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INTRODUCTION

We are pleased to present our annual report for 2018. As in previous years, this report aims to provide transparency over our work and includes:

- An overview of the activities of ICAS Insolvency Monitoring during 2018; and
- Key messages and detailed findings arising from monitoring visits.

We hope that you find it useful in considering how effectively you are complying with regulatory requirements. We encourage you to share the report with your colleagues, and also to utilise the key messages when conducting your own compliance reviews.

If you have any comments or questions, please contact us on insolvencymonitoring@icas.com.
FOREWORD

This report, shows positive outcomes for most Insolvency Practitioners (IPs) visited during 2018. 76% of IPs were found to have achieved good standards of compliance and required no follow up action after their visit.

Anti Money Laundering (“AML”) compliance continues to challenge some IPs, following the introduction of the Money Laundering Regulations 2017.

Remuneration disclosure has been the other recurring issue on 2018 visits, particularly in relation to English appointments.

We encourage you to read the main findings of this report and consider whether there are any areas that you require to address. It is always preferable to address these as soon as possible, rather than wait until your next monitoring visit.

If your AML compliance needs to be addressed, we urge you to read our AML Monitoring Annual Report which provides a detailed update on common AML weaknesses and how to address them.
What we do

Background: Developmental Regulation

We aim to deliver Developmental Regulation. This means that our Insolvency Monitoring regime is designed to both:

- support the work of ICAS licensed IPs; and
- uphold standards and provide re-assurance to the public.

Our primary aim is to work with IPS and their firms and to support IPs to make any improvements required.

The regulatory landscape has become increasingly challenging, meaning we require to act as a robust regulator, when required.

The Regulatory Framework

ICAS is a Recognised Professional Body (RPB), responsible for regulating ICAS licensed Insolvency Practitioners (“IPs”) in the UK. The RPBs are, in turn regulated by The Insolvency Service.

What we review

Insolvency Monitoring conducts the monitoring visits of all ICAS licensed IPs. Visits are selected on a risk basis and all IPs are, in the main, visited at least once in 3 years cycle in accordance with the current Memorandum of Understanding between the Insolvency Service and RPBs.

Risk indicators include: the type and size of the portfolio; changes within a practice; and previous visit history. This risk-based approach determines the timing and frequency of visits, in accordance with the requirements of the Principles for Monitoring.

In addition to conducting monitoring of our own authorised IPs, in 2018 we also conducted all of the insolvency monitoring on behalf Chartered Accountants Ireland. These visits covered their UK licensed IPs and those operating in the Republic of Ireland. This report does not cover this work.
How we review

Our visit process is

The nature and size of the work undertaken by IPs licensed by ICAS varies and the monitoring visit approach is tailored to reflect the nature and client base of each IP and firm.

For more information about Insolvency Monitoring, and the role of the Authorisation Committee, please search “insolvency monitoring” at icas.com.

Who we review

In 2018, ICAS authorised 92 IPs (2017: 93) who operate within a variety of business structures from sole practitioners to international firms. The gender split is: 68 male to 24 female IPs (2017: 73 male, to 20 female).

A number of IPs have retired in the last few years, resulting in the overall reduction in IPs seeking to be licenced. However, this has been offset, in part, by a number of first-time insolvency licence applications being granted. In addition, several IPs previously regulated by other RPBs moved their insolvency authorisation to ICAS.

Licensed Affiliate IPs now constitute a significant, increasing, and important proportion of our IP community, allowing ICAS to continue to maintain its position as the predominant RPB representing IPs based in Scotland, whilst at the same time seeking to support ICAS licensed IPs practising throughout the UK, Ireland and internationally:

IPS: Members and Affiliates

ICAS licensed IPs are predominantly based in Scotland:
Location of IPs

- Scotland
- England
- Northern Ireland
- Ireland
- Overseas

2017
2018
Visits
We conducted 21 ICAS Insolvency Monitoring visits (2017: 31), covering our full range of IPs. All visits were considered to be routine, and there were no follow up visits.

Visit outcomes
The results for the 21 routine full scope visits in 2018 were:

It is difficult to make comparisons year-on-year as:
- different IPs are visited each year; and
- the regulatory landscape has been changing significantly.

It is encouraging to note that 76% of IPs visited in 2018 achieve satisfactory standards of compliance and required no follow up action. However, there has been a small downturn in compliance results mainly as a result of remuneration disclosures issues, particularly in relation to English cases under the new rules.
Most IPs continue to demonstrate good standards of practice. The most frequent issues identified in case reviews, and reported as findings, were:

- remuneration disclosure issues;
- risk-based anti-money laundering ("AML") procedures requiring to be enhanced or not fully completed;
- incidents of late compliance with statutory timescales;
- inadvertent omissions in the provision of information; and
- failure to fully document or investigate potential assets.

Where there are only a relatively small number of procedural findings, no follow up action is usually necessary. Follow up action arises where the extent of issues is more widespread or more significant in nature.

Many of the IPs with "some" or "systemic" issues requiring follow up included remuneration disclosure and approval issues particularly in English appointments. There were also instances of AML issues, which are covered in more detail in the Key Themes section of this report.

Visits falling into the "serious issues" category tend to include:

- systemic statutory compliance issues;
- serious ethical issues; or
- serious issues in the management and control of insolvency cases, potentially detrimental to creditors.

The Committee can take a range of follow up and regulatory actions. IPs may have conditions or restrictions placed upon their licence; they may be required to submit information to the Committee; or they may require to submit to a follow-up visit. Other, more serious, regulatory interventions include referral to the Investigation Committee; regulatory penalties or licence withdrawal. The more serious regulatory interventions are exceptional.
Key Themes

Most IPs continue to demonstrate good standards of practice. Nevertheless, there are always learning points on monitoring visits and our detailed 2018 findings can be found in Appendix One to this report.

As in previous years, many IPs were found to have a strong compliance culture with well-trained staff and procedures operating well. Most IPs demonstrated:

- well-considered realisation strategies;
- well-structured files; and
- achievement of good outcomes in challenging markets for the benefit of creditors.

Positively, the number of insolvency issues in individual reports have been declining year on year. However, the number of AML issues have been increasing in the last 2 years, not least because of the increased regulatory focus on this area and the recent regulatory changes, following the implementation of the Money Laundering Regulations 2017. There have also been an increase in the number of reports with findings in relation remuneration disclosure and approval issues, particularly in relation to English cases under the new rules.

Anti-Money Laundering (AML)

The new regulations brought about a number of changes to the AML requirements, including the need for more risk-based “Customer Due Diligence”. These new regulations have been a learning curve for most firms and inevitably this has resulted in more AML issues being identified across all monitoring visits, including Insolvency Monitoring visits.

Insolvency Monitoring continues to focus on the AML processes and procedures as far as they relate to formal insolvency appointments only, rather than the processes and procedures of the firms as a whole. The latter is generally covered by Practice Monitoring, where ICAS is the RPB responsible for overseeing AML compliance.

Over the course of the last two years there have been a number of cases where the insolvency function’s AML procedures have been out-of-step with the firm’s AML policies and procedures, resulting in an insolvency-specific AML follow-up visit.

We would encourage all IPs, in conjunction with the AML team within their firm, to check that their procedures are consistent with the firm’s. This is particularly important now in light of the implementation of the Money Laundering Regulations 2017.

Since the introduction of the new regulations we now ensure that IPs update the firm’s AML team on any serious issues found on Insolvency Monitoring visits to ensure that the firm’s AML function is kept informed. We would also additionally either inform our Practice Monitoring team (where ICAS is the AML supervisor) or inform the firm’s AML supervisor, if not ICAS.

By the same token, we ensure on Practice Monitoring visits that we discuss the AML policies and procedures in relation to the insolvency function with the firm’s senior AML team to ensure that it is coordinating and controlling the AML effort across the firm consistently.
Findings
Whilst IPs continue to demonstrate that they are carrying out AML checks, and obtaining identification, there is still a lack of risk-based due diligence or evidence that checks had been conducted within the required time.

As with last year’s report, the main 2018 findings were:

AML risk assessment
For a number of cases reviewed, the checklists used did not demonstrate a risk-based approach to customer due diligence as required by the legislation.

A risk assessment should be conducted for each case. These risk assessments should include consideration of the five main risk criteria of:
• the nature of the appointment and entity;
• geography;
• nature of services being provided;
• the transactions of the entity or individual; and
• the means of delivery of the services.

This risk assessment is key and determines the extent, and frequency, of the evidence needed to conduct due diligence (i.e. the extent and source of identification and third-party verification procedures). The focus of the new regulations is very much on this area.

Timing of checks
In a number of cases reviewed, the checklists were not dated or were dated post-appointment, rather than being evidenced as completed prior to acceptance or within 5 days thereof.

Ongoing monitoring
IPs are reminded that CDD is not a one-off exercise and should be kept up to date throughout the duration of the insolvency case. CDD should be reviewed regularly “e.g. at least annually” and when there are changes in risks.

For the second year, we have produced a separate AML Annual Monitoring Report. This provides further information on AML compliance. Search on “AML Annual Monitoring Report” at icas.com.

- IPs must ensure that there is appropriate documentary evidence of consideration of a risk-based approach to customer due diligence for each appointment, including cases where reliance has been placed on the appointment being made by a bank, court or the Accountant in Bankruptcy.
- We recommend, in addition to reviewing standard documentation to ensure that it reflects a fully risk-based approach, that procedures are reviewed to ensure prompt completion of the relevant documentation.
- For more information on anti-money laundering please search “anti-money laundering” on icas.com.
Follow-up checks

As part of the developmental regulation approach, AML issues identified on Insolvency Monitoring visits are followed up as follows:

- Three-month follow-up checks: all IPs and firms where AML issues are considered sufficient to warrant a follow up check receive this check in a shorter timeframe, within three months instead of six.

- Practice Support: IPs and firms on follow-up are offered free support from our Practice Support team before they receive their follow-up.

- Regulatory sanctions: IPs and firms failing to improve quickly may be faced with regulatory penalties or referrals to the Investigation Committee. But this is exceptional and is ‘last resort’ for serious cases. There were no such cases this year.

- Whilst most follow-up checks are conducted to the firm, through our Practice Monitoring regime, ICAS reserve the right to conduct follow-up checks to IPs.

Such follow-ups are particularly important where:

- the Insolvency issues may be different from those of the general practice, or persistent; or

- where the firm is not AML supervised by ICAS, but nevertheless there are ICAS IPs in the firm.

In 2018, a number of reports included findings in relation to AML issues. However, these were largely attributed to failing to complete checklists fully and delays in completing checks rather than issues with the procedures in place. Consequently, there were no AML follow up visits instructed. Whereas in 2017, 6 AML follow-up checks were carried out to IPs as the result of issues found on insolvency engagements. In most of these visits inadequate AML procedures were a significant contributory factor.

So far, our new regime is operating well and IPs are showing a good level of improvement by the time of the follow-up check.
ICAS Support

We take a developmental approach to regulation, and we have a number of initiatives to assist our IP and firms in complying with Insolvency Regulations.

Advice & support on monitoring and licences
Insolvency Monitoring sits within the Professional Standards Division at ICAS. We act in the public interest to promote and maintain the highest standards of practice and professional behaviour. The 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 division is also responsible for the granting of Practicing Certificates, DPB and Audit Licences.

For more information on the Professional Standards Division please search “regulation” on icas.com. For queries please email insolvencymonitoring@icas.com.

The General Practice Procedures Manual (GPPM)
If your firm has a majority of CA principals, it is eligible to use the full GPPM for free. If your firm does not have a majority of CA principals, as an ICAS IP, you are still eligible to access the AML section of GPPM for free. If you have not already registered to use GPPM and you would like to, please go to https://www.icas.com/member-benefits/general-practice-procedures-manual (you require to first log in) or contact Practice Support.

The new online bank of resources is the first port of call for members and IPs with regulatory or technical queries. FAQs on ICAS regulatory matters and links to technical guides can now be accessed via one central point.

Our comprehensive FAQs and guides should resolve the majority of queries, but if an answer can’t be found, a question can now be logged with our technical teams using the new digital technical queries portal.

The digital portal makes it easier for members and IPs to identify and contact the appropriate technical team, which will help provide a faster response time. It replaces the process of submitting queries by email. The new digital portal also offers greater security and data protection.

You can submit technical and regulatory queries on:
• Accounting and auditing
• Tax
• Practice support
• Anti-money laundering and GDPR
• Insolvency
• Ethics
Practice Management Course

In 2014, ICAS introduced a mandatory requirement to attend the Practice Management Course once every five years. This is the final year of the first cycle and all members in practice are required to have completed a Practice Management Course by 30 April 2019. In addition, any member having been granted a practising certificate since 2014 have been required to attend a Practice Management Course within 12 months.

While maximum benefit from the course can be obtained from attending one of the courses held in locations around the country, we recognise that personal circumstances may make it difficult for all members in practice to attend a course. An online digital learning course has therefore been developed which allows everyone to access the course and meet their mandatory participation requirement. The online course is made up of three modules. They can be undertaken at a time suitable for you (over a number of sessions if required) using any device such as desktop, mobile or tablet.

- **Anti-Money Laundering Update**
  This module covers, an overview of who is regulated and the legislation in place. The most frequent AML issues encountered by the practice monitoring team and guidance on what firms need to do to demonstrate compliance. An overview of the new requirements brought in in 2017, and finally also looks at the practical issues faced, such as completing a Suspicious Activity Report.

- **Data Protection: Beyond GDPR**
  This module considers data protection more generally and then delivers 10 key messages on how practitioners should be embedding a data privacy culture within their firm, and why GDPR compliance is not a one-off exercise.

- **ICAS: Here to Help**
  This module highlights the work and resources done by ICAS to benefit CA practitioners, and how we are improving the experience for the practice community.

CA Practice digital magazine

CA Practice digital magazine brings the latest essential information, news and views for those in public practice. Issued on the third Thursday of each month CA Practice has been designed to alert you to important issues and inform you of the ICAS practice team’s activities and important course dates.

Previous articles have included:
- AML developments;
- Making Tax Digital updates;
- GDPR;
- Practice development;
- Technical Bulletin roundup.

Insolvency Technical

David Menzies, ICAS Director of Practice, continues to represent members’ views to legislators, regulators and standard setters. The technical 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.

For more information on Insolvency Technical matters at ICAS please search “insolvency technical” on icas.com.

David Menzies, Director of Practice,
Phone – 0131 347 0242,
Email – dmenzies@icas.com

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.com.

Insolvency specific help and support

A range of information and guidance and helpsheets are available to ICAS IPs on the website by searching on “helpsheets”.

If you would like more information in relation to Consumer Credit please search on “consumer credit” at icas.com to access the consumer credit section of our website.

Community Communication

Content relevant to the Insolvency and Restructuring Community is available from the ICAS website via www.icas.com/insolvency and a monthly Insolvency and Restructuring Update is issued by email. The email is sent automatically to all IPs and ICAS members who have indicated an interest in this practice area. The email can also be subscribed to (free of charge) by anyone else through registration. Search for ‘insolvency news’ on icas.com.

More immediate updates are also available through social media by following @DavidMenziesCA on twitter or connecting with David Menzies on LinkedIn (https://www.linkedin.com/in/davidmenziesca).

Insolvency Discussion Groups

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

Edinburgh Insolvency Discussion Group

Further information can be obtained from Stephen Janch at Gilson Gray on 0131 516 5361 or email sjanch@gilsongray.co.uk

Grampian Area Insolvency Practitioners’ Group

Further information can be obtained from Iain Fraser at FRP Advisory on +44 (0)330 055 5455 or email: iain.fraser@frpadvisory.com.

Fife & Tayside Insolvency Discussion Group

Further information can be obtained from John Clarke at CCW Legal - email: John.Clarke@ccwlegal.co.uk.

West of Scotland Insolvency Forum

Further information can be obtained from Pamela Muir at Morisons on +44 (0)141 404 1620 or email: pamela.muir@morisonsllp.com.
2018 News

SIP 16 Pre Pack Pool Review

The Insolvency Service requires each RPB to monitor and review the SIP 16 information provided to creditors for pre pack sales of business or assets from companies entering administration. ICAS is responsible for carrying this out where the lead appointee is an ICAS licensed IP.

All RPBs have been requested to provide the Insolvency Service with details of the SIP 16 reports reviewed during 2016, 2017 and 2018. The Insolvency Service, in conjunction with the Pre Pack Pool, analyses the information submitted and produce an annual report which can be viewed on their website www.prepackpool.co.uk. ICAS Insolvency Technical will ensure that IPs are notified of the outcome of the 2018 reviews and any actions which you may be required to take.

In the meantime, copies of SIP 16 documentation issued, together with a copy of any covering letter confirming the date notice of the prepack sale was given to creditors, should continue to be sent to sip16@icas.com.

Scottish Corporate Insolvency Rules

The Accountant in Bankruptcy and the Insolvency Service have been working towards the introduction of updated rules for Scottish corporate insolvency procedures. ICAS and other stakeholders have formed part of the working group assisting.

Due to devolved powers the new rules involve two statutory instruments introduced to the Parliaments in Westminster and Holyrood in Autumn 2018. Both sets of rules will commence on 6 April 2019.
APPENDIX ONE:
DETAILED VISIT FINDINGS

This appendix provides further detail on the level of compliance noted on visits and where the most common findings were identified during our file reviews.

Five year visit history

The table below shows the routine monitoring visit outcomes in the last five years.

<table>
<thead>
<tr>
<th>Insolvency Monitoring visit outcomes</th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Satisfactory reports IP to submit evidence of action if required</td>
<td>20 (83%)</td>
<td>18 (82%)</td>
<td>22 (84%)</td>
<td>20 (80%)</td>
<td>16 (76%)</td>
</tr>
<tr>
<td>Some issues IP to submit evidence of action and follow up visits where appropriate</td>
<td>NA</td>
<td>N/A</td>
<td>N/A</td>
<td>4 (16%)</td>
<td>2 (9%)</td>
</tr>
<tr>
<td>More systemic issues - IP to submit evidence of action and follow up visits where appropriate</td>
<td>4 (17%)</td>
<td>4 (18%)</td>
<td>2 (8%)</td>
<td>1 (4%)</td>
<td>2 (10%)</td>
</tr>
<tr>
<td>Serious issues – requiring follow up or other regulatory actions</td>
<td>0 (0%)</td>
<td>0 (0%)</td>
<td>2 (8%)</td>
<td>0 (0%)</td>
<td>1 (5%)</td>
</tr>
<tr>
<td>Total routine visits</td>
<td>24</td>
<td>22</td>
<td>26</td>
<td>25</td>
<td>21</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 sizes of practice in which IPs carry out their business. An additional row was inserted last year to show the split between isolated and systemic issues. A reclassification of previous years non-satisfactory reports was not considered necessary.

The majority of IPs visited during 2018 demonstrated an improvement or maintenance of quality and compliance from their previous visit. The type of findings which occur most frequently continue to remain largely unchanged, albeit with a reduction in the frequency of instances of non-compliance. As anticipated, there continued to be a significant number of AML issues noted in reports due to the recent legislative changes and increased focus in this area, albeit of a less serious nature. However, there was also an increase in the number of reports with issues noted with regards to PPI, other potential assets where the investigation was not sufficiently evidenced in the files and remuneration disclosure and approval issues in English appointments under the new Rules.

In order to improve and encourage good practice amongst all ICAS IPs we have summarised the most frequent findings of 2018 visits below, in addition to the issues identified already in the Key Themes section.
Remuneration and Compliance with SIP 9

In general, there continues to be very few issues relating to the approval and disclosure of remuneration. However, there were several reports where issues were noted resulting in report findings in respect of appointments for companies registered in England where the new rules, SIPs and guidance notes apply in respect of fee estimates and procedures for approval of remuneration.

There continued to be a significant number of findings in reports where creditors had not been provided with a copy of an appropriate creditors guide to remuneration or advised how to obtain a copy in all relevant communications, as required. There is generally, a lack of consistency in providing the information, rather than not providing the information. In most cases, a suitable explanatory note, setting out the rights of creditors, was given in the first communication to creditors, but it was not always provided in subsequent communication as required.

- Information on how to find a suitable note, setting out the rights of creditors, should be given in the first communication with creditors following appointment, and with 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.
- We recommend that standard documentation is reviewed to ensure that the required information is provided in each instance.
- Remember to ensure your standard documentation for English and Welsh appointments reflects the changes introduced by the revised SIP 9 England and Wales, effective from 1 December 2015, and the changes in the legislation which includes a requirement to provide a fees estimate.

Late Statutory Filing and Statutory Matters

The instances of late filing continue to decline, partly due to the fact there have been relatively few recent changes to legislation and SIPs in recent years. Consequently, checklists, diary prompts and procedures have been refined. Most issues arise where IPs are dealing with unfamiliar procedures or appointments in other jurisdictions.

However, the new Scottish Rule come into force on 6 April 2019 and it will be necessary for all IPs to review and amend their procedures and standard documentation

- Review checklists and diary prompts regularly to ensure they are compliant with current legislation.
- Be aware of the legislation under which the appointment is administered and adhere to the appropriate statutory timescales.
- If holding meetings of creditors and members on different dates in creditors voluntary liquidations, hold the meetings as close together as possible, otherwise additional filing and notices may be required.
Director Conduct Reports and Checklists

It had been noted in 2017 visit reports that late submission of directors’ conduct reports was identified as an issue. This was attributed to IPs and their staff becoming familiar with the online filing of directors’ conduct return which came into effect on 6 April 2016, and the reduction in time for filing reports.

In the 2018 visit reports, instances of late submission of directors’ conduct reports was not generally identified as an issue. IPs were aware of the reduced time periods for submitting returns, and case diaries, internal procedures and task reminders had been updated to reflect the changes. However, there was an increase in the number of instance where an appropriate directors’ conduct checklist had not been completed to evidence matters considered prior to submission of the report.

• Ensure that an appropriate directors’ conduct checklist is completed to evidence matters considered and to ensure all the necessary information is available to complete the return by the due date.

• Check diary prompts and reminders have been updated for all procedures requiring submission of a report and sufficient time allowed to complete the investigation checklist and complete the online filing.

Incorrect Move from Administration to Creditors Voluntary Liquidation

There were fewer instances identified where appointments had moved from administration to creditors voluntary liquidation but the requirements of the Insolvency Act 1986 Sch B1 para 83(2) had not been fulfilled as there was no anticipated distribution to unsecured creditors. Consequently, the liquidator’s appointment may not have been valid, thus requiring action to be taken to cure the defect in the procedure.

Whilst such instances have been relatively infrequent over the years, a common theme has been circumstances partly outwith the control of IPs delaying the closure of the administration. As a result, insufficient time had been provided for to extend the administration, resulting in the decision to move to a creditors voluntary liquidation, when it was not clear that there would be a distribution to unsecured creditors.

• Ensure that all outstanding matters are identified and subject to regular periodic review as the administration proceeds to closure.

• If there is any prospect that all outstanding matters cannot be finalised, then ensure that steps are taken to make an application for extension of the administration.

Bonding

We are pleased to report the reduction in issues identified in relation to bonds in the visits carried out during 2017 has continued in to 2018. Bonding issues have become rare and are generally isolated incidents rather than systemic issues.

Due to the nature and importance of bonding even a one-off instance of late or under-bonding will be a report finding. In the past the most common instances of under-bonding arose from delays in increasing the level of the bond after determining the estimated or known value of additional assets. However, as most IPs review the bond level as part of periodic reviews and bond providers have revised their bonding bands, this has become less of an issue.

• The purpose of the specific bond is to safeguard creditors. It is therefore the total amount of the anticipated funds in a case, which requires to be bonded at the outset. Floating and fixed charges should be deducted from the value of the assets for the purposes of the bond calculation, to calculate the net assets. The amount of the specific penalty shall be at least equal to the net value of the assets, or the amount due to preferential creditors and any sum due to unsecured creditors, including under the prescribed part, if this amount is greater.

• Ensure the bond level is reviewed as part of periodic file reviews.

• Have procedures in place which ensure the bond level is reviewed upon any change in estimated valuation of an asset and when funds are received.

• If a decision is taken not to increase the bonding level due to any uncertainty over the amount to be realised

• for any assets, insert an appropriate file note detailing considerations in the bonding section and periodic reviews.

• Case closure checklists and diaries should ensure that the bond is released on completion of the case.
Evidence of Conflict Checks, Consideration of Ethical Matters and SIP 1 Intimation

In 2018, there continued to be fewer instances where IPs had not adequately documented ethical considerations, compared to the previous years. However, in significant number of IPs had not updated all their standard documentation to reflect the requirements of the revised SIP1, effective from 1 October 2015, which requires intimation to be given to creditors that IPs are bound by the code of ethics in the first correspondence issued. This had also been highlighted in last years annual report.

- Ensure that an appropriate conflict and ethics checklist is completed to record and document considerations and it is completed prior to the commencement of each appointment.
- Ensure ethical matters are considered and signed by the IP as well as the case manager. In the case of a joint appointment, the checklist should be signed by all appointees or appropriate evidence be place on the file of the joint appointee’s consideration of conflict and ethical matters.
- We recommend, in addition to reviewing standard documentation to ensure that it reflects full consideration of ethical matters, that procedures are reviewed to ensure prompt completion of the relevant documentation.
- Ensure that standard documentation is updated to reflect the requirements of the revised SIP1, effective from 1 October 2015, and that required intimation is given to creditors in the first correspondence.

S120 Qualifying Pension Schemes

In 2018 there continued to be a large number of visit reports where there was no evidence that the IP had carried out a search to confirm that there was no Qualifying Pension Scheme. This was disappointing as this area was highlighted in the previous three annual reports. Whilst a number of IPs had taken steps to confirm this, they had not retained a copy of the search, or recorded the work done.

S120 Protection Fund (Entry Rules) Regulations 2005 requires notification of an insolvent event within 14 days of the occurrence of the insolvent event or the IP becoming aware of the pension scheme. Carrying out the search only takes a few minutes, and whilst in most cases there is no qualifying pension scheme, failure to carry out the check in event that a scheme exists could have serious consequences.

- In order to confirm that no such scheme exists, it is considered prudent to carry out a search under both the company name and the company number and retain the search results to provide evidence of the date the search was carried out.
- Better late than never. At the next periodic review confirm that a copy of the searches outlined above are in the file, and if not carry out the searches and insert an appropriate file note.
- Ensure that the need to carry out s120 searches is included in dairy prompts.
- Further guidance on this matter can be found on the Pension Protection Fund website.

Receipts and Payments and Reports to Creditors

Recent annual reports have noted that there had been a reduction in the instances of late submissions of receipts and payments accounts across all procedures. Again in 2018, the number of instances remained relatively low and tended to be isolated incidents and unusual circumstances rather than systemic issues.

- 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, particularly after any software updates which may affect customised diary lines.
- Ensure that the diary prompts give sufficient time to complete the returns, allowing for short term absences from the office due to work commitments, holidays and illness.
- 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 IP’s own expense.
Evidence of Investigations

There has been an increase in the number of findings in relation to evidence of investigation in 2015, 2016, 2017 and again in 2018 where:

• There were instances identified where there was no apparent investigation carried out in respect of certain aspects of cases.

• There were also several instances noted where there was insufficient documentation in the file to evidence areas investigated and to support any conclusions reached that no further action was required.

• Matters requiring investigation should be identified and recorded in a manner appropriate to the appointment.

• Record and document investigations into any matter including pre-appointment transactions and any potential assets in contemporaneously completed file notes.

• Ensure investigations not fully completed or concluded are highlighted in periodic reviews and carried forward as outstanding matters.

• Record and document any conclusions reached, and the date of conclusion.

Depending on the circumstances identified during the visit, this may result in further action being taken as part of the monitoring process and/or a follow up visit may be instructed. In more serious cases, particularly where this could potentially be detrimental to creditors, the Authorisation Committee may refer the matter to the Investigation Committee to determine where disciplinary action is appropriate.
APPENDIX TWO: OTHER USEFUL LINKS AND CONTACTS

We hope you find this report useful. If you have any comments or questions please contact us at insolvencymonitoring@icas.com

Within ICAS there are a number of contacts which may be useful:

• Technical queries: any accounting, law or ethics queries will be answered promptly by Technical staff. Members should contact them using icasinsolvency@icas.com.

• Money Laundering confidential helpline: if you have any potential money laundering issues, please contact our confidential helpline run by our Legal Services division on 0131 347 0271.

• The ICAS Practice Support Service provides support to all ICAS registered firms. It offers a variety of services on all aspects of regulation, which can be tailored to meet the needs of your firm. For more information on any of these services, contact 0131 347 0249 or email practicessupport@icas.com