

# SEMINAR ON INSOLVENCY

## COURSE INTRODUCTION

When a company enters financial distress, it may signal the impending insolvency and winding up of a company. The company's secured lender may have a right to also appoint a receiver over the company due to the company's inability to pay its debts to the secured lender. A company will want to consider its options in attempting to restructure its debts and to revive its business. Under the Companies Act 2016, the law will now provide for additional options to try to rescue this company and to fend off the liquidation of the company.

## COURSE OBJECTIVES

Participants will learn the improvements made to the insolvency-related laws as set out in the Companies Act 2016. The receivership provisions have been strengthened and will be relevant to secured lenders and to borrowers. The winding up provisions have been modified in certain aspects. A company can undertake a restructuring of its debts through the scheme of arrangement process and the new provisions adds clarity in this area. Finally, the Companies Act 2016 introduces two new corporate rescue mechanisms: corporate voluntary arrangement and judicial management. Participants will learn how these corporate rescue mechanisms will provide more options to financially distressed companies. The course will also cover case studies and practical examples.

## COURSE CONTENTS

### Changes to the Laws on Receivership.

- Appointment of the receiver/receiver & manager ("R&M") and its statutory agency status.
- The shift to the codification of the powers of the receiver and R&M.
- Changes in the personal liability of the receiver and R&M.
- Interplay between receivership and winding up.

### Winding Up

- Increase in the minimum amount for the statutory demand.
- Void disposition, exempt disposition and the change to undue preference.
- Changes to the powers of the liquidator.
- Changes to the stay and termination of winding up.

### Schemes of Arrangement

- Requirements for undergoing a scheme of arrangement.
- Additional safeguard of an independent assessment of the scheme.
- Changes to the law on the extension of a restraining order.

### Corporate Voluntary Arrangement

- Overall introduction to the corporate rescue mechanisms.
- The new Corporate Voluntary Arrangement (CVA).
- Requirements for the CVA.
- The CVA moratorium.
- Timelines for the meetings and the approval required.

### Judicial Management

- The new JM scheme.
- Requirements to be met for a JM order.
- The JM moratorium.
- Protection of the debenture holder's rights.
- The powers of the judicial manager.
- Approval for the judicial manager's proposals.
- Case study on JM after the decision of Leadmont

### Operational aspects

- Cash flow.
- Operations & balance sheet.
- Financial covenants – ratios and waterfall.
- Developing a rescue scheme.
- Managing stakeholders – creditors, lenders, shareholders.
- Insolvency administration – taking control.
- Duties of directors and officers during insolvency administration.
- Insolvent trading – personal liability.

## LEARNING OUTCOME

By attending this course, the participants will be able to:

- Understand the changes to the laws of receivership and the options available.
- Understand the process of winding up and its impact on the company, creditors and liquidators.
- Learn of the scheme of arrangement process.
- Consider the advantages and benefits of the new corporate voluntary arrangement process.
- Prepare for the new judicial management process and the advantages it offers.
- Learn the operational aspects of corporate rescue and insolvency administration
- Learn of the scheme of arrangement process.
- Identify the changes of the scheme of arrangement and the restraining order.
- Consider the advantages and benefits of the new corporate voluntary arrangement process.
- Prepare for the new judicial management process and the advantages it offers.
- Understand the impact of judicial management on legal proceedings and any enforcement of legal rights.

## WHO SHOULD ATTEND

Insolvency practitioners, company directors, company secretaries, finance managers, lawyers, accountants, bankers, regulators, government officers, business owners, corporate consultants who need the knowledge on insolvency law.

## ABOUT THE TRAINERS

**Norhaslinda Salleh** joined Companies Commission of Malaysia in January 2004. She is the Head of Insolvency in the Registration Services Division since June 2015. She is responsible to ensure and monitor the process of striking off names, winding up and management of the asset of dissolved companies and limited liability partnerships are in accordance with the related Acts and Guidelines. Prior to heading the Insolvency Section, she was the Head of Corporate Planning & Strategy in the Corporate Planning & Policy Division of SSM (2011-2015) where she was responsible for the strategic planning and project management of SSM and implementation of the Corporate Responsibility Agenda of SSM and also the Head of the Law Reform, Policy & International Affairs of the same Division (2004-2011) where she was largely involved in activities relating to the reform of the law and drafting amendments of the legislations administered by SSM, policy guidelines and practice notes. Norhaslinda obtained her LL.B (Honours) from University Technology Mara (UiTM), Malaysia in 1991. She was called to the Malaysian Bar and was admitted as an Advocate & Solicitor of the High Court of Malaya on 22 May 1992. Prior to joining SSM in January 2004, Norhaslinda Salleh was in private legal practice where she was largely responsible in handling civil and commercial litigation.

**Lee Shih** is a litigation and arbitration partner. He acts regularly in matters involving corporate litigation and shareholder disputes. He is listed in the Chambers Asia-Pacific, Legal 500 Asia-Pacific and Benchmark Litigation Asia-Pacific, where he has been described as “well regarded for his expertise in company law, as well as restructuring and insolvency cases”. He is the co-author of the textbook ‘Companies Act 2016: The New Dynamics of Company Law in Malaysia’, authored the chapter on ‘Companies and Securities’ in Bullen & Leake & Jacob’s Malaysian Precedents of Pleadings, and authored the chapter on ‘Cross-border insolvency’ in the Law and Practice of Corporate Insolvency in Malaysia. He graduated with a LLB (Hons) degree from the University of Bristol. He is a Barrister-at-Law (Gray’s Inn) and an Advocate and Solicitor of the High Court of Malaya. He regularly speaks at various conferences and seminars on the Companies Act 2016 and on company law in general. He has spoken at the SSM National Conference, the MIA International Accountants Conference and the MAICSA Annual Conference.

**Jimmy Ng** has more than 20 years of experience in corporate rescue and insolvency work. He is a retired partner of KPMG Malaysia, Singapore and Jakarta. Following his retirement from KPMG, he joined the law firm, Chooi & Company + Cheang & Ariff as a partner in September 2018. He is a chartered accountant registered with Malaysian Institute of Accountants (MIA) and an advocate and Solicitor of the High Court of Malaya. Jimmy regularly gives talks and seminars in the area of corporate rescue and insolvency at conferences organized by the SSM, MIA and INSOL International. Jimmy was a member of the Corporate Law Reform Committee from 2000 to 2005, a committee tasked with advising the Government of Malaysia on law reforms relating to restructuring and insolvency from 2000 to 2005. He is also key member in the founding, and setting up, of the Insolvency Practitioners Association of Malaysia (IPAM) and sat as a council member of IPAM from April 2013 to March 2015.

**Khoo Poh Poh** is a Senior Executive Director, Transaction Advisory Services at Ernst & Young PLT, Malaysia. She has over 25 years of extensive experience in all facets of formal insolvency and corporate rescue mechanism, including judicial management, receivership, liquidation and restructuring of companies in various industries, and specialises in Legal Entity Rationalisation and resolution of regulated entities. She is a member of the Chartered Institute of Management Accountants, Chartered Global Management Accountants, and Malaysian Institute of Accountants (MIA). She is an elected council member of the Insolvency Practitioners’ Association of Malaysia, an alternate member of the Insolvency Practitioners’ Sub-Committee under MIA, and an active contributing member of the Technical Working Group for Resolving Insolvency, under the Special Task Force to Facilitate Business (PEMUDAH).

**ADMINISTRATIVE DETAILS**

| <b>DATE</b>                 | <b>PLATFORM</b>  | <b>EVENT CODE</b> |
|-----------------------------|--|-------------------|
| 28 - 29 June 2021           | Webinar @ Microsoft Team   | 079/21/CEP/WEB    |
| <b>Time</b>                 | 9.00 a.m. - 5.00 p.m.  |                   |
| <b>Training Methodology</b> | Lecture, Case Laws, Discussions  |                   |
| <b>Fee</b>                  | <b>RM1,000.00</b> Standard<br><b>RM800.00</b> Licensed Secretary.<br>Member of MAICSA, MIA, Malaysian Bar, MACS, MICPA,<br>Sabah Law Assoc. & Advocates Assoc. of Sarawak. |                   |
| <b>CPE points</b>           | 16   |                   |