

**THE OFFICIAL ASSIGNEE
PRACTICE CIRCULAR NO. 4 OF 2016**

**APPOINTMENT OF PRIVATE TRUSTEES BY INSTITUTIONAL CREDITORS IN
BANKRUPTCY APPLICATIONS AND PRIVATE TRUSTEES' POWERS TO
ADMINISTER CASES IN BANKRUPTCY**

1 INTRODUCTION

This Practice Circular seeks to notify all agents and asset holders of properties belonging to bankrupts that amendments have been made to the Bankruptcy Act (Cap. 20) to mandate that an institutional creditor¹ (or a subsidiary thereof) who applies to bankrupt a debtor must nominate a Private Trustee to be appointed to administer the bankruptcy. These amendments in relation to the appointment of Private Trustees apply to any bankruptcy application that is filed on or after 1 August 2016.

2 APPOINTMENT OF PRIVATE TRUSTEES BY “INSTITUTIONAL CREDITORS”

With the amendments, institutional creditors will play a more active role in the administration of bankruptcies as they will be required to nominate a Private Trustee to be appointed to administer the bankruptcy when they apply to make a debtor bankrupt.

The vast majority of bankruptcies in Singapore are currently administered by the Official Assignee (“OA”). This change will allow the OA to focus its resources on administering cases where the applicant is either an individual or a small business.

Details of the Private Trustees who are appointed to administer bankruptcy cases will be included in the weekly electronic bankruptcy circulars which are currently sent to agents / asset holders.

3 POWERS OF PRIVATE TRUSTEES AS OFFICERS APPOINTED BY THE COURT

Private Trustees shall have all the functions and duties of the OA in relation to a bankrupt and the administration of his estate as provided in the Bankruptcy Act, and

¹ “Institutional creditors” are defined as either (i) banks and finance companies regulated by MAS; or (ii) business undertakings with annual sales turnover of more than \$100 million and more than 200 employees.

may exercise all powers of the OA except for those enumerated in section 36(3) and section 39 of the Bankruptcy Act².

Agents and asset holders are required to provide the Private Trustees with a similar level of co-operation as that rendered to the OA to facilitate the realisation of assets belonging to bankrupts. Agents and asset holders may request for a copy of the Bankruptcy Order from the Private Trustee to prove that he/she is the appointed Trustee of the case.

4 EFFECTIVE DATE

This Practice Circular will come into effect on 1 August 2016.

5 CONTACT PERSON

For any queries on this Practice Circular, please contact Mr Francis Lew, Senior Assistant Director, Individual Insolvency and Debt Repayment Scheme Division at oneminlaw@mlaw.gov.sg .



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21 JULY 2016

(This Practice Circular is also available on our website at www.mlaw.gov.sg/io)

² Section 36(3) states that “Section 19, 24, 32(2) and (4), 82A, 95A, 108, 113, 116, 116B, 123A, 125, 132A and 165 shall not apply to a trustee and section 112(a), (c), (f), (h), and (i) shall not apply unless with the consent of court, creditors’ committee or, if there is no creditors’ committee, the Official Assignee.” Section 39 sets out the powers of control that the OA has over private trustees.