



**BDM Asia Pacific Pty Ltd (In Liquidation)**  
**ACN 127 643 529**  
**(BDM)**

**Initial Information for Creditors**

Anthony Connelly and I were appointed Liquidators of BDM on 30 March 2021 by Australian Securities and Investments Commission (**ASIC**) under section 489EA of the *Corporations Act (2001)* (**Act**).

We have been appointed to represent the interests of all creditors. We are responsible for locating BDM's assets, investigating its affairs, reporting to the ASIC and, if funds become available, paying money owed to creditors.

According to BDM's records, you may be a creditor of BDM.

The purpose of this document is to provide you with information about the liquidation and your rights as a creditor.

**Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)**

We enclose our DIRRI. Our independent status and who appointed us is outlined in our DIRRI.

**What do you need to know?**

Question	Answer
<b>What is a creditors' voluntary liquidation?</b>	A creditors' voluntary liquidation ( <b>CVL</b> ), is a liquidation initiated by a company or ASIC where it cannot pay all of its creditors in full, or if ASIC has reason to believe that the winding up is in the public interest.
<b>What are your rights as a creditor?</b>	<p>We enclose a copy of the information sheet "Creditor Rights in Liquidations" issued by the Australian Restructuring Insolvency &amp; Turnaround Association (<b>ARITA</b>). It includes information on your rights to:</p> <ul style="list-style-type: none"><li>▪ make reasonable requests for a meeting;</li><li>▪ make reasonable requests for information;</li><li>▪ give directions to the Liquidators;</li><li>▪ appoint a reviewing liquidator; and</li><li>▪ replace us as Liquidators.</li></ul> <p>In addition, creditors have the right to request a meeting in the first 20 business days of a creditors' voluntary liquidation. If we receive a request for a meeting in writing from at least 5% of known creditors, unrelated to BDM, we are required to hold a meeting, as long as the request is reasonable. Details of the considerations that are relevant to determine whether a request is reasonable are set out in the information sheet "Creditor Rights in Liquidations".</p>
<b>What happens to your debt?</b>	<p>All creditors of BDM are now creditors in the liquidation and will now be dealt with in the liquidation.</p> <p>The amount of money you receive depends on the amount we recover, including from locating, securing and selling BDM's assets. After paying our fees, creditors share in any remaining money proportionally. If funds are available, the amount paid is called a dividend.</p> <p>A dividend can vary between creditors because the law entitles different types of creditors to be paid before other types of creditors. In addition, a dividend will only be paid where there are sufficient recoveries in the liquidation, which will not always be the case.</p> <p>If you have leased property to BDM, have a retention of title claim or have a registered personal property securities interest in relation to BDM, please contact Mahin Chaudhary on (07) 3333 9832 as soon as possible.</p>



Question	Answer
<p><b>Do you have to do anything?</b></p>	<p>You should read this information. You can choose to participate in the liquidation process, but you don't have to.</p> <p>If we need you to take action, we will write and ask you. For example, we may ask you to provide proof of your debt before we can pay you a dividend.</p> <p>If you do not think you are a creditor, please let us know.</p>
<p><b>What has happened in the liquidation so far?</b></p>	<p>To date, the Liquidators have:</p> <ul style="list-style-type: none"> <li>▪ lodged appropriate documentation with ASIC to confirm our appointment;</li> <li>▪ submitted a claim to ASIC Unclaimed Monies to obtain funds currently held by ASIC;</li> <li>▪ contacted a range of banks to identify and freeze accounts maintained by BDM;</li> <li>▪ notified statutory authorities of our appointment;</li> <li>▪ conducted searches to identify any securities registrations in relation to BDM;</li> <li>▪ issued correspondence to the former directors regarding the affairs and conduct of BDM prior to the liquidation; and</li> <li>▪ commenced initial investigations regarding BDM.</li> </ul>
<p><b>What is the cost of the liquidation?</b></p>	<p>We get paid out of BDM's money, including realisations from assets or from money paid to us by others, such as BDM's directors. If there is not enough money in the liquidation, we do not get paid in full.</p> <p>Pursuant to Section 60-17 of the <i>Insolvency Practice Schedule (Corporations) (IPS)</i> ASIC may determine the remuneration that I am entitled to receive.</p> <p>We enclose our Initial Remuneration Notice, which provides you with information about how we propose to be paid for undertaking the liquidation.</p> <p>We may write and ask that you approve our remuneration for the work that we do in completing the liquidation. If we do, we will provide you with detailed information about what tasks we have undertaken and the costs of those tasks.</p>
<p><b>What further communication will you receive?</b></p>	<p>We will write to you within three months of our appointment advising whether a dividend is likely and update you on the progress of our investigations.</p> <p>We may also send you updates on the progress of the liquidation, or proposals to approve certain matters in the liquidation, at any time.</p> <p>If we consider it to be in the interests of creditors, we will hold a meeting to communicate with creditors. Further, if we receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet, we will also hold a meeting of creditors.</p>
<p><b>What happens next?</b></p>	<p>We will proceed with the liquidation, which will include:</p> <ul style="list-style-type: none"> <li>▪ recovering and realising any available assets and property;</li> <li>▪ investigating BDM's affairs;</li> <li>▪ reporting to the corporate regulator, ASIC; and</li> <li>▪ distributing any available funds to creditors in accordance with their priority.</li> </ul>



Question	Answer
<b>Where can you get more information?</b>	ARITA provides information to assist creditors to understand liquidations and insolvency. This information is available from ARITA's website at <a href="http://www.arita.com.au/creditors">www.arita.com.au/creditors</a> .  A copy of the information sheet, "Insolvency information for directors, employees, creditors and shareholders", issued by ASIC is also enclosed for your information.

If you have any queries, please contact Mahin Chaudhary on (07) 3333 9832. For further information about this engagement, please refer to the website <https://www.mcgrathnicol.com/creditors/bdm-asia-pacific-pty-ltd/>.

Dated: 15 April 2021

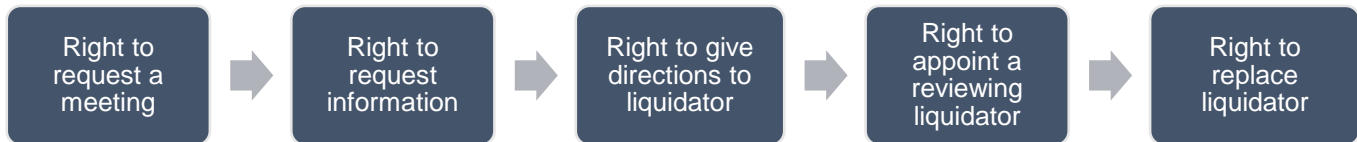
Jamie Harris  
*Liquidator*

Enclosures:

- 1 ARITA Information Sheet - Creditor Rights in Liquidations
- 2 Declaration of Independence, Relevant Relationships and Indemnities
- 3 Initial Remuneration Notice
- 4 ASIC Information Sheet - Insolvency information for directors, employees, creditors and shareholders
- 5 Form 535 – Formal Proof of Debt
- 6 Proof of Debt Guidance Notes

# Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



## Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

## Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

## Requests must be reasonable.

### They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

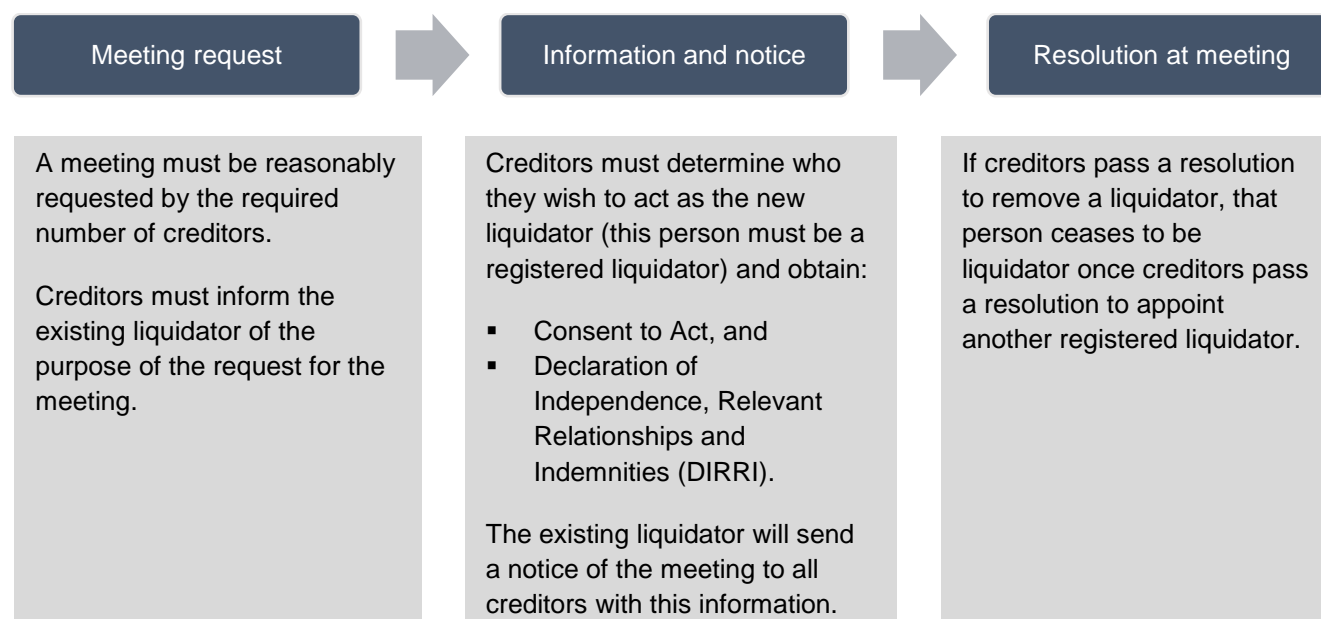
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors)**



## **Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)**

### **BDM Asia Pacific Pty Ltd (In Liquidation)**

**ACN 127 643 529**

**(BDM)**

The purpose of this document is to assist creditors with understanding any relevant relationships that we have with parties who are closely connected to BDM and any indemnities or upfront payments that have been provided to us. None of the relationships disclosed in this document are such that our independence is affected.

This information is provided so you have trust and confidence in our independence and, if not, you can ask for further explanation or information and can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, our partners, the firm McGrathNicol, which for the purpose of this declaration includes the McGrathNicol Partnership, the McGrathNicol Advisory Partnership and McGrathNicol Services Pty Ltd.

We are Professional Members of the Australian Restructuring Insolvency Turnaround Association (**ARITA**). We acknowledge that we are bound by the ARITA Code of Professional Practice.

### **A. Independence**

We, William James Harris and Anthony Norman Connelly, have assessed our independence and we are not aware of any reasons that would prevent us from accepting this appointment.

There are no other known relevant relationships, including personal, business and professional relationships that should be disclosed beyond those we have disclosed in this document.

### **B. Circumstances of Appointment**

This appointment was referred to us by the Australian Securities and Investments Commission (**ASIC**).

ASIC does not guarantee or make any assurance of any particular volume of appointments that ASIC will make under Part 5.4C of the *Corporations Act 2001 Cth* (**the Act**). ASIC will approach us for a Consent to Act as and when the need arises.

On 26 April 2018, we received correspondence from ASIC in relation to completing a conflict check and consent to act as Liquidators of BDM, CFS Private Wealth Pty Ltd (**CFS**), and Combined Financial Services Pty Ltd (**Combined**). CFS and Combined are entities associated with BDM. On 27 April 2018, we provided ASIC with the requested consents to act. On 19 January 2019, we were appointed as Liquidators of CFS and Combined.

On 9 December 2020, ASIC requested we provide an updated consent to act for BDM. Having undertaken an updated conflict check on 9 December 2020, we provided ASIC with a consent to act with respect to BDM on 14 December 2020 and confirmed we were free from conflict.

On 29 March 2021, ASIC requested we provide a further updated consent to act for BDM, which we provided on 29 March 2021 and confirmed we were free from conflict.

Further correspondence was received from ASIC on 30 March 2021 advising us of our appointment as Liquidator of BDM, pursuant to section 489EA of the Act.

From time to time ASIC, as regulator, refers formal insolvency appointments to McGrathNicol.



We believe this referral does not result in a conflict of interest or duty because:

- the provision of a consent to act does not result in any duty owed to ASIC that would conflict with our interests or duties under the Act;
- the referral was made on an unconditional basis;
- the correspondence with ASIC did not involve any advice to any party or the rendering of a fee account.

There is no expectation, agreement or understanding between us and ASIC regarding the conduct of the Administration beyond the standard statutory obligations and we are free to act independently and in accordance with the law and applicable professional standards.

No prior professional services have been provided by McGrathNicol to ASIC in relation to BDM beyond the limited scope discussions regarding the consent to act as described in this DIRRI, for which no remuneration has been sought.

We have provided no other information or advice to BDM, Graeme Walter Miller, or Ian Dale (former directors of BDM) prior to our appointment.

**C. Declaration of Relationships**

Within the previous two years, have we, or our firm, had a relationship with:	
BDM?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The directors?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No We note there are no current directors of BDM.
Any associates of BDM?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  As specified on page one of this DIRRI, we have been appointed as Liquidators of two companies which previously had a common director and engaged in a common enterprise.  We are of the view that the appointment to the group of companies will have significant benefits to the conduct of the Liquidations, including cost-savings and enabling an as accurate as possible view to be obtained of the activities and financial position of the companies as a whole. We are aware that there are inter-company transactions within the group, but at this time are not aware of any potential conflicts of interest arising from the appointments over the various group members. However, to the extent it becomes apparent that pre-appointment dealings between companies in the group may give rise to a conflict which may impact the outcome for creditors of a particular company, then we undertake to disclose any such conflicts to the creditors and, as appropriate, seek Court directions regarding how to resolve the potential conflict.
A former insolvency practitioner appointed to BDM?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No



Within the previous two years, have we, or our firm, had a relationship with:	
A secured creditor entitled to enforce a security over the whole or substantially the whole of BDM's property?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<b>Do we have any other relationships that we consider are relevant to creditors assessing our independence?</b>
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**D. Indemnities and up-front payments**

We have not received any up-front payments or indemnities for this appointment. This does not include any indemnities we may be entitled to under the law.

Dated: 15 April 2021

William James Harris

Anthony Norman Connelly

Note:

1. The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.
2. If the circumstances change or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication, as well as table a copy of any replacement Declaration at the next meeting of the insolvent's creditors. For Creditors' Voluntary Liquidations and Voluntary Administrations, this document and any updated versions of this document are required to be lodged with ASIC.
3. Please note that the presentation of the above information is in accordance with the standard format suggested by ARITA.





## Initial Remuneration Notice

**BDM Asia Pacific Pty Ltd (In Liquidation)**  
**ACN 127 643 529**  
**(BDM)**

The purpose of the Initial Remuneration Notice is to provide you with information about how we propose our remuneration for undertaking the liquidation will be set.

### 1 Remuneration methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner in a Creditors' Voluntary Liquidation. They are:

- A. Time based/hourly rates:** This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work, multiplied by the number of hours spent by each person on each of the tasks performed.
- B. Fixed Fee:** The total fee charged is normally quoted at the commencement of the external administration and is the total cost for the external administration.
- C. Percentage:** The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of asset realisations.
- D. Contingency:** The Liquidators' fee is structured to be contingent on a particular outcome being achieved.

### 2 Method chosen

Given the nature of this external administration, we propose that our remuneration be calculated on a time basis which will be recorded and charged in six minute increments. Details of the hourly rates for different levels of staff are included below. The complexity and demands of the external administration will determine the staff to be utilised for this appointment

We have chosen the time based method because:

- This method is considered to be most suitable for this appointment as it ensures creditors are only charged for work that is performed in the external administration, which can be difficult to accurately estimate at the date of appointment.
- Even later than the date of appointment, it can be difficult to estimate the time that may be required in advance of the substantive work being undertaken. The time based method in this case again ensures that creditors are only charged for work that is actually performed in the external administration.
- We are required to perform a number of tasks which do not relate to the realisation of assets, for example responding to creditor enquiries, reporting to ASIC and distributing funds in accordance with the provisions of the *Corporations Act*.
- We have a time recording system that can produce a detailed analysis of time spent on each type of task by each individual staff member utilised in the external administration.
- Time based remuneration calculates fees upon a basis of time spent at the level appropriate to the work performed.



### 3 Explanation of Hourly Rates

The rates for our remuneration calculation are set out in the following table, together with a general guide showing the qualifications and experience of staff engaged in the external administration and the role they take in the external administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

Title	Description	Hourly rate (excl GST)
Appointee/Partner	Registered liquidator, Chartered Accountant or equivalent and generally degree qualified with more than twelve years of experience. Leads assignments with full accountability for strategy and execution.	\$610
Director 1	Generally Chartered Accountant or comparable qualification and degree qualified with more than ten years of experience, including four years of Director or equivalent experience. Autonomously leads complex insolvency appointments reporting to Appointee/Partner.	\$560
Director	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than nine years of experience. Autonomously leads insolvency appointments reporting to Appointee/Partner.	\$520
Senior Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than seven years of experience. Self-sufficiently conducts small to medium insolvency appointments and leads major workstreams in larger matters.	\$480
Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than five years of experience. Self-sufficiently conducts small insolvency appointments and takes a supervisory role on workstreams in larger matters.	\$450
Assistant Manager	Generally Chartered Accountant or comparable relevant qualification and degree qualified with more than three years of experience. Autonomously manages workstream activity within appointments.	\$410
Senior Accountant	Generally degree qualified and undertaking Chartered Accountant's qualification or comparable relevant qualification with more than 16 months of experience. Completes tasks within workstreams and appointments under supervision.	\$370
Accountant	Generally degree qualified and undertaking or about to undertake Chartered Accountant's qualification or comparable relevant qualification with less than one year of experience. Assists with tasks within workstreams and appointments under supervision.	\$290



Title	Description	Hourly rate (excl GST)
Undergraduate/Cadet	Undertaking relevant degree. Assists with tasks within workstreams and appointments under supervision.	\$180
Administration	Appropriately experienced and undertakes support activities such as meeting coordination and preparation of materials where it is efficient and appropriate to do so.	\$160

McGrathNicol reviews its hourly rates on either 31 December or 30 June. Creditors will be advised of any change to the hourly rates for this external administration. Estimated remuneration

We estimate that this external administration will cost approximately \$20,000 (GST exclusive) to \$40,000 (GST exclusive) to complete, subject to the following variables which may have a significant effect on this estimate and that we are unable to determine at this early stage:

- the time that may be required to obtain books, records, funds and assets (if any) from the parties that hold them;
- the number and value of claims that may be received in the external administration and work that may be required to adjudicate on those claims for voting and/or dividend purposes;
- work that may be required to distribute funds to creditors;
- investigations that may be required to ascertain the existence and location of any other assets, including potential legal actions that may be available to the external administrator;
- where viable legal claims are identified, the timeframe to resolution becomes very significantly impacted by the conduct of the defendant and their willingness to resolve the claim by a negotiated settlement, as well as Court timeframes, both of which are difficult to predict; and
- any identified matters that are required to be reported to statutory authorities such as ASIC; and
- a potential application to pool BDM with associated entities to which the liquidators are already appointed for the benefit of creditors.

#### 4 Disbursements

Disbursements are divided into two types:

- **External disbursements** – these are recovered at cost. Examples are travel, accommodation, postage, advertising, couriers and search fees.
- **Internal disbursements** – these disbursements are charged at a rate which recoups both fixed and variable costs and may include an element of profit or advantage to the External Administrator or a related party of the External Administrator. Examples are printing and data storage. The recovery of these costs must be on a reasonable commercial basis. Details of the basis of recovery of each of these costs is discussed below.

We are not required to seek creditor approval for disbursements paid to third parties where I am recovering at cost what was incurred on behalf of the administration, but must account to creditors. We must be satisfied that these disbursements are appropriate, justified and reasonable.

We are required to obtain creditor's consent for the payment of a disbursement where we, or a related entity of ours, may directly or indirectly obtain a profit. In these circumstances, creditors will be asked to approve our disbursements prior to these disbursements being paid from the external administration.

Details of the basis of recovering disbursements in this external administration are provided below.



For clarity, it is noted that any time costs of any employee of McGrathNicol or any associated entity will be reported as part of our remuneration, for which approval may be sought.

***Basis of disbursement claim***

<b><i>Disbursement type</i></b>	<b><i>Rate (GST exclusive)</i></b>
<b>External disbursements</b>	
Postage	At cost
Stationery and other incidental disbursements	At cost
Conference call phone charges	At cost
Searches	At cost
Advertising	At cost
Courier	At cost
Staff per diem travel allowance*	\$89.00 per day**
Staff vehicle use	\$0.72 per km**
ASIC user pays levy	At cost
<b>Internal disbursements (that may have an element of profit or advantage)</b>	
Data processing – data loading & processing fee	\$20-\$60 per gigabyte (GB)***, minimum \$3,000 for matters less than 50GB.
Data hosting – monthly hosting fee	\$10 per GB, per month. Minimum \$1,000 for small matters. Large matters are priced on application.
Printing – black and white	\$0.09 per page
Printing – Colour	\$0.28 per page

\* Tiered pricing model depending on volume of data to be hosted

\*\* Payable when partners or staff are required for business purposes to stay away from their usual place of residence overnight

\*\*\* These rates are deemed reasonable by the Australian Taxation Office

***Further explanation of data hosting disbursements***

In the conduct of this external administration, we may use McGrathNicol's Forensic Technology team to extract, aggregate, electronically process and/or host electronic data, which could be used for the:

- trade or sale of the business or assets; and/or
- investigations regarding transactions or potential recoveries available to creditors.

If data hosting is required and we choose not to use the services of McGrathNicol's Forensic Technology team, we will otherwise have to purchase those services from an alternative provider and/or use another method to achieve the same end, which will not be as efficient as using these available internal services.



We note that the data hosting rates above are no more than our standard commercial pricing available for the same services when they are provided to external parties.

Dated: 15 April 2021

A handwritten signature in black ink, appearing to read 'Jamie Harris', with a long horizontal stroke extending to the right.

Jamie Harris  
*Liquidator*



**ASIC**

Australian Securities & Investments Commission

## Insolvency information for directors, employees, creditors and shareholders

This information sheet (INFO 39) lists ASIC's information sheets for directors, employees, creditors and shareholders affected by a company's insolvency.

We have produced these with endorsement from the Australian Restructuring Insolvency & Turnaround Association (ARITA).

The information sheets give a basic understanding of the three most common company insolvency procedures – liquidation, voluntary administration and receivership – as well as the independence requirements for external administrators and approving external administrator remuneration. There is also a glossary of commonly used insolvency terms.

### List of information sheets

- [INFO 41](#) Insolvency: A glossary of terms
- [INFO 42](#) Insolvency: A guide for directors
- [INFO 43](#) Insolvency: A guide for shareholders
- [INFO 45](#) Liquidation: A guide for creditors
- [INFO 46](#) Liquidation: A guide for employees
- [INFO 54](#) Receivership: A guide for creditors
- [INFO 55](#) Receivership: A guide for employees
- [INFO 74](#) Voluntary administration: A guide for creditors
- [INFO 75](#) Voluntary administration: A guide for employees
- [INFO 84](#) Independence of external administrators: A guide for creditors
- [INFO 85](#) Approving fees: A guide for creditors

### Where can I get more information?

Further information is available from the [ARITA website](#). The ARITA website also contains the [ARITA Code of Professional Practice for Insolvency Practitioners](#).

This is **Information Sheet 39 (INFO 39)** updated on 1 September 2017. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

**FORM 535**  
FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

ACN  
"the Company"

To the Liquidator/Administrator of the Company

1. This is to state that the Company was on \_\_\_\_\_, and still is, justly and truly indebted to:  
\_\_\_\_\_ (name of creditor)  
of \_\_\_\_\_ (address of creditor)  
for \$ \_\_\_\_\_ and \_\_\_\_\_ cents (GST inclusive) GST amount \_\_\_\_\_

Date	Consideration (state how the Debt arose)	Amount \$ c	Remarks (include details of voucher substantiating payment)

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).*

Date	Drawer	Acceptor	Amount \$c	Due Date

3. Select which of the below applies (choose one):

- The creditor is a company and I am signing as a director of the company
- The creditor is a company and I am signing as an authorised representative/duly constituted attorney of the company
- I am an individual and I am signing in my personal capacity (which includes employees)
- The creditor is a sole trader and I am signing as the proprietor
- The creditor is a partnership and I am signing as a partner of the partnership
- I am signing in my personal capacity as a member or contributory of the Company
- Other: \_\_\_\_\_

4. If you are a related party, state your relationship \_\_\_\_\_

I nominate to receive electronic notifications of documents in accordance with Section 600G of the Corporations Act at the following email address

Email: \_\_\_\_\_

5. Is this debt claimed on the basis of an assignment? Yes  No

If so, what consideration was paid for the debt? \_\_\_\_\_

This debt was incurred for the consideration stated and the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature ..... Dated .....

Name: \_\_\_\_\_

Address: \_\_\_\_\_





## **Proof of Debt Guidance Notes**

(Please read carefully before filling in Form 535 or Form 536)

It is a creditor's responsibility to prove their claim to our satisfaction.

When lodging claims, creditors must ensure:

- the proof of debt form is properly completed in every particular; and
- evidence, as set out under "Information to support your claim", is attached to the Form 535 or Form 536.

### **Directions for completion of a Proof of Debt**

- 1 Insert the full name and address of the creditor.
- 2 Under "Consideration" state how the debt arose, for example "goods sold to the company on \_\_\_\_\_".
- 3 Under "Remarks" include details of any documents that substantiate the debt (refer to the section "Information to support your claim" below for further information).
- 4 Where the space provided for a particular purpose is insufficient to contain all the information required for a particular item, please attach additional information.

### **Information to support your claim**

Please note that unless you provide evidence to support the existence of the debt, your debt is not likely to be accepted. Detailed below are some examples of debts creditors may claim and a suggested list of documents that should accompany a proof of debt to substantiate the debt.

#### **Trade Creditors**

- Invoice(s) and statement(s) showing the amount of the debt; and
- Advice(s) to pay outstanding invoice(s) (optional).

#### **Guarantees/Indemnities**

- Executed guarantee/indemnity;
- Notice of Demand served on the guarantor; and
- Calculation of the amount outstanding under the guarantee.

#### **Judgment Debt**

- Copy of the judgment; and
- Documents/details to support the underlying debt as per other categories.

#### **Deficiencies on Secured Debt**

- Security Documents (eg. mortgage);
- Independent valuation of the secured portion of the debt (if not yet realised) or the basis of the creditor's estimated value of the security;
- Calculation of the deficiency on the security; and
- Details of income earned and expenses incurred by the secured creditor in respect of the secured asset since the date of appointment.

**Loans (Bank and Personal)**

- Executed loan agreement; and
- Loan statements showing payments made, interest accruing and the amount outstanding as at the date of appointment.

**Tax Debts**

- Documentation that shows the assessment of debts, whether it is an actual debt or an estimate, and separate amounts for the primary debt and any penalties.

**Employee Debts**

- Basis of calculation of the debt;
- Type of Claim (eg. wages, holiday pay, etc);
- Correspondence relating to the debt being claimed; and
- Contract of Employment (if any).

**Leases**

- Copy of the lease; and
- Statement showing amounts outstanding under the lease, differentiating between amounts outstanding at the date of the appointment and any future monies.