

## **SECTION E – COLLECTION AND RECOVERY OF UNSECURED DEBT**

### **E1. Negotiations**

- (a) It is more likely that an unsecured creditor might attempt to negotiate some form of arrangement for repayment of the debt before the unsecured creditor resorted to legal proceedings.

### **E2. Enforcement**

- (a) The principal method of recovery of unsecured debt is through legal proceedings.
- (b) In practice, the method most employed by unsecured creditors is getting judgment for the debt and then executing on the judgment or winding up the corporate debtor.

### **E3. Effectiveness of the judicial system**

- (a) The judicial system is relatively effective for the purpose of enforcing secured property rights. The main qualification to the foregoing statement is the fact that there may at times be considerable delays in obtaining hearing or trial dates.

### **E4. Effect of insolvency proceedings**

- (a) *Commencement* per se of insolvency proceedings in a court would not affect the continuation of legal proceedings against the corporate debtor by the unsecured creditor (except for special administration as to which see below). However, execution of a judgment would not be possible without leave of court. Leave is unlikely to be given to an unsecured creditor as this would enable that creditor to steal a march, as it were, on the other creditors.

- (b) There is no concept of formal court based insolvency administration in Malaysia. The effect of special administration under the Pengurusan Danaharta Nasional Berhad Act 1998 is considered in Section I below.