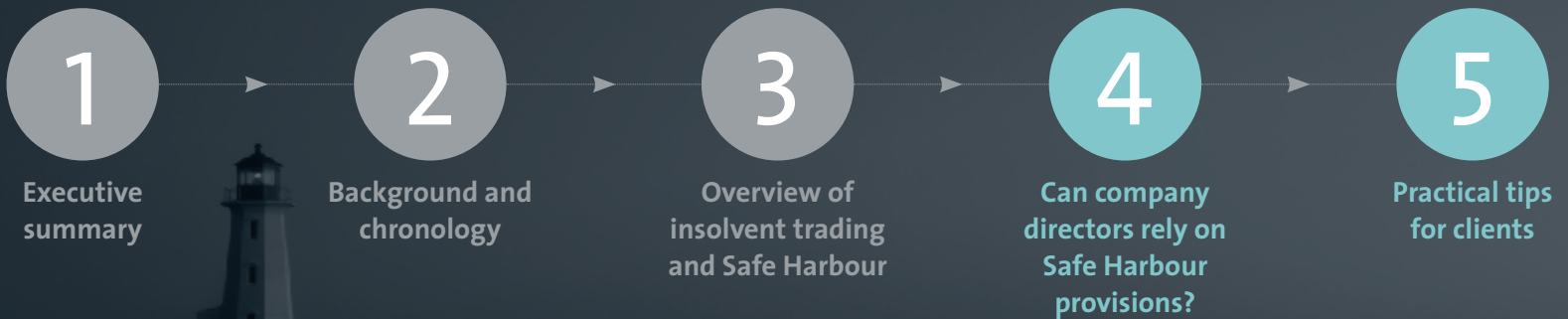


High Tide: Practical Insights from Two Years of Safe Harbour Appointments

BASIC STRUCTURE



CAN COMPANY DIRECTORS RELY ON SAFE HARBOUR PROVISIONS?

APPLY THE FACTS AND CAREFULLY CONSIDER:



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APPLY THE FACTS AND CAREFULLY CONSIDER:



PRACTICAL TIPS FOR CLIENTS

1

Convene

Convene regular Board meetings to monitor the development and implementation of the better outcome plan, and to assess the company's solvency on an ongoing basis, having regard to future debt obligations.

2

Consider

Consider in detail the proposed phases of the better outcome plan to form a view whether it continues to be reasonably likely to result in a better outcome than an immediate liquidation or administration.

3

Determine

Determine a materiality threshold for new debts, having regard to the size and nature of the Company's business.

4

Document

Ensure all aspects are thoroughly documented as set out below.

PRACTICAL TIPS FOR CLIENTS

REQUIRED DOCUMENTATION:

Financial updates

Information that the Board is regularly obtaining to stay informed of the Company's financial position;

Safe Harbour

Decision by the Board to enter into Safe Harbour;

Insolvency firm

Engagement of a specialist firm to advise as an appropriately qualified entity;

Management plan

Steps taken to date to prevent any misconduct by officers or employees that could adversely affect the Company's ability to pay all its debts;

Financial records

Maintenance of appropriate financial records;

Restructuring assessment

Periodic assessment of whether the plan for restructuring the Company remains reasonably likely and whether the Board remains of the view that, if implemented, it will improve the Company's financial position;

Further debts

If any further debts are incurred, whether at that point the Company:

- has paid the entitlements of its employees as and when they fall due;
- is up to date with its tax reporting obligations.