

### **Registering and licensing of Insolvency Practitioners**

- All new Registered Liquidators should be personally interviewed and references interviewed as well.
- All Insolvency Practitioners (ie Liquidators, Bankruptcy Trustees and Debt Agreement Administrators) should apply every 3 years for the licence to be renewed, however, a copy of the Professional Indemnity insurance certificate to be provided yearly to the regulator. Insurance brokers should be placed under a positive reporting obligation if the policy is cancelled or not renewed after 30 days.
- The requirement to hold a valid Professional Indemnity insurance should have criminal sanctions.
- All Insolvency Practitioners should be members of either, the Institute of Chartered Accountants, CPA or National Institute of Accountants. Each professional association should have a **fidelity fund** (like the Law Society to cover fraud). Most Professional Indemnity insurance policies exclude fraud.

### **Single Regulator**

- A single regulator should be responsible for Insolvency Practitioners (rather than having ASIC and ITSA as separate regulators).
- The regulator should have a statutory obligation to investigate any serious complaints within 24 hours of the complaint being made. The complaint must be resolved within 28 days. If the complaint isn't resolved within 28 days it must be referred to an ombudsmen for future enquiries to be undertaken.
- The files of all Insolvency Practitioners should be reviewed at least every 3 years (if they have a low risk profile – risk profile to be assessed by the regulator after an initial review). For Insolvency Practitioners with a medium to high risk profile should be reviewed every 12 months and conditions may be placed in the Insolvency Practitioner's licence (ie no of liquidations/bankruptcy files per month or size of company which he or she may liquidate/administer etc)

### **Bankruptcy Act –v- Corporations Act**

- Both pieces of legislation should be reviewed & combined into one Act to ensure harmony.
- The United Kingdom for example has **one** Act dealing with personal and corporate insolvency.
- Combining both pieces of legislation in Australia would be ideal if we had **one insolvency regulator**.

### **Fees**

- Scale rates should be re-introduced for Registered Liquidators and Bankruptcy Trustees as was the case in the late 1990s. The IPA abolished the scale rates in late 1990s.
- Each staff member should have pre-requisite education and experience for each scale rate.
- Liquidators should have a streamlined method for seeking creditor fee approval (like the method under the Bankruptcy Act Section 64ZBA) which means a liquidator can obtain creditor approval without a physical creditors meeting. The approval is obtained by a postal vote which significantly reduces unnecessary fees being incurred.

### **Continuing Education**

- Current education requirements of **40 hours** per annum is onerous and should be reduced.

### **Ability to remove liquidators**

- Creditors currently have the ability to remove a liquidator at the 1st meeting of creditors (this applies to **Creditor Voluntary Liquidations** and **Voluntary Administrations**). In fact with

a ***Voluntary Administration*** creditors can replace the administrator with an alternate liquidator at the 2nd meeting of creditors (these current safe guards are adequate), ***however***, once the liquidation is on foot the creditors don't currently don't have the ability to call a meeting of creditors to remove the liquidator. This right does exist in the Bankruptcy Act.

### ***Receiverships***

- Receiverships should be abolished – there is no commercial or legal reason for duplicating insolvency processes which simply leads to a duplication of Insolvency Practitioner services. Please refer to the attached article published in the latest IPA journal.