

**THE HANDLING OF FUNDS IN FORMAL
INSOLVENCY APPOINTMENTS**

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INTRODUCTION

1. This Statement of Insolvency Practice is one of a series issued by the Institute of Chartered Accountants in Ireland to insolvency practitioners with a view to maintaining standards by setting out required practice and harmonising members' approach to particular aspects of insolvency practice
2. The purpose of Statements of Insolvency Practice is to set out basic principles and essential procedures with which insolvency practitioners are required to comply. Departure from the standards set out in the Statements of Insolvency Practice is a matter that may be considered by the Institute for the purposes of possible disciplinary or regulatory action.
3. This Statement concerns the handling of funds by insolvency officeholders in the administration of insolvency cases in the Republic of Ireland.
4. Practitioners appointed by the High Court should note that they are obliged to comply with the provisions of the Rules of the Superior Courts, with the terms of the Orders pursuant to which they are appointed and with the practice and directions of the Court.

FUNDS HELD

5. Practitioners should ensure that the funds (including any interest earned thereon) and other assets of each case for which they have responsibility as insolvency officeholder are maintained separately and cannot be intermingled with those of any other case or those of the officeholder or his or her firm. A separate bank account should be operated for each case to ensure that these principles are adhered to.
6. Where the insolvency officeholder has been appointed to a number of companies within a group, the insolvency officeholder should take cognisance of the separate legal entity of each company. Accordingly, a separate bank account should be maintained for each of those companies.
7. Where funds relating to a case are received by cheque, payable to the officeholder or his or her firm, which cannot be endorsed to the insolvency case, such cheques may be cleared through an account maintained in the name of the officeholder or his or her firm. Such accounts should be operated on a trust basis and should be

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maintained separately from the practitioner's office accounts. Funds paid into such accounts should be paid out to the case to which they relate as soon as possible.

8. Monies coming into the hands of practitioners which are the property of individuals or companies for which they are acting otherwise than in the capacity of insolvency officeholder must be held in an account operated on trust principles and subject to any applicable client money rules.
9. Practitioners are reminded that monies received under the provisions of the Protection of Employees (Employers' Insolvency) Acts, 1984 to 2003, are regarded by the Department of Enterprise, Trade and Employment as trust monies held by the insolvency officeholder as the "relevant officer" for the purposes of the Act. The funds are therefore received subject to disbursement to the employees concerned in accordance with the regulations and should be held separately from funds arising on individual cases.
10. Members' attention is drawn to the Anti-Money Laundering guidance issued by the CCAB-I for the general membership of its constituent bodies in August 2003 and March 2004.

EFFECTIVE DATE

11. This Statement is effective from 1st May 2005.

