The order usually allows for payment of

The Companies' Creditors Arrangement Act – Overview© 2018 – Lawrence J. SwartzCompanies' Creditors Arrangement Act – CCAANature and PurposeCommencement of ProceedingsStay of ProceedingsDebtor's Financial StatementsComeback HearingPlan of ArrangementThe MonitorClaims ProcessApproval of the Plan by CreditorsCourt Approval of the PlanNature and Purpose of CCAACCAA is a federal statuteCCAA allows financially troubled corporations an opportunity to restructure CCAA offers an opportunity for company to avoid bankruptcy CCAA allows creditors to receive some form of payment for amounts owing by the companyCorporation must owe creditors more than $5 million to be eligible to use the CCAACommencement of ProceedingsProcess begins when a company makes an " Initial Application" to Court for protection under the CCAADebtor company is not required to give notice of intention to file an initial application to creditors, employees, or stakeholdersStay of ProceedingsIf CCAA Initial Application is accepted, the Court issues an order (" Initial Order") Initial Order typically gives the company 30 days protection from its creditors (" Stay" or " Stay of Proceedings")Initial Order may also provide for provision of " Debtor-In-Possession" (DIP) financingDIP financing allows company to operate while under CCAA protection and provides the priority of DIP financing over existing debtsInitial Order usually allows for payment of wages and usually prohibits payment of arrears by the companyDebtor's Financial StatementsAt initial application with the Court the debtor company is required to file a projected Cash-Flow StatementComeback HearingA " Comeback Hearing" is held before the same judge not more than 30 days after the Initial OrderCreditors and other affected stakeholders are given noticeCourt can extend protection beyond initial 30-day period upon further applications when company shows it would not prejudice creditorsPlan of Arrangement (“ Plan”)The Plan is a proposal the company presents to its creditors on how it intends to deal with its debts Debtor company ordinarily begins negotiating with its creditors and stakeholders immediately after the Initial Order is issuedPlan may terminate or assign unwanted contracts, lay off employees, sell assets, negotiate new credit terms, change its corporate structureThe Plan involves a “ compromise” by settling amounts owed to creditorsAs an example, the company may offer to pay a percentage of debt, either as a lump sum or over a period, or offer some shares for some debtThe Plan is an “ arrangement” which is broader than a compromise and includes reorganizing the affairs of the companyThe MonitorA Monitor is an independent third party Appointed by the Court to monitor the business and financial affairs of the companyMonitor’s duties include: Reporting to the Court on any major events that impact the viability of the companyNotifying the creditors and shareholders of any meetings and tabulating votesReporting on the PlanClaims ProcessCourt establishes the process by which the claims of creditors will be reviewed and approvedMonitor’s informs creditors about the claims processMonitor provides Proof of Claim (“ PofC”) forms and instructions on completing and filing the formsThe PofC sets out what is claimed by the creditorThe PofC is reviewed by the Monitor and a representative of the debtor companyA creditor must file PofC to be able to vote at meeting of creditors The PofC must be filed by claims bar dateApproval of Plan by CreditorsAfter proposed Plan has been negotiated by the parties, the debtor company or a creditor will request the Court order a meeting of creditors to formally vote on the PlanCreditors may be separated into classes for voting on the PlanFor a Plan to be accepted, it must be approved by most creditors in each class that are present and voting (including by proxy)Also, creditors approving must represent at least two-thirds of the total value of the creditors’ claims in that class Approval of Plan by the CourtCourt, ordinarily by application, can approve the PlanAlternatively, Stay would be lifted, and Bankruptcy could occur