



ASIC

Australian Securities & Investments Commission

REPORT 342

ASIC regulation of registered liquidators: January to December 2012

May 2013

About this report

This report is for registered liquidators and other interested stakeholders.

It summarises the work undertaken and outcomes achieved by ASIC in supervising registered liquidators in the period 1 January to 31 December 2012.

About ASIC regulatory documents

In administering legislation, ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous reports on ASIC's regulation of registered liquidators

Report number	Report date
REP 287	May 2012

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Overview

- 1 ASIC is responsible for the registration and supervision of registered and official liquidators who accept formal appointments as external administrators of companies in Australia. We supervise their compliance with the *Corporations Act 2001* (Corporations Act).

ASIC's strategic priorities

- 2 ASIC's strategic framework focuses on three strategic priorities or outcomes:
- (a) confident and informed investors and financial consumers;
 - (b) fair and efficient financial markets; and
 - (c) efficient registration and licensing.
- 3 An ASIC focus is to promote creditors' confidence in the proper administration of insolvent companies and in our supervision of registered liquidators. Creditors are entitled to expect a liquidator to wind up an insolvent company in an orderly and fair way so they receive the maximum possible return of their money—recognising that the liquidator is entitled to reasonable costs incurred.
- 4 To that end, registered liquidators must be competent and efficient. They must bring an independent mind to their task. They cannot use the creditors' funds entrusted to them to improperly advance their own interests.

Key terms

- 5 There are a number of terms used in this report which have special meaning and are important for understanding the context of the statistics. For a full list of terms used in this report, see 'Key terms' at the end of this report.

Table 1: Meaning of key terms used in this report

Term	Meaning in this report
Enforceable undertaking	Undertakings under 93AA of the <i>Australian Securities and Investments Commission Act 2001</i> (ASIC Act)
Enforcement action	An alternative to ASIC taking civil or administrative action against a registered liquidator (e.g. through an application to Companies Auditors and Liquidators Disciplinary Board (CALDB)). Parties reach a negotiated outcome which ASIC may 'accept' under s93AA of the ASIC Act as an enforceable undertaking

Term	Meaning in this report
Formal investigation	A formal investigation under s13(3) of the ASIC Act
Proactive practice review	A review of a registered liquidator's whole practice, including systems and procedures and a detailed review of multiple external administration appointments. The aim is to assess whether the registered liquidator is adequately and properly performing their duties and generally complying with the law
Proactive transaction review	A new industry-wide compliance activity targeting external administrations that appear to exhibit risk criteria suggesting, for example, potential illegal phoenix activity, possible director misconduct and/or independence concerns: see paragraphs 46–51 for more details
Surveillance	Transaction reviews, proactive transaction reviews, proactive practice reviews and industry-wide compliance projects
Transaction review	A review of the conduct of a registered liquidator in relation to a specific transaction or external administration
Negotiated resolution	Negotiated alternatives to remedies where these can achieve an effective regulatory outcome, such as an improved compliance program or a better (e.g. quicker) outcome: see Information Sheet 151 <i>ASIC's approach to enforcement</i> (INFO 151)

Key activities, issues and outcomes

- 6 We aim to achieve our three strategic priorities through a mix of:
- (a) surveillance;
 - (b) guidance;
 - (c) education;
 - (d) enforcement;
 - (e) engaging with industry and stakeholders; and
 - (f) policy advice.
- 7 In 2012, we continued our focus on the following areas of concern:
- (a) *Competence*: This includes, but is not limited to, issues such as practice capacity, timeliness, adequacy of investigations, statutory reporting, poor asset realisation and failing to maintain proper books and records.
 - (b) *Independence*: A registered liquidator must be independent and also be seen or perceived to be independent. Registered liquidators must make full and relevant disclosure of relevant relationships and indemnities as required by the Corporations Act.

- (c) *Improper gain*: This includes, but is not limited to, excessive remuneration, drawing remuneration before obtaining appropriate approval and entering into inappropriate transactions with related parties.
- 8 A significant portion of our supervision activities result in educative outcomes. This is consistent with our objective to communicate to the market our expectations for the insolvency practitioner on specific issues or behaviours. Our supervision and intervention is very often the catalyst to registered liquidators changing their behaviour and internal systems. However, we use enforcement action where warranted and when other action cannot achieve the required outcome.
- 9 In 2012, we:
- (a) initiated 96 new transaction reviews and 11 proactive practice reviews;
 - (b) completed 95 transaction reviews and 20 proactive practice reviews;
 - (c) commenced our new surveillance activity of proactive transaction reviews and initiated 18 reviews, completing 13 of these reviews;
 - (d) completed 48 reviews of independence and indemnity declarations and 40 reviews of remuneration reports issued to creditors by registered liquidators;
 - (e) completed, and reported to the industry on, our compliance project addressing financial reporting; and
 - (f) commenced 13 formal investigations into registered liquidator conduct or initiated enforcement action (see Table 3 in Section A).
- 10 Section A of this report describes in more detail the work undertaken and outcomes we achieved in supervising registered liquidators between 1 January and 31 December 2012 (the reporting period).

Inquiries made to ASIC and reports of alleged misconduct

- 11 In 2012, our Misconduct and Breach Reporting team received 437 inquiries and reports of alleged misconduct involving registered liquidators. This represented a very small increase on 2011 (426).
- 12 An initial assessment by the team, categorised the inquiries and reports as follows:
- (a) *Conduct related* (9%): The information provided to ASIC suggested a serious breach of standards, which could be seen to be deliberate.
 - (b) *Procedural based* (22%): Although serious, the information provided to ASIC suggested the misconduct might have been inadvertent.
 - (c) *Educational* (69%): The information provided to ASIC suggested that the inquiry or report arose because of a lack of understanding of the

issue by creditors (this category includes, but is not limited to, general inquiries, questions and complaints on commercial practice).

- 13 The assessment of the inquiries and the reports of alleged misconduct showed that:
- (a) in 94 matters (21.5%), legitimate conduct concerns existed and the matter was referred internally for further review primarily by our Insolvency Practitioners team, or to another team within ASIC to support an existing surveillance or enforcement action;
 - (b) in 292 matters (66.8%), there was insufficient evidence of an offence, or the registered liquidator did not breach the Corporations Act and we did not pursue the matter further; and
 - (c) in 51 matters (11.7%), we took no action.
- 14 Section B of this report contains a detailed analysis of the outcomes of general inquiries and reports of alleged misconduct received.

A Activities and outcomes

Key points

This section describes the work undertaken and outcomes we achieved in supervising registered liquidators—in the reporting period—in the following areas:

- enforcement action (see paragraphs 16–34);
- surveillance (see paragraphs 35–75);
- guidance (see paragraphs 76–81);
- education (see paragraphs 82–84);
- engaging with industry and stakeholders (see paragraphs 85–104); and
- policy advice (see paragraphs 105–112).

- 15 During 2012, we continued our focus on three primary areas of concern: competency, independence and improper gain. Table 2 summarises our outcomes for 2012 in each area of concern.

Table 2: Key outcomes for 2012 by area of concern

Competence	<ul style="list-style-type: none"> • We entered into an enforceable undertaking with Sydney-based registered liquidator, Arthur Forrest. • We entered into an enforceable undertaking with Sydney-based registered liquidator, Geoffrey Turner. • We filed an application with the CALDB to cancel the registration of a Sydney-based registered liquidator for failure to lodge their annual return. The registered liquidator subsequently lodged the outstanding returns and agreed to cancel their registration. Having achieved this outcome, we withdrew our application. • We commenced formal investigations or enforcement actions into 5 registered liquidators. • We initiated a new industry-wide compliance activity involving proactive transaction reviews. We commenced 18 of these reviews in 2012 and completed 13 of them.
Independence	<ul style="list-style-type: none"> • We commenced a formal investigation and enforcement action into 4 registered liquidators. • We conducted 48 reviews of independence and indemnity declarations, identifying 27 declarations as inadequate and requiring reissuing to creditors.

Improper gain

- We conducted 40 reviews of registered liquidators' remuneration reports to creditors, resulting in additional disclosure to creditors (3 cases), and an undertaking not to seek approval due to deficiencies identified in remuneration report or a reduction in registered liquidator remuneration claims (2 cases).
- We commenced formal investigations or enforcement actions into 4 registered liquidators.

Enforcement action

16 Table 3 shows the number of registered liquidators who were subject to either a formal investigation or an enforcement action during the reporting period.

Table 3: Registered liquidators subject to formal investigation or enforcement action

	2011	2012
Open matters at 1 January	4	10
Formal investigations or enforcement actions commenced during the year	8	13
Formal investigations or enforcement actions finalised during the year	(2)	(2)
Open matters at 31 December	10	21

Note: The 10 matters open at 1 January 2012 consisted of eight formal investigations and two other enforcement actions. The 13 matters referred for formal investigation or enforcement action during 2012 arose from four proactive practice reviews, eight transaction reviews and one referral against a second practitioner from a previous activity originating from our 2010 remuneration project. The 21 open matters at 31 December 2012 relate to 19 registered liquidators, with two having multiple matters.

17 Table 4 gives details of the outcomes of the formal investigations or enforcement actions during the reporting period.

Table 4: Outcomes of formal investigations or enforcement actions

Outcome	2011	2012
Closed due to insufficient evidence of an offence	0	0
Court application for an inquiry under s536 and 423 of the Corporations Act	1	1
Cancellation or statutory undertaking under s1291 of the Corporations Act	1	0

Outcome	2011	2012
Negotiated resolution	0	2
Enforceable undertaking	1	2
CALDB application	0	0
Matter referred to the Commonwealth Director of Public Prosecutions (CDPP)	0	0
Total	3	5

Andrew Leonard Dunner

- 18 We applied to the Federal Court in May 2012 to inquire into the conduct of Melbourne liquidator, Mr Andrew Leonard Dunner, concerning the performance of his duties as a registered and official liquidator and as a receiver or manager of 11 companies to which he was appointed: see Media Release (12-93MR) *ASIC acts against Melbourne liquidator* (15 May 2012).
- 19 We are seeking orders that Mr Dunner be prohibited from holding the office of liquidator, provisional liquidator, voluntary administrator or administrator of a deed of company arrangement for such period as the court sees fit. Alternatively, we have sought a declaration that there are grounds for the cancellation of Mr Dunner's registration as an official liquidator.
- 20 Further, we are seeking orders for Mr Dunner to pay into court any remuneration received by him in his role as the registered and official liquidator of eight of the 11 companies if the court finds that the remuneration was:
- (a) paid without proper approval of the creditors, a court or a committee of inspection;
 - (b) paid for work performed outside the period of the relevant liquidation; or
 - (c) not validly determined or fixed under the Corporations Act.

Geoffrey Stewart Turner

- 21 We accepted an enforceable undertaking in October 2012 from Sydney liquidator, Mr Geoffrey Stewart Turner, which prevents him from practising as a registered liquidator for life: see Media Release (12-248MR) *Sydney liquidator's registration cancelled* (9 October 2012).

Note: Mr Turner is of GS Turner & Co in Hurstville, New South Wales, and is in no way connected to GR Turner of Leeton, New South Wales.

- 22 We reviewed 60 external administrations of which Mr Turner was the appointed external administrator. We formed the view that Mr Turner failed to adequately and properly carry out his duties as a liquidator.
- 23 Mr Turner did not comply with statutory reporting requirements and lodgements, including failing to:
- (a) lodge six-monthly receipts and payments;
 - (b) hold annual meetings of members and creditors or lodge a report with ASIC;
 - (c) lodge reports of his investigations;
 - (d) draw up, sign and lodge minutes of meetings of creditors;
 - (e) have remuneration properly fixed or determined;
 - (f) make a declaration of relevant relationships and declaration of indemnities;
 - (g) use separate bank accounts set up for each external administration, instead using the firm's trust account to bank receipts and make payments for external administrations;
 - (h) have adequate human resources to properly service his appointments;
 - (i) have appropriate operational procedures and manuals for conducting external administrations; and
 - (j) finalise external administrations in a timely manner.
- 24 We did not find the above issues for each and every one of the 60 external administrations reviewed.
- 25 Mr Turner acknowledged that our views were reasonably held and agreed that he failed to carry out or perform adequately and properly the duties of a liquidator.
- 26 We applied to the NSW Supreme Court for a new liquidator to be appointed to nine of the 60 external administrations to finalise those external administrations. The remaining 51 external administrations were deregistered as they had been inactive for over two years, and on the basis that there was no acting liquidator.
- 27 The enforceable undertaking required Mr Turner to:
- (a) voluntarily cancel his registration as a liquidator within seven days of our acceptance of the enforceable undertaking (Mr Turner complied with this requirement);
 - (b) never re-apply for registration as a liquidator;
 - (c) never perform any duty or function that requires the person performing the duty or function to be registered as a liquidator; and
 - (d) provide ASIC with documents and information from time to time to assess compliance with the terms of the enforceable undertaking.

Arthur John Forrest

- 28 We accepted an enforceable undertaking in November 2012 from Arthur John Forrest, a Sydney-based liquidator, who agreed to voluntarily cancel his registration: see Media Release (12-277MR) *Sydney liquidator agrees to cancellation of registration* (14 November 2012).
- 29 After our review of incomplete external administrations which Mr Forrest managed, we found Mr Forrest failed to carry out or adequately and properly perform his duties. Mr Forrest acknowledged and accepted our concerns that he:
- (a) failed to comply with statutory reporting requirements and lodgements including lodgement of six-monthly receipts and payments, holding annual meetings of members and creditors or lodging a report with ASIC, and lodging reports of his investigations;
 - (b) failed to have remuneration approved as required by the Corporations Act; and
 - (c) unnecessarily delayed the finalisation of external administrations.
- 30 Before signing the enforceable undertaking, Mr Forrest finalised all the external administrations that required him to be a registered liquidator under the Corporations Act.
- 31 Under the terms of the enforceable undertaking, Mr Forrest agreed to:
- (a) voluntarily cancel his registration as a liquidator within seven days of our acceptance of the enforceable undertaking;
 - (b) never perform any duty or function that requires the person performing the duty or function to be registered as a liquidator; and
 - (c) provide us with documents and information from time to time to assess compliance with the terms of the enforceable undertaking.

Negotiated resolution

- 32 We identified a variety of concerns during our surveillances of two firms in the reporting period, and negotiated alternatives to remedies where we determined that we could achieve an effective regulatory outcome, such as an improved compliance program or a better (e.g. quicker) outcome: see INFO 151.
- 33 A sole practitioner agreed to request that ASIC cancel his registration as a liquidator after completing all outstanding lodgements and finalising all external administrations.
- 34 A firm of practitioners agreed to engage an independent registered liquidator to undertake a 'quality control peer review' of 12 new appointments.

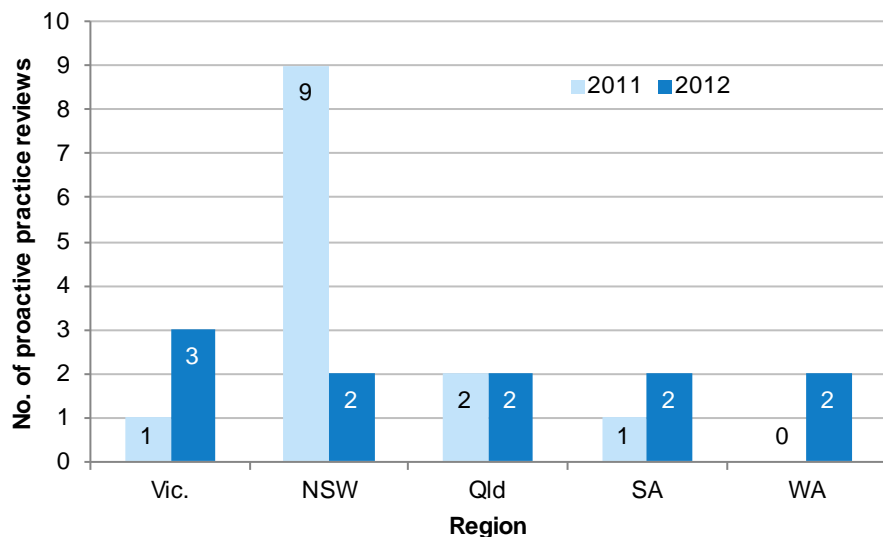
Surveillance

- 35 We undertake surveillances of registered liquidators by either reviewing a specific transaction or appointment, or by undertaking a targeted review of a registered liquidator's practice (a proactive practice review). Our surveillances allow us to objectively assess whether a registered liquidator is adequately and properly performing their duties and functions and is complying with the Corporations Act and Corporations Regulations 2001 (Corporations Regulations). This, in turn, allows us to assess whether a registered liquidator remains a fit and proper person to be registered.
- 36 Following a surveillance, we assess whether the matter should be referred to our dedicated enforcement and investigations teams for a formal investigation. The issues we consider in making the assessment are:
- the extent of harm or loss;
 - the benefits of pursuing the misconduct, relative to the expense;
 - the impact of other issues, including the type and seriousness of the misconduct and the evidence available; and
 - the availability of alternative courses of action.
- 37 The specific factors we consider vary according to the circumstances of the case. INFO 151 provides further guidance about the issues we consider when determining what action, if any, we take.

Proactive practice reviews

- 38 In 2012, we initiated 11 (13 initiated in 2011) proactive practice reviews: see Figure 1. The reviews covered New South Wales (two reviews), Queensland (two reviews), Victoria (three reviews) South Australia (two reviews) and Western Australia (two reviews).

Figure 1: Proactive practice reviews by region



- 39 Proactive practice reviews focus on the following key compliance areas:
- (a) independence;
 - (b) remuneration disclosure and approval;
 - (c) quality of investigations;
 - (d) reporting to creditors and to ASIC;
 - (e) asset realisations; and
 - (f) adequacy of practice systems.
- 40 We select practitioners for review based on a risk-weighted model that considers several factors, including, but not limited to, the number and profile of external administrations, the number of staff, any intelligence gathering from our project work and any reports of alleged misconduct received.

Table 5: Proactive practice reviews

	2011	2012
Reviews open at 1 January	19	20
Reviews commenced during the year	13	11
Reviews finalised during the year	(12)	(21)
Reviews open at 31 December	20	10

- 41 Of the 21 proactive practice reviews finalised during 2012 (see Table 6):
- (a) four matters were escalated to either a formal investigation or an enforcement action was initiated; and
 - (b) we achieved a positive outcome in 16 matters.

Note: A positive outcome is recorded where we identified issues or behaviours that did not warrant a formal investigation or enforcement action, but the registered liquidator voluntarily agreed to amend their systems and procedures to resolve our concerns.

Table 6: Outcomes of finalised proactive practice reviews

Outcomes	2011	2012
No issues identified	1	0
Positive outcomes	6	16
Referred for formal investigation or enforcement action	5	4
Other	0	1
Total	12	21

Transaction reviews

42 In 2012, we initiated 96 transaction reviews: see Table 7. These reviews are prompted by third parties bringing an issue to our attention (see Table 14 in Section B) or from our own research.

43 When undertaking a transaction review, we fully examine the whole of the transaction in question to ensure the registered liquidator has adequately and properly performed their duties and functions in compliance with the Corporations Act and the Corporations Regulations.

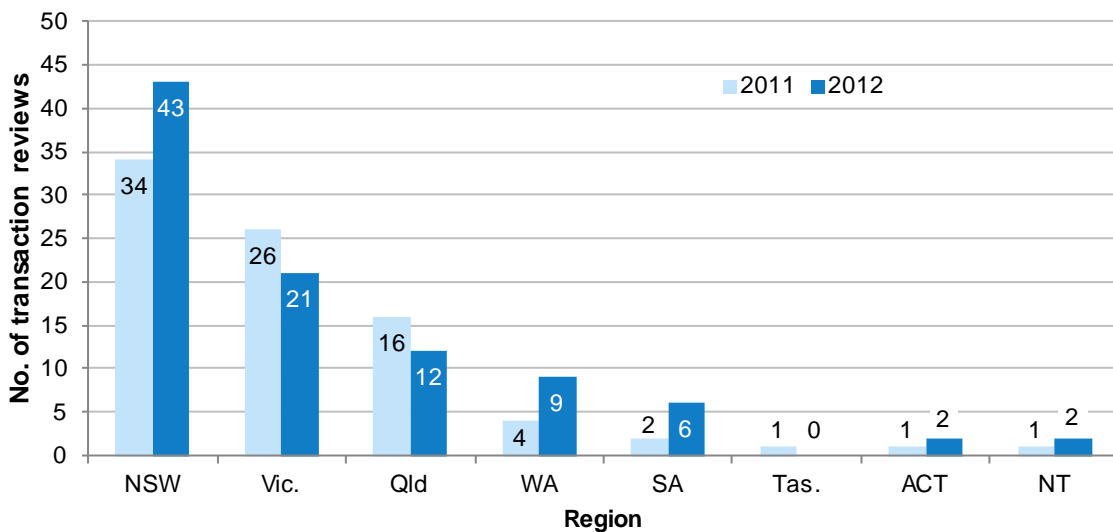
Note: The area of concern identified is only the primary concern and our review may include multiple areas of concern.

Table 7: Transaction reviews conducted

	2011	2012
Reviews open at 1 January	44	24
Reviews commenced during the year	65	96
Reviews finalised during the year	(85)	(95)
Reviews open at 31 December	24	25

44 Figure 2 sets out an analysis of transaction reviews by region. In deciding on a transaction review, we consider the nature of the allegation and availability of evidence; it is not driven by an arbitrary quota per region.

Figure 2: Finalised transaction reviews by region



45 Table 8 summarises the nature of the concerns identified in the 95 (85 in 2011) transaction reviews finalised during the year and Table 9 summarises the outcomes of those reviews.

Table 8: Areas of concern in transaction reviews

Concern	2011	2012
Independence	30	29
Remuneration	12	11
Adequacy of investigation and reporting to creditors	12	11
Insurance	5	0
Dispute over dealing with employee priority and admission of proofs	4	1
Improper self gain	0	5
Conduct of creditors meetings	0	3
Phoenix facilitation	0	3
Failure to lodge forms and complete external administrations in a timely manner	3	11
Timeliness in dealing with matter	3	2
Adequacy of sale process	3	1
Concern over terms or operation of a deed of company arrangement	2	3
Other	11	15
Total	85	95

Table 9: Outcomes of finalised transaction reviews

Outcome	2011	2012
Insufficient concerns identified to warrant ASIC action	53	50
Educative outcome	23	30
Advice to other ASIC stakeholder teams	3	0
Matter marked for follow up review	2	3
Other review or merged with other activity	0	4

Outcome	2011	2012
Referred for formal investigation or enforcement action	4	8
Total	85	95

Proactive transaction reviews

46 In August 2012, we began our proactive transaction reviews. The reviews target external administrations that appear to exhibit risk criteria suggesting potential phoenix activity, possible director misconduct and/or independence concerns.

47 After identifying an external administration for a proactive transaction review, we contact the registered liquidator and ask them to complete a questionnaire. We will as a minimum, review independence, remuneration, initial creditor reports (in particular, reports to creditors under s439A of the Corporations Act) and other issues particular to the appointment.

48 We aim to initiate proactive transaction reviews at the initial stages of an external administration to highlight to the registered liquidator that we are actively reviewing their conduct.

49 In the five-month period from August 2012, we considered 228 external administrations for inclusion in the proactive transaction review project, before selecting 18 for full review. We concluded 13 of the 18 reviews by end of 2012.

50 We are very pleased that we received a 100% response rate from registered liquidators who were provided with the voluntary questionnaire.

51 The majority of proactive transaction reviews required further discussion with the registered liquidators to give us a fuller understanding of what had occurred with the company and the action taken (or to be taken) by the liquidator.

Industry-wide compliance projects

Declarations of relevant relationships and indemnities

52 On appointment, the Corporations Act requires a voluntary administrator to prepare a declaration of relevant relationships and a declaration of indemnities, while a creditors' voluntary liquidator is required only to prepare a declaration of relevant relationships (declarations).

53 We completed our second year of monitoring registered liquidators' ongoing compliance with the obligation to make declarations. We continued monitoring declarations because independence is a key concern for ASIC.

- 54 In 2012, we conducted 48 reviews and found that 56.3% of declarations were inadequate. In each case, we required the registered liquidator to reissue the declaration: see Table 10.
- 55 The 2012 results indicate a decline in compliance of approximately 10% against the previous year. In 2011, we conducted 98 reviews and found 46.9% of the declarations to be inadequate. The overall result identifies a failure by registered liquidators to meet this obligation and to do so to a reasonable professional standard.
- 56 Generally, declarations were identified as inadequate when there was a failure to:
- (a) disclose a relevant relationship in pre-appointment dealings and/or, where such a relevant relationship has been identified, adequately explain why it does not create a conflict of interest;
 - (b) disclose all companies involved in appointments to a group of companies, and whether or not circumstances existed between the group entities that may give rise to a conflict and, if so, how the appointees would manage those issues; and
 - (c) have all appointees sign the declaration.

Table 10: Outcomes in 2012: Declarations of relevant relationships and indemnities

Outcome	Voluntary administration		Creditors' voluntary liquidation		Total	
	No.	%	No.	%	No.	%
Inadequate declaration	17	70.8	10	41.7	27	56.3
Adequate declaration	7	29.2	14	58.3	21	43.7
Total	24	100.0	24	100.0	48	100.0

Remuneration

- 57 In August 2011, we commenced our remuneration monitoring project, which focuses primarily on disclosure but also considers the reasonableness of external administrator remuneration.
- 58 In 2012, we performed an initial review of 335 (199 in 2011) external administrations, selecting 40 (24 in 2011) for a more detailed review.
- 59 Where appropriate, we sought corrective action around disclosure and approval concerns, which involved the registered liquidator taking steps such as:
- (a) reissuing remuneration reports;
 - (b) adjourning creditors' meetings so that the registered liquidator could provide creditors with better disclosure about the proposed remuneration;

- (c) tabling ASIC's letter of concern at creditors' meetings; or
- (d) correcting their remuneration approval procedures.

- 60 We believe the project has a significant educative benefit for registered liquidators. However, where we form a preliminary view that remuneration may be unreasonable, we undertake a further detailed review and consider what action is then warranted. Also, where we identify material concerns, we refer these matters for formal investigation and consideration of enforcement action.
- 61 Compared to 2011 figures, the results of the remuneration monitoring project in 2012 indicate improved compliance. In particular, we note that, in 2012, there were no matters of such severity to warrant a formal investigation or enforcement action. Also, we did not identify any significant issues in just over half of all reviews conducted.
- 62 Table 11 sets out a more detailed comparative analysis of the outcomes of the remuneration monitoring project in 2011 and 2012.

Table 11: Outcomes of remuneration monitoring project

Outcome	2011		2012	
	No.	%	No.	%
No issues identified	1	4.2	21	52.5
Educative outcome	7	29.2	9	22.5
Improved disclosure provided	2	8.3	3	7.5
Voluntary undertaking to not seek fee approval based on existing remuneration report	6	25.0	3	7.5
Voluntary agreement to not draw remuneration approved due to deficiencies identified and to seek court approval	1	4.2	0	0
New remuneration report issued	3	12.5	2	5.0
Reduced remuneration sought by practitioner	2	8.3	1	2.5
Other	2	8.3	1	2.5
Total	24	100.0	40	100.0

Annual returns: Form 908

- 63 In 2012, we reviewed 634 annual returns lodged with us by registered liquidators (Form 908 *Annual statement by liquidator*). Of those, 408 (or 63.45%) had no issues of concern identified.

64 Where we had a concern about the information in a registered liquidator's Form 908, we contacted the registered liquidator for further clarification.

65 A particular focus during 2012 was whether registered liquidators demonstrated that they had sufficient capacity within their practice. For this, we looked at the number of staff available to assist on appointments relative to the number of external administrations accepted by the registered liquidator.

66 Another outcome of our review was that we contacted inactive registered liquidators. We understand that our contact acted as the catalyst to 17 persons voluntarily seeking cancellation of their registration.

67 We referred one registered liquidator who failed to lodge a number of outstanding forms to the CALDB. Before the hearing, the registered liquidator lodged all outstanding forms, paid all outstanding fees and voluntarily cancelled his registration. We then withdrew our application to the CALDB.

Section 533(1) reports

68 Reports prepared under s533 of the Corporations Act are important in notifying ASIC of possible offences by company directors and others. This project aims to improve the timeliness of lodgement of reports by registered liquidators.

69 In 2011, we identified that there were 886 unfinalised liquidations in Australia where no s533 report had been lodged with ASIC. We wrote to the 199 registered liquidators responsible for those external administrations, seeking an explanation. Table 12 sets out their responses.

Table 12: Summary of responses

Response	No.	%
Acknowledge report required	683	77.1
Not required	118	13.3
Unsure if required	16	1.8
Excluded due to other action by ASIC	34	3.8
No response	35	4.0
Total	886	100.0

70 The three most common reasons provided by registered liquidators for non-lodgement where they acknowledged a report was required were:

- (a) inadvertence, due to staff or system failure (220 instances or 32.2%);

- (b) reporting of possible offences had been made to ASIC, albeit through alternative means such as a s438D report or in another non-prescribed format (106 instances or 15.5%); and
- (c) the investigation into the possible offences was ongoing (97 instances or 14.2%).

71 There were also 88 instances (or 12.9%) where we did not receive a response about why a s533 report had not been lodged, but were instead advised that a report had been or would shortly be lodged.

72 Of the 116 instances where registered liquidators advised us that a s533 report was not required, 44 indicated that there were no offences and the return to creditors would be greater than 50 cents, 40 indicated that the appointment was the result of a company reinstatement due to an insurance claim and therefore believed that a s533 report was not required, and 33 provided an incomplete response.

Financial reporting project

73 In September 2012, we released Information Sheet 163 *Financial reporting compliance by administrators of insolvent public companies* (INFO 163). This followed our review of external administrators' compliance with the obligation to prepare audited financial reports for public companies, and certain large proprietary companies, and lodge them with ASIC, or seek relief from that obligation.

74 Our review of lodgements revealed an unacceptably high level of non-compliance with the financial reporting obligations by administrators of insolvent public companies.

75 INFO 163 explains the relief ASIC grants to companies in external administration from some of the financial reporting obligations in the Corporations Act and should be read in conjunction with Regulatory Guide 174 *Externally administered companies: Financial reporting and AGMs* (RG 174).

Guidance

Regulatory guides

76 Regulatory guides give guidance to registered liquidators by explaining when and how we will exercise specific powers under legislation (primarily the Corporations Act), how we interpret the law and the principles underlying our approach.

- 77 They also give practical guidance (e.g. describing the steps of a process, such as applying for registration, or giving practical examples of how regulated entities may decide to meet their obligations).
- 78 In November 2012, we issued an updated version of Regulatory Guide 109 *Assetless Administration Fund: Funding criteria and guidelines* (RG 109). We also released a consultation paper, which resulted in a new regulatory guide being issued in January 2013: see Regulatory Guide 242 *ASIC's winding up of abandoned companies* (RG 242).
- 79 During 2012, we also began a review of Regulatory Guide 16 *External administrators: Reporting and lodging* (RG 16). At present, a high percentage of reports we receive from registered liquidators allege a civil offence for insolvent trading, but the registered liquidator advises in their report that either:
- (a) there is no evidence in their possession to support the offence; or
 - (b) the matter does not warrant further action.
- 80 We seek more accurate statistics about alleged insolvent trading and focus on instances suggesting more serious breaches of the Corporations Act and evidence exists to support enforcement action.
- 81 By undertaking a review of RG 16, we aim to give registered liquidators clearer guidance on the standard of reporting we expect and, in turn, improve the quality of the information received from registered liquidators for alleged offences under s588G(2) and (3) of the Corporations Act. We expect to issue an updated version of RG 16 in the third quarter of 2013.

Education

- 82 Our direct activities (proactive practice reviews, transaction reviews, proactive transaction reviews and other industry-wide compliance projects) are a means of communicating to the industry our expectations on a range of issues and achieving educative outcomes.
- 83 We also provide education to the market by writing articles for industry publications.
- 84 During 2012, the following four articles appeared in the *Australian Insolvency Journal*, the quarterly journal of the Insolvency Practitioners Association (IPA):
- (a) 'ASIC's supervision of the corporate insolvency profession' (vol. 24, issue 1);
 - (b) 'ASIC's insolvency notices website' (vol. 24, issue 2);
 - (c) 'ASIC's key priorities for the year ahead' (vol. 24, issue 3); and
 - (d) 'Recent activity: Guiding the profession' (vol. 24, issue 4).

Engaging with industry and stakeholders

85 We engage with registered liquidators and other stakeholders through regional liaison meetings, liaison meetings with the IPA and the Institute of Chartered Accountants Australia (ICAA), liaison with government and statutory bodies, eligible applicants, acting as *amicus curiae* (i.e. a friend of the court), our liquidator assistance program and the Assetless Administration Fund.

Regional liaison meetings

86 We hold meetings twice a year with registered liquidators and other stakeholders in the insolvency market in the capital city of each state and the Australian Capital Territory. The meetings provide an opportunity to communicate our priorities and our regulatory action. They also provide a forum to obtain feedback from the marketplace on emerging issues.

87 We held meetings of these groups in August and November 2012.

IPA and ICAA liaison meetings

88 The IPA is the main industry organisation representing registered liquidators. The ICAA is one of the main professional accounting bodies whose members form a significant part of the IPA membership. We regularly meet, and otherwise liaise with, the IPA and the ICAA on current market issues, law reform and other regulatory developments. These liaison meetings are important for ASIC and stakeholders to understand each other's views on a range of issues.

Liaison with government and statutory bodies

89 We regularly meet with Treasury, the Insolvency and Trustee Service Australia, the Australian Taxation Office (ATO) and other government agencies on law reform, regulatory action and emerging issues relating to the efficient operation of the insolvency industry, and we provide assistance where required.

Eligible applicants

90 We received 17 applications during 2012 from registered liquidators asking us to authorise the applicant(s) as 'eligible applicants'.

91 If authorisation is granted, the applicant can seek a summons from the court to conduct a public examination of relevant persons regarding the examinable affairs of the company.

Court applications

- 92 We were served with, and assessed, over 85 court applications in 2012. Most applications relate to matters in Pts 5.3A–5.9 of the Corporations Act, many of which must be served on ASIC under the various court rules. Provided that sufficient notice of the application is received, each one is considered by a lawyer in our Insolvency Practitioners team.
- 93 Other court applications, which are not served on ASIC but come to our attention due to their public profile or nature, are also considered by the Insolvency Practitioners team where they require specialist insolvency knowledge to properly understand and assess the implications of the application.

Court intervention and *amicus curiae*

- 94 If the circumstances warrant, ASIC has the power to intervene in any proceeding relating to a matter arising under the Corporations Act (s1330), or may seek leave to appear as *amicus curiae* in proceedings where we consider that the court would be assisted by hearing from ASIC.

- 95 During 2012, we intervened in two cases:

- (a) In the matter of *P Hindle & Co (WA) Pty Ltd (In Liquidation)*, we intervened on the question of whether, in the circumstances, the chairperson's use of the casting vote on a resolution to fix his own remuneration as liquidator was appropriate. We were aware of this matter due to a transaction review which had already commenced when the application was made to the court.

In intervening, our interests lay in, first, attempting to represent and protect creditors' interests by highlighting to the court the importance of external administrators acting impartially and independently. Secondly, we queried the propriety of the liquidator's actions in exercising the casting vote on the particular resolution.

We expect that the court will, in its decision, provide guidance to resolve some of the uncertainty about the exercise of a casting vote on resolutions concerning remuneration.

- (b) In the matter of *ACN 121 708 316 Pty Ltd (subject to deed of company arrangement) (formerly known as Glowclose Pty Ltd) and Others*, we intervened in proceedings brought by the voluntary administrators and deed administrators of the three companies.

The deed administrators sought orders from the Supreme Court of Queensland confirming their appointment as voluntary administrators. Their appointment was in question after a third party raised a concern about whether or not the director who made the appointment, actually existed.

Our concern was that the application made by the administrators would, if successful, have the effect of validating a fiction.

We also brought an application to wind up the companies in the Glowclose Group and have independent liquidators investigate the companies' affairs due to concerns about the circumstances of the appointment, the conduct of the deed administrators in discharging their duties, and the obvious insolvency of the Glowclose Group.

96 We appear as *amicus curiae* in proceedings where we can assist the court in cases on insolvency law and practice. We appeared once during 2012 in an application by the voluntary administrator of Rivercity Motorway Pty Limited for an extension to the time period in which a second meeting of creditors had to be held (*Rivercity Motorway Pty Limited* [2012] FCA 1491). We offered the court our assistance in highlighting factors that we considered relevant to the proposed extension

Liquidator assistance program

97 Through our liquidator assistance program, we help registered liquidators obtain compliance by company officers with their obligations to prepare a report as to a company's affairs, provide books and records, and assist liquidators.

98 Details of prosecutions under the program are on our website at www.asic.gov.au/publications under 'Statistics'.

Assetless Administration Fund

99 We administer the Assetless Administration Fund, which the Australian Government established in 2005. The purpose of the fund is to finance preliminary investigations and reports by registered liquidators into the failure of companies with few or no assets and where it appears to us that enforcement action may result from the liquidator's investigation and report. A particular focus of the fund is curbing illegal phoenix activity.

100 On 5 December 2011, Treasury announced the Australian Government's decision to expand the Assetless Administration Fund's scope to further support activities aimed at deterring or reversing phoenix activity, including depriving persons of the benefits of such activities. The fund can finance the cost of replacing and investigating a former liquidator where they are suspected of complicity in such activity.

101 The use of money in the Assetless Administration Fund has also been extended to include remunerating liquidators appointed to companies wound up by ASIC under Pt 5.4C of the Corporations Act: see paragraphs 107–110.

102 As mentioned previously, we updated RG 109 in November 2012 to cover the expanded scope of matters that can be approved for funding.

103 We reported an amount of \$1,823,000 paid from the fund in 2011–12 in the *ASIC Annual Report: 2011–12* (see Note 17) and provided details of applications received and outcomes achieved on our website at www.asic.gov.au/publications under ‘Statistics’.

104 Table 13 shows the number of applications to the fund and the outcome of those applications.

Table 13: Applications to the Assetless Administration Fund in 2012

	Director Banning Application (EX02)	Other Application (EX03)
Applications received	466	100
Approved	243	31
Rejected	232	72

Note: The number of applications approved and rejected do not match the number of applications received as some applications were received in the previous year or were still under consideration at the end of the year.

Policy advice

Law reform

105 In 2012, we assisted the Australian Government on policy issues; in particular, by providing input to law reform which culminated in the Australian Government’s release for public comment of the Exposure Draft of the Insolvency Law Reform Bill 2013 (on 19 December 2012).

106 The Exposure Draft was preceded by:

- (a) a report by the Senate Economics Committee, *The regulation, registration and remuneration of insolvency practitioners in Australia: The case for a new framework* (14 September 2010), which was released following the Senate’s inquiry into the insolvency profession;
- (b) an options paper prepared by Treasury, *A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia* (2 June 2011); and
- (c) a proposals paper issued by Treasury, *A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia* (14 December 2011).

Administrative power to wind up a company

107 The *Corporations Amendment (Phoenixing and Other Measures) Act 2012* amended the Corporations Act to give ASIC an administrative power to order the winding up of a company in certain circumstances.

- 108 In response to our new administrative power, we released Consultation Paper 180 *ASIC's power to wind up abandoned companies* (CP 180) on 12 July 2012. The paper closed for comment on 12 August 2012.
- 109 After submissions closed, we released Report 310 *Response to submissions on CP 180 ASIC's power to wind up abandoned companies* (REP 310) on 8 November 2012.
- 110 We subsequently released RG 242 in January 2013.

Insolvency notices website

- 111 As part of the Australian Government's law reform, new legislation required ASIC to establish a website for the publication of certain notices that were previously published in newspapers and the *ASIC Gazette*.
- 112 The insolvency notices website commenced operation on 1 July 2012 at www.insolvencynotices.asic.gov.au.

B Inquiries and reports of alleged misconduct

Key points

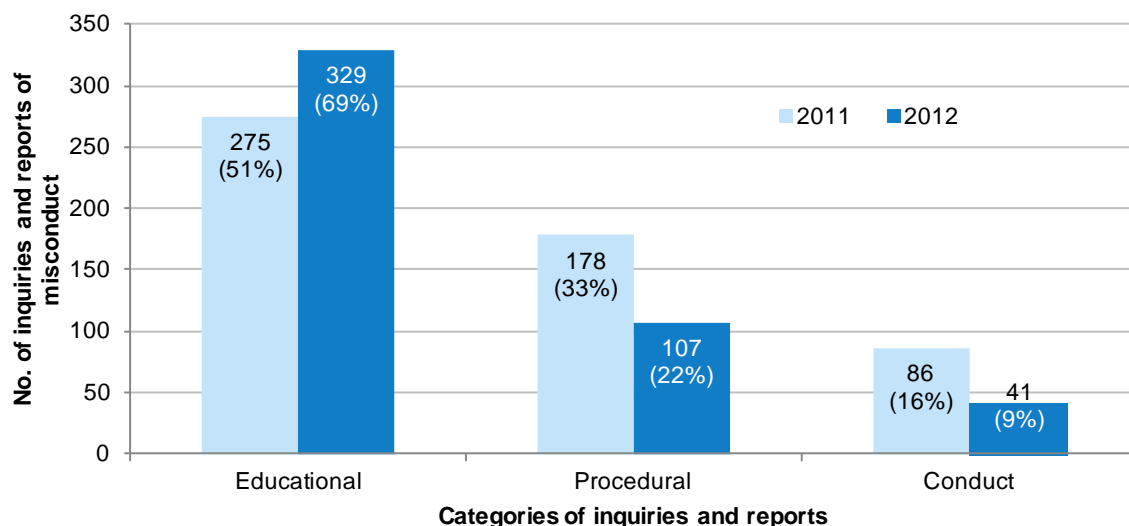
This section contains a detailed analysis of the outcomes of the general inquiries and reports of alleged misconduct we received in 2012.

- 113 Our Misconduct and Breach Reporting team receives and conducts an initial assessment of all inquiries and reports of alleged misconduct arising from external administrations conducted by registered liquidators.
- 114 Reports of alleged misconduct against registered liquidators equalled 3% of the total reports we received during 2010–2011 and 2011–2012: see p. 48, *ASIC Annual Report: 2011–2012*.

Categories of inquiries and reports of alleged misconduct

- 115 Figure 3 shows an analysis of the nature of the inquiries and reports of alleged misconduct relating to registered liquidators that we received in 2012. While overall reports fell marginally (from 537 to 477), we were pleased to note that conduct-related reports were significantly lower, falling from 86 to 41, and that procedural matters fell from 178 to 107.

Figure 3: Inquiries and reports of misconduct received by category



Note: The total number of inquiries and reports of misconduct for 2012 in Figure 3 is 477, compared to 437 inquiries and reports of alleged misconduct listed as received in Table 14. The difference is the result of merging activities where there are multiple inquiries and reports about the one issue for a registered liquidator (e.g. where we receive multiple inquiries and reports from the public about a matter such as honouring gift cards when a national retailer enters into external administration).

Conduct matters

- 116 ‘Conduct’ matters are those involving an alleged deliberate, or at least conscious, act or omission by the registered liquidator, which has significant ramifications for the complainant or other stakeholders. An example is an allegation that the liquidator of a group of companies assisted a director in illegal phoenix-type activity, involving a transfer of assets to related entities for no consideration.

Procedural matters

- 117 ‘Procedural’ matters are those relating to circumstances where there has been an inadvertent act or omission by the registered liquidator, which is less significant than a ‘conduct’ matter. This relies on there being no intent on the registered liquidator’s part or where there may be an indication that the registered liquidator admitted fault and sought to make good. An example would be where a person alleges that the practitioner did not return their telephone calls or failed to report on a timely basis, and our subsequent inquiries result in improved communication and acceptable explanations.

Educational matters

- 118 ‘Educational’ matters are those involving circumstances where the outcome or resolution of the inquiry or allegation of misconduct is educating the person (usually a creditor) about the applicable law or practice, or providing information about the normal practice of the insolvency process. For example, a person may allege that the registered liquidator refuses to advise them of the value of certain assets. It may simply be that the liquidator is reluctant to disclose this information because it is commercially sensitive and, if disclosed, could compromise sale negotiations resulting in a lesser return for creditors.

Outcomes of inquiries and reports of alleged misconduct

- 119 Table 14 summarises the outcomes of the 437 inquiries and reports of alleged misconduct by registered liquidators.
- 120 The Insolvency Practitioners team individually assesses conduct matters referred to it internally. Where the team determines that a matter does not warrant a referral for a formal investigation, we record the information obtained as part of our profiling of registered liquidators.

Table 14: Outcome of inquiries and reports of misconduct

Outcome	2011		2012	
	No.	%	No.	%
Provided assistance to resolve the inquiry	96	22.5	104	23.8
Insufficient evidence was identified to support the alleged breach*	163	38.3	142	32.5
No breach of the Corporations Act was identified	35	8.2	46	10.5
Referred to a specialist team within ASIC for further review**	58	13.6	59	13.5
Referred for formal investigation	0	0	3	0.7
Referred to assist existing investigation or other surveillance	33	7.8	32	7.3
Action otherwise precluded†	41	9.6	51	11.7
Assessment in progress	0	0	0	0
Total	426	100.0	437	100.0

* Before closing a matter on the basis that there is insufficient evidence to support an allegation, we make relevant inquiries. This normally includes speaking to the person to obtain further information, including documents, reviewing lodgements with ASIC and speaking to the registered liquidator.

** Of the 59 referrals by the Misconduct and Breach Reporting team, 56 were to the Insolvency Practitioners team.

† Action otherwise precluded is due to the matter already being subject to investigation or some other regulatory action that has been assessed and does not assist the existing action.

Appendix 1: Industry profile

Registered liquidators

121 At 31 December 2012, there were 682 registered liquidators in Australia (of which 557 were also official liquidators): see Table 15.

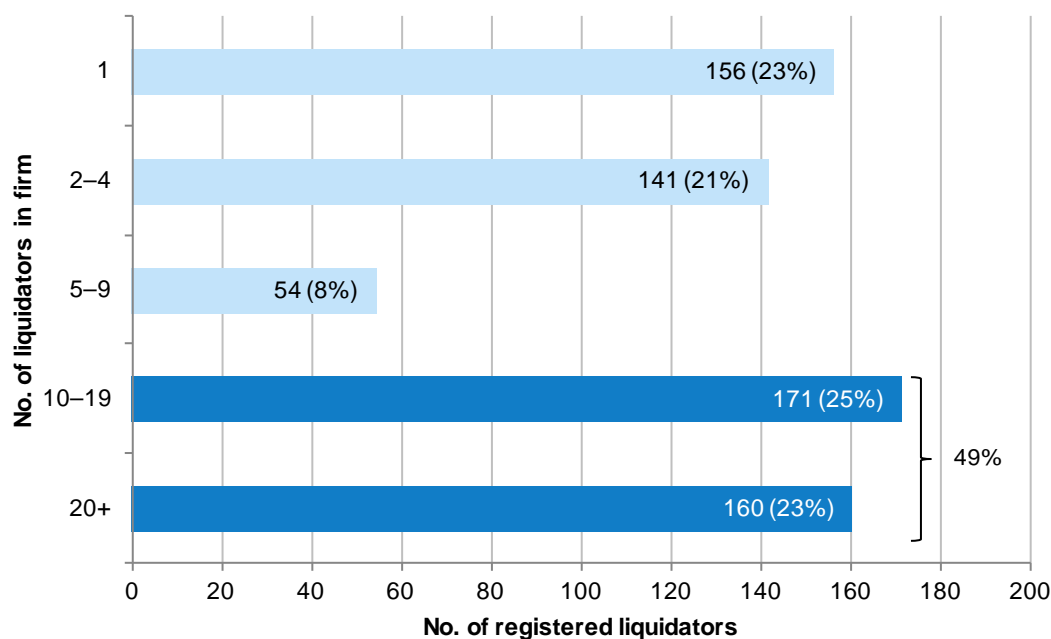
Table 15: Number of registered and official liquidators at 31 December 2012

	Registered liquidators		Official liquidators	
	2011	2012	2011	2012
Registered at 1 January	668	671	517	525
Registered during year	29	43	25	48
Cancelled during year	(26)	(32)	(17)	(16)
Registered at 31 December	671	682	525	557

Note: Report 287 *ASIC regulation of registered liquidators: January to December 2011* (REP 287) stated there were 523 official liquidators when there were 525 official liquidators

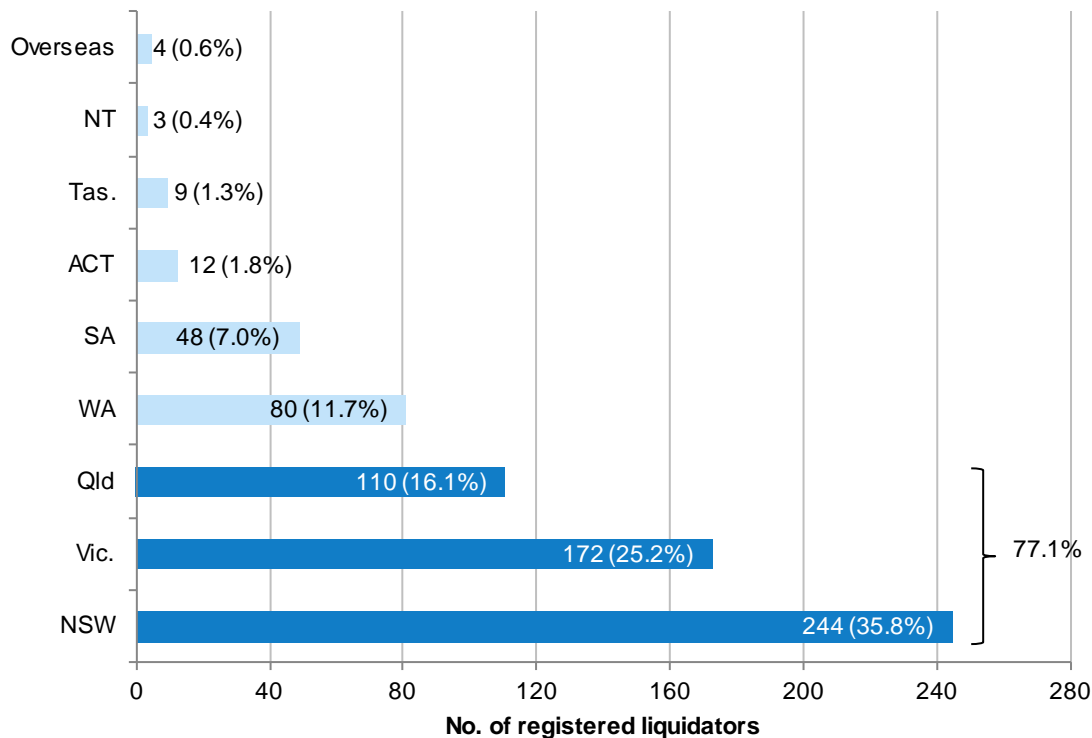
122 As Figure 4 shows, 49% of registered liquidators operate in a firm of 10 or more practitioners.

Figure 4: Number of registered liquidators by firm size as at 31 December 2012



123 As Figure 5 shows, 77.1% of registered liquidators operate predominantly in the eastern states: New South Wales (35.8%), Victoria (25.2%) and Queensland (16.1%).

Figure 5: Number of registered liquidators by region



Registration of liquidators

124 Under the Corporations Act, ASIC may only register as liquidators natural persons who satisfy the criteria listed in s1282(2) and are not disqualified by s1282(4). Registered liquidators are eligible to be appointed to all types of external administrations referred to in Ch 5 of the Corporations Act, except the role of court-appointed liquidator or provisional liquidator: see s532(8).

125 We may register a natural person who is a registered liquidator as an official liquidator under s1283 of the Corporations Act.

126 As set out in Regulatory Guide 186 *External administration: Liquidator registration* (RG 186) and Information Sheet 34 *How to apply for registration as a liquidator* (INFO 34), under s1282(2)(c) of the Corporations Act, we will only determine an applicant to be a fit and proper person if satisfied about their honesty, integrity, good reputation and personal solvency.

- 127 To form this view, we take into account the following:
- (a) the applicant's experience with corporate insolvency, focusing on length of experience and seniority;
 - (b) two referees attesting to currency and depth of liquidation experience, competency, integrity and reputation (whether the applicant is 'fit and proper');
 - (c) proof of relevant qualifications;
 - (d) historical searches on the status of the applicant (i.e. whether they are the subject of any previous adverse decisions); and
 - (e) the statement by the applicant declaring that they are not:
 - (i) an insolvent under administration;
 - (ii) convicted of a criminal offence;
 - (iii) the subject of disciplinary action by their professional body or the ATO; or
 - (iv) disqualified from managing corporations under Pt 2D.6.
- 128 The conduct of registered liquidators is governed by:
- (a) the Corporations Act;
 - (b) common law; and
 - (c) professional standards.

Profile of companies in external administration

- 129 Most appointments involve small to medium proprietary limited companies. Table 16 summarises key data sourced from Report 297 *Insolvency statistics: External administrators' reports 1 July 2011–30 June 2012* (REP 297).

Table 16: Profile of companies in external administration during the 2011–12 financial year

Description	Percent of companies
Companies with less than 20 full-time equivalent employees	78%
Companies with assets of \$100,000 or less	85%
Unsecured creditors owed \$250,000 or less	42%
Asset deficiency of \$500,000 or less	64%
Dividends to unsecured creditors of less than 11 cents in the dollar	98%

Appendix 2: Regulatory guides and information sheets

130 The following regulatory guides (see Table 17) and information sheets (see Table 18) apply to registered liquidators.

Table 17: Regulatory guides

No.	Title
RG 16	<i>External administrators: Reporting and lodging</i>
RG 81	<i>Destruction of books</i>
RG 82	<i>External administration: Deeds of company arrangement involving a creditors' trust</i>
RG 109	<i>Assetless Administration Fund: Funding criteria and guidelines</i>
RG 174	<i>Externally administered companies: Financial reporting and AGMs</i>
RG 186	<i>External administration: Liquidator registration</i>
RG 194	<i>Insurance requirements for registered liquidators</i>
RG 217	<i>Duty to prevent insolvent trading: Guide for directors</i>
RG 242	<i>ASIC's power to wind up abandoned companies</i>

Table 18: Information sheets

No.	Title
INFO 29	<i>External administration: Most commonly lodged forms</i>
INFO 34	<i>How to apply for registration as a liquidator</i>
INFO 39	<i>Insolvency information for directors, employees, creditors and shareholders</i>
INFO 41	<i>Insolvency: A glossary of terms</i>
INFO 42	<i>Insolvency: A guide for directors</i>
INFO 43	<i>Insolvency: A guide for shareholders</i>
INFO 45	<i>Liquidation: A guide for creditors</i>
INFO 46	<i>Liquidation: A guide for employees</i>

No.	Title
INFO 53	<i>Providing assistance to external administrators: Books, records and RATA</i>
INFO 54	<i>Receivership: A guide for creditors</i>
INFO 55	<i>Receivership: A guide for employees</i>
INFO 59	<i>Registration of official liquidators</i>
INFO 74	<i>Voluntary administration: A guide for creditors</i>
INFO 75	<i>Voluntary administration: A guide for employees</i>
INFO 78	<i>Winding up a solvent company</i>
INFO 80	<i>How to interpret ASIC insolvency statistics</i>
INFO 84	<i>Independence of external administrators: A guide for creditors</i>
INFO 85	<i>Approving fees: A guide for creditors</i>
INFO 151	<i>ASIC's approach to enforcement</i>
INFO 160	<i>Disputes about employee entitlements</i>
INFO 163	<i>Financial reporting compliance by administrators of insolvent public companies</i>

Key terms

Term	Meaning in this document
<i>amicus curiae</i>	Friend of the court
ASIC	Australian Securities and Investments Commission
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ATO	Australian Taxation Office
CALDB	Companies Auditors and Liquidators Disciplinary Board
CDPP	Commonwealth Director of Public Prosecutions
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
Corporations Regulations	Corporations Regulations 2001
CP 180 (for example)	An ASIC consultation paper (in this example, numbered 180)
declaration of indemnities	Has the meaning given in s9 of the Corporations Act
declaration of relevant relationships	Has the meaning given in s60 of the Corporations Act
deed administrator	An administrator of a deed of company arrangement
external administration	The corporate insolvency that the external administrator has been appointed to administer
external administrator	A liquidator, receiver, voluntary administrator or deed administrator
ICAA	Institute of Chartered Accountants in Australia
INFO 151 (for example)	An ASIC information sheet (in this example, numbered 151)
insolvency practitioner	A generic term to describe registered liquidators generally, regardless of whether they have been appointed to one or more specific external administrations
IPA	Insolvency Practitioners Association of Australia
liquidator	An insolvency practitioner appointed under Ch 5 of the Corporations Act to wind up the affairs and distribute the property of a body corporate

Term	Meaning in this document
receiver	An insolvency practitioner appointed under an instrument or by the court to receive property of a body corporate
registered liquidator	A person registered by ASIC under s1282(2) of the Corporations Act
remuneration	Remuneration paid to the external administrator for services rendered in conducting an external administration
remuneration report	A report prepared in accordance with s449E(5), (6) and (7) or s473(11) and (12) of the Corporations Act
REP 297 (for example)	An ASIC report (in this example numbered 297)
RG 186 (for example)	An ASIC regulatory guide (in this example numbered 186)
s9 (for example)	A section of the Corporations Act (in this example numbered 9)
voluntary administrator	An administrator of a company but not a deed of company arrangement

Related information

Headnotes

alleged misconduct, compliance projects, education, enforcement outcomes, engaging with industry and stakeholders, external administration, guidance, insolvency practitioners, policy advice, registered liquidators, surveillance

Regulatory guides

See Appendix 2 of this report

Legislation

ASIC Act, s13(3), 93A, 93AA

Corporations Act, Pt 2D.6, 5.4C, s423, 438D, 439A, 532(8), 533, 536, 588G(2), 588G(3), 1282(2), 1282(4), 1283, 1291 and 1330; Corporations Regulations; *Corporations Amendment (Phoenixing and Other Measures) Act 2012*

Insolvency Law Reform Bill 2013

Cases

ACN 121 708 316 Pty Ltd (subject to deed of company arrangement) (formerly known as Glowclose Pty Ltd) and Others

P Hindle & Co (WA) Pty Ltd (In Liquidation)

Rivercity Motorway Pty Limited [2012] FCA 1491

Consultation papers and reports

CP 180 *ASIC's power to wind up abandoned companies*

ASIC Annual Report: 2011–12

REP 287 *ASIC regulation of registered liquidators: January to December 2011*

REP 297 *Insolvency statistics: External administrators' reports 1 July 2011–30 June 2012*

REP 310 *Response to submissions on CP 180 ASIC's power to wind up abandoned companies*

Media releases

12-93MR *ASIC acts against Melbourne liquidator*

12-248MR *Sydney liquidator's registration cancelled*

12-277MR *Sydney liquidator agrees to cancellation of registration*

ASIC forms

Form 908 *Annual statement by liquidator*

Information sheets

See Appendix 2 of this report

Journal articles

ASIC, 'ASIC's supervision of the corporate insolvency profession', *Australian Insolvency Journal*, vol. 24, issue 1, 2012

ASIC, 'ASIC's insolvency notices website', *Australian Insolvency Journal*, vol. 24, issue 2, 2012

ASIC, 'ASIC's key priorities for the year ahead', *Australian Insolvency Journal*, vol. 24, issue 3, 2012

ASIC, 'Recent activity: Guiding the profession', *Australian Insolvency Journal*, vol. 24, issue 4, 2012

Non-ASIC documents

Senate Economics Committee, *The regulation, registration and remuneration of insolvency practitioners in Australia: The case for a new framework*, 14 September 2010

Treasury, *A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia*, options paper, 2 June 2011

Treasury, *A modernisation and harmonisation of the regulatory framework applying to insolvency practitioners in Australia*, proposals paper, 14 December 2011