FINSTEAD

A GUIDE FOR AUSTRALIAN BUSINESS OWNERS

Small business restructuring

How it works, who qualifies, and how it differs from voluntary administration.

$1 million

Maximum total liabilities for a company to use the process.

20 days

Business days, in general, to propose a plan to creditors.

3 years

Longest period over which a plan can pay admissible claims.

Rules checked against ASIC on 2 November 2026. General information only. Speak to a registered liquidator or lawyer about your company.

BEFORE YOU START

What this guide is

This guide explains the small business restructuring process in plain English and sets it beside voluntary administration and a deed of company arrangement (DOCA). It is general information about how the system works. It is not legal, insolvency, tax or financial advice, and it takes no account of your company. If your company may be insolvent, speak to a registered liquidator, a lawyer or your accountant now. Directors have duties about insolvent trading and the earlier you get advice the more options you have.

Rules change. This guide reflects ASIC's published position as at 2 November 2026. Check asic.gov.au before you act on it.

1. THE SHORT ANSWER

The short answer

Small business restructuring is a formal process for a **company that is insolvent or likely to become insolvent, and has total liabilities of $1 million or less**. A registered restructuring practitioner helps the directors prepare a plan. Creditors vote on it. If it passes, the company pays an agreed amount over up to three years and is released from the debts covered by the plan.

- **Directors stay in control** of the business day to day.
- **It is quick.** Generally 20 business days to propose a plan and about 15 business days for creditors to respond.
- **It is not for everyone.** Strict eligibility rules apply, and a plan is essentially a promise to pay creditors money over time.

> **It is a business rescue tool. It is not a way to avoid paying what you can afford to pay.**

2. WHAT IT IS

What it is

The process sits in the Corporations Act and is run by a **restructuring practitioner**, who must be a registered liquidator. The practitioner advises the company and helps prepare the plan. They act as the company's agent. They do not take day to day control.

The directors resolve that the company is insolvent or likely to become insolvent, and appoint the practitioner in writing. From that point the company is protected from creditors taking enforcement action, while a plan is prepared and put to a vote.

Companies only. The process is not available to sole traders or partnerships.

3. WHO IS ELIGIBLE

Who is eligible

Eligibility is tested on the day the practitioner is appointed. All of these must be met.

1. **Total liabilities do not exceed $1 million.** Ask the practitioner exactly how your liabilities will be counted.
2. **The company has not been through restructuring or simplified liquidation in the previous seven years.**
3. **No current director, or anyone who was a director in the past 12 months, has been a director of another company that entered restructuring or simplified liquidation in the previous seven years.** There is an exemption for a related company in some timing situations.
4. **Employee entitlements are paid and tax lodgements are up to date.** Before a plan is proposed the company must have paid due employee entitlements and lodged required tax returns, or substantially complied.

Source: ASIC, Small business restructuring and the restructuring plan.

How the process runs

STAGE	WHAT HAPPENS	TIMING
Appointment	Directors resolve the company is insolvent or likely to be, and appoint a restructuring practitioner in writing.	Day one
Proposal period	The company prepares the plan and a proposal statement, including a schedule of debts. The practitioner gives creditors a declaration.	Generally 20 business days. One extension of up to 10 business days is possible at the company's request.
Creditor response	Affected creditors receive the plan and return a written statement saying whether they support it. They can dispute their debt.	Usually 15 business days from receiving the documents.
Acceptance	The plan is accepted if a majority in value of the affected creditors who return statements support it.	The plan is made the day after the acceptance period ends.
Payments	The company pays creditors under the plan, through the practitioner, who holds the money on trust.	Up to three years from the acceptance day.
Completion	Once the plan is fully performed, the company is released from the admissible debts and keeps any surplus property.	End of the plan

If no plan is proposed within the proposal period, the restructuring ends.

What directors can and cannot do during it

- Keep trading and run ordinary business operations.
- Need the practitioner's written consent for transactions outside the ordinary course. Paying admissible debts, selling all or part of the business, and paying dividends are treated as outside it.
- Prepare the plan, assist the practitioner with information, and execute the plan within the proposal period.

5. WHAT IT DOES TO CREDITORS

What it does to creditors

Unsecured creditors

Cannot start, continue or enforce claims without the practitioner's consent or court permission.

Secured creditors and owners

Cannot enforce security or recover property without the practitioner's written consent or court leave. A secured creditor is bound by the plan only to the extent its security falls short of its debt, unless it consents.

Director guarantees

Creditors cannot enforce a guarantee given by a director, their spouse or a relative without court leave. That protection ends when the plan is entered or the restructuring ends.

Winding up

The court must adjourn a winding up application if the company can continue under restructuring.

All admissible debts rank equally. No creditor, and no class of creditor, gets priority. If the plan is not performed, unpaid admissible debts become due on the business day after it terminates.

> **Check what the plan does to any personal guarantee before you rely on it.**

6. RESTRUCTURING COMPARED WITH VOLUNTARY ADMINISTRATION AND A DOCA

Restructuring compared with voluntary administration and a DOCA

Voluntary administration (VA) is the broader process. An administrator takes control, creditors meet and then vote on a DOCA, liquidation, or a return to the directors. Both aim to keep a viable business alive. They work differently.

	SMALL BUSINESS RESTRUCTURING	VOLUNTARY ADMINISTRATION AND DOCA
Eligibility	Company, total liabilities $1 million or less, plus the other tests above.	No equivalent liability cap.
Who runs it	Directors stay in control. Practitioner consents to out of ordinary course transactions.	An administrator takes control of the company while the administration runs.
Timing	About 20 business days to propose, about 15 for creditors to respond.	First creditors meeting within 8 business days of appointment, second within 25 business days (30 around Christmas or Easter), DOCA signed within 15 business days after that.
Creditor vote	Majority in value of affected creditors who return statements.	On a poll, a majority in number and creditors owed more than half the debt present and voting.
Binding effect	Plan binds affected creditors. Secured creditors are bound only to the extent of any shortfall in their security.	A DOCA binds all unsecured creditors. Secured creditors and owners are bound only if they voted in favour, though the court can bind others.
Personal guarantees	Protected from enforcement without court leave, until the plan is entered or the restructuring ends.	Protected during administration. A DOCA does not stop a guarantee holder acting on a guarantee.
What it can contain	A plan to pay creditors money over time. It cannot transfer non money property to a creditor.	Terms can cover who contributes to a fund, payment order and other arrangements, set out in the deed.
If it fails	The restructuring or plan ends. Debts become due again.	The company can go into liquidation, and often does.

Sources: ASIC pages listed at the back. A practitioner or lawyer should confirm how each rule applies to your company.

Which tends to suit

Restructuring tends to suit when

- The company meets every eligibility rule
- The business is viable and the problem is the debt load
- The directors can run the business through it
- Creditors are likely to accept a payment plan over time

VA or a DOCA may suit when

- Liabilities are above $1 million, or another test is not met
- The deal needs more flexibility than a payment plan
- An independent administrator running the business is the better option
- A sale or other structured outcome is likely

7. WHERE FINANCE FITS

Where finance fits

Restructuring is not finance, and Finstead is not an insolvency practitioner. But a company in or coming out of a restructure often still needs funding, for working capital, to meet a deed's payments, or to keep trading. This is specialist territory. A company in or approaching a formal process has a harder credit story to tell, and lender appetite varies widely.

- **Before a formal process,** the question is often whether the debts can be refinanced instead. Where a tax debt is the main pressure, see our ATO debt guide.
- **During or after one,** a secured facility can help a company work through its obligations. Whether a lender will consider it depends on the security, the cash flow and the process.
- **Always** take advice from a registered liquidator, lawyer or accountant before taking on new debt while insolvent or close to it.

A recent file: funding through a DOCA

HOSPITALITY · NSW

A$400k-500k

Arranged a secured facility to help a client work through a DOCA.

Anonymised, amounts shown as bands. Past results do not guarantee future outcomes. Every case is assessed on its own facts.

8. WHAT TO HAVE READY BEFORE YOU SPEAK TO ANYONE

What to have ready before you speak to anyone

- A list of every creditor, what is owed and whether it is secured
- Your last two years of financials and a current management accounts snapshot
- Any personal guarantees you or other directors have given
- A realistic view of what the business can pay each month
- Your total liabilities, including employee entitlements and tax
- ATO account position and the status of your lodgements
- Any prior director history in other companies, including restructures
- Any notices received: statutory demands, ATO notices, landlord or lender default letters

9. SOURCES AND BASIS

Sources and basis

ASIC, Small business restructuring and the restructuring plan
Eligibility, timelines, voting, effect on creditors, director conduct and the practitioner's role.
https://www.asic.gov.au/regulatory-resources/insolvency/insolvency-for-directors/small-business-restructuring-and-the-restructuring-plan

ASIC, Voluntary administration: a guide for creditors (INFO 74)
Effect of administration, meeting timeframes, voting rules and outcomes.
https://www.asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/voluntary-administration-a-guide-for-creditors

ASIC, Deed of company arrangement for creditors
What a DOCA is, who it binds and what happens on breach.
https://www.asic.gov.au/regulatory-resources/insolvency/insolvency-for-creditors/deed-of-company-arrangement-for-creditors

ASIC, What to do if your company is insolvent
Starting point for directors on options and duties.
https://www.asic.gov.au/regulatory-resources/insolvency/insolvency-for-directors/what-to-do-if-your-company-is-insolvent

Rules checked against these sources on 2 November 2026. Finstead is not an insolvency practitioner and this guide does not describe every rule or exception. Finstead Capital Pty Ltd, ABN 51 638 390 182, Australian Credit

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TALK TO FINSTEAD

Want to know what your business could qualify for?

A short conversation, no cost and no obligation. We scope your options before anything formal happens.

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