

Question No QoN 001-05
Topic COVID-19 pandemic – ASIC guidance to companies
Committee Member Mr Gorman MP
Reference Written

Question

Can you provide the committee with detailed information on how ASIC will support and guide companies that are being wound up or restructured?

Answer

Background

ASIC provides information to directors, creditors and employees of insolvent, or soon to be insolvent, companies through Information Sheets, Regulatory Guides, ASIC's Newshub, and ASIC's website. ASIC promotes content on media channels including ASIC's LinkedIn and Twitter channels.

ASIC Information Sheets provide summarised technical information contained in the Corporations Act, 2001 (Cth) (Corporations Act) about insolvency laws that effect the various stakeholders and include duties, obligations, roles, and effects of insolvency and various insolvency administrations. Users of the Information Sheets include directors of companies, creditors, external administrators, shareholders, ASIC and the public.

Creditors (including trade creditors, employees owed money for unpaid entitlements and company directors owed money) are a large stakeholder group in companies that enter external administration or receivership and may themselves face insolvency because they haven't been paid. Our Information Sheets explain the roles and interests of creditors in different types of external administrations (e.g. liquidation, voluntary administrations or receiverships). Importantly ASIC's Information Sheets explain how they can participate in the process, through providing information to the external administrators, lodging claims about their outstanding debt and participating in meetings.

ASIC has published an Information Sheet that provides general information on insolvency for directors whose companies are in financial difficulty and ASIC Regulatory Guide 217 *Duty to prevent insolvent trading: Guide for directors*, which includes a list of factors companies can consider in determining whether a company is insolvent.

ASIC's Insolvency webpages provide links to guidance about what directors of companies affected by COVID-19 can do.

ASIC has also assisted Treasury by providing advice on the impact of the COVID-19 pandemic and possible law reform in respect to companies that may be wound up or restructured.

Small Business

ASIC's focus has been to encourage SMEs to get trusted advice early.

ASIC provides information to small businesses (that are companies) through additional guidance on ASIC's Newshub. Recently published articles include: "Where to get help to close your company", "What to do if your business is struggling financially", and "Steps to protect your small business". ASIC also promotes these articles on ASIC's LinkedIn and Twitter channels.