



Insolvency Statistics		
November 2022		
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Key Messages

The number of companies entering into a formal insolvency appointment is up 87.1% for the 2022-23 financial year to 30 September 2022 compared to the same period in the prior financial year, and only 6.3% down on the pre-COVID base level equivalent.

We publicly report insolvency statistics weekly to assist early identification of any trend in the number of corporate insolvency appointments.

Background

The number of formal insolvency appointments were subdued in the early stages of the COVID-19 pandemic including due to the impact of the Government's temporary insolvency-related relief measures for companies which expired on 31 December 2020.

Appointments remained subdued until the last few months of the 2021-22 financial year and there has been an apparent steady increase since then.

Corporate Insolvency statistics

Widely anticipated increase in company failure following expiry of the Government's temporary relief measures in December 2020 has not yet eventuated.

In the three-year period 2016-17 to 2018-19, before any impacts of the COVID-19 pandemic on the economy, formal company failures (Series 1 statistics of companies entering a formal insolvency appointment for the first time) averaged around 2,000 failures a quarter.

Since the impacts of the COVID-19 pandemic we saw that average fall to approximately 1,100 formal company failures a quarter (to end December 2021 quarter). The decline in the number of formal insolvency appointments was more pronounced in creditor-initiated appointments (rather than director-initiated appointments).

Market commentators have generally expected that formal appointments will trend back to pre-COVID levels as COVID restrictions ease, pandemic support measures are withdrawn, and the markets return to 'normal' operations.

The number of companies entering into a formal insolvency appointment is up 87.1% for the new financial year to 30 September 2022 compared to the same period in the prior financial year, and only 6.3% down on the pre-COVID base level. This increase coincides with increased Australian Taxation Office activity in contacting directors of companies with outstanding tax debts.

It remains unclear whether insolvency appointments will now be made to companies that ceased business during COVID or would have otherwise failed but for the relief measures causing a return to pre-COVID base level of appointments or more.



Uptake of small business restructuring and simplified liquidation reforms

There was a slow take up of the small business insolvency reforms following the introduction on 1 January 2021 but this has increased during 2022.

The following table shows the number of appointments for the small business insolvency reforms by financial year:

Appointment type	FY21	FY22	FY23 to 30 September 2022
Restructuring practitioner appointments	12	70	82
Restructuring plans accepted	6	37	48
Adoption of simplified liquidation process	23	29	7

These reforms introduced a new class of registration as a liquidator that can only accept appointments as a small business restructuring practitioner or restructuring practitioner of a restructuring plan. One person has been registered in the new class of registered liquidator since 1 January 2021.

Number of registered liquidators

ASIC publishes quarterly statistics about registered liquidators. The number of registered liquidators has increased from a low of 633 (June 2020) to 651 (September 2022).

Issues

The fall in formal appointments and delay in winding up insolvent companies in the period from January 2020 to May 2022 (when appointments started to rise), may have an unanticipated consequence of making it more difficult for ASIC and registered liquidators to investigate and pursue illegal phoenix activity and other misconduct due to the delay between misconduct, a formal appointment and the identification and reporting of misconduct.

Anecdotal evidence is that although the number of registered liquidators has increased the staff employed in the sector has decreased in the same period. A sudden or sharp increase in the number of companies entering into a formal insolvency appointment may increase regulatory risk.

ASIC Action

ASIC continues to:

- monitor the number of formal insolvency appointments;
- carry out compliance work to identify stress in the system due to registered liquidator capacity constraints, and
- engage with Treasury on the uptake of insolvency reforms and future reform proposals.