

## **SECTION F – CIVIL/PENAL SANCTIONS**

- (a) Non-payment of debts by corporate debtors does not result in any form of civil/penal sanction. However, incurring debts when the corporation is either insolvent or in a state of marginal solvency may result in prosecution under sections 303(3) (which applies to contracting of individual debts) and section 304 (which is a general fraudulent trading provision) of the Companies Act.
- (b) For section 303(3), the sanction consists of either imprisonment for one year or a fine of five thousand ringgit. For section 304, apart from the possibility of imprisonment for three years or a fine of ten thousand Ringgit, the court has the power to order the officer concerned to bear personal liability for the debt(s).
- (c) In practice, there have been only a few instances where these provisions were enforced. Therefore, whether in practice these provisions stimulate or encourage corporate debtors to seek insolvency protection is unclear.
- (d) In practice, the potential application of these sanctions is hardly raised in the course of negotiations for an informal work out.