**Module Title: Equity & Trusts**

**Module Code:        MOD000030                                      Level:          5**

**Academic Year:     2017/8                                               Semester:    2**

**Module Leader:     -**

**Instructions:          Answer the question below.**

**Word Limit: 2,500 words.**

**Submission Date:    3rd May 2018**

**Referencing:            Work must be properly referenced (see Academic Honesty Policy above) and MUST use the OSCOLA system and include a bibliography.**

*ASSIGNMENT INSTRUCTIONS continue on following page*

Santa’s Christmas Hampers Ltd. (SCH) is a company supplying Christmas hampers to members of the public who pay a certain amount every month and at the beginning of December receive their hampers. This is a way for customers to spread the cost of Christmas one or two years in advance. Between 2008 and 2016, SCH was very successful and its directors were considering taking the company public to grow the business.

However, in January 2018, after a poor Christmas, SCH began facing financial difficulties. Its directors are aware that the company is holding a large amount of money belonging to customers (£7.2m) in a bank account separate from its main current account at HSBC. They are concerned that should SCH be liquidated, its creditors will seek to use customer money to defray the company’s debts which total £11.4m. These are made up of the following:

1. £7.5m to HSBC for SCH’s current account overdraft;
2. £3.5m to Frost Finance Ltd. paid to SCH for the sole purpose of paying dividends to SHC’s shareholders (held in a third bank account at HSBC);
3. £400,000 to private investment group, Krampus Holdings Ltd.

Aware that SCH is in substantial difficulty and wanting to ensure its debts are repaid, SHC has received a demand from HSBC that its overdraft be repaid in full. The demand mentions:

1. The £7.2m of customers’ money;
2. The £3.5m from Frost Finance Ltd.

HSBC says in light of these holdings, SCH should have no difficulty repaying the money.

You have been instructed to advise SCH’s company secretary on the following:

1. How can SCH protect the money belonging to its customers?
2. Is the money borrowed from Frost Finance Ltd. protected from HSBC’s claim?

The company secretary is aware of the general legal principles involved but seeks your advice on the matter so she can reassure and brief SCH’s directors. You should use technical language and legal authorities to support your detailed advice on the above two matters.