

SECTION L – CLAIMS OF CREDITORS

L1. Claims admissible for payment

(a) Payments to creditors are generally only made in the context of liquidation. The following types of claims of creditors are properly admissible under Malaysian law for payment in the course of liquidation:-

- unliquidated damages for breach of contract and breach of trust;
- all debts and liabilities (other than unliquidated claims not mentioned in (a)) whether present or future, certain or contingent (and an estimated value shall be placed on all debts that does not bear a certain value);
- without derogating from the above, salary, wages, rent, interest and liquidated damages.

(b) The amounts are computed as at the date of the winding up order.

(c) Claims are proven by the filing of a proof of debt, for which there is a procedure for rejection by the liquidator and an appeal to the High Court against such rejection. Secured creditors need only prove for the balance after realising their security.

(d) Disputed claims can be adjudicated by the High Court under Rules 91 – 100 of the Companies Winding Up rules 1972.

L2. Priority and payment of creditors' claims

(a) The same principles as to the division of available assets of the corporate debtor apply to all forms of insolvency procedure in Malaysia, with liquidation being the best example of how these principles are applied. Secured creditors' rights are preserved and given primary recognition under section 291(2) of the Companies Act 1965. After secured creditors, certain creditors are deemed as preferential under

section 292 and enjoy primacy over unsecured creditors. All