

SECTION M – INVESTIGATION BY ADMINISTRATORS

Composition Procedure:

The administrator prior to the commencement of the Composition procedure is neither obligated to investigate the debtor's management of the business nor report the status of the debtor to the court thereof. However, the administrator after the commencement of the procedure shall be obliged to investigate the entire assets of the debtor and report the result of the investigation to the court thereof. Furthermore, the administrator is also obligated to investigate the records in connection with the debtor's assets and any act which would obstruct such investigation conducted by the administrator would be a criminal offense and is punishable under the law.

The administrator in the Composition procedure does not have any right to bring a legal action nor to ask for any damages on behalf of the creditors or the shareholders of the insolvent business against the former managers of the business for breaching fiduciary duty. Therefore, the creditors and the shareholders of the insolvent business themselves must bring an action in a civil court against the former managers of the business in order to recover damages for any injury they may have suffered due to the former managers' breach of their fiduciary duty.

Reorganization Procedure:

The administrator in the Reorganization procedure is appointed by the court to represent the debtor and shall be entitled to manage the business and dispose the assets of the debtor prior to and after the commencement of the Reorganization proceeding.

The administrator of the Reorganization procedure has no obligation to investigate any misconduct of the former managers of the business; however, in the course of management of the business, if the administrator discovers any misconduct of the former managers of the debtor, the administrator may seek criminal prosecution against the former managers or the administrator may bring an action against them in a civil court and ask for damages. The Corporation Reorganization Act provides a special procedure where the administrator may claim for damages against the former directors or the statutory auditor of the debtor. Furthermore, the administrator is also

obligated to investigate the records in connection with the debtor's assets and any act which would obstruct such investigation conducted by the administrator would be a criminal offense and is punishable under the law.

Bankruptcy:

The administrator in the Bankruptcy procedure investigates, represents, manages and disposes the bankrupt estate. After the investigation, the administrator must report the result at the creditors' meeting.

The administrator of the Bankruptcy procedure has no obligation to investigate any misconduct of the former managers of the business; however, in the course of management of the business, if the administrator discovers any misconduct of the former managers of the debtor, the administrator may seek criminal prosecution against the former managers or the administrator may bring an action against them in a civil court and ask for damages.

The administrator is also be entitled to investigate all books and records in connection with the debtor and any act which would obstruct such investigation conducted by the administrator would be a criminal offense and is punishable under the law.