

WORK GROUP SESSION 1 HANDOUT PACK

1. SECTION 1: PROPOSED WORK GROUP CHARTER

1.1 OBJECTIVES

- To have an elected Board of Directors in place.
- Until a properly constituted Board of Directors are in place, to work towards obtaining TMA approval for the formation of the SA Chapter with “Provisional Chapter” status.

1.2 SCOPE

- Recruiting members for the SA Chapter;
- Determining a mechanism for the election of the board and executives;
- Processing the requirements of the TMA;
- Distribution of proceedings to the Advisory Group and Informed Group;
- Processing of feedback received;
- Communication with the TMA.

1.3 MEMBERSHIP

The Work Group essentially consists of volunteers who:

- Have been in dialogue about the initiative before;
- Have already done work towards this goal;
- Are based in Johannesburg (simply a practical matter to facilitate meetings and quick processing);
- Have made themselves available to do the required work on a pro bono basis, and who
- Represent a variety of stakeholders.

1.4 DURATION

The Work Group will dissolve when a properly constituted Board of Directors are in place, and its functions will be taken over by the elected body of executives as directed by the President.

1.5 Sub-committees

a. Legal

- Memorandum and Articles of Association
- Letter to TMA confirming no conflict

b. Membership

- Administration of Work Group/Advisory Group/Informed Group membership lists
- Membership recruitment drive

c. Communication and Public Relations

- Chaired by Launch Steering Group Chairman
- Communication with TMA

- Web site administration
 - CRP’s “Turnaround Management SA” section until such time as SA Chapter has its own web site?
- Press releases
- Communication with government structures

1.6 ACTIVITIES

- Regular meetings, the frequency of which to be determined at the first Work Group Meeting;
- Execution of allocated tasks by Work group members and sub-committees in-between meetings;
- Communication and public relations via Chairman

1.7 DELIVERABLES

- Memorandum and Articles of Association;
- At least 25 signed-up TMA members;
- Duly elected Board of Directors;
- Appointment of Executives;
- Formal submission to the TMA.

2. SECTION 2: WHAT THE TMA REQUIRES FOR CHAPTER FORMATION

2.1 BASIC INFORMATION REQUIRED

- Overall population of South Africa and the population of the 3 largest metro areas;
- Short overview of the current business climate;
- Number of large firms involved in the turnaround industry;
- Any legal issues that may impact the development and growth of a chapter.

2.2 FORMAL INFORMATION REQUIRED BY THE TMA

Please note that the requirements below were supplied by the TMA on request, and these requirements replace those in "New Chapter Formation" page 48 of the TMAN Chapter Leadership Manual.

To receive charter status as an organization of TMA, the organizing committee must:

- Have a formal board of directors who are members in good standing with the Turnaround Management Association, and provide a list of members of the Board of Directors or organizing board (minimum of nine directors) to TMA International.
- Adopt by-laws for the chapter organization based on the model by-laws and conforming to the laws of the chapter’s locale as a non-profit business where the chapter organization is formed.
 - For model by-laws see Section 11 page 28 of the TMA Chapter Leadership Manual
 - The local chapter will probably take the form of a Chapter 21 company.
- Provide a report to TMA International in Chicago, Illinois, concerning the goals of the organization and its projected membership [for 2004 and 2005].

- Provide a list of programs planned for the next 12-month period.
- Provide an annual budget setting forth the expected fiscal results for the initial 12 months.
- Provide a list of the initial officers and committee chairs in place at the time of submission. Recommended committees include:
 - Sponsorship
 - Membership
 - Programs
 - Web site
- Include a timetable for development, projected members and, where appropriate, specific cities in which satellites will be formed.
 - Head office in Johannesburg?
 - Satellite in Cape Town?
- Provide a written opinion of counsel qualified to practice law in the chapter's locale who attests there are no laws or regulations that would prohibit the Association or affect its power to grant the proposed charter, or that would impose any burden on the Association relating to such affiliation or granting the charter, including licenses, taxes or reports.

A chapter president becomes a provisional member of the international Board of Directors during its first year of formation. If the chapter remains in good standing with more than 25 members, the Vice President of Chapter Relations requests the TMA International Board at one of its regularly scheduled meetings to change the chapter from provisional to full.

As an international Board member, the chairman or president is required to attend two of the three international Board meetings held each year. The Board meetings coincide with spring, fall and winter conferences.

3. SECTION 3: FREQUENTLY ASKED QUESTIONS

3.1 WHAT ARE THE DIFFERENT MEMBERSHIP CATEGORIES?

The following response was received by the TMA in answer to the apparent discrepancy between categories used when applying for membership on the TMA's web site, and the categories in the Chapter Leadership Manual - the response replaces the material in Model by-laws Article VI Section 1 page 37:

"The Leadership Manual is in need of some updating. We no longer separate members into practitioner and associates. TMA members are classified as (a) Members (b) Students (c) Academic/Government employees."

3.2 WHAT ARE THE STAGES INVOLVED IN BECOMING A FULL CHAPTER OF THE TMA?

The following response was received from the TMA:

"In order to reach "Chapter in Formation" status, the chapter must have 10 members in good standing.

In order to reach "Provisional Chapter" status, the chapter must have 25 members in good standing and supply the documentation outlined in the attachment (I believe I sent this last week).

To become a full chapter, you must remain a "Provisional Chapter" for one year and maintain at least 25 members. It doesn't appear that this will be difficult for the SA group."

3.3 WHAT HAPPENS TO FUNDS RAISED BY THE SA CHAPTER?

From the Chapter Leadership Manual:

"Chapters can defray operational or event costs by corporate sponsorship. Except for new membership and renewal fees, funds generated by chapters are reserved solely for their use and are not shared with TMA head quarters."

3.4 WHAT IS THE TMA'S STANCE TOWARDS THE ASSOCIATION OF BUSINESS ASSESSMENT AND RECOVERY PROFESSIONALS?

Below follows an extract from the 5th May 2004 letter from the TMA's Launch Steering Group's Chairman-designate: Themba September:

"You may be aware of this association, since it was part of the proposals made at Department of Justice's workshop in March this year.

The ABARP will be under the control of the State Law Advisor. Turnaround professionals will be appointed from a panel, a similar procedure to that currently pertaining to the appointment of liquidators at present, and the various panels will be at the disposal of the Master's Office. To serve on the turnaround panel, one must belong to ABARP. To qualify, candidates need to be:

- Lawyers - minimum admitted 5 years' experience, 3 years' of practicing for own account/partner/director, practicing attorney and member of Law Society.
- Accountants - minimum admitted 5 years' experience, 3 years' of practicing for own account/partner/director, practicing attorney and member of Institute of Chartered Accountants.
- Liquidators - minimum 8 years' experience and member in good standing with AIPSA, ABIB OR IPSA.
- Other - appropriate (financial?) qualifications, 5 years' practice, and 3 years' of practicing for own account/partner/director.

This summary may be truncated and/or super-ceded by events, and represents my understanding from discussions held at DoJ in March. I trust Patrick Daly at Daly Inc would be more in a position to give you chapter and verse on ABARP.

What is important to understand is that ABARP is geared to cater for the future "formal turnarounds" or "legislative" turnarounds only. In contrast, the historical driving force behind the SA Chapter of the TMA is to cater for the current informal turnaround sector i.e. turnarounds associated with shareholder, creditor /bank workouts and those turnarounds that take place in the time continuum ahead of the legislative processes.

Naturally, I am confident that the local TMA chapter will support the "new business rescue model" initiative, as it is certainly symbiotic to its objectives. Most prospective members are ready to and some already do actively assist in the furtherance of a change in the ethos from a primarily liquidation mode to a rescue/wealth preservation one. We are thus ready to assist with the promulgation and practical applications of the new business rescue legislation, should the State Law Advisory wish us to play a role. In fact, it is envisaged that the local TMA chapter will support ABARP by promoting BEE in the formal turnaround industry, helping TMA members to qualify for admission to ABARP, help with a training and certification programme to attract new blood to the formal turnaround industry, especially black professionals, etc.

There is and can be no conflict between establishing the local TMA Chapter and the advent of ABARP. In fact, our various groups (Work-, Advisory-, etc incorporate professionals who are closely involved with the ABARP initiative."

4. PROPOSED PURPOSE OF THE SA CHAPTER OF THE TMA

Below follows the standard "purpose".

The purpose of the South African Chapter of the Turnaround Management Association (hereinafter referred to as the "Chapter") are:

- (a) To serve as a forum for convening turnaround executives from all disciplines to exchange information, ideas and knowledge on the turnaround business.
- (b) To promote high standards of practice and improved methodologies in turnaround management.
- (c) To foster professional development opportunities for turnaround executives, enhancing the necessary competencies for successful practice.
- (d) To serve as a clearinghouse of information and research pertinent to the turnaround business.
- (e) To promote the image of the Turnaround Management Association ("TMA") and turnaround executives as professionals committed to the highest standards of practice.

To be considered for inclusion in the statement of purpose:

- BEE
- Job preservation
- Pro bono work

5. SECTION 5: PROPOSED STRUCTURE, ELECTION OF THE BOARD OF DIRECTORS, AND APPOINTMENT OF EXECUTIVES

Received from TMA on question re composition of executive vs. non-executive directors:

"9 is a minimum for the Board of Directors. The Board of Directors should consist of your executive officers (President, Vice President, Secretary, Treasurer, etc) and may also consist of non-executive members. Please see the Chicago Chapter as a reference - Chicago.turnaround.org. Once you are on the Chicago homepage, click on the "About TMA" drop-down menu and select board/leadership. You will notice that Chicago has 16 board members plus their administrator. 8 of the board members are executive officers. Please note the "Past President" and the "President Elect" positions. I would highly recommend these positions for continuity sake. Chapters that designate a "President Elect" seem to have a much better success rate."

5.1 SEPARATION OF CHAIRMAN OF THE BOARD/PRESIDENT (CEO) ROLES

In line with King 2, should the SA Chapter rather separate these roles as opposed to the combined role as per the TMA?

5.2 TITLES

Should we use the American titles (President, Vice-President, etc.) instead of more familiar SA titles e.g. CEO, Director: Membership, etc.

5.3 PROPOSED STRUCTURE

16 board members plus an administrator consisting of:

- 8 Non-executive board members (including a non-executive Chairman if so decided in 5.1 above)
- 8 Executive board members consisting of:
 - President
 - Vice President (= President-elect for next year)
 - Secretary
 - Treasurer
 - Vice-President: Membership
 - Vice-President: Sponsorship

- Vice-President: Programs
- Vice-President: xxx
- Administrator

The Chicago Chapter has a number of sub-committees, some of which are chaired by VP's e.g. sponsorship, programs, administrator, awards, breakfast programs, communications, CTP relations, education, entertainment, finance, inter-chapter, membership, pro bono, public relations, web site, women's networking, Young Professionals, awards, newsletter, etc.

5.4 PROPOSED BOARD ELECTION PROCEDURE

d. Only TMA members can vote and are eligible for election

Work/Advisory/Informed Group members to be requested to become TMA members by applying for membership via the TMA website.

Membership is on an individual basis i.e. not per firm. Work/Advisory/Informed Group members are to be requested to enroll all their employees individually as opposed to one person per firm.

Turnaround time is about 2 days. Cost for membership is \$275 per annum. A reduced fee structure exists for membership in the Student/Academic/ Government categories.

Members, who have forwarded their reply email from the TMA confirming their membership, are to forward copies thereof to the Steering Group Chairman to be eligible to participate in the voting process.

Cut-off date?

e. TMA members to indicate their availability for election

Members to complete an application form (template to be drawn by the work group) in which they (from Qualifications page 60 of the Chapter Leadership Manual):

- Make themselves available subject to the requirement that they demonstrate:
 - Genuine dedication to the purpose of the TMA
 - Willingness to devote the necessary time and effort
 - Ability to organize time and resources
 - Ability to motivate others
 - Sincere desire to participate and be actively involved
 - Effective interpersonal communication
 - Ability to deal with people on a personal basis
 - Express and accept differences of opinion
- Other important considerations before assuming a chapter office are:
 - Will the individual's employer approve of the time and probable expense (i.e., travel) involved in performing the duties of the office?
 - Does the individual have a good attendance record at chapter meetings and a demonstrated willingness to accept chapter responsibilities through committee work?
 - If a chapter has a policy of "progression through the chairs," does the individual nominated for the initial position possess the necessary qualifications for all succeeding offices?
- Indicate the positions they make themselves available for, and a motivation for why they should be elected e.g.
 - Non-executive board member
 - Executive board member – per position as decided in 5.3 above

Members can make themselves available for both non-executive/executive positions and any number of executive positions.

- Cut-off date?

f. **The Chairman of the Launch Steering Group to draw up an election list consisting of TMA members who have made themselves available for election as 1) non-executive director and 2) executive director in various positions**

g. **TMA members will vote a Board consisting of 8 non-executive and 8 executive board members**

Should an individual be voted in as both a non-executive and non-executive director, he/she will be an executive director, and the next person not initially making it to the original set of non-executive directors will join the non-executive directors.

Timetable?

h. **The Board so elected will elect a Chairman (assuming a separate Chairman position exists)**

i. **The Board so elected will elect the President**

j. **The President, in consultation with the Chairman of the Board, will appoint Executives (Officers) from the other board members with due reference to positions that board members made themselves available for initially**

Timetable?