



Legislative and regulatory update

The past few months have seen some interesting developments in legislative and regulatory requirements in the restructuring and insolvency world. We explore a number of them in this article.

SBEEA – reports on director conduct from 6 April

The Small Business, Enterprise and Employment Act 2015 (Commencement No 4), Transitional and Savings Provisions Regulations 2016 (SI 2016/321) were made on 9 March 2016.

Amongst other things, these regulations brings into force a new Section 7A of the Company Directors Disqualification Act 1986 (CDDA), which means that for insolvencies commencing after 6 April, office-holders will have **three** months to return their “D” Reports (from the date of commencement of the process), down from the current six months.

New bankruptcy adjudication regime for debtor petitions

The Enterprise and Regulatory Reform Act 2013 (Commencement No 9 and Savings Provisions) Order 2016 (SI 2016/191) brought into effect the provisions of Section 71 of that Act (in turn introducing a new Chapter A1 to Part 9 of the Insolvency Act 1986).

In summary, this new Part allows individual debtors to make an application for their bankruptcy using an online portal rather than a court petition. The fee for such applications is £130. Creditors’ bankruptcy petitions still have to be presented in court however.

European Commission pushing ahead with harmonisation of insolvency laws

Readers will be aware from previous bulletins that the mooted EC project to harmonise insolvency laws has been regarded as dormant, but not dead.

As predicted, on 23 March 2016 the EC launched a **consultation** seeking views on harmonised principles to ensure minimum standards are met by European insolvency regimes, ensuring the better cross-border functioning of insolvency. This was heralded earlier in March by the EC’s recent “Commission Impact Assessment” (2 March 2016) and “Capital Markets Union Action Plan” (30 September 2015) in which it announced its intention

to consult, on the basis that inconsistency of approaches to insolvency was hampering the functioning of capital markets.

This consultation runs until 14 June 2016, and the responses will identify which aspects of insolvency laws may be dealt with under a subsequent legislative project (also announced by the **Inception Impact Assessment**).

The **questionnaire** which should be filled in by respondents asks questions surrounding the measures to be taken to achieve a viable insolvency framework for the EU (and issues which currently obstruct the same) – for example enabling restructuring, increasing recoveries, discharge from debts. It also addresses factors affecting the functioning of the EU insolvency market (e.g. minimum standards in the definition of insolvency, priority of new financing and directors’ duties) and “second chance” proposals for debtors, and measures to increase recoveries in insolvencies.

Watch this space for further developments.

Consultation on revision of SIP 13

The ICAEW published a **consultation draft** of Statement of Insolvency Practice 13 (**SIP 13**) on 30 March 2016 with the intention of producing a fully revised version. SIP 13 provides guidance to IPs on disclosing to creditors the nature of transactions with companies by its directors.

Specifically, SIP has been widened to include transactions with **all** “connected parties” in both personal and corporate insolvency, not just directors in corporate insolvency.

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