

November 23, 2017

Mr. Bill James
Superintendent of Bankruptcy Policy and Regulatory Affairs
Office of the Superintendent of Bankruptcy
155 Queen Street, 4th Floor
Ottawa, ON K1A 0H5

Re: Consultation on the “Draft Directive NO. 1R4, Counselling in Insolvency Matters”

Dear Mr. James:

On behalf of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), please accept our comments regarding the *Draft Directive NO. 1R4, Counselling in Insolvency Matters*.

CAIRP is a national association of insolvency and restructuring professionals that represents over 990 Licensed Insolvency Trustees and as well, 370 articling members and 230 corporate, life, and inactive members. CAIRP and many of its members maintain affiliations throughout the insolvency community with such organizations as the Insolvency Institute of Canada, Insol International and the Risk Management Association. As a not-for-profit corporation created in 1979, CAIRP advocates for a fair, transparent, and effective system of insolvency and restructuring administration throughout Canada.

Members of CAIRP complete a rigorous professional program to achieve the CIRP designation and adhere to a strict code of professional conduct, standards of professional practice, and mandatory professional development. CAIRP stringently enforces its regulatory standards, including investigations of complaints and where appropriate, conducts formal, public discipline hearings.

CAIRP acknowledges there is an opportunity for the OSB to implement measures that better prevent non-compliance within the existing regulatory framework and to strengthen the regulatory requirements for individuals LITs may rely on to provide insolvency counselling. While it is unfortunate that the non-compliance of a few will create a greater compliance burden on all providers of insolvency counselling, CAIRP agrees with the OSB that regulatory enforcement changes are needed.

CAIRP's assessment of the Draft Directive No. 1R4, *Counselling in Insolvency Matters* is generally positive. The changes proposed by the OSB can help clarify the ways in which LITs and credit counsellors must work together to serve the best interests of the public. As well, CAIRP commends the Office of the Superintendent of Bankruptcy (OSB) for providing all interested parties an opportunity to consider the proposed changes to the Directive and for ensuring a transparent, fair and efficient hearing process.

CAIRP has prepared this submission in consultation with a committee that is representative of the CAIRP membership and from feedback encouraged and received from its membership at large. CAIRP acknowledges some members may have divergent views from the CAIRP positions in this submission. Those members have been encouraged to make separate submissions to the OSB.

The following table encompasses the details of CAIRP’s comments, identifying areas of the Directive CAIRP believes can be tuned to better achieve the desired objectives. For most comments, CAIRP has suggested specific alternative wording.

The first two columns of the table provide wording for the Directive paragraph CAIRP is commenting on, integrated with edit recommendations. The third column on the right provides supporting rationale for the edit recommendations and as well, additional commentaries:

REVISION RECOMMENDATION (w/markups)	REVISION RECOMMENDATION (clean)	COMMENTS & RATIONALE
<p>"Third-Party Debt Advisor" means an individual or organization who, in return for direct or indirect consideration, acts as an advisor to a debtor or an intermediary between debtors and LITs. This includes those who derive consideration or a benefit from selling insolvent debtors a range of services before, during, or after an insolvency filing under the BIA. Such services may include, but are not limited to: financial evaluations, representation, debt management plans restructuring services, credit rebuilding, loans in various forms, financial planning or insurance.</p>	<p>"Third-Party Debt Advisor" means an individual or organization who, in return for direct or indirect consideration, acts as an advisor to a debtor or an intermediary between debtors and LITs. This includes those who derive consideration or a benefit from selling insolvent debtors a range of services before, during, or after an insolvency filing under the BIA. Such services may include, but are not limited to: financial evaluations, representation, debt management plans including restructuring services, credit rebuilding, loans in various forms, financial planning or insurance.</p>	<p>CAIRP’s understanding of the combined effect of the “Third-Party Debt Advisor” interpretation and paragraph 14. “Ineligibility”, is that the OSB intends to restrict, without exception, Designated Insolvency Counsellors from being employed or contracted by not-for-profit and for-profit, organizations that offer insolvent debtors financial services. CAIRP requests confirmation of this understanding or further explanation.</p> <p>To clarify the meaning of key terms, recommend adding interpretations for “debtor”, “bankrupt”, and “insolvent person” to Section 1. For consistency with the Bankruptcy and Insolvency Act, the interpretations should be defined as “...means as pursuant to Section 2-2.2 of the Act”. Further, for the purposes of this Directive, does the OSB distinguish between “debtor”, “insolvent debtor” and “bankrupt”?</p>
DELIVERY		
<p>10. (1) Subject to paragraphs 10(2) and (3), an LIT (Licensed Insolvency Trustee) shall provide, or provide for, the delivery of in-person insolvency counselling only at an LIT (Licensed Insolvency Trustee) authorized office, which has</p>	<p>10. (1) Subject to paragraphs 10(2) and (3), an LIT (Licensed Insolvency Trustee) shall provide, or provide for, the delivery of in-person insolvency counselling only at an LIT (Licensed Insolvency Trustee) authorized office,</p>	<p>To clarify where in-person counselling will be conducted.</p>

<p>been registered with the OSB (Office of the Superintendent of Bankruptcy) <u>pursuant to Directive 28 and is not an office of an individual under paragraph 14.</u> which is not an office of third party who is not licensed by the Superintendent of Bankruptcy.</p>	<p>which has been registered with the OSB (Office of the Superintendent of Bankruptcy) pursuant to Directive 28 and is not an office of an individual under paragraph 14.</p>	
<p>10. (2) The individual bankrupt or consumer debtor, may request that insolvency counselling be provided, or provided for, via videoconference from an authorized office registered with the OSB (Office of the Superintendent of Bankruptcy) <u>or another location that does not conflict with this Directive and is appropriate to deliver or receive the counselling and</u> which is not an office of <u>an individual under paragraph 14,</u> to the bankrupt or debtor, at their private residence <u>at a place of their convenience,</u> provided they <u>both parties</u> have access to appropriate technology.</p>	<p>10. (2) The individual bankrupt or consumer debtor, may request that insolvency counselling be provided, or provided for, via videoconference from an authorized office registered with the OSB (Office of the Superintendent of Bankruptcy) or a location that does not conflict with this Directive and is appropriate to deliver or receive the counselling and which is not an office of an individual under paragraph 14, to the bankrupt or debtor, at a place of their convenience, provided both parties have access to appropriate technology.</p>	<p>CAIRP recognizes facial expressions can be a key component of effective interpersonal communication. CAIRP also recognizes that video conferencing technologies are increasingly prevalent and becoming a socially accepted and common media for interpersonal communications - for both social and business purposes.</p> <p>Video conferencing can provide a debtor timelier and more convenient access to counselling. Requiring a debtor to be in their private residence seems unnecessarily restrictive. For example, it would be appropriate for a debtor to be at the residence of a friend or relative, at work, at a library, etc. Further, providing LIT's the flexibility to counsel from either a corporate or satellite office (that is not an office of an individual under paragraph 14 of the directive but may be a home office, library, etc.) supports their ability to better serve debtors.</p> <p>CAIRP anticipates that, if allowed, video conferencing will become significantly more prevalent therefore we encourage the OSB to initially monitor the use of video conferencing counselling closely to ensure that a high quality of counselling is maintained.</p>

13.

Prerequisite Education

(a) has a minimum educational standing of high school diploma or GED;

~~(b) has successfully completed either:~~

~~(i) the Insolvency Administration Course available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP); or~~

~~(ii) a minimum of two (2) relevant post-secondary courses in mathematics, financial management, finance, accounting, or business administration;~~

~~(c) undertakes to complete seven and a half (7.5) hours of appropriate professional development training annually;~~

13.

Prerequisite Education

(a) has a minimum educational standing of a high school diploma or GED;

(a) Adding a GED option maintains a high school standard while supporting accessibility.

Remove paragraph (b) to better: support accessibility for becoming a counselor; ensure consistency of competency development, compliance and operational efficiencies.

Consider:

(i) CAIRP's Insolvency Administration Course (IAC) is a very challenging, technical course designed specifically to develop the competencies required of an Insolvency Administrator. While some of the content may be relevant to a Counselor, much is not.

(ii) For the requirement of two PSI courses to be a meaningful and consistent standard the OSB would need to: identify the kinds of PSIs it recognizes, establish minimum acceptable grades, and specify courses that develop the desired competencies. For example, business administration and math courses develop very different competencies. Does completing a course mean achieving a pass grade? If so, is it 50%, 65% or...?

As we understand it, the primary reason to propose (b) is to ensure Counselors have developed and demonstrated an appropriate level of cognitive thinking ability, a higher level than what a high school diploma normally achieves. This would support individuals' success in the PCIC and as well, their ability to perform competently on the job. CAIRP agrees this is important, but considering the challenges

<p>Practical Course on Insolvency Counselling</p> <p>{e} (b) has successfully completed the Practical Course on Insolvency Counselling (PCIC) available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP);</p>	<p>Practical Course on Insolvency Counselling</p> <p>(b) has successfully completed the Practical Course on Insolvency Counselling (PCIC) available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP);</p>	<p>noted with (i) and (ii), CAIRP believes the goals may be better achieved by creating a PCIC course(s) that both develops and assesses the cognitive learning abilities and as well, the technical and enabling competencies a Designated Insolvency Counselor requires.</p> <p>Practical Course on Insolvency Counselling</p> <p>If the OSB supports the approach described above, CAIRP would undertake development of a contemporary and robust PCIC course(s), integrating updated and appropriate content from CAIRP’s <i>ICQC</i>, <i>IAC</i>, and <i>Introduction to Insolvency</i> courses and incorporating best practice delivery/ assessment design.</p>
<p>Knowledge of Insolvency Counselling Curriculum</p> <p>{e} (c) has demonstrated a knowledge of the BIA (Bankruptcy and Insolvency Act) insolvency counselling curriculum as specified in this Directive and according to requirements specified by the OSB (Office of the Superintendent of Bankruptcy);</p>	<p>Knowledge of Insolvency Counselling Curriculum</p> <p>(c) has demonstrated a knowledge of the BIA (Bankruptcy and Insolvency Act) insolvency counselling curriculum as specified in this Directive and according to requirements specified by the OSB (Office of the Superintendent of Bankruptcy);</p>	<p>Knowledge of Insolvency Counselling Curriculum</p> <p>While the assessment standard of “demonstrated knowledge” is not specified by the Directive, CAIRP believes it is reasonable for the OSB to give LITs the authority and responsibility to attest to the OSB that they have observed the Counselor demonstrating a knowledge of the BIA . . .</p>
<p>Experience Requirement</p> <p>{f} (d) has obtained experience in providing insolvency counselling to bankrupts or consumer debtors through a minimum of fifty (50) counselling sessions, acquired:</p>	<p>Experience Requirement</p> <p>(d) has obtained experience in providing insolvency counselling to bankrupts or consumer debtors through a minimum of fifty (50) counselling sessions, acquired:</p>	<p>Experience Requirement</p> <p>13{f}(d) CAIRP fully supports the OSB’s proposal of requiring 50 counselling sessions. This measure is more specific and easily tracked than the current 100 hours.</p>

<p>(i) by delivering insolvency counselling under the direct observation of:</p> <ol style="list-style-type: none"> 1) the applicant LIT or an LIT of the same firm as the applicant LIT; or 2) an insolvency counsellor registered against an LIT's licence through the OLAA who has a minimum of one year experience in providing insolvency counselling for the applicant LIT or an LIT of the same firm; or, <p>(ii) by independently delivering insolvency counselling, as an insolvency counsellor previously while registered against an LIT's licence through the OLAA, within the last 24 months from the date of the application.</p> <p><u>Mandatory Professional Development</u></p> <p><u>(e) completes 3.5 hours of appropriate professional development training annually.</u></p>	<p>(i) by delivering insolvency counselling under the direct observation of:</p> <ol style="list-style-type: none"> 1) the applicant LIT or an LIT of the same firm as the applicant LIT; or 2) an insolvency counsellor registered against an LIT's licence through the OLAA who has a minimum of one year experience in providing insolvency counselling for the applicant LIT or an LIT of the same firm; or, <p>(ii) by delivering insolvency counselling, as an insolvency counsellor while registered against an LIT's licence through the OLAA, within the last 24 months from the date of the application.</p> <p>Mandatory Professional Development</p> <p>(e) completes 3.5 hours of appropriate professional development training annually.</p>	<p>13 (c) (d) (ii) – Clarifies that experience gained within the past 24 months while contracted or employed by an LIT meets the Experience Requirement.</p> <p>Mandatory Professional Development</p> <p>CAIRP recommends that the mandatory professional development requirement in 13(c) be reformatted in the Directive as a separate paragraph. MPD is an ongoing requirement, that is separate from the requirements to achieve the designated insolvency counselor status. Considering the magnitude of change in counseling regulation and practices that normally take place in a year, CAIRP believes 3.5 hours (1/2) of verifiable professional development is sufficient for a Counsellor to maintain a high level of competency.</p> <p>CAIRP supports delegating the LIT with the authority and responsibility to attest annually</p>
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		<p>to the completion of a Counselors' PD.</p> <p>If the OSB prefers a more consistent compliance standard for PD, they could consider working with CAIRP or another third-party provider to develop, and annually update, a professional development webinar that refreshes key counselling competencies and updates counselors on changes to insolvency counselling legislation and/or advancements in counselling best practices. To be economically viable, a critical mass of registrations will be required for a PD provider to develop and deliver quality PD for counselors. CAIRP would look forward to working with the OSB to investigate the development of PD options for Counsellors.</p> <p>CAIRP also encourages the OSB to clearly define what appropriate PD is and recommends that qualifying PD be restricted to verifiable PD.</p>
<p>Ineligibility</p> <p>14. An individual is ineligible to be registered against an LIT's licence as an insolvency counsellor if they are directly or indirectly involved in activities that are inconsistent with the LIT's obligations under the Act and the Rules, including those representing a real, potential or perceived conflict of interest. Activities which preclude an individual's eligibility to be registered as an insolvency counsellor include being:</p> <p>(a) engaged in or involved with the provision of financing and lending services to individual bankrupts or consumer debtors including, but not limited to, credit rebuilding services, financial</p>	<p>Ineligibility</p> <p>14. An individual is ineligible to be registered against an LIT's licence as an insolvency counsellor if they are directly or indirectly involved in activities that are inconsistent with the LIT's obligations under the Act and the Rules, including those representing a real, potential or perceived conflict of interest. Activities which preclude an individual's eligibility to be registered as an insolvency counsellor include being:</p> <p>(a) engaged in or involved with the provision of financing and lending services to individual bankrupts or consumer debtors including, but not limited to, credit rebuilding services,</p>	<p>Ineligibility</p> <p>CAIRP generally supports this provision. It creates clarity for the public, by distinguishing licenced, regulated insolvency professionals from unregulated third parties who provide insolvency services.</p>

<p><u>planning</u>, loans in various forms, and insurance;</p> <p>(b) employed by, associated with or acting as a Third-Party Debt Advisor; or</p> <p>(c) employed by, associated with or acting as a Referral Arranger.</p>	<p><u>financial planning</u>, loans in various forms, and insurance;</p> <p>(b) employed by, associated with or acting as a Third-Party Debt Advisor; or</p> <p>(c) employed by, associated with or acting as a Referral Arranger.</p>	
<p>REGISTRATION (CORPORATE LICENCE)</p>		
<p>16. Eligibility for corporate registration of an insolvency counsellor is restricted to individuals presenting a low risk to the integrity of the insolvency counselling process, namely those who:</p> <p>(a) are already validly registered by one of the firm's individual LIT's as an insolvency counsellor pursuant to the requirements of the individual registration process specified in this Directive;</p> <p>(b) are employed by the corporate LIT;</p> <p>(c) have no third party employment, earnings, <u>are not employed by, nor receive any earnings from, Third Party Debt Advisors, Referral Arrangers, or any other individuals contemplated in paragraph 14, have no third party employment, earnings, or <u>do not have</u> individual bankrupt or consumer debtor related financial activities or interests; and,</u></p> <p>(d) are covered as employees under the corporate LIT's professional liability insurance.</p>	<p>16. Eligibility for corporate registration of an insolvency counsellor is restricted to individuals presenting a low risk to the integrity of the insolvency counselling process, namely those who:</p> <p>(a) are already validly registered by one of the firm's individual LIT's as an insolvency counsellor pursuant to the requirements of the individual registration process specified in this Directive;</p> <p>(b) are employed by the corporate LIT;</p> <p>(c) are not employed by, nor receive any earnings from, Third Party Debt Advisors, Referral Arrangers, or any other individuals contemplated in paragraph 14, or do not have individual bankrupt or consumer debtor related financial activities or interests; and,</p> <p>(d) are covered as employees under the corporate LIT's professional liability insurance.</p>	<p>Edit to 16.(c) clarifies that this Directive would not restrict a Designated Insolvency Counselor from being employed in a role that falls outside the intended scope of this Directive.</p>
<p>LIT DESIGNATION, DUTIES AND PROHIBITIONS</p>		
<p>19. When designating a counsellor who is not an employee of the LIT's firm, the LIT shall warrant <u>attest</u> that</p>	<p>19. When designating a counsellor who is not an employee of the LIT's firm, the LIT shall attest that</p>	

<p>neither the designated counsellor, nor an organization or person with which the designated counsellor has a relationship, is directly or indirectly receiving any other remuneration or consideration in relation to the counselling from the individual or corporate LIT, other than the amount prescribed for providing the counselling sessions</p>	<p>neither the designated counsellor, nor an organization or person with which the designated counsellor has a relationship, is directly or indirectly receiving any other remuneration or consideration in relation to the counselling from the individual or corporate LIT, other than the amount prescribed for providing the counselling sessions</p>	
<p>20. When required, an LIT may designate another LIT, to provide counselling on a specific estate, provided that the named LIT, <u>or their Designated Insolvency Counselor</u>, personally provides the insolvency counselling to the individual bankrupt or consumer debtor.</p>	<p>20. When required, an LIT may designate another LIT, to provide counselling on a specific estate, provided that the named LIT or their Designated Insolvency Counselor, personally provides the insolvency counselling to the individual bankrupt or consumer debtor.</p>	<p>Acknowledges that an LIT or their corporate Designated Insolvency Counselor can provide counselling services.</p>
<p>PROVIDING, OR PROVIDING FOR INSOLVENCY COUNSELLING</p>		
<p>21. (a) meet with the individual bankrupt or consumer debtor to complete the <u>initial</u> Insolvency Counselling and Designation Form (Schedule I). <u>Where amendments to the Forms are necessary, subsequent meetings between the LIT and bankrupt or consumer debtor will not be required;</u></p>	<p>21. (a) meet with the individual bankrupt or consumer debtor to complete the initial Insolvency Counselling and Designation Form (Schedule I). Where amendments to the Forms are necessary, subsequent meetings between the LIT and bankrupt or consumer debtor will not be required;</p>	<p>A meeting between the LIT and Debtor to complete the Insolvency Counselling and Designation Form should only be required for the initial completion of forms. Subsequent meetings should not be required to amend forms. Clarify that “meet” is normally defined as an in-person meeting with the exception of estates where a remote assessment is allowed pursuant to Directive 6R3.</p>
<p>(c) submit to the OSB, prior to the first counselling session, a copy of the Insolvency Counselling and Designation Form (Schedule I), signed by the individual bankrupt or consumer debtor and the LIT, confirming that the LIT will be providing for insolvency counselling, on a specific insolvency estate, themselves <u>or with another LIT or counsellor registered against the corporate licence, or with another LIT registered under a different</u></p>	<p>(c) submit to the OSB, prior to the first counselling session, a copy of the Insolvency Counselling and Designation Form (Schedule I), signed by the individual bankrupt or consumer debtor and the LIT, confirming that the LIT will be providing for insolvency counselling, on a specific insolvency estate, themselves or with another LIT or counsellor registered against the corporate licence, or with another LIT registered under a different</p>	

<p><u>corporate licence</u>, or through a registered insolvency counsellor;</p>	<p>corporate licence, or through a registered insolvency counsellor;</p>	
<p>RENEWAL</p>		
<p>30.b) he or she has retained documentation demonstrating that each of the insolvency counsellors registered against their license has completed seven and a half (7.5) <u>three and a half (3.5)</u> hours of appropriate professional development training in the previous twelve (12) months.</p>	<p>30.b) he or she has retained documentation demonstrating that each of the insolvency counsellors registered against their license has completed three and a half (3.5) hours of appropriate professional development training in the previous twelve (12) months.</p>	<p>Revised for consistency with recommendation in paragraph 13. Mandatory Professional Development Requirement.</p>
<p>EXPIRY</p> <p>31. Where a <u>Designated Insolvency Counsellor</u> is not designated, <u>pursuant to paragraph 17</u>, by an LIT to provide insolvency counselling for a period of two (2) consecutive calendar years, <u>the LIT will be notified and</u> the registration of the insolvency counsellor may be considered to be expired and removed from the LIT’s profile, without further notice, at the discretion of the OSB.</p>	<p>EXPIRY</p> <p>31. Where a Designated Insolvency Counsellor is not designated, pursuant to paragraph 17, by an LIT to provide insolvency counselling for a period of two (2) consecutive calendar years, the LIT will be notified and the registration of the insolvency counsellor may be considered to be expired and removed from the LIT’s profile, without further notice, at the discretion of the OSB.</p>	<p>LITs should be notified whenever a Counselor’s registration is being removed from the LIT’s profile.</p> <p>CAIRP also recommends that an additional section be added to address situations where a Designated Insolvency Counsellor is removed from the OSB registry, for any reasons other than expiry, and that any LIT with that Designated Insolvency Counsellor under their profile be advised of the removal.</p>
<p>TRANSITIONAL PROVISIONS</p>		
<p>Education and Experience Requirements</p> <p>36(1) In registering an individual against an LIT’s licence pursuant to paragraph 11 of this Directive, and with regard to the Education Requirement as set out in this Directive, the applicant LIT may request, in lieu of a high school diploma, to have equivalent relevant experience of a previous BIA insolvency counsellor recognized.</p> <p>(2) in fulfillment of paragraph 36(1) of this Directive, the applicant LIT shall attest and demonstrate that the individual:</p> <p>(a) has actively provided insolvency counselling under the Act for the</p>		<p>CAIRP recommends that insolvency counselors currently registered with the OSB, that do not meet the education and experience requirements, be grandfathered and that such insolvency counselors be required to complete 7.5 hours of professional development per year for the two years following the coming into force date of the Directive.</p> <p>CAIRP further recommends that students registered in the ICQC course on the “Coming Into Force” date who successfully</p>

applicant LIT or an LIT who works at the same firm as the applicant LIT in the forty-eight (48) months prior to the coming into force date of this Directive; and,
(b) has successfully completed the Insolvency Administration Course available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP)

Experience Requirement

37. (1) In registering an individual against an LIT's licence pursuant to paragraph 11 of this Directive, and with regard to the Experience Requirement as set out in this Directive, the applicant LIT may request to have the relevant experience of a previous BIA insolvency counsellor recognized.

(2) In fulfillment of paragraph 37(1) of this Directive, the applicant LIT shall attest and demonstrate that the individual:

- (a) was registered prior to the coming into force of this Directive; and,
- (b) has provided a minimum of fifty (50) counselling sessions under the Act for the applicant LIT or an LIT who works at the same firm as the applicant LIT in the 24 months prior to the coming into force date of this Directive.

36. (1) BIA insolvency counselors registered with the OSB on the "Coming Into Force" date that do not meet the education and experience requirements will be grandfathered; exempting them from the education and experience requirements of paragraph 13 of the Directive and providing them the opportunity to be registered as a "Designated Insolvency Counsellor". Such

36. (1) BIA insolvency counselors registered with the OSB on the "Coming Into Force" date that do not meet the education and experience requirements will be grandfathered, exempting them from the education and experience requirements of paragraph 13 of the Directive, and providing them the opportunity to be registered as a "Designated Insolvency

complete the ICQC and experience requirement by February 2020, but do not meet the new education requirements, also be grandfathered, exempting them from the education requirements under paragraph 13 of the Directive. That is, currently registered students in the ICQC and as well, those who register between now and the "Coming into Force" date, should be allowed until January 2019 to complete the ICQC course and assessment. This provides these students an opportunity to complete the ICQC by writing the June 2018 exam and where necessary (due to exam failure or deferral), a final exam attempt in January 2019. The February 2020 deadline provides sufficient time to fulfill the experience requirements (i.e. 50 counselling sessions). There are currently 104 students enrolled in the ICQC.

CAIRP recommends that after the "Coming Into Force" date, and until the PCIC is available, individuals who commence the process of registration under paragraph 13 must meet all the requirements proposed by the Directive, including the education requirements: (i) IAC course or (ii) two post-secondary courses.

As an alternative, CAIRP could integrate relevant modules from the IAC course into the ICQC, creating a new hybrid course and assessment. This would minimize overlapping content between the current ICQC and IAC courses and as well, minimize content that is not related to the competency development of an insolvency counselor. It would also immediately establish a more robust standard than is currently in place.

<p><u>insolvency counselors will be required to complete 7.5 hours annually of professional development for the next two years following the coming into force of the Directive.</u></p> <p><u>(2) Individuals registered in the Insolvency Counselors Qualification Course (ICQC) available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP) on the “Coming Into Force” date who successfully complete the ICQC and experience requirement by February 2020, but do not meet the education requirements, will be grandfathered, exempting them from the education requirements under paragraph 13 of the Directive and provided the opportunity to be registered as a “Designated Insolvency Counsellor”. Such insolvency counselors will be required to complete 7.5 hours of professional development per year for the two years following the coming into force of the Directive.</u></p> <p><u>(3) Until such time that the PCIC is developed and ready for delivery, individuals who commence the process of registration after the Coming Into Force date must meet all the requirements of paragraph 13.</u></p>	<p>Counsellor”. Such insolvency counselors will be required to complete 7.5 hours annually of professional development for the next two years following the coming into force of the Directive.</p> <p>(2) Individuals registered in the Insolvency Counselors Qualification Course (ICQC) available from the Canadian Association of Insolvency and Restructuring Professionals (CAIRP) on the “Coming Into Force” date who successfully complete the ICQC and experience requirement by February 2020 , but do not meet the education requirements, will be grandfathered, exempting them from the education requirements under paragraph 13 of the Directive and provided the opportunity to be registered as a “Designated Insolvency Counsellor”. Such insolvency counselors will be required to complete 7.5 hours of professional development per year for the two years following the coming into force of the Directive.</p> <p>(3) Until such time that the PCIC is developed and ready for delivery, individuals who commence the process of registration after the Coming Into Force date must meet all the requirements of paragraph 13.</p>	
<p>COMING INTO FORCE</p> <p>This Directive comes into force on TBD.</p>		<p>The coming into force date should consider that some components of the Directive will have to be implemented in stages. For example, CAIRP would require a period of time to fully develop a new PCIC course(s) and assessment(s) (from the decision to proceed date). Accordingly,</p>

		the timelines for transitional provisions and coming into force will need to be considered carefully. If the Coming into Force date triggers CAIRP to undertake PCIC development, transitional provisions for education will need to be extended until such time the PCIC course is ready to be launched.
SCHEDULE I		
INSOLVENCY COUNSELLING AND DESIGNATION FORM		
Counselling to be performed by <ul style="list-style-type: none"> <input type="checkbox"/> Myself, the LIT; <u>another LIT registered against the corporate licence; or a Designated</u> Insolvency Counsellor registered against the corporate licence <input type="checkbox"/> Another LIT <u>or Designated Insolvency Counsellor registered against their corporate licence</u> 	Counselling to be performed by <ul style="list-style-type: none"> <input type="checkbox"/> Myself, the LIT; another LIT, registered against the corporate licence; a Designated Insolvency Counsellor registered against the corporate licence <input type="checkbox"/> Another LIT or Designated Insolvency Counsellor registered against their corporate licence 	<p>The form should provide for exceptional cases where an LIT may refer the counselling session to another LIT including their Designated Insolvency Counsellors registered under their corporate licence. For example, an LIT may refer a counselling session to another LIT not registered under the same corporate licence when a debtor moves to a different geographic area.</p> <p>The LIT should have the flexibility to check-off more than one option on Schedule I.</p>
LIT DECLARATION	LIT DECLARATION	
I, the LIT, <u>to the best of my knowledge and ability,</u> hereby attest that the registered insolvency counsellor (<i>check applicable boxes</i>):	I, the LIT, to the best of my knowledge and ability, hereby attest that the registered insolvency counsellor (<i>check applicable boxes</i>):	Recognizes an LIT has a professional obligation to attest to with a high level of confidence (but not 100% certainty) that the counsellor does not have any interests that conflict.
BANKRUPT OR CONSUMER DEBTOR DECLARATION	BANKRUPT OR CONSUMER DEBTOR DECLARATION	
<input type="checkbox"/> I am aware that the only fees and expenses that may be charged to me or my estate for insolvency counselling are the two insolvency	<input type="checkbox"/> I am aware that the only fees and expenses that may be charged to me or my estate for insolvency counselling are the two insolvency counselling sessions at \$85 each, in	

<p>counselling sessions at \$85 each, in accordance with Rule 131 of the BIA.</p>	<p>accordance with Rule 131 of the BIA.</p>	
<p>Notes</p> <ul style="list-style-type: none"> This Form shall be submitted to the Office of the Superintendent of Bankruptcy (OSB) via E-Filing in both PDF and XML formats. 	<p>Notes</p> <ul style="list-style-type: none"> This Form shall be submitted to the Office of the Superintendent of Bankruptcy (OSB) via E-Filing 	<p>Filing the Form in both PDF <u>and</u> XML format which is onerous and unnecessary. Other statutory forms only need to be filed in XML format and this form should be no different. The Trustee has a duty to keep a signed copy in its file like all other efiled documents and the OSB can still request a copy of it on an exception basis.</p>
<p>SCHEDULE II</p>		<p>CAIRP recommends that the OSB provide separate forms for the first and second counselling session as opposed to combining the two forms. Practically speaking, different people may conduct the first and second counselling sessions which could mean having one original schedule moving back and forth at different dates.</p> <p>Often counselling sessions do not happen in the prescribed time periods and in some case, such as death or incapacity, they do not happen at all. Unless the Debtor has refused or neglected to do the counselling per sections 66.13(2)(b) or 157.1(3), the LIT will issue the Certificate of Full Performance or Certificate of Automatic Discharge where the counselling was completed outside of the prescribed periods under paragraph 22 of the directive. Schedule II form does not address these situations. The Insolvency Counsellor Declaration to LIT should allow the Insolvency Counsellor to note when counselling was provided outside the prescribed times. The LIT attestation should allow for three types of attestations: (a) counselling was done in accordance with the Directive; (b) counselling was not done in compliance with paragraph 22</p>

		but in the opinion of the LIT the debtor did not refuse or neglect to receive counselling, or; (c) counselling was not done in compliance with paragraph 22 and in the opinion of the LIT the debtor did refuse or neglect to receive counselling.
<p>Notes</p> <ul style="list-style-type: none"> This Form shall be submitted to the Office of the Superintendent of Bankruptcy (OSB) via E-Filing in both PDF and XML formats. 	<p>Notes</p> <ul style="list-style-type: none"> This Form shall be submitted to the Office of the Superintendent of Bankruptcy (OSB) via E-Filing 	<p>Filing the Form in both PDF and XML format is onerous and unnecessary. Other statutory forms only need to be filed in XML format and this form should be no different. The Trustee has a duty to keep a signed copy in its file like all other efiled documents and the OSB can still request a copy of it on an exception basis.</p>

On behalf of the CAIRP membership, thank you for the opportunity to participate in this consultation.

If you or any member of your team would like to discuss or clarify any of the comments or revision recommendations made in this submission, please contact CAIRP’s President & COO, Grant Christensen.

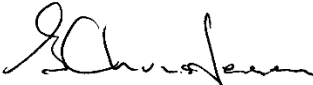
Sincerely,



Chantal Gingras, CIRP, LIT
Chair & CEO, CAIRP

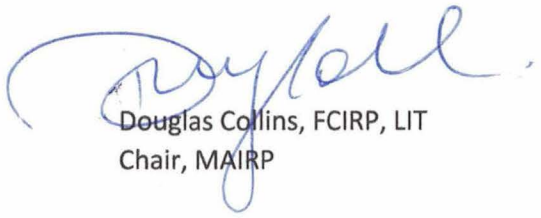


Andre Bolduc, CPA, CA, CIRP, LIT
Chair, Consumer Practice Committee



Grant Christensen, FCPA, FCGA
President & COO, CAIRP

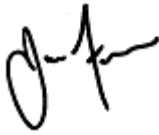
The Manitoba Association of Insolvency and Restructuring Professionals (MAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

A handwritten signature in blue ink, appearing to read 'Douglas Collins', is written over the typed name and title.

Douglas Collins, FCIRP, LIT
Chair, MAIRP

The Nova Scotia Association of Insolvency and Restructuring Professionals (NSAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

Per:

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

James Foran, CPA, CA, CIRP, LIT

President


Nova Scotia Association of Insolvency and Restructuring Professionals

The Ontario Association of Insolvency and Restructuring Professionals (OAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

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

John Haralovich, CIRP, LIT
Chair, OAIRP

The Saskatchewan Association of Insolvency and Restructuring Professionals (SAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

A handwritten signature in black ink, appearing to be 'MS' or similar initials, written in a cursive style.

Michelle Scheller, CIRP, LIT
Chair, SAIRP

The British Columbia Association of Insolvency and Restructuring Professionals (BCAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

A handwritten signature in blue ink, appearing to read "Linda Paul", with a small blue mark above the first letter.

Linda Paul, CIRP, LIT
President, BCAIRP

The Quebec Association of Insolvency and Restructuring Professionals (QAIRP) has reviewed and endorses the comment submission of the Canadian Association of Insolvency and Restructuring Professionals (CAIRP), dated November 23, 2017, regarding Draft Directive No. 1R4, *Counselling in Insolvency Matters*.

A handwritten signature in black ink, appearing to read 'M. Roy', with a long horizontal stroke extending to the right.

Mathieu Roy, CIRP, LIT
Chair, QAIRP