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*Dear Jamie,*

Thank you for your letter of 29 October 2020, which sets out recent policy developments in Scotland around consumers and debt advice and your concerns around the operation of protected trust deeds (PTDs), which broadly equate to individual voluntary arrangements (IVAs) in England and Wales.

You asked for my thoughts on the Scottish Parliament's Economy, Energy and Fair Work Committee recommendation that would see the extension of Financial Conduct Authority (FCA) regulation to include introductions to debt advice. The importance of appropriate and independent debt advice, which enables consumers to find a sustainable solution for their financial difficulties is widely recognised. I note with interest that obtaining such advice is a pre-requisite in Scotland for a consumer before accessing a statutory debt solution.

The FCA requires authorised firms to provide sound, impartial debt advice which is in the best interests of consumers. The FCA set out its expectations of debt advice from debt packager firms (i.e. firms which provide a customer with debt advice only and refer the customer to a suitable firm for the debt solution) in a Dear CEO letter in 2018<sup>1</sup> and, more recently, set out key risks that debt advice firms pose to consumers in a letter to debt advice firms<sup>2</sup> in July this year.

The recognised professional bodies (RPBs) that authorise insolvency practitioners (IPs), require IPs to ensure that the information and explanations provided to a consumer about all the debt solution options available to them enable the consumer to make an informed judgement as to whether an IVA is an appropriate option for them. The Insolvency Code of Ethics was strengthened earlier this year, these changes mean that IPs are now responsible for the information collected and advice given by any third party which refers the case to their firm.

<sup>1</sup> <https://www.fca.org.uk/publication/correspondence/dear-ceo-fca-expectations-debt-packager-firms.pdf>

<sup>2</sup> <https://www.fca.org.uk/publication/correspondence/debt-advice-firms-portfolio-letter.pdf>

As you have mentioned, my officials at the Insolvency Service continue to work with the FCA, the Advertising Standards Agency and the RPBs to produce guidance for IPs in relation to advertising and how they can ensure they only take cases from introducers who have complied with FCA guidance on debt advice. This will also include ensuring that referrals of bad practice are dealt with quickly and by the appropriate bodies, including the RPBs if an IP is involved.

I would also like to draw your attention to the work of the Individual Voluntary Arrangement Standing Committee which is chaired by the Insolvency Service and which drafts and monitors the IVA protocol. The Committee is working on a new draft of the protocol for publication at the start of 2021. This will address issues with both advertisement and poor advice.

I am aware that there is still concern in this important area. The Government is currently reviewing the regulation of the insolvency profession and a call for evidence was published last year to seek views on whether changes to the regulatory framework are necessary. The consultation highlighted developments in the insolvency market and the proliferation over the last few years of people seeking debt relief through IVAs and PTDs. The Insolvency Service is currently considering the responses and further evidence from stakeholder groups, and I expect to publish a response to the call for evidence and proposals for the way forward, in the New Year. I will write to you again nearer the time to update you on the detail.

I welcome the continued collaboration by officials from the Insolvency Service and the Accountant in Bankruptcy's office to address these areas of concern.

*Kind Regards*

*Martin Call*

**Lord Callanan**