

# Examiner's report

## F4 Corporate and Business Law (SGP)

### June 2014



#### General Comments

The examination consisted of ten compulsory questions. Questions 1 to 7 are knowledge based while Questions 8 to 10 require application of law to the facts.

Most candidates attempted all ten questions. Questions 2(c), 3(b), 4 and 7 were the most inadequately answered questions. Questions 1 and 8 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 candidates appear to be unprepared for the examination.

Other than lack of preparation for the examination, some candidates performed inadequately because they failed to carefully read the content and requirements of questions. This may have contributed to the inadequate performance on some descriptive questions. It has been observed that for questions 8 to 10, many candidates tend to merely summarise the facts of the question and present it as an answer without any restatement and/or application whatsoever of relevant legal principles. As such a summary of the facts of the question is not required; candidates must refrain from this practice which is a waste of time and effort.

A number of common issues arose in the candidates' answers:

- Failing to read the question requirement clearly and therefore providing irrelevant answers which scored few if any marks.
- Inadequate time management between questions, some candidates wrote far too much for some questions and this put them under time pressure to finish remaining questions.
- Inadequate layout of answers.

#### Specific Comments

##### Question One

A large number of candidates did Question 1 (a), (c) and (d) well. However, some had difficulty with explaining what the *ejusdem generis* rule was in part (b). There were issues regarding the use of language for this question; some candidates had issues with expressing themselves.

##### Question Two

Not all candidates understood that part (a) was on the contractual incorporation of exclusion clauses and so some answers were just entirely incorrect. However, for those who understood the question, they answered well. Part (b) was fairly well answered by most. Part (c) was well answered provided candidates knew it was connected to the second schedule of the Unfair Contract Terms Act. A significant minority did not make this connection. A minority also confused the requirements of the question with the classification of the various terms of a contract.

##### Question Three

As there are more than three similarities between limited liability partnerships and companies, many candidates scored very high marks for part (a). Part (b) was not as well done at all. Some candidates gave very obvious



differences such as the Limited Liability Partnership Act applied to one entity and the Companies Act applied to the other. Regarding how answers were expressed, it was also more difficult for candidates to make themselves clearly understood when they discussed differences.

#### **Question Four**

Question 4 was very difficult for most candidates with part (b) being more inadequately answered than part (a). With regards to the alteration of class rights, only a minority of candidates stated clearly that *first* any modification of rights clause had to be complied with, for example Article 4 of Table A, and *then* a special resolution had to be obtained pursuant to section 37 Companies Act. For part (b), only a small handful of candidates realised that a reduction of capital could be done with *or without* a court order. Hence, only a few candidates discussed both procedures.

#### **Question Five**

Most candidates could give an average answer for part (a). However, only a very few stated that the main *statutory* duties of an auditor was to report non-compliance with the Companies Act to the Registrar of Companies (section 207(9)) and serious fraud offences to the Minister or MAS (section 207(9A) and (9C)). Part (b) was not done particularly well by most, as many candidates did not even have a clear idea as to what an audit committee was.

#### **Question Six**

Candidates who correctly identified that section 216A Companies Act applied to part(a) did very well for this question on derivative actions. A significant number of candidates did this. Some candidates confused the law on 'derivative' actions in part (a) with the law on 'personal' actions in part (b). Part(b) is worth 7 marks. Sound answers gave a comprehensive discussion on the law in both sections 216 and 254(1)(i) Companies Act. Not a large number of candidates managed to do this. However, many candidates could give an adequate answer.

#### **Question Seven**

Part (a) was better answered than part(b). Strangely, quite a large number of candidates did not even realise that special resolutions are required for both types of voluntary liquidations. And only a very small number of candidates discussed the directors' declaration of solvency. Many candidates did understand that a compulsory liquidation in part (c) was initiated by an application to the court. Quite a few also had some idea of the grounds stated in section 254 Companies Act. However, generally, Question 7 was not answered well by most candidates.

#### **Question Eight**

This question was well answered by many candidates. Most candidates quite competently discussed the law that silence could not amount to a valid acceptance and the effects of the postal acceptance rule. However, quite a few candidates did not realise that in this case, the offeror Ben had waived his right to the requirement of communication of Alan's acceptance.

#### **Question Nine**

Candidates who simply applied sections 218 and 219 Securities and Futures Act to Question 9 fared very well for the question. One problem some candidates had was that they did not even apply the Securities and Futures Act. Instead, they discussed directors' duties under the common law and the Companies Act.



### **Question Ten**

Many candidates gave average answers for Question 10. Many discussed the issues of conflicts of interests, disclosure of the said conflict and the improper use of information. Some answers made clear references to the law in sections 156(5), 156(6) and 157(2) Companies Act. However, only a small minority of candidates actually managed to do so.