

Corporate Insolvency

Where a company finds it cannot pay its debts as and when they fall due, there are a number of options available to it under the Corporations Act 2001 which enable to either restructure or bring some finality to its affairs.

Generally these include:

1. Voluntary Administration (or "VA") which provides a Company with a period of time to enable it to work out its affairs without creditors being able to pursue recover of any debts. During this period the Company will be under the control of an administrator.

At the end of the period, the creditors will vote to either:
 - Place the Company into Liquidation
 - Accept a debt arrangement (DoCA)
 - Hand control of the Company back to the directors.

2. Liquidation (or "winding up") is where generally the company ceases trading and control of the company and the company is placed into the hands of a liquidator for the purposes of liquidating the assets of the company for distribution amongst its creditors.

There are a number of ways that a company can be placed into liquidation including:
 - (a) **Court initiated winding up** where generally a creditor brings an application before the Court and the Court orders it be wound up.
 - (b) **Creditor's Voluntary Liquidation** (or "CVL") where an insolvent company places itself into liquidation.
 - (c) **Members Voluntary Liquidation** (or "MVL") where a solvent company decides to appoint a liquidator to bring its affairs to an end.

3. Receivership

Where a secured creditor places a receiver in charge of a company or a particular asset of a company solely to recover that creditors debt.

Associated Issues

- The Statutory Demand
- The Secured Creditor
- Fixed & Floating Charges
- Personal Guarantees

Effect on Directors

- Insolvent trading
- Director Penalty Notices ("DPN")
- Ability to become director again.