

# News with Clout

Providing Corporate & Personal Solvency Solutions

## IS MY CLIENT INSOLVENT?

With the constant talk in the media about recessions, fiscal cliffs, the end of Government's JobKeeper stimulus, zombie companies and pending insolvencies, here at Clouts we thought that the question that people will inevitably start asking...

### What does insolvency really mean?

Section 95A of the *Corporations Act 2001* defines insolvency as "**a person who is not solvent is insolvent**". Yes, this does little to illuminate the subject.

The legislation does elaborate a little with "**a person is solvent, if and only if, the person is able to pay all the person's debts, as and when they become due and payable**". There is a timing issue flagged here.

So just because a company or person has positive net assets shown in the balance sheet, it does not necessarily mean they are solvent. Given the timing question, it means that **solvency is in fact a cashflow test not a balance sheet test!**

As you can appreciate this means there are many aspects to consider, if ever you are asked. This edition of News with Clout provides you with a rough guide on this sticky and potentially dangerous question.

As timing is a key issue, from an insolvency practitioner's point of view, these are some of the issues we consider.

1. What does the working capital position look like?
2. Is the working capital figure meaningful?
3. Would the quick asset ratio be more relevant for that business or industry?

4. Is there an overdraft in the working capital calculation?
5. Are the current liabilities due imminently or not till or towards the end of twelve months?
6. What is the overdraft limit?
7. What is the net asset position?
8. Are there any loan accounts due to owners, which will clearly not be called up?
9. Are there any assets in the net asset position which have no real value?
10. Is the company making a profit?
11. What is the profit trend?
12. Is the company making a cashflow profit?
13. Are the provisions adequate?
14. Are there surplus assets, which can be sold?
15. Can the company from its own position offer sufficient security to enable it to borrow money?

Although this is not an exhaustive list, once you can put the answer to these questions, it will provide both the adviser and client with some clarity on the solvency of the company.

Naturally, the earlier that a looming insolvent position can be ascertained, the more proactive and viable options will be available to the client such as a workout, turnaround or restructure. And most importantly, the greater chance of success! Note with the new restructuring legislation there is much more incentive for people to move quickly.

As ever we welcome your enquiries.



# NEWS WITH CLOUT

Offering Corporate & Personal Solvency Solutions

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**Apart from Formal Insolvency Services at Clouts we also Offer:-**

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Monitoring Businesses in Workout Situations

Conducting Negotiations with Secured & Unsecured Creditors

Business Risk Minimisation Reviews

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