameters – **please do not change the document settings in any way**. **DO NOT** submit your assessment in PDF format as it will be returned to you unmarked.

3. No limit has been set for the length of your answers to the questions. However, please be guided by the mark allocation for each question. More often than not, one fact / statement will earn one mark (unless it is obvious from the question that this is not the case).

4. You must save this document using the following format: **[studentnumber.assessment8E]**. An example would be something along the following lines: 202021IFU-314.assessment8E. **Please also include the filename as a footer to each page of the assessment** (this has been pre-populated for you, merely replace the words "studentnumber" with the student number allocated to you). Do not include your name or any other identifying words in your file name. **Assessments that do not comply with this instruction will be returned to candidates unmarked**.

5. Before you will be allowed to upload / submit your assessment via the portal on the Foundation Certificate web pages, you will be required to confirm / certify that you are the person who completed the assessment and that the work submitted is your own, original work. Please see the part of the Course Handbook that deals with plagiarism and dishonesty in the submission of assessments. **Please note that copying and pasting from the Guidance Text into your answer is prohibited and constitutes plagiarism. You must write the answers to the questions in your own words**.

6. The final submission date for this assessment is **31 July 2021**. The assessment submission portal will close at **23:00 (11 pm) GMT on 31 July 2021**. No submissions can be made after the portal has closed and no further uploading of documents will be allowed, no matter the circumstances.

7. Prior to being populated with your answers, this assessment consists of **8 pages**.

ANSWER ALL THE QUESTIONS

Commented [DB1]: 37/50 = 74%

QUESTION 1 (multiple-choice questions) [10 marks in total]

Questions 1.1. – 1.10. are multiple-choice questions designed to assess your ability to think critically about the subject. Please read each question carefully before reading the answer options. Be aware that some questions may seem to have more than one right answer, but you are to look for the one that makes the most sense and is the most correct. When you have a clear idea of the question, find your answer and mark your selection on the answer sheet by highlighting the relevant paragraph **in yellow**. Select only **ONE** answer. Candidates who select more than one answer will receive no mark for that specific question.

Question 1.1

Which of the following **is not** one of the objectives of the IRDA?

(a) To establish a regulatory regime for insolvency practitioners.

(b) To introduce a new omnibus legislation that consolidates the personal and corporate insolvency and restructuring laws.

(c) Adoption of the UNCITRAL Model Law on Cross-Border Insolvency.

(d) To enhance Singapore's insolvency and restructuring laws .

Question 1.2

Who may apply to court to stay or terminate the winding up of a Company?

(a) A creditor.

(b) A contributory.

(c) The liquidator.

(d) Any of the above.

Question 1.3

Which of the following factors may enable a foreign debtor to establish a "substantial connection" to Singapore?

(a) The debtor has chosen Singapore law as the law governing a loan or other transaction.

(b) The centre of main interests of the debtor is located in Singapore.

(c) The debtor has substantial assets in Singapore.

(d) Any of the above.

Question 1.4

What percentage of each class of creditors must approve a scheme of arrangement for it to be binding?

(a) Over 50% in number.

(b) 50% or more in number.

(c) Over 75% in number.

(d) 75% or more in number. Answer is (a)

Question 1.5

Which of the following in respect of the automatic moratorium under Section 64(1) of the IRDA **is incorrect**?

(a) The automatic moratorium lasts for 30 days.

(b) The automatic moratorium may be extended.

(c) The automatic moratorium can be obtained without filing an application to Court.

(d) The debtor has to either propose or intend to propose a scheme of arrangement.

Question 1.6

Which of the following **does not** lead to the discharge of a judicial management order?

(a) A receiver is appointed over the assets of the company.

(b) The creditors decline to approve the judicial manager's proposals.

(c) The judicial manager is of the view that the purposes specified in the judicial management order cannot be achieved.

(d) The judicial manager has acted or will act in a manner that would be unfairly prejudicial to the interests of creditors or members of the company.

Question 1.7

Which of the following **is one of the three** aims of a judicial management?

(a) To allow the directors to oversee the restructuring of the company.

(b) Preserving all or part of the company's business as a going concern.

(c) As a means for the secured creditors to realise their security.

(d) To liquidate the company in a fast-track and cost-efficient manner.

Question 1.8

Which one of the following **is not** a corporate rescue mechanism in Singapore?:

(a) Informal creditor workouts.

(b) Judicial Management.

(c) Receivership.

(d) Scheme of arrangement.

Question 1.9

Which one of the following countries **is not** one of the jurisdictions that Singapore has modelled its insolvency laws on?

(a) England and Wales.

(b) Brunei.

(c) The USA.

(d) Australia.

Question 1.10

Which one of the following points regarding the landmark decision of *Re Zetta Jet Pte Ltd* is **not correct**?

(a) The High Court did not grant full recognition of the US Chapter 7 proceedings.

(b) The US bankruptcy proceedings continued in breach of the Singapore injunction.

(c) This is the first reported decision where a Singapore court has been faced with the question of public policy in an application for recognition of a foreign insolvency proceeding.

(d) The Court held that the omission of the word "manifestly" from Article 6 of the Singapore Model Law meant that the standard of exclusion on public policy grounds was higher than in jurisdictions where the Model Law had been enacted unmodified.

9 marks

QUESTION 2 (direct questions) [10 marks]

Commented [DB2]: 6.5/10

Question 2.1 [maximum 4 marks]

Explain the elements of **two** types of impeachable transactions under Singapore insolvency law and what defences there may be to the two you have identified.

Two types of impeachable transaction under the Singapore insolvency law are:

(i) Unfair preference transaction: -a transaction entered into by the company whereby the beneficiary or the preferred party to the transaction (being a creditor of

guarantors of the company's debts or liabilities) have been put in a better position than it would have been had the transaction not been entered in the event of the company's liquidation. Such a transaction should have been entered into when the company was insolvent or the company was led to insolvent as a consequence of that transaction.

Defence:

a) *The transaction having taken place prior to two years from the date of winding up application in case the preferred party is an associate of the company* an prior to 6 months incase the preferred party is unrelated to the company;

b) *The company was not insolvent at the time the transaction took place or the transaction did not result into rendering the company insolvent;*

c) There was lack of a desire to prefer the concerned creditor or guarantor to put it in a place that would put it in a position better than what it would have enjoyed had the transaction taken place been entered in the event of company's liquidation;

(ii) Undervalue Transaction: - a transaction where a company gives a gift to the recipient or one entered into by the company with a party at a value of consideration significantly less than the value of consideration provided; and a result of which the company became insolvent or was insolvent at the time of entering into such transaction.

Defence:

a) *The transaction having taken place prior to five years from the date of winding up application (irrespective of the nature or the relationship of the recipient or the party with the company)*;

b) *The company was not insolvent at the time the transaction took place or the transaction did not result into rendering the company insolvent;*

The answer conflates the elements with the defences. **2.5 marks.**

Question 2.2 [maximum 2 marks]

What is the objective and significance of the JIN Guidelines?

The Guidelines for Communication and Co-operation between Courts in Cross Border Insolvency Matters also known as the JIN Guidelines address key aspects of and the modalities for communication and cooperation amongst courts, insolvency representatives and other parties involved in cross-border insolvency proceedings, including the conduct of joint hearings.

The overarching aim of the JIN Guidelines is the preservation of enterprise value and the reduction of legal costs. In particular, these Guidelines aim to promote: (i) the efficient and timely coordination and administration of Parallel Proceedings; (ii) the administration of parallel cross-border insolvency proceedings with a view to ensuring relevant stakeholders' interests are respected; (iii) the identification, preservation, and maximization of the value of the debtor's assets, including the debtor's business; (iv) the management of the debtor's estate in ways that are proportionate to the amount of money involved, the nature of the case, the complexity of the issues, the number of

creditors, and the number of jurisdictions involved in parallel proceedings; (v) the sharing of information in order to reduce costs; and (vi) the avoidance or minimization of litigation, costs, and inconvenience to the parties2 in Parallel Proceedings. This confuses the Model Law with the JIN Guidelines.

1 mark

Question 2.3 [maximum 4 marks]

How can a bankrupt obtain

(i) an annulment; and

(ii) a discharge

of his bankruptcy under the Singapore IRDA?

(i) Annulment –

A bankrupt is required to file an application to annul under Section 392 of IRDA before the court within 12 months of the bankruptcy order. Basis such an application the court may annul the bankruptcy if the court is, *inter alia*, satisfied that:

(a) the order ought not to have been made on grounds existing at the time; or
(b) debts and expenses of the bankruptcy have been paid or secured to the satisfaction of the court.

Please state the other ground as well

(ii) Discharge –

A discharge may be obtained by a bankrupt by filing an application for the same to the court under Section 394 of the IRDA anytime after the bankruptcy order is made. Such an application is required to be served upon every creditor that has filed a proof of debt in the bankruptcy of the court, who the court shall hear for an objection prior to passing such a discharge order. Upon hearing the application, the court may either discharge the bankrupt absolutely or subject to conditions as the court may deem fit including conditions with respect to future income or property. Who can apply for discharge?

The Official Assignee can also issue a certificate for discharge. **3 marks.**

QUESTION 3 (essay-type questions) [15 marks in total]

Commented [DB3]: 10/15

Question 3.1 [maximum 8 marks]

Write a brief essay on

(i) the restrictions on *ipso facto* clauses; and

(ii) wrongful trading

under the Singapore IRDA.

(i) Restrictions on *ipso facto* clauses -

Contractual clauses that permit a party to a contract to terminate or modify the contract or accelerate certain obligations upon occurrence of certain events are termed as ipso facto clauses. Some of such common events of defaults inter alia included events of insolvency, commencement of restructuring, rehabilitation, scheme of arrangement with creditors, liquidation proceedings etc. Such unilateral right to termination by a party to a contract may often hinder efforts at restructuring of a company, especially when the continuance of such contracts is key to the survival of the operations of the company as a going concern.

Section 440 of IRDA, in order to address such situations, poses restrictions on enforcement of such ipso facto clauses in certain circumstances thereby limiting the exercise of contractual rights only basis reason that certain proceedings (such as relating to compromise, arrangement, judicial management etc.) in respect of the company have commenced or that the company is insolvent. This clause however does not pose an embargo upon enforcing the ipso facto clause upon other events being triggered such as a default in repayment.

How to seek protection under Section 440?

The clause further carves out an exception to the applicability of such restrictions in respect of inter alia:

a) prescribed eligible financial contract;

b) contract that is a license, permit or approval by a government or statutory body;

c) any commercial charter of a ship; or

d) any contract that is likely to affect the national interest, or economic interest of Singapore, as may be prescribed.

(ii) Wrongful Trading -

Section 239(12) of the IRDA outlines the concept of wrongful trading, which provides that a company trades wrongfully if:

a) the company, when insolvent, incurs debts or liabilities without reasonable prospect of meeting them in full; or

b) the company incurs debts or liabilities that it has no reasonable prospect of meeting in full and that result in the company becoming insolvent.

If it is established that a company has traded wrongfully, any person who was a party to such wrongful trading can be made personally responsible for all or part of the debts or liabilities of the company, where it is established that such person knew that the company was trading wrongfully or, as an officer of the company, ought to have known that the company was trading wrongfully. Section 239(2) of the IRDA includes a statutory defense for personal liability. In this regard, the Court may relieve the person of personal liability if the person acted honestly and having regard to all the circumstances of the case, the person ought fairly to be relieved from personal liability.

Section 239(6) of the IRDA further stipulates that where a company has traded wrongfully, every person who was a party to the wrongful trading and who (a) knew that the company was trading wrongfully; or (b) as an officer of the company, ought, in all the circumstances, to have known that the company was trading wrongfully, shall be guilty of an offence and shall be

liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 3 years or to both.

How would wrongful trading be different from insolvent trading? Is it possible to apply to Court for a declaration?

The answer could go into more detail. **5 marks.**

Question 3.2 [maximum 7 marks]

Write a brief essay in which you discuss the differences between a judicial management and liquidation.

(i) Under the IRDA, judicial management is a court supervised process under which a judicial manager is appointed to takeover the management of a distressed company, with the aim of providing viable companies in financial distress the opportunity to rehabilitate or restructure their debts so that they can resume business as a going concern. Judicial management is fundamentally a rehabilitation and rescue process, which differentiates it from a liquidation process.

(ii) As contemplated in Sections 89 and 91(1)(b) of the IRDA, prior to a court passing a judicial management order, it is required to consider inter alia the following factors:

a) the survival of the company, or the whole or part of its undertaking as a going concern;

b) the approval of a compromise or an arrangement in respect of the company; and

c) a more advantageous realisation of the company's assets as compared to a liquidation.

(iii) Winding-up (or liquidation) proceedings, on the other hand, is a process where the company's assets are seized and realised, with the resulting proceeds used to pay off its debts and liabilities. In the case of liquidation proceedings, a liquidator (or provisional liquidator) is appointed by the court upon application by the company or its creditors. The liquidator may be either the Official Receiver or a private liquidator.

(iv) While a liquidation process can be initiated for solvent as well as insolvent companies under the IRDA, the purposes of a liquidation are:

a) to ensure a just distribution of the company's assets among creditors and contributories; and

b) to terminate the company's existence by its eventual dissolution

(v) Accordingly, to summarise the key differences between judicial management and liquidation:

a) judicial management as a concept envisages rehabilitation and rescue of the company whereas liquidation contemplates dissolution of the company;

b) on one hand, under judicial management, the judicial manager manages the affairs of the company with the intent of revival, when a company is being wound up, the company's business ceases to operate and its assets and affairs are handed over

to an independent liquidator whose powers, duties and functions are regulated by the IRDA.

The answer could do with more compare and contrast between the features of both processes. This is still a decent effort nonetheless. **5 marks.**

QUESTION 4 (fact-based application-type question) [15 marks in total]

Commented [DB4]: 11.5/15

Paladin Energy Corporation Ltd (PEC) is a Cayman-incorporated company listed on the Singapore stock exchange. PEC was formed to become the dominant market player in all aspects of energy in South East Asia and China. Its primary lines of business are:

- oil and gas exploration and production with assets and fields in Malaysia, Thailand and Cambodia;
- Renewable energy, specifically solar and wind, with projects in Malaysia, Vietnam and the United States; and
- Water and waste to energy with plants in Singapore and China.

PEC has three wholly-owned Singapore incorporated subsidiaries that run each of the three lines of business:

- PEC Oil and Gas Pte Ltd;
- PEC Renewables Pte Ltd; and
- PEC WWE Pte Ltd.

Each entity in turn owns all, or substantially all, of the shares in the relevant entities incorporated in the local relevant overseas jurisdiction.

PEC had traditionally funded its business via bank lending, with project financing facilities advanced directly to a combination of the three Singapore subsidiaries referenced above and directly to the underlying project companies. As at 2016, the group had raised SGD 2 billion in bank lending, all of which was guaranteed by PEC.

In 2018, PEC wanted to take advantage of an opportunity to expand their water and waste to energy business and raised an additional SGD 1 billion in retail bonds for working capital purposes. Water (and energy needs in general) is of strategic importance to Singapore given its geographical position and many retail investors took up the bond issue. The retail bonds were stated to be specifically subordinated to all other debt of the PEC group.

PEC traded positively throughout 2018 and 2019. However, in late 2019 it started informing some of its bank lenders that they may require waivers on certain terms in the loan and potentially further time to repay certain amounts owing. In early 2020, PEC appointed legal and financial advisors to provide it with advice as to the best steps to take. Shortly thereafter, PEC announced that it had filed for protection under section 211B of the Companies (Amendment) Act 2017. Further to this, PEC Oil and Gas Pte Ltd, PEC Renewables Pte Ltd and PEC WWE Pte Ltd filed for protection under section 211C of the Companies (Amendment) Act 2017.

Into the first six (6) months' extension of the moratorium, the bank lenders decide that they have lost their patience and no longer have confidence in PEC's management. They have therefore decided to apply to court to place PEC under judicial management.

Using the facts above, answer the questions that follow.

Question 4.1 [maximum 7 marks]

The working group of the bank lenders has asked its advisors to provide it with a written analysis covering the following critical issues for PEC. Please provide analysis on the following issues:

- Confirmation of the purpose of judicial management proceedings and what must be presented to the court in order to obtain a judicial management order; **(2 marks)**
- Assuming that PEC is placed under judicial management, what requirements must be satisfied in order for PEC to be able to access rescue financing under the IRDA?; **(2 marks)**
- What are the steps that need to be taken in order to place PEC's subsidiaries under judicial management out of court? **(3 marks)**

(i) Judicial management proceeding is one of the corporate rescue tools under the IRDA aimed at providing viable companies in financial distress the opportunity to rehabilitate or restructure their debts so that they can resume business as a going concern. Its fundamental purposes as set out under Section 89(1) of IRDA are:

(a) survival of a company or whole pr part of its undertaking as a going concern;
(b) approval of a compromise or an arrangement between company and such persons mentioned din section 71 of the Companies Act or section 71 of the IRDA;
(c) and a more advantageous realisation of the company' assets or property than in its winding up.

A judicial manager is appointed to take control of a company and to propose a plan to restructure or compromise the company's debts and obligations with its creditors. During the period of this judicial management, a moratorium against legal proceedings is automatically put in place to preserve the company's assets. The bank lenders including other creditors of the PEC may form a creditor's committee, which can require the judicial manager to attend before such meeting and furnish it with such information required to carrying out the functions as the committee may reasonably require.

The bank of lenders or any authorised representative of the consortium or any creditor mat present an application under Section 90 of IRDA before the court for an order that PEC should be placed under judicial management of a judicial manager, if they consider that:

a) that PEC is, or is likely to become, unable to pay its debts; and
b) there is a reasonable probability of rehabilitating the company or of preserving all or part of its business as a going concern, or that the interests of creditors would be better served otherwise than by resorting to a winding up,

A good summary of the requirements for JM in general although more detail on what is required to satisfy a JM, including whether secured creditors consent, would have

assisted. Consideration could be given to how a JM can be made in circumstances where PEC has the benefit of the section 64 moratorium. **1.5 marks**

(ii) After PEC is paced under judicial management, in order to be able to access rescue financing, PEC or the judicial manager is required to file an application under Section 101 of the IRDA, before the court by proving before the court that the financing is necessary for (a) the survival of PEC, or whole or any part of its undertaking as a going concern; and (b) to achieve a more advantageous realisation of its assets, than on a winding up of that company.

A notice of such an application is required to be sent to each creditor of PEC.

The answer lacks further detail on what the difference rescue financing options are – there are 4 different types of priorities – and what is required to be satisfied for each. **1 Mark.**

(iii) Following are the indicative steps that need to be taken by PEC's subsidiaries in order for them to be plaecd under judicial management out of court:

(a) Obtain a resolution under Section 94 of the IRDA by the creditors of each of PEC's subsidiaries ("**Relevant Subsidiaries**") proposed to be placed in an out of court judicial management.

(b) The Relevant Subsidiaries are required to give a prior notice of atleast 7 days of their intention to appoint an interim judicial manager to such person proposed for the appointment and to any person who has appointed, or is or may be entitled to appoint, a receiver and manager of the whole (or substantially the whole) of the concerned company's property under the terms of any debentures of that company (and each of such person should consent to the appointment of the interim judicial manager).

(c) Prior to the appointment of the interim judicial manager which is required to be done within 21 days of the notice required to be sent in (ii) above, each of the Relevant Companies is required to have the authorisation for such appointment by way of a resolution of the members of the company or, where so authorised by the constitution of the company, by a resolution of its board of directors. Further, the proposed interim judicial manager is required to lodge, with the Official Receiver and the Registrar of Companies, a statutory declaration stating *inter alia* that she or she is not in a position of conflict of interest and that in his or her view one or more purposes of judicial management can be achieved and consenting for appointment for the role.

(d) The Relevant Companies within 30 days of such statutory declaration being lodged by the interim judicial manager, and with a prior written notice of atleast 14 days (with requisite details as required under Section 94(8)(a) of IRDA) to the creditors, are required to summon a meeting of the company's creditors at a time and place convenient to the majority in value of the creditors, to consider a resolution for the company to be placed under judicial management. The directors of the Relevant companies are required to appoint atleast one of them to attend this meeting, who along with the secretary of the companies are required to disclose to the meeting the company's affairs and circumstances leading to the proposed judicial management post which the creditor may approve placing of PEC under judicial management as well as appointment of a judicial manager through an affirmative vote of a majority in number and value of the creditors present and voting.

A comprehensive summary of the key requirements. Well done. **3 Marks.**

Question 4.2 [maximum 8 marks in total]

As things transpired, PEC was placed under judicial management. Private equity funds are actively talking to PEC's Judicial Managers in order to determine whether or not they might make an investment in PEC, or acquire its assets. One particular private equity fund, Forty Thieves Capital, is particularly interested in acquiring debt relating to the various projects across the oil and gas, renewables and water lines of business with a view to either enforcing over the security of the assets to realise value, or to see if a loan-to-own-type structure can be successfully implemented. Ideally, they would like to do this outside of the judicial management proceedings.

To try and protect against this risk, PEC has commenced local insolvency proceedings in Malaysia, China and the United States to seek protection for the companies that own assets in each of those jurisdictions.

Taking these additional facts above into consideration, answer the questions below.

Question 4.2.1 [maximum 4 marks]

Do the judicial management moratoria obtained by PEC and its subsidiaries have extra-territorial effect such that assets owned by the group in jurisdictions outside of Singapore will also be protected?

In terms of Section 96(4) of IRDA, upon filing of an application for Judicial Management with respect to PEC and its subsidiaries, (i) no other proceedings may be commenced or continued against the companies; (ii) no execution or other legal process may be commenced or continued, and no distress may be levied, against the companies or their properties; and (iii) no step may be taken to enforce any security over any property of the companies, or to repossess any goods under any hire-purchase agreement, chattels leasing agreement or retention of title agreement.

A creditor affected by a moratorium may, however, apply to Court for leave to continue or commence proceedings against the debtor company. In deciding whether to grant leave, a Court will weigh the interests of the creditor against the need to grant the debtor room to meet the aims of judicial management.

However, while the IRDA provides a wide ambit of protection without limiting such embargo on adverse actions being taken again the companies within the jurisdiction of Singapore, the recognition of such a moratoria pursuant to the operation of the provisions of the IRDA, will be subject to the nature of jurisdiction of each of the locations (being Malaysia, Vietnam, US, Thailand, Cambodia etc) in which the assets of these companies are located including the applicable law therein with respect to recognition of insolvency proceedings having commenced in Singapore, adoption of UNCITRAL Model Law on cross-border insolvency, reciprocity requirements, in absence of that, applicability of private international law principles such as comity etc to provide recognition to such moratoria and protection thereunder.

A good effort. The core question was does a JM have extra-territorial effect outside of Singapore. The answer to that is no – only the section 64 moratorium can have such an effect if ordered by the Court. It is right to say that the local laws will the determine whether or not there is protection against creditor action. WheTher the JM would be recognised would depend upon those local laws, and whether or not they have adopted the Model Law (note: reciprocity is not a core requirement but some countries have added it in when they adopt the Model Law). **3 Marks.**

Question 4.2.2 [maximum 4 marks]

What cross-border insolvency laws are available in Singapore to recognise foreign insolvency proceedings? Explain the general requirements in order for a Singapore court to recognise a foreign insolvency proceeding and what the effect will be if the court were to do so.

(i) The cross-border insolvencies laws available in Singapore for the purposes of recognising foreign insolvency proceedings are the Insolvency, Restructuring and Dissolution Act 2018 that has adopted the UNCITRA Model Law on Cross-Border Insolvency with certain modifications as set out under Par 11 of the Act; Guidelines for Communication and Co-operation between Courts in Cross Border Insolvency Matters also known as the JIN Guidelines adopted by the Singapore Supreme Court; the Reciprocal Enforcement of Commonwealth Judgments Act enabling judgments from UK, Australia and certain commonwealth nations to be registered for recognition and enforcement of judgments from these nations in the Singapore High Court; and the Reciprocal Enforcement of Foreign Judgments Act.

(ii) The general requirements for a Singapore court to have jurisdiction and recognise a foreign insolvency proceeding is that the debtor (i) is or has been carrying on business within the meaning of section 366 of the Companies Act in Singapore; or (ii) has property situated in Singapore; or (iii) there is any other reason which the court considers that it is the appropriate forum to consider the question or provide the assistance requested.

Further the decision to recognize a foreign proceedings is based on the following criteria/requirements-

(a) it is a foreign proceeding within the meaning of Article 2(h) of Third Schedule to the IRDA;
(b) the person or body applying for recognition is a foreign representative within the meaning of Article 2(i);
(c) the application for recognition meets the requirements of Article 15(2) and (3);
(d) the application has been submitted to the Court mentioned in Article 4;
(e) the recognition shall not be contrary to the public policy of Singapore.

(iii) The effects of recognition of a foreign proceeding that is a foreign main proceeding, subject to Article 20(2) of IRDA are –

(a) Stay or moratorium on commencement or continuation of individual actions or individual proceedings concerning the debtor's property, rights, obligations or liabilities;
(b) Stay on execution against the debtor's property; and
(c) Suspension of the right to transfer, encumber or otherwise dispose of any property of the debtor.

Well done for addressing some of the core requirements for recognition under the Model Law and addressing some of the other legislation that might assist when it comes to recognition. **3 Marks.**

*** End of Assessment ***