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The TMA Voluntary Code for Equitable Insolvency & Restructuring Appointments (EIRA)



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Given the widespread acceptance of the Law Council of Australia Equitable Briefing Policy, the TMA recommends that firms and organisations working in insolvency, restructuring and turnaround adopt the TMA Voluntary Code for Equitable Insolvency & Restructuring Appointments (EIRA) launched at the TMA National Conference on 11 September 2024. Firms or organisations that sign up will have their logo included on the TMA website. The EIRA is proposed as part of a suite of initiatives by the TMA using generous sponsorship from Houlihan Lokey intended to increase the engagement and retention of women in restructuring and turnaround.

What problem are we trying to fix?

As at 30 June 2024, according to the ASIC published insolvency statistics, only 10% of registered liquidators nationally were female. Women being only 10% of registered liquidators in Australia is unacceptable. In no corporate sector would this statistic - which does not reflect the percentage of women accountants¹ - be considered appropriate or acceptable in Australia in 2024.

The Parliamentary Joint Committee into Corporate Insolvency (**PJC**) in their July 2023 report said this:

8.26 While many other industries and professions have managed to improve diversity among their ranks, registered liquidators appear to have been locked in a time capsule that was buried years ago.

*8.27 The fact that female representation amongst registered liquidators has **improved** to one in ten over the past decade is alarming. It appears that we are not alone in facing this issue. There are clearly broader cultural or systemic issues at play, and they must be reflected on and addressed.*

Why does this matter?

In too many recent large or high-profile formal insolvencies with 3 or more appointees, the insolvency practitioners appointed as external administrators or receivers have been all male.

It is trite to say that “you can’t be what you can’t see”: we need to show emerging women that there are career paths for them, and the appointment of registered liquidators (particularly on larger voluntary administrations) is very public.

We also need to ensure that we support the careers of women in all parts of the restructuring and turnaround universe (including accounting, legal, advisory, capital providers and trustee services) to have sustainable “partner level” (or the equivalent in their organisations) practices in due course, so that they can in turn succeed and bring more women through. Registered liquidators, on larger formal appointments, give out a lot of work to adjacent professionals including lawyers, valuers, experts, trustee services and the like, and more women registered liquidators being appointed will mean more work for women in the rest of the restructuring and turnaround ecosystem.

Why is the TMA doing this?

Of course a lot of restructures are achieved through a formal insolvency process.

Our membership includes a significant number of registered liquidators, and those who would seek to become registered liquidators. Four of our national board are registered liquidators as well as many members of our state committees. Our membership includes people who were registered liquidators and have ultimately moved to different roles within the broader restructuring and turnaround ecosystem.

Younger women members at TMA Network of Women (**NOW**) dinners raise with us the deterrents to them becoming registered liquidators and to building sustainable careers in restructuring and turnaround

Has this been done in other industries?

The Law Council of Australia launched its Equitable Briefing Policy (**Equitable Briefing Policy**) in respect of women barristers with measurable targets in 2016.² The Equitable Briefing Policy is now generally subscribed to (and reported on) by law firms, government and major corporations.

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Formal appointments

[For appointors/banks/capital providers]

When our organisation appoints **three or more individuals** as external administrators or receivers, we will include at least one woman as an appointee.

[For appointees/insolvency firms]

Where our firm proposes to an appointor/bank/capital provider that **three or more joint appointees** from our firm be appointed as external administrators or receivers or provides consents to the appointment of three or more joint appointees from our firm, we will include at least one woman.

[For lawyers/advisers/intermediaries]

When our firm or organisation recommends **three or more firms, or three or more individuals within firms** to be appointed as external administrators or receivers, we will include at least one woman as the nominated contact for a firm or as a named individual.

Insolvency, restructuring and turnaround adviser roles

When our firm or organisation **appoints advisers** in an insolvency, restructuring or turnaround context, we will actively consider whether there are qualified women we could appoint.

When our firm or organisation is requested to recommend or propose **two or more advisers** in an insolvency, restructuring or turnaround context, we will use best endeavours to put forward at least one woman.

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The ultimate choice of appointees or advisers is of course made by the principal, and compliance with the EIRA is not intended in any way to undermine client autonomy, compliance with client directives or duties to clients.

While the TMA would expect firms or organisations adopting the EIRA to monitor their compliance internally, it is **not** proposed that there be actual reporting undertaken of compliance with the EIRA.

Signed by: [Organisation] Date:

1 CPA Australia intergrated report
In 2022, CPA Australia reported it had 51% women members.

2 Law Council of Australia Equitable Briefing Policy