

CIRCULAR TO EMPLOYEES

21 January 2009

Dear Sir / Madam

Australian Discount Retail Trading Group Individual Entities Detailed in ‘Annexure A’ (All Receivers and Managers Appointed) (All Administrators Appointed)

Simon John Cathro and I were appointed Joint Administrators of the thirty-nine companies within the Australian Discount Retail Trading Group (“*the ADR Group*”) as detailed in Annexure A on 20 January 2009 pursuant to Section 436A of the *Corporations Act 2001* (“*the Act*”).

Appointment of Receivers and Managers

We advise that on 20 January 2009 James Stewart and John Melluish of Ferrier Hodgson have also been appointed Receivers and Managers over the ADR Group pursuant to charges held by the secured creditors in respect of the ADR Group.

The Receivers and Managers will be responsible for assessing all Employee Entitlements in connection with the ADR Group.

Impact on Employees

The effect of my appointment is to place a moratorium on the payment of unsecured creditors’ accounts and employee entitlements in relation to trading and other debts incurred up to the date of my appointment, until creditors make a decision about the Companies’ future. That decision will be made at a second meeting of creditors, to be held within 25 business days following my appointment unless an extension to this period is granted by the applying to Court. Employees will receive notice of the timing of that meeting in due course.

Ongoing Trading

Please refer to the Receivers and Manager Ferrier Hodgson regarding ongoing trading of the ADR Group and your employment.

First Meeting of Creditors

We are required to convene a first meeting of creditors within 8 business days following my appointment. In this regard, I enclose the following:

1. Notice of Meeting of Creditors to be held at **the Four Seasons Hotel, 199 George Street, Sydney, NSW 2000** on **Monday 2 February 2009** at **10:30 am** (the "first meeting").
2. Informal Proof of Debt for voting purposes.
3. Appointment of Proxy – Creditors Meeting.
4. A Declaration of Independence / Indemnities & Relevant Relationships for the purposes of Section 436DA of the Act.
5. Remuneration Proposal.

Proof of Debts and Proxies for First Meeting

We advise that for the first meeting employees should complete an:

- a) Informal Proof of debt (Attached)
- b) Proxy (Attached)

For each individual ADR Group company of which they you an employee, For example if you are an employee with claims against three of the ADR Group companies you should complete three separate proxies and proof of debts, being one proxy/proof of debt for each company.

Should you require more forms please contact this office or access our website at www.deloitte.com.au and click the ADR Group link on the right of the page.

Forms can be submitted once they have been completed and signed to the following fax number and email address:

- Fax: (02) 9322 7261
- Email: jkellman@deloitte.com.au

If you require access to our teleconference facilities so as to attend the meeting, please email **Jaryd Kellman** at the above email address requesting the details.

Concurrent Meetings

We intend to hold the thirty-nine meetings for each company in the ADR Group concurrently, subject to any objections from creditors.

Intention to Extend Convening Period

At present, we intend to make a court application to extend the convening period:

1. To allow the Receivers and Managers sufficient time to pursue a going concern sale of the business;
2. To consider whether an opportunity for a Deed of Company Arrangement (“DOCA”) proposal to be put to creditors; and
3. To allow us, as Administrators to properly consider any sale which might include an offer to creditors in the form of a DOCA.

Employees Information and Queries

Also enclosed for your perusal is a leaflet titled “Insolvency information for directors, employers, creditors and shareholders” issued by the Insolvency Practitioners Association of Australia.

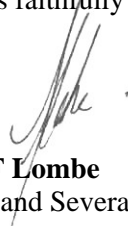
You may wish to receive our future correspondence via email. Should you wish to do so, please email jkellman@deloitte.com.au with the following information:

- Your name:
- Amount of your claim:

Should you have any questions relating to ongoing employment with the ADR Group, please contact Anthony Murphy of the office of Receivers and Managers Ferrier Hodgson on (02) 8898 7777.

For all other questions relation to this matter, please contact **Jaryd Kellman** of this office on (02) 9322 5151.

Yours faithfully



D J F Lombe
Joint and Several Administrators

Encl.

FORM 529A

Paragraph 5.6.12(6)

CORPORATIONS ACT 2001


**NOTICE OF FIRST MEETING OF
CREDITORS OF COMPANY UNDER ADMINISTRATION**

**Australian Discount Retail Trading
Thirty-nine entities as detailed in Annexure A
("the ADR Group")**

(All Receivers and Managers Appointed) (All Administrators Appointed)

1. On 20 January 2009 the Directors of the Companies under section 436A Act 2001 appointed David John Frank Lombe and Simon John Cathro Deloitte Touche Tohmatsu, Grosvenor Place, 225 George Street, SYDNEY NSW 2000, as Joint and Several Administrators of the Companies.
2. Notice is now given that a meeting of the creditors of the Companies will be held at the offices of **the Four Seasons Hotel, 199 George Street, Sydney, NSW 2000 on Monday 2 February 2009 at 10:30 am.**
3. The purpose of the meeting is to determine:
 - a. whether to appoint a committee of creditors; and
 - b. if so, who are to be the committee's members.
4. At the meeting, creditors may also, by resolution:
 - a. remove the Joint Administrators from office; and
 - b. appoint someone else as Administrator of the Companies.
5. Arrangements have been made for creditors outside Sydney to attend the meetings via telephone conference facilities. Creditors intending to use the telephone attendance facility will be required to notify us of that intention and collect the appropriate details.

DATED this 21st day of January 2009.


D J F Lombe
Joint and Several Administrators

INFORMAL PROOF OF DEBT FORM

Regulation 5.6.47

Company Name:
(RECEIVERS AND MANAGERS APPOINTED) (ADMINISTRATORS APPOINTED)

ACN

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 Administrators; or
- b. he or she has lodged with the Joint 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 Administrators.

NOTE: If you are a creditor of more than one company, please photocopy and complete a form for each individual company.

CORPORATIONS ACT 2001

APPOINTMENT OF PROXY
CREDITORS MEETING

Company Name:
(RECEIVERS AND MANAGERS APPOINTED) (ADMINISTRATORS APPOINTED)
ACN

*I/*We (1)
of.....
a creditor of (2)....., appoint (3)
or in his or her absence
as *my/our *general/special proxy to vote at the meeting of creditors to be held on Monday 2 February 2009
at 10:30am, or at any adjournment of that meeting.(4)

DATED this day of 2009.

Signature

CERTIFICATE OF WITNESS

This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.

I, of
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Dated:

Signature of Witness:

Description:

Place of Residence:

* Strike out if inapplicable

- (1) If a firm, strike out "I" and set out the full name of the firm.
(2) Insert the name of the company of which you are a creditor.
(3) Insert the name, address and description of the person appointed.
(4) If a special proxy add the words "to vote for" or the words "to vote against" and specify the particular resolution.

NOTE: If you are a creditor of more than one company, please photocopy and complete a form for each individual company.

Corporations Act 2001

Section 436DA(2)

Australian Discount Retail Trading Thirty-nine entities as detailed in Annexure A ("the Companies")

(All Receivers and Managers Appointed) (All Administrators Appointed)

Declaration of Independence, Relevant Relationships and Indemnities

Independence

We, David John Frank Lombe and Simon John Cathro have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of the Companies. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting these appointments.

Relevant Relationships

We, or a member of our firm Deloitte Touche Tohmatsu ("Deloitte"), have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons why not an Impediment or Conflict
ADR	Deloitte were engaged by ADR on 16 December 2008 to undertake a short-term operational cost reduction project.	It is a commercial relationship and the engagement has been conducted for just over one month.
Castle Harlan Australian Mezzanine Partners Pty Ltd ("CHAMP")	In addition, the United States of America member firm of Deloitte has an audit relationship with CHAMP. We believe this does not create any conflict. CHAMP and its related entities are a 34% shareholder of the ADR Group.	It is a commercial relationship
Castle Harlan Australian Mezzanine Partners Pty Ltd ("CHAMP")	From time to time, we accept engagements on behalf of CHAMP. CHAMP and its related entities are a 34% shareholder of the ADR Group.	It is a commercial relationship
Catalyst Investment Pty Ltd	From time to time, we accept engagements on behalf of Catalyst. Catalyst and its related entities are a 41% shareholder of the ADR Group.	It is a commercial relationship
ANZ Bank ("ANZ")	From time to time, we accept engagements on behalf of ANZ Bank	It is a commercial relationship
Bank of Scotland Intentional ("BOSI")	From time to time, we accept engagements on behalf of HBOS	It is a commercial relationship
National Australia Bank ("NAB")	From time to time, we accept engagements on behalf of NAB	It is a commercial relationship

There are no other prior professional or personal relationships that should be disclosed.

Indemnities

We have been provided with an indemnity from the banking syndicate being ANZ, NAB and BOSI in relation to our remuneration for the conduct of this administration. This does not affect other indemnities that we may be entitled to under statute. Further, the indemnity was not based on any agreement to provide a specific outcome for the Administration. We do not believe this creates a conflict.

Dated: 21st day of January 2009

A handwritten signature in black ink, appearing to read 'D J F Lombe', with a small mark to the right.

D J F Lombe
For and on behalf of
D J F Lombe and S J Cathro
Joint Administrators

NOTE: If circumstances change, or new information is identified, we are required under Section 436DA(5) of the Corporations Act 2001 and the IPA Code of Professional Conduct 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 the Companies creditors.

Initial Remuneration Advice to Creditors

Australian Discount Retail Trading Thirty-nine entities as detailed in Annexure A ("the ADR Group")

(All Receivers and Managers Appointed) (All Administrators Appointed)

Remuneration Methods

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

a. Time based / Hourly rates

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

b. 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.

c. Percentage

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

d. Contingency

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

Method Chosen

Given the nature of this administration, I propose that my remuneration be calculated on the time based / hourly rates method. In my opinion, this is the fairest method for the following reasons:

- I will only be paid for work done, subject to sufficient realisations of the Companies assets or, if there are insufficient assets realised, to the indemnity provided to me (please refer to my Declaration of Independence, Relevant Relationship and Indemnities attached to my first Report to Creditors dated 21 January 2009).
- It ensures creditors are only charged for work that is performed. Our time is recorded and charged in six minute increments and staff are allocated to duties according to their relevant experience and qualifications.
- I am required to perform a number of tasks which do not relate to the realisation of assets, e.g. responding to creditor enquiries, reporting to the ASIC, distributing funds in accordance with the provisions of the Corporations Act 2001.
- I am unable to estimate with certainty the total amount of fees necessary to complete all tasks required in this administration.

Explanation of Hourly Rates

The rates for our remuneration calculation are attached together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take in the administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

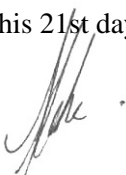
At this time I am unable to estimate the total costs of the administration as the costs will differ depending on my recommendation regarding the future of the Companies, which will be provided to creditors prior to the second meeting. However, my best estimate for my remuneration to the completion of the second creditors meetings for all the Companies is \$300,000, plus GST.

Annexure B details the hourly rates and typical level of experience associated with each position. It is noted that the description is a guide only to the level of experience of the staff engaged.

From time to time, as required, other specialist staff may be used on an insolvency matter. Information regarding these staff will be provided separately to creditors prior to any approval being sought for remuneration for these specialist staff.

Attached at **Annexure C** to this report is an information sheet produced by the IPA for creditors on approving remuneration in external administrations.

Dated this 21st day of January 2009.



David John Frank Lombe
Joint and Several Administrators

Australian Discount Retail Trading
(“the ADR Group”)
(All Receivers and Managers Appointed)
(All Administrators Appointed)

Company Name	ACN
Angzol Pty Ltd	ACN 109 316 350
Armmate Pty Ltd	ACN 104 711 891
Arnnete Pty Ltd	ACN 104 727 924
Australian Discount Retail Pty Limited	ACN 116 849 113
Australian Discount Retail (Finance) Pty Limited	ACN 117 268 532
Australian Discount Retail (Logistics) Pty Ltd	ACN 103 305 700
Australian Discount Retail (Trading) Pty Limited	ACN 117 238 945
Blue Spike Pty Ltd	ACN 092 192 204
Bluebend Pty Limited	ACN 098 726 526
Bluepeer Pty Limited	ACN 098 726 553
Caloundra Retail Co Pty Ltd	ACN 108 773 208
Cashbound Pty Ltd	ACN 095 230 407
Cashbuild Pty Ltd	ACN 095 241 875
Crazy Clark’s – Ipswich Pty Ltd	ACN 050 403 695
Crazy Clark’s – Warwick Pty Ltd	ACN 073 395 838
Crazy Clark’s (Dalby) Pty Ltd	ACN 074 910 946
Crazy Clark’s Nth. Qld. Pty Ltd	ACN 058 407 471
Crazy Clark’s Retail Pty Ltd	ACN 092 197 914
DPCo Pty Limited	ACN 117 640 310
Firetright Pty Ltd	ACN 095 578 386
Freshfame Pty Ltd	ACN 102 337 164
Garden Pty Ltd	ACN 071 458 930
General Variety Pty Ltd	ACN 097 076 447
Goralin Pty Ltd	ACN 087 268 719
Group Variety Pty Ltd	ACN 097 076 401
GSCo Pty Limited	ACN 117 640 301
Imagewatch Pty Ltd	ACN 102 323 786
ITCo Pty Limited	ACN 117 640 338
Look Sharp Concepts Pty Ltd	ACN 003 116 621
Makro Cannon Park Pty Ltd	ACN 105 140 752
Makro Toowoomba Pty Ltd	ACN 107 491 618
Mallwalk Pty Ltd	ACN 102 324 569
Moneycure Pty Limited	ACN 098 727 596
O’Neills Property Company Pty Ltd	ACN 095 230 416
Queensland Discounters Pty Ltd	ACN 097 076 410
Shopping Variety Pty Ltd	ACN 097 076 367
State Group Pty Ltd	ACN 097 076 385
Sungate Pty Ltd	ACN 010 497 551
Youngdown Pty Ltd	ACN 003 393 548

Deloitte Touche Tohmatsu Corporate Reorganisation Group Guide to Hourly Rates from 30 June 2008

Classification	Hourly Rate (exc GST)	Hourly Rate (inc GST)	Description
Partner 1	650.00	715.00	Registered liquidator or bankruptcy trustee. Brings his or her specialist skills to the administration or insolvency task.
Partner 2	650.00	715.00	Registered liquidator or bankruptcy trustee. Brings his or her specialist skills to the administration or insolvency task.
Consultant 1	525.00	577.50	Typically CA or CPA qualified with in excess of 10 years experience on insolvency matters with a number of years at manager level. Answerable to the appointee but otherwise responsible for all aspects of an administration. Capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.
Senior Manager 1	525.00	577.50	Typically CA or CPA qualified with in excess of 10 years experience on insolvency matters with a number of years at manager level. Answerable to the appointee but otherwise responsible for all aspects of an administration. Capable of controlling all aspects of an administration. May be appropriately qualified to take appointments in his/her own right.
Senior Manager 2	525.00	577.50	Typically CA or CPA qualified with in excess of 8 years experience on insolvency matters with a number of years at manager level. Well-developed technical and commercial skills. Able to deal with complex issues arising in an administration.
Manager 1	370.00	407.00	Typically CA or CPA qualified with 6 to 8 years experience working on insolvency matters. Will have experience conducting administrations and directing a number of staff.
Manager 2	370.00	407.00	Typically CA or CPA qualified with 6 to 8 years experience working on insolvency matters. Will have some experience conducting administrations and directing staff.
Senior Analyst 1	280.00	308.00	Typically completed or near completion of CA or CPA qualifications with 4 to 6 years insolvency experience. Assists in planning and control of smaller matters as well as performing some more difficult tasks on larger matters.
Senior Analyst 2	280.00	308.00	Typically completed or near completion of CA or CPA qualifications with 4 to 6 years insolvency experience. Assists in planning and control of smaller matters as well as performing some more difficult tasks on larger matters.
Senior Analyst 3	240.00	264.00	Typically studying towards CA or CPA qualification with 4 to 6 years insolvency experience. Assists in planning and control of smaller matters as well as performing some more difficult tasks on larger matters.
Analyst 1	240.00	264.00	Typically studying towards CA or CPA qualification with 2 to 4 years insolvency experience. Works under supervision of more senior staff in performing day-to-day fieldwork.
Analyst 2	240.00	264.00	Typically studying towards CA or CPA qualification with 2 to 4 years insolvency experience. Works under supervision of more senior staff in performing day-to-day fieldwork.
Analyst 3	240.00	264.00	Typically a university graduate with up to 2 years insolvency experience. Works under supervision of more senior staff in performing day-to-day fieldwork.
Graduate	185.00	203.50	Junior staff member who has completed a university degree with less than one year's experience working on insolvency matters. Works under supervision of more senior staff in performing day-to-day fieldwork.
Support A	185.00	203.50	Advanced secretarial skills
Support B	185.00	203.50	Secretarial skills
Vacationer	185.00	203.50	Generally a person currently undertaking a university degree. Works under supervision in providing assistance on tasks involved in insolvency matters.

Creditor Information Sheet

Approving remuneration in external administrations

If a company is in financial difficulty, it can be put under the control of an independent insolvency administrator. Such a person is called a 'liquidator' or a 'voluntary administrator' or an 'administrator of a deed of company arrangement' depending on the type of administration involved. For the purposes of this guide, we use the collective word 'administrator'.

This information sheet gives general information for creditors on the approval of an administrator's fees in a liquidation, a voluntary administration or a deed of company arrangement (other forms of insolvency administration are beyond the scope of this information sheet). It outlines the rights that creditors have in the approval process.

Work undertaken by administrators

The work undertaken by administrators depends on the type of administration concerned and the issues that need to be resolved. Some issues are straightforward, while others are more complex.

However, what is common amongst all administration types is that an administrator is, by law, required to undertake a number of tasks which may not directly benefit creditors (for example, the preparation of reports to the Australian Securities and Investments Commission or the preparation of six monthly receipts and payments). An administrator is still entitled to remuneration for undertaking these statutory tasks.

For more information on the tasks involved and different administrations, see ASIC's information sheets: 'Liquidation: a guide for creditors' and 'Voluntary administration: a guide for creditors'.

Entitlement to fees and costs

An administrator is entitled:

- to be paid reasonable *fees*, or remuneration, for the work they perform, once these fees have been approved by a creditors' committee, creditors or a court, and
- to be reimbursed for out-of-pocket *costs* incurred in performing their role (these costs do not need creditors' committee, creditor or court approval).

Administrators are entitled to an amount of fees for the necessary work that they and their staff properly perform in the administration.

Out-of-pocket costs that are commonly reimbursed include:

- legal fees
- valuer's, real estate agent's and auctioneer's fees
- trading costs involved in running the company's business during the administration (e.g. for the purchase of stock)
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering the company's computer records, and
- storage costs for the company's books and records.

Creditors have a direct interest in the level of fees and costs, as the administrator will, generally, be paid from the company's available assets before any payments to creditors are made. If there are not enough assets, the administrator may arrange for a third party, for example another creditor, to pay any shortfall. As a creditor, you should receive details of such arrangements.

If there are not enough assets to pay the fees and costs, and there is no third party payment arrangement, any shortfall is not paid and the administrator is in effect 'out of pocket'.

Calculation of fees

Fees of an administrator may be calculated using one of a number of different methods, such as:

- on the basis of *time spent* by the administrator and their staff, according to hourly rates,
- a quoted *fixed fee*, based on an estimate of the costs, or
- a *percentage*, usually of asset realisations.

Charging on the basis of time spent is the most common method. Administrators have a scale of hourly rates, with different rates for each category of staff working on the administration, including the administrator.

If the administrator intends to charge on a time basis, you should receive a copy of these hourly rates before the administrator requests approval of their fees.

The administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

It is important to realise that administrators are professionals who are required to have accounting qualifications and maintain up-to-date knowledge of accounting, business and legal issues. They have serious responsibilities under the law. Their hourly rates and those of their qualified staff reflect this.

The hourly rates do not represent an hourly wage for the administrator and their staff. The administrator is running a business—an insolvency practice—and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, and taxes with allowance then made for profit.

Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the administrator for their services.

These are all matters that committee members or creditors should be aware of when considering the fees presented. However, regardless of these matters, creditors have a right to question the administrator about the fees and whether the rates are negotiable.

It is up to the administrator to justify why the method chosen for calculating fees is an appropriate method for the particular administration. As a creditor, you also have a right to question the administrator about the calculation method used and how the calculation was made

Report on proposed fees

In order to seek approval of fees, the administrator must hold a meeting of the members of any committee of creditors, or, if there is no committee, the creditors themselves. A report must be sent, with the notice of meeting, setting out:

- information that will enable the committee members/creditors to make an informed assessment of whether the proposed fees are reasonable
- a summary description of the major tasks performed, or to be performed, and
- the costs associated with each of these tasks.

The report should also provide a summary of out-of-pocket costs incurred or expected to be incurred. Committee members/creditors may be asked to approve fees for work already performed or fees based on an estimate of work yet to be carried out.

If the work is yet to be carried out, it is advisable for creditors to set a maximum limit ('cap') on the amount that the administrator may receive. For example, 'future fees are approved calculated on hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X'. If the work involved then exceeds this

figure, the administrator will have to ask the creditors' committee/creditors to approve a further amount of fees, after accounting for the fees already incurred.

Who may approve fees

Who may approve fees depends on the type of external administration: see Table 1. The administrator must provide sufficient information to enable the creditors' committee, the creditors or the court to make an informed assessment as to whether the fees are reasonable.

Table 1: Who may approve fees

	Creditors' committee	Creditors	Court
Administrator in a voluntary administration	✓ ¹	✓ ²	✓ ³
Administrator of a deed of company arrangement	✓ ¹	✓ ²	✓ ³
Creditors' voluntary liquidator	✓ ¹	✓ ⁴	✗ ⁵
Court-appointed liquidator	✓ ^{1, 6}	✓ ^{2, 6}	✓ ³

¹ If there is one.

² If there is no creditors' committee or the committee fails to approve the fees.

³ If there is no approval by creditors.

⁴ If there is no creditors' committee.

⁵ Unless an application is made for a fee review.

⁶ If insufficient creditors turn up to the meeting called by the liquidator to approve fees, the liquidator is entitled to be paid up to a maximum of \$5,000, or more if specified in the *Corporations Regulations 2001*.

Creditors' committee approval

If there is a creditors' committee, members are chosen by a vote of creditors as a whole. In approving the fees, it is important that the members realise that they represent all the creditors, not just their own individual interests.

A creditors' committee will generally only be set up where there are a large number of creditors. If there is one, then they will ask the committee to approve their fees.

A creditors' committee makes its decision by a majority in number of its members present in person at a meeting, but it can only act if a majority of its members attend.

If you would like to know more about creditors' committees and how they are formed, see ASIC's information sheets: 'Liquidation: a guide for creditors', 'Voluntary administration: a guide for creditors' and 'Insolvency: a glossary of terms'.

Creditors' approval

Creditors approve fees by passing a resolution at a creditors' meeting. The vote requires a simple majority of creditors present and voting, in person or by proxy, indicating that they agree to the resolution. Unlike committee members, creditors may vote according to their individual interests.

If a 'poll' is taken at the meeting (that is, rather than a vote being decided on the voices or by a show of hands, a count of each vote and its value is taken), a majority in number and value of creditors present and voting must agree. A poll requires the votes of each creditor to be recorded.

A proxy is a document whereby a creditor appoints someone else to represent them at a creditors' meeting and to vote on their behalf. A proxy can be either a general proxy or a special proxy. A general proxy allows the

person holding the proxy to vote how they want on a resolution, while a special proxy directs the proxy holder to vote in a particular way.

A creditor will sometimes appoint the administrator as a proxy to vote on the creditor's behalf. An administrator, their partners or staff must not use a general proxy to vote on approval of their fees; they must hold a special proxy in order to do this. They must vote all special proxies as directed, even those against approval of their fees.

Deciding if fees are reasonable

If you are asked to approve an amount of fees either as a committee member or by resolution at a creditors' meeting, your task is to decide if that amount of fees is reasonable, given the work carried out in the administration and the results of that work.

The IPA's Code of Professional Practice: Remuneration outlines the steps administrators should take to make sure they fulfil their responsibilities to creditors when asking creditors to approve fees, including when those creditors are acting in their capacity as committee members. This guide is available on the IPA website at www.ipaa.com.au

If you need more information about fees than is provided in the administrator's report, you should let them know before the meeting at which fees will be voted on.

What can you do if you think the fees are not reasonable?

If you do not think the fees being claimed are reasonable, you should raise your concerns with the administrator. It is your decision whether to vote in favour of, or against, a resolution to approve fees. Generally, if fees are approved by a creditors' committee/creditors and you wish to challenge this decision, you may apply to the court and ask the court to review the fees. Special rules apply to court liquidations.

You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

Reimbursement of out-of-pocket costs

An administrator should be very careful incurring costs that must be paid from the administration—as careful as if they were incurring the expenses on their own behalf. Their report on fees sent to creditors should also include information on the out-of-pocket costs of the administration.

If you have questions about any of these costs, you should ask the administrator and, if necessary, bring it up at a creditors' committee/creditors' meeting. If you are still concerned, you have the right to ask the court to review the costs.

Queries and complaints

You should first raise any queries or complaints with the administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with the IPA at www.ipaa.com.au or write to:

Complaints Manager
IPA
GPO Box 3921
SYDNEY NSW 2001

You can also contact ASIC at www.asic.gov.au, or write to:

Manager National Assessment & Action
ASIC
GPO Box 9827
IN YOUR CAPITAL CITY

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's 'Insolvency: a glossary of terms'. For more on insolvency administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- Voluntary administration: a guide for creditors
- Voluntary administration: a guide for employees
- Liquidation: a guide for creditors
- Liquidation: a guide for employees
- Receivership: a guide for creditors
- Receivership: a guide for employees
- Insolvency: a guide for shareholders
- Insolvency: a guide for directors

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 that is applicable to its members.

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.



Deloitte Touche Tohmatsu ASIC/IPA Information sheet for

Boulevard Commercial Pty Limited (Administrators Appointed)

Insolvency information for directors, employees, creditors and shareholders

ASIC has 11 insolvency information sheets to assist you if you're affected by a company's insolvency and have little or no knowledge of what's involved.

These plain language information sheets give directors, employees, creditors and shareholders a basic understanding of the three most common company insolvency procedures—liquidation, voluntary administration and receivership. There is an information sheet on the independence of external administrators and one that explains the process for approving the fees of external administrators. A glossary of commonly used insolvency terms is also provided.

The Insolvency Practitioners Association (IPA), the leading professional organisation in Australia for insolvency practitioners, endorses these publications and encourages its members to make their availability known to affected people.

List of information sheets

- INFO 41 Insolvency: a glossary of terms
- INFO 74 Voluntary administration: a guide for creditors
- 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

Getting copies of the information sheets

To get copies of the information sheets, visit ASIC's website at www.asic.gov.au/insolvencyinfosheets. The information sheets are also available from the 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.

Important note: The information sheets contain 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. These documents 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.