

# UNDERSTANDING YOUR OPTIONS IF YOUR BUSINESS IS IN FINANCIAL DISTRESS – SIMPLIFIED LIQUIDATION

Your business may be insolvent if it can't pay its debts as and when they fall due.

If your business is insolvent and you are trading your business in a company structure you should consider appointing a registered Liquidator.

## How do I appoint a Liquidator?

To appoint a Liquidator, the:

- director/s of your company must meet and resolve that your company cannot pay its debts and is insolvent
- director/s then call a meeting of the shareholders, and
- shareholders meet, agree to place the company into liquidation and appoint a registered Liquidator.

A registered Liquidator can assist you in providing the wording and/or minutes to affect the appointment of the Liquidator.

## Is my business eligible for Simplified Liquidation?

If your company is in Liquidation, it may qualify for the Simplified Liquidation regime.

To be eligible for Simplified Liquidation, you must sign a declaration that your business meets the following criteria:

- the business cannot pay its outstanding creditors within 12 months
- all creditor and employee debts owing (including employee termination payments) must not exceed \$1million
- the business has lodged all taxation lodgments and obligations as required
- the business and/or you, in your capacity as a director, have not utilised the Simplified Liquidation process or the Small Business Restructuring provisions in the past seven years.

The Liquidator will consider your request for the adoption of the Simplified Liquidation.

## What happens if my company is eligible for Simplified Liquidation?

If the above criteria are met, the Liquidator will, within 20 days of the appointment, make the determination that your business may adopt the Simplified Liquidation process.

### Creditors' role:

Creditors will have the right to 'vote' on whether your business can adopt a Simplified Liquidation.

The Liquidator cannot adopt the Simplified Liquidation process if at least 25 per cent of the value of non-related party creditors informs the Liquidator to not adopt the Simplified Liquidation process.

## What happens to my business if the Simplified Liquidation process isn't approved?

The company is still in Liquidation and will be deregistered with the Australian Securities and Investments Commission upon the completion of the Liquidation.

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## When might a Liquidator not adopt simplified liquidation?

### The Liquidator may:

- determine that the company is not eligible for the Simplified Liquidation process.
- uncover conduct that may be fraudulent or dishonest.
- determine that to adopt the Simplified Liquidation process will adversely materially affect creditors.

If the company isn't eligible for Simplified Liquidation, the company will remain in Liquidation.

The Liquidator will continue to investigate the affairs of the company and realise any assets for the benefit of the creditors.

## ADDITIONAL RESOURCES

For more information please consider the following resources:

- [Early warning signs your business might be in trouble](#)
- [Indicators for potential insolvency](#)
- [Directors duties, insolvent trading and you](#)
- [A guide for SMEs: Understanding your options – business in distress](#)

Please contact your CPA Australia trusted advisor who can assist you and your company. Should you not have a CPA trusted advisor, one can be located on CPA Australia's [Find a CPA page](#).

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