



## ASIC Finally Target Liquidators

It's about time. In this era of over regulation ASIC have finally decided that it is the turn of Registered and Official Liquidators to be put under the microscope.

The legal framework clearly allows for supervision by the Courts but as you all know, that requires money and the benefit of any claimant going on with it in that forum is more often than not, negligible.

ASIC's focus is something we and the majority of the insolvency profession have been keen to see for some time. You all know the saying that a rotten apple spoils the barrel. Well, in terms of public perception in this region that has been our experience.

In our view some of the poor perception has arisen from the inherent mechanical difficulties of the system. But some of the mud comes from the random abuse of the rules by a small minority of practitioners.

Anyhow, in a small way, ASIC have started to address this by creating a Liquidator Surveillance Unit which will be coordinated by the existing National Insolvency Coordination Unit who have been, and continue to focus on insolvency and insolvent trading.

The insolvency profession has for years received annual audits of assignments under the *Bankruptcy Act* by the Bankruptcy Regulation Unit of ITSA, which is the review of a number of randomly selected files. As you can appreciate this is a most effective

and informative quality control device.

ASIC's initiative is not going to go to that extent (yet) but has been held out to be complaint driven with a determination to investigate all complaints. This is a start and it is hoped it will be broadened to include an annual or bi-annual random file review.

In addition, ASIC have also introduced more stringent registration requirements to become a Registered Liquidator or Official Liquidator

It is now hoped either the unscrupulous operators will abandon their abuse of the system or be weeded out. From our observations of the industry if ASIC get you in their sites you are gone, even if only for a short time.

Like with all things, there is a set procedure to follow and the ASIC complaint forms for this purpose can be found on their web [www.asic.gov.au](http://www.asic.gov.au).

In another positive initiative the Federal Government have allocated \$23 million dollars over 4 years to establish an Assetless Administration Fund. The Fund has been set up to finance investigations by Liquidators where ASIC are of the view that additional investigations are required. If it works as hoped it will help catch unscrupulous directors cleaning out the company before liquidation.

As ever, we welcome all your insolvency and related enquiries.



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