



**SUMMATIVE (FORMAL) ASSESSMENT: MODULE 5B**  
**BRITISH VIRGIN ISLANDS (BVI)**

This is the **summative (formal) assessment** for **Module 5B** 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 5B.** 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: **[studentID.assessment5B]**. An example would be something along the following lines: 202122-336.assessment5B. **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 “studentID” 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 2022**. The assessment submission portal will close at **23:00 (11 pm) BST (GMT +1) on 31 July 2022**. 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 **7 pages**.

## **ANSWER ALL THE QUESTIONS**

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

Commented [JW1]: 10 marks

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**

**When** is the appointment of a liquidator **deemed to commence**, when there has been a qualifying resolution passed to appoint a liquidator?

- (a) On the date of the order appointing the liquidator.
- (b) On the date the qualifying resolution is passed.**
- (c) On the filing of the application to appoint a liquidator.
- (d) On the advertisement of the application to appoint a liquidator.

#### **Question 1.2**

In order to comply with section 156 of the Insolvency Act, **what timeframe** for payment of the debt (or to secure or compound for the debt), must a statutory demand require?

- (a) Within 14 days of the service of the statutory demand.
- (b) Within 21 days of the date of the statutory demand.
- (c) Within 21 days of the service of the statutory demand.**
- (d) Within 14 days of the date of the statutory demand.

#### **Question 1.3**

Which of the following **is not able** to make an application for the removal of a liquidator?

- (a) A member of the company.
- (b) A creditor.
- (c) The creditors' committee.
- (d) A receiver.**

#### Question 1.4

Where a receiver exercises a power of sale, the receiver owes a duty to obtain the best price reasonably obtainable at the time of sale. **To which one of the following is the duty owed to?**

- (a) The creditors, the shareholders, persons claiming an interest in the assets and the company.
- (b) The creditors, sureties, the shareholders and the company.
- (c) The creditors, sureties, persons claiming an interest in the assets of the company and the company.
- (d) The creditors, shareholders, sureties and persons claiming an interest in the assets of the company.

#### Question 1.5

A person is an "eligible insolvency practitioner", able to be appointed over an insolvent BVI company, foreign company or an individual's estate as a trustee in bankruptcy if:

- (a) He or she is a licenced insolvency practitioner; has given written consent to act; is not disqualified from holding a licence; is not disqualified from acting; and there is in force security for the proper performance of his or her functions.
- (b) He or she is a licenced insolvency practitioner; has advertised for his or her role; is not disqualified from holding a licence; is not disqualified from acting; and there is in force security for the proper performance of his or her functions.
- (c) He or she is a licenced insolvency practitioner; has given written consent to act; is not disqualified from holding an appointment; is not disqualified from acting; and there is in force security for the proper performance of his or her functions.
- (d) He or she is a licenced insolvency practitioner; has given written consent to act; is not disqualified from holding a licence; is not disqualified from acting; and there is in force an undertaking for the proper performance of his or her functions.

#### Question 1.6

Under the Reciprocal Enforcement of Judgments Act 1922, what is the **time period** during which a foreign judgment is registrable in the BVI?

- (a) Within 12 months of the date of judgment.
- (b) Within 3 months of the date of trial.
- (c) Within 6 months of the date of judgment.
- (d) Within 6 months of the date of trial.

**Question 1.7**

Which one of the below **is not** an effect of the appointment of a liquidator over a company?

- (a) The liquidator has custody and control of the assets of the company.
- (b) The assets automatically vest in the liquidator.**
- (c) The directors remain in office, but cease to have any powers.
- (d) Shares in the company cannot be transferred.

**Question 1.8**

In a liquidation, what is the **vulnerability period** for an undervalue transaction in the case of a transaction entered into with a connected person?

- (a) Two (2) years prior to the onset of insolvency and ending on the appointment of the liquidator.**
- (b) Two (2) years prior to the appointment of the liquidator.
- (c) Six (6) months prior to the onset of insolvency and ending on the appointment of the liquidator.
- (d) Five (5) years prior to the appointment of the liquidator.

**Question 1.9**

Which of the following **is not** a resolution that the directors of a company must pass in order to put in place a company creditors' arrangement?

- (a) Stating that the company is insolvent or is likely to become insolvent.
- (b) Approving a written proposal setting out how the creditors' rights will be varied or cancelled.
- (c) Approving a liquidation plan and a declaration of solvency.**
- (d) Nominating an eligible insolvency practitioner to be appointed interim supervisor.

**Question 1.10**

**When** does a voluntary liquidation commence?

- (a) When the directors of the company sign a declaration of solvency.
- (b) When the directors of the company sign a liquidation plan.
- (c) When the directors of the company pass the resolution appointing the voluntary liquidator.
- (d) On the date the voluntary liquidator files a notice of appointment with the Registrar.**

**QUESTION 2 (direct questions) [10 marks]**

**Question 2.1 [maximum 2 marks]**

Set out the circumstances in which a voluntary liquidator can be appointed over a company, pursuant to Part XII of the Business Companies Act 2004.

Pursuant to section 197(1) of the BVI Business Companies Act ("BCA"), a company can only be liquidated under Part XII of it has no liabilities or if it is able to pay its debts as they fall due and the value of the assets is equal to or exceeds its liabilities.

A company may be put into voluntary liquidation notwithstanding that a security interest is registered with the BVI Register of Companies, however the liquidator is bound to give effect to the rights of priority of the claim of an unsecured creditor.

**Question 2.2 [maximum 2 marks]**

A liquidator is appointed to a BVI incorporated company by the Court. In what circumstances would an officer of that company be deemed to have committed an offence pursuant to the fraudulent conduct provisions? You are required to make reference to the relevant legislation.

Pursuant to section 289(1) of the Insolvency Act, where a liquidator of a company is appointed by the Court, a person who is or has been an officer of the company is deemed to have committed an offence if, at any time whilst an officer or during the period of 12 months preceding the commencement of the liquidation, he has: (1) made or caused to be made any gift or transfer of, or charge on, or has caused, permitted or acquiesced in the levying of any execution against the company's assets, or (2) has concealed or removed any of the company's assets since, or within, sixty days of the date of any unsatisfied judgment or order for the payment of money obtained against the company.

**Question 2.3 [maximum 2 marks]**

With reference to the Insolvency Act, what powers are provided to the BVI Court in relation to the orders the Court can make in support of foreign insolvency proceedings?

Pursuant to section 467(3) of the Insolvency Act, the BVI Court is provided with a wide range of powers in relation to the orders that can be made in aid of foreign insolvency proceedings, including but not limited to:

- (1) Restraining the commencement or continuation of any proceedings against a debtor or a debtor's property;
- (2) Requiring any person to deliver up any property of the debtor or the proceeds of such property;
- (3) Appointing an interim receiver of any property of the debtor for such term and subject to such conditions as it considers appropriate; and
- (4) Staying or terminating or making any other order it considers appropriate in relation to a BVI insolvency proceeding.

**Question 2.4 [maximum 4 marks]**

With reference to the relevant legislation, set out the circumstances in which a company will be considered insolvent in the BVI.

A company will be considered insolvent in the BVI in the below circumstances set out in the

**Commented [JW2]:** 1/2 mark - Section 199 (1) & (2) (subject to section 200) of the BCA 2004 sets out all the circumstances in which a voluntary liquidator can be appointed.

**Commented [JW3]:** 1.5 marks - exceptions under subsection (2) not included

**Commented [JW4]:** 1 mark - there 4 more powers under 467 (3)

**Commented [JW5]:** 4 marks

Insolvency Act:

- (1) Pursuant to section 8(1)(a), it fails to comply with the requirements of a statutory demand that has not been set aside;
- (2) Pursuant to section 8(1)(b), it fails to satisfy, wholly or partly, execution or other process issued on a judgment, decree or order of the BVI Court in favour of a creditor of a company;
- (3) Pursuant to section 8(1)(c)(i), it is proved to the satisfaction of the Court that the value of the company's liabilities exceeds the value of its assets, also known as "balance sheet insolvency". Section 10(1) provides a wide definition of liability.
- (4) Pursuant to section 8(1)(c)(ii), it is proved to the satisfaction of the Court that the company is unable to pay its debts as they fall due, which is a question of fact. The English Court has found that an inability to pay a debt that is due and not disputed is sufficient evidence of insolvency.

It is important to note that while these statutory tests exist, on a Court appointment the Court retains residual discretion as to whether it should find that a company is insolvent and appoint a liquidator.

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

#### **Question 3.1 [maximum 5 marks]**

With reference to the relevant legislation, explain the steps a liquidator must take when preparing to terminate a liquidation.

The Court may make an order for the termination of a liquidator at any time on the application of a liquidator, creditor, director, member or the Official Receiver, if it is just and equitable to do so (section 233(1) of the Insolvency Act).

With regard to the completion of a liquidation, the liquidator is required under section 234(2) of the Insolvency Act, as soon as practicable after completing his duties in relation to the liquidation of the company, prepare and send to every creditor of the company whose claim has been admitted and to every member of the company:

- (1) his final report and a statement of realisations and distributions in respect of the liquidation, and
- (2) a summary of the grounds upon which a creditor or member may object to the striking of the company from the Register.

A copy of the final report must be filed with the Registrar and the statement of realisations and distributions sent to the creditors and members of the company.

Section 234(3) sets out the requirements for certain statements to be included in the final report, for example that all proceeds of realisation have been distributed.

The liquidator is also empowered to make an application to the Court to exempt him from compliance with the requirements to send his final report to all known creditors or modify the entire provision with regard to a final report (section 234(4)).

Pursuant to section 235 of the Insolvency Act, the liquidator can apply for their release when their appointment ends, meaning that he or she is discharged from all liability in respect of any act or default in relation to his or her administration of the company. The Court can still make an order under section 254 (re delinquent officers) against a liquidator, notwithstanding his or her release under section 235.

**Commented [JW6]:** 3 marks - no mention of BCA 2004 sections 207A-208 for voluntary liquidation. Termination does not always mean company is struck off or dissolved.

Although section 236 states that the Insolvency Rules shall provide for the dissolution of the company on the termination and completion of the liquidation, there is a lacuna in the Insolvency Rules in this respect.

**Commented [JW7]:** In practice the court is asked to make the order of dissolution, where required

**Question 3.2 [maximum 5 marks]**

**Commented [JW8]:** 5 marks

Is it possible to make an application to the BVI Court for the appointment of an overseas insolvency practitioner in relation to a BVI company and, if so: (i) in what circumstances might a creditor consider the appointment of an overseas insolvency practitioner; and (ii) what is the process for such proposed appointment?

Pursuant to section 483 of the Insolvency Act, an individual resident outside of the BVI can be appointed to act as an insolvency practitioner in relation to a BVI company, provided that the requirements of section 483 are met.

It is common for BVI companies' assets (or a substantial part of them) to be situated outside of the BVI. It therefore may be helpful to a creditor to consider the appointment of an insolvency practitioner from a jurisdiction where the assets are held. Although there are further costs in having a second insolvency practitioners appointed, costs of travel and local expertise are reduced significantly by having an overseas insolvency practitioner. This is particularly beneficial in long-running liquidations involving multiple disputes in different jurisdictions.

However, the overseas insolvency practitioner must be appointed jointly with a BVI-licensed insolvency practitioner or the Official Receiver. In order to be appointed, prior written notice of the intended appointment must be provided to the Financial Services Commission ("FSC"). Where it is proposed to appoint an overseas insolvency practitioner, the FSC has the power to appear and be heard at the court hearing to appoint (where applicable) and object to the appointment (section 484 of the Insolvency Act).

In practice, the overseas insolvency practitioner usually writes a letter to the FSC, provide certain required details (such as their expertise and qualifications) and awaits confirmation that the FSC approves the appointment of the overseas insolvency practitioner (subject to Court approval, where relevant).

The overseas insolvency practitioners must also have given his written consent to act in the prescribed form.

**Question 3.3 [maximum 5 marks]**

**Commented [JW9]:** 4 marks - bankruptcy - 311/creditors arrangement - section 15. Options to relinquish security interest in all insolvency procedures and can appoint receiver/admin receiver under s.115/s142

Discuss the protections and options provided to secured creditors under the BVI insolvency framework.

The Insolvency Act specifically recognises and protects the rights of secured creditors to enforce their security. Secured creditors are not, strictly speaking, classed as creditors, or considered as participating in the insolvency process. Their claims are directly against the assets of the company, which are subject to the security, so they fall outside the liquidation. There are, therefore, no timelines for enforcing a secured claim. It is up to the secured creditor to determine when to take control of the security interest and when to sell if for the best return.

Pursuant to section 294 of the Insolvency Act, an application to the Court for a bankruptcy order can be made by a creditor. A secured creditor must state in his application the full amount of the liability and also (1) state that he is willing, in the event of a bankruptcy order



being made, to give up his security interest for the benefit of other creditors of the bankrupt, or (2) be given an estimate of the value of his security interest and make the application in respect of the full amount of the liability of the debtor to him less the estimated value of the security interest. Where any amount is unsecured, the secured creditor is treated as an unsecured creditor. In the event that a secured creditor fails to disclose his security interest and a bankruptcy order is made, that secured creditor is deemed to have given up his security for the benefit of the other creditors. However, in such circumstances, the secured creditor can make an application for relief pursuant to section 299(2) in the event that it was an inadvertent failure of due to an honest mistake.

Whilst secured creditors are not obliged to make a claim in the bankruptcy, they are able to do so under section 338 of the Insolvency Act.

Although a company may be put into voluntary liquidation notwithstanding that a security interest is registered with the BVI Registrar of Companies, the liquidator is bound to give effect to the rights off priority of the claim of an unsecured creditor (BVI Business Companies Act section 197(2)).

**Commented [JW10]:** BCA 2004 is not under the insolvency framework

Section 175(1) sets out in detail the effect of the appointment of a liquidator of a company. The appointment of a liquidator does not affect the right of a secured creditor to take possession or realise or otherwise deal with the assets over which the creditor has security (section 175(2) of the Insolvency Act).

Pursuant to section 211 of the Insolvency Act, a secured creditor is able to (a) value the assets subject to the security interest and claim in the liquidation of the company as an unsecured creditor for the balance of his debt, or (b) surrender the security interest to the liquidator for the general benefit of the creditors and claim in the liquidation as an unsecured creditor for the whole of his debt. However, the Insolvency Act does not impose either option on a secured creditor, and they can remain outside of the liquidation process.

In respect of company creditors' arrangements ("CCA"), unless a secured creditor agrees in writing to the contrary, a CCA does not affect the right of a secured creditor to enforce its security interest or vary the liability secured by the security interest.

Orders made under section 467 of the Insolvency Act in aid of foreign proceedings do not affect the rights of any secured creditor to deal with the property over which they have a security interest. In fact, unless consent in so provided, such order does not.

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

##### **Question 4.1 [maximum 6 marks]**

**Commented [JW11]:** 6 marks

In September 2020 Pinforth Holdings Limited, a company incorporated in England, brought a claim against Expat Properties Limited, a company incorporated in the BVI, in the English High Court. Expat Properties did not attend the hearing and Pinforth Holdings was awarded judgment in the sum of USD 4,500,000.

Expat Properties has significant assets in the BVI. Giving reasons, with particular reference to the Reciprocal Enforcement of Judgments Act 1922, what options should Pinforth Holdings be advised to consider in order to enforce its foreign judgment debt?

The Reciprocal Enforcement of Judgments Act 1922 (the "Act") extends only to judgments given in certain jurisdictions, one of which is the High Court of England, Wales and Northern Ireland. Pinforth Holding's judgment is therefore caught by the Act and is capable of being registered.

The enforcement of a foreign judgment in the BVI is only effective to the extent that the judgment debtor/defendant has assets in the BVI against which to enforce. As Expat Properties has significant assets in the BVI, it is worth Pinforth Holdings attempting to enforce its English judgment in the BVI. Pinforth Holdings should identify these assets prior to making its application for registration.

In the Act, "judgment" is defined as any judgment or order given or made by a court in any civil proceedings, whether before or after the passing of the Act, whereby any sum of money is made payable. Therefore, only judgments for final and conclusive monetary sums can be enforced and any other judgments, whether declaratory, injunctive or otherwise, cannot be enforced. From the information provided, it appears that the judgment of the English Court is capable of enforcement as it is final and for a conclusive sum of money.

Once a foreign judgment is duly registered under the Act by a BVI Court, it is treated from the date of registration as being the of the same force and effect as if that judgment had been made in the BVI. Therefore, if Pinforth Holdings' judgment is capable of being registered, it can avail of all the remedies in the Civil Procedure Rules, including charging orders, garnishee orders, a judgment summons, an order for seizure and sale of goods, and the appointment of a receiver.

A foreign judgment is registerable within 12 months of the date of the judgment, unless the BVI Court grants a longer period on the basis that it is just and convenient to do so. It is not clear from the information provided when the English judgment was handed down. The English proceedings were issued in September 2020, so it is possible that the judgment was handed down more than 12 months ago. If so, it will not be capable of being registered in the BVI unless Pinforth Holdings unless the BVI Court grants a longer period.

If the judgment is capable of being registered, Pinforth Holdings must apply to court under CPR 72 setting out the required information.

It is important to note that pursuant to section 3(2) of the Act, the BVI Court will not order a judgment to be registered in certain circumstances, for example if (1) the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to the jurisdiction of the court, or (2) the judgment debtor was not duly served with the process of the originating court and did not appear, notwithstanding that he is ordinarily resident or carrying on business within the jurisdiction of the court. Expat Properties Limited, a BVI company, did not attend the hearing in England. It is unclear why this was, but the result may be that the BVI Court will refuse to register the judgment on this basis. More information is needed in respect of this particular issue.

Pinforth Holdings may have another route forward at common law. At common law, the courts treat any final and conclusive monetary judgment as a cause of action in itself under the doctrine of obligation by action, irrespective of the jurisdiction where the judgment was obtained. The judgment creditor must prove the judgment and show that it is a final and conclusive monetary judgment for a specified sum. If those matters are established, a retrial of the action is not necessary, and the creditor can instead apply for summary judgment (CPR 50). Based on the limited information given above, this appears to be an option available to Pinforth Holdings.

From a practical perspective, a judgment creditor does not necessarily need to apply for registration of a foreign judgment in order to enforce their debt. Such debtors are not precluded from using the procedures under the Insolvency Act.

**Question 4.2 [maximum 9 marks]**

Abbeydale Limited, a company incorporated in England, and Dendoncker Limited, a company incorporated in the BVI, entered into a loan agreement for the purchase of a property on Necker Island in the BVI. Under the terms of the loan agreement, Abbeydale transferred USD 12,000,000 to Dendoncker and Dendoncker successfully purchased the property. Subsequently, Dendoncker failed to make any of the loan repayments pursuant to the repayment clauses. As a result of this failure, Abbeydale made a demand for immediate repayment in full, as it was entitled to do under the agreement. Dendoncker failed to make any repayments in full or in part.

Providing reasons, with particular reference to the Insolvency Act, what options should Abbeydale Limited be advised to consider in order to enforce the debt owed to it by Dendoncker Limited?

Section 446 of the Insolvency Act provides foreign creditors, such as Abbeydale Limited, with a right of direct access and such creditors have the same rights regarding the commencement of, and participation in, a BVI insolvency proceeding as creditors within the jurisdiction.

A company will be considered insolvent in the BVI if it fails to comply with the terms of a statutory demand and the statutory demand is not successfully set aside under sections 156 and 157 of the Insolvency Act. It appears that Abbeydale did make a demand for "immediate" repayment in full, and that Dendoncker failed to make any repayments in full or in part. Whether Dendoncker will be considered insolvent based on this failure will depend on a number of factors. More information is needed about the type of demand that was made. A statutory demand must be in writing, dated and signed by the creditor. It must require the company to pay the debt or to secure or compound for the debt to the reasonable satisfaction of the creditor within 21 days of the service of the statutory demand. Abbeydale demanded "immediate" payment, which means it did not allow for the requisite 21 days for Dendoncker to make payment. We also do not know if Dendoncker has sought to set aside the demand for payment. Further, the most common reason that a company would apply to set aside a statutory demand is that a debt is disputed. It is not clear from the above whether Dendoncker disputed the debt. Without further information, it is not possible to determine whether Dendoncker would be considered insolvent on the basis of its failure to meet the demand for payment.

One option available to Abbeydale is to apply to appoint a liquidator over Dendoncker.

The terms of the loan agreement will also be relevant. Section 161(1) of the BCA provides each BVI company with the ability (subject to its memorandum and articles of association) to create a charge over its property by an instrument in writing. It may be that the loan agreement entered into between Dendoncker and Abbeydale granted a floating charge in favour of Abbeydale. Under BVI law it is possible to appoint an administrative receiver pursuant to a floating charge over all or substantially all of a company's assets and undertaking. This is an important right in terms of enforcement. It is often advisable for a floating charge to be granted by a BVI company in addition to any specific fixed security which is being contemplated in order to ensure that the right to appoint an administrative receiver is obtained.

An administrative receiver has, in addition to the powers of an ordinary receiver, the power to execute documents on behalf of the company and to use the company seal, and the powers set out in Schedule 1 of the Insolvency Act, 2003. These include the power to carry on the company's business, to sell its assets, and to commence legal proceedings on its behalf.

**Commented [JW12]:** 7 marks - First issue to determine: A secured or unsecured creditor? If secured - does it have registered charge/ debenture/ legal charge/equitable charge - have to see the loan document. Options under IA2003: Receiver /Administrative Receiver / Out of Court Receiver. If unsecured creditor then: Breach of contract – damages and obtain judgment from English Court in its favour – may be delay and costly; or obtain judgment in English court – recognised in BVI Court under IA 2003; or serve statutory demand under s155 IA2003 and then if unpaid application to the Court for liquidation under Section 162 for appointment of liquidator by the Court - winding up will only be made if insolvent. Provisional Liquidation can be appointed under section 170 if assets at risk of dissipation.

**Commented [JW13]:** Section 446 not in force

**Commented [JW14]:** If it's an unsecured creditor or secured creditor for unsecured balance of the debt after valuing security interest.

An administrative receiver may also apply to court for authority to sell assets subject to prior ranking security provided that the secured creditor is paid out of the net proceeds. A person dealing with an administrative receiver in good faith and for value is not concerned whether the administrative receiver is acting within its powers.

Assuming that the loan agreement created a charge in favour of Abbeydale, Abbeydale could (and should) register its charge in the BVI. Section 163 of the BCA sets out the procedure for the public registration of charges with the Registrar of Companies. Generally speaking, it is the public register that determines the priority of security under BVI law, so it is in the chargee's interest to register its charge with the Registrar.

**\* End of Assessment \***