Comparison between Voluntary Administration & Receivership Appointments

Key Consideration	Voluntary Administration	Receivership (excludes court appointed receiverships)
Eligibility	Accessible to all companies	Accessible to any company which is subject to a security interest registered on the Personal Properties and Securities Register (PPSR)
Who can appoint?	a. Directors pass a resolution that the company is insolvent or likely to become insolvent b. Secured creditor may appoint c. A liquidator or provisional liquidator may appoint	a. Enforcement by the secured creditor, but only if the security interest gives the secured creditor the power to appoint a receiver
Role of appointee	The administrator is to act in the interests of all creditors of the company. An investigation must be undertaking and findings reported to all creditors of the company	The role of the receiver is to realise the secured asset(s) for the benefit of the appointing secured creditor only
Control of Company	Administrator takes full control of the company (trade-on typical but not guaranteed). Directors lose their powers and are prevented from dealing with the company's assets and affairs without the administrators consent	If the secured creditor has security over all or substantially all of the company's assets, the receiver will take control. But the secured creditor may limit the appointment to a specific asset only (e.g. real estate). If a Receiver is appointed over all assets and an administrator or liquidator is also appointed, the receiver assumes control
Timeline	25 business days + additional 5 business days if the appointment is in December or proximity to Good Friday Creditors may extend timeframe by a further 45 business days Court may extend timeframe at its discretion if satisfied it is in the interests of creditors	There is no specified timeframe for completion of a receivership. The receivership will usually end when the appointer is paid in full or there are no more secured assets left to realise (whichever happens first)
Meetings of creditors	2 mandatory meetings: • The 1st (initial) meeting must be held within 8 business days • The 2nd (decision) meeting at the conclusion	A receiver is not required to hold any meetings of creditors and cannot be compelled to do so. The receiver's duty is primarily to the secured creditor and will likely only meet with that creditor to the exclusion of all others
Scope of debts covered	All debts incurred prior to the administrator's appointment. Secured creditors may pursue their own rights separately, or consent to be bound by the administration process. If a secured creditor realises their security but a shortfall is outstanding, that shortfall ranks as unsecured alongside all others	The receiver's primary concern is repayment of the appointing secured creditor's debt. The law compels a receiver to pay employee entitlements in priority out of certain classes of assets (if any). Any surplus will be returned to the company
Extent of costs involved	Dependent on complexity, but generally higher due to administrators assuming control. Typically calculated on a time cost basis. Fees must be approved by creditors.	Dependent on the scope, complexity and whether receiver assumes full control. Typically calculated on a time cost basis. Subject to approval by the secured creditor.
Reporting to creditors	Administrator is required to investigate the company's business, property, affairs and financial circumstances. Then report findings to creditors and make a recommendation regarding the future options for the company, but the creditors will decide.	A receiver is not required to prepare any reports to creditors however, the receiver will likely prepare regular progress reports for the secured creditor only.
What happens after the appointment?	Creditors decide, by majority resolution, the company's future. Three choices only: • Deed of Company Arrangement (DOCA) – if one is proposed • Liquidation • End VA and return company to the directors (this is rare).	If receiver had control of the company, it is given back. If the company is in administration or liquidation at that time, that means the administrator or liquidator will assume control. Otherwise, the directors resume control, however if the company is largely devoid of assets at this stage, they may be motivated to appoint an administrator or liquidator.

March 2022

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