

PROJECT PROPOSAL

Introduction

To update AP7 Statement of Insolvency Standards and reissue as APES 330 Insolvency Services.

Background

APS7 Statement of Insolvency Standards was issued by the National Councils of The Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants (CPA Australia) in March 1998. The statement was issued to provide members with the basic principles governing professional responsibilities to be exercised in the conduct of insolvency practices. Traditionally the practice of insolvency has been complex and varied. With the current economic environment in which businesses operate, this complexity has increased significantly in the last 10 years since issue of APS 7, giving rise to the need to review and update the standard.

The Insolvency Practitioners Association of Australia (IPAA) has completed drafting a Code of Professional Practice for Insolvency Professionals in December 2007. The stated purpose of this initiative was to provide stakeholders in the insolvency profession, including the community generally, with a practice that adheres to a system of regulation in which insolvency practitioners are held to standards of loyalty, avoidance of conflicts, independence and impartiality. Given that some members of the Professional bodies are involved in providing insolvency services, it is important that ethical standards issued by APESB are broadly consistent with the requirements of bodies such as the IPAA.

Objectives:

The objective of the proposed standard is to impose mandatory requirements and provide guidance in the ethical conduct of Members involved in conducting insolvency engagements.

Project Steps:

- Assemble a task force which will consist of the APESB senior project manager, 1 representative from each of the professional bodies and up to 3 members with demonstrated expertise in the insolvency profession.
- Conduct task force meetings between February and July 2008 to identify and discuss the approach to be taken in developing the exposure draft.
- Develop an exposure draft for Board review that addresses key issues identified by the taskforce. During this process consider the Code of Professional Practice for Insolvency Professionals developed by the IPAA.
- Present exposure draft at the August 2008 Board meeting.
- Release the standard for exposure requesting comments on both specific issues highlighted and also general comments on the document as a whole.

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- Collate feedback received and upload onto APESB website.
 - Consider respondents' comments and their impact on the exposure draft and amend as required.
 - Prepare a basis of conclusions document detailing key issues that were identified and considered during development of the standard.
 - Present the final standard and basis of conclusions document for Board approval at the November 2008 Board meeting.
 - Release the standard publicly and upload the standard and basis of conclusions document onto APESB website.

Project Structure:

- APES Board – provide feedback and oversee development of APES 330 Insolvency Services.
- APESB Senior Project Manager – assemble task force, provide technical support, role of principal drafting editor of the standard, provide guidance to the task force on APESB policies and procedures.
- APES 330 Task Force – provide APESB with advice on development and review of APES 330 Insolvency Services.
- APESB Secretariat – provide administrative support to the taskforce

Resource Requirements:

Teleconference facilities, travel of APESB staff (as required) and taskforce members (by invitation only), printing & stationary

Budgeted taskforce costs for 4 taskforce meetings:

Conference calls \$300 per unit	\$1,200
Travel & accommodation \$1,000 per unit	\$4,000
Sundry expenses \$200 per unit	\$800
Total Budgeted Costs	\$6,000

Timeline:

Feb 2008 – Approve project proposal
 Feb 2008 – Assemble task force
 Mar 2008 – Conduct initial task force meeting
 Mar - July 2008 – Develop exposure draft
 Aug 2008 – Present exposure draft to Board for approval
 Aug 2008 – Release exposure draft for a 60 day comment period
 Oct 2008 – Collate feedback received
 Oct 2008 – Prepare basis of conclusions
 Nov 2008 – Present final standard and basis of conclusions to Board for approval
 Nov 2008 – Issue standard

Impact on other APESB pronouncements

Provide specific requirements and guidance, consistent with APES 110 *Code of Ethics for Professional Accountants*, for Members who are insolvency practitioners.

Impact on accounting, auditing or other relevant standards

No impact on accounting, auditing or other standards.

Related legislative developments

The Australian Government passed the Insolvency and Simpler Regulatory System Acts in the 2007. The Corporations Amendment (Insolvency) Act 2007 addresses key issues such as practitioner independence, insolvency practitioner fees and education criteria for registration as a liquidator. The Australian Government is continuing to monitor insolvency law and practice with the assistance of its Corporations and Markets Advisory Committee (CAMAC). These developments, both current and ongoing, require that any insolvency standard and guidance issued by the APES Board is consistent with current legislation.

Related international developments

Internationally, key trading partners such as the United States, the United Kingdom, Japan and New Zealand have adopted the UNCITRAL model law on cross-border insolvency. Key features of the UNCITRAL Model Law are as follows:

- specifies conditions under which administrators of foreign insolvency proceedings have access to local courts;
- specifies conditions for recognition of foreign proceedings;
- grants relief to representatives of foreign proceedings;
- allows foreign creditors to participate in local proceedings;
- assists courts and insolvency practitioners of different countries to co-operate more effectively;
- Coordination of insolvency proceedings taking place concurrently in different states.

The Australian government is currently in the process of adopting this model law to achieve uniformity in the treatment of cross-border insolvencies.

Benefits of developing the pronouncement

Benefits of updating and reissuing APES 330:

- Update references and content of the standard to address issues introduced by the current business environment;
- Issue a standard that is broadly consistent with the IPA Code of Professional Practice for Insolvency Professionals and local legislative requirements and international practice;
- Rebrand the former standard as an APESB standard.