Examiner's report

F4 Corporate and Business Law (SGP)
December 2011

General Comments

The examination consisted of ten compulsory questions. Questions 1 to 7 are of a descriptive nature while Questions 8 to 10 requires application of law to the facts.

Most candidates attempted all ten questions. Questions 1 and 4 were the most inadequately answered questions. Questions 2, 5 and 6 were the best answered questions.

Sound answers were presented by some for all ten questions and very high marks were achieved by these candidates. The performance of candidates overall was similar with the previous year's. A fair number of students appear to be unprepared for the examination.

Other than lack of preparation for the examination, some candidates performed poorly because they failed to carefully read the content and requirements of questions. This may have contributed to the unsatisfactory performance on some descriptive questions. With regards questions 8 to 10 which require application of law to the facts, some candidates who performed unsatisfactorily merely regurgitated principles they learnt but did not apply them to the facts.

Specific Comments

Question One
Question 1 was inadequately done by most candidates. Their answers ranged from the origins of common law in England to the ways in which statutes can be interpreted. Very few referred to relevant sections of the Application of English Law Act and their implications. Many provided irrelevant material such as how a Bill is passed by Parliament or the differences between case law and statute law. The few who did understand the question did not give a very comprehensive answer. Of the candidates who knew the answer, they were clearer on the effect of the Application of English Law Act on the applicability of English statutes but not so clear on the application of English case law. It appears that few candidates were prepared for this question.

Question Two
Question 2 was generally done well by most candidates. A minority of candidates had problems with providing clear definitions for Part (a) and sound examples (or relevant case law) to illustrate an offer/invitation to treat.

Question Three
Many candidates had some understanding of insider dealing which resulted in somewhat vaguely answers. The majority of candidates had some knowledge of insider dealing (they were aware of the trading, procuring and communication offences), but were lacking in details (as to connected persons and the type of information). The few candidates who knew the elements or offences under S218 or S219 Securities & Futures Act did very well.

Question Four
Part (a) - The overwhelming majority of candidates did not know the two- stage test and very few mentioned Spandeck case. A small minority had an idea that proximity had to be discussed, but many merely mentioned the

'neighbour' principle, relating their answers to negligent misstatement and/or *Donoghue v Stevenson.* Few discussed policy considerations to negate the prima facie duty of care.

Part (b) was on the whole inadequately done. The majority of candidates confused remoteness of damage in tort with remoteness of damage for breach of contract. These candidates discussed remoteness of damage in contract and not in negligence, referring to the law in *Hadley v Baxendale.*

Question Five

Part (a)was generally well handled with candidates making reference to *Saloman v Saloman* and the effects of incorporation.

Part (b) - Most candidates were able to explain or give example of how the concept of limited liability applied to members in companies. However, a minority did not read the question carefully and proceeded to explain limited liability partnerships instead.

Question Six

This question was generally well handled by the majority of candidates. However, there was a minority who incorrectly explained fixed charges as being loans with fixed interest rates and floating charges as being loans with fluctuating interest rates.

Question Seven

Part (a) - Most candidates could explain superficially the meaning of acting "bona fide". The majority, however, did not refer to the issue relating to the directors duty to act "in the interests of the company".

Part (b) - Most candidates could explain superficially the no-conflict rule. However, very few referred to relevant sections such as s156 CA or relevant case law to support of their answer.

Part (c) - The vast majority of candidates failed to explain the proper purpose rule and only a handful cited *Howard Smith v Ampol.*

Question Eight

Part (a) - A number of candidates did not know that this question referred to a discharge of contract by breach. Among those that did, the majority discussed only conditions or warranties; very few discussed innominate terms.

Part (b) - Most candidates knew which losses were recoverable and were able to apply the relevant limbs of *Hadley v Baxendale* in support. There were some candidates who applied no law whatsoever in deciding what losses could be recovered by Lim.

Question Nine

Most candidates did not give a full answer to this question. They **either** answered that special resolutions at a general meeting had to be obtained ***or*** that written consent of the requisite 80/75% of Class A shareholders had to be obtained. Very few candidates gave a sequentially logical and comprehensive answer. Most provided answers that were and without legal principles in support.

Question Ten

Most candidates focused on the law in s 216 CA. Very few discussed the just and equitable ground under s 254 CA. Some candidates ignored the question which stated that Charles 'did not wish to remain as shareholder of Mega' and instead delved into a discussion of statutory derivative action under s216A CA or breach of directors' duties. Some candidates lost marks for not discussing the remedies under s 216(2) CA or to the winding-up remedy under s 254 CA. Candidates hardly cited any relevant case in support of their answers.