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## COX YEATS CIRCULAR

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### INTRODUCING NEW ADDITIONS TO COX YEATS' INSOLVENCY TEAM

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#### The Cox Yeats Insolvency Team

Introducing new additions to our Insolvency Team.....



Cox Yeats is pleased to advise that Callyn Wilkinson has recently joined the firm as a partner in the insolvency team. Callyn obtained her LL.B from the University of KwaZulu-Natal in 2005. After travelling in the United Kingdom, she completed her Articles in Cape Town before settling in Durban in 2008. Over the past 5 years Callyn has acquired extensive experience in the specialised field of insolvency and recovery.

Callyn will be joined by a further new partner in this specialised field, on 1 July 2012. Together, they have a combined insolvency experience of 14 years and form a dynamic team with an innovative approach to addressing clients' needs, using winning ways and effective solutions.

Our team is at the forefront of new developments and trends within the insolvency common law, as well as relevant legislation. The team members regularly contribute to publications and write articles on the developing law. They work together with the other experienced partners at Cox Yeats to combine the specialisations such as construction, property and commercial law in order to give the client complete and comprehensive advice. This full-service offering means clients are able to find the most appropriate and cost-effective solutions.

We are eager to involve clients in this ever changing area of law and can offer tailor-made lectures and presentations on this aspect, pertinent to a client's specific needs.

#### Insolvency in South Africa

Insolvency regimes around the world have evolved in different ways, with laws focusing on different strategies for dealing with the insolvent corporate. The Companies Act 2008 ("the Act") has impacted the South African corporate environment and how businesses deal with insolvency. The Act has brought about wide changes to debt recovery procedures and the manner in which one is able to enforce rights against a debtor in an insolvency situation.

Recent case law has introduced complicated aspects that have to be dealt with when using court procedures to recover debts. Liquidations are no longer just about companies that cannot pay their debts. Liquidations are somewhat under the spotlight as the South African insolvency regime moves from a traditional liquidation culture to the new business rescue regime introduced by Chapter 6 of the Act.

These changes in the law, coupled with the global economic downturn, has alerted the South African corporate environment to the risk of insolvency and the urgent need to take steps to proactively react to insolvency.

Our team advises on all aspects of **insolvency and recoveries** and our experience extends to both corporate and personal clients in the following areas of insolvency law:

### **Liquidation and Sequestration Applications**

We have extensive experience in this area of insolvency law and can advise clients on the most expedient method of corporate recovery. Our experience includes acting for major banks, oil industries and listed companies. Through our knowledge and experience, we are able to offer focused advice to financial institutions, and other creditors on the advantages to be obtained by utilising the winding-up procedure as an alternative to instituting action proceedings. We also advise clients on all aspects relating to the insolvent estate post-liquidation, which advice includes aspects such as meetings of creditors, proving claims, objecting to accounts etc. We advise on the efficacy and ranking of securities that clients hold and any steps which should be taken to improve their security.

### **Business Rescue**

Our team will advise on the most suitable manner in which business rescue proceedings are to be implemented and whether or not a liquidation application would be better suited to the client's needs. We can advise on the manner in which companies should file for business rescue proceedings; the appointment of business rescue practitioners to supervise business rescue proceedings; as well as the duties and liabilities of all parties involved in the business rescue process.

Our experience extends further to advising business rescue practitioners, directors, stakeholders, employees and creditors during all stages of the business rescue process. This includes providing guidance to creditors in respect of their rights to participate in the proceedings and the impact of their votes at meetings of creditors; as well as advising on protecting their security and the effect of post-commencement finance.

### **Enquiries and Investigations**

We have extensive experience in assisting in formal enquiries into the affairs of companies in liquidation. We conduct investigations on behalf of creditors and liquidators to assess and advise on the validity of claims submitted by creditors, the possibility of proceedings against directors and other debtors and the setting aside of undue preferences and other impeachable transactions.

### **Schemes of Arrangement and Offers of Compromise**

We are able to advise clients on the various implications of schemes of arrangement and offers of compromise in accordance with the Act and have experience in assisting, formulating and drafting the schemes of arrangement and offers of compromise and ensuring that these are correctly implemented within the time frames prescribed in the Act and that they comply with all the necessary formalities.

### **Prevention of Organised Crime Act**

Racketeering and money laundering are both offences. In the past these were not part of our legal system but since the introduction of the Prevention of Organised Crime Act, No 121 of 1998 (POCA) it has now become a criminal offence and our legislation is now in line with international law enforcement agencies in this regard.

In the event that assets of an accused are seized by the Asset Forfeiture Unit and a curator is appointed to preserve the assets, we have extensive experience in advising curators on aspects dealing with the estate

management in terms of POCA which includes, but is not limited to, assisting curators in matters relating to release of funds to parties accused by the State of fraud and applications for powers to sell seized or forfeited assets.

Our Cox Yeats Insolvency Team looks forward to being of service to you, as do all the Partners of Cox Yeats, offering legal services across a wide spread stable of expertise.

For further information or any assistance with regard to Insolvency and Recoveries, Cox Yeats' specialist Insolvency Team can advise you. Callyn Wilkinson can be contacted on 031 – 536 8509 or email [cwilkinson@coxyeats.co.za](mailto:cwilkinson@coxyeats.co.za). For other members of our Insolvency Team, visit our website at [www.coxyeats.co.za](http://www.coxyeats.co.za).

