



Association of Independent Insolvency Practitioners

By the practitioner, For the practitioner

1st May 2026

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[REDACTED]
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Regulation and Supervision
Australian Securities and Investments Commission
Level 1, 11 Mounts Bay Road
PERTH WA 6000

By Email: [REDACTED]

Dear [REDACTED]

Re: Draft Information Sheet 000 – Corporate insolvency: ASIC’s power to appoint reviewing liquidators

On behalf of the AIP, thank you for the opportunity to provide feedback on Draft INFO 000. We acknowledge ASIC’s objective of improving the quality of applications for the appointment of reviewing liquidators and consider this a worthwhile initiative that should enhance efficiency and reduce unnecessary regulatory burden. Having reviewed the draft information sheet and accompanying materials, including Consultation 49 and related guidance, we provide the following feedback focused on improving the quality, completeness and consistency of applications.

1. Overall observations

We support the publication of a consolidated information sheet that clearly sets out:

- how to apply,
- the factors ASIC considers, and
- circumstances where ASIC is less likely to appoint a reviewing liquidator .

In our experience, a key driver of poor-quality applications is **uncertainty around evidentiary thresholds and expectations**, rather than lack of willingness by applicants. The draft information sheet would benefit from further practical guidance in this area.

2. Clarifying the evidentiary threshold for applications

Issue

The draft guidance would benefit from clearer articulation of:

- the **level of evidence required**, and
- the distinction between **substantiated concerns vs. speculative or dissatisfaction-based complaints**.

The AIP represents more than 200 liquidators and bankruptcy trustees across Australia.

More information about the AIP can be found at www.aiip.org.au

Recommendation

We recommend including:

- A clear statement that applications should be supported by **objective, verifiable evidence**, not merely assertions.
- Examples of acceptable evidence (e.g. correspondence, reports, creditor communications, specific transactions).
- A statement distinguishing:
 - “commercial disagreement with a liquidator’s decisions” vs.
 - “conduct warranting independent review”.

This will directly improve application quality by reducing unmeritorious or premature applications.

3. Practical examples of suitable and unsuitable applications

Issue

While the draft outlines factors ASIC considers, it would benefit from **worked examples**.

Recommendation

Include anonymised case studies or scenarios illustrating:

- When ASIC **would likely appoint** a reviewing liquidator (e.g. conflicts of interest, failure to investigate material transactions, procedural irregularities).
- When ASIC **would be unlikely to appoint** (e.g. fee disputes, dissatisfaction with commercial outcomes).

This aligns with ASIC’s stated aim to improve application quality and will help applicants self-assess before applying.

4. Interaction with existing insolvency mechanisms

Issue

Applicants may not fully understand when ASIC is the appropriate avenue versus:

- Court applications, or
- Creditor-driven processes.

Recommendation

Clarify:

- That ASIC’s power under s90-23 is **discretionary and not a substitute for court relief**.
- When applicants should instead consider:
 - replacing a liquidator,
 - applying to court, or
 - utilising creditor rights.

This will reduce misdirected applications and improve relevance.

5. Guidance on scope of review and materiality

Issue

The draft refers to “matters that can be reviewed” but does not clearly define:

- the expected **scope**, or
- the **materiality threshold**.

Recommendation

Provide guidance on:

- Whether issues must be **material to the administration or creditor outcomes**.
- Whether isolated procedural issues are sufficient.
- How ASIC assesses proportionality between:
 - the concern raised, and
 - the cost and disruption of appointing a reviewing liquidator.

This will help applicants frame more targeted and proportionate submissions.

6. Expectations regarding prior engagement with the external administrator

Issue

Applications are sometimes made without prior engagement with the incumbent external administrator.

Recommendation

Include a requirement or expectation that applicants:

- have **first raised concerns with the external administrator**, and
- provide evidence of that engagement and response.

This would:

- improve application maturity, and
- reduce unnecessary regulatory escalation.

7. Application structure and checklist

Issue

A common issue in practice is **incomplete or poorly structured applications**.

Recommendation

Include a **standardised checklist or template**, covering:

- applicant standing (financial interest or officer status),
- clearly defined issues,
- supporting evidence,
- steps already taken,

- desired outcome.

This is likely to materially improve consistency and quality of applications.

8. Clarification of ASIC's decision-making factors

Issue

While the draft outlines factors ASIC considers, further transparency would assist applicants.

Recommendation

Expand on:

- weighting of factors (e.g. seriousness, credibility, impact),
- how ASIC assesses competing considerations (e.g. cost vs benefit),
- the role of the Reviewing Liquidator Panel .

This will help applicants tailor submissions to relevant considerations.

9. Communication of outcomes

Issue

Applicants may not fully understand what feedback they will receive.

Recommendation

Clarify:

- whether ASIC will provide **reasons for refusal**, and
- the level of detail applicants can expect.

Greater transparency will improve future application quality.

10. Minor drafting suggestions

- Use clearer headings and flow to distinguish:
 - eligibility,
 - evidentiary requirements,
 - decision factors.
- Consider including a **summary flowchart** of the application process.
- Ensure consistent terminology (e.g. "concerns", "issues", "matters for review").

Conclusion

We strongly support ASIC's initiative to improve the quality of applications for the appointment of reviewing liquidators. The draft information sheet is a positive step, and with additional practical guidance—particularly around evidentiary thresholds, examples, and application structure—it will significantly enhance the usefulness of the guidance and reduce low-quality or inappropriate applications.

Our organisation, as insolvency practitioners, can also provide assistance in developing training modules for front line advisers, as well as assistance with the development of practica courses for business people, that are more based on real life practicalities rather than educational theories.

We would be pleased to discuss any of the above feedback further.

Yours sincerely,

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Association of Independent Insolvency Practitioners

On behalf of 