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Insolvency Officeholder | Proofs of Debt

Insolvency Officeholders Series
Part 2: Adjudicating Proofs of Debt

This is the second of a trilogy of articles by WongPartnership's Restructuring & Insolvency Practice Group, focusing on practical guidance for insolvency officeholders. The first of the trilogy on insolvency officeholders' duties and decisions is available here.

The proof of debt (**POD**) process is a core part of restructuring and insolvency regimes, governing how creditors' claims are adjudicated, admitted, or rejected. When adjudicating PODs, insolvency officeholders act in a quasi-judicial capacity and must not act "unjudicially, capriciously or arbitrarily" (*see Yit Chee Wah and another v Inner Mongolia Huomei-Hongjun Aluminium Electricity Co, Ltd and another appeal* [2025] 1 SLR 1110 (***Yit Chee Wah***)). If a creditor is dissatisfied with an insolvency officeholder's adjudication, the creditor may apply to the court to reverse or vary the decision, although the applicable standard of review, and the avenue of recourse, differ depending on the insolvency regime.

This article examines those standards by reference to the leading authorities and distils the practical implications for insolvency officeholders. It covers: (a) the POD mechanism in liquidation, judicial management, and schemes of arrangement; (b) the principles that insolvency officeholders should apply when adjudicating PODs; and (c) the considerations creditors should weigh when filing them.

The POD mechanism across the three regimes

The relevant statutory provisions which apply to each regime are set out in the table below.

Procedure	**Purposes** (i.e., determining creditors' entitlements in respect of the following)	**Provisions**
Court-ordered winding up	(a) Voting (b) Dividend	(a) Section 218 of the Insolvency, Restructuring and Dissolution Act 2018 (**IRDA**) (b) Parts 2, 3 and 5 of the Insolvency, Restructuring and Dissolution (Court-Ordered Winding Up) Regulations 2020 (**CWU Regulations**) (c) Part 5 Division 12 of the Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020 (**CIR Rules**)

Procedure	**Purposes** (i.e., determining creditors' entitlements in respect of the following)	**Provisions**
Creditors' voluntary winding up	(a) Voting (b) Dividend	(a) Section 218 of the IRDA (b) Parts 3, 4 and 7 of the Insolvency, Restructuring and Dissolution (Voluntary Winding Up) Regulations 2020 (**VWU Regulations**) (c) Part 5 Division 12 of the CIR Rules
Judicial management	(a) Voting	(a) Section 218 of the IRDA (b) Parts 5 and 7 of the Insolvency, Restructuring and Dissolution (Judicial Management) Regulations 2020 (**JM Regulations**) (c) Part 4 Division 3 of the CIR Rules
Scheme of arrangement	(a) Voting (b) In practice, the POD adjudications for the purposes of voting may also be used to determine the creditors' entitlement to distributions under the scheme.	(a) Section 68 of the IRDA (b) Insolvency, Restructuring and Dissolution (Proofs of Debt in Schemes of Arrangement) Regulations 2020 (**SOA Regulations**)

Standard of review adopted by the courts

The quasi-judicial role imposed on insolvency officeholders is across all restructuring and insolvency proceedings: see *Yit Chee Wah* (liquidation); *ERPIMA SA v Chee Yoh Chuang and another* [1998] 1 SLR 83 at [4] (judicial management); *The Royal Bank of Scotland NV (formerly known as ABN Amro Bank NV) and others v TT International Ltd and another appeal* [2012] 2 SLR 213 (***TT International***) (schemes of arrangement). However, the standard of review applied by the courts when scrutinising an insolvency officeholder's adjudication decision varies with the regime and the stage of proceedings.

For example, for schemes of arrangement, the standard of review depends on whether the POD adjudication is for the purpose of determining the creditors' votes on the proposed scheme or the creditors' entitlement to scheme distributions. The standard of review is less stringent where the POD adjudication is for voting purposes. Courts are generally slow to disturb the chairperson's professional judgment on POD admission or rejection and will intervene only where the decision is vitiated by bad faith, a material mistake of fact, an erroneous approach to law, or an error of principle (*TT International*). The more deferential approach is based on the rationale that the POD adjudication at the voting stage is a "rough and ready" determination with the aim of ensuring that a vote on the proposed scheme is not unnecessarily delayed.

Similarly, in judicial management, the standard of review is less stringent where the POD adjudication is conducted by an interim judicial manager for the limited purpose of voting on whether the company should be placed into judicial management (under the new out-of-court judicial management procedure introduced by the IRDA). In *PT Bank Negara Indonesia (Persero) TBK, Singapore Branch v Farooq Ahmad Mann (in his capacity as judicial manager) and another and other matters* [2024] 3 SLR 1199 (***PT Bank Negara***), the court explained that it was neither practical nor realistic to expect an interim judicial manager (given the temporary nature of the appointment) to conduct a far-ranging and extensive examination of each creditor's POD.

Where the purpose of the POD adjudication is to finally determine the creditors' entitlements to receive distributions from the estate or under a scheme, and a creditor appeals against the insolvency officeholder's rejection of its POD, the court hears the matter *de novo* and determines the validity and quantum of the claim afresh without deference to the insolvency officeholder's prior decision (*Feima International (Hongkong) Ltd (in liquidation) v Kyen Resources Pte Ltd (in liquidation) and others* [2024] 4 SLR 101). The burden rests on the creditor-applicant to establish its claim on the balance of probabilities and the insolvency officeholder's role shifts from quasi-judicial adjudicator to respondent contesting that claim (*Yit Chee Wah* at [47]).

General principles for insolvency officeholders

(a) **Power to "go behind" the debt, with a proper basis**

As noted above, the insolvency officeholder is not bound by the documentation submitted with a POD and may "go behind" it to test whether the debt is genuine and legally enforceable. That power is not at large: there must be a reasonable basis for querying a debt that appears genuine, and the level of scrutiny "ultimately depends on the circumstances of the case" *(Fustar Chemicals Ltd (Hong Kong) v Liquidator of Fustar Chemicals Pte Ltd* [2009] 4 SLR(R) 458). The same principle may extend to judgment debts and consent judgments, but the court will not go behind such debts as a matter of course; generally, there must be some fraud, collusion, or miscarriage of justice before the judgment or consent judgment is re-opened for POD purposes (*SME Care Pte Ltd v Chan Siew Lee Jannie and another matter* [2025] SGHC 27).

(b) **POD adjudication should not be unduly delayed: any delay may justify a carve-out or leave to proceed**

PODs must be adjudicated within a reasonable time. Where disputed PODs remain unadjudicated for a prolonged period, the court may treat the delay (and the practical operation of the proof regime) as indicating that the proof/adjudication process is not an adequate mechanism for resolving the dispute, and may grant leave for the claim to be determined by action/arbitration instead (*Sapura Fabrication Sdn Bhd and others v GAS and another appeal* [2025] 1 SLR 492 (***Sapura Fabrication***)). The liquidator cannot give itself an indefinite time to decide, nor expect the creditor to wait indefinitely; the creditor has the right to pursue its claim without undue delay (*Sapura Fabrication* at [78], [87]–[88], citing *Loyal Ltd v Standard Tobacco Company, Ltd (In Liquidation)* [1935] NZLR 83).

(c) **Insolvency officeholders should be prepared to explain and support their adjudication decision**

As discussed above, in some situations, a creditor's appeal is heard *de novo* with no deference to the insolvency officeholder's prior decision. Insolvency officeholders should accordingly maintain a contemporaneous record sufficient to support the adjudication on a re-hearing. Liquidators should expect that an adjudication may have to be justified on a re-hearing, and should be prepared, if challenged, to explain and support the basis of the adjudication with reference to the specific documents relied upon and how the quantum was computed: *Park Hotel Group Management Pte Ltd v Aw Eng Hai* [2025] SGHC 97 (***Park Hotel (HC)***). Verification of a POD "is not a mere administrative function" (*Park Hotel (HC)*). Where one creditor challenges the admission of another creditor's POD, the insolvency officeholder cannot simply say the disputing creditor failed to produce evidence to support its opposition as the burden lies on the insolvency officeholder to satisfy the court that the POD was properly adjudicated.

(d) **Burden of proof on challenge**

(i) **Creditor challenges rejection of its own POD (rule 132 CIR Rules)**: the burden lies on the applicant-creditor to establish the validity and amount of the claim on a balance of probabilities (*Yit Chee Wah* at [47]; *Avinderpal Singh s/o Ranjit Singh v Kim David Dong-Won and another* [2025] SGHC 263).

(ii) **Creditor challenges admission of another creditor's POD (rule 133(2) CIR Rules) / regulation 49 JM Regulations**: where a creditor challenges the admission of another creditor's proof of debt, the court considers the matter afresh. In liquidation, the liquidator bears the burden of satisfying the court, on a balance of probabilities, that the proof was properly adjudicated and rightly admitted, although the evidential burden may shift to the applicant-creditor in specific cases once the liquidator adduces sufficient evidence. In *Abuthahir s/o Abdul Gafoor and another v Energetix Pte Ltd and others* (General Division of the High Court, HC/OA 638/2023, 12 June 2026) (***Abuthahir***), which involved a creditor challenging the judicial manager's admission of another creditor's POD, the court held that there was no additional requirement for the rival creditor-applicant to first show that the judicial manager made a mistake or that the POD would otherwise have been rejected; the POD creditor bears the burden of proving the debt on a balance of probabilities.

(e) **Expunging or reducing an improperly admitted POD**

Where an insolvency officeholder has wrongly admitted a POD and itself seeks to revisit that admission, the insolvency officeholder may, under certain circumstances, apply to expunge or reduce the wrongly admitted POD (e.g., rule 133(1) CIR Rules; regulation 48 JM Regulations). In the landmark case of *Yit Chee Wah*, the Singapore Court of Appeal (**Court of Appeal**) held that the test for the expungement or reduction of a wrongly admitted POD is twofold:

(i) Under the first limb, the liquidator must prove, on a *prima facie* standard, that the POD sought to be expunged or reduced was "improperly admitted". This does not require the liquidator to prove, on a balance of probabilities, that the debt is invalid in that the underlying debt is not maintainable. Instead, the liquidator must demonstrate reasonable grounds for believing that a mistake (of fact or law) was made in admitting the proof, and that but for this mistake, the proof would have been rejected. In this regard, the wrongful admission could have been due to ignorance, carelessness or a misunderstanding of the law.

(ii) Under the second limb, the court will determine, on a *de novo* basis, whether the POD should be expunged or reduced. The Court of Appeal confirmed that fresh evidence may be adduced at the expungement hearing, reflecting the *de novo* nature of the inquiry. In the appeal proceedings, the respondents were permitted to adduce additional evidence in support of their claims. At this stage, the creditor bears the burden of proving the validity of the debt on a balance of probabilities. The Court of Appeal observed that this approach aligns with the statutory scheme, which places the ultimate burden of proof on the creditor to establish the validity of its claim and ensures that only genuine debts are admitted for distribution in insolvency.

The distinction between these two types of challenges is important. In *Abuthahir*, the High Court explained that the additional first-limb requirement in *Yit Chee Wah* applies because rule 133(1) of the CIR Rules refers to what the liquidator "thinks" (*Abuthahir*). By contrast, there is "no room for such a requirement" to be imposed on a rival creditor-applicant under regulation 49 of the JM Regulations or rule 133(2) of the CIR Rules (*Abuthahir*). In the latter context, the test is "simply whether the creditor whose POD is challenged" has established, on a balance of probabilities, that the POD was rightly admitted, with the court considering the matter "afresh" (*Abuthahir*).

For more on *Yit Chee Wah*, our update is available here.

(f) **Double-recovery / double-dipping**

Where a creditor has the legal right to prove against both estates (e.g., in the case of joint and several debtors), the creditor is entitled to file a POD against both estates. The risk of double recovery is addressed at the dividend stage (*Shim Wai Han v Lai Seng Kwoon (in his capacity as the joint and several trustee of the bankruptcy estate of Ng Yu Zhi) and another* [2025] 4 SLR 876).

(g) **Complex or disputed claims**

Where a POD involves complex factual disputes requiring witness examination, the insolvency officeholder may either: (a) reject the POD with reasons, leaving the creditor to appeal; or (b) seek directions from the court on how the dispute should be resolved (*Yit Chee Wah*), which may entail a trial or limited cross-examination of witnesses to resolve material disputes of fact (*Yit Chee Wah (as private trustee of the estate of Chan Siew Lee Jannie, a bankrupt) v Fulcrum Distressed Partners Ltd* [2026] SGHC(A) 1; *Yit Chee Wah*).

There may be situations where the debtor-company has a cross-claim against the creditor, which has to be set off against the creditor's claim under insolvency set-off. Where both the claim and the cross-claim are undisputed and insolvency set-off is available, setting off the cross-claim against the claim to reach a net balance is essentially a matter of "simple arithmetic". However, where the cross-claim is substantially disputed and factually complex, it may be inappropriate for the insolvency officeholder to deal with it summarily as part of the proof adjudication process; instead, the insolvency officeholder should seek directions from the court on how the cross-claim should be resolved (*Kyen Resources Pte Ltd (in compulsory liquidation) v Feima International (Hongkong) Ltd (in liquidation)* [2024] 1 SLR 266).

(h) **Guaranteed debts**

Where a creditor's debt is guaranteed for the full sum, the general rule is that the creditor may prove in the principal debtor's insolvency for the full amount due as at the commencement of the insolvency and is not required to reduce its proof merely because it later receives part-payments from the guarantor/surety or realises security over the surety's assets; correspondingly, due to the rule against double proof/double dividends, the surety generally cannot prove in the principal debtor's estate for reimbursement/subrogation until the creditor has been paid in full (*Re Swiber Holdings Ltd* [2018] SGHC 180 (***Re Swiber Holdings Ltd***)).

(i) **Debt secured by third-party security**

Where a creditor's debt is secured by third-party security (i.e., security provided by another person or entity, e.g., a related company), the creditor's POD is not automatically reduced merely because the creditor holds such third-party security.

However, if the creditor realises the third-party security or receives payment after lodging its proof, the creditor must update its POD in the guarantor's insolvency to reflect any reduction in the outstanding principal debt, with the relevant cut-off being the day before dividend payment (by the time set by the insolvency officeholder) (*Re Swiber Holdings Ltd* at [57(b)]). Where the creditor's POD is filed in the principal debtor's insolvency, the creditor is entitled to maintain its proof for the full value of the debt notwithstanding any realisation of the third-party security or part payments, until and unless the guaranteed debt is paid in full, in which case it must reduce its proof accordingly by the cut-off date being the day before the date of payment of dividends (*Re Swiber Holdings Ltd*).

(j) **Decision Matrix for Insolvency Officeholders**

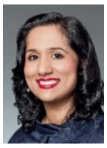
Duties	Court-Ordered Winding Up	Voluntary Winding Up	Judicial management		Scheme of arrangement
			Interim Judicial Management	Judicial Management	
Must examine every POD and the grounds; may admit/reject in whole / part; may call for further evidence	✓	✓	✓ POD filed solely for voting, and adjudicated on a *prima facie* basis	✓	✓

Duties	Court-Ordered Winding Up	Voluntary Winding Up	Judicial management		Scheme of arrangement
			Interim Judicial Management	Judicial Management	
	Regulation 17(1) of the CWU Regulations	Regulation 23(1) of the VWU Regulations	Regulation 7(3) of the JM Regulations	Regulation 46(1) of the JM Regulations	Section 68(5) of IRDA; Regulation 5(1)(a) of the SOA Regulations
Must state grounds of rejection in writing	✓ Regulation17 (2) of the CWU Regulations	✓ Regulation 23(2) of the VWU Regulations		✓ Regulation 46(2) of the JM Regulations	✓ *TT International*
Notice of meeting/ procedural requirements for voting meetings: notice must state the prescribed POD filing information; a creditor who does not file a POD within the prescribed period is not entitled to vote; and, for schemes of arrangement, written adjudication results must be communicated to creditors			✓ Notice must state manner and period for filing POD and that POD is solely for voting; late/non-filing creditor cannot vote. Regulation 7(1)-(2) of the JM Regulations	✓ Notice must state period for filing POD; late/non-filing creditor cannot vote. Regulations 37(1), 45(1) of the JM Regulations	✓ Notice must state manner and period for filing POD; late/non-filing creditor cannot vote; written results due at least 28 days before meeting. Section 68(1)-(2) of IRDA; Regulation 5(1) of the SOA Regulations

Conclusion

The adjudication of PODs is a core function of insolvency officeholders across all restructuring and insolvency regimes. While insolvency officeholders consistently act in a quasi-judicial capacity, the applicable standards and procedures vary materially between liquidation, judicial management, and schemes of arrangement and between challenges brought by insolvency officeholders, POD creditors, and rival creditors. Given the complexities involved, insolvency officeholders should maintain thorough contemporaneous records, be prepared to justify their adjudication decisions on a re-hearing, and seek legal advice where claims are disputed, factually complex, or involve novel issues.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:



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