

General Guidance for Restructuring & Insolvency Professionals

1: Contents

The sections of this document are:

Section 1	An introduction from the Chief Executive	3
Section 2	Restructuring of insolvent employers	5
Section 3	Insolvency overview	7
Section 4	Actions for insolvency professionals – notification of an insolvency event	9
Section 5	Actions for insolvency professionals – pension scheme failure, withdrawal or ceasing to act notice	11
Section 6	Pension scheme trustee creditor rights	13
Section 7	Employees and pensioners	14
Section 8	Further information	15
Appendix 1	Insolvency events	16
Appendix 2	Information to be supplied by the IP on the occurrence of an ‘insolvency event’	20
Appendix 3	Information to be included in the notification of the status of the scheme	21
Appendix 4	Events triggering obligation to file a ceasing to act notice under section 122(4)	22

Abbreviations:

IP	Insolvency Practitioner or Official Receiver as appropriate
PPF	Board of the Pension Protection Fund
R&I	Restructuring & insolvency team
RAA	Regulated Apportionment Arrangement
tPR	the Pensions Regulator

1: An introduction from the Chief Executive



The PPF protects millions of people in the UK who belong to defined benefit pension schemes in case their employer, or former employer, fails and the scheme can no longer afford to pay their promised pension. If we did not exist, many could face significant financial uncertainty and hardship.

We are unique, both in terms of our role and the way we operate. We draw on the best aspects of pension funds and insurance companies to ensure we are financially secure and can offer the best protection possible. We are accountable to Government but operate as an independent organisation and have the freedom to ensure that we are as effective and efficient as possible.

The legislation under which we were created recognised the risk that employers might try and “dump” schemes into the PPF. We work closely with tPR to ensure that this does not happen and that any scheme which does enter the PPF is the subject of a bona fide employer actual or inevitable insolvency. We are continually on the look out to prevent schemes entering the PPF where another solution is possible that provides a better return to scheme members and the PPF.

This guide sets out the criteria that restructuring practitioners should incorporate in any proposals they make in respect of an insolvent pension scheme employer. The PPF is not obliged to consider a restructuring proposal, and to do so, the criteria must be met. We look at each scheme on an individual basis because the facts are different in every case.

The guide goes on to provide information on how IPs should interact with the PPF in the event that a sponsoring employer of an occupational pension scheme suffers an insolvency event and how an eligible scheme will be assessed to determine whether it should enter the PPF.

It will help IPs understand their role and responsibilities in relation to an eligible pension scheme going through the PPF’s assessment process.

1: An introduction from the Chief Executive

Our aim is to progress the assessment process in relation to the pension scheme as efficiently as possible. That is because our overriding objective in dealing with pension scheme members, transferred into the PPF, is to ensure that:

'The right amount is paid to the right person at the right time'

During the assessment process, IPs play a very important role and need to understand:

- *when and how to involve the PPF in relation to the insolvency of an employer of an occupational pension scheme – for example, notifying the PPF about the occurrence of an insolvency event, and*
- *that the PPF assumes the pension scheme trustees' role as creditor of the insolvent employer during the assessment period.*

We are committed to working closely with IPs and will assign a scheme delivery team member to each pension scheme. That person will provide guidance and direction on pensions and PPF assessment matters. In addition, the R&I Case Manager will represent the PPF in the insolvency proceedings. These team members will work with you as the pension scheme moves through the assessment period stages.

This guide provides IPs with an outline of the stages and related processes. It should be read in conjunction with the detailed guidance we provide on different aspects of the insolvency process which is available on our website.

We would appreciate any feedback on the guidance and encourage open and honest communication to help us help you.

Alan Rubenstein

Chief Executive

Pension Protection Fund

August 2016

2: Restructuring of insolvent employers

- 2.1 In certain circumstances, it is possible for the PPF to participate in the restructuring of an insolvent business. By doing this the pension scheme must be much better off than it would have been if the business was simply left to fail. This involves removing, apportioning or compromising the pension debt from the company.
- 2.2 A simple example of this would be a company which might have a positive cash flow and make a profit if, among other things, the pension scheme was removed but is otherwise insolvent. In such instances, someone may be prepared to pay the scheme money to make sure that party keeps or acquires that earning capacity.
- 2.3 On the face of it, such restructuring is contrary to one of the purposes of the Pensions Act 2004, i.e. to stop employers 'dumping' their pension schemes.
- 2.4 We will therefore only ever participate in a restructuring or rescue if:-
- insolvency is **inevitable** (i.e. the employer will shortly become insolvent absent the restructuring). If this hurdle is not overcome, the employer should be discussing a scheme specific funding proposal with tPR and the scheme trustees,
 - the scheme receives consideration which is **significantly better** than the dividend which would be received if the company went into an ordinary insolvency (i.e. the scheme will be better off) and such consideration is deemed by the PPF to be realistic in relation to the anticipated or actual s75 deficit. The PPF has no obligation to agree to restructuring proposals and will only do so where it is consistent with its role exercising the scheme's creditor rights (or contingent rights) to maximise returns for the scheme.
 - what is offered is **fair** given what the other creditors and shareholders are to gain as a consequence of the rescue. For example, the insolvency return might be £0 and we are offered £500,000 in respect of a £100 million pension debt (see bullet above). However, the expectation is that post the restructuring, the irrecoverable bank debt of £100 million would become fully recoverable over time because the pension debt is no longer in the company. In such a case, we would seek to agree a financial settlement with the bank for allowing it the opportunity of getting its money back over time.
 - the scheme is given at least 10% of the **equity** where the future shareholders are not currently involved with the company and at least 33% if the parties are currently involved. This is a form of anti-embarrassment protection to ensure that the PPF does not assume a large pension liability, thereby creating a very valuable business over time as a result of the company being released from its pension obligations. We have a standard form of shareholder agreement and articles of association to protect the pension scheme's interests which must be used by parties.

http://www.pensionprotectionfund.org.uk/Pages/Standard_Documents_Restructurings.aspx

- a **Contribution Notice or a Financial Support Direction** from tPR would not generate more money for the scheme than the deal we have negotiated (we would not want to settle for a lesser sum than could otherwise be obtained for the scheme)
- tPR is prepared to **clear** the deal in the case of a RAA
- the **fees** charged by the bank(s) are **reasonable**, where the deal involves a refinancing, and

2: Restructuring of insolvent employers

- the party seeking the restructuring pays the costs incurred by both the PPF and the trustees in delivering the restructuring. These will include legal fees for documenting and executing the deal, financial advice and any other costs incurred by the PPF as a result of the transaction, such as TUPE liabilities relating to the staff costs of the pension scheme. The PPF provides standard form documentation (see above) which it expects to be used in documenting any deal.

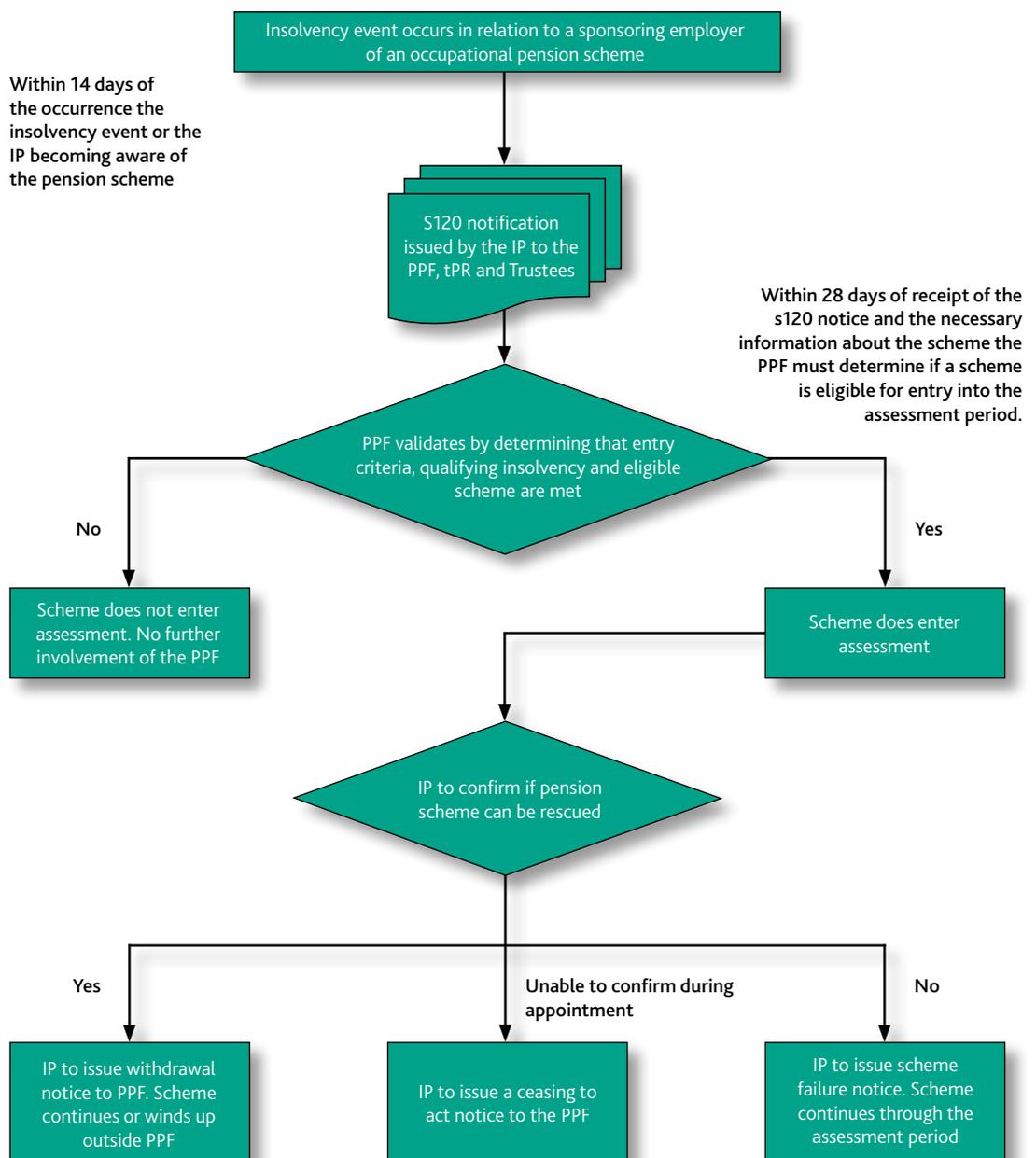
2.5 Where an RAA is proposed, a draft clearance application should have been submitted to, and considered by tPR before we will engage in discussions. If appropriate, we and the tPR team will work together to consider the proposition being made. If we consider a proposal is worth pursuing, it will ultimately be put to the respective Boards of the PPF and tPR before we can confirm whether we are prepared to proceed or not.

3: Insolvency overview

- 3.1 The following sections aim to provide assistance on the assessment period process in relation to a pension scheme and the key elements of an assessment period so far as they relate to IPs. Unless stated otherwise, any references to the Act, sections, schedules and regulations relate to those under the Pensions Act 2004.
- 3.2 **This guidance is for information purposes, it is not a definitive statement of law.**
- 3.3 'What is the PPF and what do we do?' can be found on our website:
- http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/What_is_the_ppf.pdf
- 3.4 A number of parties will be involved in the assessment process and may include:
- an IP
 - existing scheme trustees and PPF panel trustees
 - tPR
 - the scheme actuary, and
 - the PPF.
- 3.5 The PPF scheme delivery teams will work closely with IPs during the assessment process to provide guidance and aid the assessment of the pension scheme in accordance with the Act.
- 3.6 An assessment period is the period during which a pension scheme is assessed to determine whether the PPF should assume responsibility for the pension scheme. During this period the pension scheme continues to be administered by its trustees – subject to various restrictions and controls. It is the trustees' role to continue to communicate with members and make pension payments where due, taking into account the assessment period restrictions.
- 3.7 During the assessment period, the role of creditor of the employer (on behalf of the pension scheme trustees) passes to the PPF under s137 of the Act, in relation to the money due to the pension scheme. The rights and powers of the trustees to represent the pension scheme as a creditor generally cease during this period. If an assessment period ends and the PPF does not assume responsibility for the pension scheme then the creditor rights will pass back to the trustees.
- 3.8 During the assessment period the PPF's preferred approach is to ensure that we have specialist advisers appointed to the pension scheme. The IP can assist the PPF by using the employer's power of appointment, where it is available to them. The IP should contact the PPF as soon as is practically possible so that we can allocate a trustee to a scheme.
- 3.9 The PPF will only assume responsibility for a pension scheme where
- a qualifying insolvency event has occurred in relation to an eligible pension scheme, **and**:
 - a pension scheme has not been rescued, for example where the insolvent employer is in liquidation, its employees made redundant and its assets sold off piecemeal,
 - there has not been a withdrawal event, **and**
 - the valuation of the pension scheme shows that the assets of the pension scheme are below the PPF level of protected liabilities.
- 3.10 Where these conditions are not met, the PPF will cease to be involved with the pension scheme once the relevant processes and procedures have been completed.

3: Insolvency overview

- 3.11 Where these conditions are met, the PPF will assume responsibility for the pension scheme and compensation will then become payable to its members.
- 3.12 In most cases, an assessment period is likely to last at least a year, although this may vary significantly depending on the complexity of the financial situation of both the employer and the pension scheme, as well as any action being taken by tPR and the possibility of a pension scheme rescue.
- 3.13 The diagram below sets out the key stages for an IP during the initial stages of the assessment period:



4: Actions for insolvency professionals - notification of an insolvency event

- 4.1 If an employer (including a past employer which still has a liability for the pension debt), with an occupational pension scheme, suffers an insolvency event, for example a company enters administration, the PPF should be informed. A full list of the insolvency events is set out in Appendix 1. The duty to notify does not require the IP to consider whether the occupational pension scheme is a scheme which is eligible for PPF protection.
- 4.2 The PPF should be notified by using the s120 notice pro-forma (but please see para 4.6 below). The notice can be supplied in written or electronic form (see section 4.4 below). The notice can be signed by someone other than the IP (if so authorised). The document is available on the PPF website at
- <http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>
- 4.3 The notice should be sent to the PPF, tPR and the trustees of the pension scheme within 14 days of the insolvency event or, if later, the date the IP becomes aware of the existence of the occupational pension scheme. If more than one insolvency event occurs in relation to an employer, a notice is required in respect of each event. If the employer sponsors more than one occupational pension scheme, a notice will be required in relation to each and every one of the occupational pension schemes involved.
- 4.4 In order to assist IPs to comply with their statutory obligation under s120, we have provided an online service, which is available via the PPF website at
- <http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>
- 4.5 This facility enables the IP to enter the employer's name (the company name in which it last meaningfully traded), the individual IP registration number and the date and type of insolvency event on the site. If there is an occupational pension scheme in existence, the website will cause the necessary notice to be sent to the PPF, tPR and the trustees. IPs will receive a reply advising them that the notice has been sent or that there is no scheme. In some limited circumstances, our databases will not be able to provide the information necessary for the facility to work. However, if that is the case, the IP will instead be advised to submit a paper s120 notice.
- 4.6 Alternatively the requisite information can be provided in some other written form. If IPs do not intend to use the notice pro-forma they can find a list of the information that should be included in the notice at Appendix 2.
- 4.7 The PPF needs to be satisfied on two points before it can validate the s120 notice and before it can confirm an assessment period has begun. They are that:
- an insolvency event is a qualifying insolvency event (section 4.1), and
 - the insolvency event must be in relation to an employer of an eligible pension scheme (the criteria are set out in s126 and Regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005). However, IPs are not required to determine whether or not the pension scheme is eligible.
- 4.8 Where these two points are satisfied, the PPF will issue a validation notification and will confirm that an assessment period has begun. The start of the assessment period will be the date on which the insolvency event occurred. This date is known as 'the assessment date'. The assessment date is a key date in the assessment process and is the date from which any requirements or restrictions, placed upon the pension scheme by the Act, apply. This includes the application of the PPF rules to any payment of pensions or benefits.

4: Actions for insolvency professionals - notification of an insolvency event

- 4.9** The situation may be different for pension schemes where there is more than one participating employer and how the situation differs depends on the structure of the pension scheme. More information can be found in the Pension Protection Fund (Entry Rules) Regulations 2005 and the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005. The IP must notify the PPF of each insolvency event in relation to each employer participating in the pension scheme.
- 4.10** Once the IP informs the PPF of the insolvency event, the PPF will carry out the necessary validation to satisfy itself that the relevant eligibility criteria have been met. The PPF will carry out this exercise within 28 days of receipt of the s120 notice, or if later, receipt of the necessary information about the scheme to establish eligibility. When the PPF responds to the s120 notice, its letter will set out the conclusions it has reached on the available information about the scheme's multi-employer status. If IPs are unclear about the impact of this conclusion on the insolvency process, it is recommended they may wish to consult a pension law specialist on the specific aspects of their concerns.

5: Actions for insolvency professionals - pension scheme failure, withdrawal or ceasing to act notice

5.1 Once it becomes clear that either:

- the employer will continue as a going concern and continue to be responsible for the scheme, or another party assumes responsibility for the employer's liabilities under the scheme there will be a scheme rescue, for example, because the company is rescued and the business continues with the pension scheme in place, or
- the employer will not continue as a going concern and no other party has assumed responsibility for its liabilities under the scheme, there will be no scheme rescue (usually referred to as a scheme failure), for example, because the business has been closed down, or entered liquidation and the employees have been discharged, or
- the appointment of the IP comes to an end, or does not take effect, before a view can be formed on what will happen in relation to the scheme, for example, because the court brings the insolvency proceedings to an abrupt end on rescission of a winding up order on the grounds that it ought not to have been made.

the IP should inform the PPF, preferably by using the relevant pro-forma available on the website at

<http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>

or alternatively by sending us the requisite information in writing as soon as reasonably practical. If you do not intend to use the notice pro-forma you will find a list of the information that should be included in the notice at [Appendices 3 and 4](#)

5.2 The situation may be different for pension schemes where there is more than one participating employer – and how the situation differs depends on the structure of the pension scheme.

5.3 The notices should be issued to the PPF, tPR and trustee of the pension scheme. Once the notices are received, the PPF will determine whether the notice can be approved.

5.4 If a pension scheme rescue is confirmed, and after the relevant procedures have been completed and rights of review exhausted, the PPF withdraws from the pension scheme and the assessment period ends. The role of the creditor then reverts to the scheme trustees.

5.5 If a pension scheme rescue is not possible, and after the relevant procedures have been completed and rights of review exhausted, the pension scheme continues in the assessment period.

5.6 Where the IP is unable to confirm whether or not a pension scheme rescue is possible and a notice is issued to that effect, and that notice becomes binding, the PPF must consider whether another insolvency event is likely to occur in the next six months:

- if this is unlikely, the PPF will issue a withdrawal notice terminating the assessment period, **or**
- if the PPF considers it likely and six months has passed without another insolvency event, the PPF is then required to issue a withdrawal notice, terminating the assessment period, **or**
- if the PPF considers it likely that a further insolvency event will occur and it does so within 6 months, the scheme remains in an assessment period and the process for determining the pension scheme status recommences when the PPF is notified of that further insolvency event.

5: Actions for insolvency professionals - pension scheme failure, withdrawal or ceasing to act notice

- 5.7 If there is a further insolvency event **after** a withdrawal notice is issued and has become binding, the IP must issue a further s120 notice and the assessment process including confirming eligibility will start again from the date of the new insolvency event.
- 5.8 The obligation to issue a scheme status notice applies, irrespective of a scheme's PPF eligibility or whether the existence of an assessment period has been confirmed, and there may be serious ramifications for the pension scheme, including potential financial loss, if the IP fails in their statutory duty to issue that notice.

6: Pension scheme trustee creditor rights

Section 137

- 6.1** When an assessment period begins, the PPF will assume all the creditor rights of the pension scheme trustees (whether contingent or not) in relation to the insolvency of the employer. All documents, such as notice of creditors' meetings, etc. should be sent to the PPF so it can be properly informed and exercise the creditor rights of the pension scheme in the insolvency. Contact details are shown at [section 8](#).
- 6.2** In certain circumstances the PPF and trustees may act jointly in relation to creditor rights. These circumstances are very limited and usually arise due to scheme structure issues. The R&I Case Manager will be able to advise about any queries you have in this situation.
- 6.3** During the assessment period, any sums recovered from the employer, for example a dividend payment in relation to the pension scheme's claim, should be forwarded to the scheme trustees directly.
- 6.4** In the event that the PPF assumes responsibility for a pension scheme, the trustees will cease to have any responsibility for the pension scheme and all rights will pass to the PPF. In this event all insolvency dividends should be forwarded to the PPF.
- 6.5** In the event that the assessment period ends, either because there has been a withdrawal event (e.g. scheme rescue) or the process has been concluded as the scheme is funded above the PPF level, the PPF relinquishes its rights in relation to the creditor responsibility for the pension scheme. In this event, the trustees will resume all rights and responsibilities to act for the pension scheme as creditor and the PPF will have no further involvement in relation to the scheme.
- 6.6** The IP should note that unless they have been notified either of a withdrawal event or that the scheme is funded at more than 100% of PPF levels, they should continue to liaise with the PPF. In particular and IP may wish to flag to the PPF if they are aware of an attempt to sell the trustees' claim in the insolvency.
- 6.7** The PPF has published further guidance on various aspects of the insolvency process to assist IPs (see [section 8](#)).

7: Employees and pensioners

- 7.1 During an assessment period, any pension scheme enquiries from employees or existing pensioners should be directed to the trustees of the pension scheme rather than the PPF. This is because the trustees remain responsible for administering the scheme (subject to statutory restrictions) until the end of the assessment period or where it has been determined whether or not the PPF will assume responsibility for it.
- 7.2 In dealing with enquiries from employees or pensioners about the PPF more generally, and for a basic understanding of the compensation that may be payable, you may find it helpful to refer them to our website and the leaflet '**What is the PPF and what do we do?**'.

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/What_is_the_ppf.pdf

8: Further Information

- 8.1 Further useful and more detailed information on the PPF, for example the Guidance for Trustees, can be found on the PPF website:

www.pensionprotectionfund.org.uk

- 8.2 Detailed guidance for IPs on specific aspects of restructuring and insolvency case work can be found on the Restructuring & Insolvency Professionals PPF webpage:

<http://www.pensionprotectionfund.org.uk/Pages/insolvency-practitioners.aspx>

- 8.3 The R&I team at the PPF are:

Malcolm Weir	Head of Team	malcolm.weir@ppf.gsi.gov.uk	020 8633 4940
Kevin Dolan	Senior Case Manager	kevin.dolan@ppf.gsi.gov.uk	020 8633 4998
Mark Allen	Case Manager	mark.allen@ppf.gsi.gov.uk	020 8633 5823
Mike Reavill	Case Manager	mike.reavill@ppf.gsi.gov.uk	020 8633 6627

- 8.4 The contact address for the PPF is:

The Pension Protection Fund
Renaissance
12 Dingwall Road
Croydon
Surrey CR0 2NA
Tel: 0845 600 2541

Appendix 1:

Insolvency events

'Insolvency events' in relation to a company

Section 121(3)

An insolvency event occurs in relation to a company where:

- 1 the nominee under Part 1 of the Insolvency Act 1986 either:
 - 1.1 (who is not the liquidator or administrator) submits a report to the court stating his opinion that meetings of the company and its creditors should be summoned to consider the proposal, or
 - 1.2 (who is an administrator or liquidator) summons a meeting of the company and its creditors to consider the proposal
- 2 the directors of the company file (or in Scotland, lodge) with the court documents and statements which begin a moratorium where the directors propose a voluntary arrangement
- 3 an administrative receiver is appointed in relation to the company
- 4 the company enters administration
- 5 a resolution is passed for creditors' voluntary liquidation or an administrator issues a notice which converts the administration to creditors voluntary liquidation
- 6 a creditors' meeting is held which converts a members' voluntary liquidation into a creditors' voluntary liquidation
- 7 a winding up order is made or an administration is converted to winding up by court order
- 8 an administration order is made by the court in respect of the company by virtue of any enactment which applies Part 2 of the Insolvency Act 1986 Act (administration orders) (with or without modification)

Note: Schemes of Arrangement, exit of administration by dissolution and members, voluntary liquidations are not an 'insolvency event'.

Appendix 1:

Insolvency events

'Insolvency events' in relation to a partnership

Section 121(4) & Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs in relation to a partnership where:

- 1 an order for the winding up of the partnership is made or an administration is converted to a winding up by court order
- 2 sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors
- 3 the nominee under Part 1 of the Insolvency Act 1986 either:
 - 3.1 (*who is not the liquidator or administrator*) submits a report to the court stating his opinion that meetings of the partnership and its creditors should be summoned to consider the proposals, or
 - 3.2 (*who is an administrator, liquidator or trustee*) summons a meeting of the partnership and its creditors to consider the proposal
- 4 the members of the partnership file with the court documents and statements which begin a moratorium where the members propose a voluntary arrangement
- 5 the partnership enters administration.

Appendix 1:

Insolvency events

'Insolvency events' in relation to an individual ***Section 121(2)***

An insolvency event occurs in relation to an individual where:

- 1 he is adjudged bankrupt or sequestration of their estate has been awarded
- 2 a nominee submits a report to the court pursuant to section 256(1) or 256A(3) of the Insolvency Act 1986 stating his opinion that a meeting of the creditors should be called to consider the proposals
- 3 a deed of arrangement made by or in respect of the affairs of the individual is registered in accordance with the Deeds of Arrangement Act 1914
- 4 he executes a trust deed for his creditors or enters into a composition or contract
- 5 he has died and:
 - 5.1 an insolvency administration order is made, or
 - 5.2 a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide the individual's estate amongst their creditors.

Appendix 1: Insolvency events

Additional insolvency events

Section 121(5) & Regulations 5 and 5A of the Pension Protection Fund (Entry Rules) Regulations 2005

An insolvency event occurs:

- 1 in relation to a relevant body, where:
 - 1.1 any of the events referred to in section 121(3) of the Act (see company insolvency events above) occurs in relation to that body by virtue of the application (with or without modification) of any provision of the Insolvency Act 1986 Act by or under any other enactment, **or**
 - 1.2 an administration order is made by the court in respect of the relevant body by virtue of any enactment which applies Part 2 of the Insolvency Act 1986 Act (with or without modification)
- 2 in relation to a building society, where there is dissolution by consent of the members under section 87 of the Building Societies Act 1986
- 3 in relation to a friendly society, where there is dissolution by consent of the members under section 20 of the Friendly Societies Act 1992, **and**
- 4 in relation to an industrial and provident society, where there is dissolution by consent of the members under section 58 of the Industrial and Provident Societies Act 1965
- 5 there is a European insolvency event as set out in regulation 5A.

Appendix 2:

Information to be supplied by the IP on the occurrence of an ‘insolvency event’

Information to be supplied by the insolvency practitioner on the occurrence of an ‘insolvency event’

Regulation 4(2) of the Pension Protection Fund (Entry Rules) Regulations 2005

A notice issued by an IP under section 120(2) shall be in writing and shall contain the following information:

- the name or type of the notice issued
- the date on which the notice is issued
- the name, address and pension scheme registration number of the scheme in respect of which the notice is issued
- the name of the employer in relation to the scheme in respect of which the notice is issued
- the nature of the insolvency event which has occurred and the date of the occurrence of that event
- the name of the IP acting in relation to the employer in relation to the scheme
- the date on which the IP was appointed to act or consented to act in relation to the scheme employer in relation to the scheme or, in any case where the IP is the official receiver, the date on which the official receiver began to act in relation to that employer
- the address for communications at which the IP may be contacted by the PPF in connection with the issue of the notice, and
- whether the notice issued contains any commercially sensitive information.

Appendix 3:

Information to be included in the notification of the status of the scheme

Regulation 9(3) of the Pension Protection Fund (Entry Rules) Regulations 2005

A notice issued by an IP under section 122(2)(a) or (b) or by a former IP under section 122(4) shall be in writing and shall contain the following information:

- the name or type of notice issued
- the date on which the notice is issued
- the name, address and pension scheme registration number of the scheme in respect of which the notice is issued
- the name of the employer in relation to the scheme in respect of which the notice is issued
- the name of the IP or former IP and the address at which that IP may be contacted by the PPF in connection with the issue of the notice
- a statement by the IP or former IP that, as the case may be, a scheme rescue has occurred or a scheme rescue is not possible or that he has been unable to confirm that a scheme rescue has occurred or that a scheme rescue is not possible
- if a scheme rescue has occurred, the date or the approximate date of the scheme rescue and, if there is a new employer in relation to the scheme, the name and address of that employer in relation to the scheme
- if a scheme rescue is not possible, a statement from the IP or former IP as to why, in their opinion, this is not possible
- if section 122(4) applies and the former IP has not been able to confirm in relation to the scheme that a scheme rescue is not possible, a statement from that IP as to why, in their opinion, this is the case
- a statement that the notice issued will not become binding until it has been approved by the PPF, and
- whether, in the opinion of the IP or former IP, the notice issued contains any commercially sensitive information.

Appendix 4:

Events triggering obligation to file a ceasing to act notice under section 122(4)

Companies

- Where the procedure for a voluntary arrangement has commenced but for whatever reason no voluntary arrangement has effect.
- Where a company has entered a moratorium with a view to the proposal of a voluntary arrangement and the moratorium has terminated without a voluntary arrangement taking effect.
- Where the company enters administration, the appointment of an administrator in respect of the company ceases to have effect, except where:
 - the company moves from administration into winding up pursuant to paragraph 83 (moving from administration to creditor's voluntary liquidation) of Schedule B1 to the 1986 Act or pursuant to an order of the court under Rule 2.132 of the Insolvency Rules, or
 - a winding up order is made by the court immediately upon the appointment of the administrator ceasing to have effect.
- Where an administrative receiver vacates office under section 45, Insolvency Act 1986.
- Where the winding up proceedings are stayed or the winding up order is rescinded or discharged, except where the court has made an administration order.

Partnerships

References are to provisions of the Rules and of the Act as applied by an order under section 420

- Where the procedure for a voluntary arrangement has commenced under section 2 of the 1986 Act but for whatever reason no voluntary arrangement has effect or a moratorium with a view to a voluntary arrangement has terminated without the voluntary arrangement taking effect, whichever is applicable.
- Where an administration order has been made in relation to the partnership under Part 2, the order is discharged, except where:
 - a winding up order is made by the court immediately upon the discharge of the administration order; or
 - the discharge is pursuant to an order of the court for the administration to be converted into winding up under rule 2.61(1) of the Insolvency Rules 1986 without the amendments made by the Insolvency (Amendment) Rules 2003.
- Where an order for the winding up of the partnership has been made by the court, the winding up proceedings are stayed or the winding up order is rescinded or discharged.

Appendix 4:

Events triggering obligation to file a ceasing to act notice under section 122(4)

Individuals

- Where the procedure for a voluntary arrangement has commenced but for whatever reason no voluntary arrangement has effect.
- Where an individual has been adjudged bankrupt, the bankruptcy order is annulled or rescinded.
- Where an insolvency administration order is annulled or rescinded.

Other situations triggering a 'scheme rescue uncertain' notice

Deeds of arrangement

- Where a deed of arrangement made by or in respect of the individual has been registered under the Deeds of Arrangement Act 1914, but the deed is void in accordance with the provisions of section 3(1) of that Act. For full details, please see Regulation 6 of the Pension Protection Fund (Entry Rules) Regulations 2005.

