



Australian Government

Australian Financial Security Authority

**AUSTRALIAN FINANCIAL
SECURITY AUTHORITY
PERSONAL INSOLVENCY
PRACTITIONERS
COMPLIANCE REPORT
2012-13**

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Reader's note

The Insolvency and Trustee Service Australia (ITSA) was renamed on 5 August 2013, under Executive Order, to the Australian Financial Security Authority (AFSA), commencing 15 August 2013. However, as the name change occurred after the 2012–13 reporting period, the former name is used throughout this report, except where referring to activities beyond the 2012–13 reporting period or where contact details are provided.

To improve our capacity to deliver enhanced data products to stakeholders, ITSA started building a new data warehouse in 2012–13.

This process involved a review of how ITSA (now AFSA) captures and presents data and some changes to reporting rules based on best practice principles. As a result, there were some variations to information presented in the 2012–13 ITSA Annual Report compared to the previous year.

Introduction

The regulatory responsibilities of the Inspector-General in Bankruptcy, as set out in the Bankruptcy Act, aim to ensure high national standards of personal insolvency practice and procedure. Additionally AFSA is responsible for investigating alleged offences under the *Bankruptcy Act 1966* and specified sections of the *Criminal Code Act 1995*. Enforcement strategies include encouraging individuals to comply with the *Bankruptcy Act 1966* and, when necessary, forwarding briefs of evidence to the Commonwealth Director of Public Prosecutions (CDPP).

These regulation and enforcement activities are integral in fulfilling our purpose to:

“Provide improved and equitable financial outcomes for consumers, business and the community through application of bankruptcy and personal property securities law, regulation of personal insolvency practitioners and trustee services.”

Purpose of this report

We are committed to continuously improving the transparency with which we report on our regulatory outcomes and the performance of private personal insolvency practitioners. We believe it is important that all stakeholders affected by insolvency and the profession itself are provided with timely and relevant data and analysis in the interests of continuous improvement.

This publication reports on the performance of private personal insolvency practitioners during 2012–13 highlighting significant regulatory outcomes achieved in the public interest. This information expands on that contained in the ITSA annual report published on 4 November 2013 and provides stakeholders with improved qualitative data. It also complements the range of statistics published by AFSA and summarises significant regulatory outcomes as highlighted in the Personal Insolvency Regulator Newsletter editions throughout 2012–13.

We trust all AFSA stakeholders will find this report of use. All feedback is welcome at any time by email to registrations.officer@afsa.gov.au or statistics@afsa.gov.au.

Audience

The Personal Insolvency Practitioners Compliance Report 2012–13 (the Report) is of interest and relevance to all AFSA stakeholders but will particularly appeal to:

- Private Personal Insolvency Practitioners (PIP)*;
- Representative professional bodies (ARITA¹, PIPA², CPA³ and ICAA⁴);
- Financial Counsellors and representative associations;
- Major creditors and representative associations;
- Lawyers practising or interested in insolvency;
- Regulatory bodies in Australia and Overseas⁵; and
- Academics.

*Note in the context of this report, PIPs includes registered trustees (RTs), registered debt agreement administrators (RDAAAs) and unregistered debt agreement administrators (UDAAAs).

Scope of this report

Inclusions

The report includes data on the performance of PIPs from a compliance perspective including significant regulatory outcomes during the period 1 July 2012 to 30 June 2013 based on ITSA's strategic focus areas.

We have rounded information in this report to whole numbers using standard rounding conventions. For this reason, percentages cited in tables may not always add to 100%.

The report also includes additional qualitative data that supplements statistical information published in ITSA's 2012–13 Annual Report.

Exclusions

The report excludes detailed data and analysis on the performance of PIPs during the period(s) before 1 July 2012. This information is available from ITSA's 2011–12 Annual Report and all preceding years. Please note summary data for the five (5) years prior to 30 June 2013 is shown in **Annexure B** for comparative purposes and to provide useful context.

The report also excludes detailed data on the realisation and distribution of funds in administrations by PIPs. This information is available from ITSA's 2012–13 Annual Report and the publication *Selected Statistics on Personal Insolvency* published in October 2013.

ITSA Insolvency Practitioner Compliance Strategy 2012–13

ITSA's 2012–13 Insolvency Practitioner Compliance Strategy (**Annexure A**) delivered a structured compliance program across each of the eight (8) core roles that make up ITSA's regulatory and enforcement function. This report is an assessment of private practitioner performance together with our performance as measured against that strategy.

¹ Australian Restructuring Insolvency & Turnaround Association (www.arita.com.au)

² Personal Insolvency Professionals Association (www.pipa.net.au)

³ CPA Australia (www.cpaaustralia.com.au)

⁴ Institute of Chartered Accountants Australia (www.charteredaccountants.com.au)

⁵ For example, International Association of Insolvency Regulators (www.insolvencyreg.org)

Executive Summary 2012–13

By the major outcomes

-  Six (6) voluntary PIP de-registrations following regulatory intervention and commencement of disciplinary action for systemic breaches of PIP duties.
-  Facilitating payment of overcharged fee amounts by PIPs back into personal insolvency administrations for distribution to creditors or paid as a surplus to discharged bankrupts.
-  Re-establishing or facilitating better and earlier engagement between creditors and PIPs – particularly in relation to the payment of dividends and responding to reasonable requests for information.
-  Overseeing improvements in PIPs systems and controls – particularly in the area of disclosure and independence.
-  Re-establishing or facilitating better and earlier engagement between bankrupts/debtors and PIPs – particularly in relation to responding to reasonable requests for information.
-  Systemic areas of non-compliance identified that gave rise to providing industry guidance in the form of Personal Insolvency Regulator newsletter articles and or Inspector-General Practice Directions.
-  Targeted proactive exercise in relation to RDAA advertising resulting in RDAAs being contacted to remove or correct unbalanced or misleading advertising.
-  Publication of Inspector-General Practice Direction 22 on “Effective Practitioner Communication” to address the highest inspection error and justified complaint figure in recent years.

Executive Summary 2012–13

By the numbers

-  **268 Registered PIPs as at 30 June 2013, 205 RTs and 63 RDAAs**
 - 15 Applications received from prospective PIPs wanting to become registered, 14 of which were successful.
 - 12 PIPs de-registered, 6 as result of proactive disciplinary action having commenced.
-  **598 Personal insolvency administrations physically inspected**
 - 175 Errors or issues identified in the 598 inspections.
-  **33 RDAA website advertisements monitored**
 - 12 RDAAs contacted to remove or correct misleading or imbalanced advertising.
-  **66 Section 153A annulment estates reviewed for instances of trustee overcharging**
 - 8 Of the 66 section 153A annulment estates further investigated with 3 resulting in a reduction of trustee's fees.
-  **553 Part X and section 73 proposals reviewed**
 - 89 Of the 553 Part X and section 73 proposals reviewed, 89 creditors meetings attended.
 - 44 Of the 553 Part X and section 73 proposals reviewed, 44 cases of proactive regulatory intervention to oversee necessary corrective action.
-  **505 Complaints received about PIPs**
 - 42 Of the 505 complaints received, 42 considered justified.
-  **137 Requests received for Inspector-General review of trustee decisions**
 - 30 Of the 137 Inspector-General reviews received, 30 were determined either cancelling or varying the trustee decision.
-  **266 Bankruptcy Act offence referrals received from PIPs**
 - 139 Of the 266 offence referrals received, 139 were accepted for further investigation.
-  **121 Infringement notices issued to PIPs, petitioning creditors & executors**
 - 53 Of the 121 infringement notices issued, 53 were issued to RTs.
-  **4 Personal Insolvency Regulator Newsletter editions published**
-  **500 PIPs and their staff that attended ITSA facilitated information sessions and forums**

AFSA's Regulatory and Enforcement functions – 8 core roles

How we go about what we do

1. Registration

At the heart of all good regulatory regimes is an entry level process that balances encouraging entry by suitable new applicants in the interests of competition and economic growth while also protecting stakeholders by not allowing entry into the system those that are deemed unsuitable to be registered.

AFSA is responsible for registering only suitably qualified persons to practice as trustees (RTs) and debt agreement administrators (RDAAs).

For further information the registration process for RTs is detailed in Inspector-General Practice Statement 13 and for RDAAs in Inspector-General Practice Statement 4. Both documents are available on AFSA's website.

2. Inspections

If an applicant for registration is successful, the PIP then becomes part of the personal insolvency industry and is able to take appointments to administer personal insolvency administrations. On occasion this may be subject to any conditions that have been imposed in granting registration. Every private registered practitioner is given a risk rating which informs us how often and to what extent that practitioner will be subject to a physical inspection.

AFSA is responsible for reviewing the standards of RTs and RDAAs through a targeted program of inspecting files, systems and practices.

Further information on the inspection process for RTs and RDAAs is detailed in Inspector-General Practice Statement 11, available on AFSA's website.

3. Proactive monitoring

One of our regulatory tools is to proactively monitor administrations to identify those with certain traits that may represent a higher degree of risk and complexity. AFSA proactively monitors:

- Solicitor controlling trustees (SCTs) and unregistered debt agreement administrators (UDAAs) to assess their ongoing eligibility to act;
- RDAA advertising to ensure compliance with Inspector-General Practice Guideline 1 and the PIPA Code of Professional Conduct; and
- Creditors' meetings convened to consider Personal Insolvency Agreement (PIA) and Composition proposals.

In 2012–13 targeted exercises were undertaken in relation to:

- (i) section 153A annulments to identify and remedy cases of overcharging; and
- (ii) pre-insolvency advisors appearing to be adversely influencing registered practitioner performance.

Further information on the proactive monitoring process for RTs, RDAAs and SCTs is detailed in Inspector-General Practice Statement 11 and Inspector-General Practice Guideline 1, both available on AFSA's website.

4. Guidance

As the regulator of the profession, AFSA has a role in providing practical guidance to the industry. We do this in a number of different ways in the interests of promoting best practice. These include:

- Offering information sessions to PIPs on topical technical areas of interest;
- Facilitating forums between representatives from major creditors and practitioners;
- Quarterly publication of the Personal Insolvency Regulator newsletter; and
- Providing practice direction in the form of Inspector-General Practice Directions, Inspector-General Practice Statements and Inspector-General Practice Guidelines.

5. Complaints

AFSA is responsible for investigating complaints made by debtors and creditors about the conduct of PIPs. Our outcome focus is centred on early intervention and dispute resolution.

The complaints handling process for RTs and RDAs is detailed in Inspector-General Practice Statement 10.

6. Inspector-General Reviews

AFSA is responsible for reviewing decisions made by RTs including:

- Filing an objection to a bankrupt's discharge from bankruptcy;
- Assessing a bankrupt's income and liability to pay compulsory contributions;
- Refusing a bankrupt's hardship application to pay compulsory contributions;
- Imposing a Supervised Account to collect compulsory income contributions; and
- Claiming remuneration.

Again our outcome focus is centred on early intervention and dispute resolution.

Further information on the process of Inspector-General reviews is detailed in Inspector-General Practice Statements 12, 15 and 16, all of which are available on AFSA's website.

7. Disciplinary action

An important aspect of AFSA's ongoing strategic focus is forging productive working relationships with all stakeholders. This includes sharing information/intelligence to identify and address problematic systemic issues through early intervention. This is done in conjunction with private practitioners wherever possible.

Where necessary AFSA takes disciplinary action (and applies relevant sanctions) against PIPs who do not comply with their duties under the *Bankruptcy Act 1966*. Outcomes are published by way of media release where possible.

Further information on the disciplinary process for RTs and RDAs is detailed in Inspector-General Practice Statements 8 and 9 respectively, both of which are available on AFSA's website.

8. Investigate offences against the Bankruptcy Act and prosecute if appropriate

AFSA is responsible for the assessment and investigation of alleged offence referrals received from PIPs.

Where appropriate investigations are referred to the Commonwealth Director of Public Prosecutions (CDPP) for prosecution. Outcomes are published by way of media release where possible.

Further information on the offence investigation process is detailed in Inspector-General Practice Statements 14 and 18, both of which are available on AFSA's website.

Inspector-General Practice Statements (IGPS) are available on our website and explain how we go about what we do.

Performance on core Regulatory and Enforcement activities

Introduction

Please note the data shown in this report is limited to the 2012–13 financial year.

For immediate comparative purposes, this data is compared to average annual mean figures over the five (5) year period from 1 July 2008 to 30 June 2013 (Annexure B). While some qualitative contextual text is provided in this report, comparisons to previous ITSA Annual Reports will provide the greatest amount of relativity to this data. ITSA Annual Reports from 2010–11 are available on the AFSA website. Previous annual reports are available on request by emailing statistics@afsa.gov.au.

Registrations

As at 30 June 2013, there were 268 PIPs in Australia.

Those 268 PIPs comprised 205 RTs and 63 RDAAs.

During 2012–13 these 268 PIPs received and held on trust a total of \$497.46 million, finalised 10,759 personal insolvency administrations and had 56,700 administrations on hand on 30 June 2013.^{*6}

Of the \$497.46 million received by PIPs, \$192.7 million or 39% was paid in dividends to creditors while \$122.43 million or 25% was paid in PIP fees.

By way of comparison, 5 years ago, as at 30 June 2008, there were 247 PIPs in Australia made up of 206 RTs and 41 RDAAs. At that time they received and held \$249.12m on trust, finalised 4,524 personal insolvency administrations and had 32,674 administrations on hand. Of the \$249.12 million received by PIPs during 2007–08, \$91.6 million or 37% was paid in dividends to creditors while \$58.6 million or 24% was paid in PIP fees.

It is noteworthy that in the five years from 30 June 2008 to 30 June 2013 the number of personal insolvency administrations administered and the dollar value of monies held by PIPs has almost doubled. This has happened at a time that the number of RTs have remained steady while RDAAs numbers have experienced significant growth.

New entrants to the market

Registered trustees

ITSA received 12 new trustee applications for registration in 2012–13 of which 11 (92%) were accepted.

In the five years from 1 July 2008 to 30 June 2013, ITSA received an average of 9.6 applications per annum from people seeking to be a registered trustee.

⁶ During 2012–13, the Official Trustee in Bankruptcy held on trust a total of \$35.47million, finalised 20,200 personal insolvency administrations and had 6,068 administrations on hand on 30 June 2013, making it the single largest trustee.

Table 1: Number of RT registrations in 2012–13

State or Territory	Number of RTs at 1 July 2012	Number of Applications Received	Number of Applications Accepted	Number of Applications Rejected	Number of RTs Deregistered*	Number of RTs at 30 June 2013
NSW	58	5	5	0	4	59
ACT	5	0	0	0	0	5
Vic	44	3	2	1	1	45
Qld	51	4	4	0	6	49
SA	16	0	0	0	0	16
NT	1	0	0	0	0	1
WA	23	0	0	0	0	23
Tas	7	0	0	0	0	7
Total	205	12	11	1	11	205

* Includes voluntarily and involuntarily deregistered.

Registered debt agreement administrators

ITSA received three new administrator applications for registration in 2012–13, all of which were accepted.

In the five years from 1 July 2008 to 30 June 2013, ITSA received an average of 8.2 applications per annum from people and companies wishing to be registered as RDAAs.

Table 2: Number of RDAA registrations in 2012–13

State or Territory	Number of RDAAs at 1 July 2012	Number of Applications Received	Number of Applications Accepted	Number of Applications Rejected	Number of RDAAs Deregistered*	Number of RDAAs at 30 June 2013
NSW	17	0	0	0	1	16
ACT	0	0	0	0	0	0
Vic	8	0	0	0	0	8
Qld	27	2	2	0	0	29
SA	3	0	0	0	0	3
NT	0	0	0	0	0	0
WA	4	1	1	0	0	5
Tas	2	0	0	0	0	2
Total	61	3	3	0	1	63

* Includes voluntarily and involuntarily deregistered.

Registration renewals and professional indemnity insurance

In 2012–13, ITSA continued its proactive practice of verifying relevant PIP details to ensure only suitably qualified and eligible persons and entities registration are renewed for a further three (3) year period. This included annual certificate of currency checks to validate professional indemnity insurance policies held by RTs in their individual capacity.

Further information on practitioner registrations is available from the ITSA annual report.

Inspections

In 2012–13, ITSA physically inspected 132 PIPs and the systems and controls that govern their personal insolvency practice. As a part of this process, 598 personal insolvency administrations were reviewed with 175 errors or issues requiring rectification identified. This represents errors or issues arising in 29% of the total administrations inspected.

In the five years from 1 July 2008 to 30 June 2013, ITSA identified errors in 34% of the total personal insolvency administrations inspected (Annexure B).

Registered trustees

ITSA inspected 87 RTs and 344 of their administrations in 2012–13 of which 152 (44%) were found to have errors.

Table 3: RT inspections in 2012–13

RT Inspections	Total
Number of trustees inspected	87
Number of administrations inspected	344
Number of errors identified	152
Number of administrations without errors	192
Proportion of administrations without errors (%)	56%
Number of instances of remedial action	21
Proportion of instances of remedial action (%)	14%

Of the total number of RT errors found the highest number (80%) were Category C errors. These are defined in Inspector-General Practice Statement 11 (para 2.27 p7) as one-off practice or procedural errors and non-compliance errors that are not systemic and don't have a significant impact on the administration, dividends, creditors, debtors' rights or system integrity but should be brought to the attention of the practitioner and monitored.

Table 4: RT errors by category in 2012–13

RT errors	Category of error			Total
	A	B	C	
Number of errors	12	19	121	152
Proportion of errors (%)	8%	13%	80%	100%

The highest area of RT non-compliance resulted from errors relating to inadequate communication (29%). To address ongoing RT non-compliance in this area ITSA released Inspector-General Practice Direction 22 on effective practitioner communication in July 2012.

Table 5: RT non-compliance in 2012–13

RT Non-Compliance Areas	Number of errors	Proportion of errors (%)
Inadequate communication by trustee	44	29%
Failure to meet trustee/controlling trustee standards	22	14%
Unreasonable delays in timely action leading to delays in distribution	17	11%
Property, income or asset errors	15	10%
Creditors claims not properly dealt with	14	9%
Failure to maintain proper records	12	8%
Commonwealth Revenue implications	8	5%
Overcharging or over servicing	6	4%
Problems with meetings	6	4%
Defalcation or unlawful activities	5	3%
Failure to refer possible material offence	3	2%
Conflict of interest	0	0%
Other	0	0%
Total	152	100%

Registered debt agreement administrators

ITSA inspected 38 RDAs and 7 unregistered debt agreement administrators (UDAs) and 254 of their administrations in 2012–13 of which 23 (9%) were found to have errors.

Table 6: RDAA/UDAA inspections in 2012–13

RDAA/UDAA Inspections	Total
Number of RDAs inspected	38
Number of UDAs inspected	7
Number of administrations inspected	254
Numbers of errors	23
Number of instances of remedial action	3
Proportion of instances of remedial action (%)	13%

Of the total number of RDAA errors found the highest number (74%) were Category C errors.

Table 7: RDAA errors by category in 2012–13

RDAA error	Category of error			Total
	A	B	C	
Number of errors	1	5	17	23
Proportion of errors (%)	4%	22%	74%	100%

The highest area of RDAA non-compliance resulted from errors relating to failure to comply with certification requirements (30%). This area of RDAA non-compliance was raised along with other issues at the joint RDAA and major creditor forum hosted by ITSA in June 2013.

Table 8: RDAA non-compliance areas in 2012–13

RDAA Non-Compliance Areas	Number of errors	Proportion of errors (%)
Failure to comply with certification duties: provision of prescribed information, affordability, accuracy and completeness	7	30%
Failure to maintain proper records	3	13%
Unreasonable delays in timely action leading to delays in distribution	2	9%
Remuneration and expenses not taken in accordance with provisions of debt agreement	2	9%
Inadequate administration of the debt agreement	2	9%
Inadequate communication by RDAA	2	9%
Failure to notify creditors of 3 months arrears default	2	9%
Commonwealth Revenue implications	1	4%
Creditors claims not properly dealt with	1	4%
Other	1	4%
Defalcation or unlawful activities	0	0%
Failure to notify Official Receiver of dates to maintain NPII	0	0%
Conflict of interest	0	0%
Total	23	100%

The major outcomes achieved from AFSA's annual inspection process in 2012–13 include:

- Overseeing improvements in PIPs systems and controls, particularly in the area of disclosure and independence. This includes improvements to PIP checklists and precedents and one (1) case of an RT agreeing to recruit an extra staff member to improve workflow and outputs in a timely manner;
- Identifying specific instances of PIP overcharging or over-servicing in personal insolvency administration and facilitating repayment of overcharged amounts into the relevant administration;
- Ongoing supervision of a PIP's work by a nominated insolvency professional association member;
- Security taken over the private property of a former PIP to recover losses for the benefit of creditors and bankrupts/debtors;
- Negotiated undertaking by a PIP not to accept appointments of a certain type, nature and/or complexity beyond the PIPs capacity to administer them efficiently and effectively;
- Facilitating better and earlier engagement between creditors and PIPs including payment of dividends and responding to reasonable requests for information in a timely manner;
- Facilitating better and earlier engagement between debtors/bankrupts and PIPs including responding to reasonable requests for information in a timely manner;
- Systemic areas of non-compliance that gave rise to the need for disciplinary action and in six (6) cases resulted in loss of registration for the PIP; and
- Systemic areas of non-compliance identified that gave rise to providing industry guidance in the form of Personal Insolvency Regulator newsletter articles and or Inspector-General Practice Directions.

Proactive monitoring

Ongoing eligibility checks

ITSA completed a biennial review of the continuing eligibility of SCTs and UDAs during 2012–13, which resulted in one UDA being declared ineligible. For further information, please read the [disciplinary action](#) section.

RDAAs advertising

ITSA reviewed advertising of 33 RDAAs during 2012–13 of which 12 (36%) were contacted to correct and/or remove content which was found not to comply with Inspector-General Practice Guideline 1 (IGPG 1).

Table 9: RDAAs advertising in 2012–13

RDAAs Advertising	2012–13
RDAAs contacted to remove/correct advertisements	12
Total RDAAs advertisements reviewed	33
Proportion of RDAAs contacted to remove/correct advertisements (%)	36%

The most common issues of concern were:

- use of the term ‘Government guaranteed’ or ‘Government Debt Agreement’;
- referring to or describing debt agreements as “debt consolidation loans”;
- unbalanced advertising ie not clearly stating the negative consequences of entering a debt agreement along with the benefits; and
- stating that a debt agreement makes it ‘easier to borrow money in the future’ and has ‘less affect on your credit rating.’

Inspector-General Practice Guidelines (IGPGs) are available on our website and explain the Inspector-General’s position on areas of indirect or direct interest to the personal insolvency industry about which the Inspector-General has no direct regulatory or statutory power.

Further information is available from the Personal Insolvency Regulator newsletter (Volume 11 Issue 1, May 2013, p21).

Part X and section 73 proposals

ITSA reviewed 553 Part X and s73 proposals of the 675 received (82%) and attended 89 creditors’ meetings during 2012–13.

Table 10: Monitoring of Part X and s73 proposals meetings in 2012–13

Monitoring of Part X and s73 Proposals/Meetings	2012–13
Number of Part X and s73 proposals received	675
Number of Part X and s73 proposals reviewed	553
Proportion of Part X and s73 proposals reviewed (%)	82%
Number of meetings attended	89
Number of instances of intervention/corrective action	44
Proportion of instances of intervention/corrective action (%)	8%

Of the total proposals reviewed by ITSA, 44 (8%) involved intervention due to RTs failing to properly report or conduct enquiries and the incorrect treatment of creditors’ claims.

The major outcomes achieved from AFSA’s intervention include ensuring specific remedial action required by RTs such as:

- Issuing further reports to creditors to increase the quality of information they receive;
- Correcting deficient meeting procedures and/or;
- Adjourning meetings (in some cases) to conduct investigations.

In the five years from 1 July 2008 to 30 June 2013, ITSA proactively intervened in 4% of the total Part X and section 73 proposals reviewed.

Pre-insolvency advisors

In 2012–13 a targeted exercise was undertaken to monitor RTs that had established a working relationship with certain pre-insolvency advisors – and where the work referred to RTs from those pre-insolvency advisors appeared to be adversely influencing RT performance.

The issue stemmed from incomplete reporting by RTs and a lack of material investigations before proposing section 73 compositions soon after the date of bankruptcy, with some proposals offering little or no return to creditors.

ITSA scrutinised these proposals and attended creditors meetings where necessary. If appropriate ITSA requested creditors meeting be adjourned and supplementary material provided to creditors so that informed decisions could be made.

As a result of ITSA's increased regulatory presence the performance of affected RTs improved to a satisfactory standard and one particular pre-insolvency advisor elected to no longer be active in referring personal insolvency matters to RTs.

Trustee remuneration

As part of ITSA's ongoing approach to proactive regulation, in 2012–13 a targeted exercise was undertaken to review a sample of administrations that were annulled in 2011–12 pursuant to section 153A of the Bankruptcy Act. These are effectively solvent estates where the debtor has become bankrupt, quite regularly due to a breakdown in communication with a single or small group of creditors. The majority have debts that are relatively small (less than \$20 000). The regulatory focus was on ensuring the principles espoused in paragraph 2.13 of Division 2.4 of the [Schedule 4A Trustee Performance Standards](#) and paragraphs 23–27 of Inspector-General Practice Direction 6 and the relevant case law have been followed by trustees.

In 2011–12, there were 333 section 153A annulments, of which 204 were administered by RTs. RTs were written to across a sample involving 66 of these 204 estates in order to obtain a copy of their work in progress and receipts and payments.

The regulatory purpose was to investigate the administrations to ensure only necessary time was incurred and that the section 153A annulment outcome was achieved by the trustee as expeditiously as possible.

As a result of these investigations, ITSA investigated eight matters and oversaw the reduction in trustees' fees in three of the 66 estates sampled.

Guidance

ITSA provided guidance to PIPs during 2012–13 through a number of different media.

Personal Insolvency Regulator newsletter

Four issues of the PIR were published in 2012–13 including a special edition on New Zealand Insolvency Trustee Service (NZITS) statistics and trends:

- PIR Volume 10 Issue 3 (Jul 2012)
- PIR NZ Statistics and Trends (Aug 2012)
- PIR Volume 10 Issue 4 (Dec 2012)
- PIR Volume 11 Issue 1 (May 2013)

Inspector-General Practice Direction 22 – Effective communication

As noted previously in the text under Table 4, in response to the highest PIP inspection error finding and justified complaint figures in recent years, ITSA released industry guidance in the form of Inspector-General Practice Direction 22 (IGPD 22) in July 2012 on effective communication.

RDAAs Professional Development Day

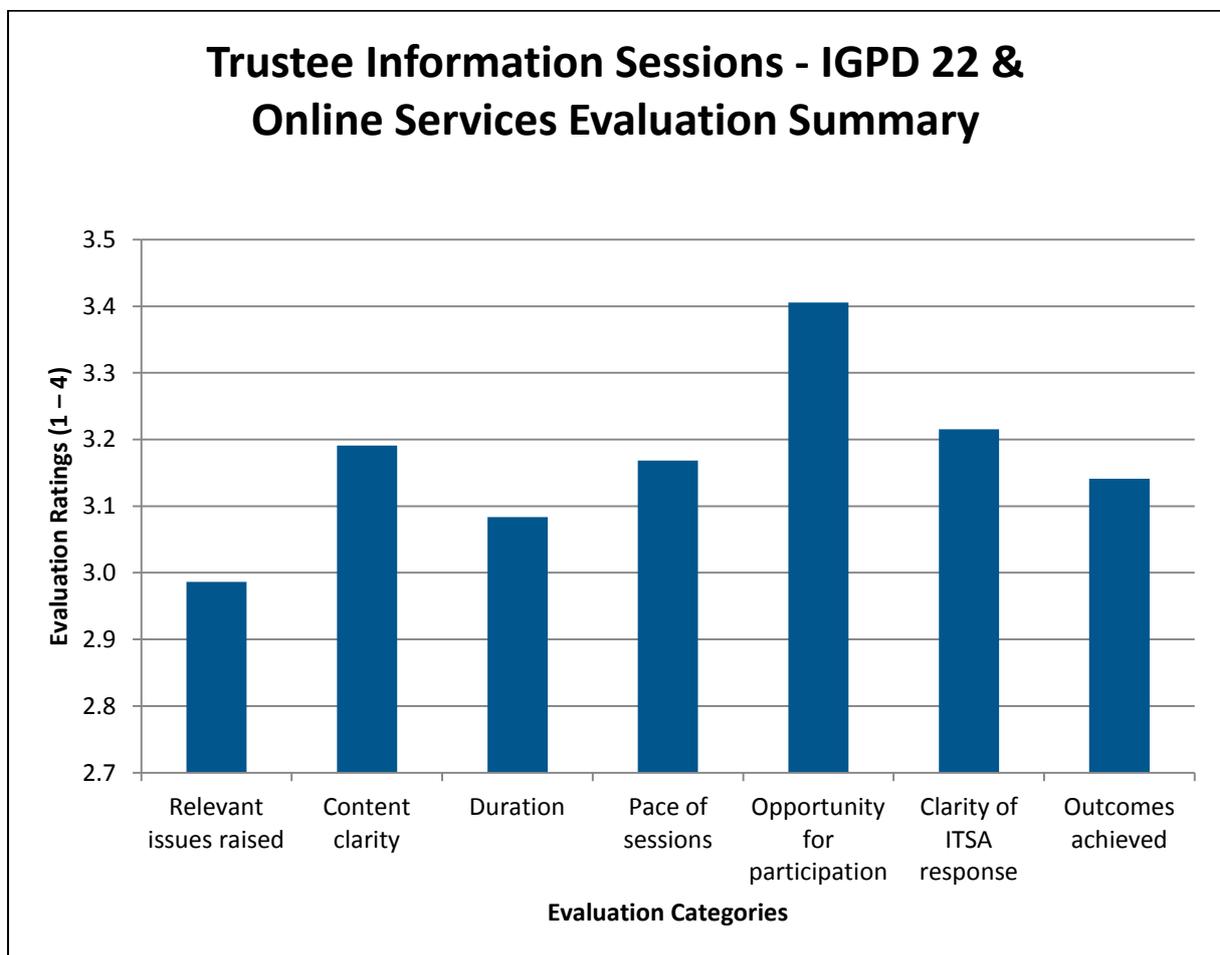
In October 2012, ITSA facilitated the annual RDAAs Professional Development Day in Brisbane. This day was a great success enabling RDAAAs and their senior staff to interact and discuss specific case studies which highlight and address current debt agreement practice/law issues.

Trustee Information sessions

IGPD 22 was the subject of information sessions delivered to RTs and their staff during February and March 2013 around the country. Over 450 people across Brisbane, Gold Coast, Townsville, Cairns, Sydney, Canberra, Melbourne, Hobart, Adelaide and Perth attended. A summary of attendees completed evaluations is shown below.

Inspector-General Practice Directions (IGPDs) are available on our website and explain the Inspector-General's position on grey technical areas of law or practice.

Graph 1: Summary of evaluations of trustee information sessions on IGPD 22 in 2013



Based on a scale of 1 to 4 (1=Poor, 2=Fair, 3=Good, 4=Excellent) the average ratings ranged between 2.7 and 3.0 across the evaluation categories.

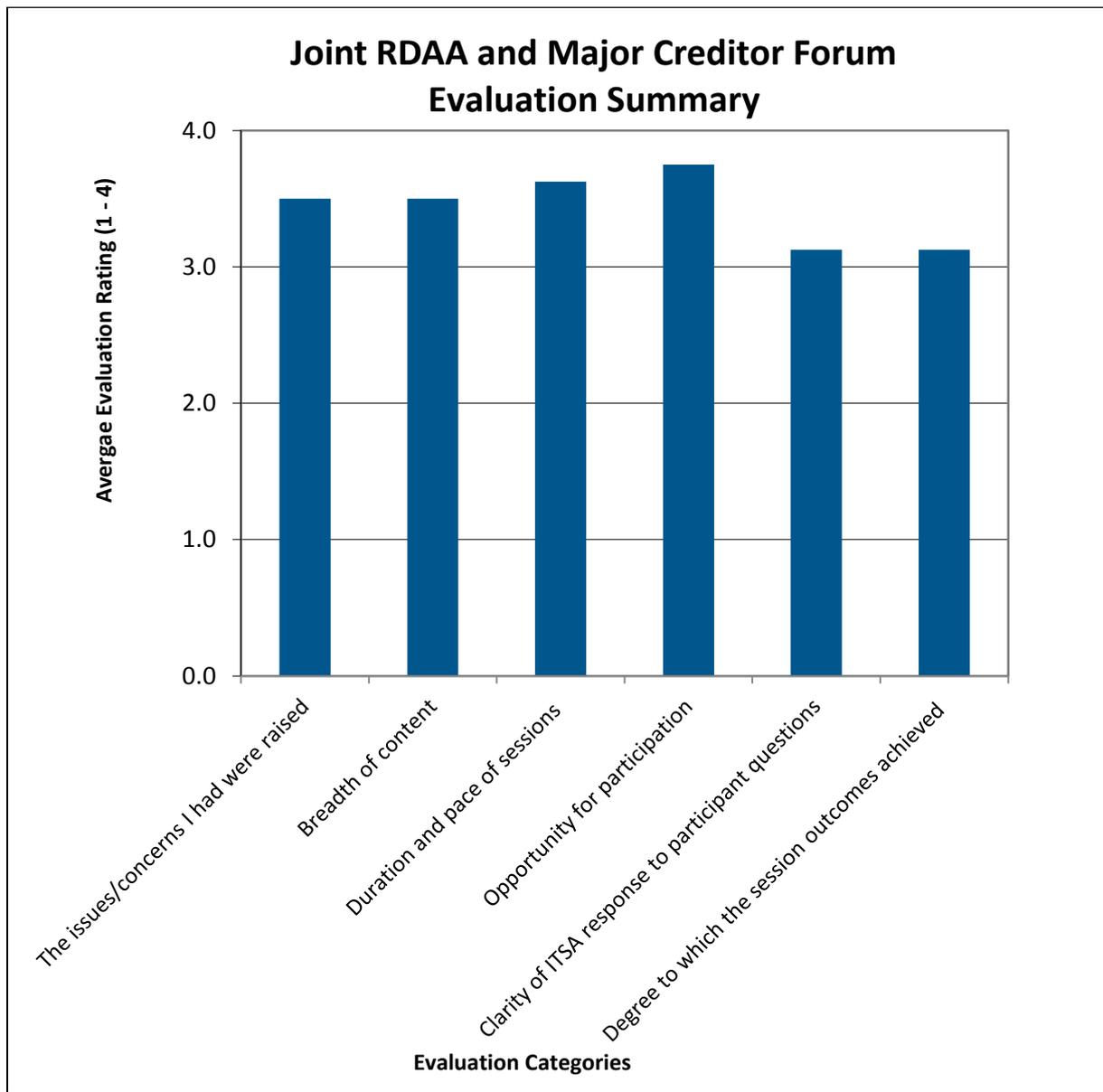
ITSA also delivered information sessions to RTs in Cairns and Townsville in August 2012.

RDAAs and Major Creditor Forum

ITSA hosted a joint RDAAs and major creditor forum at Sydney in June 2013 and a summary of completed evaluations of people who attended is shown below. At this forum, a senior ASIC representative addressed the attendees on the topic of advertising and misleading conduct.

This forum successfully brought PIPs and creditors together to discuss and iron out practice issues of mutual interest. The action items and minutes from the forum are available on AFSA's website.

Graph 2: Summary of evaluations of joint RDAAs and major creditor forum in June 2013



Based on a scale of 1–4 (1=Poor, 2=Fair, 3=Good, 4=Excellent) the average ratings ranged between 3.1 and 3.8 across the evaluation categories.

External Stakeholder Forums and Conferences

ITSA also attended and presented at many external stakeholder forums including creditor roundtables and Financial Counsellor Conferences.

At the IPA⁷ National Conference in May 2013, ITSA was represented on a panel with ASIC and the IPA and spoke on the topic of “Issues on the Regulator’s Radar.”

In delivering guidance to the industry, AFSA works closely with and enjoys productive working relationships with ASIC, CDPP, ATO, ARITA and PIPA.

Complaints

ITSA received 505 complaints against private PIPs in 2012–13. 455 of these related to RT complaints (90%) while 50 related to RDAA complaints (10%).

Of the 505 complaints received, 42 or 8% were considered justified in 2012–13.

In the five years from 1 July 2008 to 30 June 2013, ITSA received an average of 402 complaints per annum of which 43 or 11% were considered justified.

Table 11: RT and RDAA complaints received in 2012–13

RT and RDAA Complaints Received	Number of complaints received	Proportion of complaints received
RT complaints	455	90%
RDAA complaints	50	10%
Total	505	100%

Of the aggregate RT complaints received 244 (54%) were investigated of which 38 (8%) were found to be justified.

Table 12: RT and RDAA complaints in 2012–13

RT and RDAA Complaints Received	Received	Complaints Investigated	Complaints Not Investigated	Complaints Justified
Number of RT complaints	455	244	211	38
Number of RDAA complaints	50	22	28	4
Proportion of RT complaints received (%)	100%	54%	46%	8%
Proportion of RDAA complaints received (%)	100%	44%	56%	8%

The highest areas of RT complaints resulted from decisions concerning assets (aggregate 22%; justified 29%) and lack of information or inadequate communication (aggregate 21%; justified 24%). As previously noted to address RT complaints in both these areas ITSA released Inspector-General Practice Direction 22 on effective practitioner communication in July 2012.

⁷ Insolvency Practitioners Association of Australia (IPA) have changed their name to Australian Restructuring Insolvency & Turnaround Association (ARITA)

Registered trustees

Table 13: RT complaint areas in 2012–13

RT Complaint Areas	Aggregate RT complaints		Justified RT complaints	
	Number	Percent	Number	Percent
Decisions concerning assets	99	22%	11	29%
Lack of information or communication	94	21%	9	24%
Other	83	18%	8	21%
Delays in administration or lack of action	51	11%	4	11%
Fees and costs	45	10%	2	5%
Income and contribution liability assessments	41	9%	2	5%
Inappropriate conduct or conflict of interest	26	6%	1	3%
Creditor claims & dividends	16	4%	1	3%
Total	455	100%	38	100%

Of the aggregate RDAA complaints received 22 (44%) were investigated of which four (8%) were found to be justified. The areas of aggregate and justified RDAA complaints received during 2012–13 are shown below.

Registered debt agreement administrators

Table 14: RDAA complaint areas in 2012–13

RDAA Complaint Areas	Aggregate RDAA complaints		Justified RDAA complaints	
	Number	Percent	Number	Percent
Lack of information or communication	18	36%	1	25%
Other	12	24%	1	25%
General Administration & accounting	7	14%	0	0%
Fees and costs	6	12%	0	0%
Creditor claims & dividends	4	8%	2	50%
Delays in administration or lack of action	2	4%	0	0%
Inappropriate conduct or conflict of interest	1	2%	0	0%
Certification issues	0	0%	0	0%
Continuing action by creditors	0	0%	0	0%
Total	50	100%	4	100%

The highest area of aggregate RDAA complaints resulted from lack of information or communication (36%). The highest area of justified RDAA complaints was creditor claims and dividends (50%). As previously noted, to address RDAA complaints in both these areas ITSA released Inspector-General Practice Direction 22 on effective practitioner communication in July 2012 and hosted the joint RDAA and major creditor forum in June 2013 to discuss these and other issues.

The major outcomes achieved from ITSA's complaint handling process in 2012–13 are similar to those uncovered through the physical annual inspection process and include:

- Re-establishing engagement between creditors and PIPs to ensure timely payment of dividends and timely response to reasonable requests for information by PIPs;
- Re-establishing engagement between debtors/bankrupts and PIPs to ensure reasonable requests for information are responded to in a timely manner by PIPs;
- Overseeing improvements in PIPs systems and controls, particularly in the area of disclosure and independence;
- Identifying specific instances of PIP overcharging or over-servicing in personal insolvency administration and facilitating repayment of overcharged amounts into the relevant administration;
- Systemic areas of non-compliance that gave rise to the need for disciplinary action and in six (6) cases resulted in loss of registration for the PIP; and
- Systemic areas of non-compliance identified that gave rise to providing industry guidance in the form of Personal Insolvency Regulator newsletter articles and or Inspector-General Practice Directions.
- Regulatory intervention resulting in one (1) pre-insolvency advisor electing to no longer play an active part in the personal insolvency industry.

Regulator oversees reduction in insolvency practitioner remuneration

In one matter a former bankrupt raised concerns with respect to the level of trustee remuneration charged to his estate. In this bankrupt estate all creditors received a 100 cent in the dollar return on their debt, the bankruptcy was annulled and the trustee returned \$69,000 to the bankrupt from excess asset realisations.

In investigating this matter it was evident to ITSA that the lines of communication between the former bankrupt and the trustee had broken down.

ITSA liaised with both the trustee and the former bankrupt to encourage both parties to communicate directly with each other focussing on the concern with the level of trustee remuneration.

With ITSA facilitating and taking a part in the discussions that followed, the parties came to an agreement whereby the trustee agreed to refund to the former bankrupt \$15,000.

Further information on this achievement is in PIR Volume 10 Issue 4 (Dec 2012), available from www.afsa.gov.au.

Inspector-General reviews

Of the total RT decisions reviewed by the Inspector-General in 2012–2013 slightly more were confirmed (32%) as were cancelled/varied (22%).

Table 15: Inspector-General Reviews of RT decisions in 2012–2013

IG Review of RT Decisions	Number	Percent
RT decisions determined confirming decision	44	32%
<i>Plus:</i> RT decisions determined cancelling/varying decision	30	22%
Total RT reviews determined	74*	54%
<i>Plus:</i> RT review applications withdrawn/refused	47	34%

*Annual Report figure equals 75 which includes 1 taxation of trustee remuneration varied in 2012–13.

The highest percentage of RT decisions confirmed when reviewed by the Inspector-General related to objections to discharge (58%), remuneration (33%) and the hardship applications (30%) while the lowest related to income contribution assessments (6%).

Table 16: Inspector-General Reviews of RT decisions in 2012–2013

	Type of IG Review									
	RT Income Contribution Assessments		RT Objections to Discharge		RT Hardship Applications		RT Remuneration		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
RT reviews received	32	N/A	31	N/A	10	N/A	64	N/A	137	N/A
RT decisions determined confirming decision	2	6%	18	58%	3	30%	21	33%	44	32%
RT decisions determined cancelling/ varying decision	16	50%	8	26%	1	10%	5	8%	30	22%
RT review applications withdrawn/ refused	12	38%	8	26%	3	30%	24	38%	47	34%
RT reviews determined	18	56%	26	84%	4	40%	26	41%	74	54%

Disciplinary action

AFSA plays a key role in maintaining the integrity of Australia's personal insolvency system. AFSA works with practitioners and takes proactive disciplinary action where appropriate to ensure stakeholders maintain confidence in the system.

Registered trustees

In the course of 2012–13, intelligence gathered from our regulatory inspections and complaints received revealed that particular practitioners had failed to maintain the standards we expect.

ITSA deregistered 11 RTs in 2012–13 of which 5 (or 45%) were negotiated resignations by trustees who were found in breach of their duties. These breaches included:

- Taking remuneration in excess of that fixed by creditors
- Failing to adequately communicate and keep creditors, debtors and bankrupts informed of material developments
- Inadequately investigating property, assets and income
- Failing to maintain adequate books, records and documentation in relation to decisions made.

ITSA issued five show cause letters to RTs during 2012–13 for failing to properly perform their duties. None of these resulted in the convening of a committee as ITSA successfully negotiated the voluntary resignations or non-renewal of registration of all five RTs.

Registered debt agreement administrators

ITSA deregistered one RDAA in 2012–13 who simply elected not to renew.

ITSA also issued one show cause letter to an unregistered debt agreement administrator (UDAA) during 2012–13 for failing to properly perform his duty which resulted in him being declared ineligible to act.

Media release – Reid (QLD) – unregistered administrator banned from administering debt agreements

Tue 16 April 2013

An unregistered Gold Coast debt agreement administrator has been officially banned from administering debt agreements for a period of three years.

Mr Gavin Reid operated an office in Robina on the Gold Coast, Queensland, and following an investigation by Insolvency and Trustee Service Australia (ITSA), it was determined on 15 March 2013, that Mr Reid was ineligible to administer debt agreements for a set period.

The decision follows an investigation by ITSA’s Regulation and Enforcement Area into the files administered by Mr Reid.

ITSA’s Chief Executive and Inspector-General, Veronique Ingram, said that after considering the evidence and speaking with Mr Reid, it was decided that Mr Reid had not carried out the required duties of an administrator appropriately, and consequently, a determination was made that he was no longer eligible to administer debt agreements.

“We have a strong regulatory system in Australia and it’s important that Australian business people and consumers are confident in a system that is transparent, fair and strong,” Ms Ingram said.

Mr Reid’s breaches included not dealing with property of a debtor according to the terms of the agreement, not reporting to creditors as required, failure to keep proper records in relation to the funds being held for debtors.

As a result, subject to section 185ZB(4) of the Bankruptcy Act 1966, the debt agreements previously administered by Mr Reid will now be administered by the Official Trustee in Bankruptcy.

The debtors and creditors of each debt agreement previously administered by Mr Reid have been contacted by ITSA and notified of the changes.

Table 17: RT and RDAA disciplinary action in 2012–13

RT Disciplinary Action	Total
RT voluntary resignations	5
RT registrations cancelled	0
RT show cause letters sent	5
Committees convened	0
RDAA Disciplinary Action	Total
RDAA voluntary resignations	0
RDAA registrations cancelled	1
UDAA declared ineligible	1
RDAA/UDAA show cause letters sent	1

Investigate and prosecute offences

A total of 266 RT referrals were received during 2012–13 of which 139 (52%) were accepted for investigation.

Table 18: Alleged referrals received by ITSA from RTs in 2012–13

RT Matters	NSW	ACT	Vic	Qld	SA	NT	WA	Tas	OTH*	Total
Number										
Referrals Accepted	51	3	38	32	8	0	1	2	4	139
Referrals Rejected	37	0	24	41	21	0	2	0	2	127
Referrals Received	88	3	62	73	29	0	3	2	6	266
Proportion (%)										
Referrals Accepted	58%	100%	61%	44%	28%	N/A	33%	100%	67%	52%
Referrals Rejected	42%	0%	39%	56%	72%	N/A	67%	0%	33%	48%
Referrals Received	100%	100%	100%	100%	100%	N/A	100%	100%	100%	100%

* Referrals without an estate number.

Over 80% of referrals matters received were from NSW (33%), Qld (27%) and Vic (23%) shown below. Of the three major sources of RT referrals NSW had the highest proportion of national referrals accepted (37%) while Qld had the lowest (23%).

Table 19: RT referral matters in 2012–13

RT Matters	NSW	ACT	Vic	Qld	SA	NT	WA	Tas	OTH*	Total
% Referrals Accepted	37%	2%	27%	23%	6%	0%	1%	1%	3%	100%
% Referrals Rejected	29%	0%	19%	32%	17%	0%	2%	0%	2%	100%
% Referrals Received	33%	1%	23%	27%	11%	0%	1%	1%	2%	100%

* Referrals without an estate number.

ITSA issued media releases during 2012–13 of significant RT referrals accepted by ITSA that resulted in successful prosecutions. These are available from our website. Two significant outcomes are detailed below.

Media release – QLD (Withnall) – Sunshine Coast developer sentenced to 12 months imprisonment

Thu 16 May 2013

Former Sunshine Coast developer, Marc Douglas Withnall, was found guilty of making a false Statement of Affairs and has been sentenced to 12 months imprisonment at the Brisbane Magistrates Court.

Regulation and Enforcement National Manager at Insolvency and Trustee Service Australia (ITSA), Tim Cole said that the conviction of 44 year-old Withnall is the product of a 12 month investigation by ITSA.

“Our investigation followed complaints that Mr Withnall had included false creditors and information in a statement of affairs he filed in December 2007 as part of a Personal Insolvency Agreement,” Mr Cole said.

“As part of the complaint received by ITSA it was further alleged Mr Withnall had failed to declare a debt he owed to Mountain View Retreat Retirement Village of \$272,470 which was subject of a judgement order made in the Sydney District Court in December 2007.

“People need to be made aware that it is a serious offence under the Bankruptcy Act 1966 to give false information when lodging a statement of affairs.

“In a summary hearing in the Brisbane Magistrates Court in May 2012 evidence was provided that Mr Withnall had included false debts, failed to disclose 23 company directorships and omitted the debt to Mountain View Retreat Retirement Village in his statement of affairs as a way to fraudulently obtain the benefit of a Personal Insolvency Agreement in an attempt to avoid bankruptcy.”

On May 15, 2013, Mr Withnall was sentenced to 12 months imprisonment, serving a minimum of 3 months.

In sentencing, Magistrate Bradford-Morgan said Mr Withnall had demonstrated a serious and flagrant abuse of Part X of the Bankruptcy Act 1966 and that a term of imprisonment was appropriate. Magistrate Bradford-Morgan said she had taken into account Withnall’s lack of remorse as well as the benefit he gained from the Personal Insolvency Agreement that enabled him to work as a licensed financial advisor.

Chief Executive of Insolvency and Trustee Service Australia, Veronique Ingram said the outcome is the result of a thorough investigation process and confirms that ITSA and the courts take breaches of the Bankruptcy Act 1966 seriously and will prosecute accordingly.

Media release – VIC (Acosta) – ITSA prevents fake bankruptcy ploy by jilted lover

Fri 05 October 2012

Alain Omar Acosta of Deer Park, Victoria was convicted in the Melbourne Magistrates Court yesterday in relation to offences under the Criminal Code Act 1995.

Mr Adam Toma, National Manager of Insolvency and Trustee Service Australia's (ITSA) regulation and enforcement business area, said yesterday:

"Acosta's actions were malicious and deliberate with total disregard for his victims and the integrity of the insolvency system."

Acosta, a twenty six year old unemployed office manager was charged with making and producing false documents to ITSA, namely, Debtors' Petitions and Statements of Affairs completed in the names of six (6) young females known to him with the intention of having them declared bankrupt.

Acosta pleaded guilty to six (6) counts of forgery, was convicted on all counts and sentenced to a 12 month Community Correction Order with supervision, treatment and rehabilitation. He was also fined \$4,000.

Acosta met two of his victims through an online dating site and decided to try and bankrupt them after they did not want to see him again. He met a further victim who had rejected his advances. The other victims were friends of the women he had dated.

The offences came to light when a victim received documentation from ITSA advising that her bankruptcy application had been accepted. The victim then contacted ITSA to advise she did not lodge the documents and was solvent.

Her bankruptcy was reversed. ITSA was able to pick up on other suspect documents as there were numerous similarities between them.

A joint investigation conducted by ITSA, the Australian Federal Police (AFP) and the Australian Customs and Border Protection Service (ACBPS) found that Acosta had accessed ITSA's website and downloaded the Debtor's Petition and Statement of Affairs documents.

Following the execution of warrants and examination of documents submitted to ITSA, Acosta was charged with offences for forgery and knowingly producing false or misleading documents to ITSA.

In sentencing Acosta, His Honour Magistrate Rozencwajg said a conviction was called for.

"You have got to accept that you do have some issues and need to continue with treatment and acknowledge your wrongdoing to a fuller extent, in particular your attitude to women," he said.

Mr Toma said the outcome highlights the vital role of ITSA's enforcement program.

"It is imperative that the community is protected from this kind of behaviour and it is hoped that today's verdict serves as a deterrent," Mr Toma said.

Of the conviction, ITSA's Chief Executive and Inspector-General in Bankruptcy, Veronique Ingram said, "Australia has a highly-effective personal insolvency system which is strongly underpinned by an equitable and efficient regulatory system. It's important that Australians are confident in a system that is transparent, fair and strong."

Infringement Notices

Of the total infringement notices issued 44% (46% net) were issued to RTs.

Table 20: Infringement notices in 2012–13

Infringement Notices	Notices Issued		Notices Withdrawn		Net Notices Issued	
	Number	Percent	Number	Percent	Number	Percent
RTs	53	44%	11	37%	42	46%
Others *	68	56%	19	63%	49	54%
Total	121	100%	30	100%	91	100%

* Others include petitioning creditors, RDAAAs, Controlling Trustees and Executors for deceased estates.

Of the total infringement notices issued to RTs over 60% related to failure to notify creditors/file a copy of executed PIAs with ITSA under s218(2) (38%) and failure to notify ITSA of composition annulments under s74(5A) (25%).

Table 21: RT infringement notices issued by offence in 2012–13

Offence Section	RT Infringement Notices Issued	
	Number	Percent
218(2)	20	38%
74(5A)	13	25%
73(1A)	9	17%
153A(2)	4	8%
224A(1)	4	8%
155J(1)	2	4%
153B(3)	1	2%
Total	53	100%

Feedback

AFSA is committed to delivering robust and timely quantitative and qualitative information to personal insolvency practitioners on their performance to ensure they continue to maintain high standards and implement best practice.

We hope that stakeholders find this report useful and welcome any feedback on how we may improve it in future.

For enquiries about this report or to provide feedback, please email statistics@afsa.gov.au or phone 02 6198 3554. Alternatively please e-mail registrations.officer@afsa.gov.au or phone 07 3360 5414.

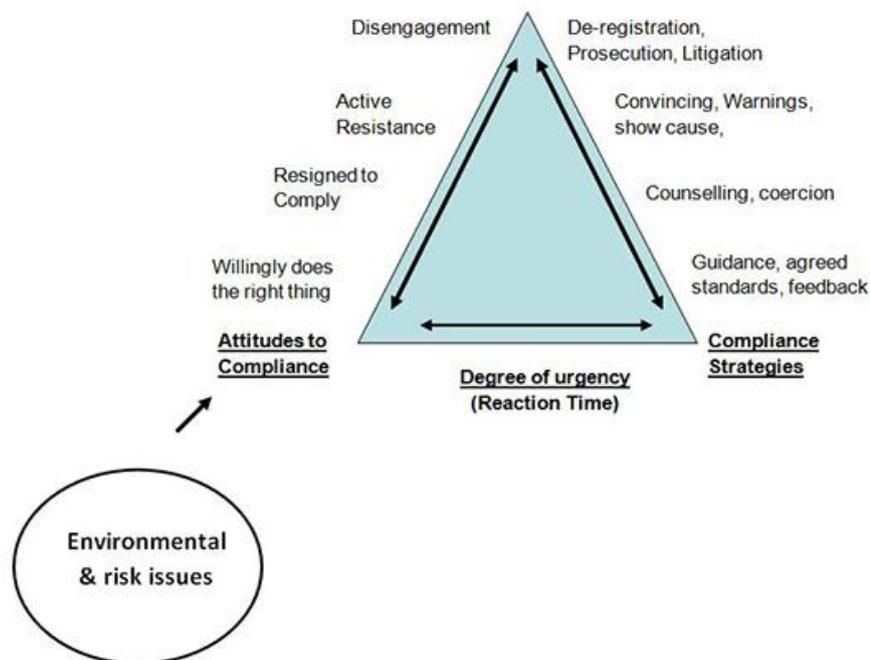
Annexure A: ITSA Practitioner Insolvency Strategy 2012–13

1) Overarching ethos

Statements of principle

IGPS 1 paragraph 11 forms the core of ITSA’s regulatory ethos. IGPS 1 is continuously under review in line with market conditions affecting practitioners and bankrupts in light of harmonisation proposals and ITSA’s move from ‘government centred regulation’ to a ‘hybrid regulatory environment.’

Compliance model



2) Insolvency Compliance program 2012–13

This compliance program is supported by the eight (8) core roles that make up ITSA’s Regulation and Enforcement business line (see section 3 below). ITSA will again deliver a risk based proactive inspection program focussing on insolvency practitioners that are perceived as a greater risk. In addition to this all complaints will be investigated and all Inspector-General review requests determined within 60 days of receipt.

In the financial year ended 30 June 2013, ITSA will focus on the following technical areas in its compliance program.

Practitioner remuneration and outlays

On the back of successful remuneration outcomes in 2011–12, ITSA will extend its review in 2012–13 to outlays and expenses taken by practitioners. The focus will be to ensure that the outlays are reasonable and do not confer an extra benefit for the practitioner.

Offences

An effective Enforcement program is crucial to a properly functioning insolvency system to ensure the public interest is protected. ITSA will certify practitioners are identifying offences in the course of their investigative work and referring them for review and prosecution if necessary.

Effective communication

Lying at the heart of the government's proposals for a harmonised regulatory environment is the need for better communication between all stakeholders. ITSA will ensure the principles espoused in IGPD 22, published in July 2012, are adhered to by every practitioner.

Hybrid Regulatory environment

ITSA will continue to engage with financial counsellors, creditors, debtors, CDDP, IPA, DAPA, ASIC and other professional associations and government agencies to ensure all necessary intelligence is available and facilitate the best outcomes for those affected by insolvency.

3) Eight (8) core Regulatory and Enforcement activities

ITSA's approach focuses on early resolution to systemic issues adopting a proactive and preventative approach wherever possible.

No.	Function	Inspector-General Practice Statement (IGPS) or other web based material	Strategic focus areas in 2012–13
1	Trustee (RT) and debt agreement administrator (RDAA) registrations for application	(i) IGPS 4 – RDAAs (ii) IGPS 13 – RTs	Continuous review and rotation of questions asked at applicant interviews to ensure broad understanding of legislative provisions and common law precedents is demonstrated.
2	Inspections	IGPS 11	Electronic and desk top inspections to be further developed.
3	Proactive monitoring	IGPS 11	Review of reports to creditors (section 189A and section 73 reports) and creditor meeting attendance where necessary.
4	Guidance	Personal Insolvency Regulator (PIR) newsletter ITSA Practices and Policies	Quarterly publication of the Personal Insolvency Regulator newsletter and review of ITSA Practices and Policies website. Host RDAA Professional Development Day in October 2012 and Practitioner Information Sessions when deemed necessary.
5	Complaints	IGPS 10.1	Emphasise gatekeeper approach to identify issues early for debtors and creditors – either resolve or direct to another appropriate agency.
6	Inspector-General Reviews	(i) IGPS 12.1 (ii) IGPS 15 – RT fee determinations (iii) IGPS 16 –RT fee reviews	Reviews undertaken on the Inspector-General's own initiative where appropriate eg Objections to discharge spot testing. Successful outcomes from targeted section 153A trustee remuneration project in 2011–12 to be repeated in 2012–13 focussing on outlays.
7	Disciplinary action	(i) IGPS 9 – RDAAs (ii) IGPS 8 – RTs	Early intervention forging productive working relationships with all stakeholders to share information so that proactive action can be taken where necessary.
8	Investigate offences against the Bankruptcy Act and prosecute if appropriate	IGPS 14.1 Infringement Notices IGPS 18 Offence referrals	Review practical effectiveness of 2010 amendments ie infringement notices and section 77CA notices.

Inspector-General Practice Statements (IGPS) are available publicly on our website and explain how we go about what we do.

Annexure B: ITSA Regulation & Enforcement – Business Information – 2008–13

Business information	2008-09	2009-10	2010-11	2011-12	2012-13	5 year mean
Registrations						
Trustee applications received	12	11	9	4	12	9.6
Number of RTs at end of period	218	208	211	205	205	209
Administrator applications received	17	9	3	9	3	8.2
Number of RDAAs at end of period	58	55	56	61	63	59
Total PIPs at end of period	276	263	267	266	268	268
Inspections						
RT estates examined	426	456	449	688	344	473
RT errors identified	362	223	224	238	152	240
RDAA administrations examined	441	373	245	447	254	352
RDAA errors identified	55	61	30	19	23	38
Total PIPs estates examined	867	829	694	1135	598	825
Total PIP errors identified	417	284	254	257	175	277
Percentage of errors identified	48%	34%	37%	23%	29%	34%
Proactive reviews						
Part X & s73 proposals reviewed	302	487	558	587	553	497
Part X & s73 creditor meetings attended	58	49	67	66	89	66
Proposals/meetings - ITSA intervention	14	14	26	12	44	22
Percentage of ITSA intervention	5%	3%	5%	2%	8%	4%
Complaints						
RT complaints received	268	299	288	313	455	325
RT complaints justified	40	31	27	24	38	32
RDAA complaints received	108	91	66	72	50	77
RDAA complaints justified	24	9	8	8	4	11
Total PIP complaints received	376	390	354	385	505	402
Total PIP complaints justified	64	40	35	32	42	43
Percentage complaints justified	17%	10%	10%	8%	8%	11%
Inspector-General Reviews						
Income assessment reviews received	22	25	32	33	32	29
Income assessment reviews varied	12	14	17	16	16	15
Objection to discharge reviews received	32	50	47	39	31	40
Objection to discharge reviews varied	10	18	14	13	8	13
Hardship application reviews received	4	8	4	4	10	6
Hardship application reviews varied	0	1	2	0	1	1
Trustee remuneration reviews received *	0	0	2	19	64	28 **
Trustee remuneration reviews varied *	0	0	0	4	5	3 **
Total I-G reviews received	58	83	85	95	137	N/A ^
Total I-G reviews varied	22	33	33	33	30	N/A ^
Percentage I-G reviews varied	38%	40%	39%	35%	22%	N/A ^
Bankruptcy Act Offences						
Referrals received	988	1169	1317	1498	1262	1247
Accepted for investigation	722	842	843	962	719	818
CDPP briefs prepared	306	341	276	216	200	268
CDPP briefs accepted #	283	243	241	248	162	235
Total persons prosecuted ***	239	236	242	154	148	204
Dollar value of fraud proven	\$2.39m	\$3.21m	\$0.83m	\$4.06m	\$3.26m	\$2.75m

* Legislation commenced 1 December 2010. ** Mean done over a 3 year period.

***Includes convictions and charges proven without conviction.

^ Mean cannot be provided as some I-G reviews have been in existence less than 5 years and others for the full 5 year period.

Includes a portion of the briefs prepared and referred to the CDPP in the previous financial year.

Acronyms

AER: Annual Estate Return

AFP: Australian Federal Police

AFSA: Australian Financial Security Authority

ARITA: Australian Restructuring Insolvency & Turnaround Association (previously known as ARITA)

ASIC: Australian Securities and Investments Commission

ATO: Australian Taxation Office

CDPP: Commonwealth Director of Public Prosecutions

CPA: CPA Australia

DAPA: Debt Agreement Practitioners Association

ICAA: Institute of Chartered Accountants Australia

ICT: Information and Communications Technology

IG: Inspector-General

IGPD: Inspector-General Practice Directions

IGPG: Inspector-General Practice Guidelines

IGPS: Inspector-General Practice Statement

IPA: Insolvency Practitioners Association of Australia (now known as ARITA)

ITSA: Insolvency and Trustee Service Australia

NPII: National Personal Insolvency Index

NZITS: New Zealand Insolvency Trustee Service

PIA: Personal Insolvency Agreement

PIP: Personal Insolvency Professional

PIPA: Personal Insolvency Professionals Association

PIR: Personal Insolvency Regulator

PPSR: Personal Property Securities Register

RDAA: Registered Debt Agreement Administrator

RT: Registered Trustee

SCT: Solicitor Controlling Trustee

UDAA: unregistered debt agreement administrator