

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Inquiry into Corporate Insolvency in Australia
Question No.	002
Topic	Automatic responses from Ai
Reference	Spoken, 14 December 2022, Hansard page 64
Committee member	Senator Deborah O'Neill

Question

CHAIR: We might need to get some physical evidence of the kind of form that's being filled in. There's quite a gap between what you're saying there and the evidence we've received from insolvency practitioners. We heard from Mr Fisher, who was on the Harmer report, indicating that the insolvency practitioner doing the reporting is not a bad model in that the person who's done the observation can efficiently then report. But, if the cost of doing that and the evaluation and the form that's required is too much, then that's probably not a good ecosystem.

Mr Day: I'll just respond, then I'll pass to my colleague Ms Eszenyi to provide, probably, better detail about this, and we can certainly give you a copy of the form so you can see what's required and the minimum level of detail that's required. Often, we see that liquidators and administrators might drop the form on us, so to speak. They just suspect something's happened, and they feel as though they have to do it. They're obliged to do it under the law, so they do do it. Now, that's not to say for one minute that, where there are serious issues and serious misconduct that's being seen, the liquidator, for example, might not have done a lot of work to actually provide lots of detail about the malfeasance and misconduct that's going on. I'm not debating that, and I'm not saying that doesn't come without a cost. But I'm saying that, for a large number of the forms that might be lodged against small business, where there's a small level of indebtedness—and, yes, there may be a suspicion that there may be insolvent trading, and there may be suspicion that certain things haven't been done properly under director's duties—the dropping of that form is, often, nearly a mere administrative process. Ms Eszenyi, did you want to say more about that?

Ms Eszenyi: Yes. There are two sides to that form and two parts as to why a liquidator has to actually lodge it. One is the suspicion of an appearance of misconduct. The other is if it's expected that a dividend of less than 50c in the dollar will be paid. As I think you've heard a lot of evidence about, the majority of liquidations don't pay anywhere near 50c in the dollar, so there's already a prerequisite that that form will need to be lodged. Now, as Mr Day said, it is a relatively simple form, and we're happy to give it to you. It is—I hate to say it—a tick-a-box. It is our expectation, though, that the liquidators will have done some paperwork behind it. It doesn't have to be a beautifully written *War and Peace*, but there does need to be something to substantiate what they've done.

CHAIR: Is that submitted as an attachment?

Ms Eszenyi: No. They simply submit the form. There is an ability to do an attachment. For example, if there's very serious misconduct, they may want to provide some additional information by way of attachment. But their paperwork is for their file. It's for them to know what work they've done.

CHAIR: How many would you have received in the last financial year?

Ms Eszenyi: I think it's in our submission, but it would generally follow about a year after the number of liquidations. In a normal liquidation year, it's about 8,000. Last year, I think it was about 4,000.

Mr Yanco: It was about 3,500.

Ms Eszenyi: Sorry—3,500. Thank you, Mr Yanco.

CHAIR: Prior to the COVID changes to the economy, it was about 10,000 per annum. Is that correct?

Ms Eszenyi: No. I think it was closer to 8,000—8,000 to 9,000.

CHAIR: Okay. Can you provide from, say, 2017 a summary of that for us, and could you indicate how many received just an automatic response from Ai? And—

Mr Day: I might interject there, Chair, just to take on a couple of issues. In terms of the figures for a period of time, what we might provide the secretariat is links to all of the insolvency data that we publish on a six-monthly basis. Or are insolvency statistics published on a yearly basis?

Ms Eszenyi: The 'going into insolvency'?

Mr Dav: Yes.

Ms Eszenyi: That's published on a weekly basis.

Mr Day: We'll give you links to the relevant documents, and we'll take on notice to give you the facts and figures you need about how many were lodged prepandemic and so on so that you can have that. In terms of this Ai response, it might be worthwhile to take a little bit of time around that, if that's suitable.

Answer

Since the 28 March 2020, the Initial Statutory Report (ISR) is lodged by Registered Liquidators through the ASIC Portal: <u>ASIC Regulatory Portal</u>. Registered Liquidators must be registered for Portal access before lodging. Earlier reports were lodged using Form EX01 through the ASIC liquidator portal.

To complete the ISR, the Registered Liquidator or their staff progress through a number of screens and answer questions. The ISR uses conditional logic so further questions are dependant on the answers to earlier questions. We attach the screen shots at the end of this response showing this.

In addition, a copy of a sample ISR record of transaction using 'ASIC Test Company' is provided for the Committee's information as appendix A in a separate document.

The following table details the number of ISRs and EX01s received by ASIC over the last five full financial years and how they were determined as reported in ASIC's Annual Reports. Over this period approximately 98% of reports were required to be lodged as the registered liquidator anticipated there would be a dividend of less than 50 cents in the dollar paid. In lodging those reports the registered liquidators also report any apparent misconduct they are aware of.

	FY 2021/22	FY 2020/21	FY 2019/20	FY 2018/19	FY 2017/18 ²
Initial Statutory Reports Iodged ¹	4,313	4,566	8,040	8,106	8,823
Supplementary Reports requested	593	709²	1,070	1,008	889
Initial Statutory Reports that reported offences	3,767	3,810	7,163	7,227	6,840
Supplementary Reports NFA after assessment	258 (80%)	417 (82%)	382 (78%)	363 (76%)	810 (87%)
Supplementary Reports referred to	65 (20%)	92 (18%)	110 (22%)	114 (24%)	121 (13%)

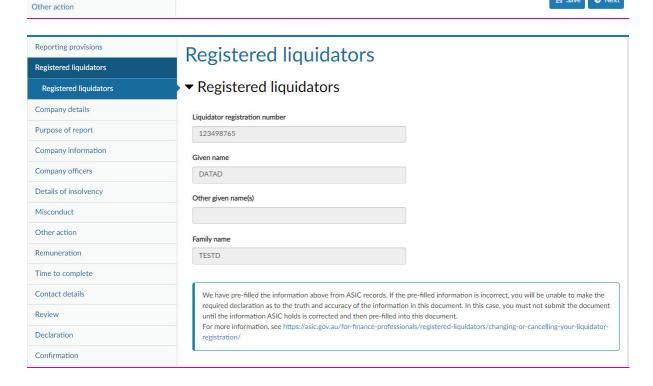
other ASIC			
teams to action			

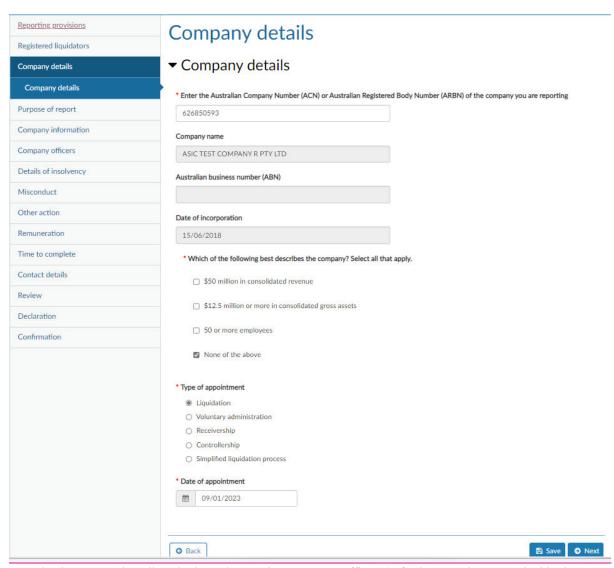
Note 1: The total number of reports lodged as reported in ASIC Annual Reports will not reconcile with the number reported in ASIC's series 3 statistics which only report the first in time ISR/EX01 lodged.

Note 2: Subsequent to the publication of the ASIC 2017/18 Annual Report, discrepancies in the reported numbers were identified however we have not sought to restate the reported numbers.

Note 3: The ASIC submission noted 704 supplementary reports were requested. The difference to the number reported in the ASIC Annual Report is likely as a result of consolidation of cases subsequent to the publication of the Annual Report.

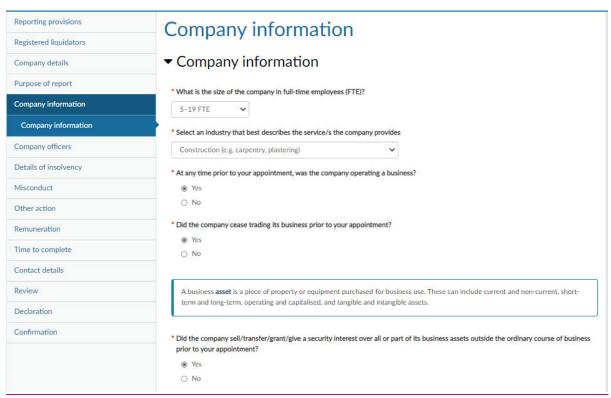
Submit insolvency initial statutory report 🖺 Save & close Reporting provisions Reporting provisions Reporting provisions ▼ Reporting provisions Registered liquidators Company details * Under what provision are you lodging this report? Purpose of report ○ Section 422 (receiver reports) O Section 438D (administrator reports) Company information Section 533 (liquidator reports) Company officers O Regulation 5.5.05 (simplified liquidation process) Details of insolvency Misconduct Save → Next



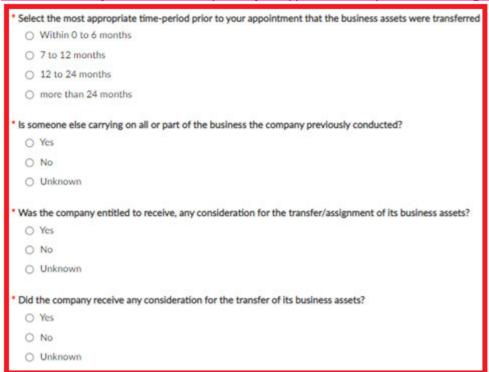


By Selecting 'Reporting alleged misconduct against company officer(s)' further questions are asked in the 'Misconduct' section towards the end of the form.



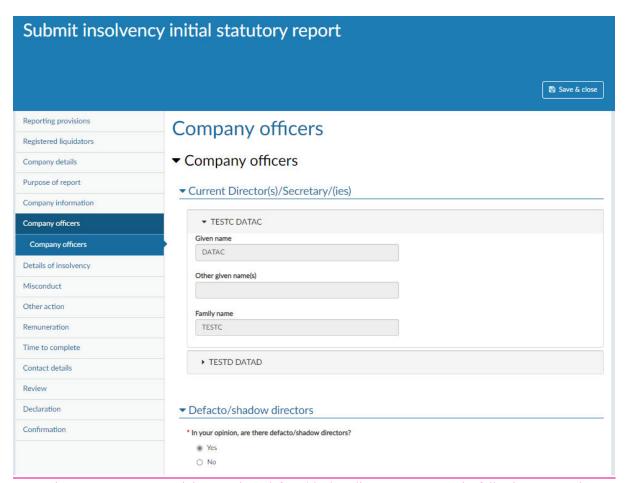


Answering 'Yes' to 'Did the company sell/transfer/grant/give a security interest over all or part of its business outside the ordinary course of business prior to your appointment?' exposes the following 4 questions:

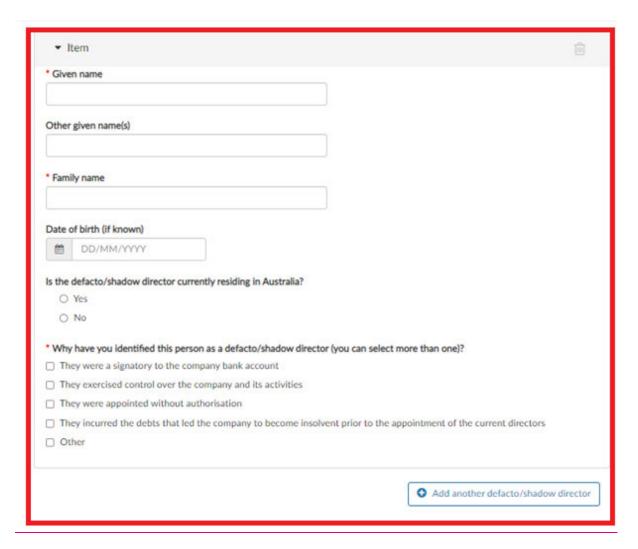


More information on Purchase Money Security Interests

	re there any interests registered in the Personal Property Securities Register or other registers in place in the 1 ointment, excluding Purchase Money Security Interests?	.2 months pric	r to your
0	Yes		
•	No		
* Was	there a new secured debt or increase in existing secured debt on or after the date of insolvency, whether reg	istered or unre	egistered?
0	Yes		
•	No		
* Do	you believe the company may have engaged in illegal phoenix activity?		
0	Yes		
•	No		
О Ва	ick	🖺 Save	Next



Answering 'Yes' to 'In your opinion, are there defacto/shadow directors?' exposes the following repeater box. Uses can add more than one by selecting the 'add another defacto/shadow director' button.



By selecting 'Yes' to 'Are you aware of an advisor(s) assisting the company prior to your appointment?' the advisor repeater box is exposed.

*Are you aware of an advisor(s) assisting the company prior to your appointment?

Yes

No

Advisor

*What best describes who the advisor was?

Accountant

X

Given name

Other given name(s)

Family name

*Firm name

Type in an Australian address

100 Market Street, Sydney

Selected address

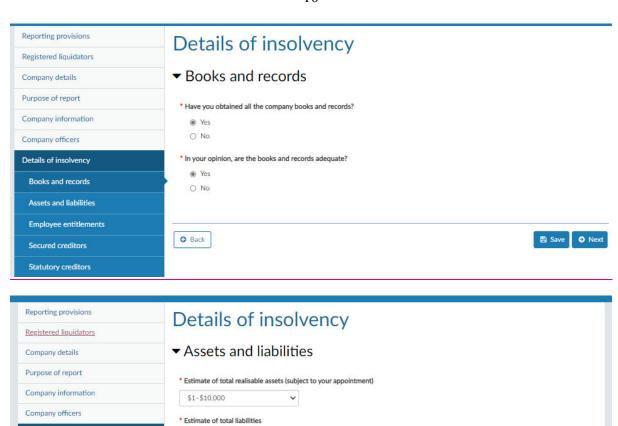
1 can't find my address in the search results

<u>Depending on the answers to the books and records questions there may be additional questions asked.</u>

Add another advisor

Business phone number

Mobile phone number



Answering 'Yes' to 'Are there unpaid employee entitlements relating to this company?' exposes the additional question in the red box:

\$1-\$10,000

\$0-\$50,000

O Back

* Estimate of total deficiency (liabilities less assets)

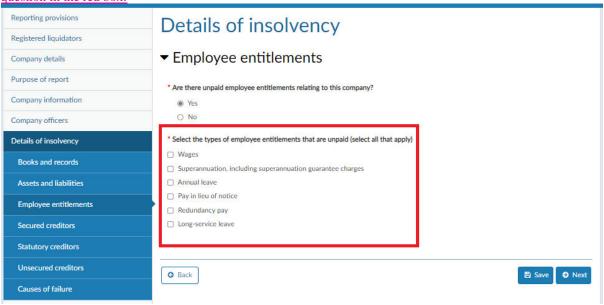
Details of insolvency

Books and records

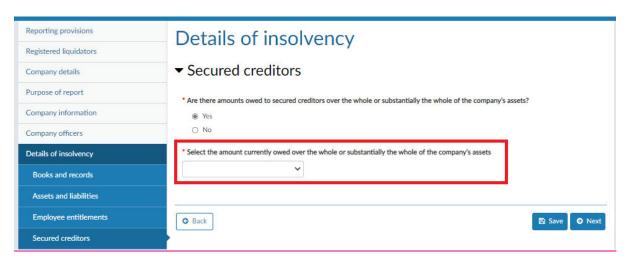
Assets and liabilities

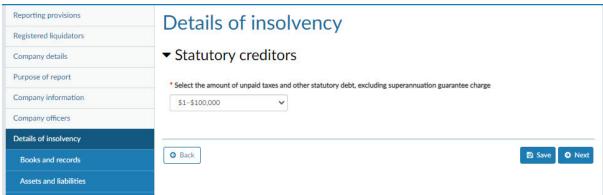
Statutory creditors

Employee entitlements

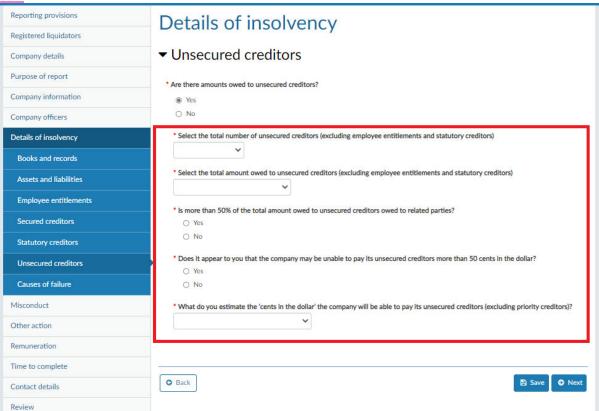


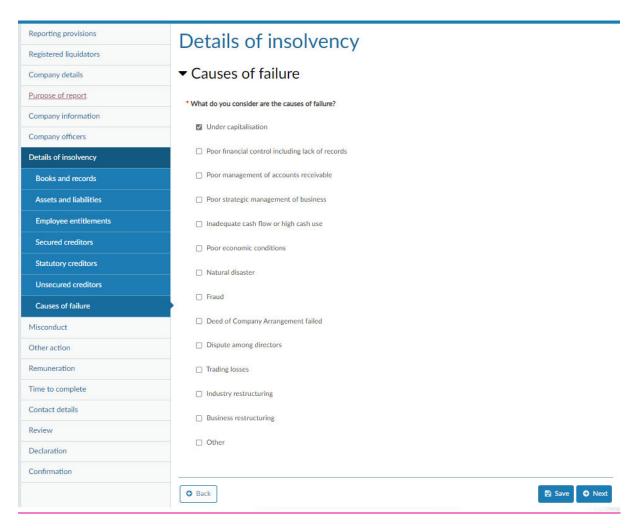
Answering 'Yes' to 'Are there amounts owed to secured creditors over the whole or substantially the whole of the company's assets?' exposes the additional question in the red box:





Answering 'Yes' to 'Are there amounts owed to unsecured creditors?' exposes the additional question in the red box:

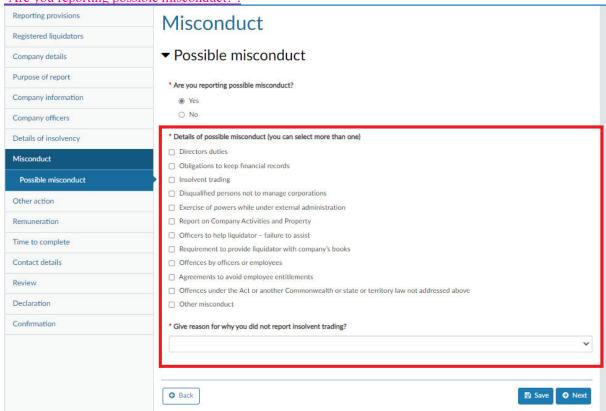




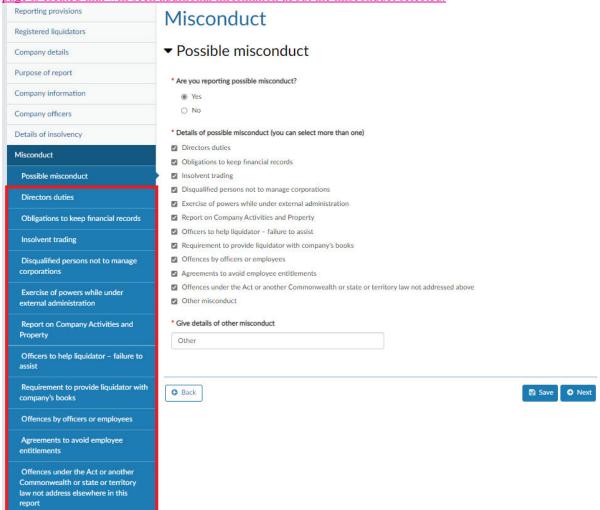
This section is blank if the user previously answered that there was no misconduct.



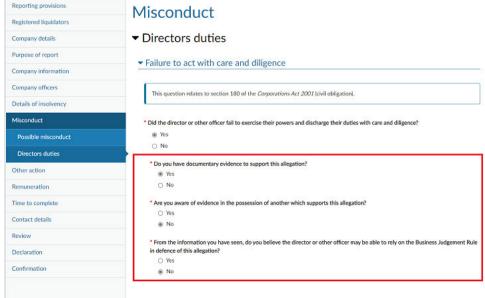
Otherwise if will ask if there is misconduct with the questions in the red box being asked if 'Yes' is selected for 'Are you reporting possible misconduct?'.



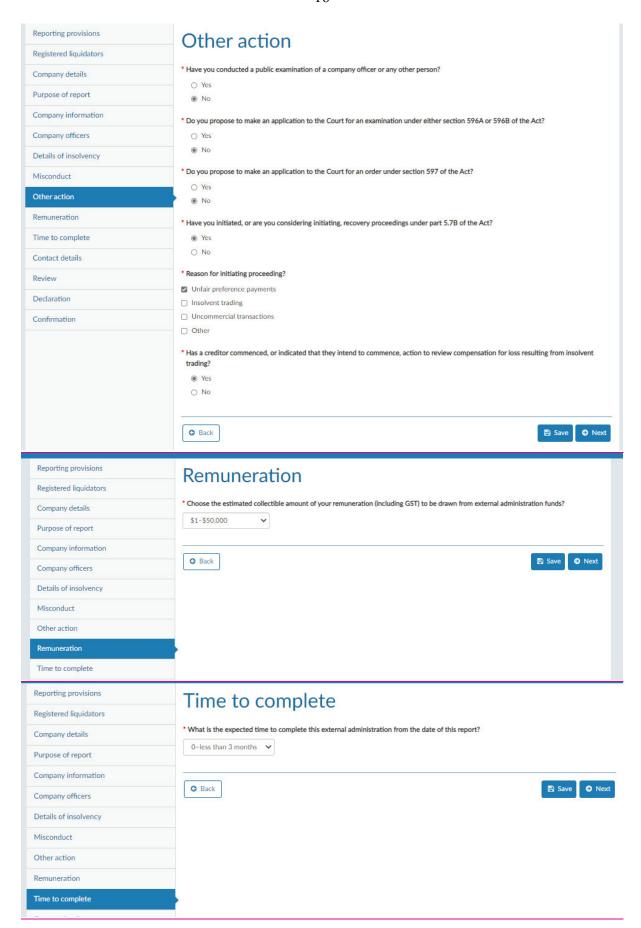
For every selection made to the question 'Details of possible misconduct (you can select more than one)' a new page is created that will seek additional information about the misconduct selected.

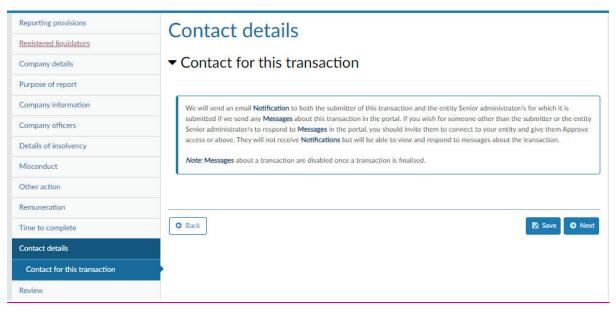


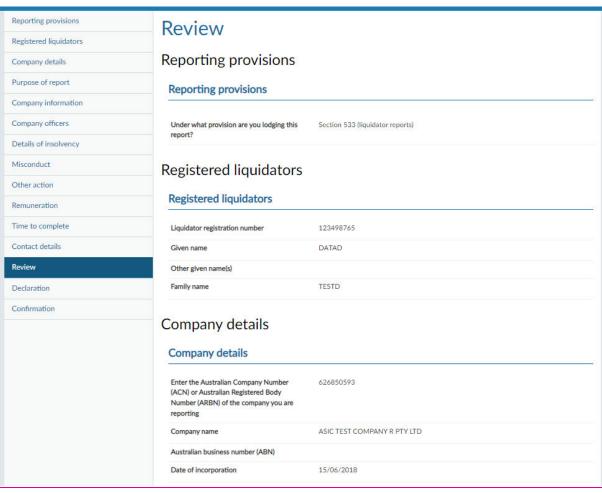
For example, this section appears if you select 'directors duties' on the question in the previous page. The red box again shows the additional questions asked based on the conditional logic.

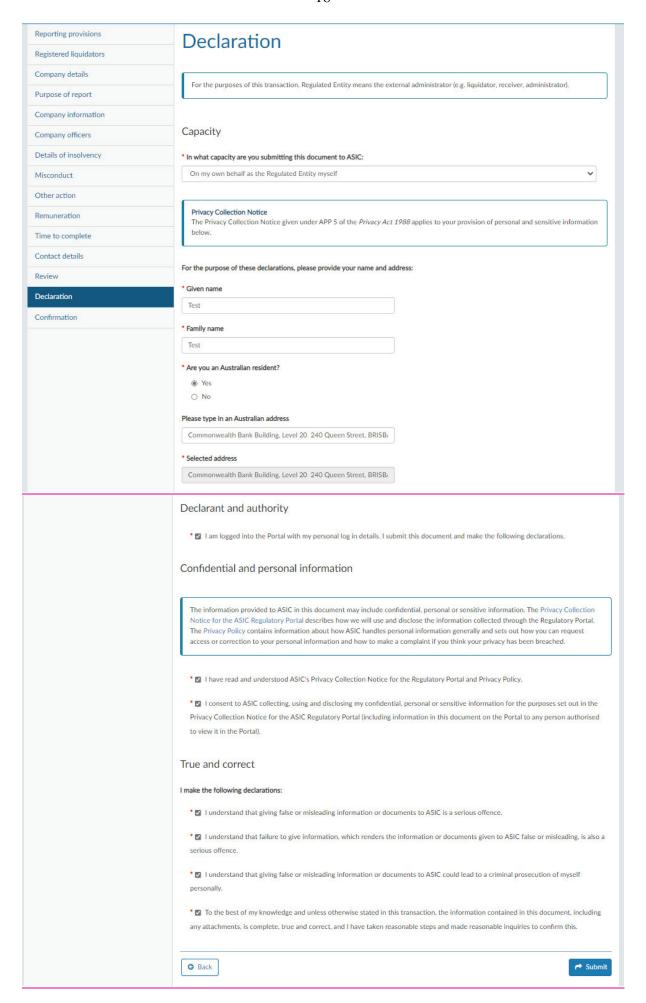


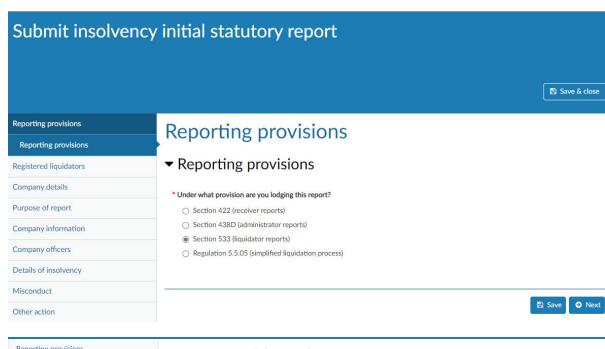
▼ Failure to act in good faith and for a proper purpose
This question relates to section 181 of the Corporations Act 2001 (civil obligation).
 Did the director or other officer fail to exercise their powers and discharge their duties in good faith in the best interests of the corporations and for a proper purpose? Yes No
▼ Improper use of position
This question relates to section 182 of the Corporations Act 2001 (civil obligation).
 Did a director, other officer or employee of the corporation use their position improperly to gain an advantage for themselves or another, or to cause detriment to the corporation? Yes No
▼ Improper use of information
This question relates to section 183 of the Corporations Act 2001 (civil obligation).
 Did a past or present director, other officer or employee of the corporation obtain information in their position and improperly use the information to gain an advantage for themselves or another, or to cause detriment to the corporation? Yes No
▼ Good faith, use of position and use of information
This question relates to section 184 of the Corporations Act 2001 (criminal obligation).
 Did the director or other officer fail to use good faith, use of position or use of information in discharging their duties? Yes No

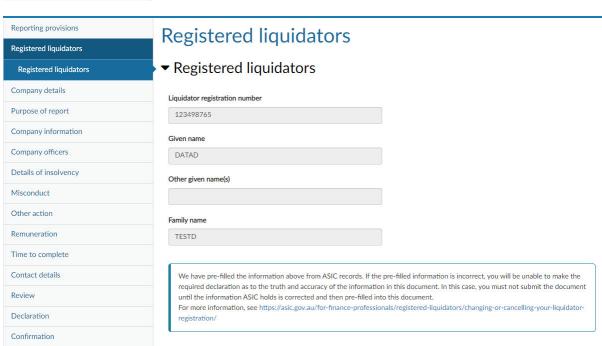


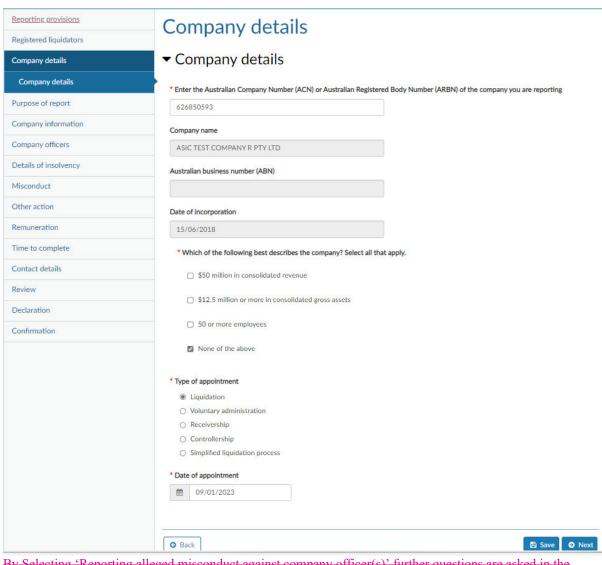






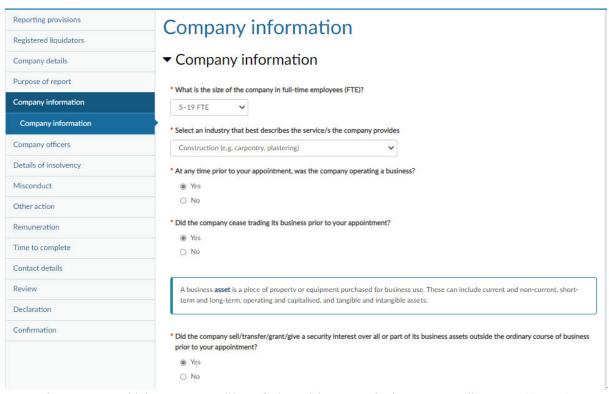




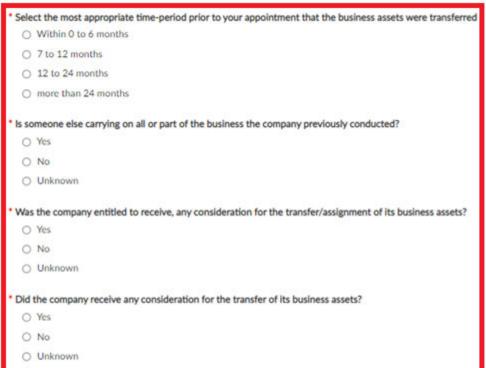


By Selecting 'Reporting alleged misconduct against company officer(s)' further questions are asked in the 'Misconduct' section towards the end of the form.





Answering 'Yes' to 'Did the company sell/transfer/grant/give a security interest over all or part of its business outside the ordinary course of business prior to your appointment?' exposes the following 4 questions:



More information on Purchase Money Security Interests

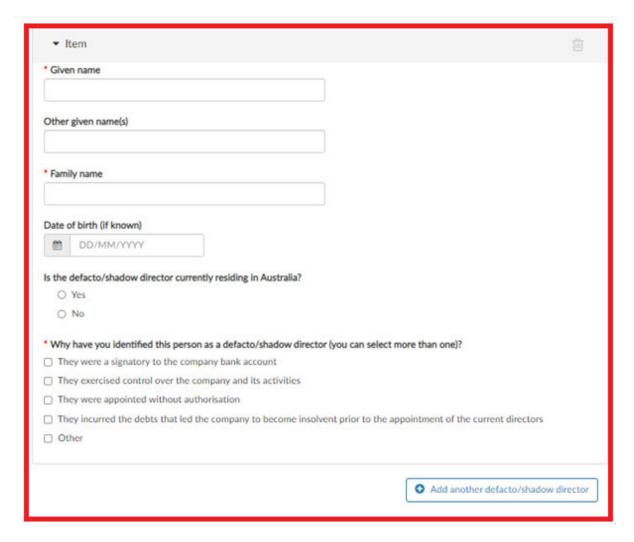
	gistered in the Personal Property Securities Register or other registers in place in the 12 months prior to your chase Money Security Interests?
○ Yes	
No No	
* Was there a new secured de	ebt or increase in existing secured debt on or after the date of insolvency, whether registered or unregistered?
○ Yes	
No	
* Do you believe the company	y may have engaged in illegal phoenix activity?
○ Yes	
No	
⊘ Back	Save Next
Submit insolven	cy initial statutory report
Submit insorvene	y initial statutory report
	🖺 Save & close
Reporting provisions	
Registered liquidators	Company officers
Company details	▼ Company officers
Purpose of report	
Company information	▼ Current Director(s)/Secretary/(ies)
Company officers	▼ TESTC DATAC
Company officers	Given name
Details of insolvency	DATAC
Misconduct	Other given name(s)
Other action	
Remuneration	Family name TESTC
Time to complete	
Contact details	► TESTD DATAD
Review	
Declaration	▼ Defacto/shadow directors

Answering 'Yes' to 'In your opinion, are there defacto/shadow directors?' exposes the following repeater box. Uses can add more than one by selecting the 'add another defacto/shadow director' button.

* In your opinion, are there defacto/shadow directors?

YesNo

Confirmation



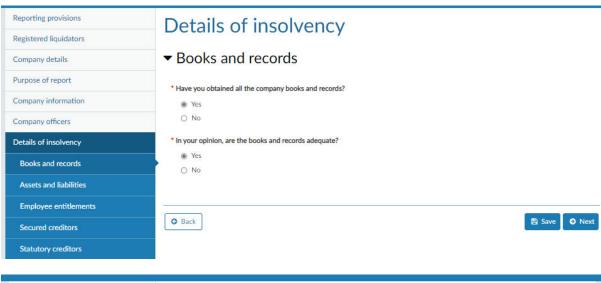
By selecting 'Yes' to 'Are you aware of an advisor(s) assisting the company prior to your appointment?' the advisor repeater box is exposed.

* Are you aware of an advisor(s) assisting the company prior to your appointment?

Yes

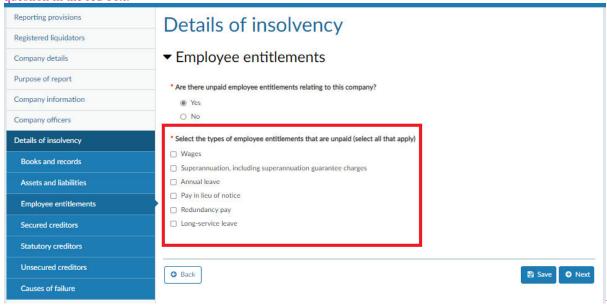
O No Advisor * What best describes who the advisor was? Accountant Given name Other given name(s) Family name * Firm name Type in an Australian address 100 Market Street, Sydney Selected address ☐ I can't find my address in the search results Business phone number Mobile phone number Add another advisor

Depending on the answers to these question there may be additional questions.

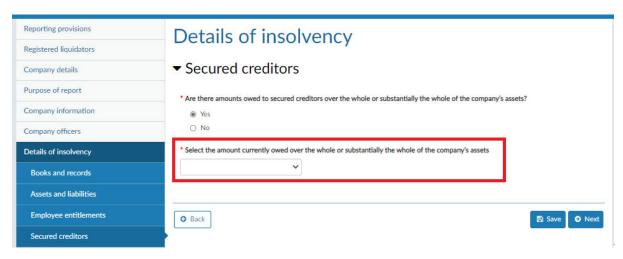


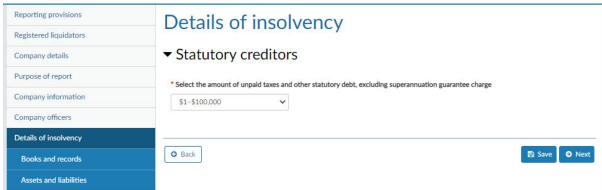


Answering 'Yes' to 'Are there unpaid employee entitlements relating to this company?' exposes the additional question in the red box:

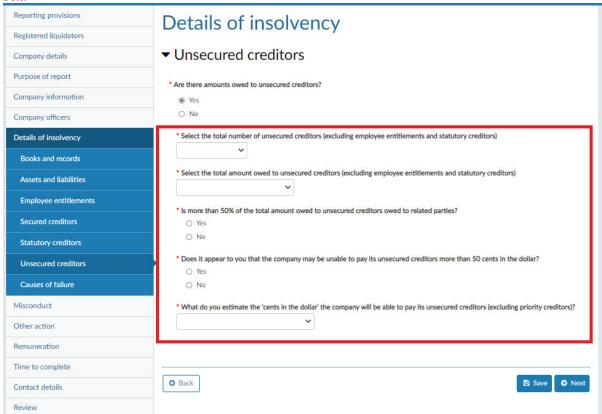


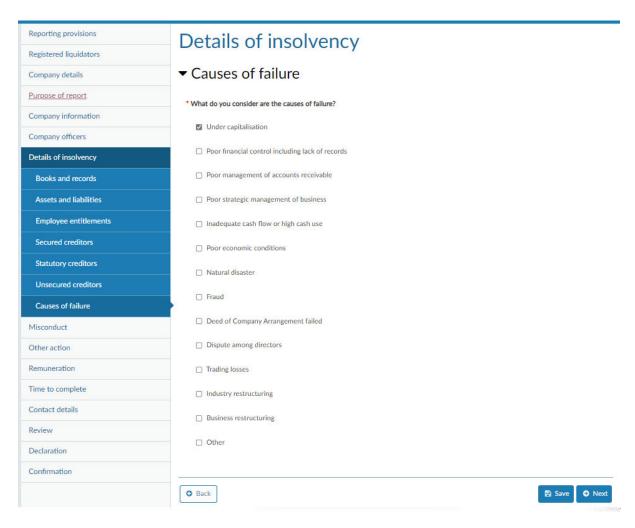
Answering 'Yes' to 'Are there amounts owed to secured creditors over the whole or substantially the whole of the company's assets?' exposes the additional question in the red box:





Answering 'Yes' to 'Are there amounts owed to unsecured creditors?' exposes the additional question in the red box:

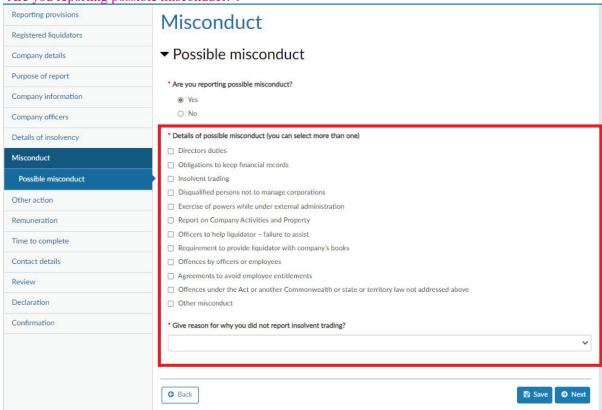




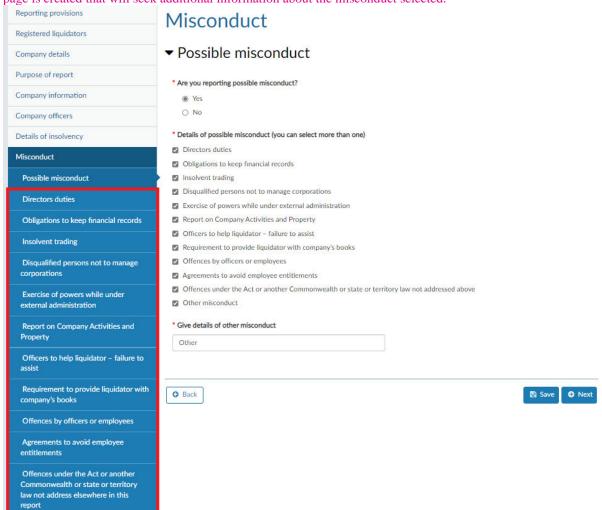
This section is blank if the user previously answered that there was no misconduct.



Otherwise if will ask if there is misconduct with the questions in the red box being asked if 'Yes' is selected for 'Are you reporting possible misconduct?'.



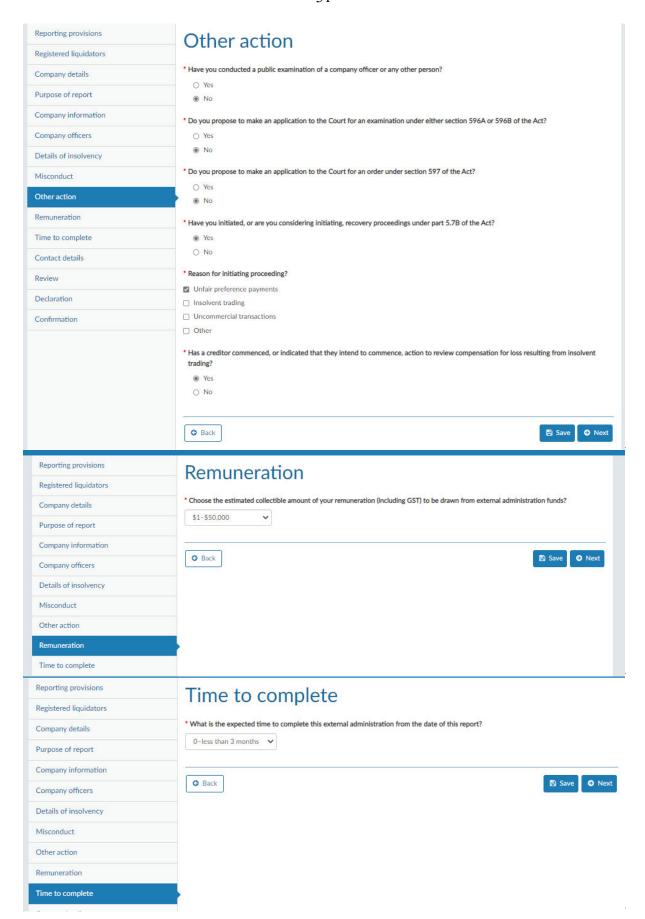
For every selection made to the question 'Details of possible misconduct (you can select more than one)' a new page is created that will seek additional information about the misconduct selected.

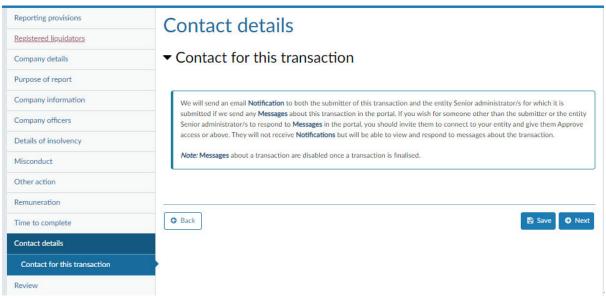


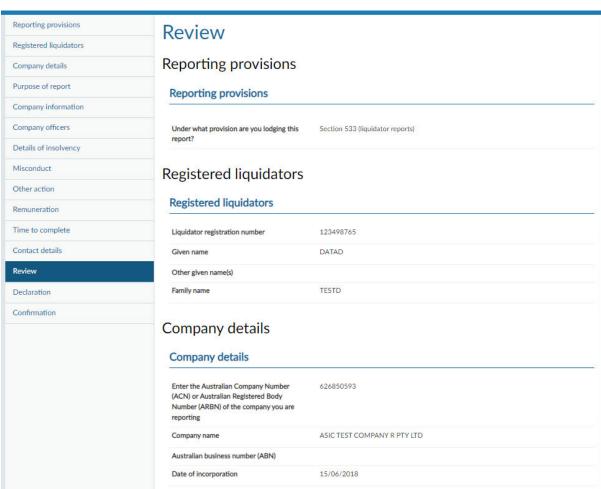
For example, this section appears if you select 'Insolvent trading' on the question in the previous page. The red box again shows the additional questions asked based on the conditional logic.

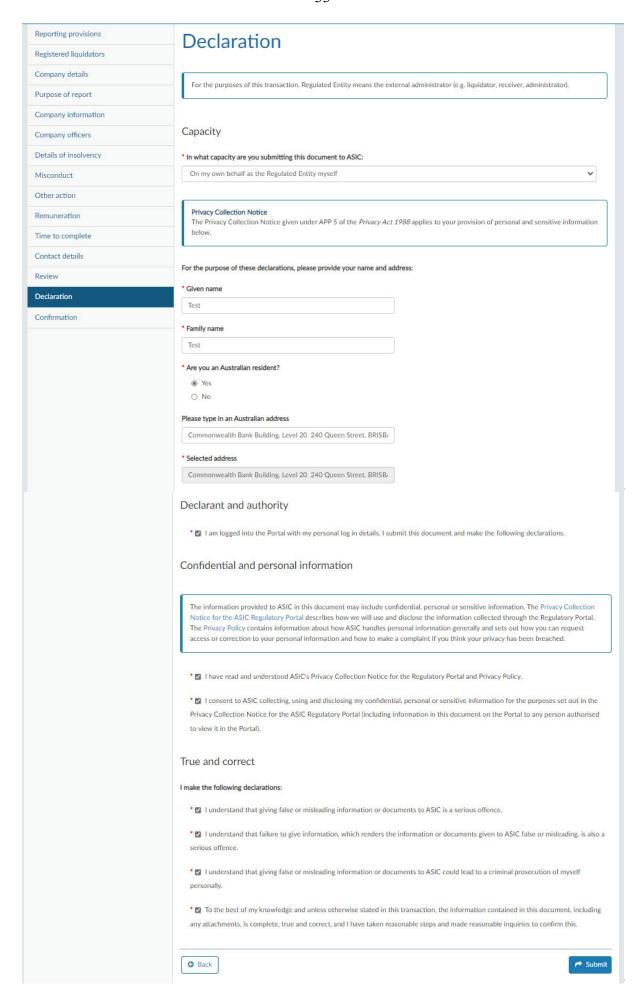


Review	
Declaration	Indicate the period, which, in your opinion, the company became unable to pay all its debts as and when they became due and payable
Declaration	At appointment
Confirmation	○ 1-3 months prior to appointment
	O 4-9 months prior to appointment
	O 10-15 months prior to appointment
	O 16-24 months prior to appointment
	Over 2 years prior to appointment
	* How did you determine the date on which, in your opinion, the company became unable to pay all its debts as and when they became due and payable?
	☑ Cash flow analysis
	☐ Trading history analysis
	☐ Balance sheet analysis
	☐ Informed by director(s)
	Other
	* Based on what indicators of insolvency do you believe the director (or a reasonable person in a like position would have reason to suspect) would have had reasonable grounds to suspect the company was insolvent or would become insolvent by incurring further debt (you can select more than one)?
	Financial statements that disclose a history of serious shortage of working capital, unprofitable trading
	Poor or deteriorating cash flow or evidence of dishonoured payments
	 Difficulties in paying debts when they fell due (e.g. evidenced by letters of demand, recovery proceedings, increasing age of accounts payable)
	☐ Non-payment of statutory debts (e.g. PAYGW, SGC, GST)
	☐ Poor or deteriorating working capital
	☐ Increasing difficulties collecting debts
	Overdraft and/or other finance facilities at their limit
	Evidence of creditors attempting to obtain payment of outstanding debts
	Other
	* Estimate the approximate amount of debts incurred after the date (in your opinion) of insolvency
	\$250,001 - less than \$1 million
	○ \$1 million - \$5 million
	Over \$5 million
	○ Unable to determine
	• Do you have an aged creditors' list as at (you can select more than one):
	☑ Date of insolvency
	☐ Date of appointment
	□ Other date
	□ No aged creditor list
	• Are you aware of any reasonable defences available to the director/s (refer to s588H of the Corporations Act)?
	○ Yes
	No









Submit insolvency initial statutory report



- 1. Where no value or answer is shown in the right column (blank), this is because the question was either non-mandatory and no answer was given OR not presented to the user.
- 2. Guidance, alert, and help text is shown regardless of whether it was presented to the user.
- 3. If you change your response to certain questions on this transaction, this can result in information showing on this document that while accurate to the entity may not be relevant to the final submission. This will not impact the final submission.

Submit insolvency initial statutory report

Document Number	1U0067130
Reference Number	4003845
Create Date	23/01/2023 12:42:35 PM
Lodgement Date	23/01/2023 1:04:11 PM

Reporting provisions

* Under what provision are you lodging this	Section 533 (liquidator reports)	
report?		

Registered liquidators

Liquidator registration number	123498765
* Given name	Datad
Other given name(s)	
* Family name	TESTD

We have pre-filled the information above from ASIC records. If the pre-filled information is incorrect, you will be unable to make the required declaration as to the truth and accuracy of the information in this document. In this case, you must not submit the document until the information ASIC holds is corrected and then pre-filled into this document.

For more information, see https://asic.gov.au/for-finance-professionals/registered-liquidators/changing-or-cancelling-your-liquidator-registration/

Company details

* Enter the Australian Company Number (ACN) or Australian Registered Body Number (ARBN) of the company you are reporting	626850593
Company name	Asic Test Company R Pty Ltd

ASIC Form EX01 Page 1 of 22



Australian business number (ABN)	
Date of incorporation	15/06/2018
Which of the following best describes the company?	Select all that apply.
\$50 million in consolidated revenue	
\$12.5 million or more in consolidated gross assets	
50 or more employees	
None of the above	checked
* Type of appointment	Liquidation
* Date of appointment	09/01/2023

Purpose of report

Reason for the report (you can select more than one)	
Reporting alleged misconduct against company officer(s)	checked
Dividend in liquidation - company may be unable to pay its unsecured creditors more than 50c in the dollar	checked
For statistical purpose only	

Company information

* What is the size of the company in full-time employees (FTE)?	5–19 FTE
* Select an industry that best describes the service/s the company provides	Construction (e.g. carpentry, plastering)
* Select an industry that best describes the service/s the company provides	
* At any time prior to your appointment, was the company operating a business?	Yes
* Did the company cease trading its business prior to your appointment?	Yes

- 1. Where no value or answer is shown in the right column (blank), this is because the question was either non-mandatory and no answer was given OR not presented to the user.
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ASIC Form EX01 Page 2 of 22



A business asset is a piece of property or equipment purchased for business use. These can include current and non-current, short-term and long-term, operating and capitalised, and tangible and intangible assets.	
* Did the company sell/transfer/grant/give a security interest over all or part of its business assets outside the ordinary course of business prior to your appointment?	No
* Select the most appropriate time-period prior to your appointment that the business assets were transferred	
* Is someone else carrying on all or part of the business the company previously conducted?	
* Enter the Australian Business Number (ABN), Australian Company Number (ACN) or name of the entity now carrying the business the company previously conducted (if known)	
* Is the entity now trading the business related to the company or its officers?	
* Is the entity now trading the business using one or more of the same employees?	
* Was the company entitled to receive, any consideration for the transfer/assignment of its business assets?	
What was the estimated value of assets transferred, including intangible assets such as goodwill?	
* Did the company receive any consideration for the transfer of its business assets?	
* What was the nature of the consideration?	
* Specify other consideration	
* Who gave the consideration?	
* What was the value of the consideration?	
* In your opinion, was the consideration paid or payable adequate?	
More information on <u>Purchase Money Security Interests</u>	

- 1. Where no value or answer is shown in the right column (blank), this is because the question was either non-mandatory and no answer was given OR not presented to the user.
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	V
* Were there any interests registered in the Personal Property Securities Register in place in the 12 months prior to your appointment, excluding Purchase Money Security Interests?	No
* Was there a new secured debt or increase in existing secured debt on or after the date of insolvency, whether registered or unregistered?	No
* Do you believe the company may have engaged in illegal phoenix activity?	No
Company officers	
Current Director(s)/Secretary/(ies)	
Given name	DATAC

Given name	DATAD
Other given name(s)	
Family name	TESTD

TESTC

Defacto/shadow directors

Other given name(s)

Family name

* In your opinion, are there defacto/shadow directors?	No
* Given name	
Other given name(s)	
* Family name	
Date of birth (if known)	
Is the defacto/shadow director currently residing in Australia?	

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Where is the defacto/shadow director currently residing?	
Type in an Australian address (if known)	
* Why have you identified this person as a shadow director (you can select more than one)?	
* Specify other reason	
You can find the definition of a triggering event in sec	tion 489F of the Corporations Act 2001.
* Has a current director, or any past director for the 12 months preceding the day on which the triggering event occurred been a director of another company that has undergone restructuring within the period of the preceding 7 years; or been the subject of a simplified liquidation process within the period of the preceding 7 years?	
* Explain why the company is eligible for the simplified liquidation process	
* Has the company undergone restructuring or been the subject of a simplified liquidation process within the period of the preceding 7 years?	
* Explain why the company is eligible for the simplified liquidation process	
Advisors	
An advisor is a person or entity who may have assisted the company's directors deal with its financial activities at a time when the company may have been experiencing financial distress. While not all advisers do the wrong thing, some suggest that directors take actions which could be considered illegal (such as transferring assets into another company without paying them). Advisers can include a website service that refers matters.	
* Are you aware of an advisor(s) assisting the company prior to your appointment?	No
* What best describes who the advisor was?	

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Specify other advisor

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Given name	
Other given name(s)	
Family name	
* Firm name	
Type in an Australian address	
Business phone number	
Mobile phone number	

Details of insolvency

Books and records

* Have you obtained all the company books and records?	Yes
* Give reasons why you do not have all the books and records (you can select more than one)	
* Specify other reason	
* Have you applied to ASIC for external administration compliance assistance?	
* Submission number	
External administration compliance assistance More information on how you can obtain assistance from ASIC	
* Provide details of why you have not applied for external administration compliance assistance	
* In your opinion, are the books and records adequate?	Yes
* For a company of this size and given the business it operates or operated, in your opinion, what books and records are missing (you can select more than one)?	

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Assets and liabilities

* Estimate of total realisable assets (subject to your appointment)	\$1-\$10,000
* Estimate of total liabilities	\$1-\$10,000
To be eligible for the simplified liquidation process, liabilities of the company must not exceed \$1 million.	
* Estimate of total deficiency (liabilities less assets)	\$0-\$50,000

Employee entitlements

* Are there unpaid employee entitlements relating to this company?	No
* Select the types of employee entitlements that are unpaid (select all that apply)	
* Select the amount of unpaid wages	
* Specify amount	
* Select the amount of unpaid annual leave	
* Specify amount	
* Select the amount of unpaid pay in lieu of notice	
* Specify amount	
* Select the amount of unpaid redundancy pay	
* Specify amount	
* Select the amount of amount of unpaid long- service leave	
* Specify amount	
* Select amount of unpaid superannuation	
* Specify amount	

Secured creditors

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* Select the amount currently owed over the whole or substantially the whole of the company's assets	
* Specify amount	

Statutory creditors

* Select the amount of unpaid taxes and other statutory debt, excluding superannuation guarantee charge	\$1-\$100,000
* Specify amount	

Unsecured creditors

* Are there amounts owed to unsecured creditors?	No
* Select the total number of unsecured creditors (excluding employee entitlements and statutory creditors)	
* Select the total amount owed to unsecured creditors (excluding employee entitlements and statutory creditors)	
* Specify amount	
* Is more than 50% of the total amount owed to unsecured creditors owed to related parties?	
* Does it appear to you that the company may be unable to pay its unsecured creditors more than 50 cents in the dollar?	
* What do you estimate the 'cents in the dollar' the company will be able to pay its unsecured creditors (excluding priority creditors)?	

Causes of failure

What do you consider are the causes of failure?	
Under capitalisation	Checked
Poor financial control including lack of records	
Poor management of accounts receivable	

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Poor strategic management of business	
Inadequate cash flow or high cash use	
Poor economic conditions	
Natural disaster	
Fraud	
Deed of Company Arrangement failed	
Dispute among directors	
Trading losses	
Industry restructuring	
Business restructuring	
Other	
Specify other causes	

You must cease to follow the simplified liquidation process if you believe on reasonable grounds that the company, or a director of the company, has engaged in conduct involving fraud or dishonesty that has had, or is likely to have, a material adverse effect on the interests of creditors as a whole or a class of creditors as a whole.

Transfer of assets and business of the company for no/inadequate consideration and/or creditor defeating dispositions should be included here.

Possible misconduct

* Are you reporting possible misconduct?	Yes	
* Details of possible misconduct (you can select more than one)	Directors Duties	
You must cease to follow the simplified liquidation process if you believe on reasonable grounds that the company, or a director of the company, has engaged in conduct involving fraud or dishonesty that has had, or is likely to have, a material adverse effect on the interests of creditors as a whole or a class of creditors as a whole.		
* Give details of other misconduct		
* Give reason for why you did not report insolvent trading?	The company did not incur debts at a time when it was unable to pay its debts (e.g. it ceased to trade)	

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* Specify other reason	
------------------------	--

Directors duties

Failure to act with care and diligence

This question relates to section 180 of the <i>Corporations Act 2001</i> (civil obligation).	
* Did the director or other officer fail to exercise their powers and discharge their duties with care and diligence?	Yes
* Do you have documentary evidence to support this allegation?	Yes
* Are you aware of evidence in the possession of another which supports this allegation?	No
* From the information you have seen, do you believe the director or other officer may be able to rely on the Business Judgement Rule in defence of this allegation?	No

Failure to act in good faith and for a proper purpose

This question relates to section 181 of the <i>Corporations Act 2001</i> (civil obligation).	
* Did the director or other officer fail to exercise their powers and discharge their duties in good faith in the best interests of the corporations and for a proper purpose?	No
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	

Improper use of position

This question relates to section 182 of the <i>Corporations Act 2001</i> (civil obligation).		
* Did a director, other officer or employee of the corporation use their position improperly to gain an advantage for themselves or another, or to cause detriment to the corporation?	No	
* Do you have documentary evidence to support this allegation?		
* Are you aware of evidence in the possession of		

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another which supports this allegation?	
Improper use of information	
This question relates to section 183 of the <i>Corporations Act 2001</i> (civil obligation).	
* Did a past or present director, other officer or employee of the corporation obtain information in their position and improperly use the information to gain an advantage for themselves or another, or to cause detriment to the corporation?	No
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	
Good faith, use of position and use of informa	ation
This question relates to section 184 of the <i>Corporations Act 2001</i> (criminal obligation).	
* Did the director or other officer fail to use good faith, use of position or use of information in discharging their duties?	No
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	
Obligations to keep financial recor	rds
This question relates to section 286/344 of the <i>Corporations Act 2001</i> (civil obligation).	
* Has a director failed to take all reasonable steps to ensure the company has kept written financial records that correctly record and explain all its transactions and financial position and performance and would enable true and fair financial statements to be prepared and audited?	
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	

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Insolvent trading

This question relates to section 588G(1)(2) of the <i>Corporations Act 2001</i> (civil obligation) or section 588G(3) of the Corporations Act 2001 (criminal offence).		
* In your opinion, did one or more of the directors fail to prevent the company incurring a debt or debts at a time when the director suspected or ought reasonably to have suspected that the company was insolvent or would become insolvent as a result?		
* Do you have documentary evidence to support this allegation?		
* Are you aware of evidence in the possession of another which supports this allegation?		
Indicate the period, which, in your opinion, the company became unable to pay all its debts as and when they became due and payable		
How did you determine the date on which, in your opinion, the company became unable to pay all its debts as and when they became due and payable?		
Cash flow analysis		
Trading history analysis		
Balance sheet analysis		
Informed by director(s)		
Other		
* Specify other method		
Based on what indicators of insolvency do you believe the director (or a reasonable person in a like position would have reason to suspect) would have had reasonable grounds to suspect the company was insolvent or would become insolvent by incurring further debt (you can select more than one)?		
Financial statements that disclose a history of serious shortage of working capital, unprofitable trading		
Poor or deteriorating cash flow or evidence of dishonoured payments		
Difficulties in paying debts when they fell due (e.g. evidenced by letters of demand, recovery		

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proceedings, increasing age of accounts payable)	
Non-payment of statutory debts (e.g. PAYGW, SGC, GST)	
Poor or deteriorating working capital	
Increasing difficulties collecting debts	
Overdraft and/or other finance facilities at their limit	
Evidence of creditors attempting to obtain payment of outstanding debts	
Other	
* Specify other indicators	
* Estimate the approximate amount of debts incurred after the date (in your opinion) of insolvency	
Do you have an aged creditors' list as at (you can sele	ect more than one):
Date of insolvency	
Date of appointment	
Other date	
No aged creditor list	
* Specify other date	
* Are you aware of any reasonable defences available to the director/s (refer to s588H of the Corporations Act)?	

Disqualified persons not to manage corporations

This question relates to section 206A of the Corporations Act 2001 (civil obligation).	
* Do you have reason to believe a person who is disqualified from managing corporations under Part 2D.6 of the Act (e.g. s206B criminal convictions, bankruptcy, personal insolvency agreement, s206C Court-imposed disqualification) has engaged in acts of management during the period of their disqualification?	

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* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	
Exercise of powers while under external administration	

This question relates to section 198G of the <i>Corporations Act 2001</i> (civil obligation).		
* Do you have reason to believe that while the company was being wound up, a person other than the liquidator performed or exercised, or purported to perform or exercise, a function or power as an officer of the company, including removal or disposal of property and assets, collection of debts and entering into contracts?		
* Do you have documentary evidence to support this allegation?		
* Are you aware of evidence in the possession of another which supports this allegation?		

Report on Company Activities and Property

This question relates to Sections 475, 429 and 438B of the <i>Corporations Act 2001</i> (civil obligation).	
* Has a company officer completed the Report on Company Activities and Property?	
* Have you sought ASIC's assistance to obtain compliance?	
External administration compliance assistance More information on how you can obtain assistance from ASIC	

Officers to help liquidator – failure to assist

This question relates to section 530A of the <i>Corporations Act 2001</i> (civil obligation).	
* Have company officers failed to assist you in your administration?	
* Have you sought ASIC's assistance to obtain compliance?	
External administration compliance assistance	

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More information on how you can obtain assistance from ASIC

Requirement to provide liquidator with company's books

This question relates to section 530B of the <i>Corporations Act 2001</i> (civil obligation).	
* Have you been provided with the company's books?	
* Have you sought ASIC's assistance to obtain compliance?	
External administration compliance assistance More information on how you can obtain assistance from ASIC	
Offences by officers or employees	

This question relates to section 590 of the Corporations Act 2001 (criminal obligation).

Offences include:

- failure to disclose the existence of property
- failure to disclose of details of property disposed of within 10 years of the relevant date (usually the appointment date), outside the ordinary course of business
- within 10 years of the relevant date or after that time, made false entries into the books of the company
- fraudulently concealing or removing property of the company (including concealing debts), fraudulently obtained credit on behalf of the company or property the company had not paid for, or participated in the fraudulent alteration of, or omission from, the books relating to the company
- tampering with, disposing of or preventing production of a company book
- obtaining in credit, pawning, pledging or disposing of the property the company did not pay for
- fraudulently obtaining the consent of one or more creditors to an agreement relating to the affairs of the company, within 10 years before the next relevant day, or at a time after that day.

* Does it appear that a past or present officer or employee of the company acted in any of the ways described above?	
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	

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Agreements to avoid employee entitlements

This question relates to section 596AB of the <i>Corporations Act 2001</i> (civil obligation).		
* Does it appear that a person entered into an agreement (formal or informal, written or oral) or a transaction, with an intention of preventing the recovery of entitlements (usually includes wages, superannuation contributions, amounts due for injury compensation, leave, termination payments) of employees of the company, or significantly reducing the amount of entitlements of employees of the company that can be recovered?		
* Do you have documentary evidence to support this allegation?		
* Are you aware of evidence in the possession of another which supports this allegation?		

Offences under the Act or another Commonwealth or state or territory law not addressed elsewhere in this report

* Does it appear to you that a past or present officer or employee, or a member of contributory, of the company may have been guilty of an offence under a law of the Commonwealth or a state or territory not addressed elsewhere in this report?	
* Give a brief description of the alleged offence	
* Do you have documentary evidence to support this allegation?	
* Are you aware of evidence in the possession of another which supports this allegation?	
* Does it appear to you that a person who has taken part in the formation, promotion, administration or winding up of the company may have misapplied or retained, or may have become liable or accountable for, any money or property of the company; and/or may have been guilty of any negligence, default, breach of duty or breach of trust in relation to the company in a way that is not already dealt with elsewhere in this report?	
* Do you have documentary evidence to support this allegation?	

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* Are you aware of evidence in the possession of another which supports this allegation?	
* Have you referred or are you intending to refer this to any other authority apart from ASIC?	
* Select authority/ies (you can select more than one)	
* Specify other authority	

Other action

* Have you conducted a public examination of a company officer or any other person?	No
* Do you propose to make an application to the Court for an examination under either section 596A or 596B of the Act?	No
* Do you propose to make an application to the Court for an order under section 597 of the Act?	No
* Have you initiated, or are you considering initiating, recovery proceedings under part 5.7B of the Act?	Yes
* Reason for initiating proceeding?	Unfair Preference Payments
* Specify other reason	
* Reason for not initiating proceedings?	
* Specify other reason	
* Has a creditor commenced, or indicated that they intend to commence, action to review compensation for loss resulting from insolvent trading?	Yes

Remuneration

,	\$1-\$50,000	
remuneration (including GST) to be drawn from		
external administration funds?		

Time to complete

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* What is the expected time to complete this external administration from the date of this	0–less than 3 months
report?	

Contact details

Contact for this transaction

We will send an email **Notification** to both the submitter of this transaction and the entity Senior administrator/s for which it is submitted if we send any **Messages** about this transaction in the portal. If you wish for someone other than the submitter or the entity Senior administrator/s to respond to **Messages** in the portal, you should invite them to connect to your entity and give them Approve access or above. They will not receive **Notifications** but will be able to view and respond to messages about the transaction.

Note: Messages about a transaction are disabled once a transaction is finalised.

Declaration

For the purposes of this transaction, Regulated Entity means the external administrator (e.g. liquidator, receiver, administrator).				
Capacity				
On my own behalf as the Regulated Entity myself				
The Privacy Collection Notice given under APP 5 of the <i>Privacy Act 1988</i> applies to your provision of personal and sensitive information below.				
For the purpose of these declarations, please provide your name and address:				
Test				
Test				
Yes				
Commonwealth Bank Building, Level 20 240 Queen Street, BRISBANE CITY QLD 4000				

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Unit/Office	
* Street number	
* Street name	
* Street type	
* Suburb/City	
* State/Territory	
* Postcode	
* Address Line 1	
Address Line 2	
City / Municipality	
* Province / County / State	
* Postal Code / ZIP Code	
* Country / Territory	
* Other Country	

Declarant and authority	
* I am logged into the Portal with my personal log in details. I submit this document and make the following declarations.	checked
* I am logged into the Portal with my personal log in details. I am authorised by the Regulated Entity to submit this document and any attachments and am authorised to make the following declarations.	

Confidential and personal information

The information provided to ASIC in this document may include confidential, personal or sensitive information. The <u>Privacy Collection Notice for the ASIC Regulatory Portal</u> describes how we will use and disclose the information collected through the Regulatory Portal. The <u>Privacy Policy</u> contains information about how ASIC handles personal information generally and sets out how you can request access or correction to your personal information and how to make a complaint if you think your privacy has been

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breached.	
* I have read and understood ASIC's Privacy Collection Notice for the Regulatory Portal and Privacy Policy.	checked
* I consent to ASIC collecting, using and disclosing my confidential, personal or sensitive information for the purposes set out in the Privacy Collection Notice for the ASIC Regulatory Portal (including information in this document on the Portal to any person authorised to view it in the Portal).	checked
* I have read and understood ASIC's Privacy Collection Notice for the Regulatory Portal and Privacy Policy and I have obtained confirmation from the Regulated Entity that it, or an officeholder or partner of the Regulated Entity (or of its trustee), has read and understood ASIC's Privacy Collection Notice for the Regulatory Portal and Privacy Policy.	
* I consent to ASIC collecting, using and disclosing my confidential, personal or sensitive information for the purposes set out in the Privacy Collection Notice for the ASIC Regulatory Portal (including information contained in this document on the Portal to any person authorised to view it in the Portal).	

True and correct		
I make the following declarations:		
* I understand that giving false or misleading information or documents to ASIC is a serious offence.	checked	
* I understand that failure to give information, which renders the information or documents given to ASIC false or misleading, is also a serious offence.	checked	

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* I understand that giving false or misleading information or documents to ASIC could lead to a criminal prosecution of myself personally.	checked
* To the best of my knowledge and unless otherwise stated in this transaction, the information contained in this document, including any attachments, is complete, true and correct, and I have taken reasonable steps and made reasonable inquiries to confirm this.	checked
I understand that, and I have obtained confirmation f partner of the Regulated Entity (or of its trustee) und	rom the Regulated Entity that it, or an officeholder or erstands that:
* giving false or misleading information or documents to ASIC is a serious offence.	
* failure to give information, which renders the information or documents given to ASIC false or misleading, is also a serious offence.	
* giving false or misleading information or documents to ASIC could lead to a criminal prosecution of myself personally and the Regulated Entity on whose behalf I am acting.	
* To the best of my knowledge and unless otherwise stated in this transaction, the information contained in this document, including any attachments, is complete, true and correct, and I have taken reasonable steps and made reasonable inquiries to confirm this including obtaining confirmation from the Regulated Entity that to the best of their knowledge, or the knowledge of an officeholder or partner of the Regulated Entity (or of its trustee) the information contained in this document, including any attachments, is complete, true and correct, and they have taken reasonable steps and made reasonable inquiries to confirm this.	

Confirmation

You have submitted	your	transaction
--------------------	------	-------------

Reference number:

4003845

Date and time:

23-Jan-2023 13:04

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What happens next?

You can view the status of this transaction on the **View all transactions** page for this entity in the portal.

If required, we will direct you to a payment page when you click Finish. Otherwise we will return you to your dashboard.

If we need to contact you about this transaction we will do so through the portal.

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^{1.} Where no value or answer is shown in the right column (blank), this is because the question was either non-mandatory and no answer was given OR not presented to the user.

^{2.} Guidance, alert, and help text is shown regardless of whether it was presented to the user.

^{3.} If you change your response to certain questions on this transaction, this can result in information showing on this document that while accurate to the entity may not be relevant to the final submission. This will not impact the final submission.