

**Singapore Institute of Legal Education
Foreign Practitioner Examinations 2018
Corporate Practice**

Contents:

| | | |
|-----------|------------------------|---------|
| Part I: | Company Law | Page 1 |
| Part II: | Corporate Insolvency | Page 11 |
| Part III: | Joint Ventures | Page 35 |
| Part IV: | Take-Overs and Mergers | Page 40 |

(Version: December 2017)

Part I: Company Law

A. BUSINESS VEHICLES

Tan Cheng Han, ed., Walter Woon on Company Law, Revised 3rd ed. (2009) (“**Woon**”), Chapter 1; Business Names Registration Act, Partnership Act; Limited Partnership Act; Limited Liability Partnerships Act; Companies Act, sections 2, 4, 17, 18, 30-32, 38, 365 - 386

- Registration of businesses
- Partnerships and Limited Partnerships
- Limited liability partnerships
- Unlimited companies
- Private companies and exempt private companies
- Public companies (including companies limited by guarantee)
- Listed companies
- Foreign companies registered in Singapore

B. INCORPORATION AND ITS CONSEQUENCES

Woon, Chapter 2. Companies Act, sections 5-6, 17-20A, 41

- Separate entity doctrine
- Definition of related companies
- The concept of a group of companies
- Perpetual succession
- Lifting the veil of incorporation

Selected cases

Asteroid Maritime Co Ltd v The owners of the Saudi Al Jubail [1987] SGHC 71

'The Skaw Prince' [1994] 3 SLR(R) 146

Win Line (UK) Ltd v Masterpart (Singapore) Pte Ltd [1999] 2 SLR(R) 24

TV Media Pte Ltd v De Cruz Andrea Heidi [2004] 3 SLR(R) 543

New Line Productions, Inc and another v Aglow Video Pte Ltd [2005] 3 SLR(R) 660

Singapore Tourism Board v Children's Media Ltd [2008] 3 SLR(R) 981

Zim Integrated Shipping Services Ltd v Dafni Igal [2010] 2 SLR 426

Prest v Petrodel Resources Ltd [2013] 3 WLR 1

Alwie Handoyo v Tjong Very Sumito [2013] 4 SLR 308

C. THE CONSTITUTION

Woon, Chapter 4. Companies Act, sections 4(13), 22, 26, 26A, 33, 35-37, 39, Companies (Model Constitutions) Regulations 2015

- Adoption of model constitution
- Contractual effect of the constitution
- Alteration of the constitution
- Restrictions on alteration
- Alteration of objects
- Entrenchment provisions
- Shareholders' agreements

Selected cases

Malayan Banking Ltd v Raffles Hotel Ltd [1965-1967] SLR(R) 161

Teo Choong Mong Frank v Wilh Schulz GmbH [1998] 2 SLR(R) 312

Sembcorp Marine Ltd v PPL Holdings Pte Ltd [2013] 4 SLR 193

Russell v Northern Bank Development Corporation Ltd [1992] 1 WLR 588 (HL); [1992] 3 All ER 161; [1992] BCLC 1016; [1992] BCC 578 [SW]

D. CAPACITY AND POWERS OF A COMPANY

Woon, Chapter 3. Companies Act, sections 23-25A

- Objects and powers
- Effect of ultra vires transactions

Selected cases

Banque Bruxelles Lambert v Puvaria Packaging Industries (Pte) Ltd [1994] 1 SLR(R) 736

E. AGENCY IN RELATION TO COMPANIES

Woon, Chapter 3. Companies Act, sections 25A-25D, 41(1), 151

- Express authority
- Implied authority
- Usual authority
- Ostensible authority
- Ratification
- The “indoor management” rule
- Power of directors to bind company and the limit of such powers

Selected cases

Banque Bruxelles Lambert v Puvaria Packaging Industries (Pte) Ltd [1994] 1 SLR(R) 736

SPP Ltd v Chew Beng Gim [1993] 3 SLR(R) 17

Skandinaviska Enskilda Banken AB v Asia-Pacific Breweries (Singapore) Pte Ltd [2011] SGCA 22

F. MEETINGS, RESOLUTIONS AND VOTING

Woon, Chapters 5, 6. Companies Act, sections 64, 157A, 160-161, 164A, 168, 169, 175-185, 188, 392

ACRA How To Guide on Applying for Extension to Hold AGM (Section 175)

- Division of powers between the board and general meeting
- Types of general meetings
- Timelines to hold annual general meetings and extension of time
- Calling of meetings
- Passing of resolutions
- Irregularities

Selected cases

Chan Siew Lee v TYC Investment Pte Ltd [2015] SGCA 40

Credit Development Pte Ltd v IMO Pte Ltd [1993] 1 SLR(R) 68

Polybuilding (S) Pte Ltd v Lim Heng Lee [2001] 2 SLR(R) 12

Paillart Philippe Marcel Etienne v Eban Stuart Ashley [2007] 1 SLR(R) 132

Tong Keng Meng v Inno-Pacific Holdings Ltd [2001] 3 SLR(R) 311

Jimat bin Awang v Lai Wee Ngen [1995] 3 SLR(R) 496

Golden Harvest Films Distribution (Pte) Ltd v Golden Village Multiplex Pte Ltd [2007] 1 SLR(R) 940

The Oriental Insurance Co Ltd v Reliance National Asia Re Pte Ltd [2008] 3 SLR(R) 121

Thio Keng Poo v Thio Syn Pyn [2010] 3 SLR 143

Chang Benety v Tang Kin Fei [2012] 1 SLR 274 (Court of Appeal, Singapore)

Lim Kok Wah v Lim Boh Yong [2015] 5 SLR 307

Lim Yew Ming v Aik Chuan Construction Pte Ltd and others [2015] SGHC 101

G. THE COMPANY SECRETARY

Companies Act, section 171

- Qualification
- Timeline for appointment

H. THE BOARD OF DIRECTORS

Woon, Chapter 7. Companies Act, sections 4, 145, 148-149A, 149B, 152, 154-155C, 168, 169

- Minimum directorship requirements
- Appointment of directors
- Disqualification of directors
- Removal of directors
- Shadow directors
- Remuneration of directors
- Payments for loss of office
- Directors' meetings

Selected cases

Raffles Hotel Ltd v Malayan Banking Ltd [1965-1967] SLR(R) 161

Raffles Town Club Pte Ltd v Lim Eng Hock Peter [2010] SGHC 163

Goh Kim Hai Edward v Pacific Can Investment Holdings Ltd [1996] 1 SLR(R) 540

Attorney-General v Chong Soon Choy Derrrick [1983-1984] SLR (R) 530

Quek Leng Chye v Attorney-General [1985-1986] SLR(R) 282

Lee Huay Kok v Attorney-General [2001] 3 SLR(R) 287

Ong Chow Hong v Public Prosecutor [2011] SGHC 93

Cosmic Insurance Corp Ltd v Khoo Chiang Poh [1979-1980] SLR(R) 703 (Privy Council) affirming [1977-1978] SLR(R) 93 (Court of Appeal)

Goh Kim Hai Edward v Pacific Can Investment Holdings Ltd [1996] 1 SLR(R) 540

Heap Huat Rubber Company Sdn Bhd v Kong Choot Sian [2004] SGCA 12 (Court of Appeal)

Grinsted Edward John v Britannia Brands (Holding) Pte Ltd [1996] 1 SLR(R) 743

SAL Industrial Leasing Ltd v Lin Hwee Guan [1998] 3 SLR(R) 31

I. DIRECTORS' DUTIES AND CORPORATE GOVERNANCE

Woon, Chapter 8. Companies Act, sections 156-157, 157B-157C, 158, 162-163B, 172-172B, 339(3), 340, 391; Prevention of Corruption Act (Cap 241), sections 6, 14; Penal Code (Cap 224), sections 405, 406, 408, 409.

- Directors' fiduciary duties
- Directors' statutory duties
- Directors' duties of care, skill and diligence
- Ratification and authorisation
- Relief from liability
- Insolvent trading, fraudulent trading
- Financial relations with the company
- Nominee directors
- Corruption
- Criminal breach of trust
- Disclosure requirements of chief executive officers

Selected cases

Townsing Henry George v Jenton Overseas Investment Pte Ltd [2007] 2 SLR(R) 597

Guy Neale and others v Nine Squares Pty Ltd [2014] SGCA 64

Cheam Tat Pang v Public Prosecutor [1996] 1 SLR(R) 161

Tan Tze Chye v Public Prosecutor [1997] 1 SLR(R) 876

Lim Weng Kee v Public Prosecutor [2002] 2 SLR(R) 848

Chua Boon Chin v McCormack John Maxwell and others [1979-1980] SLR(R) 121

Kumagai-Zenecon Construction Pte Ltd v Low Hua Kin [1999] 3 SLR(R) 1049 (High Court) affirmed [2000] 2 SLR (R) 689 (Court of Appeal)

Vita Health Laboratories Pte Ltd and Others v Pang Seng Meng [2004] 4 SLR 162

- W&P Piling Pte Ltd v Chew Yin What* [2007] 4 SLR(R) 218
- Liquidator of Leong Seng Hin Piling Pte Ltd v Chan Ah Lek* [2007] 2 SLR(R) 77
- Liquidators of Progen Engineering Pte Ltd v Progen Holdings Ltd* [2010] 4 SLR 1089
- Dynasty Line Ltd v Sukamto Sia* [2014] 3 SLR 277
- Intraco Ltd v Multi-Pak Singapore Pte Ltd* [1994] 3 SLR(R) 1064
- Oversea-Chinese Banking Corp Ltd v Justlogin Pte Ltd* [2004] 2 SLR(R) 675
- Caltong (Australia) Pty Ltd v Tong Tien See Construction Pte Ltd* [2002] 2 SLR(R) 94
- Tokuhon (Pte) Ltd v Seow Kang Hong* [2003] 4 SLR(R) 414
- Kea Holdings Pte Ltd v Gan Boon Hock* [2000] 2 SLR(R) 333
- SPP Ltd v Chew Beng Gim* [1993] 3 SLR(R) 17
- Kwee Seng Chio Peter v Biogenics Sdn Bhd* [2003] 2 SLR(R) 482
- Creanovate Pte Ltd v Firstlink Energy Pte Ltd* [2007] 4 SLR(R) 780
- Yeo Geok Seng v Public Prosecutor* [1999] 3 SLR(R) 896
- Dayco Products Singapore Pte Ltd v Ong Cheng Aik* [2004] 4 SLR(R) 318
- Chew Kong Huat v Ricwil (Singapore) Pte Ltd* [1999] 3 SLR(R) 1167
- Mahesan v Malaysian Government Officers' Co-operative Housing Society* [1978] 1 MLJ 149
(Privy Council on appeal from Malaysia)
- Thahir Kartika Ratna v PT Pertambangan Minyak dan Gas Bumi Negara* [1994] 3 SLR(R) 312
- Leong Wai Kay v Carrefour Singapore Pte Ltd* [2007] 3 SLR(R) 78
- Swiss Butchery Pte Ltd v Huber Ernst* [2010] 3 SLR 813
- Tan Hup Thye v Refco (Singapore) Pte Ltd* [2010] 3 SLR 1069
- Dovechem Holdings Pte Ltd (in liquidation) and others v Ng Joo Soon (alias Nga Ju Soon)* [2011] SGCA 35
- Yong Kheng Leong and another v Panweld Trading Pte Ltd and another* [2012] SGCA59
- Tang Yoke Kheng (trading as Niklex Supply Co) v Lek Benedict (No 2)* [2005] 3 SLR(R) 263
- Ho Kang Peng v Scintronix Corp Ltd (formerly known as TTL Holdings Ltd)* [2014] SGCA 22
- Tanaka Lumber Pte Ltd v Datuk Haji Mohammad Tufail bin Mahmud and another (Dato Ting Check Sii and another, third parties)* [2015] SGHC 276
- Jetivia SA and another v Bilta (UK) Limited and others* [2015] UKSC 23 / *Bilta (UK) Ltd (in liquidation) and others v Nazir and others (No 2)* [2015] 2 WLR 1168

J. FINANCIAL STATEMENTS AND AUDIT

Woon, Chapter 10. Companies Act, sections 199, 201, 205-209A,

ACRA How To Guide on Applying for Extension of Time to Present the Accounts at AGM (Section 201)

ACRA Practice Direction No. 5 of 2015: Effect of Companies (Amendment) Act 2014 on Sections 200, 201(12) and 202 of the Companies Act

ACRA Practice Direction No. 6 of 2015: Effect of Companies (Amendment) Act 2014 on Sections relating to Financial Reporting in the Companies Act

- Company financial statements and financial reporting standards
- Appointment, remuneration and removal of auditors
- Timing to appoint auditors and file financial statements
- Exemption from filing financial statements
- Applications for exemption as to form and content of financial statements
- Extension of time
- Auditors' duties
- Auditors' negligence

Selected cases

Tarling Richard Charles v Public Prosecutor [1981-1982] SLR(R) 1

Khoo Ban Hock v Public Prosecutor [1988] 3 MLJ 22

Wuu Khok Chiang George v ECRC Land Pte Ltd [1999] 2 SLR(R) 352

Ikumene Singapore Pte Ltd v Leong Chee Leng [1993] 2 SLR(R) 480

JSI Shipping (S) Pte Ltd v Teofoongwonglcloong [2007] 4 SLR(R) 460

PlanAssure PAC v Gaelic Inns Pte Ltd [2007] 4 SLR(R) 513

Standard Chartered Bank v Coopers & Lybrand [1993] 3 SLR(R) 29

Hau Tau Khang v Sanur Indonesian Restaurant Pte Ltd and another (Hau Tau Thong, non-party) and another matter [2011] 3 SLR 1128

K. SHAREHOLDERS' REMEDIES

Woon, Chapter 9; Margaret Chew, *Minority Shareholders' Rights and Remedies* (2nd Edition, LexisNexis, 2007). Companies Act, sections 216-216B, 254(1)(i)

- The oppression remedy
- Winding up on the "just and equitable" ground
- The rule in *Foss v Harbottle*
- Common law derivative actions

- The statutory derivative action

Selected cases

Re S Q Wong Holdings (Pte) Ltd [1987] SLR(R) 286

Re Gee Hoe Chan Trading Co Pte [1991] 2 SLR(R)114

Re Tri-Circle Investment Pte Ltd [1993] 1 SLR(R) 441

Tullio Planeta v Maoro Andrea G [1994] 2 SLR(R) 501

Low Peng Boon v Low Janie [1999] 1 SLR(R) 337

Yeo Hung Kiang v Dickson Investment (Singapore) Pte Ltd [1999] 1 SLR(R) 773

Kitnasamy Marudapan v Nagatheran Manogar [2000] 1 SLR(R) 542

Ng Sing King v PSA International Pte Ltd [2005] 2 SLR(R) 56

Sim Yong Kim v Evenstar Investments Pte Ltd [2006] 1 SLR(R) 685

Ting Shwu Ping v Autopack Pte Ltd [2016] 2 SLR 152

Lim Swee Kiang v Borden Co (Pte) Ltd [2006] 4 SLR(R) 745

Summit Co (S) Pte Ltd v Pacific Biosciences Pte Ltd [2007] 1 SLR(R) 46

Tan Choon Yong v Goh Jon Keat [2009] 3 SLR(R) 840

Over & Over Ltd. v Bonvest Holdings Ltd [2010] 2 SLR 776

Ezion Holdings Ltd v Teras Cargo Transport Pte Ltd [2016] 5 SLR 226

Thio Keng Poo v Thio Syn Pyn [2010] 3 SLR 143

Teo Gek Luang v Ng Ai Tiong [1998] 2 SLR(R) 426

Hengwell Development Pte Ltd v Thing Chiang Ching [2002] 2 SLR(R) 454

Pang Yong Hock v PKS Contracts Services Pte Ltd [2004] 3 SLR(R) 1

Petroships Investment Pte Ltd v Wealthplus Pte Ltd [2016] SGCA 17

Ting Sing Ning v Ting Chek Swee [2008] 1 SLR(R) 197

Sinwa SS (HK) Co Ltd v Morten Innhaug [2010] 4 SLR 1

Tam Tak Chuen v Eden Aesthetics Pte Ltd [2010] 2 SLR 667

Urs Meisterhans v GIP Pte Ltd [2011] 1 SLR 552

Tan Chin Hoon and others v Tan Choo Suan and others [2010] SGHC 340

Fong Wai Lyn Carolyn v Airtrust (Singapore) Pte Ltd [2011] SGHC 88

L. CORPORATE CRIME

Woon, Chapter 3, pp 118-124; Yeo, Morgan & Chan *Criminal Law in Malaysia and Singapore* (2007), Chapter 37

- Attribution of mens rea to a company
- Personal liability of directors and managers for crimes
- Punishment

Selected cases

Trade Facilities Pte Ltd v Public Prosecutor [1995] 2 SLR(R) 7

Tom-Reck Security Services Pte Ltd v Public Prosecutor [2001] 1 SLR(R) 327

Angliss Singapore Pte Ltd v Public Prosecutor [2006] 4 SLR(R) 653

Auston International Group Ltd v Public Prosecutor [2008] 1 SLR(R) 882

Lim Kopi Pte Ltd v Public Prosecutor [2010] 2 SLR(R) 413

M. SHARES

Woon, Chapter 11. Companies Act, sections 62A, 74, 121, 123, 125-130AB, 196A-196D

- Types of shares
- No par value shares
- Issue of shares
- Share certificates
- Electronic register of members
- Ownership of shares
- Transfer of shares
- Share transfer restrictions
- Class rights

Selected cases

Lian Hwee Choo Phebe v Maxz Universal Development Group Pte Ltd [2009] 2 SLR(R) 624

Look Chun Heng v Asia Insurance Co Ltd [1952] MLJ 33

EG Tan & Co (Pte) v Lim & Tan (Pte) [1985-1986] SLR(R) 1081

Pacrim Investments Pte Ltd v Tan Mui Keow Claire [2008] 2 SLR(R) 898

Encus International Pte Ltd v Tenacious Investment Pte Ltd and others [2016] 2 SLR 1178

Xiamen International Bank v Sing Eng (Pte) Ltd [1993] 2 SLR(R) 176

HSBC (Malaysia) Trustee Bhd v Soon Cheong Pte Ltd [2007] 1 SLR (R) 65

Auston International Group Ltd Another v Ng Swee Hua [2009] 4 SLR(R) 628

N. MAINTENANCE AND REDUCTION OF CAPITAL

Woon, Chapter 12. Companies Act, sections 7A, 76-76K, 78A-78K, 403

- Prohibition on return of assets to members
- Financial assistance for the acquisition of shares
- Acquisition of own shares by the company (Share buybacks)
- Reduction of capital
- Payment of dividends

Selected cases

Merchant Credit Pte Ltd v Industrial & Commercial Realty Co Ltd [1983-84] SLR(R) 13

Intraco Ltd v Multi-Pak Singapore Pte Ltd [1994] 3 SLR(R) 1064

Public Prosecutor v Lew Syn Pau [2006] 4 SLR(R) 210

Wu Yang Construction Group Ltd v Mao Yong Hui [2008] 2 SLR(R) 350

O. STRIKING-OFF

Companies Act, section 344-344G

ACRA Guidelines on Submitting an Application for Striking-off a Company

- Types of striking-off
- Striking off requirements
- Striking off procedure

Part II: Corporate Insolvency

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) (Andrew Chan, Consulting Editor)
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis, 2014) (Andrew Chan, General Editor)
- (3) *Woon's Corporations Law, Chapters L, M, N and O* (Lexis-Nexis) (Gregory Vijayendran, Updating Editor, Wee Meng Seng, Sub-editor)
- (4) *Walter Woon on Company Law* (3rd Rev edn), Chapter 13, 16 and 17 (Tan Cheng Han, General Editor)

A. CORPORATE INSOLVENCY- SOURCES OF LAW

See generally:

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis, 2014) [Chapt I]
- (2) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.001 - 150.010]

Statutory Materials

Arrangements, reconstructions and amalgamations

(Part VII, Sections 210 to 216A of the Companies Act)

- (Note: Sections 211B to 211J – amendments in May 2017 to the corporate insolvency regime relating to arrangements, reconstructions and amalgamations)

Companies (Proofs of Debt in Schemes of Arrangement) Regulations 2017

Companies (Prescribed Arrangements) Regulations 2017

Companies (Prescribed Companies and Entities) Order 2017

Receivers and Managers

(Part VIII, Sections 217 to 227 of the Companies Act)

Judicial Management

(Part VIIIA, Sections 227A to 227X of the Companies Act) (Section 227X makes applicable or potentially applicable provisions of Part X of the Companies Act)

(Section 227T makes applicable to company in judicial management certain provisions of the Bankruptcy Act, and this should be read with the Companies (Application of Bankruptcy Act Provisions) Regulations)

- (Note: New section 227AA (definition of certain terms) and section 227HA (super-priority to rescue financing) - amendments in May 2017 to the corporate insolvency regime relating to judicial management))

Companies Regulations

Companies (Prescribed Arrangements) Regulations 2017

Companies (Prescribed Companies and Entities) Order 2017

Re Engineering Construction (Pte) Ltd (under judicial management) [1992] 2 SLR(R) 435

Chew Eu Hock Construction Co Pte Ltd (under judicial management) v Central Provident Fund Board [2003] 4 SLR(R) 137

Hitachi Plant Engineering & Construction Co Ltd v Eltraco International Pte Ltd [2003] 4 SLR(R) 384

Re Wan Soon Construction Pte Ltd [2005] 3 SLR(R) 375

Neo Corp Pte Ltd (in liquidation) v Neocorp Innovations Pte Ltd [2006] 2 SLR(R) 717

Altus Technologies Pte Ltd (under judicial management) v Oversea-Chinese Banking Corp Ltd [2009] 4 SLR(R) 296

Liquidation

(Part X, Sections 247 to 354, 354A to 354C, and 377 of the Companies Act)

- Note: Recent amendments to sections 253, 254, 372, 320, 351 of the Companies Act and new section 344H – obligation of former officer to ensure retention of books and papers upon striking off of company for a period of 5 years.

Section 327(2) and 329 makes applicable to company in liquidation certain provisions of the Bankruptcy Act. In the case of Section 329, this should be read with the Companies (Application of Bankruptcy Act Provisions) Regulations.

Companies (Winding Up) Rules

Companies (Maximum Amount Payable in Priority in Winding Up) Order 2015

Companies Regulations

Civil Law Act: Section 4(1)

Re City Securities Pte [1995] 2 SLR(R) 746

Good Property Land Development Pte Ltd (in liquidation) v Société-Générale [1996] 1 SLR(R) 884

Re PCChip Computer Manufacturer (S) Pte Ltd (in compulsory liquidation) [2001] 2 SLR(R) 180

Panorama Development Pte Ltd (in liquidation) v Fitzroya Investments Pte Ltd and another [2003] 1 SLR(R) 93

Show Theatres Pte Ltd (in liquidation) v Shaw Theatres Pte Ltd [2002] 1 SLR(R) 578

Bankruptcy Act/Bankruptcy Rules (as imported)

Sections 98 to 100 and 103 of the Bankruptcy Act (antecedent transactions)

Note that via Section 4(1) of the Civil Law Act, Section 327(2) of the Companies Act and the bankruptcy provisions, rules relating to rights of creditors, secured and unsecured, proofs of debts, valuation of annuities and set-off may also be imported.

Registration of Charges

Part IV, Division 8 of the Companies Act (Section 131 to 137)

Rules of Court

(Electronic Filing Service provisions, Order 88 rule 2(5) and Order 1 rule 2(4))

Kuah Kok Kim v Chong Lee Leong Seng Co (Pte) Ltd [1991] 1 SLR(R) 795

Tohru Motobayashi v Official Receiver and another [2000] 3 SLR(R) 435

Woodcliff Assets Ltd v Reflexology and Holistic Health Academy and Others [2009] SGHC 162

Woodcliff Assets Ltd v Reflexology and Holistic Health Academy Pte Ltd and others [2010] SGHC 315

Inherent jurisdiction

Note: Rules of court generally applicable in judicial management.

B. WINDING UP – OVERVIEW

Types of Winding-Up

2 main types of liquidation:

Voluntary Liquidation / Compulsory Liquidation:

Voluntary Liquidation

Companies Act (Cap 50): Sections 290(1), 291, 293 and 295(1)

Members' Voluntary Winding-Up ("MVL")

Companies Act Part X and Companies (Winding Up) Rules

Conversion of MVL to CVL: (Companies Act Section 295(1))

Creditors' Voluntary Winding-Up ("CVL")

Companies Act Part X, Companies (Winding Up) Rules and applicable bankruptcy provisions.

Compulsory winding up

Companies Act, Part X, Companies (Winding Up) Rules and applicable bankruptcy provisions.

(1) Court Winding Up (Procedure)

Winding-Up by the Court: Inability of Company to Pay Debts

Locus Standi to apply for winding up order

Companies Act: Section 253

Re People's Parkway Development Pte Ltd [1991] 2 SLR(R) 567

Stonegate Securities Ltd v Gregory [1980] 1 All ER 241

Re Crigglestone Coal Ltd [1906] 2 Ch. 327

Miharja Development Sdn Bhd & Ors v Tan Sri Datuk Loy Hean Heong & Ors and another application [1995] 1 MLJ 101

Inability to pay debts/Tests for insolvency

Companies Act: Sections 254(1)(e) and 254(2)

Re Great Eastern Hotel (Pte) Ltd [1988] 2 SLR(R) 276

Chip Thye Enterprises Pte Ltd v Phay Gi Mo [2004] 1 SLR(R) 434

Australian Property Group Pte Ltd v H.A. & Chung Partnership [2015] SGHC 147

Re Cheyne Finance plc (No 2) [2007] EWHC 2402 (Ch)

Cornhill Insurance plc v Improvement Services Ltd [1986] 1 WLR 114

Byblos Bank v Al-Khudhairi [1987] BCLC 232

BNY Corporate Trustee Services Ltd and others v Eurosail-UK 2007-3BL plc [2013] 1 WLR 1408

Presumption of insolvency

Companies Act: Section 254

Pac-Asian Services Pte Ltd v European Asian Bank AG [1987] SLR(R) 6

Ng Tai Tuan v Chng Gim Huat Pte Ltd [1990] 2 SLR(R) 231

Re Dayang Construction and Engineering Pte Ltd [2002] 2 SLR(R) 197

BNP Paribas v Jurong Shipyard Pte Ltd [2009] 2 SLR(R) 949

United Overseas Bank Ltd v Bombay Talkies (S) Pte Ltd [2015] SGHC 142

United Fiber System Ltd v China National Machinery & Equipment [2011] 2 SLR 1021

Comptroller of Income Tax v BLO [2017] SGHC 50

Lee Eng Beng, Excessive Statutory Demands in Winding Up and Bankruptcy [1997] SJLS 532

The Court's Discretion in Making the Winding-Up Order

Disputing a debt on substantial grounds

Companies Act: Section 257

BNP Paribas v Jurong Shipyard Pte Ltd [2009] 2 SLR(R) 949

Chimbusco International Petroleum (Singapore) Pte Ltd v Jalalludin bin Abdullah and other matters [2013] 2 SLR 801

Mohd Zain bin Abdullah v Chimbusco International Petroleum (Singapore) Pte Ltd and another appeal [2014] 2 SLR 446

S E Shipping Lines Pte Ltd v Austral Asia Line Pte Ltd [2012] SGHC 220

Metalform Asia Pte Ltd v Holland Leedon Pte Ltd [2007] 2 SLR(R) 268

Strategic Construction Pte Ltd v JH Projects Pte Ltd [2017] SGHC 238

Comptroller of Income Tax v BLO [2017] SGHC 50

Re Bentimi Pte Ltd [2003] SGHC 92

Re Bayoil SA [1999] 1 All ER 374

Having regard to the wishes of creditors and contributories and other factors (e.g. employees)

Companies Act: Sections 257 and 325

BNP Paribas v Jurong Shipyard Pte Ltd [2009] 2 SLR(R) 949

Raiffeisen Zentralbank Osterreich AG v Continental Chemical Corp Pte Ltd [2010] 3 SLR 76

Where company is already in voluntary winding up

Companies Act: Sections 253(2)(d), 255(1)

Korea Asset Management Corporation v Daewoo Singapore Pte Ltd [2004] 1 SLR(R) 671

Petroships Investment Pte Ltd v Wealthplus Pte Ltd (in members' voluntary liquidation) (Koh Brothers Building & Civil Engineering Contractor (Pte) Ltd [2017] SGHC 122

(2) Creditor's Voluntary Winding Up

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) (150.313 – 150.319)
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis, 2014) (Chapter VI, 2701-2951)
- (3) *Woon's Corporations Law*, (Lexis-Nexis) (Chapter O; 3304-3403)
- (4) *Walter Woon on Company Law* (3rd Rev edn) (page 742-745)

Korea Asset Management Corp v Daewoo Singapore Pte Ltd (in liquidation) [2004] 1 SLR(R) 671

Seagate Technology Pte Ltd v Goh Han Kim [1994] 3 SLR(R) 836

Re Lehman Brothers Finance Asia Pte Ltd (in creditors' voluntary liquidation) [2013] 1 SLR 64

(3) Effect Of Winding Up (Including Commencement Of Winding Up)

See generally:

Halsbury's Laws of Singapore on Insolvency, Vol 13 (2011, LexisNexis Singapore), [150.376 - 150.380] and [150.424 - 150.428]

Law and Practice of Corporate Insolvency (LexisNexis, 2014) [Chapt VI 753-801] and [Chapt VI 1402 to 1552]

Woon's Corporations Law (Lexis-Nexis) Chapter O, [951 to 954 and 1504]

Commencement of Winding Up

Companies Act: Sections 255, 291(6)

Effect of the Winding up

Where beneficial interest in assets lie

Ayerst v C & K (Construction) Ltd [1976] AC 167 (HL)

Ng Wei Teck Michael v OCBC Ltd [1998] 1 SLR(R) 778

Power Knight Pte Ltd v Natural Fuel Pte Ltd [2010] 3 SLR 82

Moratorium on legal and enforcement proceedings

Companies Act: Sections 258, 259, 260, 262(3), 299, 334

Re Tiong Polestar Engineering Pte Ltd [2003] 4 SLR(R) 1

Re Wan Soon Construction Pte Ltd [2005] 3 SLR(R) 375

Excalibur Group Pte Ltd v Goh Boon Kok [2012] 2 SLR 999

Principles applicable in court granting leave to commence or continue proceedings

Hull 308, The [1991] 2 SLR(R) 643

Jumabhoy Rafiq v Scotts Investment (Singapore) Pte Ltd (in compulsory liquidation) [2003] 2 SLR(R) 422

Effect on contracts

Companies Act: Sections 294(2), 297(4)

Harrick Engineering Pte Ltd and another v Singapore Finance Ltd and another action [1997] 2 SLR(R) 609

Larsen Oil and Gas Pte Ltd v Petroprod Ltd (in official liquidation in the Cayman Islands and in compulsory liquidation in Singapore) [2011] 3 SLR 414

Meng Seng Wee '*Insolvency and the Survival of Contracts*' [2005] JBL 494

(4) Substantive Consequences Following Winding Up

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Vol 13 (2011, LexisNexis Singapore), (Chapter 6)
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis, 2014) [Chapt VII]
- (3) *Woon's Corporations Law* (Lexis-Nexis) [Chapter O, 5753 – 6151]
- (4) *Goode, Principles of Corporate Insolvency Law* (3rd edn, 2005) 175 – 188

Disclaimer of onerous properties

See generally:

Halsbury's Laws of Singapore on Insolvency, Volume 13 (2011, LexisNexis Singapore), [150.445] and [150.445]

Law and Practice of Corporate Insolvency (LexisNexis, 2014) [Chapt VII 2455] and [Chapt VII 2355-2700]

Woon's Corporations Law (Lexis-Nexis) [Chapter O, 6102-6151]

Statutory materials

Companies Act: Sections 332(1)(c), 277, 278, 298 and 332

Quasi-security and other proprietary interests

Re David Lloyd & Co (1877) 6 ChD 339

Aluminium Industrie Vaassen BV v Romalpa Aluminium Ltd [1976] 2 All ER 552

Barclays Bank v Quistclose Investments [1970] AC 567

Re Kayford Ltd [1975] 1 All ER 604

Mac-Jordan Construction Ltd v Brookmont Erostin [1992] BCLC 350

Anti-Deprivation Rule

Belmont Park Investments PTY Limited v BNY Corporate Trustee Services Limited and Lehman Brothers Special Financing Inc [2012] 1 AC 383

Avoidance Provisions

See generally:

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis) [Chapt VII 401-2351]
- (2) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore), [150.701 - 150.785]
- (3) *Woon's Corporations Law* [Chapter O, 5753 – 6101]

Registrable but unregistered charges

Companies Act: Section 131

Dresdner Bank v Ho Mun-Tuke Don [1992] 3 SLR(R) 307

Ng Wei Teck v OCBC [1998] 1 SLR(R) 778

Smith v Bridgend CBC [2001] 3 WLR 1347

Duncan, Cameron Lindsay and another v Diablo Fortune Inc and another matter [2017] SGHC 172

Lee Eng Beng, *Unregistered Creditor versus Unregistered Charge* (1998) 10 SAcLJ 241

Transactions at an undervalue

Bankruptcy Act: Sections 98, 100 and 102

Companies (Application of Bankruptcy Act Provisions) Regulations

Companies Act: Section 329 and 331

Bankruptcy Act: Section 98

Parakou Shipping Pte Ltd (in liquidation) v Liu Cheng Chan and others [2017] SGHC 15

Re MC Bacon Ltd [1990] BCLC 324

Agricultural Mortgage Corporation v Woodward [1995] 1 BCLC 1

Phillips v Brewin Dolphin Bell Lawrie Ltd [2001] 1 All ER 673

Show Theatres Pte Ltd (in liquidation) v Shaw Theatres Pte Ltd [2002] 1 SLR(R) 578 (reversed on appeal on another point- *Show Theatres Pte Ltd (in liquidation) v Shaw Theatres Pte Ltd* [2002] 2 SLR(R) 1143)

Leun Wah Electric Co (Pte) Ltd v Sigma Cable Co (Pte) Ltd [2006] 3 SLR(R) 227

Hill v Spread Trustee Co Ltd [2006] EWCA Civ 542

Re Sonatacus Ltd [2007] EWCA Civ 31

Unfair preferences

Bankruptcy Act: Sections 99, 100 and 102

Companies (Application of Bankruptcy Act Provisions) Regulations

Companies Act: Section 329

Re MC Bacon Ltd [1990] BCLC 324

Re Sonatacus Ltd [2007] EWCA Civ 31

Leun Wah Electric Co (Pte) Ltd v Sigma Cable Co (Pte) Ltd [2006] 3 SLR(R) 227

Chee Yoh Chuang v Progen Holdings Ltd [2010] 4 SLR 1089

Coöperatieve Centrale Raiffeisen-Boerenleenbank BA v Jurong Technologies Industrial Corp Ltd (under judicial management) [2011] 4 SLR 977

DBS Bank Ltd v Tam Chee Chong (judicial managers of Jurong Hi-Tech Industries Pte Ltd (under judicial management)) [2011] 4 SLR 948

Living the Link Pte Ltd (in creditors' voluntary liquidation) v Tan Lay Tin Tina [2016] 3 SLR 321

CCM Industrial Pte Ltd (in liquidation) v Chan Pui Yee [2016] SGHC 231

Extortionate credit transactions

Bankruptcy Act: Section 103

Companies Act: Section 329 and Companies (Application of Bankruptcy Act Provisions) Regulations

Post-application dispositions

Companies Act: Section 259

Re Wiltshire Iron Co Ltd (1868) 3 Ch App 443

Coutts & Co v Stock [2000] 1 WLR 906

Hollicourt (Contracts) Ltd v Bank of Ireland [2001] Ch 555

Centaurea International Pte Ltd (in Liquidation) v Citus Trading Pte Ltd [2017] 3 SLR 513

QCD (M) Sdn Bhd v Wah Nam Plastic Industry Pte Ltd [1997] 1 SLR(R) 270

Kong Swee Eng v Rolles Rudolf Jurgen August [2011] 1 SLR 873

Floating charges for past value

Companies Act: Section 330

Re Orleans Motor Co Ltd [1911] 2 Ch 41

Re Yeovil Glove Ltd [1965] Ch 148

Re G T Whyte & Co Ltd [1983] BCLC 311

Mace Builders (Glasgow) Ltd v Lunn [1987] Ch 191

Power v Sharp Investments Ltd [1994] 1 BCLC 111

Jurong Data Centre Development Pte Ltd (provisional liquidator and receivers and managers appointed) v M+W Singapore Pte Ltd [2011] 3 SLR 337

Distributing the Proceeds of Recovery

Re Yagerphone [1935] Ch 392

Re Asiatic Electric Co Pty Ltd [1970] 2 NSW 612

Re Oasis Merchandising Services Ltd (in liq) Ward v Aitken [1998] Ch 170

Common law protection of creditors

Chip Thye Enterprises Pte Ltd (in liquidation) v Phay Gi Mo [2004] 1 SLR(R) 434

Dynasty Line Ltd (in liquidation) v Sukamto Sia [2015] SGHC 286

Additional statutory protection of creditors

Companies Act: Sections 339 and 340

Tang Yoke Kheng (trading as Niklex Supply Co) v Lek Benedict (No 2) [2005] 3 SLR(R) 263

Liquidator of Leong Seng Hin Piling Pte Ltd v Chan Ah Lek [2007] 2 SLR(R) 77

The treatment of delinquent directors

Companies Act: Sections 149, 341

Re Kie Hock Shipping (1971) Pte Ltd [1983-1984] SLR(R) 796

Tay Beng Chuan v Official Receiver/Liquidator of Kie Hock Shipping (1971) Pte Ltd [1987] SLR(R) 123

Re Lo-Line Electric Motors Ltd [1988] Ch 477

Re Sevenoaks Stationers (Retail) Ltd [1991] Ch 164

(5) Powers Of Liquidator

See generally:

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis 2014) [Chapter VI 3154-3306]
- (2) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.459 and 150.491-150.494]
- (3) Companies Act: Sections 268, 269, 272, 305, 306 and 310
- (4) *Nova Leisure Pte Ltd v Dynasty Theatre Nite-Club KTV & Lounge Pte Ltd* [2005] 1 SLR(R) 466
- (5) *Edenote Ltd, Re; Tottenham Hotspur plc v Ryman* [1996] 2 BCLC 389

Power of sale of company's property

Re Vanguard Energy Pte Ltd [2015] 4 SLR 597

Remuneration of liquidator

Companies Act: Section 268 and Section 272

Re Econ Corp Ltd (in provisional liquidation) [2004] 2 SLR(R) 264

Re International Formwork and Scaffolding [2014] 1 SLR 205

Liquidators of Dovechem Holdings Pte Ltd v Dovechem Holdings Pte Ltd (in compulsory liquidation) [2015] 4 SLR 955

Kao Chai Chau Linda v Fong Wai Lin Carolyn [2016] 1 SLR 21

The Estate costs rule

Chee Kheong Mah Chaly v. Liquidators of Baring Futures (Singapore) Pte Ltd [2003] 2 SLR(R) 571

Ho Wing On Christopher v. ECRC Land Pte Ltd [2006] 4 SLR(R) 817

Removal of Liquidator

Petroships Investment Pte Ltd v Wealthplus Pte Ltd (in members' voluntary liquidation) (Koh Brothers Building & Civil Engineering Contractor (Pte) Ltd and another, interveners) [2017] SGHC 122

Dissolution and discharge of liquidator

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis) [Chapter VI 2603-2700]
- (2) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.475-150.479 and 150.496 – 150.700]
- (3) *Woon's Corporations Law* (Lexis-Nexis) [Chapter O, 2351 to 2403]
- (4) *Walter Woon on Company Law* (3rd Rev edn) (page 789)

Companies Act: Sections 275-276 and 343-349

Application for information under Section 285 of the Companies Act

PricewaterhouseCoopers LLP v Celestial Nutrifoods Ltd (in compulsory liquidation) [2015] 3 SLR 665

(6) Claims Against The Company

See generally:

- (1) *Goode Principles of Corporate Insolvency Law (3rd edn, 2005)* 189 – 207, 210 – 211, 213 – 237
- (2) *Goode Principles of Corporate Insolvency Law (2nd edn, 1997)* 194 – 199
- (3) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore), [150.434 - 150.441 and 150.446 to 150.448]
- (4) *Law and Practice of Corporate Insolvency (Loose-leaf, LexisNexis)* [Chapt VI 1752-2254]

Provable Debts

Bankruptcy Act (Cap 20): Section 87

Companies Act: Section 327

Civil Law Act: Section 4(1)

Wight & Ors v Eckhardt Marine GmbH [2004] 1 AC 147

Re Berkeley Securities (Property) Ltd [1980] 3 All ER 513

Re Islington Metal & Plating Works Ltd [1983] 3 All ER 218

Vasudevan v Icab Pte Ltd [1987] SLR(R) 46

Re Lehman Brothers Finance Asia Pte Ltd (in creditors' voluntary liquidation) [2013] 1 SLR 64

Fustar Chemicals Ltd (Hong Kong) v Liquidator of Fustar Chemicals Pte Ltd [2009] 4 SLR(R) 458

Ong Kian Hoy v Liquidator of HSS Engineering Pte Ltd [2015] 1 SLR 486

Lee Eng Beng, *Claims for Interest in Winding Up and Bankruptcy* (1997) 9 SAclJ 51 at 69-75

(7) The Pari Passu Principle of Distribution

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore), [150.456 - 150.457]
- (2) *Law and Practice of Corporate Insolvency (Loose-leaf, LexisNexis)* [Chapt VI 2301]
- (3) *Vanessa Finch, Corporate Insolvency Law : Perspectives and Principles* (2nd edn, 2009) Chapter 14

Statutory materials

Companies Act: Section 262(4), 300

British Eagle International Airlines v Air France [1975] 2 All ER 390

Hull 308, The [1991] 2 SLR(R) 643

Joo Yee Construction Pte Ltd (in liquidation) v Diethelm Industries Pte Ltd [1990] 1 SLR(R) 171

Exceptions to pari passu principle

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore), [150.458 - 150.472];
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis 2014) [Chapt VI 2255 - 2602]

Preferential creditors

Companies Act: Section 328

Companies (Maximum Amount Payable in Priority in Winding Up) Order 2015

Re Portbase Clothing Ltd [1993] Ch 388

Insurance and rights of indemnity

Companies Act: Section 328(6)

Third Parties (Rights Against Insurers) Act (Cap 395)

Statutory subordination

Companies Act: Section 250(1)(g)

Soden v British and Commonwealth Holdings plc [1996] 3 All ER 951

Consensual subordination

Goode, Commercial Law, Chap 22 at 614 - 616

Re Maxwell Communications Corporation plc (No 3) [1994] 1 All ER 737

Low Gim Har v Low Gim Siah [1992] 1 SLR(R) 970

Flawed Assets / Anti-deprivation rule

Belmont Park Investments Pty Ltd v BNY Corporate Trustee Services Ltd (Revenue and Customs Comrs) [2012] 1 AC 383

(8) Insolvency Set-Off

See generally:

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis 2014) [Chapt VI 1905 - 2050]
- (2) *Set-Off Law and Practice: An International Handbook* (Oxford University Press 2006) (William Johnston, Thomas Werlen General Eds) (Singapore chapter by Andrew Chan)
- (3) Lee Eng Beng, *Security Deposit Arrangements in Insolvency* [1996] SAcLJ 458 at 477-487
- (4) Lee Eng Beng, *Trust Funds, Ascertainability of Beneficial Interest and Insolvency Set-Off* [1996] SAcLJ 489

Conditions for insolvency set-off

Companies Act: Section 327(2)

Bankruptcy Act: Section 88

NatWest Bank v Halesowan Presswork & Assemblies [1972] AC 785

Stein v Blake [1996] A.C. 243

Good Property Land Development Pte Ltd (in liquidation) v Société-Générale [1996] 1 SLR(R) 884

BCCI SA (in liq) v Al-Saud [1997] 1 BCLC 457

Re BCCI (No. 8) [1998] AC 214

Panorama Development Pte Ltd v Fitzroya Investments Pte Ltd [2003] 1 SLR 93

Cross border insolvency

Section 354A, 354B and 354C – Adoption of UNCITRAL Model Law on Cross-Border Insolvency as part of Singapore insolvency law; Tenth Schedule of Companies Act

See generally:

- (1) Companies (Amendment) Bill (Bill No. 13/2017) – Explanatory Statement
- (2) Guide to Enactment of the UNCITRAL Model Law on Cross-Border Insolvency

Re TPC Korea [2010] 2 SLR 617

Beluga Chartering GmbH (in liquidation) v Beluga Projects (Singapore) Pte Ltd (in liquidation) and another (deugro (Singapore) Pte Ltd, non-party) [2014] 2 SLR 815

Re Gulf Pacific Shipping (in creditors' voluntary liquidation) [2016] SGHC 287

Re Opti-Medix Ltd (in Liquidation) [2016] 4 SLR 312

Re Taisoo Suk (as foreign representative of Hanjin Shipping Co Ltd) [2016] 5 SLR 787

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Rubin v Eurofinance SA [2013] 1 AC 236

Manharlal Trikamdas Mody v Sumikin Bussan International (HK) Ltd [2014] 3 SLR 1161

Export-Import Bank of India v Surya Pharmaceutical (Singapore) Pte Ltd [2015] SGHC 258

C. JUDICIAL MANAGEMENT

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.042 to 150.084]
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis 2014) (Chapter IV)
- (3) *Woon's Corporations Law*, Chapter N (Lexis-Nexis)

Statutory materials

Companies Act: Part VIIIA

Note: New section 227AA (definition of certain terms) and section 227HA (super-priority to rescue financing) - amendments to the corporate insolvency regime in May 2017 relating to judicial management)

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- <https://www.mlaw.gov.sg/content/minlaw/en/news/public-consultations/public-consultation-on-proposed-amendments-to-the-companies-act-.html>

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- <https://www.mlaw.gov.sg/content/minlaw/en/news/public-consultations/responses-to-feedback-received-from-public-consultation-on-propo.html>

(1) Initiating Judicial Management and The Court's Jurisdiction To Make A Judicial Management Order

Companies Act: Section 227A and 227B

(Note: amendment to section 227B of the Companies Act regarding the circumstances in which the Court will may make an order for judicial management)

Re Genesis Technologies International [1994] 2 SLR(R) 298

Re Structures & Computers Ltd [1998] 1 BCLC 292

Re Colt Telecom Group plc [2002] EWHC 2815

Deutsche Bank AG v. Asia Pulp & Paper Co. Ltd [2003] 2 SLR(R) 320

Re Cosmotron Electronics (Singapore) Pte Ltd [1989] 1 SLR(R) 121

Re Bintan Lagoon Resort Ltd [2005] 4 SLR(R) 336

(2) Limits To The Court's Jurisdiction To Make A Judicial Management Order

Companies Act: Sections 227(B)(5), 227(B)(6) and 227(B)(7)

(Note: amendment to section 227B of the Companies Act)

Re Bintan Lagoon Resort Ltd [2005] 4 SLR(R) 336

(3) Effect Of A Judicial Management Order

Statutory moratorium

Companies Act: Section 227C and 227D

(Note: Amendment to section 227D(4) regarding the statutory moratorium when a judicial management is in force)

Wellworth Cash & Carry (North Shields) Ltd v. North Eastern Electricity Board (1986) 2 BCC 99

Bristol Airport plc v. Powdrill [1990] Ch 744

Re Atlantic Computer Systems (No.1) [1992] Ch 505

Re Olympia & York Canary Wharf Ltd [1993] BCLC 453

Electro Magnetic (S) Ltd v. DBS Ltd [1994] 1 SLR 734

Re Lomax Leisure Ltd [1999] 3 All ER 22

Leave to proceed with action prohibited by moratorium

Re Atlantic Computer Systems (No 1) [1992] Ch 505

Hinckley Singapore Trading Pte Ltd v Sogo Department Stores (S) Pte Ltd (under judicial management) [2001] 3 SLR(R) 119

Moratorium does not extinguish right of interest

Re Boonann Construction Pte Ltd [2000] 2 SLR(R) 399

Judicial manager to exercise the powers of management, and displacement of management

Companies Act Section 227G(2); 11th Schedule of the Companies Act

Judicial manager barred from repayment of debts to which company was subject unless sanctioned by court or towards discharging security etc.

Companies Act Section 227G(6)

(4) The Judicial Manager

Eligibility

Companies Act Section 227B(3); Section 227F

Duties and liabilities of the judicial manager

Companies Act: Sections 227E, 227G; 227H, 227I, Section 227R and 11th Schedule

Cendekia Candranegara Tjiang v Yin Kum Choy and others [2002] 2 SLR(R) 283

Kotjo Johanes Budisutrismo v Ng Wei Teck Michael and others [2001] 2 SLR(R) 784

Lee Eng Beng, “*Personal Liability Of Judicial Managers and Receivers under the Companies Act*” [1996] 8 SAcLJ 249

General powers

Companies Act Section 227G and 11th Schedule of the Companies Act

Re Atlantic Computer Systems PLC [1992] 2 W.L.R. 367

Re Baring Futures (Singapore) Pte Ltd; Director of the Serious Fraud Office v Judicial Managers of Baring Futures (Singapore) Pte Ltd [1995] 2 SLR(R) 757

Access to information

Companies Act Sections 227K, 227L and 227W

- (Note: Amendment to section 227K of the Companies Act – removing the need for advertisement in Chinese local daily newspaper)

Power to challenge prior and other transactions

Companies Act Section 227T and 227X(b)

Sections 98 to 100 and 103 of the Bankruptcy Act (antecedent transactions)

Re Wan Soon Construction Pte Ltd [2005] 3 SLR(R) 375

Altus Technologies Pte Ltd v OCBC Ltd [2009] 4 SLR(R) 296

Neo Corp Pte Ltd v Neocorp Innovations Pte Ltd [2006] 2 SLR(R) 717

Attorney-General v. Wan Soon Construction [2005] SGDC 6

See further Companies (Application of Bankruptcy Act Provisions) Regulations.

See further discussion above at part III (D)

Meeting to consider the judicial manager’s proposals

Companies Act: Section 227M and 227N

(Note: amendment to sections 227M and 227N of the Companies Act – removing the need for advertisement in Chinese local daily newspaper)

Companies Regulations: Regulations 55 to 77

Halsbury's Laws of Singapore on Insolvency, Volume 13 (2011, LexisNexis Singapore) [150.076 to 150.081]

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Woon's Corporations Law, Chapter N [1052-1201]

Re Engineering Construction (Pte) Ltd (under judicial management) [1992] 2 SLR(R) 435

(5) Discharge From Judicial Management

Duty to apply to court for discharge if the purposes specified in the order has been achieved or is incapable of achievement

Companies Act Section 227Q; Section 227R(3)(d)

Failure of creditor's meeting to approve judicial manager's statement of proposals

Companies Act Section 227N(4)

(Note: amendment to section 227N of the Companies Act – removing the need for advertisement in Chinese local daily newspaper)

(6) Remuneration And Termination Of Judicial Manager/Management

See generally:

- (1) *Law and Practice of Corporate Insolvency* (LexisNexis 2014) [Chapter IV 2501 - 2603]
- (2) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.058 and 150.072 to 150.075]
- (3) Companies Act: Sections 227B, 227J, 227Q

Remuneration of judicial manager

Re Econ Corp Ltd (in provisional liquidation) [2004] 2 SLR(R) 264

Termination of the office of judicial manager

Termination via order of Court: Companies Act Section 227J(1)

Resignation: Companies Act: Companies Act Section 227J(1)

Cessation of status as approved company auditor: Companies Act Section 227J(2)

Discharge of Order: Companies Act Sections 227Q(1) and 227Q(2)

Expiry of judicial management order: Companies Act Sections 227B(8) and 227J(2)

Requirement to vacate office upon discharge of judicial management order and notify registrar/apply to court for order of discharge: Companies Act: Sections 227J(2) and 227Q(3)

D. RECEIVERSHIP

See generally:

- (1) *Halsbury's Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.088 to 150.300]
- (2) *Woon's Corporations Law, Chapter M* (Lexis-Nexis)

Statutory materials

Companies Act: Part VIII

Companies Act: Section 131

Conveyancing and Law of Property Act: Sections 24(1)(c), 24(2), 25, 26 and 29

Section 4(10) Civil Law Act and Item 5 - First Schedule - Supreme Court of Judicature Act.

(1) Appointment Of A Receiver

Cryne v. Barclays Bank plc [1987] BCLC 548

Re Jaffe Ltd (in liq) v Jaffe (No 2) [1932] NZLR 195

Bank of Baroda v. Panessar [1986] 3 All ER 751

Roberto Building Material Pte Ltd v. OCBC Ltd [2003] 3 SLR(R) 217

Sheppard & Cooper Ltd v. TSB Bank plc (No 2) [1996] 2 All ER 654

(2) Duties Of Debenture Holder When Deciding Whether To Exercise Power Of Appointment

Roberto Building Material Pte Ltd v. OCBC Ltd [2003] 3 SLR(R) 217

Re Potters Oils Ltd (No 2) [1986] 1 All ER 890

(3) Effect Of Appointment Of Receiver

Moss Steamship Company Limited v. Whinney [1912] A.C. 254

Haw Par Brothers International Ltd v Overseas Textiles Co Ltd [1977-1978] SLR(R) 352

(4) Qualifications Of Receiver

Companies Act: Section 217

(5) Receiver's Status

Gebrueder Buehler AG v Chi Man Kwong Peter and others [1988] 1 SLR(R) 185

Gomba Holdings UK Ltd v Minorities Finance Ltd [1989] 1 All ER 261

Companies Act: Section 4(1)

(6) Powers Of Receiver

Statutory: Companies Act: Section 223 and 224

Conveyancing and Law of Property Act: Section 29

(7) Duties Of Receiver

See generally:

Companies Act: Sections 218, 219, 221-226

Law and Practice of Corporate Insolvency (LexisNexis, 2014) [Chapter V: 1203-1704]

Halsbury's Laws of Singapore on Insolvency, Volume 13 (2011, LexisNexis Singapore) [150.130-150-148]

Woon's Corporations Law, Chapter M (Lexis-Nexis)

Medforth v Blake [2000] 1 Ch. 86

R A Price Securities Ltd v. Henderson [1989] 2 NZLR 257

Downsview Nominees v First City Corp Ltd [1993] AC 295

Roberto Building Material Pte Ltd v. OCBC Ltd [2003] 3 SLR(R) 217

Wee, "Duties of a Mortgagee and a Receiver: Where Singapore Should and Should Not Follow English Law" (2008) 20 SAclJ 559

Kao Chai-Chau Linda v Fong Wai Lyn Carolyn and others [2016] 1 SLR 21

No duty in timing power of sale

Den Norske Bank ASA v Acemex Management Co Ltd [2003] EWCA Civ 1559

Liabilities in relation to pre-appointment contracts

Gosling v Gaskell [1897] AC 575

Welsh Development Agency v Exfinco [1992] JBL 541

Re Diesels & Components Pty Ltd (1985) 9 ACLR 825

Freevale Ltd v Metrostore (Holdings) Ltd [1984] Ch 199

Liabilities in relation to post-appointment contracts

Companies Act (Cap 50): Section 218

Chin Bobby v Hong Lam Marine Pte Ltd [1999] 3 SLR(R) 907

Lee Eng Beng, “*Personal Liability Of Judicial Managers and Receivers under the Companies Act*” [1996] 8 SAclJ 249

DUTY TO PAY PREFERENTIAL DEBTS

Companies Act (Cap 50): Section 226 read with 328

IRC v Goldblatt [1972] Ch 498

Effect of Liquidation

QCD (M) Sdn Bhd v Wah Nam Plastic Industry Pte Ltd [1997] 1 SLR(R) 270

Harrick Engineering Pte Ltd v Singapore Finance Ltd [1997] 2 SLR(R) 609

Termination of receivership

Rottenberg v Monjack [1993] BCLC 374

E. SCHEMES OF ARRANGEMENT (WITHIN AND OUTSIDE JUDICIAL MANAGEMENT)

See generally:

- (1) *Halsbury’s Laws of Singapore on Insolvency*, Volume 13 (2011, LexisNexis Singapore) [150.011 to 150.040]
- (2) *Law and Practice of Corporate Insolvency* (LexisNexis, 2014) (Chapter III)
- (3) *Woon’s Corporations Law, Chapter L* (Lexis-Nexis)
- (4) *Walter Woon on Company Law* (3rd Rev edn) (Chapter 11- page 663 to 670)

Statutory materials

Companies Act: Part VII, section 210, 211A to 211J

Companies Act: Section 227X

- Note: Amendment to section 227X of the Companies Act – application of certain provisions under scheme of arrangement and winding-up provisions to a company under judicial management)

Companies (Proofs of Debt in Schemes of Arrangement) Regulations 2017

Companies (Prescribed Arrangements) Regulations 2017

Companies (Prescribed Companies and Entities) Order 2017

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- <<https://www.mlaw.gov.sg/content/minlaw/en/news/public-consultations/public-consultation-on-proposed-amendments-to-the-companies-act-.html>>

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(1) Scope And Purpose Of Scheme Of Arrangement

Re TPC Korea [2010] 2 SLR 617

Daewoo Singapore Pte Ltd v CEL Tractors Pte Ltd [2001] 2 SLR(R) 791

(2) Who Can Apply To Court For Convening Of Scheme Meetings

Company: Companies Act Section 210(1)

Judicial Manager: Companies Act Section 227B(1)(b)(ii) read with Section 227X(a)

Liquidator: Companies Act Section 210(1)

(3) Convening Of Scheme Meetings And Stay Of Proceedings

Re Ng Huat Foundations Pte Ltd [2005] SGHC 112

Sri Hartamas Development Sdn Bhd v MBf Finance Bhd [1990] 2 MLJ 31

Hitachi Plant Engineering & Construction Co Ltd v Eltraco International Pte Ltd [2003] 4 SLR(R) 384

UDL Argos Engineering & Heaving Industries Co Ltd v Li Oi Lin [2001] HKCFAR 358

Re Kuala Lumpur Industries Bhd [1990] 2 MLJ 180

Re Gae Pty Ltd [1962] VR 253

McVeigh & Anor v Linen House Pty Ltd and Anor (No 2) (2000) 1 VR 31

Re Reid Murray Acceptance Ltd [1964] VR 82

In re Savoy Hotel Ltd [1981] Ch 351

Re TPC Korea [2010] 2 SLR 617

The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd and another appeal [2012] 2 SLR 213

Re Conchubar Aromatics Ltd and other matters [2015] SGHC 322

Re Punj Lloyd Pte Ltd and another matter [2015] SGHC 321

Re Sembawang Engineers and Constructors Pte Ltd [2015] SGHC 250

Pacific Andes Resources Development Ltd and other matters [2016] SGHC 210

(4) Classification Of Creditors

SAAG Oilfield Engineering (S) Pte Ltd v Shaik Abu Bakar bin Abdul Sukol [2012] 2 SLR 189

The Royal Bank of Scotland NV v TT International Ltd [2012] 2 SLR 213

Re Conchubar Aromatics Ltd [2017] 3 SLR 748 (to be read with SGCA case)

SK Engineering & Construction Co Ltd v Conchubar Aromatics Ltd [2017] SGCA 51

UDL Argos Engineering & Heavy Industries Co Ltd v Li Oi Lin [2001] HKCFA 19

Wah Yuen Electrical Engineering Pte Ltd v Singapore Cables Manufacturers Pte Ltd [2003] 3 SLR(R) 629 (applied UDL Argos)

Sovereign Life Assurance Co v. Dodd [1892] 2 QB 573

Re Horizon Knowledge Solutions Pte Ltd [2004] SGHC 270

Wah Yuen Electrical Engineering Pte Ltd v Singapore Cables Manufacturers Pte Ltd [2003] 3 SLR(R) 629

(5) Transparency And Provision Of Information

Companies Act: Section 211

Re Halley's Departmental Store Pte Ltd [1996] 1 SLR(R) 81

Wah Yuen Electrical Engineering Pte Ltd v Singapore Cables Manufacturers Pte Ltd [2003] 3 SLR(R) 629

Re Econ Corp (in provisional liquidation) [2004] 2 SLR(R) 264

Re Heron International NV [1994] 1 BCLC 667

The Royal Bank of Scotland NV v TT International Ltd [2012] 2 SLR 213

The Royal Bank of Scotland NV v TT International Ltd [2012] 4 SLR 1182

(6) Court Discretion To Approve Scheme

Wah Yuen Electrical Engineering Pte Ltd v Singapore Cables Manufacturers Pte Ltd [2003] 3 SLR(R) 629

Re Halley's Departmental Store Pte Ltd [1996] 1 SLR(R) 81

Daewoo Singapore Pte Ltd v CEL Tractors Pte Ltd [2001] 2 SLR(R) 791

Re Conchubar Aromatics Ltd [2017] 3 SLR 748 (to be read with SGCA case)
SK Engineering & Construction Co Ltd v Conchubar Aromatics Ltd [2017] SGCA 51

(7) Recent Amendments to Scheme of Arrangement Regime

Companies Act: section 211A to 211J – restraint of proceedings, super priority for rescue financing and cram-down provisions.

Re Attilan Group Ltd [2017] SGHC 283

(8) Implementation Of Scheme

Companies Act: Section 212

Hitachi Plant Engineering & Construction Co Ltd v Eltraco International Pte Ltd [2003] 4 SLR(R) 384

Chew Eu Hock Construction Co Pte Ltd (under judicial management) v Central Provident Fund Board [2003] 4 SLR(R) 137

The Oriental Insurance Co Ltd v Reliance National Asia Re Pte Ltd [2008] 3 SLR(R) 121

(9) Remuneration of Scheme Manager / Disclosure

The Royal Bank of Scotland NV v TT International Ltd (nTan Corporate Advisory) [2015] 5 SLR 1104

The Royal Bank of Scotland NV v TT International Ltd [2012] 4 SLR 1182G

eSys Technologies Pte Ltd v nTan Corporate Advisory Pte Ltd [2013] 2 SLR 1200

nTan Corporate Advisory Pte Ltd v TT International Ltd [2017] SGHC 207

INSOLVENCY OF OTHER SELECTED ENTITIES

Banks

See generally:

Banking Act (Cap. 19): Sections 2, 7, 48, 55, 61, 62, 62A and 79 of the BA

Business Trusts

See generally:

Business Trusts Act (Cap 31A): Sections 28, 32(2), 52, 103 and Part VII

Rules of Court: Order 80

Re Croesus Retail Asset Management Pte Ltd [2017] SGHC 194 (Application of section 210 principles to an entity registered under the Business Trust Act)

Insurance Companies

Insurance Act: Sections 17, 18, 41, Part IIIAA (Division 5)

Limited Liability Partnerships

See generally:

Limited Liability Partnerships Act (Cap. 163A): Sections 24, 30(1), 34 and Fifth Schedule

Limited Liability Partnerships (Winding Up) Rules

Part III: Joint Ventures

A. CHOOSING THE LEGAL FORM

(1) Contractual Joint Ventures

- Common law partnerships

(2) Equity Joint Ventures

- Companies
- Limited Liability Partnerships

Recommended Text

Hewitt on Joint Ventures (6th Edition, Ian Hewitt, Simon Howley, James Parkes, Thomson Sweet & Maxwell 2016) ("Hewitt"), Chapters 3, 4 and 5

Walter Woon on Company Law, (3rd Edition, Tan Cheng Han SC (editor), Thomson Sweet & Maxwell 2009) ("Walter Woon"), Chapter 1

Statutes

Companies Act, Chapter 50 of Singapore ("Companies Act")

Limited Liability Partnerships Act, Chapter 163A of Singapore

Partnership Act, Chapter 391 of Singapore

B. CONTRACTUAL JOINT VENTURES

(1) Uses:

- R&D/Technology Collaborations
- Works Project Joint Ventures
- Joint Operating Agreements
- Property Development Joint Ventures

(2) Key Matters for Consideration:

- Objectives
- Responsibilities/Contributions
- Governance
- Operational management
- Allocation of Costs
- Sharing of Profits/Income

- Ownership of Intellectual Property Rights
- Sharing of liabilities/indemnities
- Term and termination
- Consequences of termination
- Restrictive Covenants
- Anti-Trust/Competition Issues
- Confidentiality
- Governing law and dispute resolution

Recommended Text

Hewitt, Chapter 4

C. EQUITY JOINT VENTURES

(1) Capitalisation/Funding

- Ordinary and Preference Shares
- Cash Injection
- Contribution in Kind
- Shareholder Loans
- Security from Shareholders
- Future Financing Commitments
- Profit Distribution/Dividend Policy

Recommended Text

Hewitt, Chapters 7 and 9

Statutes

Sections 4, 64, 64A, 70, 75, 161, 180 and 403, Companies Act

(2) Governance and Management

- Composition of Board of Directors/Managers
- Control and Decision Making
- Operational Management (eg. CEO, CFO, COO)
- Rights and Obligations of Shareholders/Partners
- Obligations and Liabilities of Nominee Directors

Recommended Text

Hewitt, Chapter 8

Walter Woon, Chapter 8

Statutes

Sections 157, 157A, 157C and 158, Companies Act

Selected Cases

Boulting v Association of Cinematograph, Television and Allied Technicians [1963] 2 QB 606

Oversea-Chinese Banking Corp Ltd and another v Justlogin Pte Ltd and another [2004] 2 SLR(R) 675

Kumagai Gumi Co Ltd v Zenecon Pte Ltd [1995] 2 SLR(R) 304

(3) Minority Investment and Protection

- Voting Rights at the Board and Shareholder Level
- Reserved Matters
- Remedies for Minority Oppression under Sections 216 and 216A of the Companies Act

Recommended Text

Hewitt, Chapter 9

Statutes

Matters which, under the Companies Act, would require a special resolution by a company: Sections 17(7), 18(4), 26(1), 28, 29(3), 29(4), 29(7), 29A(2), 30, 31, 33, 34, 64A(3), 65(2), 74A(2), 76(10), 76D, 76DA, 78, 78B, 78C, 78G, 168(5)(b), 174(9), 215C, 215D, 232, 254, 290(1)(b), 294(3), 305, 306, 309

Matters which, under the Companies Act, would require an ordinary resolution unless the constitution of the company requires otherwise: Sections 71(1), 73(1), 76C, 76E, 96(1)(b), 149B, 152(1) read with (2), 152(9), 160(1), 161(1), 162(3)(c), 162(4)(a), 163(1), 163(3A), 168(1), 169, 174(9), 205(4), 205(4), 205(7)(b), 205(16)(a), 210, 227B(1), 278(6), 290(1)(a), 294(1), 294(2), 294(4), 297(1), 298(1),

Sections 216 and 216A, Companies Act

Selected Cases & Articles

Russell v Northern Bank Development Corp Ltd [1992] 1 W.L.R. 588

Giora Shapira, "Voting Agreements and Corporate Statutory Powers" (1993) 109 LQR 210; B J Davenport, "What Did Russell v. Northern Bank Development Corporation Ltd. Decide?" (1993) 109 LQR 553

Over & Over v Bonvests Holdings Ltd and another [2010] 2 SLR 776

(4) Transfers of Shares

- Transfer Restrictions
- Right of First Offer / Right of First Refusal
- Tag Along / Drag Along Clauses
- Intra-group Transfers

Recommended Text

Hewitt, Chapter 12

(5) Deadlock

Management Structures to Avoid Deadlock

- Independent Director's Swing Vote
- Casting Vote
- Chairman Rotation

Deadlock Resolution Mechanisms:

- Referral to shareholders/ parties' chairmen or chief executives
- Referral to mediation/expert/arbitration
- Voluntary Winding Up
- Put and Call Options
- Shoot-Out Procedures, e.g. Russian Roulette, Texas Shoot-Out, Sealed Bids

Recommended Text

Hewitt, Chapter 10

(6) Termination

- Fixed Term Joint Venture
- IPO
- Termination by mutual agreement
- Termination for cause (e.g. default, change in control)
- Insolvency of Joint Venture
- Consequences of Termination (put/call at premium/discount, winding up of joint venture)

Recommended Text

Hewitt, Chapter 13

(7) Other Considerations

- Restrictive Covenants
- Anti-Trust/ Competition Issues
- Confidentiality
- Joint Venture Constitution
- Governing law and dispute resolution

Recommended Text

Hewitt, Chapters 11 and 14

Statutes

Section 54, Competition Act, Chapter 50B of Singapore

Part IV: Take-Overs and Mergers Syllabus

A. INTRODUCTION

(1) Legal and regulatory framework

- Securities and Futures Act (Chapter 289)
- Companies Act (Chapter 50)
- Competition Act (Chapter 50B)
- Singapore Code on Take-overs and Mergers (the “Take-over Code”)
- Listing Rules of the Mainboard of the Singapore Exchange Securities Trading Limited (the “SGX-ST Listing Manual”)

(2) The Take-over Code

- Objective of the Take-over Code
- Legal effect of the Take-over Code
- The Take-over Code is administered by the Securities Industry Council (the “SIC”)
- Entities which are subject to the Take-over Code

(3) Means of effecting control of public entities: The common methods to take-over or acquire securities of a target entity so that the target entity becomes a subsidiary of the acquiring entity includes:

- Offer of cash, shares or other securities (or a mixture of any of these) for a take-over bid
- Reverse take-overs
- Scheme of arrangement
- Amalgamation
- Voluntary delisting

B. TAKE-OVER OFFERS

(1) Making An Offer

- Concept of “acting in concert” in ascertaining whether take-over offers have to be made
- Secrecy
- Equal treatment of shareholders
- Irrevocable undertakings
- Announcement / withdrawal of offer
- Acceptance of offer

(2) Types Of Take-Over Offers

- Mandatory offer
 - What triggers a mandatory offer
 - Conditions attached to the offer
 - Minimum offer price
 - Threshold for acceptance
 - Nature of consideration
 - Chain principle
 - Whitewash
- Voluntary offer
 - Conditions attached to the offer
 - Minimum offer price
 - Threshold for acceptance
 - Nature of consideration
- Partial offer
 - Approval by the SIC

(3) Regulator's Consents

- SIC
- SGX-ST
- Regulators of specific industry
- Competition Commission of Singapore – Merger control

(4) Merger Control

- The Competition Act sets out the competition law regime in Singapore
- The Competition Commission of Singapore (the "CCS") administers and enforces the Competition Act. The CCS website (www.ccs.gov.sg) contains useful information on the competition law regime and guidelines issued by the CCS to supplement the provisions in the Competition Act.
- Merger control regime: Prohibition under section 54 of the Competition Act (substantial lessening of competition within any market for goods or services in Singapore)
 - Elements and scope of the "section 54 prohibition"
 - Types of merger that falls within the scope of section 54
 - Self-assessment and voluntary notification: CCS Guidelines on Merger Procedures, CCS Guidelines on the Substantive Assessment of Mergers and CCS Guidelines on Market Definition
 - Effect of contravening section 54

(5) Some Key Issues Relating To Take-Over Offers

- Prohibitions against financial assistance
- Break fees
- Timetable – prescribed in the Take-over Code
- Documentation – accuracy of statement
- Duties of directors and controlling shareholders of target company
- Shareholder disclosure obligations during offer period
- Financial disclosures
- Dealing restrictions / insider dealing
- Non selective disclosure of information to shareholders, analysts or stockbrokers
- Suspension of trading and compulsory acquisition of minority shareholdings

(6) Threshold For Triggering Compulsory Acquisition

- Compulsory acquisition procedures under section 215 of the Companies Act

C. REVERSE TAKE-OVERS

(1) Legal Framework

- Rule 1015 of the SGX-ST Listing Manual (very substantial acquisitions or reverse take-overs)
- Take-over Code – Appendix 1

(2) Requirements Under Rule 1015 Of The SGX-ST Listing Manual

- When an acquisition is subject to Rule 1015 of the SGX-ST Listing Manual
- Approval of the SGX-ST
- Convening a general meeting and obtaining shareholders' approvals for the acquisition
- Shareholders entitled to vote on the acquisition
- Required majority for approving the acquisition
- Requirements to be satisfied by the enlarged group
- Disclosure requirements to be applicable to the announcement of the acquisition and the shareholder circular

D. SCHEMES OF ARRANGEMENT

(1) Legal framework

- Section 210 of the Companies Act

- Take-over Code – Exemption from full compliance

(2) Requirements under section 210 of the Companies Act

- Types of entities subject to the provisions on schemes of arrangement
- Application to court to convene a scheme meeting:
 - Who may initiate a scheme
- Convening a scheme meeting and obtaining shareholders' approvals for a scheme
 - Shareholders entitled to vote on a scheme
 - Required majority for approving a scheme
- Applying for court order to sanction a scheme

E. ALMAGAMATION

(1) Legal Framework

- Sections 215A to 215K of the Companies Act – amalgamation without court order
- Take-over Code – Exemption from full compliance

(2) Requirements Under Sections 215A To 215K Of The Companies Act

- Who may make use of the amalgamation process
- **Types of amalgamation process:** Full and short-form amalgamation
- Full amalgamation process
 - Requirements on the amalgamation proposal
 - Duty on board of directors of amalgamating company:
 - Board resolutions
 - Solvency statements
 - Director's declaration
 - Shareholders' approval of amalgamation proposal
 - Notification to secured creditors and other relevant parties
 - Registration of amalgamation
- Short-form amalgamation process
 - Duty on board of directors of amalgamating company:
 - Solvency statements
 - Director's declaration
 - Shareholders' approval of amalgamation proposal
 - Notification to secured creditors
 - Registration of amalgamation
- Court intervention in amalgamation process

F. VOLUNTARY DELISTING

(1) Legal Framework

- Rules 1307 and 1309 of the SGX-ST Listing Manual
- Take-over Code – Exemption from full compliance

(2) Requirements Under Rules 1307 And 1309 Of The SGX-ST Listing Manual

- Approval of the SGX-ST
- Convening a delisting meeting and obtaining shareholders' approvals for the delisting proposal
 - Shareholders entitled to vote on a delisting proposal
 - Required majority for approving a delisting proposal
- Reasonable exit alternative/offer for the shareholders
 - Nature of consideration
 - Compliance with Take-over Code
- Appointment of an independent financial adviser to advise on exit offer

TAKE-OVERS AND MERGERS READING LIST

Text books

Corporate Law by Hans Tjio, Pearlie Koh and Lee Pey Woan, 2015 (Academy Publishing)

Corporate Acquisitions and Mergers, (Singapore Chapter), Volume 3, 2015 (update) – (Looseleaf) by Peter FC Begg (Editor-in-Chief), by Andrew M Lim, Lim Mei, Steven Seow, Daren Shiau, Richard Young and Usha Chandradas (Wolster Kluwer)

The Mergers & Acquisitions Review (Singapore Chapter), by Lim Mei and Lee Kee Yeng, 2015 (Law Business Research Ltd)

Woon's Corporations Law, Volume 2, 2013 – (Looseleaf), Chapter R on Code on Take-overs and Mergers, by Farhana Siddiqui (LexisNexis)

Mergers and Acquisitions in Singapore: Law and Practice by Wan Wai Yee and Umakanth Varottil, 2013 (Lexis Nexis)

Merger Control in Singapore: Law and Practice by Daren Shiau and Elsa Chen, 2011 (Lexis Nexis)

Take-overs and Mergers (2nd Ed) by Chandrasegar Chidambaram, 2010 (Lexis Nexis)

Walter Woon on Company Law (3rd Ed) by Prof Tan Cheng Han (General Editor), 2009 (Sweet & Maxwell).

Articles

Merger Control in Singapore: Lexology Navigator Q&A, Globe Business Media Group (23 June 2015), by Daren Shiau and Elsa Chen, Allen & Gledhill LLP (<http://www.lexology.com/library/detail.aspx?g=03e36342-9349-4b5f-b20e-687a3640bf4c>)

Competition: Singapore, International Joint Ventures Practice Manual (Country Q&A), Practical Law, Thomson Reuters (Professional) UK Limited (15 October 2015) by Daren Shiau and Karen Choo, Allen & Gledhill LLP (<http://uk.practicallaw.com/1-500-6874?q=competition>)

Squeeze-out Guide: Singapore, International Bar Association (2014) by Andrew M Lim, Christopher Koh, Allen & Gledhill LLP (<http://www.ibanet.org/Document/Default.aspx?DocumentUid=37794CD3-CFB8-4F60-939F-01A35677AFF2>)

Takeover Guide: Singapore, International Bar Association (2014) by Andrew M Lim, Michelle Fum and Lauren Chung, Allen & Gledhill LLP (<http://www.ibanet.org/Document/Default.aspx?DocumentUid=B6B7FCE5-6F24-45C3-8E44-D082F0DF7C43>)

Financial Assistance Guide: Singapore, International Bar Association (2013) by Andrew M Lim and Steven Seow, Allen & Gledhill LLP (<http://www.ibanet.org/Document/Default.aspx?DocumentUid=BE1E7D7D-0CDE-4403-83B7-99312067196F>)

Public mergers and acquisitions in Singapore (Global Guides, Country Q&A), Practical Law, Thomson Reuters (Professional) UK Limited (1 March 2012) by Andrew Ang and Milton Toon, WongPartnership LLP (<http://uk.practicallaw.com/1-501-9683>)

Amalgamation – New Method to Merge and Take-over Companies [2008] 20 SAclJ 135 by Wee Meng Seng, Assistant Professor, Faculty of Law, National University of Singapore

Effecting Compulsory Acquisition via the Amalgamation Procedure in Singapore [2007] 2 SJLS 323 by Wan Wai Yee, Assistant Professor, School of Law, Singapore Management University

Statutes

Companies Act (Chapter 50), sections 76 and 76A (prohibition against financial assistance), 79 to 92 (substantial shareholding disclosure requirements), 210 to 212 (schemes of arrangement), 215 (compulsory acquisition) and 215A to 215J (amalgamation)

Competition Act (Chapter 50B), sections 54 to 60 (merger control)

Securities and Futures Act (Chapter 289), sections 137, 137A and 137B (substantial shareholding and unitholding disclosure requirements), 138 (Securities Industry Council), 139 (Take-over Code) and 140 (Offence relating to take-over offers)

Code, rules and practice notes issued by SIC

Singapore Code on Take-overs and Mergers

SIC Practice Statements and Guidelines

Listing rules

The SGX Listing Manual

Competition Commission of Singapore (CCS) Guidelines

CCS Guidelines relating to the merger control regime available at CCS website at www.ccs.gov.sg