



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: **[studentID.assessment8E]**. An example would be something along the following lines: 202122-336.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 “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 **9 pages**.

ANSWER ALL THE QUESTIONS

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

Which of the following **is not** one of the roles of a scheme manager?

- (a) To administer the scheme after it has been approved by the creditors.
- (b) To run the business of the debtor company.**
- (c) To prepare the scheme of arrangement proposal.
- (d) To adjudicate on the proofs of debt filed by the creditors.

Question 1.2

Which of the following forms of security **need not** be registered?

- (a) A fixed charge.
- (b) A mortgage.
- (c) A pledge.**
- (d) A floating charge.

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 debtor is registered as a foreign company in Singapore.
- (c) The debtor is carrying on business 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 value.
- (b) 50% or more in value.
- (c) Over 75% in value.
- (d) 75% or more in value.**

Question 1.5

Which of the following is **not** one of the statutory duties of a bankrupt?

- (a) To make discovery of and deliver all his property to the Official Assignee.
- (b) To attend any meeting of his creditors as may be convened by the Official Assignee.
- (c) To execute such powers of attorney, conveyances, deeds and instruments as may be required.
- (d) To not travel overseas under any circumstances whatsoever.**

Question 1.6

Which of the following **is not true** of the Model Law as enacted in Singapore?

- (a) It allows foreign representatives to apply to court for the recognition of foreign proceedings.
- (b) The court can deny recognition only if recognition is "manifestly contrary" to public policy.**
- (c) It provides for concurrent insolvency proceedings.
- (d) It provides for international co-operation and communication between courts and representatives.

Question 1.7

Which of the following new reforms **were not** introduced by way of the 2017 amendments to the Companies Act?

- (a) The automatic moratorium.
- (b) The cross-class cram down.
- (c) Restrictions on *ipso facto* clauses.**
- (d) Pre-packaged scheme of arrangement.

Question 1.8

Who amongst the following **may not** bring a judicial management application?

- (a) The company by way of a members' resolution.
- (b) The liquidator by way of an application to court.**
- (c) The directors pursuant to a board resolution.
- (d) The creditors either together or separately.

Question 1.9

Which one of the following **is not** one of the statutory duties that a bankrupt is subject to?

- (a) Make discovery of and deliver all his property to the Official Assignee.
- (b) Disclose all property disposed of by gift or settlement without adequate valuable consideration within the five years immediately preceding his bankruptcy.
- (c) Not being able to travel overseas at all.**
- (d) Attend meetings with the Official Assignee and answer all relevant questions.

Question 1.10

Which of the following **is not** one of reasons for which the Court will appoint an interim judicial manager:

- (a) The preservation of the company's property or business from dissipation or deterioration.
- (b) The more advantageous realisation of the property than in a liquidation.**
- (c) To bridge the gap between the application for judicial management and the hearing of the judicial management application.
- (d) To safeguard the interests of the company as well as its creditors.

QUESTION 2 (direct questions) [10 marks]

Question 2.1 [maximum 4 marks]

What is the significance of the decision in *Sun Electric Power Pte Ltd v RCMA Asia Pte Ltd* [2021] SGCA 60 and what did the Court of Appeal decide?

In the case of *Sun Electric Power Pte Ltd v RCMA Asia Pte Ltd* [2021] SGCA 60, the Singapore Court of Appeal held that the cash flow test is the sole and determinative test under section 254(2)(c) of the Companies Act (now section 125(2)(c) of the Insolvency, Restructuring and Dissolution Act ("IRDA")), to determine whether a company is unable to pay its debts and therefore could be wound up.

The decision is significant as it departed from the prior position where several different tests had been used for winding-up under such provision, i.e. the cash flow test and the balance sheet test. In determining that there is only a single test and that test is the cash flow test, the

Court of Appeal rejected the balance sheet test (which compares a company's total assets with its total liabilities, regardless whether the assets are illiquid or when the liabilities materialise). The Court of Appeal therefore found that Parliament could not intend for the balance sheet test to be the applicable test as it is not a good indicator of the company's present ability to pay its debts.¹

The Court of Appeal held that the cash flow test assesses whether a company's current assets exceed its current liabilities such that it is able to meet all debts as and when they fall due. "Current assets" and "current liabilities" refer to assets which would be realisable and debts which would fall due within a 12-month timeframe.

The Court of Appeal set out a non-exhaustive list of factors that should be considered under the cash flow test:

- (a) the quantum of all debts which were due or would be due in the reasonable near future;
- (b) whether payment was being demanded or was likely to be demanded for those debts;
- (c) whether the company had failed to pay any of its debts, the quantum of such debt, and for how long the company had failed to pay it;
- (d) the length of time which had passed since the commencement of the winding-up proceedings;
- (e) the value of the company's current assets and assets which would be realizable in the reasonably near future;
- (f) the state of the company's business, in order to determine its expected net cash flow from the business by deducting from projected future sales the cash expenses which would be necessary to generate those sales;
- (g) any other income or payment which the company might receive in the reasonable near future; and
- (h) arrangements between the company and prospective lenders, such as its bankers and shareholders, in order to determine whether any shortfall in liquid and realizable assets and cash flow could be made up by borrowings which would be repayable at a time later than the debts.

Good answer. 4 marks. Well written.

Question 2.2 [maximum 2 marks]

State **four (4)** new features that were only introduced in the IRDA **and were not in force** at the time of the 2017 amendments to the Companies Act.

Four (4) new features that were introduced in the IRDA and were not in force at the time of the 2017 amendments to the Companies Act include:

- (1) A new voluntary process was introduced for initiating judicial management without having to first apply to Court if the company is unable to pay its debts; there is a reasonable probability of achieving one or more of the purposes of judicial management; and a resolution of its creditors is obtained.²
- (2) A new provision restricting the operation of ipso facto clauses by reason that any proceedings relating to any applications under judicial management or a scheme of arrangement process are commenced by a company, or that the company is insolvent.³ Certain contracts are expressly excluded from the restrictions.

¹ <https://www.judiciary.gov.sg/judgments/case-briefs-by-smu/sun-electric-power-pte-ltd-v-rcma-asia-pte-ltd>

² Section 94(1) of IRDA.

³ Section 440 of IRDA.

(3) A new concept of wrongful trading was introduced, which imposes personal liability for the company's debts on a person if such person (a) knew that the company was trading wrongfully; or (b) as an officer of the company, ought to have known that the company was trading wrongfully.⁴

(4) A new summary procedure was introduced for early dissolution of a company in liquidation.⁵

2 marks

Question 2.3 [maximum 4 marks]

Describe the process involved in one of the alternatives to formal bankruptcy.

An alternative to formal bankruptcy is the Debt Repayment Scheme ("DRS"), which is a pre-bankruptcy scheme administered by the Official Assignee. The DRS enables debtors which meet the criteria to enter into a debt repayment plan with their creditors and avoid bankruptcy.

Where a bankruptcy application has been made, the Court may adjourn the bankruptcy application and refer the matter to the Official Assignee to determine whether the debtor is suitable for the DRS if the following qualifying criteria are satisfied:⁶

- (a) the debt or the aggregate of the debts in respect of which the bankruptcy application is made does not exceed the prescribed amount i.e. \$150,000;
- (b) the debtor is not an undischarged bankrupt, and has not been a bankrupt at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made;
- (c) a voluntary arrangement or DRS is not in effect and has not been in effect at any time within the period of 5 years immediately preceding the date on which the bankruptcy application is made;
- (d) the debtor is not a sole proprietor, a partner of a firm within the meaning of the Partnership Act, or a partner in a limited liability partnership.

Once a case is referred to the Official Assignee by the court, then the debtor will be required to submit a statement of the debtor's affairs and a debt repayment plan for a repayment period not exceeding 5 years.⁷ After receiving the debtor's statement of affairs, the Official Assignee will give notice to every creditor disclosed in the statement to require the creditor to file a proof of debt.⁸

The Official Assignee will examine the state of affairs and debt repayment plan and proof of debts, and may make modifications to the plan as the Official Assignee considers appropriate. The Official Assignee must convene and preside at a meeting of creditors to review the debt repayment plan. The Official Assignee may, at or after the meeting of creditors, approve the debt repayment plan.⁹ The debt repayment plan as approved by the Official Assignee will be binding on the debtor and every creditor who has proved a debt against the debtor and whose debt is included in the plan, and a moratorium will be in effect throughout the period of the debt repayment scheme.

⁴ Section 239 of IRDA.

⁵ Sections 209 to 211 of IRDA.

⁶ Sections 316(9) or 318(3) of IRDA.

⁷ Section 290(1) of IRDA.

⁸ Section 290(2) of IRDA.

⁹ Section 291 of IRDA.

The Official Assignee administers the DRS. If the debtor fails to comply with any conditions of the DRS, then the Official Assignee may issue a certificate of failure of a debt repayment scheme whereby the DRS will cease to be applicable.

If the DRS ceases, creditors may bring a bankruptcy application against the debtor.

4 marks. Detailed answer.

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

Question 3.1 [maximum 8 marks]

Write a brief essay in which you discuss some of the claims that a liquidator or judicial manager can bring and how the IRDA has enhanced their ability to do so.

The liquidator or judicial manager, as the case may be, may bring certain claims to achieve the purposes of liquidation or the judicial management respectively.

One of the claims that can be brought is against impeachable transactions undertaken by the company prior to the liquidation or judicial management, in order to claw back such assets. Claims can be brought where (1) there is an unfair or undue preference given; or (2) the transaction was undertaken at an undervalue.

In order for a claim of undue preference to succeed, the judicial manager must show four (4) elements: that the party given the preference is a creditor or guarantor of the company's debts or liabilities, the company was insolvent at the time the preference was given, the act/transaction by the company has put the preferred party in a better position than it otherwise would be if the transaction had not been entered and the company is in liquidation or judicial management, and the company had been influenced to undertake the transaction by a desire to prefer the preferred party.¹⁰ For the last element, there is a rebuttable presumption that such element is met if the preferred party is an associate of the company.

The period to claw back assets for unfair preference is two years from the date of winding-up application or date of judicial management application, or one year if the preferred party is an associate of the company.

For a claim in respect of transaction at an undervalue, the liquidator or judicial manager must show that the company had made a gift to the recipient or the value of consideration received by the company for the transaction is significantly less than the value of consideration provided by it, and the company was or became insolvent as a result of the transaction. There is a rebuttable presumption that the transaction is at an undervalue if the preferred party is an associate of the company.

The period to claw back assets for undervalue transactions is three from the date of winding-up application or the judicial management application.

Another claim that can be brought by the liquidator or judicial manager is to apply to court for declaration that any person who was a knowing party to the company trading wrongfully, is personally liable for the debts or liabilities of the company. This is a new provision introduced by section 239 IRDA and imposes personal liability for the company's debts on the person that can be shown knew the company was trading wrongfully or, as an officer of the company, ought to have known that the company was trading wrongfully.

¹⁰ Paragraph 6.13.15 of Guidance Notes for Module 8E.

As such, with such new provision, IRDA has enhanced the liquidator's or judicial manager's ability to impose personal liability for the company's debts in order to recover the same, without first requiring criminal liability for such conduct.

Further, IRDA has facilitated the ability of liquidators and judicial managers to pursue the above claims by easing availability of third-party funding. Generally, costs will be incurred in order to pursue such claims and financially distressed companies often do not have sufficient funds to do so. Prior to IDRA, proceeds of the company's claims could be assigned to third parties but not the right to pursue such claims.

Pursuant to IDRA, liquidators and judicial managers can seek third party funding for claims relating to unfair preference transactions, undervalue transactions, extortionate credit transactions, fraudulent trading, wrongful trading and assessment of damages against delinquent officers of the company. However, authorisation by the Court or the committee of inspection is needed.¹¹

Well written answer. Well done! 8 marks.

Question 3.2 [maximum 7 marks]

Write a brief essay in which you discuss the process of commencing a voluntary judicial management application. In your answer you should also discuss how this differs from a judicial management application that is filed in court.

Prior to IRDA, a company could only be placed into judicial management by way of an order of the Court. Section 94(1) of IRDA 2018 introduced a new voluntary process for initiating judicial management without first having to apply to Court, where (a) the company is, or is likely to become, unable to pay its debts; and (b) there is reasonable probability of achieving one or more purposes of judicial management mentioned in section 89(1), and resolution of the company's creditors to do so is obtained.

Where a company proposes to obtain a creditors' resolution to place the company in judicial management, the company must give notice in prescribed form to appoint an interim judicial manager and lodge a corresponding statutory declaration with the Registrar of Companies. The statutory declaration must state that the company is or is likely to become unable to pay its debts, the company will summon the creditors' meeting no later than 30 days from date of lodgement of the statutory declaration, and the directors believe one of the purposes of judicial management is likely to be achieved.¹²

The interim judicial manager will be appointed following the filing of a shareholders' resolution or board of directors' resolution for the appointment together with the lodgement of the statutory declaration. This differs from the court-ordered judicial management as an interim judicial manager is appointed under the voluntary process before even the creditors meeting is called to vote on the resolution to place the company in judicial management and appoint a formal judicial manager.

Thereafter, the company must convene a meeting of the company's creditors not later than 30 days after lodgement of the statutory declaration to consider a resolution for the company to be placed under judicial management. The manner of conducting the creditor meeting, notice requirements as well as timelines are set out in detail in s.94 of IRDA.

¹¹ Section 144(1)(g) and paragraph (f) of First Schedule, IRDA.

¹² Section 94(3)(e) of IRDA.

The company is placed under judicial management if a majority in number and value of the company's creditors present and voting resolve to do so. This differs from a court-order judicial management, where the court can do so even if the application is supported by just a single creditor (if all other requirements are met).

Once the company is placed into judicial management pursuant to s.94 IRDA, it is then under the supervision of the Court in the same manner as a court-ordered judicial management.

Well written answer. 7 marks. Good comparison with court JM.

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

PT Angostura Textiles Tbk (Angostura, and together with its subsidiaries, the Angostura Group) is an Indonesia-incorporated company listed on the Indonesia stock exchange. Angostura is a substantial market player in textile production in South East Asia and China. Its primary lines of business are:

- fibre production with assets and factories in Malaysia, Thailand and Cambodia;
- textile manufacturing with assets and factories in Indonesia, Vietnam and China; and
- garment manufacturing and distribution facilities with assets and factories in Indonesia, Vietnam and the United States.

The Angostura Group has two key Singapore incorporated subsidiaries:

- Juniperus Textiles Pte Ltd. (Juniperus) which is wholly owned by Angostura; and
- Casuarina Garments Pte Ltd (Casuarina) which is wholly owned by Juniperus.

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

The Angostura Group had traditionally funded its business via bank lending, with a combination of bilateral and syndicated loan facilities advanced directly to Angostura. As at 2019, the group had raised SGD 2 billion in bank lending, all of which was guaranteed by Angostura Indonesian subsidiaries.

In late 2019, as COVID-19 started to spread around the world, the Angostura Group sought to take advantage of the situation by expanding its garment manufacturing business into personal protective equipment. To fund this expansion, Juniperus issued SGD 200 million in retail bonds (the Juniperus SG Bonds) on the Singapore Stock Exchange (SGX) which were guaranteed by Angostura. The proceeds of the Juniperus Bonds were on-lent to Casuarina who lent them via an offshore intercompany loan to Angostura (the Casuarina Intra-Group Loan). To ensure bondholders had rights in connection with the Casuarina Intra-Group Loan, holders of the Angostura Bonds are given security over the shares of each of Juniperus and Casuarina. The Juniperus Bonds are governed by a New York law.

In late 2020, Angostura's business experienced significant supply-chain disruptions as a result of the COVID-19 pandemic. During this time, Angostura started informing some of its bank lenders that they may require waivers on certain terms in their loans and potentially further time to repay certain amounts owing. In early 2021, Angostura appointed legal and financial advisors to provide it with advice as to the best steps to take. Shortly thereafter, a trade creditor filed a PKPU petition in Indonesia against Angostura and its Indonesian subsidiaries. Further

to this, Juniperus and Casuarina filed for protection, under sections 64(1) and 65(1) respectively, of the Insolvency Restructuring and Dissolution Act (Act No 40 of 2018) (the IRDA). Angostura then announced that Juniperus will launch a separate Singapore Scheme of Arrangement under section 210 of the Companies Act (Cap 50) to restructure the Juniperus Bonds after the conclusion of the Indonesian PKPU, which will largely mirror the terms in the PKPU.

The bondholders of the Juniperus Bonds are concerned the moratoria being sought will prevent them from participating in the PKPU proceedings in Indonesia and enforcing their security over the shares in Juniperus and Casuarina, respectively. They have therefore decided to object to the Singapore moratorium applications.

Using the facts above, answer the questions that follow.

Question 4.1 [maximum 6 marks]

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

Question 4.1.1 (2 marks)

What must be presented to the court in order to obtain moratorium protection order under section 64(1) IRDA?

A company can apply for moratorium protection pursuant to section 64(1) IRDA while it proposes the restructuring plan to be implemented via a scheme of arrangement. The application to court must be accompanied by:¹³

- (a) evidence of support from the company's creditors for the intended or proposed scheme;
- (b) in a case where the company has not proposed the scheme to creditors, a brief description of the intended scheme, with sufficient particulars to enable the Court to assess whether the intended scheme is feasible and merits consideration by the company's creditors;
- (c) a list of every secured creditor of the company; and
- (d) a list of all unsecured creditors who are not related to the company or, if there are more than 20 such unsecured creditors, a list of the 20 unsecured creditors whose claims against the company are the largest among the unsecured creditors.

2 marks.

Question 4.1.2 (2 marks)

What must be presented to the court in order to obtain moratorium protection order under section 65(1) IRDA?

Where the court has made a moratorium protection under section 64(1) against a company ("subject company"), a company that is a subsidiary, holding company or ultimate holding company (collectively, "related company") of the subject company may apply for moratorium protection order under section 65(1) IRDA.

¹³ Section 64(4) IRDA.

The application can only be made if shown that no order or resolution for winding-up has been made in respect of the related company, the section 64(1) order against the subject company is in force, the related company plays a necessary and integral role in the scheme of the subject company, the said scheme will be frustrated if the protection order is not granted for the related company, and the court is satisfied the creditors of the related company will not be unfairly prejudiced by such order.

2 marks.

Question 4.1.3 (2 marks)

Can the moratoria sought by Juniperus and Casuarina be ordered to have extra-territorial effect? If so, what acts and / or creditors will the moratoria apply to?

The moratoria sought by Juniperus and Casuarina may be ordered to apply to extra-territorial acts (i.e. that takes place outside Singapore), so long as the creditor was in Singapore or within the jurisdiction of the Court (see section 64(5) and 65(4), IRDA).

Question 4.2 [maximum 9 marks in total]

As things transpired, Juniperus and Casuarina were granted moratorium protection for a period of three (3) months and are expected to apply for an extension to this moratorium period for an additional six (6) months upon expiry of the original three- (3) month period. The working group of bondholders intends to oppose any extension application.

The bondholders have instructed the Juniperus Bonds' trustee under the relevant indenture to be ready to enforce their security over the shares in Casuarina as soon as practicable. The Juniperus Bonds appear to be traded heavily in the market, with private equity funds looking to buy up significant stakes in order to enforce the security over shares in Casuarina.

To try and protect against this risk, Angostura also commenced local insolvency proceedings and emergency recognition proceedings in the United States.

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

Question 4.2.1 [maximum 5 marks]

What are the steps that need to be taken in order to launch a subsequent scheme of arrangement under section 210 of the Companies Act? How does the process for a scheme proposed under section 210 of the Companies Act differ from a prepack scheme proposed under section 71(1) of the IRDA?

The company applies to Court for leave to convene a creditors' meeting for the purpose to consider approving the scheme proposed by the company. At the creditor's meeting(s) convened by the Court, the scheme must be approved by a majority in number (representing three quarters in value) of each class of creditors present and voting. Thereafter, the company will need to apply to obtain sanction of the court for the scheme. Once the court sanctions the scheme and the order is lodged with the Registrar of Companies, it is binding on all creditors.

For prepack scheme proposed under section 71(1) of IRDA, the Court may approve a proposed scheme even though no meeting of creditors have been ordered. In order to succeed in such application, the company must satisfy the Court that had a creditors' meeting been convened, the proposed scheme would be approved by the required majority. Aside from that, such scheme cannot be approved by the Court unless the company have provided each

creditor with sufficient information on the proposed scheme (as set out in paragraph 71(3)(a) IRDA), the company has published notice of application in the gazette and one English local daily newspaper, and given notice and copy of the application to each creditor.¹⁴

Concise yet complete answer. Well done! 5 marks.

Question 4.2.2 [maximum 2 marks]

What requirements must be satisfied in order for the Angostura Group to be able to access rescue financing under the IRDA?

For Angostura Group to be able to access rescue financing under IRDA, it must apply to court and show that:

- (a) the funds provided are necessary for the company's survival, or for the whole or any part of the undertaking of that company to remain as a going concern; or
- (b) the funds provided are necessary to achieve a more advantageous realization of the company's assets than in winding-up.

What other requirements are there? 1 mark.

Question 4.2.3 [maximum 2 marks]

Explain the key 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.

Singapore has adopted the UNCITRAL Model Law on Cross-Border Insolvency in the third schedule to IRDA. Foreign representatives may therefore apply to the Singapore High Court for recognition of foreign proceedings. There is no requirement that there must be reciprocity of recognition by the foreign jurisdiction seeking recognition.

However, the court can deny the application for recognition if such recognition is contrary to public policy. This departs from the Model Law, which provides that recognition can be denied if contrary to "manifestly" contrary to public policy. In the case of *Re Zetta Jet Pte Ltd*,¹⁵ the Court found that omission of the word "manifestly" means that the standard of exclusion on public policy reasons would be lower than jurisdictions which provided for "manifestly contrary". The court held that the standard would at least require the denial of an application for recognition by a foreign insolvency representative appointed by foreign proceedings restrained by the Singapore court.

Could have elaborated a bit more on the requirements and also what is the effect of recognition e.g. stay etc. 1 mark.

*** End of Assessment ***

46 out of 50

¹⁴ Section 71(3) IRDA.

¹⁵ [2018] SGHC 16