

18 May 2010

**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

(the Company)

**CIRCULAR TO INVESTORS
APPOINTMENT OF VOLUNTARY ADMINISTRATORS**

We advise that Martin Jones, Andrew Saker and Darren Weaver were appointed as Joint and Several Administrators of the Company pursuant to section 436A of the Corporations Act 2001 (the Act) on 16 May 2010.

Our role as Joint and Several Administrators of the Company is to take control of the Company's businesses, properties and affairs with a view to facilitating the execution of a Deed of Company Arrangement (DOCA) to reorganise the Company's affairs. We will also be conducting statutory investigations and complying with statutory reporting requirements to investors, creditors and shareholders over the course of the Administration. That said, **the Administrators are not obliged to incur credit particularly where higher risks prevail. Accordingly, parties interested to fund operations or to propose an alternative responsible entity should contact Ferrier Hodgson's Perth office without delay.**

The Company's records indicate that you are an investor in one of the Company's Managed Investment Scheme's (MIS). Under the MIS you are owed certain obligations and you may therefore be entitled to claim as a creditor of the Company.

As you will appreciate, the claims you may have are likely to be of an indeterminate nature, and as such, your claim is known as a contingent claim. Where your claim is a contingent claim, it is likely that we will allow you to participate and vote at the meetings of creditors, details of which are set out below.

However as the claim will be difficult, if not impossible, to value at the present time, a "just estimate" of the quantum of the debt will be appropriate. If your claim cannot be quantified by a just estimate, we will allow it to vote for a nominal amount of one dollar (\$1).

We now control the Company's operations and we are assessing the Company's financial position. The Company's directors have been requested to prepare a statement about the Company's business, property, affairs and financial circumstances as at the date of our appointment.

PERTH

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1. First Meeting of Creditors

We are required to call a first meeting of creditors within eight business days of our appointment pursuant to section 436E of the Act. The purpose of this meeting is to provide creditors with an opportunity to:

- Appoint a Committee of Creditors
- Appoint an alternative Administrator, if they so desire

In this regard, I enclose the following documents:

(a) Notice of Meetings of Creditors

Please note that meetings for the Group will be held on **Wednesday, 26 May 2010** at the following location and times:

Venue:	Perth Convention and Exhibition Centre Meeting Rooms 1 and 2 21 Mounts Bay Road, Perth WA 6000	
Time:	9.00am	11.00am
	Rewards Group Limited Rewards Land Pty Ltd Rewards Management Pty Ltd Ord Packers Pty Ltd Berry Packers Pty Ltd Rural Labour Pty Ltd Greentree Capital Pty Ltd	Rewards Projects Limited

Please note that you should arrive for registration at least 30 minutes prior to the meeting.

Although they will be legally separate meetings, we intend to conduct each of the meetings of the companies in the Group (with the exception of Rewards Projects Limited) at the same time and location and to allow observers to be present at each of the meetings. We believe this necessary and reasonable in order to save costs and allow for an efficient Administration process for all stakeholders, without prejudicing their respective interests.

A webcast facility will be available for each of the meetings of creditors of the Group. Please note that the webcast is not interactive. Accordingly, creditors and observers accessing the meeting via the webcast facility will **not** be able to vote or participate in the meeting. Should creditors wish to vote at the meeting they will need to attend the meeting in person or by proxy.

The webcast facilities can be accessed during the following periods:

- From the commencement until the conclusion of the meetings on the day of the meetings
- Anytime after 9:00am (WST) on the day following the meetings and thereafter



Viewers can register for access to the webcast through the Ferrier Hodgson website (www.ferrierhodgson.com) by clicking on the Rewards Group Limited logo.

(b) Informal Proof of Debt or Claim Form

A person is not entitled to vote at the meeting unless they provide particulars of the debt or claim to the Administrators before the meeting. Please note this form is for voting purposes only. All creditors must furnish full details of their claims, indicating whether they rank as secured, preferential or unsecured, and whether they claim title to any goods supplied to the Company or any lien over goods in their possession which are property of the Company.

(c) Appointment of Proxy Form

This form enables you to appoint a person to act on your behalf at the meeting.

(d) Voluntary Administration: A Guide for Creditors.

This document is a publication of the Insolvency Practitioners Association of Australia (IPAA) and the Australian Securities and Investments Commission (ASIC) concerning insolvency information for creditors.

The Informal Proof of Debt or Claim Form and Proxy form should be lodged with this office before the meeting and, in any event, **no later than 4.00pm on the day prior to the meeting**. Forms can be sent by facsimile on (08) 9214 1400 or scanned and emailed to rewardsgroup@perth.fh.com.au. However, Corporations Regulation 5.6.36A requires lodgement of the original of the Proxy form with the Administrators' office within 72 hours of lodging the faxed copy.

2. Declaration by Administrators

Pursuant to section 435DA of the Act and the IPAA Code of Professional Practice, we enclose our 'Declaration of Independence, Relevant Relationships and Indemnities'.

3. Trading

We are currently assessing the financial position of the Company with a view to putting forward a future trading plan to creditors. All forestry, agricultural and horticultural operations will be assessed by us as to their viability.

Once the financial position of the Company and the viability of the projects have been assessed, we will propose and implement a strategy for each project going forward. We will also be conducting statutory investigations and complying with statutory reporting requirements to investors, creditors and shareholders over the course of the Administration.

We understand that investors will have a number of questions about the status of specific projects in which they have invested. We need to make it clear that the timing of the forthcoming meetings of creditors are statute driven, and as such at that stage we will not be in a position to provide answers to those specific questions concerning project interests. We anticipate that further information and meetings will be held with investors in the future, once the necessary information has been obtained and assessments have been completed, at which time the specific project investor queries will be addressed. In



the interim we refer investors to our Frequently Asked Questions sheet available from the Ferrier Hodgson website at www.ferrierhodgson.com.

4. Pre-Appointment Claims

We are not in a position to discharge the pre-appointment debts of the Company. These debts rank as an unsecured debt of the Company to which payments will be dependent on the outcome of the Administration.

To assist us in determining the financial position of the Company we request that you provide us with details of all amounts outstanding to you as at the date of our appointment by completing and returning to this office the enclosed Informal Proof of Debt or Claim form.

5. Report to Creditors and Second Meeting of Creditors

We will prepare a report to creditors under section 439A of the Act which will include details on the Company's business, property, affairs and financial circumstances.

The second meeting of creditors will be held on or before **Monday, 21 June 2010** unless we decide to make an application to the Court to extend this date. It is at this meeting that creditors will consider the Administrators' report and consider resolutions regarding the Company's future.

6. Administrators' Remuneration

For the purposes of the administration, we intend that our remuneration be fixed on the basis of time spent by us, and our staff of an appropriate level having regard to the nature and complexity of the work, and calculated by reference to hourly rates.

Enclosed for your information are the following:

- Statement regarding remuneration setting out the four basic methods of calculating remuneration together with an explanation as to why hourly rates are appropriate in this administration
- Schedule of Rates and General Guide to Staff Experience

We will provide creditors with a remuneration report pursuant to section 449E of the Act with the report to creditors referred to in section 5 above.

An information sheet concerning approval of remuneration in external administrations can be obtained from www.ipaa.com.au or through this office.

7. Electronic Notification

Section 600G of the Act permits creditors to elect to receive certain notices during the Administration via email. Should you wish to do so, please complete the enclosed Email Notification Opt-In Form and email to rewardsgroup@perth.fh.com.au.



8. Further Information

For further information concerning the Voluntary Administration process, Administrators' remuneration and Ferrier Hodgson, you may wish to visit our website at www.ferrierhodgson.com.

You may also wish to consider the IPAA's website (www.ipaa.com.au), which contains the IPAA's Statements of Best Practice, applicable to IPA members and/or the ASIC website (www.asic.gov.au) for information sheets on the following topics:

- Insolvency: a glossary of terms
- Voluntary administration: a guide for creditors
- Voluntary administration: a guide for employees
- Liquidation: a guide for creditors
- Liquidation: a guide for employees
- Insolvency: a guide for shareholders
- Insolvency: a guide for directors
- Independence of external administrators: a guide for creditors
- Approving fees: a guide for creditors

Should you have any queries in relation to this matter, please do not hesitate to contact this office on (08) 9214 1444 or via email to rewardsgroup@perth.fh.com.au.

A handwritten signature in black ink, appearing to read 'Martin Jones', with a large, stylized flourish underneath.

Martin Jones

Joint and Several Administrator of
Rewards Projects Limited

Encl.



**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

STATEMENT REGARDING REMUNERATION

A. Remuneration Methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

Time based/hourly rates

This is the most common method. The total fees charged is based on the hourly rate charged for each person who carries out the work multiplied by the number of hours spent by each person on each of task performed.

Fixed fee

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes, a practitioner will finalise an administration for a fixed fee.

Percentage

The total fee charged is based on a percentage of a particular variable such as the gross proceeds of asset realisations.

Contingency

The insolvency practitioner's fee is contingent on achieving a particular outcome.

B. Method Chosen

Time based remuneration is appropriate in this administration given:

- It ensures creditors are only charged for work performed.
- We are required to perform tasks unrelated to asset realisations; hence, fees solely based on asset realisation would be unrealistic.
- We are unable to provide a reliable estimate of total fees to complete all tasks in the administration.

C. Fee Estimate

We estimate that our fees for the administration of the Company's affairs through to the first meetings of creditors will be between \$100,000 and \$200,000. Please note this is an estimate only and may vary materially given the circumstances of the administration.

Dated this 18th day of May 2010

A handwritten signature in black ink, appearing to read 'Martin Jones', with a large loop at the end.

Martin Jones

Joint and Several Administrator of
Rewards Projects Limited

Encl.



Schedule of Hourly Rates and General Guide to Staff Experience

Classification	Rate (\$)	Experience
Partner/Appointee	540	The Partner/Appointee is a registered liquidator and member of the ICAA and IPAA bringing specialist skills to the administration or insolvency task. For specific experience and other details of the appointee/s, please visit our website at www.ferrierhodgson.com
Director	460	Generally, minimum of 12 years experience at least two years of which is to be at Manager level. University degree; member of the ICAA and IPAA with deep knowledge and lengthy experience in relevant insolvency legislation and issues.
Senior Manager	390	Generally, more than seven years experience with at least two years as a Manager. University degree; member of the ICAA and IPAA; very strong knowledge of relevant insolvency legislation and issues.
Manager	325	Generally, five - seven years chartered accounting or insolvency management experience. University degree; member of the ICAA and IPAA; sound knowledge of relevant insolvency legislation and issues.
Supervisor	285	Generally, four - six years chartered accounting or insolvency management experience. University degree; member of the ICAA; completing IPAA Insolvency Education Program. Good knowledge of relevant insolvency legislation and issues.
Senior 1	255	Generally, two - four years chartered accounting or insolvency management experience. University degree; completing the ICAA's CA, program. Good knowledge of basic insolvency legislation and issues.
Senior 2	230	Generally, two - three years chartered accounting or insolvency management experience. University degree, ICAA's CA program commenced.
Intermediate 1	185	Generally, one - two years experience. Has completed or substantially completed a degree in finance/accounting. Under supervision, takes direction from senior staff in completing administrative tasks.
Intermediate 2	155	Zero to one year's experience. Undertaking a degree part-time in finance/accounting. Under supervision, takes direction from senior staff in completing administrative tasks.
Senior Secretary	150	Appropriate skills including machine usage.
Junior/Filing	130	Completed schooling and plans to undertake further studies. Required to assist in administration and day to day field work under the supervision of more senior staff.

Notes:

1. The hourly rates are exclusive of GST.
2. The guide to staff experience is intended only as a general guide to the qualifications and experience of our staff engaged in the administration. Staff may be engaged under a classification that we consider appropriate for their experience.
3. Time is recorded and charged in six-minute increments.
4. Rates are subject to change from time to time.



Disbursements are recovered on the following basis:

Disbursements	Charges
Postage	At cost
Telephone	At cost
Photocopying / Document Production	35 cents a copy
Facsimile	\$1 per page
Company Search	At cost
File Set up	At cost
Advertising	At cost
Storage	At cost
Couriers	At cost

The Partners of Ferrier Hodgson are members of the Insolvency Practitioners Association of Australia and follow the IPA Code of Professional Practice.

A copy of the IPA Code of Professional Practice may be found on the IPA website at www.ipaa.com.au

CORPORATIONS ACT 2001

NOTICE OF FIRST MEETING OF
CREDITORS OF COMPANY UNDER ADMINISTRATION

Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)

1. Notice is given that on 16 May 2010, the Group under Section 436A of the Corporations Act 2001 appointed Martin Jones, Andrew Saker and Darren Weaver of Ferrier Hodgson, Level 26 BankWest Tower, 108 St Georges Terrace, PERTH WA 6000 as the Joint and Several Administrators of the Group.
2. Notice is also given that meetings of the creditors of the Group will be held on 26 May 2010 at the following location:

Venue:	Perth Convention and Exhibition Centre Meeting Rooms 1 and 2 21 Mounts Bay Road, Perth WA 6000	
Time:	9.00am	11.00am
	Rewards Group Limited Rewards Land Pty Ltd Rewards Management Pty Ltd Ord Packers Pty Ltd Berry Packers Pty Ltd Rural Labour Pty Ltd Greentree Capital Pty Ltd	Rewards Projects Limited

Please note that you should arrive for registration at least 30 minutes prior to the meeting.

Although they will be legally separate meetings, we intend to conduct each of the meetings of the companies in the Group at the same time (with the exception of Rewards Projects Limited). Viewers can access the webcast through the Ferrier Hodgson website (www.ferrierhodgson.com) by clicking on the Rewards Group Limited logo.

3. The purpose of the meeting is to determine:
 - a. Whether to appoint a Committee of Creditors; and if so
 - b. Who are to be the committee's members
4. At the meeting, creditors may also, by resolution:
 - a. Remove the Joint and Several Administrators from office
 - b. Appoint someone else as Administrator of the Group
5. Statement of Independence to be tabled.

DATED this 18th day of May 2010.



Martin Jones
 Joint and Several Administrator of
 Rewards Projects Limited

CORPORATIONS ACT 2001

Section 436DA(2)

**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

**DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND
INDEMNITIES**

Independence

We, Martin Jones, Andrew Saker and Darren Weaver have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Joint and Several Administrators of the Group. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

Relevant Relationships

Aside from the notes below, neither Martin Jones, Andrew Saker, Darren Weaver nor our firm, have, or have had within the preceding 24 months, any relationships with the Group, any associate of the Group, a former insolvency practitioner appointed to the Group or any other person or entity that has a charge on the whole or substantially whole of the Group's property.

Briefly stated, the entities' roles are as follows:

Entity	Short	Brief Description of role
Rewards Group Limited ACN 087 702 547	RGL	Unlisted head of the Group.
Rewards Projects Limited ACN 089 582 427	RP	Responsible Entity for the Schemes.
Rewards Management Pty Ltd ACN 089 940 376	RM	Manages the daily operation of the Schemes for RP.
Rewards Land Pty Ltd ACN 089 948 824	RL	Owens the land used by many RP schemes.
Ord Packers Pty Ltd ACN 106 363 964	OP	Heads a subgroup – fruit packing operations and equipment.
Berry Packers Pty Ltd ACN 125 068 911	BP	Packing operations and equipment.
Rural Labour Pty Ltd ACN 130 732 786	RLPL	Casual operations labour force that is contracted to RP, RM, OP and BP.
Green Tree Capital Pty Ltd ACN 093 209 173	GT	Collecting the final payments in relation to the 2009 Premium Timber Project.

There are numerous inter-relationships between the Group members. These are summarised as follows:

Entity	Entity	Relationship	Comments/How Managed
RGL	All	As the head of the corporate group, any surplus funds from entities lower in the Group will work their way up to RGL.	If and when the investment in subsidiaries realise value, we would report to stakeholders upon this, with transparent accounting for same.
RGL	RM	There is a Deed of Cross Guarantee between RGL and RM.	If and when the investment in subsidiaries realise value, we would report to stakeholders upon this, with transparent accounting for same.
RGL	RM	At 31 March 2010, an inter-company loan existed under which RGL owed RM approximately \$12.8M.	Report to creditors upon recoverability and consider independent review if/as appropriate.

Entity	Entity	Relationship	Comments/How Managed
RP	RM	At 31 March 2010, an inter-company loan existed under which RP owed RM approximately \$136k.	Report to creditors upon recoverability and consider independent review if/as appropriate.
RP	RM	RM is owed \$12.4M in annual management fees and rent reimbursements.	The mechanism by which these payments may occur is regulated by the scheme documentation. There is no discretion for the Administrators to exercise.
RP	RL	RP leases land from RL on a deferred rent basis. RP may be unfunded to meet the costs of maintaining the crops, in which case, there is a risk that RL will be interested to terminate the leases. The Administrators are not obliged to incur debt to maintain crops.	We have indicative funding to cover at least some, but potentially not all schemes and anticipate an application to the Court in relation to the Administrators' authority and to enter and the terms of such a loan, potentially in advance of secured lender and grower rights. Absent such funding, there is a real risk that some leases will be disclaimed.
RM	RL	At 31 March 2010, an inter-company loan existed under which RL owed RM approximately \$25.5M.	Report to creditors upon recoverability and consider independent review if/as appropriate.
RM	OP	At 10 May 2010, OP was owed \$1.3M by RM, but OP owed circa \$2M to RM.	Report to creditors upon recoverability and consider independent review if/as appropriate, including as to any set-off that may be appropriate.
RM	BP	At 10 May 2010, BP was owed \$493k by RM, but BP owed \$672k to RM.	Report to creditors upon recoverability and consider independent review if/as appropriate, including as to any set-off that may be appropriate.
RM	RLPL	At 10 May 2010, RLPL was owed \$593k by RM, but RLPL owed \$4.5k to RM.	Report to creditors upon recoverability and consider independent review if/as appropriate, including as to any set-off that may be appropriate.
RM	GT	GT will be collecting final payments from 12 month interest free loans in May and June 2010 and remitting these sums to RM and RP. Currently the total to be collected is \$1.4M.	The mechanism by which these transfers occur is regulated by the scheme documentation. There is no discretion for the Administrators to exercise.
BP	OP	At 10 May 2010, BP owed \$235k to OP.	Report to creditors upon recoverability and consider independent review if/as appropriate.
BP	RLPL	At 10 May 2010, BP owed \$181k to RLPL.	Report to creditors upon recoverability and consider independent review if/as appropriate.

By keeping the various administrations together with one insolvency practice (rather than having a range of firms all coming up to speed with how the Group operates and attempting to "fit in together" on trading issues), and with a view to restructuring the affairs holistically, rather than on a piecemeal basis, we expect there will be significant cost savings and improved prospects of a higher return for all stakeholders, more than sufficient to overcome the potential costs of managing future potential conflicts between the Administrators' interests and the Administrators' duties.

Prior Engagements with the Insolvent

Aside from preliminary advice in relation to this appointment (to date unremunerated, that preliminary advice having commenced on 5 May 2010), neither Andrew Saker, Martin Jones or Darren Weaver, nor our Firm, have undertaken any prior engagements for the Group. No advice has been provided to the directors in relation to their individual/personal circumstances, only as to their obligations to the company and its creditors.

Indeed, were it not for this limited prior involvement, we would not have been able to provide the summaries of relationships above.

From time to time we provide professional advice, either formally or informally to the secured creditors of the Group, National Australia Bank (NAB) and the Commonwealth Bank of Australia (CBA), however we have had no involvement with NAB or CBA in direct relation to the Group. There are no other prior professional relationships or engagements that should be disclosed.

Indemnities

Martin Jones, Andrew Saker and Darren Weaver have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute.

We are not aware of any other issues that require disclosure in relation to our independence and we confirm, that in the event that a real risk to our independence is identified in the future as a result of the above matters or otherwise, we will consult with the relevant Committee and thereafter refer appropriate matters to the Court and/or an independent insolvency practitioner for consideration. In the interim, we consider that proceeding as Administrators of the companies is appropriate and reflects the fact that the Administrators have an understanding of the matters critical to each company and will endeavour to overcome any potential impediments to our independence.

Dated this 18th day of May 2010.



Martin Jones
Joint and Several Administrators of
Rewards Projects Limited



Andrew Saker



Darren Weaver

NOTE: If circumstances change, or new information is identified, we are required under the IPA Code of Professional Practice to update this Declaration and provide a copy to creditors with my next communication as well as table a copy of any replacement declaration at the next meeting of each of the company's creditors.

INFORMAL PROOF OF DEBT FORM FOR CREDITORS

Regulation 5.6.47

**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

Name of creditor:

Address of creditor:

.....

ABN:

Telephone number:

Amount of debt claimed: \$ (including GST \$)

Consideration for debt (i.e. the nature of goods or services supplied and the period during which they were supplied):

.....
.....
.....
.....

Is the debt secured? YES/NO

If secured, give details of security including dates, etc:

.....
.....
.....
.....

Other information:

.....
.....
.....
.....

.....
Signature of Creditor
(or person authorised by creditor)

Notes:

Under the Corporations Regulations, a creditor is not entitled to vote at a meeting unless (Regulation 5.6.23):

- a. his or her claim has been admitted, wholly or in part, by the Joint and Several Administrators; or
- b. he or she has lodged with the Joint and Several Administrators particulars of the debt or claim, or if required, a formal proof of debt.

At meetings held under Section 436E and 439A, a secured creditor may vote for the whole of his or her debt without regard to the value of the security.

Proxies must be made available to the Joint and Several Administrators.

FORM 532

Regulation 5.6.29

**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

**APPOINTMENT OF PROXY
CREDITORS MEETING**

*I/*We (1).....
of.....
a creditor of the company/companies indicated above, appoint (2)
or in his absence

as *my/our *general/special proxy to vote at the meeting of creditors to be held on 26 May 2010, or at any adjournment of that meeting.

DATED this day of 2010.

.....
Signature (3) of individual or person (4)
authorised by corporate resolution to
represent the corporation

OR The Common Seal (5) of
was hereunto affixed in the
presence of:

.....
Director

.....
Secretary

**Regulation 5.6.11A
Section 600G**

**Rewards Projects Limited
ACN 089 582 427
(Administrators Appointed)**

Election to Receive Notices and Documents Electronically

Pursuant to Regulation 5.6.11A of the *Corporations Regulations 2001*, creditors may elect to receive notices and documents prescribed by the *Corporations Act 2001* by electronic means.

Accordingly, should you wish to receive notices and documents pertaining to the administration of the Group via e-mail, please complete the following details and return this slip to Ferrier Hodgson by fax on (08) 9214 1400 or email to rewardsgroup@perth.fh.com.au.

SIGNATURE:

NAME:

E-MAIL ADDRESS:

CONTACT NUMBER:

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ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 74

Voluntary administration: a guide for creditors

If a company is in financial difficulty, it can be put into voluntary administration.

This information sheet provides general information for unsecured creditors of companies in voluntary administration.

Who is a creditor?

You are a creditor of a company if the company owes you money. Usually, a creditor is owed money because they have provided goods or services, or made loans to the company.

An employee owed money for unpaid wages and other entitlements is a creditor.

A person who may be owed money by the company if a certain event occurs (e.g. if they succeed in a legal claim against the company) is also a creditor, and is sometimes referred to as a 'contingent' creditor. There are generally two categories of creditor: secured and unsecured:

- A secured creditor is someone who has a 'charge', such as a mortgage, over some or all of the company's assets, to secure a debt owed by the company. Lenders usually require a charge over company assets when they provide a loan.
- An unsecured creditor is a creditor who does not have a charge over the company's assets.

Employees are a special class of unsecured creditors. Their outstanding entitlements are usually paid in priority to the claims of other unsecured creditors. If you are an employee, see ASIC's information sheet INFO 75 *Voluntary administration: a guide for employees*.

The purpose of voluntary administration

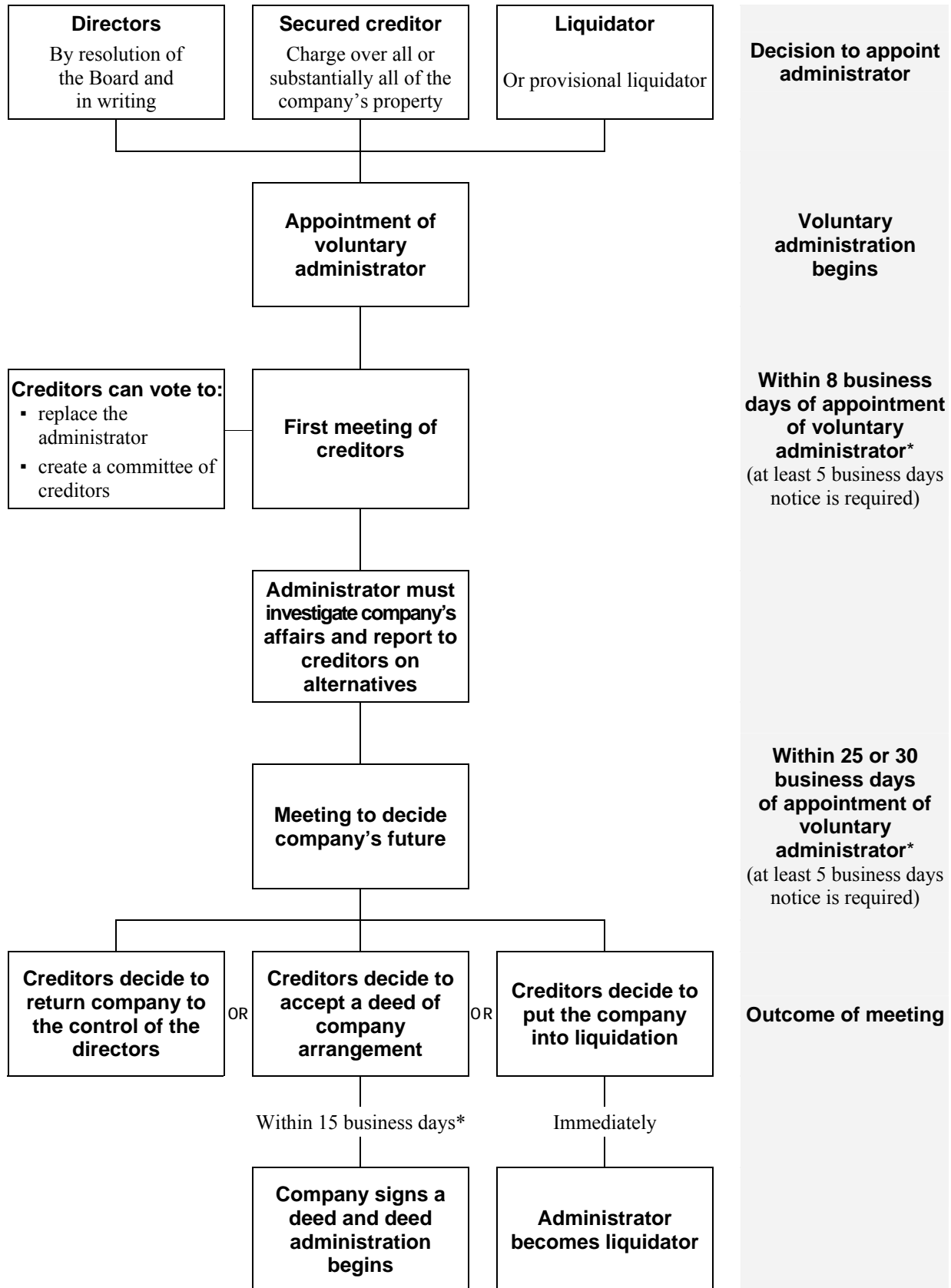
Voluntary administration is designed to resolve a company's future direction quickly (Figure 1 summarises the process). An independent and suitably qualified person (the voluntary administrator) takes full control of the company to try to work out a way to save either the company or its business.

If it isn't possible to save the company or its business, the aim is to administer the affairs of the company in a way that results in a better return to creditors than they would have received if the company had instead been placed straight into liquidation. A mechanism for achieving these aims is a deed of company arrangement.

A voluntary administrator is usually appointed by a company's directors, after they decide that the company is insolvent or likely to become insolvent. Less commonly, a voluntary administrator may be appointed by a liquidator, provisional liquidator, or a secured creditor.

Important note: This information sheet contains a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. This document may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

Figure 1: The voluntary administration process



* Unless the court allows an extension of time.

A company in voluntary administration may also be in receivership: see ASIC information sheet INFO 54 *Receivership: a guide for creditors*.

The voluntary administrator's role

After taking control of the company, the voluntary administrator investigates and reports to creditors on the company's business, property, affairs and financial circumstances, and on the three options available to creditors. These are:

- end the voluntary administration and return the company to the directors' control
- approve a deed of company arrangement through which the company will pay all or part of its debts and then be free of those debts, or
- wind up the company and appoint a liquidator.

The voluntary administrator must give an opinion on each option and recommend which option is in the best interests of creditors.

In doing so, the voluntary administrator tries to work out the best solution to the company's problems, assesses any proposals put forward by others for the company's future, and compares the possible outcomes of the proposals with the likely outcome in a liquidation.

A creditors' meeting is usually held about five weeks after the company goes into voluntary administration to decide on the best option for the company's future. In complex administrations, this meeting may be held later if the court consents.

The voluntary administrator has all the powers of the company and its directors. This includes the power to sell or close down the company's business or sell individual assets in the lead up to the creditors' decision on the company's future.

Another responsibility of the voluntary administrator is to report to ASIC on possible offences by people involved with the company.

Although the voluntary administrator may be appointed by the directors, they must act fairly and impartially.

Effect of appointment

The effect of the appointment of a voluntary administrator is to provide the company with breathing space while the company's future is resolved. While the company is in voluntary administration:

- unsecured creditors can't begin, continue or enforce their claims against the company without the administrator's consent or the court's permission
- owners of property (other than perishable property) used or occupied by the company, or people who lease such property to the company, can't recover their property
- except in limited circumstances, secured creditors can't enforce their charge over company property
- a court application to put the company in liquidation can't be commenced, and
- a creditor holding a personal guarantee from the company's director or other person can't act under the personal guarantee without the court's consent.

Voluntary administrator's liability

Any debts that arise from the voluntary administrator purchasing goods or services, or hiring, leasing, using or occupying property, are paid from the available assets as costs of the voluntary administration. If there are insufficient funds available from asset realisations to pay these costs, the voluntary administrator is personally liable for the shortfall. To have the benefit of this protection, you should ensure you receive a purchase order authorised in the manner advised by the voluntary administrator.

The voluntary administrator must also decide whether to continue to use or occupy property owned by another party that is held or occupied by the company at the time of their appointment.

Within five business days after their appointment, the voluntary administrator must notify the owner of property whether they intend to continue to occupy or use the property. If the voluntary administrator decides to continue to do so, they will be personally liable for any rent or amounts payable arising after the end of the five business days.

Amounts that become due to employees after the date of the appointment of the voluntary administrator have a priority claim against the company's assets as a cost of the administration. However, the voluntary administrator does not become personally liable for such amounts unless the voluntary administrator adopts employees' contracts of employment or enters into new employment contracts with them.

Creditors' meetings

Two meetings of creditors must be held during the voluntary administration.

First creditors' meeting

The voluntary administrator must call the first creditors' meeting within eight business days after the voluntary administration begins.

At least five business days before the meeting, the voluntary administrator must notify as many creditors as practical in writing and advertise the meeting. The advertisement must appear in a newspaper circulating in the states or territories in which the company has its registered office or carries on its business.

The voluntary administrator must send to creditors, with the notice of meeting, declarations about any relationships they may have, or indemnities they have been given, to allow creditors to consider the voluntary administrator's independence and make an informed decision about whether they want to replace them with another voluntary administrator of the creditors' choice.

The purpose of the first meeting is for creditors to decide two questions:

- whether they want to form a committee of creditors, and, if so, who will be on the committee, and
- whether they want the existing voluntary administrator to be removed and replaced by a voluntary administrator of their choice.

The role of a committee of creditors is to consult with the voluntary administrator about matters relevant to the voluntary administration and receive and consider reports from the voluntary administrator. The committee can also require the voluntary administrator to report to them about the voluntary administration. It may also approve the voluntary administrator's fees.

A creditor who wishes to nominate an alternative voluntary administrator must approach a registered liquidator before the meeting and get a written consent from that person that they would be prepared to act as voluntary administrator. The proposed alternative administrator should give to the meeting declarations about any relationships they may have, or indemnities they have been given. The voluntary administrator will only be replaced if the resolution to replace them is passed by the creditors at the meeting.

To be eligible to vote at this meeting, you must lodge details of your debt or claim with the voluntary administrator (discussed further below).

This meeting can be chaired by either the voluntary administrator or one of their senior staff.

Second creditors' meeting (to decide the company's future)

After investigating the affairs of the company and forming an opinion on each of the three options available to creditors (outlined above), including an opinion as to which option is in the best interests of creditors, the administrator must call a second creditors' meeting. At this meeting, creditors are given the opportunity to decide the company's future.

This meeting is usually held about five weeks after the company goes into voluntary administration (six weeks at Christmas and Easter).

However, in complex voluntary administrations, often more time is needed for the voluntary administrator to be in a position to report to creditors. In these circumstances, the court can approve an extension of time to hold the meeting.

The voluntary administrator must chair this meeting.

In preparation for the second meeting, the voluntary administrator must send creditors the following documents at least five business days before the meeting:

- a notice of meeting
- the voluntary administrator's report, and
- a statement about any proposals for a deed of company arrangement.

These will be accompanied by:

- a claim form (usually a 'proof of debt' form), and
- a proxy voting form.

The meeting must also be advertised.

Either or both the first and second creditors' meeting may be held using telephone or videoconferencing facilities.

Voluntary administrator's report

You should read the voluntary administrator's report before you attend the second meeting or decide whether you want to appoint someone else to vote on your behalf at that meeting. This report must give sufficient information to explain the company's business, property and affairs, and the reasons for the current financial situation, to enable you to make an informed decision about the company's future.

The report should also provide an analysis of any proposals for the future of the company, including the possible outcomes, as well as a comparable estimate of what would be available for creditors in a liquidation.

Finally, the report should include the voluntary administrator's opinion on each of the options available to creditors, as well as an opinion on which is in the best interests of creditors. As noted above, the options are:

- end the voluntary administration and return the company to the directors' control
- approve a deed of company arrangement (if one is proposed), or
- put the company into liquidation.

Voluntary administrator's statement about deed

If there are proposals for a deed of company arrangement, the voluntary administrator must provide creditors with a statement giving enough details of each proposal to enable creditors to make an informed decision. The types of proposals allowed in a deed of company arrangement are very flexible.

Typically, a proposal will provide for the company to pay all or part of its debts, possibly over time, and then be free of those debts. It will often provide for the company to continue trading. How these things will happen varies from case to case, as the terms allowed in a deed of company arrangement are also very flexible. The contents of a deed of company arrangement are discussed below.

You should insist on being provided with as much information about the terms of the proposed deed as possible, before the creditors' meeting. The minimum contents of a deed of company arrangement, discussed below, provide a guide on the information you might request if it hasn't already been provided.

You should also contact the voluntary administrator before the meeting if you believe the report to creditors does not contain sufficient information to enable you to make a decision about the company's future.

Voting at a creditors' meeting

To vote at any creditors' meeting you must lodge details of your debt or claim with the voluntary administrator. Usually, the voluntary administrator will provide you with a form called a 'proof of debt' to be completed and returned before the meeting.

The chairperson of the meeting decides whether or not to accept the debt or claim for voting purposes. The chairperson may decide that a creditor does not have a valid claim or the amount of the debt cannot be determined with any certainty at the date of the meeting. In this case, they may not allow the creditor to vote at all, or only to vote for a debt of \$1. This decision is only for voting purposes. It is not relevant to whether a creditor will receive a dividend.

An appeal against a decision by the chairperson to accept or reject a proof of debt or claim for voting purposes may be made to the court within 14 days after the decision.

A secured creditor is entitled to vote for the full amount of their debt without having to deduct the value of their security.

Voting by proxy

You may appoint a proxy to attend and vote at a meeting on your behalf. A proxy can be any person who is at least 18 years old. Creditors who are companies will have to nominate a person as proxy so that they can participate in the meeting. This is done using a form sent out with the notice of meeting. The completed proxy form must be provided to the voluntary administrator before the meeting. You can fax the proxy form to the voluntary administrator, but must lodge the original within 72 hours of sending the faxed copy.

An electronic form of proxy may be used if the liquidator allows electronic lodgement, provided there is a way to authenticate the appointment of the proxy (e.g. by scanning and e-mailing a signature or using a digital signature).

You can specify on the proxy form how the proxy is to vote on a particular resolution and the proxy must vote in accordance with that instruction. This is called a 'special proxy'. Alternatively, you can leave it to the proxy to decide how to vote on each of the resolutions put before the meeting. This is called a 'general proxy'.

You can appoint the chairperson to represent you either through a special or general proxy. The voluntary administrator or one of their partners or employees must not use a general proxy to vote in favour of a resolution approving payment of the voluntary administrator's fees.

Manner of voting

A vote on any resolution put to a creditors' meeting may be taken by creditors stating aloud their agreement or disagreement, or by a show of hands. Sometimes a more formal voting procedure called a 'poll' is taken.

If voting is by show of hands or by verbally signalling agreement, the resolution is passed if a majority of those present indicate agreement. It is up to the chairperson to decide if this majority has been reached.

After the vote, the chairperson must tell those present whether the resolution has been passed or lost. If the chairperson is unable to determine the outcome of a resolution on a show of hands, they may decide to conduct a poll.

Alternatively, a poll can be demanded by at least two people present who are entitled to vote, or someone who holds more than 10% of the votes of those entitled to vote at the meeting. The chairperson will determine how this poll is taken.

If you intend to demand that a poll be taken, you must do so before, or as soon as, the chairperson has declared the result of a vote taken by show of hands or voices.

When a poll is conducted, a resolution is passed if:

- more than half the number of creditors who are voting (in person or by proxy) vote in favour of the resolution, and
- those creditors who are owed more than half of the total debt owed to creditors at the meeting vote in favour of the resolution.

This is referred to as a 'majority in number and value'. If a majority in both number and value is not reached under a poll (often referred to as a deadlock), the chairperson has a casting vote.

Chairperson's casting vote

When a poll is taken and there is a deadlock, the chairperson may use their casting vote either in favour of or against the resolution. The chairperson may also decide not to use their casting vote.

The chairperson must inform the meeting, and include in the written minutes of meeting that are lodged with ASIC, of the reasons why they cast their vote in a particular way or why they chose not to use their casting vote.

If you are dissatisfied with how the chairperson exercised their casting vote or failed to use their casting vote, you may apply to the court for a review of the chairperson's decision. The court may vary or set aside the resolution or order that the resolution is taken to have been passed.

Votes of related creditors

If directors and shareholders, their spouses and relatives and other entities controlled by them are creditors of the company, they are entitled to attend and vote at creditors' meetings, including the meeting to decide the company's future.

If a resolution is passed, or defeated, based on the votes of these related creditors, and you are dissatisfied with the outcome, you may apply to the court for the resolution to be set aside and/or for a fresh resolution to be voted on without related creditors being entitled to vote. Certain criteria must be met before the court will make such an order (e.g. the original result of the vote being against the interests of all or a class of creditors).

Deciding how to vote at the second meeting

How you vote at the meeting on the three possible options, including any competing proposals for a deed of company arrangement, is a commercial decision based on your assessment of the company and its future prospects, and your personal circumstances. The information provided by the voluntary administrator, including opinions expressed, will assist you. However, you are not obliged to accept the administrator's recommendation.

If you do not consider that you have been given enough information to decide how to vote, and particularly whether to vote for any deed proposal, you can ask for a resolution to be put to creditors that the meeting be adjourned (up to a maximum of 45 business days in total) and for the administrator to provide more information. You must make this request before a vote on the company's future. This resolution must be passed for the adjournment to take place.

Creditors also have the right when a deed of company arrangement is proposed and considered at the meeting to negotiate specific requirements into the terms of the deed, including, for example, how the deed administrator is to report to them on the progress of the deed.

Any request to vary the deed proposal to include such requirements should be made before the deed proposal is voted on.

Minutes of meeting

The chairperson must prepare minutes of each meeting and a record of those who were present at each meeting.

The minutes must be lodged with ASIC within 14 days of the meeting. A copy may be obtained from any ASIC Business Centre on payment of the relevant fee.

Company returned to directors

If the company is returned to the directors, they will be responsible for ensuring that the company pays its outstanding debts as they fall due. It is only in very rare circumstances that creditors will resolve to return the company to the control of its directors.

Liquidation

If creditors resolve that the company go into liquidation, the voluntary administrator becomes the liquidator unless creditors vote at the second meeting to appoint a different liquidator of their choice. The liquidation proceeds as a creditors' voluntary liquidation with any payments of dividends to creditors made in the order set out in the *Corporations Act 2001* (Corporations Act). To find out more, see ASIC information sheet INFO 45 *Liquidation: a guide for creditors*.

Deed of company arrangement

If creditors vote for a proposal that the company enter a deed of company arrangement, the company must sign the deed within 15 business days of the creditors' meeting, unless the court allows a longer time. If this doesn't happen, the company will automatically go into liquidation, with the voluntary administrator becoming the liquidator.

The deed of company arrangement binds all unsecured creditors, even if they voted against the proposal. It also binds owners of property, those who lease property to the company and secured creditors, if they voted in favour of the deed. In certain circumstances, the court can also order that these people are bound by the deed even if they didn't vote for it. The deed of company arrangement does not prevent a creditor who holds a personal guarantee from the company's director or another person taking action under the personal guarantee to be repaid their debt.

Contents of the deed

Whatever the nature of the deed of company arrangement, it must contain certain information, including:

- the name of the deed administrator
- the property that will be used to pay creditors
- the debts covered by the deed and the extent to which those debts are released
- the order in which the available funds will be paid to creditors (the deed of company arrangement must ensure that employees have a priority in payment of outstanding employee entitlements unless the eligible employees agree by a majority in both number and value to vary this priority)
- the nature and duration of any suspension of rights against the company
- the conditions (if any) for the deed to come into operation
- the conditions (if any) for the deed to continue in operation, and
- the circumstances in which the deed terminates.

There are also certain terms that will be automatically included in the deed, unless the deed says they will not apply. These are called the 'prescribed provisions'. They include such matters as the powers of the deed administrator, termination of the deed and the appointment of a committee of creditors (called a 'committee of inspection').

The voluntary administrator's report should tell you which prescribed provisions are proposed to be excluded or varied, and, if varied, how.

Monitoring the deed

It is the role of the deed administrator to ensure the company (or others who have made commitments under the deed) carries through these commitments. The extent of the deed administrator's ongoing role will be set out in the deed.

Creditors can also play a role in monitoring the deed. If you are concerned that the obligations of the company (or others) under the deed are not being met, you should take this up promptly with the deed administrator. Matters that may give rise for concern include deadlines for payments or other actions promised under the deed being missed.

Creditors also have the right when a deed of company arrangement is proposed and considered at the second meeting to negotiate consequences of failure to meet such deadlines into the terms of the deed. Any request to vary the deed proposal to include such consequences should be made before the deed proposal is voted on.

The deed administrator must lodge a detailed list of receipts and payments with ASIC every six months.

Varying the deed

The deed administrator can call a creditors' meeting at any time to consider a proposed variation to the deed or a resolution to terminate the deed. The proposed resolutions must be set out in the notice of meeting sent to creditors.

Creditors owed at least 10% in value of all creditor claims can, by written request, also require the deed administrator to call such a meeting. However, it is unusual for this to happen, as those who make the request must pay the costs of calling and holding the meeting.

Payment of dividends under a deed

The order in which creditor claims are paid depends on the terms of the deed. Sometimes the deed proposal is for creditor claims to be paid in the same priority as in a liquidation. Other times, a different priority is proposed.

The deed must ensure employee entitlements are paid in priority to other unsecured creditors unless eligible employees have agreed to vary their priority.

Before you decide how to vote at the creditors' meeting, make sure you understand how the deed will affect the priority of payment of your debt or claim.

You may wish to seek independent legal advice if the deed proposes a different priority to that in a liquidation, or if creditors approve such a deed.

Establishing your claim under a deed

How debts or claims are dealt with under a deed of company arrangement depends on the deed's terms. Sometimes the deed incorporates the Corporations Act provisions for dealing with debts or claims in a liquidation.

Before any dividend is paid to you for your debt or claim, you will need to give the deed administrator sufficient information to prove your debt. You may be required to complete a claim form (this is called a 'proof of debt' in a liquidation). You should attach copies of any relevant invoices or other supporting documents to the claim form, as your debt or claim may be rejected if there is insufficient evidence to support it.

If a creditor is a company, the claim form should be signed by a person authorised by the company to do so.

When submitting a claim, you may ask the deed administrator to acknowledge receipt of your claim and advise if any further information is needed.

If the deed administrator rejects your claim after you have taken the above steps, first contact the deed administrator. You may also wish to seek your own legal advice. This should be done promptly. Depending on the terms of the deed, you may have a limited time in which to take legal action to challenge the decision.

If you have a query about the timing of the payment, discuss this with the deed administrator.

How a deed comes to an end

A deed may come to an end because the obligations under the deed have all been fulfilled and the creditors have been paid. Alternatively, the deed may set out certain conditions where the deed will automatically terminate.

The deed may also provide that the company will go into liquidation if the deed terminates due to these conditions being met.

Another way for the deed to end is if the deed administrator calls a meeting of creditors, and creditors vote to end the deed. This may occur because it appears unlikely that the terms of the deed can be fulfilled.

At the same time, creditors may be asked to vote to put the company into liquidation.

The deed may also be terminated if a creditor, the company, ASIC or any other interested person applies to the court and the court is satisfied that:

- creditors were provided false and misleading information on which the decision to accept the deed proposal was made
- the voluntary administrator's report left out information that was material to the decision to accept the deed proposal

- the deed cannot proceed without undue delay or injustice, or
- the deed is unfair or discriminatory to the interests of one or more creditors or against the interests of creditors as a whole.

If the court terminates the deed as a result of such an application, the company automatically goes into liquidation.

Approval of administrator's fees

Both a voluntary administrator and deed administrator are entitled to be paid for the work they perform. Generally, their fees will be paid from available assets, before any payments are made to creditors. They may have also arranged for a third party to pay any shortfall in their fees if there aren't enough assets.

The fees cannot be paid until the amount has been approved by a creditors' committee, creditors or the court. Creditors, the voluntary administrator/deed administrator or ASIC can ask the court to review the amount of fees approved.

If you are asked to approve fees, either at a meeting of a creditors' committee or in a general meeting of creditors, the voluntary administrator or deed administrator must give you, at the same time as the notice of the meeting, a report that contains sufficient information for you to assess whether the fees claimed are reasonable. This report should be in simple language and set out:

- a description of the major tasks performed
- the costs of completing these tasks, and
- such other information that will assist in assessing the reasonableness of the fees claimed.

For further information, see ASIC's information sheet INFO 85 *Approving fees: a guide for creditors*. If you are in any doubt about how the fees were calculated, ask for more information.

Apart from fees, the voluntary administrator and deed administrator are entitled to reimbursement for out-of-pocket expenses that have arisen in carrying out their administration. This reimbursement does not usually require approval.

Creditors' committee

A creditor's committee may be formed, following a vote of creditors, to consult with the voluntary administrator or deed administrator and receive reports on the conduct of their administration. A creditors' committee can also approve the administrator's fees.

In a voluntary administration, this committee is called a 'committee of creditors' and may be formed at the first creditors' meeting. While the company is under a deed of company arrangement, it is called a 'committee of inspection'.

All creditors, including a representative of the company's employees, are entitled to stand for committee membership to represent the interests of all creditors. However, to operate efficiently, the committee should not be too large.

If a creditor is a company, the creditor can nominate a director or employee to represent it on the committee.

Directors and voluntary administration

Directors cannot use their powers while the company is in voluntary administration. They must help the voluntary administrator, including providing the company's books and records, and a report about the company's business, property, affairs and financial circumstances, as well as any further information about these that the voluntary administrator reasonably requires.

If the company goes from voluntary administration into a deed of company arrangement, the directors' powers depend on the deed's terms. When the deed is completed, the directors regain full control, unless the deed provides for the company to go into liquidation on completion.

If the company goes from voluntary administration or a deed of company arrangement into liquidation, the directors cannot use their powers. If creditors resolve that the voluntary administration should end, control of the company goes back to the directors.

Queries and complaints

You should first raise any queries or complaints with the voluntary administrator or deed administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ASIC at www.asic.gov.au/complain, or write to:

ASIC Complaints
PO Box 9149
TRARALGON VIC 3844

ASIC will usually not become involved in matters of commercial judgement by a voluntary administrator or deed administrator. Complaints against companies and their officers can also be made to ASIC. For other enquiries, email ASIC through infoline@asic.gov.au, or call ASIC's Infoline on 1300 300 630 for the cost of a local call.

To find out more

For an explanation of terms used in this information sheet, see ASIC information sheet INFO 41 *Insolvency: a glossary of terms*. For more on external administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- INFO 75 *Voluntary administration: a guide for employees*
- INFO 45 *Liquidation: a guide for creditors*
- INFO 46 *Liquidation: a guide for employees*
- INFO 54 *Receivership: a guide for creditors*
- INFO 55 *Receivership: a guide for employees*
- INFO 43 *Insolvency: a guide for shareholders*
- INFO 42 *Insolvency: a guide for directors*
- INFO 84 *Independence of external administrators: a guide for creditors*
- INFO 85 *Approving fees: a guide for creditors*

These are also available from the Insolvency Practitioners Association (IPA) website at www.ipaa.com.au. The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.