

**Discussion points from the AFSA and ARITA liaison meeting
24 March 2017**

Trustee compliance monitoring

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

- AFSA noted that this report was published in December 2016.
- 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).

AFSA's Personal insolvency practitioners' compliance programme 2016-17

- AFSA's 2016/17 Insolvency practitioner compliance programme focuses on three target areas of compliance, two of which involve seeking information to assess the compliance of practitioners from stakeholders impacted in the insolvency process, ie without contacting practitioners directly.
- Survey results from contact with bankrupts, debtors and creditors will be analysed and reported upon towards the end of the financial year.

AFSA's Personal insolvency practitioners' compliance programme 2017-18

- We will soon be consulting with industry on the areas of focus for the practitioner compliance programme in 2017/18.
- Untrustworthy advisors, remuneration, compliance with ILRA 2016, independence and AFSA's guidance are likely to be ongoing focus areas. Development will be informed by feedback and analysis of surveys of bankrupts, debtors and creditors.

AFSA's new regulatory approach - national operating model

- AFSA is introducing a new national regulatory operating model from 1 July– that means that AFSA will distribute and monitor work at a national level, rather than geographically across sites. There will be further communication with practitioners about the changes. The likely main change from a practitioner's perspective will be that AFSA Regulation staff they interact with will be from states or regions other than the one where the practitioner is located.
- It will mean greater consistency in decision making, providing greater certainty and enhancing our reputation as an effective and risk based regulator.

Market conditions/industry intelligence

Statistics

- On 17 January 2017, AFSA released the personal insolvency statistics for the December 2016 quarter. Total personal insolvencies increased by 0.9% in the December quarter 2016 compared to the December quarter 2015. This rise was driven by increases in Western Australia (26.2%), Australian Capital Territory (14.8%) and Queensland (0.7%).

Practitioner remuneration

- The result in the NSW appeal matter of Sakr was noted.

Trustees realising strata title property

- Recent examples of trustees realising strata title property was noted by AFSA, where it has been noted that trustees had not complied with orders of the Federal Court fixing the Petitioning Creditor costs of the owner's corporation and paid costs in excess of that specified in the order. It has also been noted that the trustees engaging the solicitor for the owner's corporation to act on the conveyance had been done at excessive cost. An article will appear on this issues in the March 2017 edition of the Personal Insolvency Regulator newsletter.

Law reform/thought leadership initiatives

Insolvency law reform

- ARITA will have completed a national roadshow of ILRA 2016 overview sessions by the end of this month. Detailed training (intensive) on practical aspects of ILRA 2016 tranche 2 will be offered up to and beyond commencement of tranche 2 on 1 September 2017.
- ILRA drafting issues have been identified by ARITA (mainly in corporate area). These will be worked through with AGD and Treasury prior to commencement of tranche 2.
- It was noted the new form 35 is now available for ARITA to refer disciplinary matters to AFSA. This is available on the AFSA website at the link below.

<https://www.afsa.gov.au/insolvency/how-we-can-help/forms/form-35-notice-industry-body-possible-grounds-disciplinary-action>

- AFSA noted that AGD have commenced consultation in regard to proposed debt agreement reform.

Mental health working group (MHWG)

- The MHWG consists of representatives from AFSA, NAB, ASIC, ARITA, PIPA and ATO.
- The MHWG is in the process of finalising a training module/program, planned to be delivered by a Victorian-based not-for-profit organisation.
- The cost for development of an appropriate program is to be shared between key stakeholders – and then program material will be developed and published.

Education/CPD/guidance

Pre-insolvency advisors / Untrustworthy advisors

- An AFSA video is being produced. The aim of the video is to warn people of unregulated, unlicensed advisers who may target vulnerable people in times of financial crisis and pressure. This is being done as part of AFSA's strategic focus on independence and compliance with performance standards, outlined in our 2016-17

Compliance Program. The draft script of the video had been shared with ASIC and ARITA for their information. The video will be available in the near future.

Interaction of Corporate/Personal Insolvency - information sheet

- An agreed release date is to be decided. The sheet will be launched by each agency separately.

Translated videos to better support CALD clients

- AFSA has re-released five of our most popular videos in languages other than English. The videos, covering a range of topics on personal insolvency and the personal property securities system, are now available in Arabic, Farsi, Korean, Vietnamese, Cantonese and Mandarin. The videos are now available on AFSA's YouTube page (look for the YouTube icon at the bottom of our homepage – www.afsa.gov.au). Information on AFSA's other translated publications is available at: <https://www.afsa.gov.au/help-your-language>.

Next meeting

- 7 September 2017