

Attachment to CS 49: Draft information sheet



ASIC
Australian Securities &
Investments Commission

Corporate insolvency: ASIC's power to appoint reviewing liquidators

Note: This draft information sheet is an attachment to CS 49 *Proposed guidance on ASIC's power to appoint reviewing liquidators* (CS 49).

This is draft **Information Sheet 000 (INFO 000)**.

This draft information sheet explains when we may use our power to appoint a reviewing liquidator under Subdivision C of Division 90 of Schedule 2 of the *Corporations Act 2001* (Corporations Act).

It covers:

- who can apply to ASIC to appoint a reviewing liquidator
- how to apply
- what we consider when deciding on an application
- the costs of a reviewing liquidator
- notification to the applicant
- what happens if we appoint a reviewing liquidator
- matters that the reviewing liquidator can review
- what we expect of the external administrator, and
- the report prepared by the reviewing liquidator.

Note: All section references in this draft information sheet are to Schedule 2 of the Corporations Act, unless otherwise specified.

ASIC has a discretionary power to appoint a reviewing liquidator to a company that is in external administration to carry out a review into a matter that relates to the external administration: see section 90-23.

Generally, we may appoint a reviewing liquidator when there are concerns about misconduct relating to the company, or in the administration of the company.

Who can apply to ASIC to appoint a reviewing liquidator

Where a company is in external administration, anyone with a financial interest in that external administration or an officer of the company can apply to ASIC to appoint a reviewing liquidator. This includes creditors, employees, shareholders and directors of the company: see section 5-30.

How to apply

Step 1: Ensure you are eligible

Ensure you are eligible to apply to ASIC to appoint a reviewing liquidator. That means you either have a financial interest in or are an officer of the company in external administration.

Step 2: Prepare your application to ASIC

Compile the relevant supporting documentation that demonstrates to ASIC why we should appoint a reviewing liquidator to the company.

Supporting documents may include documents which evidence or describe the:

- seriousness of the alleged misconduct and when it happened
- economic loss that the misconduct caused
- current stage of the external administration, and
- name of the current external administrator.

When we receive your application, we may call you to discuss, particularly your supporting documentation.

Step 3: Submit your application

Complete [Form 5605](#) *Application for ASIC to appoint a reviewing liquidator* (PDF 113 KB) and email it to review.liquidator@asic.gov.au together with the supporting documents and the application fee. We will send you an invoice once we receive Form 5605.

There is no statutory timeframe imposed on ASIC to make a decision on this type of application. However, we will endeavour to deal with the application as soon as we can.

What we consider when deciding on the application

In deciding whether to exercise our discretionary power to appoint a reviewing liquidator, we will consider all the relevant circumstances, including:

- the nature of the alleged misconduct

- the issues specific to the case, and
- whether there are alternative avenues available to address those concerns.

We consider these factors whether we have received an application to appoint a reviewing liquidator or whether the potential appointment is on our own initiative. See Table 1 for the factors that we generally consider.

Table 1: When we will appoint a reviewing liquidator

Factor	Description of factor
Nature of alleged misconduct	<p>We assess the seriousness of the matter and the consequences of the alleged misconduct.</p> <p>Applications relating to serious misconduct such as illegal phoenix activity generally have a higher likelihood of having a reviewing liquidator appointed than other applications.</p>
Issues specific to the case	<p>We will consider:</p> <ul style="list-style-type: none"> • details of the alleged misconduct including the time that has lapsed since the misconduct occurred, how frequently it occurred and its impact (if any) on consumers, stakeholders and the financial system, and • the stage of the external administration. ASIC is less likely to appoint a reviewing liquidator where the external administrator has lodged documents to finalise the external administration of the company.
Alternatives available	<p>Generally, we are unlikely to appoint a reviewing liquidator where other avenues may be more appropriate to address the applicant's or ASIC's concerns. These alternatives may include:</p> <ul style="list-style-type: none"> • providing funding under the Assetless Administration Fund (AAF) to the appointed liquidator to conduct further investigations and report the findings to ASIC under section 533 of the Corporations Act • considering the matter raised as a report of misconduct to ASIC (which may lead ASIC to commencing a surveillance or investigation into one or more people involved with the external administration of the company) • referring the matter to a government department(s) or another agency, and • the appointment of a reviewing liquidator by creditors (or members, in the case of a members' voluntary winding up) to review the remuneration, costs or expenses of the external administrator (see section 90-24)

Factor	Description of factor
Other factors	We will consider all other relevant circumstances, including the steps the applicant has taken (if any) to resolve the issues they want reviewed, and the outcome of those steps.

When ASIC is less likely to appoint a reviewing liquidator

Generally, we will not exercise our discretionary power to appoint a reviewing liquidator where:

- the company has a provisional liquidator appointed or is in members' voluntary winding up
- the company is or will soon become deregistered as a result of the liquidator lodging an end of administration return with ASIC (see section 70-6)
- the company was previously under external administration, and is currently in external administration (e.g. liquidation) and the reviewing liquidator, if appointed, would be reviewing matters in relation to the previous external administration

Note: While a reviewing liquidator is able to review the conduct of the former external administrator, you should notify the current external administrator (e.g. liquidator) about concerns in relation to the former external administrator before making an application to ASIC.

- the reasons for the request to have a reviewing liquidator appointed have been addressed by a court
- the application relates only to a review of the remuneration, costs or expenses of the external administrator, unless:
 - the remuneration relates to a remuneration determination made in the six months before the reviewing liquidator was appointed, or
 - the costs or expenses were incurred during the 12 months before the appointment of the reviewing liquidator (see section 90-26(4) and section 90-7(2) of the *Insolvency Practice Rules (Corporations) 2016* (Insolvency Practice Rules)).

In other cases, it may be more appropriate for the creditors to appoint a reviewing liquidator under section 90-24.

When ASIC cannot appoint a reviewing liquidator

We will not appoint a reviewing liquidator where:

- the company has made a restructuring plan or is under restructuring
- the company only has a receiver, receiver and manager, or controller appointed, and
- the application is to appoint a reviewing liquidator to an association that is not registered under Part 5B of the Corporations Act.

Costs of a reviewing liquidator

The application fee to have a reviewing liquidator appointed is listed in Schedule 1 (Item 107) of our [Schedules of corporations fees](#). At the date of publication of this draft information sheet, the fee is \$156. Payment of the application fee does not depend on whether we decide to appoint a reviewing liquidator. It must be paid for all applications.

We will specify how the reviewing liquidator's costs will be determined: see section 90-23(5).

If we appoint a reviewing liquidator as a result of an application from someone with a financial interest in the external administration or an officer of the company, we may pay the liquidator's remuneration using funds from the AAF.

If we appoint a reviewing liquidator on our own initiative, we will fund the review from the AAF.

The AAF is administered by ASIC and was established by the Australian Government to fund a range of preliminary investigations and reporting for external administrations with no assets.

We will consider how best to prioritise and administer the AAF across the various activities it is intended to support.

Funding from the AAF will not be available where the appointment of a reviewing liquidator is by creditors or members. In those circumstances, the creditors or members, as the case may be, will be required to pay the costs of the reviewing liquidator.

Notification to the applicant

If we decide to appoint a reviewing liquidator on the application of a person under section 90-23, we will notify the applicant of that appointment.

If we decline the application, the applicant may have rights connected with the decision: see Information Sheet 9 *ASIC decisions: Your rights* ([INFO 9](#)).

What happens if we appoint a reviewing liquidator

If we decide to appoint a reviewing liquidator, the liquidator will be appointed from ASIC's [Reviewing Liquidator Panel](#).

We will contact the selected registered liquidator seeking written consent to the appointment. Before giving consent, the registered liquidator must make a written declaration as to whether they have any conflicts of interest in accepting the appointment: see section 90-18(1) of the Insolvency Practice Rules. That declaration must be given to us as well as to as many of the company's creditors as possible.

After consent is obtained, we will send the reviewing liquidator a letter of appointment which will specify the:

- matter which the reviewing liquidator is appointed to review, and
- way in which the cost of carrying out the review will be determined.

We will give notice to the external administrator of the appointment of the reviewing liquidator before the review commences: see section 90-12 of the Insolvency Practice Rules.

Appointing a reviewing liquidator does not mean that the current external administrator will be removed.

Matters that the reviewing liquidator can review

We may require the reviewing liquidator to review the conduct of:

- the company's officers
- any advisers to the company or its officers, and
- the current or former external administrator.

What we expect of the external administrator

Once we have appointed a reviewing liquidator, the external administrator of the company must assist and comply with reasonable requests (including timeframes) from the reviewing liquidator: see section 90-22 of the Insolvency Practice Rules.

The external administrator should not claim remuneration for time spent in assisting and responding to the reviewing liquidator.

Report prepared by the reviewing liquidator

The reviewing liquidator will prepare a report on its review of the matters specified by ASIC in the letter of appointment: see section 90-26(5).

The reviewing liquidator and ASIC will agree on the manner and content of the report.

The reviewing liquidator must give the company's creditors notice that they have prepared the report. The report must be provided to:

- ASIC
- the external administrator
- a committee of inspection (if any), with the approval of ASIC, and
- the creditors to be tabled at the next meeting of creditors (if any).

Creditors can request a copy of the report from the external administrator: see section 70-45.

Important notice

Please note that this draft information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. We encourage you to seek your own professional advice to find out how the applicable laws apply to you, as it is your responsibility to determine your obligations.

You should also note that because this draft information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases, your particular circumstances must be taken into account when determining how the law applies to you.

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

This draft information sheet was issued in April 2026.

Glossary

Term	Meaning in this document
AAF	Assetless Administration Fund
ASIC	Australian Securities and Investments Commission
Corporations Act	<i>Corporations Act 2001 (Cth)</i> , including regulations made for the purposes of that Act
External administration	A company is taken to be under external administration where an external administrator is appointed
External administrator	A voluntary administrator, deed administrator, provisional liquidator or liquidator of a company, restructuring practitioner or a restructuring practitioner for a restructuring plan that has been made in relation to the company Note: This is a definition contained in s5-20
Registered liquidator	A person registered by ASIC under section 20-30