

Member Update**Title: Insolvent companies****Update No.: 09 of 10****Date of Issue: 30 March 2010****Distribution**

- GTA Members – primary contact list. Please circulate to all appropriate internal parties

Issues**1 GTA Trade Rules - Default Due to Insolvency**

The GTA Trade Rules detail the actions that need to occur in relation to contracts with organisations that become insolvent. The GTA Trade Rules define a Insolvency Event.

Reference

- Rule 17.6 Default Due to Insolvency

2 Mutual credit & set off

GTA has received a number of requests regarding the situation where a member has commercial dealings with a company that becomes insolvent with the question being can there be financial set offs against the various commercial dealings.

GTA Trade Rules is silent on this issue, however the following references maybe of use to determine your obligations and entitlements.

Reference

- Corporations Act 2001 Para. 553c – Insolvent companies – mutual credit & set off. [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C1A0363A6806B9F1CA2570460014CD4C/\\$file/Corps2001Vol2WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/C1A0363A6806B9F1CA2570460014CD4C/$file/Corps2001Vol2WD02.pdf) . This document is available at the aforementioned address. Go to document and search for Para 553c.
- Ford's Principles of Corporation Law 2005 [Para 27.450] Set-off of mutual claims. This is a legal text, however your legal adviser would be able to source the information.

Advice

- GTA urges Members who have contracts with organisations who have become insolvent as defined by the GTA Trade Rules to seek immediate professional advice.
- GTA is not able to offer specific advice on any contractual issue due to a potential conflict if the issue requires the services of the GTA Dispute Resolution Service.