



ASIC

Australian Securities & Investments Commission

REPORT 456

Insolvency statistics: External administrators' reports (July 2014 to June 2015)

November 2015

About this report

This report is for insolvency practitioners and other interested stakeholders.

It presents an overview of total lodgements of statutory reports lodged by liquidators, receivers and voluntary administrators (external administrators) from 1 July 2014 to 30 June 2015, as well as our statistical findings from external administrators' reports lodged electronically when a company enters external administration (EXAD) status (initial external administrators' reports).

About ASIC regulatory documents

In administering legislation, ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Previous reports

Report number	Report date	Financial year covered
REP 412	September 2014	2013–14
REP 372	October 2013	2012–13
REP 297	September 2012	2011–12
REP 263	November 2011	2010–11
REP 225	December 2010	2007–08, 2008–09 and 2009–10
REP 132	June 2008	2004–05, 2005–06 and 2006–07

Disclaimer

This report has not been prepared for and should not be relied on for commercial use. In compiling the statistics in this report, ASIC has relied on the information in the external administrators' reports lodged electronically with ASIC.

Other than as discussed in Section B of this report, ASIC has not verified or sought to confirm the accuracy of any information in the external administrators' reports lodged electronically. Accordingly, the statistics in this report cannot be construed or relied on as representing a complete and accurate depiction or statement about the matters or events to which the statistics relate.

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A Executive summary

ASIC and company insolvency

- 1 One of ASIC's regulatory responsibilities is the administration of the insolvency-related provisions of the *Corporations Act 2001* (Corporations Act). This responsibility is wide: see Table 1.

Table 1: ASIC's activities in insolvency

Stakeholder	ASIC activities
Companies and company officers	<ul style="list-style-type: none"> • Reviewing certain companies suspected of trading while insolvent, to ensure directors focus on the solvency of their companies and take early action where solvency problems exist • Investigating possible misconduct associated with the collapse of a company reported to ASIC by external administrators and, if appropriate, taking enforcement action • Deregistering companies • Disqualifying directors of failed companies
Insolvency practitioners	<ul style="list-style-type: none"> • Registering liquidators • Assisting external administrators in the conduct of external administrations, through our Liquidator Assistance Program, and prosecuting directors who do not provide books and records or reports to external administrators • Administering the Assetless Administration Fund (AA Fund), which finances liquidators' preliminary investigations and reports into the failure of companies with few or no assets when it appears to ASIC that enforcement action may be warranted as a result of the investigations and reports • Assessing external administrators' reports lodged with ASIC as part of their statutory responsibilities to investigate company failure and report findings to ASIC • Investigating possible misconduct by registered liquidators in their conduct of external administrations and, where appropriate, entering into enforceable or voluntary undertakings, or referring the conduct to the court or to the Companies Auditors and Liquidators Disciplinary Board (CALDB)
All stakeholders	<ul style="list-style-type: none"> • Developing ASIC policy and guidance on the insolvency-related provisions of the Corporations Act • Publishing statistics on corporate insolvency about: <ul style="list-style-type: none"> – companies entering external administration – insolvency appointments – findings from reports lodged by liquidators, receivers and voluntary administrators

About this report

- 2 This statistical report provides a broad picture of corporate insolvencies in Australia for the information of the insolvency profession, creditors, academics, the Australian Government and other interested stakeholders. This report covers the financial year 2014–15.

Note: In this report, spans of two years (e.g. 2014–15) always refer to financial years.

- 3 We compiled this report from the estimates and opinions contained in statutory reports lodged with ASIC by liquidators, receivers and voluntary administrators (external administrators' reports) in the format of Schedule B to Regulatory Guide 16 *External administrators: Reporting and lodging* (RG 16) (Schedule B report).
- 4 Liquidators, receivers and voluntary administrators (external administrators) must lodge reports under the following sections of the Corporations Act:
- (a) s533 (by a liquidator);
 - (b) s422 (by a receiver); and
 - (c) s438D (by a voluntary administrator).
- 5 External administrators must lodge a report with ASIC as soon as practicable:
- (a) when they suspect an offence under an Australian law, or instances of negligence or misconduct relating to the company to which they are appointed; or
 - (b) in the case of a liquidation only, when unsecured creditors are unlikely to receive more than 50 cents in the dollar dividend.
- 6 Changes to the Corporations Act introduced a statutory time limit on the lodgement of a s533(1) report by a liquidator appointed after 31 December 2007. A liquidator must lodge a report as soon as practicable and, in any event, within six months after it so appears to the liquidator that any of the conditions in s533(1)(a), (b) or (c) apply. No statutory time limit was introduced under s422 or 438D.
- 7 We also ask external administrators to submit financial and other data when they complete an external administrator report.
- 8 When interpreting the statistics in this report, certain conditions and limitations should be kept in mind: see Section B.
- 9 Section C of this report provides data on the total number of external administrators' reports lodged in 2014–15, as well as the proportion of these that comprised *initial* external administrators' reports (i.e. the first electronically lodged Schedule B report after a company has entered external administration). Section D of this report presents our statistical findings from these initial external administrators' reports for the period 2014–15.

Percentages in this report

- 10 Percentages may not add up to 100% due to rounding. In this section, we have rounded the percentages to whole numbers. In Sections C and D, we have rounded to one decimal place.

Summary of main statistical findings

- 11 The total number of external administrators' reports lodged in 2014–15 was 8,904. Initial external administrators' reports comprised almost 94% of this total (or 8,354 reports).
- 12 The number of external administrators' reports lodged electronically, as a percentage of total reports, increased from 98.8% in 2012–13 to 99.8% in 2014–15.
- 13 Table 2 summarises the main findings relating to the initial external administrators' reports for 2014–15 (presented in Section D), and includes comparative data for the previous two reporting periods.

Note: For the data for previous reporting periods, see the reports listed on page 2.

Table 2: Summary of findings—Initial external administrators' reports (2012–13 to 2014–15)¹

		2014–15	2013–14	2012–13
Profile of companies	No. of employees affected	79% of reports concerned companies with less than 20 employees	81% of reports concerned companies with less than 20 employees	81% of reports concerned companies with less than 20 employees
	Industries with most lodgements	<ul style="list-style-type: none"> Other (business and personal) services (2,351 reports or 28%) Construction (1,771 reports or 21%) Accommodation and food services (870 reports or 10%) 	<ul style="list-style-type: none"> Other (business and personal) services (2,482 reports or 26%) Construction (2,153 reports or 23%) Accommodation and food services (916 reports or 10%) 	<ul style="list-style-type: none"> Construction (2,245 reports or 24%) Other (business and personal) services (2,220 reports or 24%) Retail trade (904 reports or 10%)
	Assets and liabilities	<ul style="list-style-type: none"> 85% of failed companies had estimated assets of \$100,000 or less 41% of failed companies had estimated liabilities of \$250,000 or less 	<ul style="list-style-type: none"> 86% of failed companies had estimated assets of \$100,000 or less 43% of failed companies had estimated liabilities of \$250,000 or less 	<ul style="list-style-type: none"> 85% of failed companies had estimated assets of \$100,000 or less 43% of failed companies had estimated liabilities of \$250,000 or less
	Deficiency	64% of failed companies had an estimated deficiency of \$500,000 or less	65% of failed companies had an estimated deficiency of \$500,000 or less	65% of failed companies had an estimated deficiency of \$500,000 or less
	Top 3 nominated causes of failure	<ul style="list-style-type: none"> Inadequate cash flow or high cash use (3,647 or 44% of reports) Poor strategic management of business (3,518 or 42% of reports) Trading losses (2,836 or 34% of reports) 	<ul style="list-style-type: none"> Inadequate cash flow or high cash use (4,031 or 43% of reports) Poor strategic management of business (3,975 or 42% of reports) Trading losses (3,078 or 33% of reports) 	<ul style="list-style-type: none"> Poor strategic management of business (3,908 or 42% of reports) Inadequate cash flow or high cash use (3,829 or 41% of reports) Trading losses (2,989 or 32% of reports)

	2014–15	2013–14	2012–13
Top 3 alleged possible misconduct	<ul style="list-style-type: none"> • s588G(1)–(2) Insolvent trading (4,856 or 58% of reports) • s286 and 344(1) Obligation to keep financial records (3,209 or 38% of reports) • s180 Care and diligence—Directors' and officers' duties (2,739 or 33% of reports) 	<ul style="list-style-type: none"> • s588G(1)–(2) Insolvent trading (5,425 or 57% of reports) • s286 and 344(1) Obligation to keep financial records (3,486 or 37% of reports) • s180 Care and diligence—Directors' and officers' duties (2,542 or 27% of reports) 	<ul style="list-style-type: none"> • s588G(1)–(2) Insolvent trading (4,872 or 53% of reports) • s286 and 344(1) Obligation to keep financial records (3,263 or 35% of reports) • s180 Care and diligence—Directors' and officers' duties (2,302 or 25% of reports)
Dividends to unsecured creditors	In 97% of cases, the dividend estimate was less than 11 cents in the dollar	In 97% of cases, the dividend estimate was less than 11 cents in the dollar	In 97% of cases, the dividend estimate was less than 11 cents in the dollar

¹ The term 'reports' in this table means 'initial external administrators' reports'.

B Conditions and limitations on the statistics

Key points

This section explains the conditions and limitations relating to the statistics in this report, including:

- the general conditions and limitations of the statistics in this report; and
- specific conditions and limitations relating to the statistical findings in Section D, which are based on initial external administrators' reports.

General conditions and limitations

- 14 When interpreting the statistics in this report, the following conditions and limitations should be kept in mind:
- (a) Although we encourage external administrators to report in the Schedule B format in RG 16, the use of this format is voluntary. It is not a statutory requirement. External administrators' reports not lodged in this format are only included in the total external administrators' report statistics (see Section C) and not in the statistics in Section D.
 - (b) The statistics in this report do not directly correlate with the monthly statistics for 'Companies entering external administration' and 'Insolvency appointments' on ASIC's website due to the time difference in lodgement of external administrators' reports: see Table 6. External administrators are not required to lodge reports where the pre-conditions of s422, 438D or 533 of the Corporations Act are not met.
 - (c) Some external administrators' reports are lodged for statistical purposes only, rather than under the Corporations Act. For example, a liquidator may choose to lodge a report for a company with no suspected misconduct and with an estimated dividend of more than 50 cents in the dollar. Therefore, this report includes financial and other data from these lodgements in the aggregated statistics.

Conditions and limitations on statistics in Section D

- 15 To avoid double counting, all statistics in Section D are compiled only from the initial external administrator report lodged electronically when the company enters external administration (EXAD) status. This allows for the following situations:
- (a) While a company is in EXAD status, it may be subject to more than one appointment type. Even though a report may be lodged for each

- appointment type, the statistics only include the first electronically lodged report for the company.
- (b) More than one report may also be lodged for each appointment type. Again, the statistics only include the first electronically lodged report.
 - (c) A company may go in and out of EXAD status more than once. For each period in EXAD status, only the first electronically lodged report is included.
- 16 While the statistics only include the electronically lodged initial external administrators' reports, an external administrator may have lodged an additional report on paper in a narrative form (not in the Schedule B format).
- 17 Financial information provided in an initial external administrator report reflects estimates and opinions of the external administrator at a point in time. The statistics do not reflect revised information from subsequent or updated reports.
- 18 When completing the initial external administrator report, the external administrator selects from a predetermined set of options for qualitative questions, and ranges for quantitative questions. Limited testing carried out by ASIC while compiling these statistics identified a small number of reports with estimated employee entitlements inconsistent with other responses in those reports (e.g. very high unpaid employee entitlements but less than five employees; high unpaid employee entitlements that are significantly greater than estimated total liabilities). These reports have been eliminated from the employee entitlements statistics where the impact was material.
- 19 The top 12 industries by number of initial external administrators' reports lodged are shown for some statistics by industry, with remaining industries grouped under 'Other industries'.
- 20 Statistics broken down by region use the latest registered address on ASIC's corporate database (ASCOT). When an external administrator from another region becomes the external administrator and changes the registered office address on ASCOT, the new address is used. The regional statistics do not include companies with an international registered address.

Amendments to Schedule B report format

- 21 In July 2008, we reissued RG 16 to enhance the quality of information disclosed. The key parts of the Schedule B report format amended were:
- (a) 'Contraventions' was renamed 'Possible misconduct' and divided into civil and criminal breaches of the Corporations Act or other Commonwealth or state or territory laws. Availability of evidence is now disclosed for each type of possible misconduct identified.
 - (b) Contraventions were not included in Report 132 *External administrators: Schedule B statistics 1 July 2004–30 June 2007*

(REP 132). Possible misconduct has only been disclosed since Report 225 *Insolvency statistics: External administrators' reports 1 July 2007–30 June 2010* (REP 225)—for 2008–09 and 2009–10.

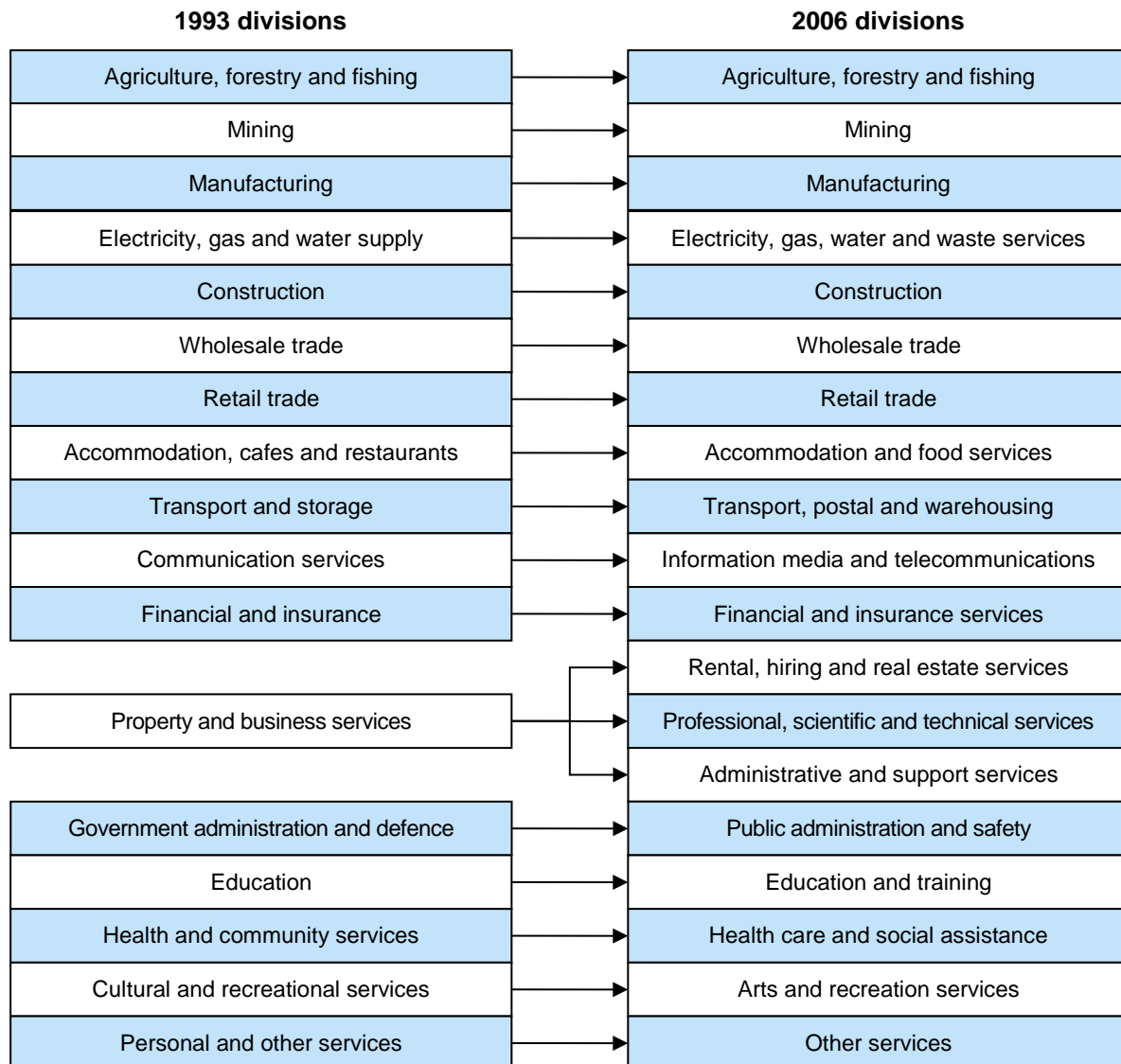
Changes to industry categories

22 Industry categories were updated to align with 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) divisions: see Figure 1. ANZSIC divisions are classified into subdivisions, groups and classes. Due to the large number of changes made at subdivision and group level, comparison of industry data before and after 1 July 2008 is more difficult. Changes to the Schedule B report format for industry categories include the following:

- (a) The 'Financial and insurance' industry category was previously broken down as separate industry categories due to ASIC's particular focus in this area. The sub-categories in the Schedule B report format of 'Credit provider', 'Deposit taking institutions', 'Insurance', 'Managed investments', 'Superannuation' and 'Other financial services' are now combined under 'Financial and insurance services' (FIS) and do not align with ANZSIC subdivision, group or class titles.
- (b) The number of divisions was increased by rearranging the 'Property and business services' category into 'Administrative and support services', 'Professional, scientific and technical services', and 'Rental, hiring and real estate services'.
- (c) Some industries were renamed to better reflect their composition: 'Accommodation, cafes and restaurants' is now 'Accommodation and food services'; 'Cultural and recreational services' is now 'Arts and recreation services'; 'Education' is now 'Education and training'; 'Electricity, gas and water supply' is now 'Electricity, gas, water and waste services'; 'Health and community services' is now 'Health care and social assistance'; 'Personal and other services' is now 'Other services'; 'Government administration and defence' is now 'Public administration and safety'; and 'Transport and storage' is now 'Transport, postal and warehousing'.
- (d) Schedule B's former industry category 'Agriculture' has been renamed 'Agriculture, forestry and fishing' in line with ANZSIC divisions.
- (e) 'Information media and telecommunications' effectively replaced 'Communication services', bringing together a number of classes from previous divisions.
- (f) A new Schedule B category 'Other (business and personal) services' (ANZSIC division name 'Other services') groups 'Personal and other services' and Schedule B's former industry category, 'Services to business'.

23 For details of industry descriptions, visit www.abs.gov.au/anzsic.

Figure 1: ANZSIC division changes



Additional questions—Insolvent trading

24 On 8 December 2014, ASIC amended the Schedule B format to include changes aimed at improving our ability to identify reports of misconduct that allege insolvent trading where these may warrant ASIC action. The additional information sought includes:

- (a) the period over which the company might have traded while insolvent;
- (b) the extent of the alleged insolvent trading;
- (c) the indicators of insolvency on which external administrators base their belief that the director had reasonable grounds to suspect that the company was insolvent at the time that debts were incurred; and
- (d) the evidence available to support the allegation of insolvent trading.

C Lodgement of external administrators' reports

Key points

This section provides statistics on the total lodgements of external administrators' reports, including statistics on:

- the method of lodgement (electronic and manual) compared with previous years; and
- the proportion of external administrators' reports that comprise initial external administrators' reports, as well as statistics on the timing of lodgement of these reports compared with the two previous reporting periods.

Total lodgements of external administrators' reports

- 25 The total number of external administrators' reports lodged fell from 10,073 in 2013–14 to 8,904 in 2014–15: see Table 3.
- 26 The percentage of electronically lodged reports continues to increase—99.8% of reports were electronically lodged in 2014–15 compared with 36.8% in 2002–03 (when electronic lodgement first became available). The number of reports lodged directly by external administrators through the registered liquidators' portal increased marginally from 97.9% in 2012–13 to 99.6% in 2014–15: see also Figure 2.

Table 3: Total external administrators' reports by lodgement type (1 July 2012 to 30 June 2015)

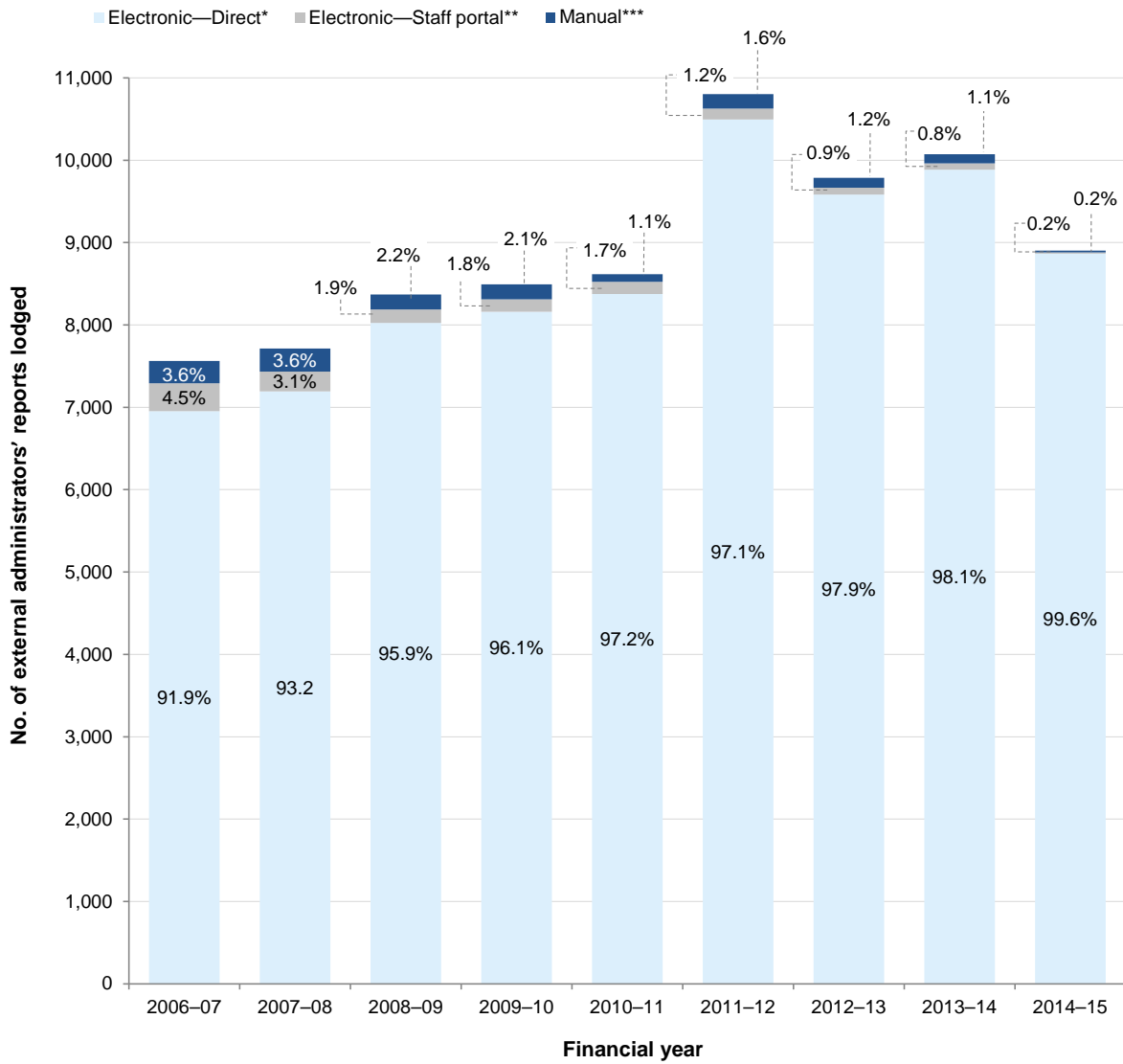
Lodgement type	2014–15		2013–14		2012–13	
	No.	%	No.	%	No.	%
Electronic—direct ¹	8,866	99.6%	9,885	98.1%	9,582	97.9%
Electronic—staff portal ²	16	0.2%	77	0.8%	85	0.9%
Manual ³	22	0.2%	111	1.1%	121	1.2%
Total	8,904	100.0%	10,073	100.0%	9,788	100.0%

¹ 'Electronic—direct' means Schedule B reports lodged directly by external administrators through the registered liquidators' portal.

² 'Electronic—staff portal' means Schedule B reports lodged on paper by external administrators in the Schedule B report format and subsequently entered by ASIC staff through the staff portal.

³ 'Manual' means reports (not in the Schedule B report format) lodged on paper by external administrators. However, it excludes supplementary reports (Schedule C reports).

Figure 2: Total external administrators' reports by lodgement type (1 July 2006 to 30 June 2015)



* 'Electronic—direct' means Schedule B reports lodged directly by external administrators through the registered liquidators' portal.

** 'Electronic—staff portal' means Schedule B reports lodged on paper by external administrators in the Schedule B report format and subsequently entered by ASIC staff through the staff portal.

*** 'Manual' means reports (not in the Schedule B report format) lodged on paper by external administrators. However, it excludes supplementary reports (Schedule C reports).

Lodgements of initial external administrators' reports

27

Table 4 shows the number of initial external administrators' reports lodged in 2014-15 and the previous two financial years.

Table 4: Initial external administrators' reports (1 July 2012 to 30 June 2015)

	2014-15	2013-14	2012-13
Total	8,354	9,459	9,254

- 28 In 2014–15, initial external administrators' reports made up 93.8% (or 8,354 reports) of the total number of external administrators' reports lodged. This compares with 93.9% (or 9,459 reports) in 2013–14.

Timing of lodgement

- 29 Table 5 shows the percentage of initial external administrators' reports lodged within six months of, and more than 12 months after, the appointment of the external administrator—compared with the previous two financial years.

Table 5: Initial external administrators' reports by timing of lodgement after appointment (1 July 2012 to 30 June 2015)

Financial year	Reports lodged within six months	Reports lodged 12 months or more after
2014–15	55.9%	19.2%
2013–14	55.1%	18.1%
2012–13	56.5%	17.7%

- 30 Section D sets out the statistics relating to the initial external administrators' reports lodged in 2014–15.

D Statistical findings from initial external administrators' reports

Key points

This section presents our detailed findings from initial external administrators' reports lodged electronically in 2014–15.

We include, for the first time, in paragraphs 59–76, details of alleged criminal and civil breaches of the insolvent trading provisions of the Corporations Act for the 4,284 reports lodged from 8 December 2014 (when the Schedule B changes commenced). Highlights include:

- External administrators had evidence for 1,704 reports of alleged *civil insolvent trading*. Of these, 1,340 (or 78.6%) estimated debts incurred while insolvent were below \$1 million and 1,445 (or 84.8%) had 50 or fewer unsecured creditors.
- When assessing a recovery action's merits, one other factor external administrators consider is the availability of assets to fund that action (absent creditor or third party funding). Most reports alleging a *civil breach* (1,380 or 80.9%) disclosed assets of less than \$100,000.
- External administrators had evidence for 39 reports of alleged *criminal insolvent trading*. Of these, 29 (or 74.4%) estimated debts incurred while insolvent were below \$1 million and 27 (or 69.2%) had 50 or fewer unsecured creditors.
- Only two reports (5.1%) alleging a *criminal breach* involved more than 200 creditors. Of these, one estimated debts incurred while insolvent of \$1 million to \$5 million, and the other estimated debts incurred while insolvent of over \$5 million. We have requested (and await) supplementary reports from the external administrators on these two matters.

As in our previous reports, highlighted here are figures that changed by three percentage points or more from the previous financial year (i.e. 2013–14):

- The number of reports indicating 'Poor economic conditions' as the cause of failure of the company decreased from 24.4% to 20.6%.
- Liquidators estimating they would collect nothing in remuneration for liquidations decreased from 27.4% to 23.2%.
- The number of reports that alleged pre-appointment criminal misconduct decreased from 12.7% to 9.4%.
- The number of reports that alleged post-appointment criminal misconduct decreased from 30% to 25%.

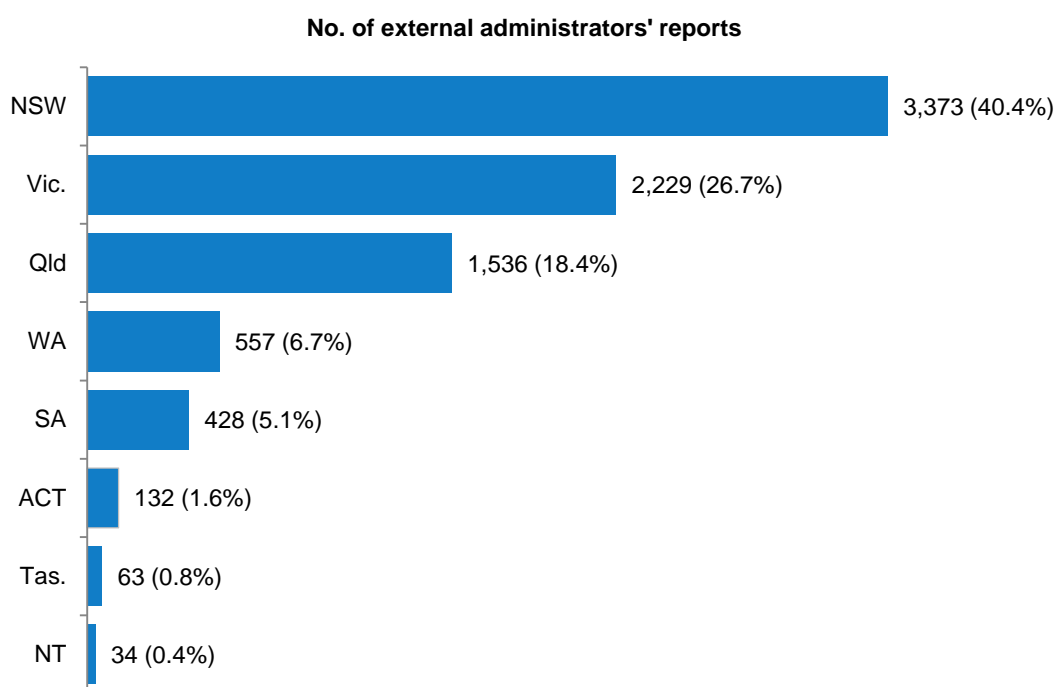
Note: The term 'reports' in this section means 'initial external administrators' reports'.

Lodgement by region

- 31 Most reports in 2014–15 related to companies registered in New South Wales (3,373 reports or 40.4%), followed by Victoria (2,229 reports or

26.7%) and Queensland (1,536 reports or 18.4%). The five remaining states and territories made up 14.5% of reports: see Figure 3.

Figure 3: Initial external administrators' reports by region¹ (1 July 2014 to 30 June 2015)



¹ Two companies with international registered addresses are not included in regional statistics.

Lodgement period

32 In 2014–15, 55.9% of reports were lodged within six months of the external administrator's appointment (this compares with 55.1% in 2013–14). Another 19.2% of reports were lodged more than 12 months after the appointment: see Table 6.

Table 6: Initial external administrators' reports by lodgement period after appointment^{1,2} (1 July 2014 to 30 June 2015)

Lodgement period after appointment	No.	%
Less than 2 months	1,172	14.0%
2 months to less than 6 months	3,494	41.8%
6 months to less than 12 months	2,087	25.0%
12 months or more	1,601	19.2%
Total	8,354	100.0%

¹ A liquidator appointed after 31 December 2007 must lodge reports as soon as practicable, and in any event within six months after it appears to the liquidator that any of the conditions in s533(1)(a), (b) or (c) apply.

² The result does not reflect instances where the first electronically lodged report was not the first report lodged.

Section lodged under

- 33 Most reports in 2014–15 (93.9%) were lodged by liquidators for the purpose of complying with s533 of the Corporations Act: see Table 7.

Table 7: Initial external administrators' reports by section of the Corporations Act (1 July 2014 to 30 June 2015)

Section of Corporations Act	No.	%
Section 422 (reports by receiver)	56	0.7%
Section 438D (reports by administrator)	454	5.4%
Section 533 (reports by liquidator)	7,843	93.9%
Statistical purposes	1	0.0%
Total	8,354	100.0%

Size of company

- 34 The number of employees or the number of full-time equivalent (FTE) employees is used as a measure of the size of the company. In 2014–15, 78.9% of reports related to companies with less than 20 employees: see Table 8.

Table 8: Initial external administrators' reports—Size of company as measured by number of FTEs (1 July 2014 to 30 June 2015)

Number of FTE employees	No.	%
Less than 5	5,365	64.2%
5–19	1,224	14.7%
20–199	419	5.0%
200 or more	18	0.2%
Not known	1,328	15.9%
Total	8,354	100.0%

Industry

- 35 In 2014–15, the three industries with the highest number of reports lodged were Other (business and personal) services (2,351 reports or 28.1%), Construction (1,771 reports or 21.2%), and Accommodation and food services (870 reports or 10.4%): see Table 9.
- 36 Only one of the top 12 industries has changed from the previous year: Electricity, gas, water and waste services has moved down to a ranking of 13,

while Mining (which was ranked 15 the previous year) is now ranked 11: see Section B. The order of some of the other top 12 rankings has changed.

Table 9: Initial external administrators' reports by industry type (1 July 2014 to 30 June 2015)

Ranking	Industry type	No.	%
1	Other (business and personal) services	2,351	28.1%
2	Construction	1,771	21.2%
3	Accommodation and food services	870	10.4%
4	Retail trade	739	8.8%
5	Transport, postal and warehousing	458	5.5%
6	Manufacturing	432	5.2%
7	Wholesale trade	224	2.7%
8	Rental, hiring and real estate services	223	2.7%
9	Professional, scientific and technical services	184	2.2%
10	Information media and telecommunications	182	2.2%
11	Mining	166	2.0%
12	Agriculture, forestry and fishing	146	1.7%
13	Electricity, gas, water and waste services	144	1.7%
14	FIS—Other financial services	96	1.1%
15	Health care and social assistance	85	1.0%
16	Arts and recreation services	74	0.9%
17	Administrative and support services	73	0.9%
18	Education and training	64	0.8%
19	FIS—Managed investments	34	0.4%
20	Public administration and safety	21	0.3%
21	FIS—Credit provider	8	0.1%
22	FIS—Superannuation	4	0.0%
23	FIS—Insurance	3	0.0%
24	FIS—Deposit taking institutions	2	0.0%
Total		8,354	100.0%

Nominated causes of failure

- 37 There is commonly more than one reason for a company's failure. External administrators nominated an average of between two and three causes of failure per report in 2014–15.
- 38 The top three nominated causes of failure for companies (see Table 11) were:
- inadequate cash flow or high cash use (3,647 or 43.7% of reports);
 - poor strategic management of business (3,518 or 42.1% of reports); and
 - trading losses (2,836 or 33.9% of reports).
- 39 Of the top 12 industries, the three industries that most exceeded the average percentage across all industries of reports for these three causes of failure were as follows:
- Inadequate cash flow or high cash use*: Information media and telecommunications (51.6% of reports), Mining (50% of reports), and Accommodation and food services (49% of reports);
 - Poor strategic management of business*: Mining (54.8% of reports), Agriculture, forestry and fishing (49.3% of reports), and Transport, postal and warehousing (46.5% of reports); and
- Note: In the 'Other industries' category in Table 11, seven industries exceeded the average percentage across all industries for poor strategic management of business (42.1%). The three industries that most exceeded this average were (equal first) Health care and social assistance and FIS—Managed investments (52.9% each), and Administrative and support services (49.3%).
- Trading losses*: Accommodation and food services (46.3% of reports), Retail trade (42.8% of reports) and Manufacturing (41.4% of reports).
- 40 All states and territories, except the Australian Capital Territory, the Northern Territory, South Australia and Tasmania, shared the same top two causes: see Table 12.

Possible misconduct

- 41 In 2014–15, external administrators alleged misconduct in 6,561 or 78.5% of reports. External administrators reported 16,279 possible breaches, at an average of between two and three breaches per report, where possible misconduct was reported: see Table 10.

Table 10: Initial external administrators' reports—Possible misconduct (1 July 2014 to 30 June 2015)

Reported misconduct	No. of reports	% of reports	No. of breaches
No misconduct reported	1,793	21.5%	–
'Possible misconduct' reported	6,561	78.5%	16,279
Total	8,354	100.0%	16,279

Table 11: Initial external administrators' reports—Nominated causes of failure by industry (1 July 2014 to 30 June 2015)

Causes of failure	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total
Under-capitalisation	355	342	214	156	85	103	34	51	32	43	28	31	115	1,589
Poor financial control, including lack of records	820	531	284	206	159	100	48	65	36	38	45	36	170	2,538
Poor management of accounts receivable	208	275	39	60	62	69	29	14	28	18	24	9	83	918
Poor strategic management of business	944	755	371	311	213	178	76	92	74	74	91	72	267	3,518
Inadequate cash flow or high cash use	927	792	426	332	213	211	99	93	61	94	83	55	261	3,647
Poor economic conditions	348	386	199	232	75	117	41	45	43	22	73	39	102	1,722
Natural disaster	14	6	13	6	4	3	2	3	0	0	2	5	0	58
Fraud	31	15	7	8	5	5	4	5	5	3	1	4	12	105
Deed of company arrangement failed	13	10	3	5	2	3	1	1	1	0	2	0	5	46
Dispute among directors	71	52	25	19	15	17	11	14	11	13	10	10	33	301
Trading losses	677	592	403	316	147	179	89	53	47	60	54	47	172	2,836
Industry restructuring	32	27	5	22	7	22	9	4	3	6	9	3	24	173
Other	778	562	202	176	138	115	83	81	65	61	44	58	204	2,567
Total	5,218	4,345	2,191	1,849	1,125	1,122	526	521	406	432	466	369	1,448	20,018

¹ 'Other industries' include Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Table 12: Initial external administrators' reports—Nominated causes of failure by region¹ (1 July 2014 to 30 June 2015)

Causes of failure	ACT	NSW	NT	Qld	SA	Tas.	Vic.	WA	Total
Under-capitalisation	43	559	8	285	109	12	441	131	1,588
Poor financial control, including lack of records	37	1,233	5	361	117	17	605	163	2,538
Poor management of accounts receivable	19	309	5	206	51	7	233	88	918
Poor strategic management of business	38	1,376	14	724	181	18	883	284	3,518
Inadequate cash flow or high cash use	68	1,411	16	657	186	21	1,000	287	3,646
Poor economic conditions	36	570	5	426	103	19	406	156	1,721
Natural disaster	0	10	0	33	1	0	12	2	58
Fraud	1	36	0	21	5	0	34	8	105
Deed of company arrangement failed	0	13	0	10	6	0	7	10	46
Dispute among directors	6	96	3	59	10	4	93	30	301
Trading losses	56	1,060	17	516	189	32	724	242	2,836
Industry restructuring	1	52	0	37	7	0	62	14	173
Other	31	1,141	14	375	122	17	701	165	2,566
Total	336	7,866	87	3,710	1,087	147	5,201	1,580	20,014

¹ Causes of failure for companies with international registered addresses are not included in regional statistics.

- 42 As a result of the reports lodged, we asked the external administrator to prepare a supplementary report under s422, 438D or 533 for 699 (10.7%) of the 6,561 reports for 2014–15 where they identified possible misconduct. The request for an additional report is a function of our assessment of risk based on a number of factors, including, but not limited to:
- the nature of the possible misconduct reported;
 - the amount of liabilities;
 - the deficiency suffered;
 - the availability of evidence;
 - prior misconduct; and
 - the advice of the external administrator that the reported possible misconduct warrants further investigation.
- 43 Alleged criminal misconduct has been split between alleged misconduct occurring before the appointment of the external administrator (pre-appointment misconduct) and post-appointment misconduct related to directors' and officers' failure to assist the liquidator. In 2014–15, 12.8% of all reported misconduct related to post-appointment misconduct: see Table 13.
- 44 Alleged breaches of civil obligations are the most common breaches (13,231 or 81.3% of all reported misconduct). For a detailed analysis of civil breaches by section of the Corporations Act, industry and region, see Table 30 and Table 32.

Table 13: Initial external administrators' reports—Categories of possible misconduct (1 July 2014 to 30 June 2015)

Categories of possible misconduct	No. of breaches	% of breaches
Alleged criminal misconduct under Corporations Act by officers or employees:		
• pre-appointment criminal misconduct	788	4.8%
• post-appointment criminal misconduct	2,089	12.8%
Alleged breaches of civil obligations	13,231	81.3%
Other criminal offences ¹	56	0.3%
Other possible misconduct ²	115	0.7%
Total	16,279	100.0%

¹ 'Other criminal offences' include breaches by a member or contributory under the Corporations Act, or breaches under other Commonwealth statutes or state or territory laws.

² 'Other possible misconduct' relates to people who have taken part in the formation, promotion, administration, management or winding-up of the company and may have misapplied or retained, or become liable or accountable for, any money or property of the company; or been guilty of any negligence, default, breach of duty or trust in relation to the company.

Documentary evidence and further inquiry

- 45 External administrators confirmed they had documentary evidence to support alleged pre-appointment misconduct for 4,135 reports (49.5%) for 2014–15: see Table 14. Of these, they considered that only 1,588 reports (19%) warranted ASIC's inquiry into the alleged misconduct, based on their assessment of the information and documentary evidence available.

Table 14: Initial external administrators' reports—Possible pre-appointment misconduct¹ reported (1 July 2014 to 30 June 2015)

		No. of reports	% of reports	No. of breaches
Did the external administrator have documentary evidence to support the allegation?	Yes	4,135	49.5%	10,148
	No	1,562	18.7%	4,034
	Total	5,697	68.2%	14,182
Of those with documentary evidence, did the external administrator recommend further inquiry by ASIC?	Yes	1,588	19.0%	–
	No	2,547	30.5%	–
	Total	4,135	49.5%	–
Was the external administrator aware of another person with documentary evidence?	Yes	307	3.7%	963
	No	5,390	64.5%	13,219
	Total	5,697	68.2%	14,182
Where the evidence was with another person, did the external administrator recommend further inquiry by ASIC?	Yes	152	1.8%	–
	No	155	1.9%	–
	Total	307	3.7%	–

¹ 'Pre-appointment misconduct' refers to pre-appointment criminal misconduct, alleged breaches of civil obligations, other criminal offences and other possible misconduct.

- 46 Documentary evidence in the possession of a third party was identified in 307 reports. Based on this and their assessment, the external administrator recommended we make further inquiry in 152 reports.

Note: For 119 of the 152 reports where evidence was identified as being with a third party, the external administrator also held evidence. Therefore, these 119 reports were also included in the 1,588 reports where the external administrator recommended further inquiry.

- 47 We requested supplementary reports (or Schedule C reports) for 363 (22.9%) of the 1,588 reports where external administrators alleged misconduct and advised that they held evidence and recommended further inquiry by ASIC. We requested a further 336 supplementary reports (699 in total for 2014–15) where external administrators had not recommended further inquiry but the matter met our risk assessment criteria: see paragraph 42.

48 One of the criteria we consider as part of our risk assessment is the size of the reported deficiency. Table 15 sets out an analysis of the size of the deficiency reported in external administrator reports (where misconduct is alleged, evidence is held by the liquidator and further inquiry by ASIC is recommended). We requested the preparation of 42 supplementary reports by external administrators where the reports related to deficiencies of \$5 million or more.

Table 15: Initial external administrators' reports—Reports alleging misconduct (with evidence held and further inquiry recommended) by deficiency size (1 July 2014 to 30 June 2015)

Deficiency	Schedule C report requested	Assessed and recorded	Total
\$0–\$50,000	30	129	159
\$50,001–\$250,000	91	388	479
\$250,001 to less than \$500,000	67	246	313
\$500,000 to less than \$1 million	53	199	252
\$1 million to less than \$5 million	80	219	299
\$5 million to \$10 million	19	23	42
Over \$10 million	23	21	44
Total	363	1,225	1,588

49 It is important to note that an external administrator's report of misconduct is an allegation and may not be substantiated by sufficient evidence to warrant action. We will not take action in every instance an external administrator reports alleged misconduct and we obtain a supplementary report. Information Sheet 151 *ASIC's approach to enforcement* (INFO 151) sets out the matters we consider before taking further action after completing our assessment of a supplementary report.

Alleged criminal misconduct

Pre-appointment criminal misconduct

50 Statistics for alleged pre-appointment criminal misconduct are shown by industry and region: see Table 29 and Table 31. These tables also show the number of reports where the external administrator is able to advise that evidence is available. Pre-appointment criminal misconduct predominantly relates to the conduct of an officer or director of the company before the appointment of the external administrator.

- 51 External administrators reported that they held evidence for 532 (67.5%) out of 788 possible criminal breaches reported in 2014–15.
- 52 The top three nominated criminal breaches for companies for 2014–15 were the same as in the previous four financial years—however, the order has changed this year with insolvent trading dropping from first to third highest:
- (a) *Sections 286 and 344(2) Obligation to keep financial records:* 240 breaches reported (2.9% of reports);
 - (b) *Section 184 Good faith, use of position and use of information:* 173 breaches reported (2.1% of reports); and
 - (c) *Section 588G(3) Insolvent trading:* 166 breaches reported (2% of reports).
- 53 Of the top 12 industries, the three industries that most exceeded the average percentage across all industries of reports for these three nominated criminal breaches were:
- (a) *Sections 286 and 344(2) Obligation to keep financial records:* Agriculture, forestry and fishing (5.5% of reports), Rental, hiring and real estate services (5.4% of reports), and Transport, postal and warehousing (4.4% of reports);
 Note: Four industries grouped in the 'Other industries' category exceeded the average 2.9% of reports for s286 and 344(2) Obligation to keep financial records. These industries were FIS—Managed investments (23.5% of reports), Arts and recreation services (8.1% of reports), FIS—Other financial services (6.3% of reports), and Health care and social assistance (4.7% of reports).
 - (b) *Section 184 Good faith, use of position and use of information:* Rental, hiring and real estate services (4.5% of reports), Agriculture, forestry and fishing (4.1% of reports), and (equal third) Wholesale trade and Mining (3.6% of reports).
 Note: Six industries grouped in the 'Other industries' category exceeded the average 2.1% of reports for s184 Good faith, use of position and use of information. The three industries that most exceeded this average were FIS—Deposit taking institutions (50% of reports), FIS—Managed investments (5.9% of reports), and FIS—Other financial services (4.2% of reports).
 - (c) *Section 588G(3) Insolvent trading:* Mining (4.2% of reports), and (equal second) Wholesale trade and Agriculture, forestry and fishing (2.7% of reports).
 Note: Six industries grouped in the 'Other industries' category exceeded the average 2% of reports for s588G(3) Insolvent trading. The three industries that most exceeded this average were FIS—Credit provider (12.5% of reports), FIS—Managed investments (5.9% of reports) and Education and training (4.7% of reports).

Post-appointment criminal misconduct

- 54 Alleged post-appointment criminal misconduct reported by external administrators relates to officers of the company failing to assist external administrators following the appointment of the external administrator. The 2,089 post-appointment breaches related to 1,076 reports (12.9%): see Table 16.

Table 16: Initial external administrators' reports—Possible post-appointment criminal misconduct reported by section of Corporations Act¹ (1 July 2014 to 30 June 2015)

Section of the Corporations Act	No. of breaches
Sections 429, 438B, 446C and 475 Report as to company's affairs	673
Section 530A Officers to help liquidator	734
Section 530B Requirement to provide liquidator with company's books	682
Total	2,089

¹ The Schedule B report format does not require external administrators to advise whether or not evidence is available given the nature of the misconduct being reported.

- 55 We assist external administrators, through our Liquidator Assistance Program, in obtaining compliance by officers with their obligations to prepare a report as to the company's affairs, provide relevant books and records, and assist liquidators.

Alleged breaches of civil obligations

- 56 Statistics for alleged breaches of civil obligations are available by industry and region: see Table 30 and Table 32. The tables also show the number of reports where the external administrator is able to advise that evidence is available. External administrators reported that they held evidence for 9,483 (71.7%) out of 13,231 possible breaches of civil obligations reported in 2014–15.
- 57 The top three nominated civil breaches for companies in 2014–15 were the same as in the previous four years:
- Section 588G(1)–(2) Insolvent trading*: 4,856 breaches reported (58.1% of reports);
 - Sections 286 and 344(1) Obligation to keep financial records*: 3,209 breaches reported (38.4% of reports); and
 - Section 180 Care and diligence—Directors' and officers' duties*: 2,739 breaches reported (32.8% of reports).
- 58 Of the top 12 industries, the three industries that most exceeded the average percentage across all industries of reports for these three nominated breaches of civil obligations were:
- Section 588G(1)–(2) Insolvent trading*: Transport, postal and warehousing (64.2% of reports), Accommodation and food services (63.6% of reports), and Information media and telecommunications (60.4% of reports);
 - Sections 286 and 344(1) Obligation to keep financial records*: Transport, postal and warehousing (45.2% of reports), Other (business and personal) services (43.8% of reports), and Agriculture, forestry and fishing (40.4% of reports); and

- (c) *Section 180 Care and diligence—Directors' and officers' duties: Mining* (36.7% of reports), *Accommodation and food services* (35.6% of reports), and *Other (business and personal) services* (35% of reports).

Note: Six industries grouped in the 'Other industries' category exceeded the average 32.8% of reports for s180 Care and diligence—Directors' and officers' duties. The three industries that most exceeded this average were FIS—Superannuation (75% of reports), FIS—Managed investments (47.1% of reports), and FIS—Other financial services (44.8% of reports).

Alleged insolvent trading

- 59 Of the 8,354 reports lodged during 2014–15, a total of 4,070 reports (48.7%) were lodged before 8 December 2014—that is, before ASIC introduced the further questions on insolvent trading. A further 4,284 reports (51.3%) were lodged for the remainder of 2014–15.
- 60 Of the 4,284 reports lodged from 8 December onwards, a total of 79 reports (1.8%) alleged a breach of s588G(3) (criminal breach), and 2,447 reports (57.1%) alleged a breach of s588G(1)–(2) (civil breach).
- 61 Not all reports containing allegations of insolvent trading advised that there was evidence to support the allegation. Of the reports lodged from 8 December 2014, the external administrator advised there was evidence in support of:
- (a) 41 reports of an alleged criminal breach (or 51.9% of the 79 reports lodged alleging a criminal breach); and
- (b) 1,832 reports of an alleged civil breach (or 74.9% of the 2,447 reports lodged alleging a civil breach): see Table 17.
- 62 Of these reports, there were two alleging a criminal breach and 128 alleging a civil breach that did not contain any additional information about the alleged insolvent trading. This is because the external administrator commenced the form before the changes were implemented on 8 December but lodged the report after this date.

Note: The 130 reports without additional information are included in Table 17 (see notes below table), but have been removed from Table 18–Table 25 (with totals and percentages adjusted accordingly).

Table 17: Initial external administrators' reports—Reports alleging insolvent trading (1 July 2014 to 30 June 2015)

Insolvent trading		1 Jul 2014–7 Dec 2014*		8 Dec 2014–30 Jun 2015*	
		No.	% of reports	No.	% of reports
Criminal: s588G(3)	Evidence with liquidator and/or others	68	1.7%	41 [^]	1.0%
	No evidence	19	0.5%	38	0.9%
	Total	87	2.1%	79	1.8%

Insolvent trading		1 Jul 2014–7 Dec 2014*		8 Dec 2014–30 Jun 2015*	
		No.	% of reports	No.	% of reports
Civil: s588G(1)–(2)	Evidence with liquidator and/or others	1,831	45.0%	1,832 [#]	42.8%
	No evidence	578	14.2%	615	14.4%
	Total	2,409	59.2%	2,447	57.1%

* Date the report was lodged.

[^] Two of these reports did not contain any additional information.

[#] 128 of these reports did not contain any additional information.

Debts incurred while insolvent

- 63 Where external administrators advised that evidence existed for an alleged civil breach, most of these reports (1,340 or 78.6%) estimated that the debt incurred when the company was insolvent was less than \$1 million. Only 0.9%, or 16 reports, estimated that the amount of debt incurred while the company was insolvent was over \$5 million: see Table 18.
- 64 Where external administrators advised that evidence existed for an alleged criminal breach, most of these reports (29 or 74.4%) estimated that the debt incurred when the company was insolvent was less than \$1 million. Only 5.1%, or two reports, estimated that the amount of debt incurred while the company was insolvent was over \$5 million: see Table 18. For both of these reports, we requested that the external administrator prepare a supplementary report.
- 65 Where the external administrator reported that evidence existed, 12.6% of reports that alleged a civil breach and 2.6% of reports that alleged a criminal breach indicated that the debt incurred while the company was insolvent could not be determined: see Table 18.

Table 18: Initial external administrators' reports—Estimated debts incurred after date of insolvency (8 December 2014 to 30 June 2015)

Estimate of debts incurred	Criminal		Civil	
	No.	% of reports with evidence	No.	% of reports with evidence
\$0–\$250,000	21	53.8%	862	50.6%
\$250,001 to less than \$1 million	8	20.5%	478	28.1%
\$1 million to \$5 million	7	17.9%	133	7.8%
Over \$5 million	2	5.1%	16	0.9%
Unable to determine	1	2.6%	215	12.6%
Total	39	100.0%	1,704	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

Debts incurred while insolvent compared to available assets

66 Table 19 sets out an analysis of the estimated assets available compared to the estimated size of the debts incurred by the company while insolvent, where a civil breach has been alleged and the external administrator has reported that evidence exists.

Table 19: Initial external administrators' reports—Estimated debts incurred after date of insolvency compared to estimated assets in reports alleging a civil breach (8 December 2014 to 30 June 2015)

Estimate of debts incurred	Estimate of assets available						Over \$5 million	Total	Percentage of total
	Less than \$1	\$1–\$10,000	\$10,001–\$50,000	\$50,001–\$100,000	\$100,001–\$250,000	\$250,001–\$5 million			
\$0–\$250,000	301	233	194	51	42	40	1	862	50.6%
\$250,001 to less than \$1 million	121	82	101	50	55	68	1	478	28.1%
\$1 million to \$5 million	30	14	23	6	16	42	2	133	7.8%
Over \$5 million	4	–	1	–	–	10	1	16	0.9%
Unable to determine	61	44	48	16	15	26	5	215	12.6%
Total	517	373	367	123	128	186	10	1,704	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

67 Table 20 sets out an analysis of the estimated assets available compared to the estimated size of the debts incurred by the company while insolvent, where a criminal breach has been alleged and the external administrator has reported that evidence exists.

Table 20: Initial external administrators' reports—Estimated debts incurred after date of insolvency compared to estimated assets in reports alleging a criminal breach (8 December 2014 to 30 June 2015)

Estimate of debts incurred	Estimate of assets available							Total	Percentage of total
	Less than \$1	\$1–\$10,000	\$10,001–\$50,000	\$50,001–\$100,000	\$100,001–\$250,000	\$250,001–\$5 million	Over \$5 million		
\$0–\$250,000	3	8	5	2	1	2	–	21	53.8%
\$250,001 to less than \$1 million	4	1	1	1	–	1	–	8	20.5%
\$1 million to \$5 million	1	–	1	–	1	4	–	7	17.9%
Over \$5 million	–	–	–	–	–	2	–	2	5.1%
Unable to determine	1	–	–	–	–	–	–	1	2.6%
Total	9	9	7	3	2	9	–	39	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

Debts incurred while insolvent compared to number of unsecured creditors

68 The majority of reports (1,445 or 84.8%) alleging a civil breach had 50 or fewer unsecured creditors and, of these, 1,201 reports (or 70.5% of the total 1,704 reports) incurred debts of less than \$1 million. Only 1.8% (or 30 reports) were for a company with more than 200 unsecured creditors. Of these, only 13 incurred debts of \$1 million or more, and only four incurred debts of over \$5 million: see Table 21.

Table 21: Initial external administrators' reports—Estimated debts incurred after date of insolvency compared to number of unsecured creditors in reports alleging a civil breach (8 December 2014 to 30 June 2015)

Estimate of debts incurred	Number of unsecured creditors					Total	Percentage of total
	Less than 25	25–50	51–200	More than 200	Unknown		
\$0–\$250,000	737	76	41	3	5	862	50.6%
\$250,001 to less than \$1 million	294	94	80	4	6	478	28.1%
\$1 million to \$5 million	53	16	54	9	1	133	7.8%

Estimate of debts incurred	Number of unsecured creditors					Total	Percentage of total
	Less than 25	25–50	51–200	More than 200	Unknown		
Over \$5 million	5	2	5	4	–	16	0.9%
Unable to determine	142	26	31	10	6	215	12.6%
Total	1,231	214	211	30	18	1,704	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

69 The majority of reports (27 or 69.2%) alleging a criminal breach had 50 or less unsecured creditors and, of these, 22 reports (or 56.4% of the total 39 reports) incurred debts of less than \$1 million. Only 5.1% (or two reports) were for a company with more than 200 unsecured creditors. Of these two reports, one incurred debts of \$1 million to \$5 million, and one incurred debts of over \$5 million: see Table 22.

Table 22: Initial external administrators' reports—Estimated debts incurred after date of insolvency compared to number of unsecured creditors in reports alleging a criminal breach (8 December 2014 to 30 June 2015)

Estimate of debts incurred	Number of unsecured creditors				Total	Percentage of total
	Less than 25	25–50	51–200	More than 200		
\$0–\$250,000	14	1	6	–	21	53.8%
\$250,001 to less than \$1 million	6	1	1	–	8	20.5%
\$1 million to \$5 million	2	2	2	1	7	17.9%
Over \$5 million	–	–	1	1	2	5.1%
Unable to determine	1	–	–	–	1	2.6%
Total	23	4	10	2	39	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

Period of alleged insolvency

70 External administrators who advised that evidence existed for an alleged civil breach reported that, in 845 reports (or 49.6%), the company became insolvent more than 15 months before the appointment: see Table 23.

Table 23: Initial external administrators' reports—Period in which company became insolvent (8 December 2014 to 30 June 2015)

Period in which company became insolvent	Criminal		Civil	
	No.	% of reports with evidence	No.	% of reports with evidence
At appointment	2	5.1%	22	1.3%
1–3 months prior to appointment	1	2.6%	79	4.6%
4–9 months prior to appointment	10	25.6%	395	23.2%
10–15 months prior to appointment	10	25.6%	363	21.3%
16–24 months prior to appointment	3	7.7%	300	17.6%
Over 2 years prior to appointment	13	33.3%	545	32.0%
Total	39	100.0%	1,704	100.0%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

- 71 The external administrators' reports identified more than one basis to determine the date on which the company became insolvent. External administrators nominated an average of between one and two bases for determining the date of insolvency.
- 72 The following were nominated by external administrators as the top three bases used to determine the date of insolvency (see Table 24):
- balance sheet analysis (1,088 or 63.8% of reports for alleged civil breaches, and 21 or 53.8% for alleged criminal breaches);
 - trading history analysis (669 or 39.3% of reports for alleged civil breaches, and 17 or 43.6% for alleged criminal breaches); and
 - cash flow analysis (383 or 22.5% of reports for alleged civil breaches, and 12 or 30.8% for alleged criminal breaches).

Table 24: Initial external administrators' reports—Basis for determining when the company became insolvent (8 December 2014 to 30 June 2015)

Basis for determining insolvency	Criminal		Civil	
	No.	% of reports with evidence	No.	% of reports with evidence
Cash flow analysis	12	30.8%	383	22.5%
Trading history analysis	17	43.6%	669	39.3%
Balance sheet analysis	21	53.8%	1,088	63.8%
Informed by director(s)	9	23.1%	177	10.4%
Other	19	48.7%	762	44.7%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

- 73 The answer 'Other' was selected as the basis for determining insolvency in 762 reports for a civil breach. This category allowed external administrators to provide free text answers. The three most common themes identified were:
- the non-lodgement and/or non-payment of statutory liabilities (381 reports);
 - the presumption of insolvency under s588E (181 reports); and
 - an aged creditor analysis (53 reports).

Reasonable grounds to suspect insolvency

- 74 External administrators identified more than one indicator of insolvency on which they based their belief that the director had reasonable grounds to suspect that the company was insolvent or would become insolvent by incurring the debt. External administrators nominated an average of between two and three indicators for civil breaches, and three and four indicators for criminal breaches.
- 75 The top three indicators (see Table 25) were:
- non-payment of statutory debts (e.g. PAYGW, SGC, GST) (1,223 or 71.8% of reports for alleged civil breaches, and 29 or 74.4% for alleged criminal breaches);
 - financial statements that disclose a history of serious shortage of working capital, unprofitable trading (751 or 44.1% of reports for alleged civil breaches, and 16 or 41% for alleged criminal breaches); and
 - difficulties paying debts when they fell due (e.g. evidenced by letters of demand, recovery proceedings, increasing age of accounts payable) (734 or 43.1% of reports for alleged civil breaches, and 21 or 53.8% for alleged criminal breaches).

Table 25: Initial external administrators' reports—Indicators that director had reasonable grounds to suspect company insolvency (8 December 2014 to 30 June 2015)

Indicators of insolvency	Criminal		Civil	
	No.	% of reports with evidence	No.	% of reports with evidence
Financial statements that disclose a history of serious shortage of working capital, unprofitable trading	16	41.0%	751	44.1%
Poor or deteriorating cash flow or evidence of dishonoured payments	12	30.8%	358	21.0%
Difficulties paying debts when they fell due (e.g. evidenced by letters of demand, recovery proceedings, increasing age of accounts payable)	21	53.8%	734	43.1%

Indicators of insolvency	Criminal		Civil	
	No.	% of reports with evidence	No.	% of reports with evidence
Non-payment of statutory debts (e.g. PAYGW, SGC, GST)	29	74.4%	1,223	71.8%
Poor or deteriorating working capital	16	41.0%	560	32.9%
Increasing difficulties collecting debts	12	30.8%	188	11.0%
Overdraft and/or other finance facilities at their limit	8	20.5%	202	11.9%
Evidence of creditors attempting to obtain payment of outstanding debts	16	41.0%	401	23.5%
Other	5	12.8%	192	11.3%

Note: Figures in the table are based on reports where evidence is held, but have been adjusted to exclude reports that did not contain any additional information about the alleged insolvent trading: see paragraph 62.

Evidence of alleged dishonesty

- 76 In 30 reports alleging a criminal breach, external administrators indicated they had evidence showing that the director had an opportunity to prevent the company from incurring the debt and did not do so. Also, in 13 reports alleging a criminal breach, external administrators reported there was evidence showing that the failure was dishonest (i.e. the director incurred the debt with the knowledge that it would produce adverse consequences; the failure was intentional, wilful or deliberate; and it included an element of deceit or fraud).

Other possible criminal offences

- 77 There were only 56 other possible criminal offences (0.3% of overall offences) by a member or contributory under the Corporations Act, other Commonwealth statute, or state or territory law. Of these, 50 were possible criminal offences other than under the Corporations Act: see Table 26.

Table 26: Initial external administrators' reports—Other possible criminal offences (1 July 2014 to 30 June 2015)

Offence	No. of breaches
Criminal offence under the Corporations Act (if a member or contributory)	6
Criminal offence under another Commonwealth statute	23
Criminal offence under a state or territory law	27
Total	56

Other possible misconduct

- 78 'Other possible misconduct' relates to persons who took part in the formation, promotion, administration, management or winding-up of the company: see Table 27. A further 115 instances of other possible misconduct were reported in 2014–15 (0.7% of overall breaches).

Table 27: Initial external administrators' reports—Other possible misconduct (1 July 2014 to 30 June 2015)

Possible misconduct	No. of breaches
May have misapplied or retained, or may have become liable or accountable for, money or property of the company	55
May have been guilty of negligence, default, breach of duty or breach of trust in relation to the company	60
Total	115

Referred to other authorities

- 79 For reports in 2014–15 where external administrators reported possible misconduct, 135 indicated the external administrator had referred, or was intending to refer, the matter to another authority. The three highest number of referrals to other authorities were to the Australian Taxation Office (48 reports), state or territory police (23 reports) and Fair Trading/Consumer Affairs (nine reports).

Table 28: Initial external administrators' reports—Referred to other authorities (1 July 2014 to 30 June 2015)

Authorities	No.
State or territory police	23
Australian Federal Police	3
Australian Crime Commission	3
Fair Trading / Consumer Affairs	9
Australian Taxation Office	48
Australian Consumer and Competition Commission	3
Other ¹	46
Total	135

¹ In the 'Other' category, 16 reports indicated the external administrator had referred, or was intending to refer, the matter to creditors.

Table 29: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and industry (1 July 2014 to 30 June 2015)

Section of the Corporations Act	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	51	22	15	17	8	6	8	10	2	6	6	6	16	173
Section 206A Disqualified persons not to manage corporations	5	8	2	2	2	2	0	4	1	0	0	0	5	31
Sections 286 and 344(2) Obligation to keep financial records	69	51	15	17	20	5	2	12	4	4	2	8	31	240
Section 471A Powers of other officers suspended during winding up	3	4	1	2	6	3	1	1	0	0	1	0	3	25
Section 588G(3) Insolvent trading	35	35	22	12	12	9	6	5	1	4	7	4	14	166
Section 590 Offences by officers or employees	33	19	6	5	7	4	5	5	2	4	5	3	8	106
Section 596AB Agreements to avoid employee entitlements	1	0	3	2	1	1	0	0	0	0	0	0	1	9
Other criminal offences under the Corporations Act	6	10	3	3	2	1	2	2	0	1	1	2	5	38
Total for industry	203	149	67	60	58	31	24	39	10	19	22	23	83	788

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

**Table 30: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and industry
(1 July 2014 to 30 June 2015)**

Section of the Corporations Act	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total
Section 180 Care and diligence—Directors' and officers' duties	823	558	310	216	152	126	65	62	54	58	61	39	215	2,739
Section 181 Good faith—Directors' and officers' duties	354	261	116	119	71	69	42	34	26	28	34	20	114	1,288
Section 182 Use of position—Directors', officers' and employees' duties	243	194	70	74	47	43	38	23	25	23	27	18	78	903
Section 183 Use of information—Directors', officers' and employees' duties	59	44	18	23	21	9	7	7	7	7	8	4	22	236
Sections 286 and 344(1) Obligation to keep financial records	1,030	680	328	255	207	120	68	87	55	48	43	59	229	3,209
Section 588G(1)–(2) Insolvent trading	1,350	1,055	553	442	294	259	131	95	99	110	83	71	314	4,856
Total for industry	3,859	2,792	1,395	1,129	792	626	351	308	266	274	256	211	972	13,231

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Table 31: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and region (1 July 2014 to 30 June 2015)

Section of the Corporations Act	ACT		NSW		NT		Qld			SA		Tas.		Vic.		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	2	2	60	43	1	0	37	27	13	11	1	1	42	31	17	13	173	128	
Section 206A Disqualified persons not to manage corporations	0	0	12	12	0	0	5	5	3	2	0	0	9	6	2	2	31	27	
Sections 286 and 344(2) Obligation to keep financial records	2	1	120	51	0	0	50	30	10	8	0	0	44	25	14	10	240	125	
Section 471A Powers of other officers suspended during winding up	0	0	6	6	0	0	4	4	4	3	0	0	10	9	1	1	25	23	
Section 588G(3) Insolvent trading	2	2	61	24	0	0	23	17	27	25	4	3	35	27	14	9	166	107	
Section 590 Offences by officers or employees	2	2	37	33	0	0	26	19	5	5	0	0	28	18	8	8	106	85	
Section 596AB Agreements to avoid employee entitlements	0	0	3	2	0	0	5	4	0	0	0	0	1	1	0	0	9	7	
Other criminal offences under the Corporations Act	0	0	12	12	0	0	11	9	4	3	0	0	11	6	0	0	38	30	
Total	8	7	311	183	1	0	161	115	66	57	5	4	180	123	56	43	788	532	

Table 32: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and region¹
(1 July 2014 to 30 June 2015)

Section of the Corporations Act	ACT		NSW		NT		Qld		SA		Tas.		Vic.		WA		Total	
	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator	No. of breaches	Evidence with liquidator
Section 180 Care and diligence—Directors' and officers' duties	46	42	1,303	840	9	6	487	369	126	120	13	12	513	345	241	174	2,738	1,908
Section 181 Good faith—Directors' and officers' duties	21	19	542	395	10	7	264	231	59	54	10	10	265	198	115	73	1,286	987
Section 182 Use of position—Directors', officers' and employees' duties	13	12	358	299	6	5	163	138	41	36	4	4	227	179	91	54	903	727
Section 183 Use of information—Directors', officers' and employees' duties	7	5	110	93	2	2	44	32	9	9	1	1	49	42	14	11	236	195
Sections 286 and 344(1) Obligation to keep financial records	48	41	1,675	1,013	9	7	361	247	123	98	18	15	802	487	170	127	3,206	2,035
Section 588G(1)–(2) Insolvent trading	86	78	2,169	1,448	21	18	681	572	307	267	34	29	1,194	925	363	294	4,855	3,631
Total	221	197	6,157	4,088	57	45	2,000	1,589	665	584	80	71	3,050	2,176	994	733	13,224	9,483

¹ Civil breaches for companies with international registered addresses are not included in regional statistics.

Books and records

80 External administrators indicated they obtained or inspected the company's books and records in 6,500 reports (77.8%) in 2014–15. Of these, 3,823 reports (45.8%) indicated that the company's books and records were considered adequate.

Assetless Administration Fund

81 In 2014–15, 426 of the 8,354 reports by a liquidator (see Table 7) indicated the liquidator had applied, or intended applying, for funding from the AA Fund.

82 The Australian Government established the AA Fund on 22 February 2006 and ASIC administers the fund. It finances preliminary investigations and reports by liquidators into the failure of companies with few or no assets, where it appears to ASIC that enforcement action may result from the investigation and report. A particular focus of the AA Fund is the curbing of illegal phoenix activity.

Liabilities and assets

83 External administrators provide estimates of the assets, liabilities and overall financial deficiency of companies on which they report. Table 33 shows the assets and liabilities categories and Table 34 shows the deficiency for the top 12 industries by reports lodged (as noted in Table 9).

Assets

84 In 60.9% of reports, companies had estimated assets of \$10,000 or less; 85.1% of reports indicated companies had estimated assets of \$100,000 or less.

85 Of the top 12 industries, those with the greatest percentage of reports estimating assets of \$10,000 or less were Other (business and personal) services (69.4%), Information media and telecommunications (67%), and Accommodation and food services (64.5%).

86 In 39.9% of reports, the external administrator reported the administration as assetless. Of the top 12 industries, those that most exceeded this percentage for assetless administrations (39.9%) were Other (business and personal) services (47.2%), Agriculture, forestry and fishing (45.2%), and Information media and telecommunications (42.3%).

87 In 9.2% of reports, estimated assets were over \$250,000. Of the top 12 industries, those well above this percentage were Mining (25.3%), Agriculture, forestry and fishing (20.5%), and Rental, hiring and real estate services (20.2%).

Note: Seven industries in the 'Other industries' category exceeded this percentage (9.2%) but made up only 6% of all reports. The three industries that most exceeded this average were FIS—Deposit taking institutions (50%), FIS—Managed investments (17.6%), and Health care and social assistance (15.3%).

Liabilities

- 88 In 41.2% of reports, the estimated liabilities of failed companies were \$250,000 or less, and 75.9% indicated estimated liabilities of less than \$1 million.
- 89 Of the top 12 industries, those with the greatest percentage of companies with estimated liabilities of \$250,000 or less were Other (business and personal) services (49.3%), Transport, postal and warehousing (44.5%), and Information media and telecommunications (43.4%).
- 90 Of the top 12 industries with estimated liabilities over \$10 million, Mining (11.4%), Agriculture, forestry and fishing (8.9%), and Rental, hiring and real estate services (7.2%) most exceeded the proportion of reports in that category across all industries of 3.3%.

Note: In the 'Other industries' category, FIS—Deposit taking institutions (50%), FIS—Other financial services (9.4%), Health care and social assistance (8.2%), Arts and recreation services (5.4%), and Education and training (4.7%) each exceeded this percentage across all industries (3.3%) but comprised only 3.8% of all reports.

Deficiency

- 91 Across all industries, 44.4% of reports estimated the shortfall between estimated assets and estimated liabilities of \$250,000 or less, while 64.2% of reports estimated a shortfall of 500,000 or less. When comparing the deficiency estimates between the top 12 industries, the three industries with the highest percentage of estimates of \$250,000 or less were Other (business and personal) services (52.5%), Transport, postal and warehousing (46.9%), and Accommodation and food services (45.9%).
- 92 Only 2.8% of all reports estimated a deficiency of over \$10 million. Of the top 12 industries, the three industries that most exceeded this percentage were Mining (8.4%), Professional, scientific and technical services (7.6%), and Agriculture, forestry and fishing (6.8%).

Note: Six industries grouped in the 'Other industries' category exceeded this percentage across all industries (2.8%). The three industries that most exceeded this average were FIS—Deposit taking institutions (50%), FIS—Other financial services (8.3%), and Health care and social assistance (7.1%). However, when combined, all six industries comprised only 3.9% of reports.

Table 33: Initial external administrators' reports—Amount of assets and liabilities by industry (1 July 2014 to 30 June 2015)

		Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
Asset categories	Less than \$1	1,110	669	347	249	186	124	62	89	70	77	54	66	229	3,332	39.9%
	\$1–\$10,000	521	389	214	158	91	75	40	34	44	45	21	13	108	1,753	21.0%
	\$10,001–\$20,000	207	156	79	83	35	46	22	14	16	13	13	9	53	746	8.9%
	\$20,001–\$30,000	86	80	46	43	20	22	9	6	3	11	4	4	18	352	4.2%
	\$30,001–\$50,000	93	96	49	52	23	26	13	6	9	6	6	6	43	428	5.1%
	\$50,001–\$100,000	96	119	44	56	27	34	22	11	13	11	12	8	46	499	6.0%
	\$100,001–\$250,000	97	106	38	49	23	36	21	18	11	8	14	10	42	473	5.7%
	\$250,001–\$5 million	135	151	50	48	51	63	34	42	18	9	37	27	60	725	8.7%
	Over \$5 million	6	5	3	1	2	6	1	3	–	2	5	3	9	46	0.6%
	Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%
Liability categories	\$1–\$250,000	1,158	716	374	259	204	123	57	82	67	79	42	49	236	3,446	41.2%
	\$250,001–less than \$1 million	775	574	350	315	156	151	77	64	79	62	43	42	206	2,894	34.6%
	\$1 million–less than \$5 million	294	395	121	131	79	105	67	46	21	29	52	31	114	1,485	17.8%
	\$5 million–\$10 million	49	46	13	18	11	25	20	15	4	7	10	11	25	254	3.0%
	Over \$10 million	75	40	12	16	8	28	3	16	13	5	19	13	27	275	3.3%
	Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%

¹ 'Other industries' include Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Table 34: Initial external administrators' reports—Amount of deficiency by industry (1 July 2014 to 30 June 2015)

Deficiency categories	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
\$0–\$50,000	385	216	91	49	53	25	14	37	14	18	14	17	80	1,013	12.1%
\$50,001–\$250,000	849	542	308	239	162	112	49	60	61	63	31	39	178	2,693	32.2%
\$250,001–less than \$500,000	470	342	191	166	98	82	38	32	48	31	21	25	111	1,655	19.8%
\$500,000–less than \$1 million	263	236	152	130	60	72	47	30	26	33	23	15	85	1,172	14.0%
\$1 million–less than \$5 million	268	362	105	125	74	93	54	40	18	27	53	28	105	1,352	16.2%
\$5 million–\$10 million	46	37	14	14	5	25	20	13	3	7	10	12	25	231	2.8%
Over \$10 million	70	36	9	16	6	23	2	11	14	3	14	10	24	238	2.8%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Employee entitlements

93 In all categories of employee entitlements (i.e. wages, annual leave, pay in lieu of notice, redundancy, long service leave and superannuation), 'not applicable' was selected in the majority of reports: see Table 35 and Table 36. 'Not applicable' means that no amount of entitlement of that type remained unpaid to employee creditors as at the date of the appointment of the external administrator.

Table 35: Initial external administrators' reports—Amounts owed in unpaid employee entitlements (1 July 2014 to 30 June 2015)¹

Amount owed	Unpaid wages		Unpaid annual leave		Unpaid pay in lieu of notice		Unpaid redundancy		Unpaid long service leave	
	No.	%	No.	%	No.	%	No.	%	No.	%
\$1–\$1,000	259	3.1%	173	2.1%	138	1.7%	113	1.4%	127	1.5%
\$1,001–\$10,000	784	9.4%	776	9.3%	401	4.8%	143	1.7%	190	2.3%
\$10,001–\$50,000	421	5.1%	678	8.2%	406	4.9%	242	2.9%	338	4.1%
\$50,001–\$150,000	162	1.9%	253	3.0%	157	1.9%	165	2.0%	136	1.6%
\$150,001–\$250,000	26	0.3%	49	0.6%	25	0.3%	66	0.8%	20	0.2%
\$250,001–\$500,000	23	0.3%	35	0.4%	27	0.3%	49	0.6%	19	0.2%
\$500,001–less than \$1.5 million	12	0.1%	15	0.2%	10	0.1%	27	0.3%	9	0.1%
\$1.5 million–\$5 million	2	0.0%	2	0.0%	1	0.0%	5	0.1%	3	0.0%
Over \$5 million	2	0.0%	0	0.0%	1	0.0%	3	0.04%	5	0.1%
Not applicable	6,627	79.7%	6,337	76.2%	7,152	86.0%	7,505	90.2%	7,471	89.8%
Total	8,318	100.0%	8,318	100.0%	8,318	100.0%	8,318	100.0%	8,318	100.0%

¹ Thirty-six reports identified as being internally inconsistent were excluded from this table.

Unpaid wages

94 Unpaid wages were 'not applicable' in 79.7% of reports. In 12.5% of reports, external administrators estimated unpaid wages at between \$1 and \$10,000. Categories from \$10,001 to over \$5 million comprised 7.8% of reports.

Unpaid annual leave

95 In all, 76.2% of reports showed unpaid annual leave as 'not applicable'. In 11.4% of cases, employees were owed \$1 to \$10,000, and 19.6% of companies owed \$50,000 or less. In 4.3% of reports, entitlements for unpaid annual leave were in the 'over \$50,000' category.

Unpaid pay in lieu of notice

- 96 Unpaid pay in lieu of notice was 'not applicable' in most cases (86%). Only 2.7% of reports showed entitlements for unpaid pay in lieu of notice in the 'over \$50,000' category.

Unpaid redundancy

- 97 Unpaid redundancy was 'not applicable' in 90.2% of reports. In all, 3.1% of reports showed employees were owed \$1 to \$10,000 in redundancy payments. Only 0.04% of reports showed unpaid redundancy of over \$5 million.

Unpaid long service leave

- 98 Employees were owed \$1 to \$10,000 in unpaid long service leave in 3.8% of reports, and unpaid long service leave of \$1.5 million or more was estimated in only 0.1% of reports. The majority of reports (89.8%) indicated a long service leave debt was 'not applicable'.

Unpaid superannuation

- 99 Due to the different value categories of superannuation entitlements, these figures are shown separately in Table 36. The results show a similar pattern to other employee entitlements with a majority (57.4%) of reports showing unpaid superannuation as 'not applicable'.

Table 36: Initial external administrators' reports—Amounts owed in unpaid superannuation entitlements (1 July 2014 to 30 June 2015)

Amount owed	No.	%
\$1–\$100,000	3,005	36.0%
\$100,001–\$250,000	411	4.9%
\$250,001–\$1 million	126	1.5%
Over \$1 million	16	0.2%
Not applicable	4,796	57.4%
Total	8,354	100.0%

Note: No reports were identified as being internally inconsistent.

Secured creditors

- 100 Table 37 and Figure 4 show the amounts owed to secured creditors by industry. Most reports for 2014–15 (67.6%) indicated secured creditors were owed nothing.
- 101 A significant proportion (24%) of 2014–15 reports showed secured creditors were owed between \$1 and less than \$1 million.
- 102 A comparison of those industries where secured creditors were owed less than \$1 million reveals that the proportion of reports in that category across all industries (91.6%) was most exceeded by Other (business and personal) services (95.7%), Information media and telecommunications (94%), and Accommodation and food services (93.6%).
- 103 In 1.7% of reports, the company owed secured creditors more than \$10 million.
- 104 Of the top 12 industries, the three industries that most exceeded this percentage of reports across all industries with amounts owed to secured creditors over \$10 million (1.7%) were Professional, scientific and technical services (7.6%), Rental, hiring and real estate services (7.2%), and Mining (6.6%).

Note: Five industries grouped in the 'Other industries' category exceeded this percentage (1.7%) across all industries. The three industries that most exceeded this percentage were FIS—Deposit taking institutions (50% of reports), and (equal second) Health care and social assistance and Education and training (4.7% each).

Unpaid taxes and charges

- 105 Most reports (79.9%) indicated that the amount of unpaid taxes and charges was \$250,000 or less: see Table 38.
- 106 Of the top 12 industries, the three that most exceeded this percentage of reports owing \$250,000 or less in unpaid taxes and charges (79.9%) were Retail trade (88.8%), Wholesale trade (86.2%), and (equal third) Rental, hiring and real estate services and Information media and telecommunications (85.7% each).
- 107 Of the top 12 industries, the three industries that exceeded the percentage of unpaid taxes and charges over \$1 million compared with the percentage across all industries (3.8%) were Mining (9%), Agriculture, forestry and fishing (5.5%), and Construction (4.8%).

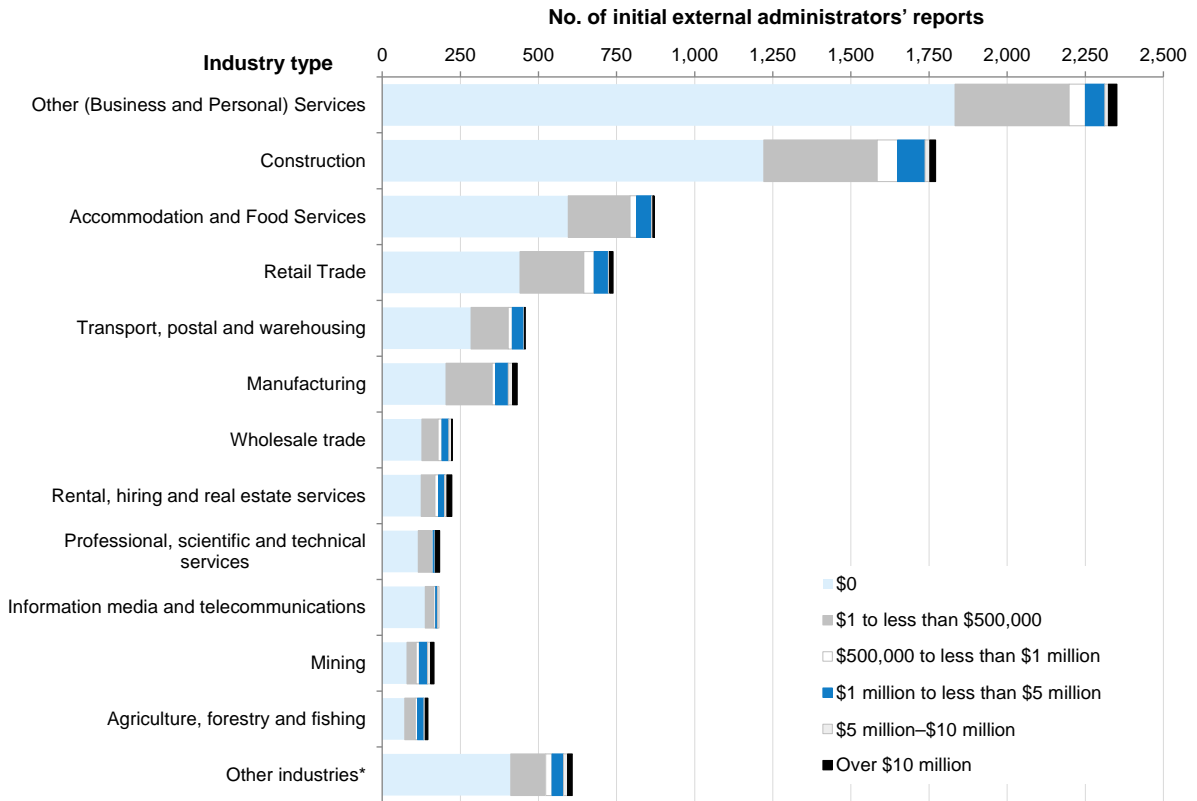
Note: In the 'Other industries' category, Administrative and support services (11%), FIS—Other financial services (7.3%), Health care and social assistance (7.1%), Arts and recreation services (5.4%), Public administration and safety (4.8%) and Education and training (4.7%), all exceeded this percentage across all industries (3.8%), but comprised only 4.9% of all reports.

Table 37: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2014 to 30 June 2015)

Amount owed	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
\$0	1,833	1,221	595	441	284	204	127	125	115	138	79	72	411	5,645	67.6%
\$1–less than \$500,000	365	363	198	204	119	148	52	44	43	27	30	34	112	1,739	20.8%
\$500,000–less than \$1 million	52	66	21	33	13	11	12	11	5	6	10	7	20	267	3.2%
\$1 million–less than \$5 million	62	87	48	46	37	40	22	20	6	6	26	20	37	457	5.5%
\$5 million–\$10 million	12	15	4	4	2	14	9	7	1	5	10	5	13	101	1.2%
Over \$10 million	27	19	4	11	3	15	2	16	14	0	11	8	15	145	1.7%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Figure 4: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2014 to 30 June 2015)



* 'Other industries' include Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Table 38: Initial external administrators' reports—Amount owed in unpaid taxes and charges by industry (1 July 2014 to 30 June 2015)

Amount owed	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
\$0	383	227	73	109	57	61	53	45	26	23	43	42	89	1,231	14.7%
\$1–\$250,000	1,491	1,120	640	547	304	281	140	146	120	133	69	77	377	5,445	65.2%
\$250,001–\$1 million	369	339	148	77	77	77	25	25	33	23	39	19	111	1,362	16.3%
Over \$1 million	108	85	9	6	20	13	6	7	5	3	15	8	31	316	3.8%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Unsecured creditors

Number of unsecured creditors

108 Most reports for 2014–15 (88.9%) indicated the company had 50 or fewer unsecured creditors. Of the top 12 industries, those that had the greatest percentages of 50 or fewer unsecured creditors were Other (business and personal) services (93.7%), Professional, scientific and technical services (92.4%), and Rental, hiring and real estate services (91.5%): see Table 39.

Note: Six industries grouped in the 'Other industries' category exceeded the average 88.9% across all industries. These industries were:

- FIS—Managed investments, Public administration and safety, FIS—Superannuation, and FIS—Deposit taking institutions (all 100%);
- FIS—Other financial services (94.8%); and
- Administrative and support services (94.5% of reports).

Amount owed to unsecured creditors

109 The majority (62.7%) of companies owed less than \$250,000 to unsecured creditors. Of the top 12 industries, the three that had the greatest percentage of companies in this category were Other (business and personal) services (71.6%), Professional, scientific and technical services (66.3%), and Transport, postal and warehousing (65.7%).

110 Of the top 12 industries, the three industries with the highest number of reports where companies owed more than \$10 million to unsecured creditors were Other (business and personal) services (39 reports), Construction (16 reports), and Retail trade (11 reports).

Amounts owed to related parties

111 Of the total amount owed to unsecured creditors, 19.9% of reports showed that the failed company owed more than 50% of the debt to related parties. Of the top 12 industries, those with the greatest percentage of reports showing more than 50% owed to related parties were Mining (30.1%), Wholesale trade (28.1%), and Retail trade (26.4%).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 19.9%. The top three of these were FIS—Deposit taking institutions (100%), Arts and recreation services (28.4%), and FIS—Managed investments (23.5%).

Cents in the dollar dividend

112 The dividend estimated as payable to unsecured creditors was less than 11 cents in the dollar for most reports (97.1%). Of the top 12 industries, the top three with an estimated return of less than 11 cents in the dollar were

Retail trade (98.1%), Accommodation and food services (97.9%), and Information media and telecommunications (97.8%). 'Other industries' includes six industries where 100.0% estimated less than 11 cents in the dollar: Health care and social assistance (85 reports), Public administration and safety (21 reports), FIS—Credit provider (eight reports), FIS—Superannuation (four reports), FIS—Insurance (three reports), and FIS—Deposit taking institutions (two reports).

113 Of the top 12 industries, the three industries with the greatest percentage of estimated returns of more than 50 cents in the dollar to unsecured creditors were Rental, hiring and real estate services (3.1%), Professional, scientific and technical services (2.7%), and Mining (2.4%), compared with the proportion across all industries of 0.9%: see Table 40.

Note: In the 'Other industries' category, the following industries exceeded this percentage (0.9%): FIS—Managed investments (2.96%), Arts and recreation services (2.7%), Education and training (1.6%), Administrative and support services (1.4%), and FIS—Other financial services (1%). However, when combined, these industries made up only 4.1% of all reports.

Table 39: Initial external administrators' reports—Number of unsecured creditors, amount owed and reports where more than 50% is owed to related parties by industry (1 July 2014 to 30 June 2015)

	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
Number of unsecured creditors															
Less than 25	2,065	1,376	667	510	366	262	159	194	158	137	113	118	478	6,603	79.0%
25–50	138	175	121	120	34	70	31	10	12	22	18	11	64	826	9.9%
51–200	70	167	55	86	46	86	28	9	10	9	27	10	38	641	7.7%
More than 200	35	20	2	13	2	7	4	0	0	3	6	0	4	96	1.1%
Unknown	43	33	25	10	10	7	2	10	4	11	2	7	24	188	2.3%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%
Amount owed to unsecured creditors															
Less than \$250,000	1,684	1,067	569	409	301	198	92	142	122	110	72	85	383	5,234	62.7%
\$250,000–\$500,000	274	234	152	130	62	74	40	30	27	23	20	13	78	1,157	13.8%
\$500,001–less than \$1 million	165	187	84	104	46	64	42	24	15	21	21	17	67	857	10.3%
\$1 million–less than \$5 million	157	240	50	78	46	72	44	21	15	24	44	23	62	876	10.5%
\$5 million–\$10 million	32	27	7	7	2	14	5	3	3	2	4	4	9	119	1.4%
Over \$10 million	39	16	8	11	1	10	1	3	2	2	5	4	9	111	1.3%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%
Amount owed to related parties															
> 50% owed to related parties	448	282	187	195	63	105	63	47	37	42	50	32	111	1,662	19.9%
% of reports lodged for industry	19.1%	15.9%	21.5%	26.4%	13.8%	24.3%	28.1%	21.1%	20.1%	23.1%	30.1%	21.9%	18.3%	19.9%	

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

**Table 40: Initial external administrators' reports—Amount payable to unsecured creditors—Cents in the dollar dividend by industry
(1 July 2014 to 30 June 2015)**

Cents in the dollar dividend	Other (business and personal) services	Construction	Accommodation and food services	Retail trade	Transport, postal and warehousing	Manufacturing	Wholesale trade	Rental, hiring and real estate services	Professional, scientific and technical services	Information media and telecommunications	Mining	Agriculture, forestry and fishing	Other industries ¹	Total	% of total
0 cents	2,223	1,641	829	695	427	397	195	193	165	171	141	126	558	7,761	92.9%
Greater than 0 but less than 11 cents	68	83	23	30	19	22	23	13	4	7	13	11	31	347	4.2%
11–20 cents	15	19	2	8	5	7	2	4	3	1	3	1	5	75	0.9%
21–50 cents	22	17	7	3	4	5	2	6	7	1	5	7	8	94	1.1%
51–100 cents	23	11	9	3	3	1	2	7	5	2	4	1	6	77	0.9%
Total for industry	2,351	1,771	870	739	458	432	224	223	184	182	166	146	608	8,354	100.0%

¹ 'Other industries' includes Electricity, gas, water and waste services, Health care and social assistance, Arts and recreation services, Education and training, Administrative and support services, Public administration and safety, and all FIS sub-categories.

Expected completion of external administration

- 114 External administrators expected to complete their administration within six months of the date of lodging their report in 69.2% of cases. This was in addition to the time taken to lodge the report.

Table 41: Initial external administrators' reports—Expected time to complete the external administration (1 July 2014 to 30 June 2015)

Expected time	No.	%
0 months to less than 3 months	3,001	35.9%
3 months to less than 6 months	2,777	33.2%
6 months to 1 year	1,911	22.9%
Over 1 year	665	8.0%
Total	8,354	100.0%

Proposed action

Public examinations

- 115 In 164 reports (2%), the external administrator noted that they intended holding public examinations to question a company's officer or another person about the affairs of the company.

Recovery proceedings

- 116 In 2,375 reports (28.4%), the external administrators had initiated, or they contemplated initiating, recovery proceedings for property or compensation for the benefit of creditors under Pt 5.7B of the Corporations Act.

Company officers

- 117 External administrators advised in 634 reports (7.6%) that, in their opinion, there were shadow directors.

External administrators' remuneration

- 118 Excluding the \$0 and 'not applicable' results, the most common category of an external administrator's estimated collectible fees was 'liquidator fees', with 6,094 reports. Of these, 5,365 reports (64.2%) estimated collectible liquidator fees between \$1 and \$50,000.

119 Of the reports answering the voluntary administration fees question, 592 estimated the collectible fees to be between \$1 and \$50,000: see Table 42.

**Table 42: Initial external administrators' reports—External administrators' remuneration¹
(1 July 2014 to 30 June 2015)**

Remuneration	Voluntary administration fees		Deed of company arrangement fees		Liquidator fees		Receiver/ controller fees	
	No.	%	No.	%	No.	%	No.	%
\$0	821	9.8%	808	9.7%	1,935	23.2%	823	9.9%
\$1–\$50,000	592	7.1%	93	1.1%	5,365	64.2%	22	0.3%
\$50,001–\$100,000	210	2.5%	26	0.3%	462	5.5%	12	0.1%
\$100,001–\$250,000	127	1.5%	17	0.2%	215	2.6%	18	0.2%
Over \$250,000	44	0.5%	21	0.3%	52	0.6%	18	0.2%
Not applicable	6,560	78.5%	7,389	88.4%	325	3.9%	7,461	89.3%
Total	8,354	100.0%	8,354	100.0%	8,354	100.0%	8,354	100.0%

¹ More than one fee type may be entered if the appointee has been, is or expects to be appointed to more than one type of role in relation to the company.

Key terms

Term	Meaning in this document
AA Fund	Assetless Administration Fund
ANZSIC	Australian and New Zealand Standard Industrial Classification
ASCOT	ASIC's corporate database
ASIC	Australian Securities and Investments Commission
CALDB	Companies Auditors and Liquidators Disciplinary Board
Ch 5 (for example)	A chapter of the Corporations Act (in this example numbered 5)
Corporations Act	<i>Corporations Act 2001</i> , including regulations made for the purposes of that Act
deed administrator	An administrator of a deed of company arrangement
electronically lodged report	A Schedule B report lodged: <ul style="list-style-type: none"> • directly by external administrators through the registered liquidators' portal on ASIC's website; or • on paper by external administrators in the Schedule B format, and subsequently entered by ASIC staff through the staff portal
EXAD	External administration
external administration	The corporate insolvency that the external administrator has been appointed to administer
external administrator	A liquidator, receiver or voluntary administrator
external administrator report	Means: <ul style="list-style-type: none"> • a Schedule B report lodged by an external administrator: <ul style="list-style-type: none"> – directly through the registered liquidators' portal on ASIC's website; or – on paper and subsequently entered by ASIC staff through the staff portal; and • a manually lodged report, on paper, which is not in the Schedule B format
FIS	Financial and insurance services
GST	Goods and services tax
initial external administrator report	The first electronically lodged Schedule B report after a company enters external administration

Term	Meaning in this document
insolvency practitioner	A generic term to describe registered liquidators regardless of whether they have been appointed to one or more specific types of external administration
insolvency	When a company becomes unable to pay all its debts as and when they become due and payable Note: See s95A of the Corporations Act.
insolvent trading	When a director allows their company to incur a debt and at the time of incurring the debt: <ul style="list-style-type: none"> the company is insolvent or would become insolvent by incurring the debt; and there are reasonable grounds for suspecting the company is insolvent or would become insolvent by incurring the debt Note: See s588G of the Corporations Act.
liquidator	An insolvency practitioner appointed under Ch 5 of the Corporations Act to wind up the affairs and distribute the property of a body corporate
PAYGW	Pay as You Go Withholding
Pt 5.7B (for example)	A part of the Corporations Act (in this example numbered 5.7B)
receiver	An insolvency practitioner appointed under an instrument or by the court to receive property of a body corporate
registered liquidator	A person registered by ASIC under s1282(2)
remuneration	Estimated remuneration to be paid to the external administrator for services rendered in conducting an external administration
report	In Table 2 and Section D—means an initial external administrator report
RG 16	Regulatory Guide 16 <i>External administrators: Reporting and lodging</i> issued by ASIC on 1 July 2008 for external administrators on their reporting obligations to ASIC
s9 (for example)	A section of the Corporations Act (in this example numbered 9)
Schedule B report	A report whose format is in accordance with Schedule B of RG 16 and lodged with ASIC under s533 (by a liquidator), s438D (by a voluntary administrator) or s422 (by a receiver)
secured creditor	A chargee as defined by s9
SGC	Superannuation guarantee charge
voluntary administrator	An administrator of a company but not a deed of company arrangement

Related information

Regulatory guide

RG 16 *External administrators: Reporting and lodging*

Legislation

Corporations Act, Pts 5.2, 5.3A, 5.6, 5.7B

Information Sheet

INFO 151 *ASIC's approach to enforcement*

Other

Statistics on companies entering external administration and insolvency appointments are available from www.asic.gov.au/insolvency.

Information on 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) divisions is available from www.abs.gov.au/anzsic.