Insolvency Monitoring Helpsheet

Money Laundering Identification

The current SIP3 and SIP3A allow Nominees in Individual Voluntary Arrangements and Trustees in Trust Deeds to carry out the initial interview of the debtor by telephone rather than have a face-to-face meeting. This situation raises the question as to how the insolvency practitioner satisfies his responsibilities in relation to identification under the Money Laundering regulations. The obvious answer is for the practitioner to obtain certified copies of passports, driving licences, etc. or by obtaining confirmation of the identification from a recognised agency. However, under the Money Laundering regulations the practitioner must carry out a formal risk assessment of the particular debtor taking into account their particular circumstances, i.e. background, business etc., to justify the method by which he has made the identification. Evidence of this risk assessment leading to the practitioner's conclusion must be detailed in the case file.

Pension Protection Fund

The Chief Executive of the Pension Protection Fund has written to all RPBs expressing concern that practitioners are not complying with the Pensions Act 2004 by not notifying the Board of formal insolvencies where there is a defined benefit pension scheme. Practitioners are reminded that they must notify the Board within 14 days of the date of insolvency or the date on which they become aware that a defined benefit pension scheme exists whichever is the latter.

Time Units – Jacob & Ruddock v UIC Insurance Coy

The above is an English case. However, practitioners should be aware that the joint Provisional Liquidators in this case were criticised by the Judge and in fact deductions were made from their remuneration as their time recording was done using 15 minute units instead of shorter units.

Time on Complaints

It is not acceptable for time incurred by a practitioner or his staff in dealing with formal complaints on a particular case to be charged to that case. This is not a legitimate charge against the estate it is a cost incurred by the practitioner in defending what may, at the very least, be incompetence or delay on his/her part or their staff.

Paperless Offices

In the past, practitioners have raised questions regarding best practice when setting up paperless offices. Practitioners should be aware that electronic filing should be structured in a similar fashion as "hard copy" files which should naturally include various sections within the files to store documents etc which are related to a particular matter. There should also be a robust search facility to enable documents to be easily retrieved. In addition, care needs to be taken to ensure that there is an adequate control policy to avoid documents being deleted or inserted inappropriately.
Turnkey IPS System

A large number of practitioners use the Turnkey IPS computer system in the administration of their insolvency cases. The main functions of the system are to provide a method to record bank transactions and to provide a management tool to control the compliance etc. It also produces the IP case record for each case using the standing data for the case and the data from the diary function. It has been noted that the IP case record does not always have the correct information despite this being available elsewhere in the system. If this happens practitioners should contact Turnkey to resolve the problem which may be a programming fault or a user fault.

Global Bank Accounts

SIP11 now allows the use of global bank accounts rather than have a separate bank account for each case although it was always recognised that it was necessary in certain circumstances to have a general bank account to negotiate cheques etc. However, it is essential that all transactions are recorded to ensure that the account can be regularly reconciled including a list of balances for each case. Interest should be allocated as appropriate to each case. The bank account must be properly controlled and monitored to ensure that all transactions are properly accounted for.

Case Closure

Practitioners are reminded that not only is it good practice to close cases as soon as possible but they have a responsibility to ensure that distributions are made to creditors as soon as it is practicable. Equal priority should be given to a case closure plan as to obtaining new work. The longer a case is open the more time is required to administer it making the administration of the whole caseload inefficient.

Checklist

The completion of checklists is a useful way of evidencing that matters have been dealt with and can also act as a forward planning tool and aide-memoire for individual cases. Practitioners should use these as much as possible. One of the areas where they are especially useful is in relation to the completion of "D" forms and a clean report is being issued. The checklist will evidence all matters that were considered and the reasons for deciding that a full report was not appropriate.