THE DEBT RESOLUTION FORUM NEWS

DEBT RESOLUTION FORUM NEWSLETTER MARCH 2009

No doubt members have hardly had time to catch their breath since the start of January. Notwithstanding our hectic schedules, the DRF has continued to make progress on a number of fronts including pursuing affordable, pragmatic, and commercial regulation, fund raising, creating training and improving relationships with government and creditors.

We are pleased to update members on these initiatives as follows:-

Regulated DMP's Coming?

DRF have held meeting with the Ministry of Justice (MoJ), the Insolvency Service (IS), and the Office of Fair Trading (OFT) held on 23 February 2009. In summary the MOJ is shortly to recommence consultation on a regulated debt management plan (RDMP) jointly with IS. RDMP's will only be available through regulated providers and there is an opportunity for the DRF's standards and proposed inspection regime to form the basis for this.

- The MoJ will shortly recommence consultation on a regulated debt management plan (RDMP) and will do this in co-operation with the IS.
- The regulated debt management plan may include an automatic freeze on interest and charges (possibly becoming a viable alternative to the SIVA, but available from a wider range of providers – not just licensed insolvency practitioners).
- RDMP's will probably only be available through regulated providers – and there is an opportunity for the DRF's standards and proposed inspection regime (see below) to form the basis for this.
- It is likely that the OFT, the MoJ and the IS will all have views on who can propose and administer RDMP's and the standards they must work to – DRF will be integral to this process – and we will be robust in representing members interests.
- Before any of this comes to pass, the MoJ will be publishing guidelines for consumers entering existing DMP's – the DRF's standards appear to have been taken into account in the formulation of what is proposed, and we will continue to make representations.
- The OFT is working with DRF to bring our standards in line with the OFT code – and it is expected that this can be achieved in just a few months.
- The OFT has also, initially, reacted very favourably to our proposed regulatory regime, and the fact that we have chosen the Insolvency Practitioners' Association to implement this. We are going to work very closely with the OFT on this as they have indicated the possibility that, if our proposed regime is put in place as currently envisaged, then DRF members in good standing may not be required to undergo separate OFT inspections. We think this would have many benefits for members.
- The MoJ and IS are keen to have more information on DMP's and DRF has offered to help – expect to hear more from us shortly on this: members' help will be hugely welcomed.

There is much of relevance being considered by Government in our field and DRF will continue to develop our contacts with Westminster and Whitehall. These discussions will continue and will be vital to our industry's future. We have cordial relationships, but are not afraid to be robust in defence of members interests – we have considered a Judicial Review of the decision not to proceed with the SIVA and, whilst we have decided not to proceed with this in part on the basis of comfort we have received, the issues raised in correspondence with the Treasury Solicitor appear to have helped encourage the Insolvency Service to consider how the proposed RDMP should develop.

Consultation with Government (2)

Formation of the Consumer Finance Forum (CFF)

DRF Chairman, David Mond was invited by BERR to the founding meeting of the CFF held on 5 February 2009 to consider the issues effecting unsecured credit markets and the effect that the economic climate has had or is likely to have on borrowers plus possible solutions or next steps.

The CFF will be hosted by Gareth Thomas, Minister of State for Consumer Affairs and bring together key stakeholders from industry, consumer organisations and regulators to explore important issues.

The first meeting took place on the 5 February 2009 and the Minister requested participant's views on:

- issues affecting unsecured credit markets
- issues which are emerging, or are considered likely to emerge as a result of the current economicclimate, or issues which have been significantly exacerbated by the downturn
- why the issues raised are considered to be priorities, having regard to their strategic economic and social impact.
- possible solutions or next steps.
- likely challenges over the coming year.

The CFF is one of three groups reporting to the Lending Panel (The Lending Panel is made up of representatives of Government, loan providers, trade bodies, regulators, consumer groups and the Bank of England).The role of the Lending Panel is to coordinate discussions between HM Government and lenders on the UK's response to the impact of the downturn on both consumers and small business customers and on lenders themselves. **cont...**

THE DEBT RESOLUTION FORUM
Promoting Professional Standards

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The other strands are: the Small Business Finance Forum and the Housing Finance Forum.

One aim of the CFF will be to establish arrangements to monitor developments in consumer credit markets and levels of personal debt. It will also provide a forum for informing and agreeing the CFF response to emerging issues facing borrowers in the downturn and promoting best practice for dealing with and supporting borrowers in difficulty.

The follow up meeting is on the 18 March 2009 and a report of that meeting will be included in the next Newsletter to members.

Regulation through the IPA

Following many months of discussion and fine tuning, the DRF and IPA have come up with a regulatory format which we think members will be pleased with.

Each member will be subject to a full inspection during the first year and a half of the program (July 2009 to December 2010), which will be used as a basis for determining that the member complies with the DRF standards.

There will be further short inspections in 2011 and 2012 to provide continuing assurance of member's compliance with DRF standards.

Full inspections will take three days on site, with one day for pre-inspection preparation including reviewing of the member's management and related information and a further one day for report writing. These inspections will include call listening, reviewing sample cases covering a range of solutions and looking at complaints made and how these have been dealt with. The report will be submitted to DRF within 10 days of the site visit.

Short inspections are expected to take one day, with again the member providing pre-inspection management information.

Inspections will take account of reports prepared by any recognised professional body in relation to IPs working in the member's operations; and reports prepared by any other regulatory body.

Additional inspections may also be directed where there are concerns about a member's practices or are raised by a complaint or as a follow up to full or short inspections.

The fact that we are proposing a robust regulatory regime has gone down extremely well with government and creditors and, we believe, will play an important part in creating the trust between interest groups that will be necessary as the debt resolution industry, and DMPs in particular, comes under closer scrutiny in the months and years ahead.

To perform the regulatory function properly will, of course require significant resources. The DRF believes the best way of providing funding will be to make a small levy on each IVA and DMP put in place by our members. This will ensure member's contributions to the costs of the regulatory process are proportionate to the size of the organisation concerned

Grants obtained by DRF

We are pleased to report that The Barbican Settlement has awarded us with two further grants totalling £72,000 in continuing support of the roll out of our Training and Education initiative.

Btec in Debt Resolution and grants available

Many of our members have been making separate enquiries about funding for the Btec with varying degrees of success. In Yorkshire, for example, there is the "Enhancement Fund": This can pay up to 60% of training costs but this only applies to Yorkshire post codes.

Tim Hattersley (DSW who provide training for DRF members) and Bev Budsworth are currently working on a paper for presentation to the Skills Council for the Btec to be funded.

HMRC Approval

If you are asking your employees to fund or co-fund the qualification you may want to do this via salary sacrifice – this means you will pay for the qualification as a firm but then recover the cost via the employee's payroll. If you write to the HMRC, because it is a qualification relevant and necessary to their job, they may well allow the deduction to be taken from gross pay and therefore attract tax relief and no national insurance (employer or employee) –this may represent a significant saving on the £175+VAT per module.

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Training Support

As you know DSW are contracted to provide our training on a national scale – (see the qualification brochure) –They have registered the qualification and training support with the UK Register of Learning Providers. DSW will provide any additional training /qualification details you may need. Tim Hattersley is happy to meet member firms to help with funding ideas and planning the inclusion of the qualification into learning and development/HR plans. Tim can be contacted via Mike Pawley at mp@dsw.uk.net 01302 760 008

TDX and HBOS – questions and answers for the industry

TDX Group's Debt Management Exchange (DMX) will shortly manage Debt Management Plans on behalf of HBOS; we asked Martin Prigent of TDX some key questions about this new development:

What does DMX offer the Creditor?

DMX is an outsourced business process to handle, for creditors, large volumes of debt management plans. Enabling creditors to focus their internal resources on other activities, DMX will also provide creditors with management information and analysis on DMPs so that they can better understand this debt solution.

Will Creditor policies change with DMX?

HBOS policies remain unchanged with the launch of DMX. However, the service will allow an individual approach for each creditor and future clients will state their policies when they join DMX.

How will DMX affect the Creditor views of the DMP industry?

DMX will, for the first time, offer creditors an holistic and balanced view of DMPs from all types of provider. DMX will capture and present the value of DMPs in terms of forecast returns and actual lifecycle performance. This will enable the creditor to better understand the dynamics and value of DMPs.

What is the DMX intention around DMP fees?

DMX has no plans to target debt management companies' fees. TDX Group believes the debt management industry is transparent and competitive. Fees have not been raised as an area of concern by creditors. DMX will provide more visibility of DMPs via data capture of proposals. This will include fees as well as other critical elements of the plan.

Is TDX Group looking to set up a DMP business itself?

No. TDX Group is a creditor servicing organisation and has no intention of starting up a debt management business.

Contact details:
If you need to contact DMX, please call Martin Prigent on 07917 688 334

IVA Standing Committee Report

Your Chairman attended the meeting of the Committee held on the 22 January 2009 where numerous issues were discussed particularly fees.

- Between 60 – 80% of IVAs are now Protocol-compliant
- Smaller firms are unhappy that they are not able to undertake as many IVAs as they would like because the fees that creditors are prepared to accept are too low
- The nominee fee is one of the items which has been referred to the technical sub-committee (see our comments below)
- Concern was expressed regarding some of the creditor agents, and it was felt that it might be useful for the liaison group to meet them to seek to understand their position
- Inappropriate Charging Order action by some creditors – OFT very interested
- Creditor liaison group have met representatives of HSBC and MBNA who have confirmed full support for the Protocol
- Technical sub Committee working on amendments to equity clause and redrafting some elements of the actual Protocol
- Insolvency Service to start amending their Web page on IVA's

The fee issues on IVA's continue to rumble on as the credit crunch causes failures of existing IVA's which require careful nurturing and, in many instances, variations to allow payment holidays so debtors can again find jobs.

Creditors and their representatives use a model of "one size fits all" – in terms of seeking to cap nominee's fees which range from £650 to £2,500 (depending on which creditor has the majority vote). Supervisor's fees are generally set at 15% of realisations (sometimes with an overall cap). This policy also seems to apply to trader IVA's which conform to protocol but where IP's do have a greater degree of responsibility in terms of checking on self assessment returns and payment of tax.

The model also fails to take into account separate but interlocking IVA's where, for example, the KPMG fee requirement is that the Supervisor's fee is 15% of realisations. In essence you have two IVA's which you have to administer for just 15% of the total realisations, notwithstanding that you have separate compliance to undertake on each case.

The DRF is liaising with the Insolvency Service, RPB's and R3 who are concerned that more and more IP practices are turning their backs on the IVA solution. Whilst it is right that members need to drive through efficiencies so that they can deliver IVA's at a reasonable cost, we believe it is unacceptable that IP's are effectively required to fund IVA's. Ultimately this will mean that some debtors could become financially excluded from what might be the most appropriate solution to their problems.

The DRF, as well as the RPB's and R3 will not cease to actively campaign for more leeway on fees and we will keep members appraised of progress.

Announcements

We are delighted to announce that Derek Oakley of Debt Free Direct PLC has recently joined the DRF Board.

Ian Holland has now resigned from the DRF Board and his place has been taken by Jon Bartman of Money Debt & Credit