

APPENDIX H: General information for Attending and Voting at Meetings of Creditors



General Information for Attending and Voting at Meetings of Creditors

Time and Place of Meeting

Pursuant to *Insolvency Practice Rules (Corporations) (IPR) 75-30*, a meeting of creditors must be convened at the time and place the Chairperson believes are convenient for the majority of creditors entitled to receive notice of the meeting.

Quorum

- Pursuant to IPR 75-105, unless a quorum is present, a meeting must not act for any purpose other than:
 - the election of a chairperson; and
 - the proving of debts; and
 - the adjournment of the meeting.
- A quorum is present if two (2) or more persons are entitled to vote and at least two (2) persons are present at the meeting in person, by proxy or by power of attorney.
- A quorum is present if only one (1) person is entitled to vote and that person is present at the meeting in person, by proxy or by power of attorney.
- A person who participates in the meeting using electronic facilities is taken to be present in person at the meeting.
- A meeting is sufficiently constituted if only one (1) person is present in person, if the person represents personally or by proxy or otherwise a number of persons sufficient to constitute a quorum.

Chairperson

Pursuant to IPR 75-50, the external administrator is appointed Chairperson of the meeting. Alternatively, pursuant to IPR 75-50 and IPR 75-152 the external administrator may appoint someone else to act as chairperson of the meeting and authorise that person to use any proxies held by the external administrator on the external administrator's behalf.

For the second meeting of creditors in a Voluntary Administration, the Administrator must chair the meeting pursuant to IPR 75-50.

Voting

- Pursuant to IPR 75-85, creditors will not be eligible to vote at the meeting unless they have lodged particulars of their debt or claim prior to or at the meeting.
- Accordingly, creditors who intend to vote at the meeting should ensure that they lodge a formal proof of debt with the external administrator prior to or at the meeting.
- Pursuant to IPR 75-110, a resolution put to the meeting is to be decided on the voices or by a poll, if one is requested.
- A poll may be requested by:
 - the chairperson; or
 - a person participating and entitled to vote at the meeting.
- Pursuant to IPR 75-115, should a poll be requested:
 - a resolution is passed if a majority in number and a majority in value vote in favour of the resolution; and



- a resolution is not passed if a majority in number and a majority in value vote against the proposed resolution.

In the event of a deadlock, the chairperson may exercise a casting vote. In such situations, the minutes of the meeting must specify the chairperson's reasons for exercising, or not exercising, their casting vote.

Proxies

- Pursuant to IPR 75-150, a person entitled to vote at a meeting may, in writing, appoint an individual as their proxy to attend and vote at the meeting on their behalf.
- Accordingly, creditors who are unable to attend the meeting but who wish to be represented should ensure that a validly executed proxy form is lodged with the external administrator prior to the meeting.

Corporate Creditors

Corporate creditors who wish to attend the meeting should note that an individual may only represent them if the corporation validly grants that person a proxy or power of attorney.

Alternatively, section 250D of the *Corporations Act* provides that a corporation may, by resolution of its board, provide a standing authority for a specified person to represent the corporation at a specified meeting of creditors. A copy of any such resolution should be provided to the external administrator prior to attending the meeting.

Committee of Inspection

Pursuant to IPR 80-5, a person may only serve as a member of a Committee of Inspection if the person is:

- a creditor of the company personally; or
- the attorney of a creditor under a general power of attorney; or
- authorised in writing by a creditor; or
- a representative of the Commonwealth if a FEG claim has been, or the Commonwealth considers a claim is likely to be, made in relation to unpaid employee entitlements.

Corporate creditors who are members of a Committee of Inspection may be represented by an individual authorised in writing by the member to represent the member on the committee.