Insolvency Newsletter

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Special issue

PENSION PROTECTION FUND

Representatives of the Insolvency Service and the Recognised Professional Bodies recently met with the Pension Protection Fund (PPF) to discuss what the PPF considered to be widespread non-compliance with the Pensions Act 2004 (the Act). Under section 120 of that Act, insolvency practitioners are required to notify the PPF, and the Pensions Regulator, within 14 days, of the happening of “insolvency events” in companies which have an occupational pension scheme. Insolvency events include where

- a nominee in a CVA submits a report to the court to say that he believes meetings of creditors and contributories should be summoned to consider the proposal
- the directors of a company file with the court documents and statements in accordance with paragraph 7(1) of Schedule A1 to the Insolvency Act 1986 (moratorium where directors propose a voluntary arrangement)
- a company enters into administration under paragraoh 1(2) of Schedule B1 to the Insolvency Act 1986
- an administrative receiver is appointed to a company
- a resolution to wind up in a CVL is passed
- a meeting of creditors is held to turn a MVL into a CVL
- an order for the winding up of a company is made by the court.

Further information on the practitioner’s responsibilities with regard to insolvency events can be found online at:

www.pensionprotectionfund.org.uk/index/who-is-eligible/qualifying-conditions/insolvency-events.htm

ACCA, like the other RPBs, will be monitoring future compliance with this requirement and practitioners are encouraged to include this matter in their checklist of jobs to do at the beginning of an appointment.

The PPF stressed that once an insolvency event happens, the scheme goes into an “assessment period” during which the scheme’s trustees should pay reduced benefits and death benefits are not payable. In cases of late notice, the PPF has to claim excess payments (including death benefits) back from the beneficiaries. This causes hardship for the beneficiaries who are often on a tight budget.

Insolvency Practitioners are requested to submit any overdue notices to the PPF by 31 December 2007. From 1 January 2008 the PPF will be submitting the names of insolvency practitioners who fail to submit notices or submit late notices to ACCA. Disciplinary and regulatory action will be considered against practitioners from 1 January 2008 onwards.

NON-STATUTORY INSOLVENCY PROCEDURES

In the last issue of the Newsletter it was reported that the Insolvency Service had insisted that, following changes made to the JIEB exam on personal insolvency, all licensed insolvency practitioners would henceforth be expected to undertake CPD in non-statutory insolvency procedures.

Members may wish to note that Lime Legal has announced that its forthcoming series of courses on personal insolvency have been specially adapted to incorporate study of the matters specified by the Insolvency Service. Its courses on this subject will be held at the following locations this Autumn:

Manchester 13 November 2007
Bristol 11 December 2007
London 13 December 2007

Further information on the courses can be obtained via Lime Legal's web site at www.limelegal.co.uk

Editor: John Davies, Head of Business Law
e-mail: daviesj@accaglobal.com

TECH-INS-013

ACCA
29 Lincoln's Inn Fields London WC2A 3EE United Kingdom
tel: +44 (0)20 7059 5972 fax: +44 (0)20 7059 5730 www.accaglobal.com

The Association of Chartered Certified Accountants