



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

Office address (inc courier deliveries)
Level 7, 120 Collins Street,
Melbourne VIC 3000

Mail address for Melbourne office:
GPO Box 9827,
Brisbane QLD 4001

Tel: +61 1300 935 075

Fax: +61 1300 729 000

www.asic.gov.au

Ms Kate Carnell
Australian Small Business and Family Enterprise
Ombudsman

By email: inquiries@asbfeo.gov.au

3 February 2020

ASIC submission: Insolvency Practices Inquiry – discussion paper December 2019

Dear Ms Carnell,

I enclose ASIC's submission in response to the above discussion paper.

If you have any questions regarding this submission, please do not hesitate to contact Thea Eszenyi on 03 9280 4401 or email thea.eszenyi@asic.gov.au.

Yours sincerely,


Thea Eszenyi

Senior Executive Leader
Insolvency Practitioners Team



ASBFEO INSOLVENCY PRACTICES INQUIRY

Submission by the Australian Securities and Investments Commission to the Discussion Paper released in December 2019

Introduction

1. ASIC welcomes the opportunity to make a written submission to the Insolvency Practices Inquiry.
2. ASIC supports reforms that promote a rescue culture for legitimate restructuring and recognises that reforms should strike an appropriate balance between encouraging entrepreneurship, promoting good corporate governance and protecting creditors' interests.
3. ASIC insolvency statistics show that most corporate insolvencies reflect small-to-medium enterprise (SME) failure. A summary of relevant statistics, including additional analysis provided to the Inquiry in November 2019, will be included below as Annexure 1 once finalised.
4. ASIC also notes that small business creditors often bear much of the loss from corporate insolvency and that many registered liquidators (RLs) operate in the SME environment.
5. Striking the appropriate balance between encouraging entrepreneurship and creditor protection is important to protect the interests of small business and prevent misuse of the corporate form. This includes illegal phoenix activity, which can be difficult to distinguish from legitimate business restructuring.
6. A 2018 report by PricewaterhouseCoopers (PwC) commissioned by ASIC, the Australian Taxation Office (ATO) and the Fair Work Ombudsman found that the total cost of phoenixing to the Australian economy is estimated to be between \$2.9–5.1 billion annually. This includes \$31–298 million in unpaid employee entitlements and \$1.66 billion in unpaid taxes and compliance.
7. ASIC's submission does not address issues relevant to personal insolvency.

'Pre-Packs'

8. Several the questions in the discussion paper seeks views on aspects of the 'Pre-Pack' model, and their potential application and benefits for business in Australia. A 'Pre-Pack' is an arrangement under which the sale of all or part of a company's business or assets is negotiated prior to the formal appointment of an insolvency practitioner who effects the sale immediately on, or shortly after, appointment.
9. We note that the experience in the United Kingdom raises serious questions about the circumstances in which a 'Pre-Pack' sale of business is appropriate and what legislative safeguards should be in place to protect creditors.
10. While it can be argued that a 'Pre-Pack' can operate as a mechanism to preserve enterprise or asset value, it can also be argued that it may reflect illegal phoenix activity designed to defeat creditor interests.
11. Government passed the 'safe harbour' and ipso facto reforms in September 2017 to promote a true rescue culture in Australia and facilitate corporate restructuring. We recognise that these reforms may not be suitable in all cases in preserving value for small and medium sized enterprises experiencing financial difficulty. While recognising this, we are concerned about the possible misuse of 'Pre-Packs' as a viable alternative for small business. Rather, ASIC considers that recognising the signs of financial difficulty, and seeking

early assistance from a qualified professional (not a pre-insolvency advisor of uncertain qualification) remains the key to value preservation.

Responses to discussion questions

- Q1. At the initial consultation with a registered liquidator, should the registered liquidator be required to provide a small business with:
- a) a hard copy plain language fact sheet that outlines the various types of external administration and the role of directors and owners in each?
 - b) the reasons for recommending a particular course of action to the directors?
12. ASIC currently considers this a matter of 'best practice'. At the pre-appointment stage the RL is not acting in a formal position. With no current statutory obligation to provide (a) or (b), enforcement would be difficult.
13. RLs often verbally provide the reasons for recommending a particular course of action during the initial meeting. Requiring a written statement to be provided will impose a cost that may not be recoverable as most RLs give free initial advice and formal appointment is not guaranteed. However, if a fee is imposed for the initial consultation, it may actually deter small businesses from seeking advice.
14. Requiring written advice/recommendation is also likely to have implications for RL professional indemnity insurance, making it less likely that RLs would be willing to provide initial consultations for free without access to more detailed information from the directors, or in the alternate drive up the cost of insurance premiums.
15. Small business owners often fail to seek advice until their business is in significant financial distress. Given the pressure they are under at this late stage, it is conceivable they will not read information and advice given, or, if they do, not be in a position to understand or act on the advice.
- Q2. Should there be a control mechanism to prevent the total costs of an external administration from consuming the value of the company's assets? What form could this take?
16. An external administrator is entitled to be paid reasonable remuneration for necessary work that is properly performed. However, the reality is that many external administrations are without sufficient funds to pay reasonable remuneration.
 17. Imposing an arbitrary limit on RL remuneration may lead to inadequate performance of investigations and reporting to creditors (who are likely to be SMEs) and ASIC.
 18. Each external administration is different. For that reason, it may be better to consider mechanisms to assist with the assessment and review of reasonable remuneration, rather than arbitrarily fixed remuneration at an amount regardless of the circumstances.
 19. Current processes in place for the protection of creditors, including verification of claims for dividend purposes, impose costs on an external administration. It seems fair that a RL is entitled to be paid reasonable remuneration for any necessary work properly performed.
- Q3. Should an information sheet of the average costs for a 'day in court' and the average numbers of court days for particular actions be included with each creditors report?
20. The costs of legal actions taken by RLs vary depending on a number of factors, including which court is involved, which state the action is taken, the number of parties to the action and its complexity. This would make it difficult to prepare any average information of practical value.

21. Legal costs depend on the facts and circumstances of each matter and can vary widely. An 'average cost' information sheet might therefore be misleading in many cases.
22. There are further questions of who would be responsible for preparing and regularly updating such guidance.
23. Information of this nature is specific to the matter and perhaps better provided upfront in a remuneration report, allowing creditors to consider the costs and approve fees before work is performed. ASIC is aware that some RLs already provide estimates of legal costs in their reports. However, many may not because of the risk of a defendant leveraging the estimated costs to stifle litigation. In some circumstances, this would be contrary to the interests of creditors and other stakeholders.

Q4. In consideration of technology available today, how beneficial would it be to automatically provide the Annual Administration Return report lodged with ASIC to creditors, directors, owners?

24. Legislative reform would be needed to require this report to be provided to creditors and to allow the use of electronic mechanisms for distribution of information about an external administration to creditors.
25. The utility of providing this report directly by email would depend on the accuracy of the contact details held in the company records.
26. Many RLs already use their websites to make information available for creditors and we continue to encourage them to do so enabling all stakeholders to access key reports.
27. In the event of legislative reform, one option is that ASIC's Published Notices Website could require this information (and other relevant information about a company's external administration) to be made available.
28. Alternatively, legislative reform could make this information available free of charge from the company register, allowing access to any creditor/person who has an interest. Ultimately, this is a policy matter.

Q5. Should valuations be provided to, and proposed marketing strategies require approval from, creditors?

29. Based on our current understanding of this suggestion we have reservations regarding how this might be implemented.
30. Providing valuation evidence about particular assets to creditors may have unintended consequences and adversely impact the sale of assets, depending on when such information is required to be provided.
31. Requiring creditor approval of marketing strategies would also increase the cost of the external administration and potentially delay the realisation of assets.
32. RLs are highly qualified and experienced professionals who are expected to establish a process to obtain appropriate valuations and implement appropriate marketing strategies.
33. If RLs were required to release commercially-sensitive valuations and marketing strategies, information may be misused by creditors operating in the same industry or market as the insolvent SME for their own benefit.
34. The valuation evidence and marketing strategies must be suitable for the nature of the assets being sold and the likely funds to be realised. RLs often seek advice on appropriate marketing strategies from 'expert' parties engaged to assist with selling a business or assets.

- Q6. Should demands to recover payments determined to give a creditor an unfair preference in a winding up require the registered liquidator to include the evidence they relied on in making that determination?
35. ASIC considers it best practice to outline the evidence in the demand letter. A creditor is entitled to ask for the evidence the RL relies on to support the preference claim.
36. RLs who simply write to all parties that received a payment in the relevant six-month period and demand repayment as a preference, without carrying out proper investigations to make sure the payment meets the prima facie legal standard required to support recovery, may not have discharged their duty as an RL.
37. In practice, preference recoveries (especially in small liquidations) may be relied on for the payment of remuneration and may be the only recovery made by the RL.
38. Whether RLs should be entitled to recover preferences at all – and whether doing so punishes creditors who diligently manage their accounts receivable – is a policy matter.
- Q7. Should it be mandatory for individuals seeking to be directors of companies to undertake core education on running a business and the potential risks of personal exposure to liabilities before being eligible for appointment?
39. This is a policy matter for the legislature.
- Q8. Should it be mandatory for individuals seeking to start a company or register an ABN to undertake core education on running a business and the potential risks of personal exposure to liabilities?
40. This is a policy matter for the legislature.
- Q9. Where a small business seeks advice when facing financial difficulties, should the individual proposing a course of action be required to provide the small business with:
- a) a hard copy plain language fact sheet that outlines the various types of external administration available and the role of directors and owners in each?
 - b) the reasons for recommending a particular course of action to the directors?
41. Please refer to our response to Q1.
10. How can the safe harbour provision be improved to encourage small businesses to take action early and gain time to assess the viability of the business?
42. Although it applies to all companies, the existing safe harbour may not be suitable in all cases in the SME sector.
43. The safe harbour reforms were designed to provide breathing space for a company starting to feel financial distress, allowing it to get early advice to restructure the business. It provides protection to the directors against potential claims for insolvent trading and was not designed to protect a director of a company that has been trading while insolvent for some time. In this regard, requiring employee payments to be paid and relevant tax lodgements to be up to date, is appropriate if the business is to be restructured.
44. Legislative change will not overcome an individual's reluctance to acknowledge and accept that they need to seek early assistance. Further, if individuals are unable or unwilling to identify early signs of financial distress, it is unlikely that changing the law will facilitate the restructure/turnaround of small business.

45. Crucially, unless there is a viable business to save, it is difficult to see why introducing a 'Pre-Pack' mechanism (without other fundamental changes to the business model/management) will have a significant effect on saving small business beyond the short term.
46. Any changes also require careful consideration to make sure they do not unintentionally promote illegal phoenix activity.

Q11. How can accountants and bookkeepers best support small businesses to seek help early?

47. Accountants/bookkeepers and their professional bodies are best positioned to respond to this question.
48. ASIC will continue to encourage small business owners to monitor their business performance and seek advice from a suitably-qualified adviser when signs of future financial distress are first identified.

Q12. Should increased funding and resources be provided to the financial counselling sector to enable them to provide services to small businesses experiencing financial difficulty?

49. This is a policy matter for the legislature.

Q13. Should the impact on the mental health of small business owners and directors be cause for a pause in proceedings?

50. ASIC acknowledges there is a correlation between financial distress and mental health issues. Directors of insolvent companies may struggle to understand the RL's role and find it difficult to assist because they are overwhelmed and stressed.
51. The majority of small business corporate insolvencies are initiated by directors, often following a prolonged period of financial distress. It is possible that a 'pause' after the director has taken the difficult decision to initiate an insolvency may increase, rather than decrease, their stress.
52. ASIC accepts mechanisms are needed to support small business owners experiencing mental health issues. However, it is important that the affairs of the insolvent company are administered in an effective and efficient manner, for the benefit of creditors who may also be experiencing symptoms of financial distress.
53. Preventing or delaying creditors (including small business creditors) from seeking legal remedies to recover amounts owed to them, including by liquidating the company, may lead to concerns about the wellbeing of those creditors.
54. In matters before a court, the court can already facilitate a pause if considered appropriate, based on the evidence. There is a question about what mechanism would otherwise be appropriate to assess the mental health status of a director or small business owner in order to determine if a pause was warranted.

Q14. Are there other changes that could assist the parties where there are mental health issues?

55. ASIC has no comments.

- Q15. General submissions are sought on the fairness of having one system and the benefits and risks of implementing different processes so the costs and time to complete an external administration achieves the optimum outcome for creditors, employees and the company.
56. If needed ASIC can further discuss the possible merits of a streamlined winding-up process for small business. More generally, we support any measures that minimise costs and maximises the return to creditors, while at the same time deterring misconduct.
 57. Given the estimated cost of illegal phoenix activity to the Australian economy is between \$2.9–5.1 billion annually, ASIC would be concerned if a streamlined liquidation process was introduced at the expense of liquidators properly performing their important function as gatekeepers of the financial system. For example, detecting and reporting on directors and others who engage in illegal phoenix activity, which can harm small business.
 58. It is therefore important that any streamlined approach has adequate safeguards from misuse.
 59. A limited investigation and reporting regime (to ASIC and creditors) for small business corporate insolvency might also be worth consideration, given that small business failures are often unfunded and alleged offences reported to ASIC are often characterised by a lack of admissible evidence or limited regulatory impact.
 60. The question of who is to pay for the cost of even a limited scope winding up may also require consideration. Limited investigations and reporting may also further decrease funds available to pay the RL for the work properly and necessarily performed. Most corporate insolvencies in the United Kingdom, where liquidators have significantly lower reporting and investigation duties, are administered by a government liquidator. The Australian Financial Security Authority administers most bankruptcies in Australia. The Assetless Administration Fund Commonwealth grant scheme is administered by ASIC, however its current allowed uses, and total fund size, would not allow its use to fund a streamlined small business winding-up system on an economy wide basis.

Annexure 1: Summary of ASIC statistics relating to registered liquidators and SME External Administration

Profile of registered liquidators

ASIC publishes certain demographic and geographic information about registered liquidators under 'Industry Profile' in our annual report on the regulation of registered liquidators. See our last three published reports below:

- [Report 610](#) *ASIC regulation of registered liquidators: January 2017 to June 2018*
- [Report 532](#) *ASIC regulation of registered liquidators: January to December 2016*
- [Report 479](#) *ASIC regulation of registered liquidators: January to December 2015.*

Statistical Information regarding SME External Administration

ASIC has compiled and published annually statistics (Series 3) from data collected (estimates and opinions) in statutory reports (Form EX01) lodged with us by external administrators and receivers for financial years commencing after 1 July 2004:

The [statistical reports](#) and data is available on our website:

- [Series 3.1](#) *External administrators' reports for Australia*
- [Series 3.2](#) *External administrators' reports for selected industries*
- [Series 3.3](#) *External administrators' reports time series.*

On 18 December 2019, ASIC published [Report 645](#) *Insolvency statistics: External administrators' reports (July 2018 to June 2019)*.

There were 7,498 initial reports (EX01) lodged during the 2018-2019 financial year by the following role types: liquidators, receivers and voluntary administrators (external administrators) who must lodge reports under the following sections of the Corporations Act 2001:

- a) s533 (by a liquidator)
- b) s422 (by a receiver)
- c) s438D (by a voluntary administrator).

For Forms EX01 lodged by liquidators under s533, we are not able to distinguish whether it is lodged by a liquidator in a court winding up or a liquidator in a creditors' voluntary winding up.

Set out below are a number of tables, we note that:

- the tables provided reflect the cross referencing of certain variables contained in the reports that are additional to tables that have been previously published by ASIC
- when we refer to 'business size' or size of company, we have used full time equivalent employee (FTE) data from question 9 on the Form EX01.

General conditions and limitations (FormEX01)

When interpreting the statistics, the following conditions and limitations should be kept in mind:

- a) the statistics do not directly correlate with the monthly statistics for 'Companies entering external administration' and 'Insolvency appointments' on ASIC's website due to the time difference in lodgement of external administrators' reports. (External administrators are not

required to lodge reports where the pre-conditions of s422, 438D or 533 of the Corporations Act are not met).

- b) some external administrators' reports are lodged for statistical purposes only, rather than under the Corporations Act. For example, a liquidator may choose to lodge a report for a company with no suspected misconduct and with an estimated dividend of more than 50 cents in the dollar. Therefore, this report includes financial and other data from these lodgements in the aggregated statistics.

To avoid double counting, all statistics are compiled only from the initial external administrator report lodged electronically when the company enters external administration (EXAD) status.

Further, while a company is in EXAD status, it may be subject to more than one appointment type. Even though a report may be lodged for each appointment type, the statistics only include the first electronically lodged report for the company. Accordingly, while:

- c) more than one report may also be lodged for each appointment type, the statistics only include the first electronically lodged report.
- d) a company may go in and out of EXAD status more than once, for each period in EXAD status, only the first electronically lodged report is included in the statistics.

Financial information provided in an initial external administrator report reflects estimates and opinions of the external administrator at a point in time. The statistics do not reflect revised information from subsequent or updated reports.

When completing the initial external administrator report, the RL selects from a predetermined set of options for qualitative questions, and ranges for quantitative questions. Limited testing carried out by ASIC while compiling these statistics identified a small number of reports with estimated employee entitlements inconsistent with other responses in those reports (e.g. very high unpaid employee entitlements but less than five employees; high unpaid employee entitlements that are significantly greater than estimated total liabilities). These reports have been eliminated from the employee entitlements statistics when the impact was material.

Industry categories used in the EX01 align with 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) at division level except for financial & Insurance services. The EX01 does not utilise all available ANZSIC codes (e.g. sub-division, group or class level codes). For example, the 'Construction' (Division E) includes associated trades like plumbers (Class 3231) and electricians (Class 3232) that operated their business through a corporate structure.

The accuracy or otherwise of the industry classification is wholly dependent on the RL selecting the correct ANZSIC code.

For details of industry descriptions, visit www.abs.gov.au.

1) 2018 – 19 Books and records

The tables in this section reflect the response to question 2 in the form EX01 where RLs are asked 'have you obtained the books and records?' (Yes/No). If the answer is 'Yes' they answer the question 'in your opinion are the books and records adequate?' (Yes/no/not known).

Table 1.1: Books and records by type of lodgement

Type of lodgement	Are there books and records and are they adequate?					
	No	Yes				Total
		Yes	No	Unknown	Total	
for the purpose of complying with s422 of the Corporations Act 2001 (the Act)	23	5	11	6	22	45
for the purpose of complying with s438D of the Act	21	339	134	24	497	518
for the purpose of complying with s533 of the Act	1284	3074	2420	154	5648	6932
solely for statistical purposes		3			3	3
Total	1328	3421	2565	184	6170	7498

Note: This information is sourced from questions 1 and 2 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 1.2: Books and records by size of company

Size of company by Full Time Equivalent employees	Are there books and records and are they adequate?					
	No	Yes				Total
		Yes	No	Unknown	Total	
Less than 5	612	2244	1704	120	4068	4680
5 – 19	48	732	258	17	1007	1055
20 – 199	17	217	88	7	312	329
200 or more	1	6			6	7
Not known	650	222	515	40	777	1427
Total	1328	3421	2565	184	6170	7498

Note: This information is sourced from questions 2 and 9 in the Form EX01 and is subject to the limitations outlined at the start of this document.

2) 2018-19 Causes of failure

External Administrators can identify more than one cause of failure.

Table 2.1: Cause of failure by number of each lodgement type

Cause of Failure	Type of lodgement				Total
	For the purpose of complying with s422 of the Corporations Act 2001 (the Act)	For the purpose of complying with s438D of the Act	For the purpose of complying with s533 of the Act	Solely for statistical purposes	
Inadequate cash flow or high cash use	11	310	3729	1	4051
Other	54	289	3292	2	3637
Poor strategic management of business	19	254	3106		3379
Poor financial control including lack of records	17	151	3147		3315
Trading losses	7	287	2770		3064
Under capitalisation	7	134	1622		1763
Poor management of accounts receivable	2	70	806		878
Poor economic conditions	4	47	806		857
Dispute among directors	3	47	186		236
Fraud	2	7	161		170
Industry restructuring		5	107		112
DOCA failed			62		62
Natural disaster		2	24		26
Total	126	1603	19818	3	21550

Note: This information is sourced from questions 1 and 3 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 2.2: Cause of failure by size of company

Causes of Failure	Number of fulltime equivalent employees					Total
	Less than 5	5 - 19	20 - 199	200 or more	Not known	
Inadequate cash flow or high cash use	2505	655	217	3	671	4051
Other	2123	436	135	4	939	3637
Poor strategic management of business	2081	510	175	1	612	3379
Poor financial control including lack of records	1877	307	100	1	1030	3315
Trading losses	1918	618	191	5	332	3064
Under capitalisation	1102	294	93	2	272	1763
Poor management of accounts receivable	512	185	63	2	116	878
Poor economic conditions	593	166	42	2	54	857
Dispute among directors	179	34	8		15	236
Fraud	109	21	9		31	170
Industry restructuring	73	23	11	2	3	112
DOCA failed	47	3			12	62
Natural disaster	19	3	3		1	26
Total	13138	3255	1047	22	4088	21550

Note: This information is sourced from questions 3 and 9 in the Form EX01 and is subject to the limitations outlined at the start of this document.

3) 2018 – 19 Size of company

Table 3.1: Size of company by type of lodgement

Type of lodgement	Number of fulltime equivalent employees					Total
	Less than 5	5 – 19	20 – 199	200 or more	Not known	
for the purpose of complying with s422 of the Corporations Act 2001 (the Act)	26	6	1		12	45
for the purpose of complying with s438D of the Act	276	140	68	1	33	518
for the purpose of complying with s533 of the Act	4375	909	260	6	1382	6932
solely for statistical purposes	3					3
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 1 and 9 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 3.2: Size of company by industry

Industry	Number of fulltime equivalent employees					Total
	Less than 5	5 - 19	20 - 199	200 or more	Not known	
Accommodation and Food Services	699	214	51	1	194	1159
Administrative and Support Services	30	4	5		6	45
Agriculture Forestry and Fishing	77	12	3		22	114
Arts and Recreation Services	52	6	3		8	69
Construction	1030	225	72	1	273	1601
Education and Training	35	10	8		22	75
Electricity Gas Water and Waste Services	96	17	4		16	133
Financial and Insurance Services - Credit Provider	43					43
Financial and Insurance Services - Deposit Taking Institutions	1	1				2
Financial and Insurance Services - Insurance	3	2	1			6
Financial and Insurance Services - Managed Investments	14				6	20
Financial and Insurance Services - Other Financial Services	54	14	1		14	83
Financial and Insurance Services - Superannuation	5				2	7
Health Care and Social Assistance	49	9	5	1	20	84
Information Media and Telecommunications	97	28	16		23	164
Manufacturing	129	62	27		17	235
Mining	57	10	1	2	16	86
Other (Business and Personal) Services	1255	219	73	1	566	2114
Professional Scientific and Technical Services	85	25	4		16	130
Public Administration and Safety	5	1	2		1	9
Rental Hiring and Real Estate Services	135	14	3		23	175
Retail Trade	402	102	29	1	83	617
Transport Postal and Warehousing	218	58	14		79	369
Wholesale Trade	109	22	7		20	158
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 10 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Industry categories align with 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) divisions. See comments above re use of Division only classifications.

For details of industry descriptions, visit www.abs.gov.au.

Table 3.3: Size of company by total deficiency

Total deficiency	Number of fulltime equivalent employees					Total
	Less than 5	5 – 19	20 – 199	200 or more	Not known	
\$0 - \$50 000	502	32	8		204	746
\$50 001 - \$250 000	1605	205	20		523	2353
\$250 001 – less than \$500 000	1016	202	43		279	1540
\$500 000 – less than \$1 million	711	253	39	1	195	1199
\$1 million – less than \$5 million	668	315	159	1	182	1325
\$5 million - \$10 million	80	32	31		25	168
Over \$10 million	98	16	29	5	19	167
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 13 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 3.4: Size of company by amount owed to secured creditors

Amount owed to secured creditors	Number of fulltime equivalent employees					Total
	Less than 5	5 - 19	20 - 199	200 or more	Not known	
\$0	3043	492	142	2	1040	4719
\$1 - less than \$500 000	1306	413	89		316	2124
\$500 000 - less than \$1 million	100	56	24		22	202
\$1 million - less than \$5 million	151	78	51	1	34	315
\$5 million - \$10 million	32	11	13		7	63
Over \$10 million	48	5	10	4	8	75
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 20 in the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 3.5: Size of company by taxes and statutory debts which are unpaid

Unpaid Taxes & other Statutory Debts	Number of fulltime equivalent employees					Total
	Less than 5	5 - 19	20 - 199	200 or more	Not known	
\$0	792	70	10	2	282	1156
\$1 - \$250 000	3026	658	131	1	796	4612
\$250 001 - \$1 million	709	286	125	2	271	1393
Over \$1 million	153	41	63	2	78	337
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 21 in the Form EX01 and is subject to the limitations outlined at the start of this document.

4) 2018 – 19 Remuneration

The EX01 requests estimated collectable remuneration information for each type of external administration appointment. Where estimated remuneration for a particular type of insolvency appointment is not relevant to the particular appointment on which the RL is reporting, the RL answers 'not applicable'.

Table 4.1: Remuneration by type of appointment

Remuneration	Type of appointment							
	Voluntary Administrator		DOCA Administrator		Liquidator		Receiver/Controller	
	No.	%	No.	%	No.	%	No.	%
\$0	778	10.4%	789	10.5%	1321	17.6%	768	10.2%
\$1 - \$50,000	451	6.0%	94	1.3%	5027	67.0%	35	0.5%
\$50,001 - \$100,000	203	2.7%	24	0.3%	594	7.9%	9	0.1%
\$100,001 - \$250,000	128	1.7%	10	0.1%	213	2.8%	3	0.0%
Over \$250,000	53	0.7%	6	0.1%	41	0.5%	7	0.1%
Not applicable	5885	78.5%	6575	87.7%	302	4.0%	6676	89.0%
Total	7498	100%	7498	100%	7498	100%	7498	100%

Note: This information is sourced from questions 29.1, 29.2, 29.3 and 29.4 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.2: Voluntary Administrator's remuneration by size of company

Voluntary administrator's remuneration	Size of company by full time equivalent employees					
	Less than 5	5 - 19	20 - 199	200 or greater	Not known	Total
\$0	514	96	28	1	139	778
\$1 - \$50 000	296	85	25		45	451
\$50 001 - \$100 000	97	73	32		1	203
\$100 001 - \$250 000	37	50	39	1	1	128
Over \$250 000	16	6	27	4		53
Not applicable	3720	745	178	1	1241	5885
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 29.1 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.3: Deed Administrator's remuneration by size of company

Deed administrator's remuneration	Size of company by full time equivalent employees					
	Less than 5	5 - 19	20 - 199	200 or more	Not known	Total
\$0	503	105	38	2	141	789
\$1 - \$50 000	58	27	6		3	94
\$50 001 - \$100 000	12	4	5		3	24
\$100 001 - \$250 000	6	1	3			10
Over \$250 000	3		1		2	6
Not applicable	4098	918	276	5	1278	6575
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 29.2 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.4: Liquidator's remuneration by size of company

Liquidator's remuneration	Size of company by full time equivalent employees					
	Less than 5	5 - 19	20 - 199	200 or more	Not known	Total
\$0	787	61	18		455	1321
\$1 - \$50 000	3369	630	140	1	887	5027
\$50 001 - \$100 000	271	212	67		44	594
\$100 001 - \$250 000	74	78	53	1	7	213
Over \$250 000	12	6	18	5		41
Not applicable	167	68	33		34	302
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 29.3 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.5: Receiver's/controller's remuneration by size of company

Receiver's/controller's remuneration	Size of company by full time equivalent employees					
	Less than 5	5 - 19	20 - 199	200 or more	Not known	Total
\$0	472	114	37	2	143	768
\$1 - \$50 000	20	3	1		11	35
\$50 001 - \$100 000	7	2				9
\$100 001 - \$250 000	1	1			1	3
Over \$250 000	5	2				7
Not applicable	4175	933	291	5	1272	6676
Total	4680	1055	329	7	1427	7498

Note: This information is sourced from questions 9 and 29.4 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.6: Administrator's remuneration by total deficiency

Administrator's remuneration	Total deficiency							Total
	\$0 – \$50 000	\$50 001 – \$250 000	\$250 001 – less than \$500 000	\$500 000 – less than \$1 million	\$1 million – less than \$5 million	\$5 million – \$10 million	Over \$10 million	
\$0	119	252	155	96	132	14	10	778
\$1 - \$50 000	19	93	86	99	110	23	21	451
\$50 001 - \$100 000	4	12	20	39	102	11	15	203
\$100 001 - \$250 000	3	4	7	9	69	17	19	128
Over \$250 000	3		1		13	11	25	53
Not applicable	598	1992	1271	956	899	92	77	5885
Total	746	2353	1540	1199	1325	168	167	7498

Note: This information is sourced from questions 13 and 29.1 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.7: Deed Administrator's remuneration by total deficiency

Deed administrator's remuneration	Total deficiency							Total
	\$0 - \$50 000	\$50 001 - \$250 000	\$250 001 - less than \$500 000	\$500 000 - less than \$1 million	\$1 million - less than \$5 million	\$5 million - \$10 million	Over \$10 million	
\$0	107	254	152	103	143	14	16	789
\$1 - \$50 000	2	7	12	18	40	9	6	94
\$50 001 - \$100 000		2	3	1	10	2	6	24
\$100 001 - \$250 000			1	1	3	1	4	10
Over \$250 000		1	2	1	1		1	6
Not applicable	637	2089	1370	1075	1128	142	134	6575
Total	746	2353	1540	1199	1325	168	167	7498

Note: This information is sourced from questions 13 and 29.2 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.8: Liquidator's remuneration by total deficiency

Liquidator's remuneration	Total deficiency							Total
	\$0 - \$50 000	\$50 001 - \$250 000	\$250 001 - less than \$500 000	\$500 000 - less than \$1 million	\$1 million - less than \$5 million	\$5 million - \$10 million	Over \$10 million	
\$0	180	477	268	178	177	19	22	1321
\$1 - \$50 000	515	1779	1110	811	682	68	62	5027
\$50 001 - \$100 000	26	57	101	130	233	28	19	594
\$100 001 - \$250 000	13	8	7	21	119	18	27	213
Over \$250 000	1		1		12	9	18	41
Not applicable	11	32	53	59	102	26	19	302
Total	746	2353	1540	1199	1325	168	167	7498

Note: This information is sourced from questions 13 and 29.3 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Table 4.9: Receiver's/Controller's remuneration by total deficiency

Receiver's / Controller's remuneration	Total deficiency							Total
	\$0 – \$50 000	\$50 001 – \$250 000	\$250 001 – less than \$500 000	\$500 000 – less than \$1 million	\$1 million – less than \$5 million	\$5 million – \$10 million	Over \$10 million	
\$0	71	256	153	115	145	12	16	768
\$1 - \$50 000	4	6	5	2	12	2	4	35
\$50 001 - \$100 000		1		3	3	2		9
\$100 001 - \$250 000	1			2				3
Over \$250 000	1	1	1	1	2	1		7
Not applicable	669	2089	1381	1076	1163	151	147	6676
Total	746	2353	1540	1199	1325	168	167	7498

Note: This information is sourced from questions 13 and 29.4 of the Form EX01 and is subject to the limitations outlined at the start of this document.

5) 2018 – 19 - Expected time to complete external administration

The expected time to complete an external administration is determined by reference to when the EX01 is lodged. The external administration appointment may have been ongoing for some time before this occurs. Accordingly, this is not a measure of the length of the external administration of the company.

Table 5.1: Expected time to complete by type of lodgement

Type of lodgement	Expected time to complete				Total
	0 - less than 3 Months	3 - less than 6 Months	6 months - 1 Year	Over 1 Year	
for the purpose of complying with s422 of the Corporations Act 2001 (the Act)	13	22	10		45
for the purpose of complying with s438D of the Act	326	48	89	55	518
for the purpose of complying with s533 of the Act	1682	2516	2057	677	6932
solely for statistical purposes	1	1		1	3
Total	2022	2587	2156	733	7498

Note: This information is sourced from questions 1 and 30 of the Form EX01 and is subject to the limitations outlined at the start of this document.

Further, it appears, that some voluntary administrators (but not all) are estimating the time to complete the administration to include completion of the subsequent deed of company arrangement or liquidation.

Table 5.2: Expected time by size of company

Time to complete external administration	Size of company by full time equivalent employees					Total
	Less than 5	5 - 19	20 - 199	200 or more	Not known	
0 - less than 3 Months	1343	189	66		424	2022
3 - less than 6 Months	1638	333	71		545	2587
6 months - 1 Year	1272	386	127	5	366	2156
Over 1 Year	427	147	65	2	92	733
Total	4680	1055	329	7	1427	7498

This information is sourced from questions 9 and 30 the Form EX01 and is subject to the limitations outlined at the start of this document.