

Initial notice to creditors

Kappa Investment Holdings Pty Ltd (In Liquidation)
ACN 623 580 076 (the Company)

Sydney
Olvera Advisors Pty Ltd
ABN: 34 640 364 496

Appointees:
Neil Robert Cussen
Katherine Elizabeth Barnet
Anthony Phillip Wright

■ (02) 8880 4070
■ matthew.weston@olveraadvisors.com

15 May 2025

olveraadvisors.com



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15 May 2025

TO THE CREDITORS AS ADDRESSED

Dear Sir/Madam

1. Introduction

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

2. Notification of Appointment of Liquidators

Katherine Elizabeth Barnet, Neil Robert Cussen, and Anthony Phillip Wright (**Liquidators/we/us/our**) were appointed as Joint and Several Receivers of the property of the ISG Private Access Fund ARSN 618 548 333 (**PAF**) and ISG Real Estate Equity Fund ARSN 618 548 780 (**REEF**) (**Schemes**) by orders of the Supreme Court of Queensland (**Court**) on 30 September 2024 (**Court Orders**). We were also appointed as Joint and Several Liquidators of ACN 114 733 569 Limited (formerly known as ISG Financial Services Limited) (**Responsible Entity**) on 18 December 2024 by a resolution passed by its creditors. On 20 December 2024, we lodged an application with the Federal Court of Australia (**Federal Court**) to be appointed as Liquidators of 26 entities within the Schemes' structure, which did not include the Company. At a hearing on 24 January 2025, the Federal Court made orders appointing us as Liquidators of 8 of the 26 entities.

On 12 February 2025, within a separate proceeding in the Federal Court of Australia, initiated by a creditor winding up application, we were appointed as Joint and Several Liquidators over A.C.N 167 460 924 Pty Ltd (In Liquidation) (Formerly known as ISG Securities Pty Ltd).

On 9 April 2025, within a separate proceeding in the Federal Court of Australia, initiated by a creditor winding up application, we were appointed as Joint and Several Liquidators over The Mills Residential Unit Precinct Investment Holdings Pty Ltd (In Liquidation).

On 2 May 2025, the Federal Court of Australia made orders to appoint us as Joint and Several Liquidators over the Company.

A copy of our Declaration of Independence, Relevant Relationships and Indemnities (**DIRRI**) is enclosed at **Appendix A**. The DIRRI assists you to understand any relevant relationships that we have, and any indemnities or upfront payments that have been provided to us. We have considered each relationship, and it is our opinion that none of the relationships disclosed in the DIRRI result in a conflict of interest or duty or affect our independence.

3. Trading Status and Business of the Company

The Company does not appear to be a trading entity. We are investigating the connection this Company has with the Schemes and the Responsible Entity.

4. Statutory Information

Below is a summary of the information relating to the Company recorded on the Australian Securities and Investments Commission (**ASIC**) database at the date of our appointment:

Company Details – Kappa Investment Holdings Pty Ltd (In Liquidation)	
Company name	Kappa Investment Holdings Pty Ltd
ACN	623 580 076
ABN	40 623 580 076
Principal Place of Business	Isg Funds Management '19' 10 Eagle Street Brisbane QLD 4000
Registered Office	Cornwalls (For Isg Group) '21' 300 Queen Street Brisbane QLD 4000
Registration Date	24 December 2017
Director and Secretary	Benjamin Robin Godfrey (24 December 2017 to Present)

Company Details – Kappa Investment Holdings Pty Ltd (In Liquidation)

Shareholders	Multiple:- ORD – 1 Share Class B – 1 Share REDB – 4,800,000 Shares REDP – 6,873,125 Shares
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5. Court Liquidations

5.1 What is a Court Liquidation?

A court liquidation is where an order to place a company into liquidation is made by a Court, usually following an application made by a creditor who is owed money by the company.

5.2 What happens to your Debt?

All creditors of the Company are now creditors in the liquidation. As a creditor, you have certain rights, and your debt will now be dealt with through the liquidation process.

If you have leased the Company property, have a retention of title claim, or hold a Personal Property Security Interest or Registration in relation to the Company, please contact our staff as soon as possible.

5.3 Your Rights as a Creditor

If you believe that the Company is in debt to you, please complete and submit the enclosed Formal Proof of Debt form at **Appendix C**.

Information regarding your rights as a creditor is provided in the information sheet enclosed at **Appendix D**.

6. What Happens Next?

We will proceed with the liquidation, including:

- Lodging caveats over real property within the land holding entity;
- Reviewing loan documents, loan terms and loan recovery;
- Further investigations into the relationship the Company had with the Schemes and entities related to the Scheme operations;
- Assisting employees with claiming outstanding entitlements with FEG (if required);
- Further application to the court to wind up related entities;
- Taking steps to apply to the Court for further orders to pool Scheme related entity liquidations; and,
- Reporting to the corporate regulator, ASIC.

We will write to you again within three (3) months of our appointment advising whether a dividend is likely and update you on the progress of our investigations.

We may write to you again after that with further information on the progress of the liquidation.

7. Costs of the Liquidation

Enclosed at **Appendix B** is our Initial Remuneration Notice Report. We are not currently seeking fee approval at this stage in the liquidation.

8. Fair Entitlements Guarantee Scheme

As the Company are in liquidation, in the event there are insufficient funds to meet outstanding employee entitlements immediately, employees of the Company may be entitled to make a claim under the Fair Entitlements Guarantee (**FEG**) Scheme to the Department of Employment and Workplace Relations (**the Department**) in respect of outstanding entitlements.

Please note that FEG will consider payment of entitlements, other than:

- Outstanding superannuation entitlements;
- Entitlements such as rostered days off unless the relevant legislation, award, statutory agreement or written contract of employment provides they are payable upon termination of employment; and,
- Employee entitlements of the Director and related party creditors.

Employee creditors may lodge a FEG claim either:

- Online by referring to the following factsheet link (claims submitted online are likely to be processed substantially faster than those lodged by post); or
- By post, and returning the forms to the nominated address:

Email: feg@dewr.gov.au
Phone: 1300 135 040
Nominated Address: Fair Entitlements Guarantee Branch
Department of Employment and Workplace Relations
GPO Box 9828
CANBERRA ACT 2601

FEG Claim forms are available either by contacting the FEG Hotline via the above telephone number or email address. The Department will distribute entitlements to you directly, if approved. Further information regarding the FEG claim process and eligibility is available from the below links:

Factsheet: www.dewr.gov.au/fair-entitlements-guarantee/feg-fact-sheets
Website: www.dewr.gov.au/fair-entitlements-guarantee

We have also enclosed at **Appendix E** a FEG information sheet.

9. Where can you get more Information?

The Australian Restructuring Insolvency and Turnaround Association (**ARITA**) provides information to assist creditors with understanding liquidations and insolvency.

This information is available from ARITA's website at arita.com.au/creditors.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at asic.gov.au (search for "insolvency information sheets"). Please contact Harry Bruton of this office should you require further information.

Yours faithfully



Anthony Phillip Wright
Joint and Several Liquidator

Encl.

Appendix A – Declaration of Independence, Relevant Relationships
and Indemnities

Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)

Kappa Investment Holdings Pty Ltd (In Liquidation) ACN 623 580 076 (the Company)

The purpose of this document is to assist investors and creditors with understanding any relevant relationships that we have with parties who are closely connected to the Company and any indemnity or upfront payment that has been provided to us with respect to any proposed appointment to the Company. None of the relationships disclosed in this document is 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.

This declaration is made in respect of ourselves, our partners, and our firm, Olvera Advisors Pty Ltd.

A. Independence

We 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 proposed appointment

How we were referred to this proposed appointment

We were appointed as Receivers over the property of, and to wind up the ISG Private Access Fund ARSN 618 548 333 (**PAF**) and ISG Real Estate Equity Fund ARSN 618 548 780 (**REEF**) (collectively the **Schemes**) pursuant to an Order of the Supreme Court of Queensland (**Court**) (**Court Orders**) in proceeding NSD313/2023 (**Proceeding**) dated 30 September 2024.

Our appointment over the Schemes was referred to us by Oloughlin Westhoff (**Receiver Referrer**).

On 11 November 2024, we submitted a report to the Court providing the details of our investigations including entities in the Schemes structure connected to the operations of the Schemes.

Subsequently, we have taken steps to be appointed to these other entities as they are relevant to operations of the Schemes, and to our investigations, due to interconnected activities concerning Scheme investor funds and Scheme assets.

Subsequent appointments to related entities have included the following:

1. On 18 December 2024, we were appointed as Joint and Several Liquidators of ACN 114 733 569 Pty Ltd (formerly ISG Financial Services Pty Limited), the Responsible Entity of the Schemes (**Responsible Entity**), by a resolution passed by its creditors. This engagement was not referred, and we consented to act as Liquidators at a meeting held pursuant to Section 439A of the Act.
2. On 20 December 2024, by application to the Federal Court of Australia (**Federal Court**), we sought to be appointed as Liquidators of 26 entities within the Schemes' structure. At a hearing on 24 January 2025, the Federal Court made orders appointing us as Liquidators of 8 of the 26 company's. These appointments were

not referred, and our appointments were made pursuant to orders made by the Federal Court upon our application to be appointed Liquidators on just and equitable grounds pursuant to Section 461(k) of the Act. The Federal Court proceeding is ongoing and we are seeking further appointments to the related entities in due course.

3. On 13 February 2025, within a separate proceeding in the Federal Court, initiated by a creditor winding up application, we were appointed as Liquidators to ACN 167 460 924 Pty Ltd (formerly ISG Securities Pty Ltd) (**ISG Securities**), being a further entity related to the Schemes and Responsible Entity. This entity is a primary holder of intellectual property accounts related to the Responsible Entity and the Schemes. This engagement was not referred and we provided a consent to act as Liquidators to the petitioning creditor's solicitor.
4. On 9 April 2025, within a separate proceeding in the Federal Court, initiated by a creditor winding up application, we were appointed as Liquidators to The Mills Residential Unit Precinct Investment Holdings Pty Ltd (In Liquidation) ACN 661 673 749. This engagement was not referred and we provided a consent to act as Liquidators to the petitioning creditor's solicitor.
5. On 2 May 2025, within our Federal Court proceeds, the Federal Court ordered we be appointed as Liquidators to Kappa Investment Holdings Pty Ltd (In Liquidation) ACN 623 580 076.

We also note the following interconnectivity:

- Creditors of the Company may have claims that relate to the Schemes, Responsible Entity or ISG Securities.
- Funds to meet any of the Company creditor claims may be limited to recoveries from our continued winding up of the Schemes.
- There are further benefits to relevant creditors of the Company related to the Responsible Entity and the Schemes, and Scheme investors. These interests may be pooled for the purpose of equitable distributions of any Schemes property recovered or successful claims.
- ASIC has provided a letter of support for our appointment to the Company, and our further appointments to related entities.

We believe that this proposed appointment does not result in a conflict of interest or duty because:

- a) Neither us nor our firm have undertaken work for or provided advice for the Company.
- b) There is no expectation, agreement or understanding with any party including the Receiver Referrer regarding the conduct of this proposed appointment, nor any arrangements in place that restrict the proper exercise of judgement and duties in this appointment. We are free to act independently and in accordance with the law and applicable professional standards.
- c) Referrals received from business advisors and professionals, including persons such as solicitors and accountants, are normal and common in professional

service businesses. The presence of a referral does not inherently affect our independence or carrying out of our duties in this appointment.

- d) Whilst the Receiver Referrer may have previously referred work to our firm, neither this appointment nor the receiving or referrals from the Referrer is considered material to the financial viability and operations of our firm. Our firm receives work from various sources and is not reliant upon any single referral source.

Have we meet with the Company, its Director or their advisers before this proposed appointment?

☒ Yes ☐ No

Prior to this proposed appointment;

- We had several meetings and discussions with the Company Director during the course of our appointment as Scheme Receivers, and the Subsequent Entities appointments.
- The nature of the meetings and discussions was for the sole purpose of obtaining information, books and records relevant to our role as Receivers of the Schemes, and Liquidators of the Subsequent Entities.
- The Company and its Director have received our report to the Court regarding the winding up of the Schemes as relevant parties to the Proceeding.

We have provided no other information or advice to the Company and its Director, prior to our proposed appointment beyond that outlined in this DIRRI.

C. Declaration of Relationships

Within the previous two years, have we, or our firm, had a relationship with:	
The Company	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The Director of the Company?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No We are currently acting as Receivers of the Schemes, and Liquidators of the Responsible Entity and other Subsequent Entities. This does not constitute a relationship with the Director as none of our appointments were initiated by the Director.
Any associates of the Company?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No We are currently acting as Receivers of the Schemes, and Liquidators of the Responsible Entity and other entities within the Schemes. We believe that these relationships do not result in a conflict of interest or duty because: <ul style="list-style-type: none">• We are also seeking approval of the Court for additional powers or engagements to other related company's relevant to the Schemes or recipients of investor funds.

	<ul style="list-style-type: none"> • Appointment as Liquidators to the Company and to other related parties has benefits including increasing the efficiency of work and allowing for equitable distribution of scheme recoveries or property through potential future pooling options. • The role undertaken by us as Receivers of the Schemes and Liquidators of the entities within the Schemes will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the liquidation of the company's in an objective and impartial manner. • ASIC has provided its support for our Scheme and entity appointments to date, and further appointments to additional related entities. • If any creditor or Investor has any objection to our engagement based on disclosures they should inform us.
A former insolvency practitioner appointed the Company's?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
A secured creditor entitled to enforce a security over the whole or substantially the whole property of the Company's?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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

D. Indemnities and up-front payments

We have not received any upfront payments or indemnities with respect to this proposed appointment.

Pursuant to the Orders the Receivers are entitled to be indemnified out of the property of the Schemes for costs, disbursements, and remuneration upon application to and approval by the Court.

Dated: 15th day of May 2025



Neil Robert Cussen
Joint and Several Liquidator



Anthony Phillip Wright
Joint and Several Liquidator



Katherine Elizabeth Barnet
Joint and Several Liquidator

Notes:

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 circumstances change, or new information is identified, we are required under the Corporations Act 2001 or Bankruptcy Act and ARITA's 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.

INITIAL REMUNERATION NOTICE

Insolvency Practice Schedule (Corporations) 70-50
Insolvency Practice Rules (Corporations) 70-35

Kappa Investment Holdings Pty Ltd (In Liquidation) ACN 623 580 076 (the Company)

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

Remuneration Methods

There are four basic methods that can be used to calculate the remuneration charged by an insolvency Practitioner. They are:

1. *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
2. *Fixed Fee*
The total fee charged is normally quoted at the commencement of the liquidation and is the total cost for the liquidation. Sometimes a Practitioner will finalise a liquidation for a fixed fee
3. *Percentage*
The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations
4. *Contingency*
The practitioner's fee is structured to be contingent on a particular outcome being achieved

Method chosen

Given the nature of this liquidation we propose that our remuneration be calculated on time based / hourly rates. This is because:

- a) It ensures that creditors are only charged for actual work performed
- b) There are various tasks required to be completed which do not involve the realisation of assets, such as responding to creditor enquiries, reporting to ASIC, undertaking investigations and completing other statutory tasks
- c) We are not able to estimate with certainty the total costs to complete all necessary tasks
- d) We maintain a time recording system that can produce details of the time spent on each type of task by each staff member utilised in the liquidation

Explanation of Hourly Rates

The rates for our remuneration calculation are set out in **Schedule 1**. They include a general guide to classifications, showing the qualifications and experience of staff that may be engaged in the liquidation and the role they may take in the liquidation. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

Estimated remuneration

We estimate that the liquidation will cost approximately \$100,000 to complete. This estimate is 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 duration of the liquidation, including matters that may extend the period of the liquidation beyond typical timeframes to complete similar liquidation
- Our understanding of the estimated number of creditors and the accuracy and sufficiency of books and records. The estimate considers preliminary information provided to date, which may change due to unforeseen circumstances and/or information subsequently received
- The complete scope of work that needs to be performed. From experience in other liquidation, unforeseen matters often arise which requires additional work to be performed. The remuneration estimate is based on the information presently available
- The uncertain nature of any litigation or any drawn out disputes with any third parties as to any disputed ownership of assets or recoveries

Disbursements

Disbursements are divided into three types:

- **External professional services** - these are recovered at cost. An example of an externally provided professional service is legal fees. It does not include insolvency services, as insolvency services are claimed as remuneration
- **External non-professional costs** - these are recovered at cost. Examples of external non-professional expenses include travel, accommodation and search fees
- **Firm non-professional costs** – such as photocopying, printing and postage. These costs, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs. The recovery of these costs must be on a reasonable commercial basis

We are not required to seek creditor approval for expenses paid to third parties or for disbursements where we are recovering a cost incurred on behalf of the liquidation but we must account to creditors. We must be satisfied that these expenses and disbursements are appropriate, justified and reasonable.

We are required to obtain creditors' consent for the payment of a disbursement where we, or a related entity of ourselves, 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 liquidation.

Details of the basis of recovering disbursements in the liquidation are provided below.

Basis of disbursement claim

Disbursement	Rate
Externally provided professional services	At cost
Externally provided non-professional services	At cost
Internal disbursements:	
Postage	At cost

Photocopying	At cost
Printing and stationery	At cost
Books and Records Storage	At cost
Books and Records Transport	At cost
Staff Vehicle Use	ATO Standard Rate per Km

Scale applicable for the financial year ending 2025

Dated this 15th day of May 2025.



Neil Robert Cussen
Joint and Several Liquidator



Anthony Phillip Wright
Joint and Several Liquidator



Katherine Elizabeth Barnett
Joint and Several Liquidator

Schedule 1 – Olvera Advisors Pty Ltd Schedule of Rates as at 1 July 2024

typical classification	description	hourly rate (excl. GST)
Appointee / Principal	Official or Registered Liquidator/Trustee or Principal	\$850
Director	Typically, professional body qualified, more than 10 years' experience in insolvency matters at a senior level, including managing complex administrations and supervising teams. Capable of deputising for the Appointees where required and controlling all aspects of an insolvency appointment. Maybe qualified to accept appointments in his/her own right.	\$780
Senior Manager	Typically, Professional body qualified. 7 + years' experience, likely more than 3 years as manager, tertiary qualified. Answerable to the appointee but otherwise responsible for all aspects of administration. Capable of controlling all aspects of an insolvency appointment.	\$700
Manager	Typically, Professional body qualified. 6 - 7 years + experience. Controls all allocated tasks. Well-developed technical and commercial skills.	\$650
Supervisor	Typically, Professional body qualified. 4 to 6 years' experience. Will have had experience on minor matters and experience in control of staff. Assists planning and controls medium to larger matters. Reports to manager.	\$600
Senior Analyst	Typically, 2 to 4 years' experience. Professional body program commenced or completed. Required to control and or assist on the fieldwork on matters. Reports to manager.	\$570
Analyst	Typically, 1 to 2 years' experience. Likely tertiary course underway or near complete. Required to control and/or assist in the field on matters. Reports to manager.	\$465
Graduate	Typically, less than 1 year experience. Tertiary degree completed or nearing completion. Required to control and/or assist in the field on matters. Reports to more senior staff.	\$435
General Administrator	Appropriate administration skills.	\$365

Rates subject to increase at 30 June each year.

Appendix C – Proof of Debt Form

**FORM 535
CORPORATIONS ACT 2001**

Section 600G
Subregulation 5.6.49(2)

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Liquidators of Kappa Investment Holdings Pty Ltd (In Liquidation) ACN 623 580 076 ("the Company")

1. This is to state that the company was, on 2 May 2025 ⁽¹⁾ and still is, justly and truly indebted to⁽²⁾ (full name):
('Creditor'):
of (full address)
for \$..... dollars and..... cents.

Particulars of the debt are:

Date	Consideration ⁽³⁾ state how the debt arose	Amount \$	GST included \$	Remarks ⁽⁴⁾ 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 manner of satisfaction or security for the sum or any part of it except for the following:
Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

- ☐ I am **not** a related creditor of the Company ⁽⁵⁾
☐ I am a related creditor of the Company ⁽⁵⁾
relationship:

If the form is being used for the purpose of voting at a meeting:

Is the debt you are claiming assigned to you?

No ☐ Yes ☐

If yes, attach written evidence of the debt, the assignment and consideration given.

☐ Attached

If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$

3A.^{(6)*} I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

3B.^{(6)*} I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

DATED this day of 2025

Signature of Signatory

NAME IN BLOCK LETTERS

Occupation

Address

RECEIVE REPORTS BY EMAIL

Do you wish to receive all future reports and correspondence via email?

Yes ☐ No ☐

Email:

See Directions overleaf for the completion of this form

OFFICE USE ONLY POD No:		ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:	/ /	ADMIT (Voting / Dividend) - Preferential	\$
Entered into CORE IPS:		Reject (Voting / Dividend)	\$
Amount per ROCAP	\$	Object or H/Over for Consideration	\$
Reason for Admitting / Rejection			
PREP BY/AUTHORISED		TOTAL PROOF	\$
DATE AUTHORISED / /			

Proof of Debt Form Directions

- * Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

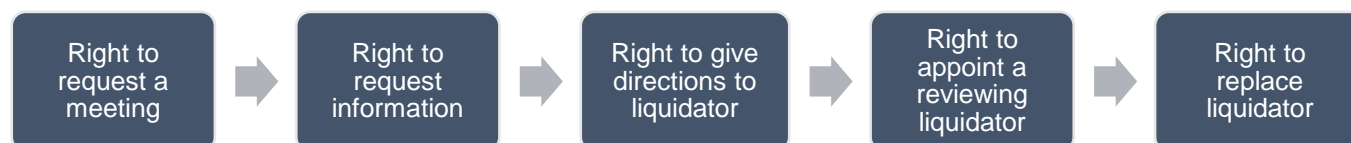
Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
 - (a) have an identifying mark;
 - (b) and be endorsed with the words:
 - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
 - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
 - (a) the identifying mark; and
 - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

Appendix D – Information Sheet: Creditor Rights in Liquidation

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.

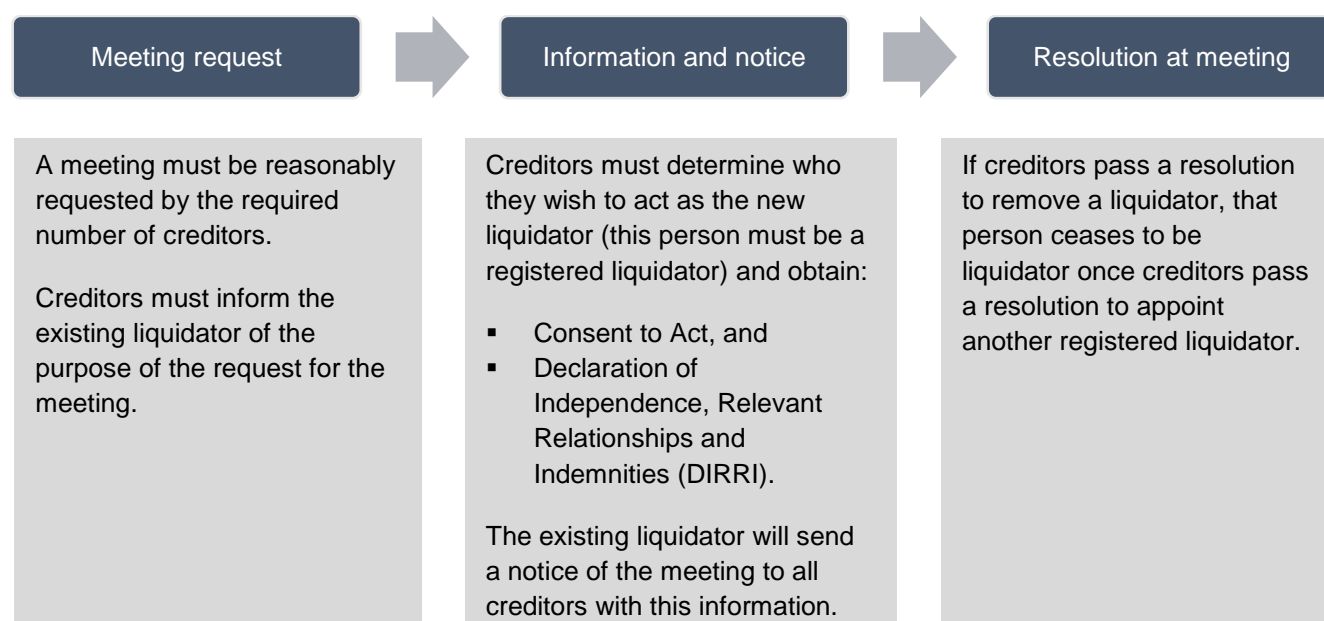
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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



What assistance can FEG provide?

This fact sheet provides information about what assistance is available under the Fair Entitlements Guarantee (FEG). FEG is a legislative safety net scheme of last resort with assistance available for eligible employees. The scheme provides financial assistance to eligible employees who have lost their job due to the liquidation or bankruptcy of their employer and who are owed employee entitlements which are not able to be paid by their employer or from another source.

The FEG Act

Decisions about eligibility for FEG assistance are made in accordance with the [Fair Entitlements Guarantee Act 2012](#) (FEG Act). FEG may apply to a person if their employer enters liquidation or bankruptcy (known as an 'insolvency event') and the person has certain unpaid employment entitlements owing to them. For more information about eligibility requirements for FEG please refer to the [Eligibility for FEG assistance](#) fact sheet available on the [FEG website](#).

What assistance is available?

Under the FEG Act, the Department of Employment and Workplace Relations (the department) can pay what is owed to you under your existing terms and conditions of employment for the entitlements listed below. Some entitlements are subject to maximum thresholds as set out in the relevant sections ('s.') of the FEG Act.

- **wages** – up to 13 weeks (see s. 5 and s. 24)
- **annual leave** (see s. 20)
- **long service leave** (see s. 21)
- **payment in lieu of notice** – up to 5 weeks (see s. 22)
- **redundancy pay** – up to 4 weeks per full year of service (see s. 23) – note the governing instrument that provides for your redundancy entitlement may also specify an upper limit

FEG does not cover unpaid superannuation guarantee amounts. If you have unremitted superannuation guarantee amounts you should contact the insolvency practitioner managing your former employer's affairs to discuss your rights as an employee creditor.

Working out the amount of assistance FEG will pay

FEG assistance for unpaid entitlements is calculated based on your existing terms and conditions of employment (eg: industrial award, enterprise agreement, contract of employment, National Employment Standards).

The department liaises with the insolvency practitioner managing the affairs of your employer to obtain as much information as possible on:

- your circumstances with the insolvent employer
- your salary/wage rate
- what entitlements have been left unpaid
- whether your employer has sufficient funds to pay those entitlements within a reasonable period.

The department will not pay FEG assistance for amounts that you have already been paid or amounts that are payable by another party (see s. 19 of the FEG Act). For example, if you are entitled to redundancy pay and your employer contributed to an industry redundancy fund, your unpaid redundancy should be paid by that fund and will not be paid under FEG. Similar arrangements may apply in some states or industries for long service leave.

FEG maximum weekly wage

When calculating the amount of FEG assistance payable, the FEG maximum weekly wage is applied. If you earn more than the maximum weekly wage, your FEG assistance can only be paid at the maximum weekly wage capped rate (\$2,793 between 1 July 2024 and 30 June 2025).

The remaining unpaid entitlement for the portion of wages over the maximum weekly wage cap can be claimed from the insolvent estate.

Recently agreed changes in terms and conditions

Any favourable changes to your terms and conditions of employment within 6 months of your employment ending or the appointment of an insolvency practitioner may be disregarded (see s. 25). If the department considers it was not reasonable to expect that your employer would have been in a financial position to satisfy improved conditions, the amount of FEG assistance may be calculated as if the terms and conditions had not been changed.

Other things that may affect the amount of FEG assistance paid

Under the FEG Act, the amount of FEG assistance payable may be reduced by any debts you owe your former employer (see s. 17).

FEG assistance may also not be payable in circumstances where the insolvency practitioner expects to have sufficient funds to pay your employment entitlements in full within 112 days of you lodging an effective claim or the date of the insolvency event (whichever is later) (see s. 18).

How can you help?

You should provide all the information and documents requested in the FEG claim form to establish that you meet the eligibility conditions.

For more information about the type of information you should provide please refer to the [How do I apply for FEG assistance](#) fact sheet.

The department will try to obtain as much information as possible from the insolvency practitioner about what you are owed. Sometimes, particularly if your employer had poor books and records, other information from your own records will be needed. If we contact you to ask for more information, getting that information to us quickly will help us to finalise your claim quickly.

Want more information?

You can contact the FEG Hotline if you would like more information about eligibility for FEG assistance.

To contact the FEG Hotline:

- phone 1300 135 040
Monday - Friday, 9am - 5pm (AEST/ADST)
- email FEG@dewr.gov.au

If you speak a language other than English, call the Translating and Interpreting Service (TIS) on 13 14 50 for free help anytime. If you speak an Indigenous language, call the Aboriginal Interpreter Service on 1800 334 944.

Further information is also available on the [FEG website](#).

The information contained in this fact sheet is of a general nature and explains, in summary form, the intended operation of the *Fair Entitlements Guarantee Act 2012* - it is not legal advice. Where necessary, you should seek your own independent legal advice relevant to your particular circumstances. The Commonwealth does not make any representation or warranty about the accuracy, reliability, currency or completeness of the information contained in this fact sheet and is not liable for any loss resulting from any action taken or reliance made by you on the information contained in this fact sheet.