

**Turnaround Management Association, Australia**  
**Nextgen Essay Competition**  
**(October 2016)**

Dear Participant,

Thank you for your interest in competing in the TMA Nextgen essay competition ("Competition"). Participants will have the chance to win a cash prize outlined below, as well as have their essays published on the Vantage Performance and Turnaround Management websites.

The Competition winner will be announced, and prizes awarded, at our Christmas event.

**Conditions of Entry**

1. The Competition is open to Perth-based professionals who are under the age of 35 as at 31 December 2016.
2. Essays must be submitted to both Michael Sandford and Claire Petersen electronically by 5pm of the closing date of the Competition.
3. Essays which exceed the word limit of 2000 words will not be considered.
4. Prizes will be awarded for first, second and third place only.
5. All participants agree to their submissions (or parts of them) being published on the Vantage Performance and TMA websites. We will obtain your permission before your submission is published, including whether you wish to have your name attributed to the essay and your employer identified.
6. The judges' decision is final and must be respected by all participants.
7. TMA Perth Nextgen Committee members and TMA Perth Committee members are excluded from the Competition.
8. All entries will be treated in confidence and will not be circulated outside of judges and TMA Nextgen committee members.

**The Question**

As part of the Turnbull Government's Innovation Statement, it was proposed that there shall be changes to Australia's insolvency laws in order to strike a better balance between encouraging entrepreneurship and protecting creditors.

The 'Improving Bankruptcy and Insolvency Laws Proposals Paper' was subsequently released to the public for comment on 29 April 2016, proposing the following three changes:

1. Reducing the current default bankruptcy period from three years to one year

2. Introducing a 'safe harbour' for directors from personal liability for insolvent trading if they appoint a restructuring adviser to develop a turnaround plan for the company
3. Making 'ipso facto' clauses, allowing contracts to be terminated solely due to an insolvency event, unenforceable if a company is undertaking a restructure

Specifically regarding the second change, i.e. around the 'safe harbour' protections for company directors, please opine on the following:

- a) How do you see the proposed 'safe harbour' resulting in a better outcome for stakeholders (e.g. secured creditors, unsecured creditors, shareholders)?
- b) Do you think any stakeholders could be worse off?
- c) Have any relevant Australian case studies of a turnaround outside of formal administration shaped your argument?
- d) How can the safe harbour regime be implemented in a way that mitigates any risks identified?

Essay responses must be strictly limited to **2,000** words

## Prizes

*First place:* \$2,000 cash prize

*Second place:* \$1,000 cash prize

*Third place:* \$500 cash prize

## Essay Submission and Judging

Please submit your essays by email to:

- Claire Petersen: [claire.petersen@lavanlegal.com.au](mailto:claire.petersen@lavanlegal.com.au)
- Michael Sandford: [michael.sandford@lazard.com](mailto:michael.sandford@lazard.com)

The following panel of judges will determine the winners:

- Lachlan Edwards, Co-Head, Lazard Australia
- Matthew Woods, Partner, Head of Restructuring Services, Deal Advisory KPMG
- Alison Robertson, Lead partner, Reconstruction, Recovery and Insolvency, Lavan Legal

In your submission, please include your name, place of employment, your date of birth and the word count. The deadline for Essay submissions is 16 November 2016.

TMA Nextgen committee looks forward to receiving your submissions.