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INTRODUCTION

ICAS Insolvency Monitoring (ICAS IM) is pleased to issue its annual report covering the work performed in the year ended 31 December 2014.

As in previous years this report aims to provide the following:

- an overview of the activities of ICAS IM in 2014;
- visit and file review outcomes from ICAS IM in 2014;
- key messages and detailed findings arising from our work; and
- ‘hot topics’.

We hope that you find this publication informative and useful when considering your own compliance procedures.

Regular readers may notice some recurring themes from previous years. We encourage you to circulate and share the report with your colleagues in order to prevent these issues recurring in the future. If you have any comments or queries in relation to the report please contact cmorris@icas.org.uk
As a Recognised Professional Body (RPB), ICAS is required to conduct monitoring of the IPs it licences in accordance with the Memorandum of Understanding with The Insolvency Service and the Principles for Monitoring. The purpose of monitoring is to enable ICAS to make an informed and unbiased decision as to whether an Insolvency Practitioner (IP) is, and continues to be, a fit and proper person authorised by ICAS to act as an IP. Further information on the visit process can be found at icas.org.uk/home/regulation-and-ethics/insolvency-monitoring/monitoring-visit-process/

ICAS currently authorises 90 IPs who operate within a variety of business structures from sole practitioners to international firms.

In 2014, our reviewers carried out routine visits on 23 IPs throughout the UK, reviewing on average 6.1 appointments per visit. In addition one follow up visit was conducted.

In accordance with the Hampton Principles we take a risk based approach to monitoring. Risk indicators taken into consideration include the type and size of portfolio, changes within a practice and where there have been higher instances of non-compliance in the previous visit. This risk based approach determines the time which will elapse between visits in accordance with the requirements of the Principles for Monitoring.

Our RPB activities are subject to oversight by the UK Government’s Department for Business Innovations & Skills (BIS), as delegated to The Insolvency Service.

In addition to conducting monitoring of our own authorised IPs, in 2014 ICAS IM also conducted all of the insolvency monitoring on behalf of the Chartered Accountants Regulatory Board (CARB) of the Institute of Chartered Accountants of Ireland.

Insolvency Monitoring Feedback Forms 2014
An Insolvency Monitoring Feedback Form was issued to all IP’s who received a monitoring visit during 2014. 16 responses were received from the 23 forms issued.

The form invited responses on:
- the administrative arrangements around the visit,
- the pre-visit questionnaire,
- the approach and conduct of the reviewers during the visit, including a clear explanation of their findings, and allowing sufficient time for feedback,
- the issuing of the report itself and whether it provided a balanced picture of the visit findings.

The Insolvency Permit Committee (IPC) were pleased to report that the feedback from those who responded was very positive, with a number of encouraging individual comments. A significant percentage of respondents also noted that there was a clear educational content to the visits.

Whilst ICAS is always looking to improve the service level, the IPC considers that this reflects well on the visit organisation, the professional approach of the reviewers, and the quality of the reports themselves.

What’s new in Insolvency Monitoring for 2015?
From 1 December 2014, the Insolvency Technical team transferred from the Technical Policy Division to the Regulation Division. David Menzies has been appointed as the new Director of Insolvency to lead on engagement and technical policy for our IP community.

ICAS IPs are facing a number of technical and regulatory challenges and ICAS firmly believes that there are significant benefits by bringing the two distinct functions within the same Division. This small structural change will enable ICAS to better co-ordinate our engagement with IPs and various stakeholders, deliver enhanced support and representation on the issues that matter, and ensure that we are well placed to influence the changing and challenging policy and regulatory landscape.
RESULTS OF OUR WORK

Insolvency Monitoring visits 2014

ICAS IM visit outcomes

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>Average over most recent 3 years (2012-14)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfactory report – no follow up action.</td>
<td>11 (31%)</td>
<td>7 (28%)</td>
<td>12 (50%)</td>
<td>10 (36%)</td>
</tr>
<tr>
<td>Some recurring system/compliance or other unsatisfactory findings – confirmation of action taken.</td>
<td>16 (46%)</td>
<td>14 (56%)</td>
<td>8 (34%)</td>
<td>13 (46%)</td>
</tr>
<tr>
<td>Significant system/compliance or other unsatisfactory findings – confirmation of action taken. In some instances sanctions/follow-up visit and/or referral to Investigations.</td>
<td>8 (23%)</td>
<td>4 (16%)</td>
<td>4 (16%)</td>
<td>5 (18%)</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>35</strong></td>
<td><strong>25</strong></td>
<td><strong>24</strong></td>
<td><strong>28</strong></td>
</tr>
</tbody>
</table>

A direct year on year comparison is difficult as the visits carried out each year are across a mix of types and size of practice in which IPs carry out their business.

Whilst the outcome table above provides an analysis of visits from 2012 to 2014, being the whole of the sixth visit cycle, we also track progress made by IPs from one visit to the next (in some cases the previous visit will have predated 2012 and will not be included in the outcome table above). Our analysis shows that the majority of IPs visited in 2014, who had had a previous visit, demonstrated either an improvement or maintenance of quality and compliance from the previous visit.

As a consequence of the risk based approach to monitoring IPs who have had a greater instance of non-compliance are visited more frequently. All IPs who fall within the third category in the table above receive a follow-up visit or will receive an earlier subsequent visit: follow-up visits take place on the instruction of the Insolvency Permit Committee (IPC).

Summary Findings and Actions

As in previous years our findings have identified that there continues to be a number of IPs who have a strong compliance culture as a result of investing significant time and effort into standardising procedures and training staff on those procedures. We continue to see strategies well documented and reassuringly almost all files reviewed were well structured and easy to follow. This year again we note the success of our IPs in achieving good outcomes, in challenging markets, for the benefit of creditors.

Notwithstanding that the majority of IPs visited in 2014 demonstrated an improvement or maintenance of quality and compliance from their previous visit, it is fair to say the type of findings which occur most frequently have continued to remain largely unchanged for a number of years. This suggests that there are a number of areas which some IPs continue to find a challenge. During a visit the reviewer will:

- investigate and discuss the reasons for the findings identified, and;
- attempt to provide some useful suggestions as to how the IP may implement an effective plan to address them.

In order to improve and encourage good practice amongst all ICAS IPs we have summarised the most frequent findings of 2014 visits below. The findings are presented in order of those which occurred most frequently.
Ranking of Findings and Comparison with previous year 2014 & 2013

<table>
<thead>
<tr>
<th>Issues noted</th>
<th>Number of occurrences %</th>
</tr>
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<tr>
<td>Accuracy of IP Form of Record</td>
<td>60%</td>
</tr>
<tr>
<td>Underbonding and other bond issues</td>
<td>50%</td>
</tr>
<tr>
<td>Late submission of Receipts and Payments Account and reports to creditors</td>
<td>47%</td>
</tr>
<tr>
<td>SIP 9 Compliance/ Disclosure of remuneration not in accordance with SIP 9</td>
<td>42%</td>
</tr>
<tr>
<td>Meetings held late or insufficient notice given</td>
<td>35%</td>
</tr>
<tr>
<td>Insufficient documentary evidence of consideration of a risk based approach to customer due diligence as required by the Money Laundering Regulations 2007</td>
<td>32%</td>
</tr>
<tr>
<td>Insufficient or no evidence of matters considered and/or conclusion reached prior to submission of a CDDA return</td>
<td>31%</td>
</tr>
<tr>
<td>Late or no submission of Rule 4.10 reports</td>
<td>28%</td>
</tr>
<tr>
<td>Statutory documents filed late</td>
<td>25%</td>
</tr>
<tr>
<td>No minutes or inaccuracies in meeting documentation</td>
<td>17%</td>
</tr>
</tbody>
</table>

2014

2013
In some instances the late submission was attributed to an error in the diary prompt, which resulted in the use of incorrect accounting dates. As a result of incorrect dates being used the statutory submission deadlines were exceeded. The content and accuracy of diaries utilised, and the standing data for each appointment, should be reviewed and updated on a regular basis where required.

IPs are reminded that the Accountant in Bankruptcy no longer accepts Accounts which are submitted late without a prior application to the Court which is at the Practitioner’s own expense.

Compliance with SIP 9

Issues have been identified during the year in respect of compliance with SIP 9, particularly in respect of disclosure. The issues identified include:

- Failure to disclose the basis of calculation of Category 2 disbursements. SIP 9, para 20 states “Category 2 disbursements may be drawn if they have been approved in the same manner as an office holder’s remuneration. When seeking approval, an office holder should explain, for each category of expense, the basis on which the charge is being made”.

- Failure to provide information to creditors and other interested creditors as to their rights. SIP 9, para 7 states “An office holder should inform creditors and other interested parties of their rights under insolvency legislation. Information on how to find a suitable explanatory note setting out the rights of creditors should be given in the first communication with creditors following appointment, and in each subsequent report to creditors”.

This information may be provided by way of hard copy, or by provision of an appropriate electronic link, with an offer that a hard copy will be provided free of charge upon receipt of a written request. Whilst the information was regularly provided at the outset of an appointment, the revision to SIP9 in May 2012 requires this information to be provided with each report.

- Failure to provide sufficient information to enable the progress of the appointment to be assessed by the parties approving the level of remuneration. SIP 9 para 14 states “An office holder should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed. Where the remuneration is on a time costs basis, an office holder should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable”.

This information should be provided with every request for approval of remuneration.
Statutory Notices published late or not published
A number of instances were identified where the notice advertising a meeting of creditors was published late. The result of late publication of a notice is that the creditors will not be given the statutory notice period of the meeting.

It is essential that if publication of notices is delegated to an agent that confirmation of publication is received and that the agent is made aware of the statutory timescales.

Compliance with Money Laundering Regulations 2007
Instances were identified where there was either no checklist on the file to demonstrate compliance with the Money Laundering Regulations 2007 (legislation.gov.uk/uksi/2007/2157/contents/made) or the checklist which was used did not demonstrate a risk based approach to customer due diligence as required by the legislation. In most instances identification of the relevant parties had been obtained, but this does not demonstrate a risk based approach.

IPs should ensure that there is appropriate documentary evidence of consideration of a risk based approach to customer due diligence, as required by the Money Laundering Regulations 2007, for each appointment.

In addition there were instances where the checklists used were not completed and dated promptly. Paragraph 5.58 of the CCAB Anti-Money Laundering Guidance for the Accountancy Sector states, “in insolvency appointments, customer due diligence may not be possible prior to appointment and should be completed as soon as practicable after appointment (if possible, usually within five working days).” icas.org.uk/home/regulation-and-ethics/insolvency-monitoring/annual-reports/

There is further government “Anti-money laundering legislation guidance” guidance available, gov.uk/government/publications/anti-money-laundering-legislation-guidance-notes

There is also a dedicated money laundering area of the ICAS website.

Company Directors Disqualification Act
In common with 2012 and 2013 visit findings the lack of sufficient evidence and documentation of matters considered or conclusions reached prior to submitting a return was evident in a number of visits. The ICAS Insolvency Monitoring Report 2012 suggested a course of action to address the matter. icas.org.uk/home/regulation-and-ethics/insolvency-monitoring/annual-reports/

R 4.10 Reports
A number of issues have arisen in respect of R4.10 Reports to Creditors in Court Liquidations. The issues noted include:
• Reports not being issued every 6 months as required.
• Incorrect dates being used for the preparation of the reports.
• Reports issued outwith the statutory timescale of 6 weeks.

Statutory Filing and Notice Errors
Instances of late filing were identified in respect of a number of different case types, in addition to the late submission of Receipts and Payments Accounts referred to above.

Attention should be given to ensure the prompt submission of notices of extension in administrations. Where there is no specified statutory time scale for submission of a document the submission should be made as soon as practical.

Meeting Documentation
In order to have fully compliant meeting documentation IPs should ensure that:
• Minutes are prepared for all meetings, including instances where no creditors were present or represented by proxy.
• An attendance register and proxy schedule is referred to within and filed with the minute.
• Minutes accurately reflect the business of the meeting.
• Minutes are signed by the chairman of the meeting.
Consumer Credit Licensing
As advised in the 2013 IM Annual Report the UK Government announced important changes to Consumer Credit Regulation which took effect from 1 April 2014.

ICAS continues to represent its members interests in relation to these changes and further communications will be issued as matters develop.

For more information please visit the consumer credit licence regime website at icas.org.uk/regulation-ethics/authorisations/consumer-credit/

Single Complaints Gateway
The Single Complaints Gateway became operational on 6 June 2013. The first report on the operation of the Insolvency Practitioners’ Complaints Gateway was published in August 2014 and can be accessed at gov.uk/government/news/insolvency-practitioners-complaints-gateway-report

Effect of auto enrolment on future insolvency appointments
IPs are reminded of their obligations in respect of any pension arrangements an insolvent company may have.

The introduction of the Auto Enrolment ultimately will require every employer to provide a pension arrangement (by staged introduction dates). As a Practitioner you must identify any pension arrangements of the company over which you are appointed, and who has responsibility for it. It is important that you seek the necessary expert pensions advice when appropriate.

Data Controller Registrations
IPs are reminded the Data Protection Act 1998 requires that every data controller who processes personal information is required to register with the Information Commissioners Office. Due to the personal nature of insolvency appointments, the Insolvency Practitioner is required to be registered as a data controller personally. Further information on registering with the Information Commissioners Office is available from ico.org.uk/for_organisations/data_protection/registration
WHAT IS ICAS DOING TO HELP IPs?

Regulation Division
The Regulation Division acts in the public interest to promote and maintain the highest standards of practice and professional behaviour. In essence, this division is responsible for discharging ICAS’ regulatory duties and responsibilities, many of which are statutory in nature.

In addition to licencing ICAS Members and Non-Members (Affiliates) as IPs, the granting of practicing certificates, DPB and Audit Licences also sits with the Regulation Division.

Website
icas.org.uk/ca/practice-hub/
icas.org.uk/Insolvency_Monitoring.aspx
icas.org.uk/RegulationandEthics/Complaints_Section/
Caroline Morris, Insolvency Manager, Regulation
Phone +44 (0)131 347 0288 Email cmorris@icas.org.uk

Insolvency specific help and support
We support the IPs we authorise to practice insolvency in the UK in a number of ways. You may already be familiar with the ICAS website, but if not, we have a range of information and guidance available to ICAS IPs which can be found via the links below:

- Insolvency Monitoring Helpsheets and practical and technical guidance to assist IPs and firms at icas.org.uk/InsolvencyMonitoring/HelpsheetsandGuidance/
- legislation, ICAS Guidance and checklists icas.org.uk/Insolvency/LegislationICAS_Guidance_and_Checklists.aspx
- information about insolvency including where to obtain advice, legislation, current government consultations, and submissions made by ICAS icas.org.uk/Technical_Research_and_Guidance/Insolvency.aspx

Further assistance and support is also available:
- IPs with any query in relation to the information held in this report can contact ICAS Insolvency Monitoring at cmorris@icas.org.uk or +44 (0)131 347 0288;
- Money Laundering confidential helpline: if you have any money laundering concerns, please contact our confidential helpline run by our Legal Services Department on +44 (0)131 347 0271; and
- Money Laundering website: there is a dedicated money laundering section on the ICAS website icas.org.uk/Upholding_standards.aspx which provides technical material, guidance and common scenarios.

Insolvency Discussion Groups
In addition there are four Insolvency Discussion Groups at which members of the profession meet regularly to discuss topical issues.

Edinburgh Insolvency Discussion Group
All meetings will take place at CA House, 21 Haymarket Yards, Edinburgh EH12 5BH starting at 6pm unless otherwise indicated.

Further information can be obtained from Laura Borland at Brodies LLP laura.borland@brodies.com

Grampian Area Insolvency Practitioners’ Group
All meetings will take place at the Palm Court Hotel, Seafield Road, Aberdeen AB15 7YX starting at 6pm unless otherwise stated.

Further information can be obtained from Malcolm Gunnyeon at Maclay Murray & Spens malcolm.gunnyeon@mms.co.uk

Fife & Tayside Insolvency Discussion Group
Meetings of the Group will take place in the offices of Henderson Loggie, Royal Exchange, Panmure Street, Dundee, DD1 1DZ or Thomson Cooper, Castle Court, Carnegie Campus, Dunfermline, Fife, starting at 5.30pm.

Further information can be obtained from Graeme Smith at Henderson Loggie Graeme.smith@hendersonloggie.co.uk

West Of Scotland Insolvency Forum
All meetings will take place at ICAS, 7 West Nile Street, Glasgow G1 2PR starting at 5.15pm for 5.45pm unless otherwise indicated.

Further information can be obtained from Donald McNaught at Johnston Carmichael donald.mcnaught@jcca.co.uk
**Insolvency Technical**
As reported earlier in this Annual Report, from 1 December 2014 the Insolvency Technical team transferred from the Technical Policy Division to the Regulation Division where they continue to represent IPs’ views to legislators, regulators and standard setters. The team responds to consultations across a wide range of subject areas and undertakes proactive initiatives to contribute to and influence policy development in all these areas. The development and delivery of products and services, as part of members’ subscriptions and on a commercial basis to members and others, fall within their scope and the team continues to play a key role in member engagement.

**Website**
icas.org.uk/Technical_Research_and_Guidance/Insolvency.aspx

Contact: Setutsi van Lare, Insolvency Technical Support
Email: svanlare@icas.org.uk
Phone: +44 (0)131 347 0244

The Insolvency Technical Department are happy to receive any technical queries you may have on any technical insolvency issue. IPs should submit their queries via e-mail to: icasinsolvency@icas.org.uk

**Communications and Member Engagement Division**
The Communications and Member Engagement Division takes a lead to better engage with our members. This includes arranging ICAS member events which are held in Scotland, the rest of the UK and around the world. This division also takes a lead in communicating with members through the website, e-newsletters, the CA Magazine, publications, and emails.

During 2014 the Division also took over the ICAS Conference portfolio. ICAS continues to develop its conference portfolio and strengthen its offering of professional development for members.

Contact: Fiona McKay, Director, Member Engagement
Email: fmckay@icas.org.uk
Phone: +44 (0)131 347 0213

**Commercial Division**
The Commercial Division comprises two main functions:
ICAS Learning and Development
The ICAS Learning and Development Partnership with BPP, effective from 1 October 2013, involves BPP supporting ICAS in delivering the ICAS learning and development offering. As part of the partnership, ICAS business courses are organised and run by BPP who deliver a comprehensive professional development programme for our members and customers in the wider business community.

Email: ldicas@bpp.com
Website: icas.org.uk/businesscourses/insolvency/
Contact: Vikki Douglas, Business Development Executive
Phone +44 (0)131 347 0212
Email vdouglas@icas.org.uk

**Central Registry**
If you have forgotten your login and password for the ICAS website please contact the central registry team on +44 (0)131 347 0314
APPENDIX ONE: USEFUL LINKS

Links to websites referred to in this report are listed below; a number of these may require you to login to the website. If you have have misplaced your login details please contact cmorris@icas.org.uk:

- previous Insolvency Monitoring Helpsheets and Annual Reports can be accessed at: icas.org.uk/InsolvencyMonitoring/HelpsheetsandGuidance/ and icas.org.uk/home/regulation-and-ethics/insolvency-monitoring/annual-reports/
- the Anti-Money Laundering Legislation help sheet and the Clients’ Money Regulations help sheet can be found, along with all other practice helpsheets at: icas.org.uk/regulation/news/helpsheets/
- the Insolvency Monitoring visit booklet which explains the visit process can be accessed at: icas.org.uk/home/regulation-and-ethics/insolvency-monitoring/monitoring-visit-process/
- the Money Laundering section of the ICAS website can be accessed at: icas.org.uk/home/regulation-and-ethics/anti-money-laundering/overview-of-money-laundering/
- The Anti Bribery section of the ICAS website can be accessed at: icas.org.uk/AntiBribery/Background/
- the Clients’ Money Regulations can be accessed at: icas.org.uk/CharterRulesRegulations/
- the ICAS Paymex guidance can be accessed (using a member login) at: icas.org.uk/home/technical-and-research/technical-information-and-guidance/insolvency-technical/new--legislation--statements-of-insolvency-practice--sips--and-guidance/
- Insolvency legislation, ICAS Guidance and checklists can be accessed at: icas.org.uk/Insolvency/LegislationICAS_Guidance_and_Checklists.aspx
- Insolvency technical information can be accessed at: icas.org.uk/Technical_Research_and_Guidance/Insolvency.aspx
- Creditor guides to office holder remuneration can be accessed at: icas.org.uk/Technical-Knowledge/Insolvency-Technical/Guidance/Creditor-Guides-to-office-holder-remuneration/
INSOLVENCY CONFERENCES

ICAS are running an essential conference aimed at Insolvency Practitioners and professionals with an interest in insolvency.

The Insolvency Practitioners Conference, 11-12 November 2015

This conference is a mixture of case studies, lively discussions and technical sessions, covering relevant legislative and regulatory changes affecting the insolvency practitioner.

For more information and to book visit icas.org.uk/latest-events/

BECOME A JIE STUDENT

When you want to enrol for Joint Insolvency Exam (JIE) training you can now become a registered JIE student with ICAS. You don’t have to be a Chartered Accountant member, or be sponsored by a member, to be a student. Once you are JIE qualified you may also apply to become an ICAS licensed Insolvency Practitioner.

For more information call Caroline Morris +44 (0)131 347 0288 or email cmorris@icas.org.uk