

Message

From: Rodric Williams [GRO]
Sent: 31/10/2013 00:29:26
To: Parsons, Andrew [/O=BOND PEARCE/OU=First Administrative Group/cn=Recipients/cn=ap6]; Chris Aujard [GRO]
CC: Matthews, Gavin [/O=BOND PEARCE/OU=First Administrative Group/cn=Recipients/cn=grm1]
Subject: Re: Civil recoveries and the mediation scheme - recommended approach [BD-4A.FID20472253]

Thanks Andy - I think you've articulated how the Product & Branch Accounting team has been approaching things in practice.

I will however run it past Alison Bolsover to get her view on your approach and the impact it may have on our debt collection activity.

Kind regards, Rodric

From: Parsons, Andrew [GRO]
Sent: Wednesday, October 30, 2013 07:07 PM
To: Rodric Williams; Chris Aujard
Cc: Matthews, Gavin [GRO]
Subject: Civil recoveries and the mediation scheme - recommended approach [BD-4A.FID20472253]

Rodric, Chris

At last week's Working Group meeting, I took away an action to report back to the WG on POL's policy on managing any civil proceedings which involve applicants to the Scheme. After discussion with Rodric, my suggested approach is below.

I'd be grateful for your thoughts on this approach so that I may report back to the WG tomorrow.

Background / Factors to consider

- An applicant to the Scheme may be at any stage in the civil recovery process (internal debt recovery → with solicitors for advice / in pre-action correspondence → live litigation → post-judgment enforcement).
- POL needs to act fairly in civil proceedings so to avoid criticisms from the Court / cost sanctions.
- A blanket suspension of all civil recovery could cause a flood of applications to the Scheme simply to disrupt the civil recovery process.
- A number of case-specific factors may militate towards progressing court proceedings without delay (ie. limitation deadline, SPMR is a credit risk, SPMR's defence has no merit, etc.)
- Mediation is a process that can be run in parallel to litigation. However, it would also be relatively easy to get the Court to stay any live litigation pending mediation.
- The mediation scheme is not an admission of wrongdoing by POL however suspending civil recovery processes may, if known publicly, feed that impression.
- A number of cases have already been stayed / suspended where appropriate.
- Looking to recover debts from SPMRs whilst operating the mediation scheme may appear contradictory to JFSA, SPMRs, the media.

Recommended external policy - to be presented to the WG

- The decision on how to manage civil recoveries rests solely with POL (not the WG).
- POL will manage each set of proceedings on a case-by-case basis depending on the merits of those cases.
- Generally, POL will look to manage cases in such a way so as to not prejudice the mediation scheme - which will include a good faith consideration of suspending recovery processes / staying litigation where appropriate.

Recommended internal policy - not to be disclosed to the WG

Unless suspending civil recoveries causes legal or commercial prejudice to POL, then as a general rule recovery processes should be paused to allow the mediation scheme to be run free of complications.

Where a SPMR makes an application to the Scheme and is subject to:

- Pre-action recovery processes - those processes will be suspended (unless there is good reason to proceed).
- Live litigation - the litigation will be stayed if a request is made by the SPMR for a stay (unless there is good reason to proceed).
- A judgment / enforcement action - enforcement action will not be pursued (unless there is a credit risk and then POL may seek a charging order to secure its judgment).

Happy to discuss.

Kind regards
Andy

Andrew Parsons

Senior Associate

for and on behalf of Bond Dickinson LLP

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