

## Discussion points from the joint AFSA/ARITA/ASIC liaison meeting

1 December 2016

### AFSA update

- The new website has been launched. It is very focussed on the user experience and AFSA encourages any further feedback to be provided
- AFSA noted trends in personal insolvency, including an increase in personal insolvency agreements and debt agreements
- In the September quarter 2016, debt agreements accounted for 44% of total personal insolvencies. This is the highest proportion since debt agreements commenced in 1997.

### ASIC update

- ASIC will shortly release its annual report on insolvency statistics compiled from information in statutory reports lodged by registered liquidators. The report notes inadequate corporate record keeping on the rise as a cause of business failure
- The Government recently provided ASIC with additional funding of \$127 million over four years for the purposes of:
  - surveillance and enforcement in the areas of financial services and wealth management; and
  - building data analytics capability
- ASIC recently published its Corporate Plan 2016-2017 to 2019-2020 and its 2016 Annual Report. Further to the Corporate Plan, ASIC proposes to publish summary business plans for each stakeholder area
- Changes to the Commission – A Commissioner's commission recently expired. Government recently advertised for additional Commissioners and to replace the current Chairman whose term ends in late 2017.

### ARITA update

- Law reform issues have been a major area of focus for ARITA and a large number of submissions have been made over the last year on this and a range of other topics
- An ARITA strategy meeting was held on 30 November which focussed on issues such as:
  - What is the future for accounting and professional services firms?
  - Consideration of changes on the horizon
  - Economic changes being seen in banking and financing
- Educational activities have been very successful, including recent State divisional conferences. Training provided in 2016 included:
  - Advanced Certification
  - Law reform
  - Essential skills (may expand this as very successful)
- Education in 2017 will focus on law reform (including 'train the trainer' offering for firms). Bankruptcy to be a focus in 2018.
- Professionals standards courses were offered for the first time in ARITA's online training room this week
- 2017 conferences were noted:
  - Insol conference – March
  - ARITA national conference – August in Melbourne

- ARITA small practice conference – May in Fiji
- ARITA's Code of Professional Practice review is underway to rewrite and enhance the code. It will be updated for the law reform and also extend to 'turnaround' engagements.
- ARITA will consider whether AFSA and ASIC could be involved in a 'meet the regulator' session as part of the ARITA Advanced Certification "Advanced Insolvency" subject. ASIC advised that they intend to do a 'meet and greet' with new liquidators after registration. The current committee process for Trustees was noted as assisting with the meeting of new practitioners.
- ARITA raised an issue in Queensland with new environmental law where directors may now be held personally liable for environmental protection orders. The application of this liability to administrators was highlighted, noting that such penalties would move ahead of Corporations Act priorities for debts.
- MOU between AFSA and ARITA has been accepted by the ARITA Board.

### **Insolvency law reform and Insolvency Practice Rules**

- The split commencement dates for the ILRA were noted
- ARITA noted that training will be in place
- AFSA offered to include a link to that training in the next Personal Insolvency Regulator
- ASIC offered to include a link in its next electronic newsletter and other communications with registered liquidators on the law reform.

### **Pre-insolvency advisors**

- The proposed information sheets to be issued by AFSA and ASIC were discussed
- There was ongoing discussion about terminology of 'pre-insolvency advisors'. It was agreed that it was the conduct that was the issue, rather than the term applied to this group of advisors.
- Discussion about which websites to place the information sheets on took place, and it was agreed that the more websites these could be placed on, the better.

### **Interaction of Corporate/Personal Insolvency - information sheet**

- AFSA Communications area have redrafted the information sheet into a form for public release and this has been provided to ASIC and ARITA. Feedback in the next week or so is being sought.
- An agreed release date is to be decided. The sheet will be launched by each agency separately.

### **AFSA's Personal insolvency practitioners' compliance report 2015-16**

- AFSA noted that this report will be released shortly (before Christmas)
- The highlights included a reduction in justified complaints against registered trustees, a reduction in Inspector-General reviews resulting in varied decisions, an increase in proactive reviews for s188/s73 meetings (from 3% to 6% this year).
- The report also highlights that the pre referral enquiries system for Enforcement matters has been embraced by practitioners.

### **Mental health working group**

- The working group has received a proposal from a NGO, Mental Health First Aid, for different levels of courses ranging from a two hour online session to formal two day tailored courses. This included production of a video for practitioners and stakeholders.
- Concerns of the working group include questioning the necessity of a two day course
- The working group will continue consideration of options. This will include the need for a video and potential cost sharing options.

### **Other business**

- Practitioner remuneration – the NSW appeal matter of Sakr was noted
- Senate public hearing into white collar crime – noted that submissions were made by AFSA, ARITA and ASIC. AFSA has been called to attend a committee hearing on 6 December. Submissions made are available at the Senate Committee's APH website  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/White\\_collar\\_crime/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/White_collar_crime/Submissions).

### **Next meeting**

- To be confirmed