

Comparison between the Creditors Voluntary Liquidation & the Simplified Liquidation Process

Key Consideration	Creditors Voluntary Liquidation (CVL)	Simplified Liquidation Process (SLP)
 Eligibility	Accessible to all companies	Available if CVL commenced on or after 1 Jan 2021 and eligibility criteria met, which primarily includes, but is not limited to: • Liability test: <\$1 million • No prior Small Business Restructurings or SLPs by company or any directors (7yr threshold) • All tax lodgements up to date
 Who can appoint?	a. Members can resolve to wind up and appoint a liquidator b. Creditors can resolve to wind up at the conclusion of Voluntary Administration or if Deed of Company Arrangement fails c. ASIC	The liquidator may adopt SLP within the first 20 business days only after CVL commences a. Creditors & members must be given 10 business days notice of intention to adopt b. As long as no more than 25% of creditors by \$ value objected to the adoption
 Control of Company	Liquidator assumes control and is an “officer” of the company	Liquidator continues control and is an “officer” of the company Creditors lose power to replace the appointee No reviewing of liquidators unless review enforced by the Court
 Meetings of creditors	No requirement to have a meeting of creditors, but if a certain number/dollar value of creditors require it, the liquidator can be compelled to convene one Liquidator has discretion to convene a meeting at any time Committee of Inspection may be formed	No meetings permitted (therefore, creditors power to request a meeting now redundant) No Committee of Inspection permitted
 Scope of debts covered	All unsecured debts, including priority employee entitlements Secured creditors only affected to the extent there is a shortfall in their security	All unsecured debts, including priority employee entitlements Secured creditors only affected to the extent there is a shortfall in their security
 Extent of costs involved	Dependent on company and complexity, but generally higher due to non-streamlined process Typically calculated on a time cost basis which is subject to approval	Dependent on company and complexity, but generally lower due to streamlined process
 Timeline	Dependent on company and complexity Complex litigation, for example pursuing recoveries for the benefit of creditors most likely contributor to delays	Dependent on company and complexity SLP may be required to cease in specified circumstances, in which case the winding up reverts back to a normal CVL (however this may not impact the timeline)
 Investigating & Reporting	Obligation to investigate the affairs of the company – this may reveal legal recovery actions which benefit creditors (e.g. insolvent trading) Misconduct (if found) must be reported to ASIC (s533 of the Corporations Act) Only one statutory report to creditors required, but discretion to report further should circumstances warrant it ASIC lodgements of documents and forms	Same as CVL except: • Misconduct report (s533) not required unless serious, material misconduct, therefore reduced investigation obligations • Simplified statutory report to creditors ASIC lodgements of documents and forms
 Enforcement of Claw back	Full range of recoveries include unfair preferences, unreasonable director – related transactions, creditor defeating transactions and insolvent trading	Full range of recoveries are still available. However, the definition of unfair preferences has been narrowed to a 3-month relation back date (instead of 6 months) and total value of targeted transactions must be ≤\$30 000 (no limit in a normal CVL)

Key Contacts

Sal Algeri

National Leader - Turnaround and Restructuring

Tel: +61 3 9671 7362

Email: saalgeri@deloitte.com.au

Melbourne

Rob Woods

Partner

Tel: +61 3 9671 6432

Email: robwoods@deloitte.com.au

Tim Norman

Partner

Tel: +61 3 9671 8334

Email: tnorman@deloitte.com.au

Luci Palaghia

Partner

Tel: +61 3 9671 8377

Email: lpalaghia@deloitte.com.au

Sydney

Jason Tracy

Partner

Tel: +61 2 9322 3858

Email: jtracy@deloitte.com.au

Sam Marsden

Partner

Tel: +61 2 9322 7502

Email: smarsden@deloitte.com.au

Western Sydney

David Mansfield

Partner

Tel: +61 2 9840 6630

Email: dmansfield@deloitte.com.au

Brisbane

Richard Hughes

Partner

Tel: +61 7 3308 7279

Email: richughes@deloitte.com.au

David Orr

Partner

Tel: +61 7 3308 7399

Email: dorr@deloitte.com.au

Perth

Matthew Donnelly

Partner

Tel: +61 8 9365 7150

Email: mdonnelly@deloitte.com.au

Launceston

Travis Anderson

Partner

Tel: +61 3 6337 7051

Email: travisanderson@deloitte.com.au

Disclaimer

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms or their related entities (collectively, the "Deloitte organisation") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited ("DTTL"), its global network of member firms, and their related entities (collectively, the "Deloitte organisation"). DTTL (also referred to as "Deloitte Global") and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte is a leading global provider of audit and assurance, consulting, financial advisory, risk advisory, tax and related services. Our global network of member firms and related entities in more than 150 countries and territories (collectively, the "Deloitte organisation" serves four out of five Fortune Global 500® companies. Learn how Deloitte's approximately 312,000 people make an impact that matters at www.deloitte.com.

Deloitte Asia Pacific

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

Deloitte Australia

The Australian partnership of Deloitte Touche Tohmatsu is a member of Deloitte Asia Pacific Limited and the Deloitte organisation. As one of Australia's leading professional services firms, Deloitte Touche Tohmatsu and its affiliates provide audit, tax, consulting, risk advisory, and financial advisory services through approximately 8000 people across the country. Focused on the creation of value and growth and known as an employer of choice for innovative human resources programs, we are dedicated to helping our clients and our people excel. For more information, please visit our web site at <https://www2.deloitte.com/au/en.html>.

Liability limited by a scheme approved under Professional Standards Legislation.

Member of Deloitte Asia Pacific Limited and the Deloitte organisation.

©2022 Deloitte Financial Advisory. Deloitte Touche Tohmatsu

Created by CoRe Creative Services. RITM0942126