

3 November 2021

Mr John Reid
Senior Technical Manager
APESB

By email: jon.reid@apesb.org.au

Dear Mr Reid

APES 330 Insolvency Services

Thank you for the opportunity to provide feedback in the process to update APES 330 Insolvency Services to address the Federal Government's insolvency reforms to assist small business.

ARITA – Australian Restructuring Insolvency & Turnaround Association – has been highly involved in providing feedback, consultation and input into the review of APES 330 and we are supportive of the amendments made to APES 330.

We have one point to raise which is unrelated to the changes for the small business insolvency reforms, however, it is important as it is a meaningful point of difference between APES 330 and ARITA's Code of Professional Practice (**Code**).

Practice Statement Insolvency 8 of the Code (at 8.2.3) provides guidance that remuneration for time spent communicating with regulators or professional bodies about complaints about the member or the conduct of a particular Administration is not necessary and proper, unless the complaint is deemed spurious by the Regulator.

Appendix 3 to APES 330 provides similar guidance except for the underlined part.

We know that the Code has always included an exception for spurious complaints as this can be a common problem for insolvency practitioners. However, we cannot recall why APES 330 does not include a similar exception.

We have had a member raise this issue with us as the member is dealing with a regulator regarding a complainant that is trying to obstruct the administration process by making complaints to the regulator and nothing has been found against the member. It is just taking up a lot of the member's time.

Under the Code, the member would be entitled to charge the time spent to the administration if the complaint(s) is without substance, but the member is concerned about breaching APES 330 if the member were to claim the time.

It is ARITA's view that the two standards should be aligned on this point, recognising the exception for spurious complaints.

Should you wish to discuss any aspect of our submission, please contact Ms Kim Arnold, Policy & Education Director, on 02 8004 4340.

Yours sincerely



John Winter
Chief Executive Officer