

Alternatives to Bankruptcy Fact Sheet



Formal Alternatives

Personal Insolvency Agreement

The bankruptcy legislation provides the option for a person unable to pay his/her debts ('debtor') to put forward a proposal to creditors for a Personal Insolvency Agreement ('PIA') as an alternative to going bankrupt. The process for putting forward a PIA proposal usually extends for approximately 6 weeks during which time creditors are unable to take steps to pursue their debts.

In order for a PIA to be acceptable to creditors it is generally expected that the return offered on creditors' debts would be greater than that expected under bankruptcy and/or such return would be paid to creditors in a more timely fashion.

The process for putting forward a PIA proposal involves the formulation of a proposal document, usually with the assistance of a registered bankruptcy trustee or solicitor, followed by the appointment of a registered trustee as controlling trustee. The controlling trustee is then required to investigate the debtor's financial affairs and background and report to creditors regarding the proposal including an opinion as to whether acceptance of the PIA terms proposed is in their interests. This is followed by a creditors meeting where creditors vote on the proposal. If accepted

by at least 50% of those creditors present and voting in addition to at least 75% of the total dollar value of creditors' debts voting, the PIA is required to be executed within 21 days of the meeting and the controlling trustee usually becomes the trustee of the PIA.

If a PIA proposal is rejected or is not accepted by the required majority of creditors, the debtor is returned to the position they were in prior to commencing the PIA proposal process. In these circumstances however the non-acceptance of the proposal would provide a creditor or creditors with grounds to seek an order for bankruptcy of the debtor.

The PIA process is complex and requires a detailed assessment of the debtor's circumstances and the options available before proceeding. We provide such pre appointment advice and assistance free of charge

Debt Agreement

The bankruptcy laws also provide debtors unable to pay their debts with the ability to put forward a proposal for debt agreement as an alternative to bankruptcy.

There are thresholds placed on the total debt involved, value of the debtor's assets and income in relation to debt agreements.

Informal Arrangements

In some instances, we assist debtors to put forward proposals to creditors where they cannot meet their debts in full. This process is assisted with us facilitating in our capacity as bankruptcy experts, reporting to creditors about the options available in the particular circumstances (including formal bankruptcy, PIA, and debt agreement) and setting out the anticipated outcomes under each scenario to demonstrate that an informal arrangement is the most suitable option.

The difficulty with an informal arrangement is that it must be accepted by all creditors otherwise it is not binding, unlike a PIA or debt agreement which is binding on all creditors if accepted by the required majority.

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