

SECTION M - INVESTIGATION BY ADMINISTRATORS

- (a) In so far as powers or mechanisms that are available to administrators of insolvency procedures to investigate the affairs of the business organization, the position in Malaysia is as follows:

Liquidation

- The court can summon and examine on oath officers of the company or persons known or suspected to have in their possession assets of the company, or persons who can give information as regards the promotion, formation, trade dealings, affairs or dealings of the company: section 249 of the Companies Act 1965. The court can, where a liquidator has filed a report stating that fraud has been committed or any officer has not acted honestly or diligently or been guilty of impropriety or recklessness in relation to the affairs of the company, compel any such person or banker, advocate or auditor to attend a public examination in which process the liquidator is entitled to participate: section 250.

Special Administration

- The special administrator is conferred with powers of investigation under section 37 of the Pengurusan Danaharta Nasional Berhad Act 1998. If he finds fraud, misfeasance or other misconduct in the course of his investigation, he is obliged to report the same to the regulatory body concerned under section 54.

- (b) Under Malaysian law, liquidators are empowered to initiate legal proceedings to compel restoration or restitution of property or money, or book and papers of a corporate debtor from any person, including directors. A range of procedures exists, including compelling attendance of officers and other persons at a public examination under oath, applications to produce book, accounting records, registers and so forth.