



Receivables Management Association of Canada Inc.
Association Canadienne de la Gestion de Créances Inc.

June 10, 2021

Office of the Superintendent of Bankruptcy Canada
Policy and Regulatory Affairs
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On behalf of Receivables Management Association of Canada, I am submitting feedback in response to the Office of the Superintendent of Bankruptcy's comprehensive review of directives and regulations under the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangements Act*.

Regards,

A handwritten signature in black ink, appearing to read 'Jeffery Pilon', with a stylized flourish at the end.

Jeffery Pilon
President

c: Louis Fortin, Chair, Government Affairs Committee
Members of RMA board of directors



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Submission to the Office of the Superintendent of Bankruptcy
COMPREHENSIVE REVIEW OF DIRECTIVES AND REGULATIONS UNDER THE BANKRUPTCY AND INSOLVENCY ACT
AND THE COMPANIES' CREDITORS ARRANGEMENTS ACT

June 10, 2021

A. Introduction

Receivable Management Association of Canada (RMA) has a keen interest in the Office of the Superintendent of Bankruptcy's (OSB) comprehensive review of directives and regulations under the *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangements Act*.

This submission summarizes Canada's receivables management sector's views regarding how to modernize and improve the regulatory framework, enhance the effectiveness of its administration, and increase accessibility to insolvency proceedings.

B. Background

RMA is a national association representing the business and policy interests of Canada's credit grantors, debt buyers and sellers, and collection agencies. RMA members comprise a sizable segment of Canada's business community.

Our members advocate for strong public policy that benefits Canadian consumers and businesses while strengthening our economy. Our sector retains an estimated 2,500 full-time and 1,000 part-time and contract employees and contributes \$5-7 billion to maintaining a healthy economy. Credit grantors, debt buyers and sellers, and collection agencies represent an important economic driver in Canada.

C. Comprehensive Regulatory Review

RMA enthusiastically supports OSB's comprehensive review of the *Bankruptcy and Insolvency Act* (BIA) and the *Companies' Creditors Arrangements Act* (CCAA).

Given the global pandemic has forced both workplace and business process adaptations in every sector of Canada's economy, OSB's examination of how to adopt regulatory modernizations or how to further improve the regulatory framework is welcome news.

In moving forward with the review, RMA urges OSB officials to carefully consider how the pandemic has positively impacted the methods and means by which stakeholders communicate, file and submit insolvency documents, as well as how findings, rulings and decisions are received and executed.

While RMA membership is wide-ranging —not exclusively focused on the regulatory governance provided by *Bankruptcy and Insolvency Act* and the *Companies' Creditors Arrangements Act*— our association, in principle, supports the efficiencies realized by, '*modern tools that can be [deployed] within the scope of its authority to ensure that the insolvency system continues to function as intended and is able to effectively adapt in an ever-changing environment.*'

All Canadian businesses have had to pivot to accommodate the impact of the pandemic. Virtual meetings, electronic document submission, communication, reporting, auditing, and business management have been adopted swiftly and efficiently. Many of the adaptations brought about by the pandemic should be adopted.

In the sections below, RMA offers feedback in the three areas identified in OBS's regulatory review consultation paper.

C1. Modernization/Innovation

RMA supports regulatory initiatives that reduce:

- costs and overhead for bankruptcy and insolvency service providers;
- time consuming in-person appearances when virtual will suffice;
- unnecessary travel; and,
- time spent needlessly waiting to receive faxes or letter mail.

Building a more robust, agile bankruptcy and insolvency process and regulatory regime will benefit consumers, practitioners, and stakeholders.

Regarding changes needed to help address digital assets, like cryptocurrency, in the insolvency system, much remains uncertain. Given cryptocurrency is not currently covered as a specific secured asset class in provincial *Personal Property Security Act* (PPSA) legislation, RMA agrees that digital assets are an emerging asset class, and, specifically, investments in cryptocurrency and their relevance in Canada's insolvency system ought to be considered by provincial and federal statutes and regulations.

C2. Consumer Protection

RMA advocates for strong public policy that mutually benefits Canadian consumers and businesses. The OSB must develop and enforce a regulatory regime that ensures that debtors only engage with licensed service providers. To ensure consumers receive fair and transparent treatment, storefront debt settlement services and debt settlement coaches must be closely scrutinized and held accountable to the public interest.

C3. Accessibility to the Insolvency System

RMA believes universal accessibility is fundamental to the proper functioning of a modern insolvency system. The fee structure associated with the administration of consumer estates should be based on an individual's means and asset value. Also, pro bono services should be instituted for clients who cannot afford insolvency representation on a fee-for-service basis.

D. Final thoughts

RMA encourages the OSB to carefully review all policies and regulations that will foster job creation and economic growth while protecting consumers. RMA is keen to collaborate with the Office of the Superintendent of Bankruptcy to help develop fair and effective regulations to govern Canada's bankruptcy and insolvency sector.

As a contributor to Canada's economy and the well-being of Canadians, RMA members believe the feedback contained in this submission can help the OSB to further achieve the aims of the comprehensive review.