

JUDICIAL MANAGEMENT

Court appointed Judicial Manager to the Rescue!

Judicial Management (“JM”) is a temporary court-supervised rehabilitation plan introduced through the Companies Act 2016 to assist financially distressed companies by affording an opportunity to rehabilitate and restore itself back to profitability.

The Court appoints a Judicial Manager who is an insolvency practitioner to manage the company. The idea is that the Judicial Manager will work out a rehabilitation plan acceptable to the majority of creditors. An application by the Company or its Creditors for a JM Order should contain a nomination for the Judicial Manager, and premised on one of the following grounds: (i) Inability of the company to pay debts (ii) To ensure survival of the company wholly or partly; (iii) A better way to realise the assets as compared to winding up; and (iv) Creditors will be in a better position than if the company was wound up. It is vital to bear in mind that there are criteria to be fulfilled, both upon filing of a JM application and upon the granting of a JM Order.

Everybody Freeze!

JM Order gives a Company an automatic moratorium order to stay any legal proceedings for 180 days, unless discharged, and may be extended on the application of the Judicial Manager for another 180 days. Within 60 days upon obtaining the Order, the rehabilitation plan will be tabled at the creditors’ meeting and shall be approved by 75% majority in value of creditors who are present and voting. Once approved, the plan will be binding on all creditors regardless.

Conclusion

JM offers a way to rescue companies which are viable for financial rehabilitation through the assistance of a Judicial Manager by giving the company breathing space via its wide moratorium and protection from legal proceedings. In other words, it preserves the investments for shareholders, jobs for employees of the company and monies for creditors.

“Judicial Management provides companies an opportunity to seek financial rehabilitation through the assistance of a Judicial Manager.”



STEP 1 First either the company or the company’s Creditors applies for a JM Order.



STEP 2 Once the application is filed based on the provided grounds, The application should contain a nomination for a Judicial Manager.



STEP 3-1 Once the order is granted, the court will appoint a Judicial Manager who will take over the management of the company



STEP 3-2 A moratorium will be in place suspending all legal proceedings against the company for 180 days, with the JM having the power to extend the suspension for an additional 180 days.