

## RECENT DEVELOPMENTS

### VOLUNTARY ADMINISTRATIONS: Is Reform Due?

## QUESTIONS AND ANSWERS

#### **Question – Rowan Russell (Mallesons Stephen Jaques, Melbourne):**

I remember, I think it was in 1987 at Manly, when Ron Harmer came to us to explain this legislation and he was severely criticised. Apart from the rhetoric from us banking lawyers who did not understand the legislation, my memory is that the major criticism was that the UK experience had been that the use of administrations had not decreased the number of companies that ended in the graveyard. Now you have correctly pointed out the flexibility of the new voluntary administration regime and how it is much better than the previous alternatives that we have had. But overall, has it decreased the number of companies that ended up in liquidation? There seem to be a lot of companies still in that left hand box and I would be interested in your views Clint, as to whether you think that this method has saved companies that would not otherwise have been saved.

#### **Response – Clint Hinchin (Speaker):**

Perhaps I can start by saying that I think that fundamentally we are never going to stop liquidations and we all have to accept that. But I think in my experience in every administration that I have been involved in, liquidation was a realistic prospect and we are looking at, in the context of probably every administration now, four in ten end up in a deed of company arrangement. So we are least saving, on present standards, four in ten. I think fundamentally most deeds of company arrangement involve some sort of compromise where creditors are prepared to take a haircut, put it behind them and take the tax benefit of the write off and get on with it, and probably end up still dealing with the company. So there is probably a two part answer to that.