










## 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: <ul style="list-style-type: none"> <li>• Liability test: &lt;\$1 million</li> <li>• No prior Small Business Restructurings or SLPs by company or any directors (7yr threshold)</li> <li>• All tax lodgements up to date</li> </ul> |
|  Who can appoint?            | <ol style="list-style-type: none"> <li>Members can resolve to wind up and appoint a liquidator</li> <li>Creditors can resolve to wind up at the conclusion of Voluntary Administration or if Deed of Company Arrangement fails</li> <li>ASIC</li> </ol>   | The liquidator may adopt SLP within the first 20 business days only after CVL commences <ol style="list-style-type: none"> <li>Creditors &amp; members must be given 10 business days notice of intention to adopt</li> <li>As long as no more than 25% of creditors by \$ value objected to the adoption</li> </ol>  |
|  Control of Company          | Liquidator assumes control and is an “officer” of the company   | Liquidator continues control and is an “officer” of the company<br>Creditors lose power to replace the appointee<br>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<br>Liquidator has discretion to convene a meeting at any time<br>Committee of Inspection may be formed  | No meetings permitted (therefore, creditors power to request a meeting now redundant)<br>No Committee of Inspection permitted   |
|  Scope of debts covered      | All unsecured debts, including priority employee entitlements<br>Secured creditors only affected to the extent there is a shortfall in their security   | All unsecured debts, including priority employee entitlements<br>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<br>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<br>Complex litigation, for example pursuing recoveries for the benefit of creditors most likely contributor to delays   | Dependent on company and complexity<br>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)<br>Misconduct (if found) must be reported to ASIC (s533 of the Corporations Act)<br>Only one statutory report to creditors required, but discretion to report further should circumstances warrant it<br>ASIC lodgements of documents and forms | Same as CVL except: <ul style="list-style-type: none"> <li>• Misconduct report (s533) not required unless serious, material misconduct, therefore reduced investigation obligations</li> <li>• Simplified statutory report to creditors</li> </ul> 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)   |

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