

## **SECTION J - CASE MANAGEMENT OF INSOLVENT ENTERPRISES**

### **J1. Administration of insolvency procedures generally**

- (a) Please see I3.
- (b) There is no special qualification requirement. The court appoints an appropriate person to serve as reorganization receiver, composition administrator or bankruptcy administrator.
- (c) In a reorganization and composition proceedings, creditors form a creditors meeting. The creditors can, through the creditors meeting, express its opinion to the court. Although the court is not bound by such opinion expressed, it is nevertheless persuasive to the court.

### **J2. & J3. Power and duty of the administrator**

#### 1. Administrator in Composition Procedure :

- 1) consents to the debtor's act not in the ordinary course of business;
  - 2) inspects the assets owned by debtor;
  - 3) examines the vote of Composition creditors and has right to exercise objection;
- and
- 4) report the result of creditor's meeting to the court and express his opinion regarding the meeting.

#### 2. Administrator in Corporate Reorganization Procedure :

- 1) represents the corporation;
- 2) manages and disposes the assets of debtor;
- 3) reports the management of the business and the asset status of debtor to the court;
- 4) prepares a list of the assets and balance sheet;
- 5) exercises objection against claims;
- 6) prepares and executes Reorganization plan; and
- 7) carry out the Reorganization plan.

### 3. Administrator in Bankruptcy :

- 1) manages and disposes the assets of bankrupt corporation;
- 2) prepares the asset list and balance sheet;
- 3) examines bankrupt claims;
- 4) reports the results of bankrupt claims at the creditor' s meeting; and
- 5) exercises objection right against claims in bankruptcy;
- 6) exercises avoidance right; and
- 7) disposes bankrupt estates and distributes the proceeds thereof.

### **J4. Breach of duty and liabilities of administrators**

- (a) If the administrator breaches his fiduciary duty, the court may remove the administrator and such administrator may be ordered to compensate the creditors for any injury he may have caused.