



**ASIC**

Australian Securities & Investments Commission

**REPORT 263**

# **Insolvency statistics: External administrators' reports 1 July 2010–30 June 2011**

November 2011

## **About this report**

This report presents statistical findings from reports lodged electronically by liquidators, receivers and voluntary administrators from 1 July 2010 to 30 June 2011.

### 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 external administrators' statistics reports

This is the third report of statistics compiled from external administrators' reports. The previous reports are listed below.

Report number	Report date
REP 225	December 2010
REP 132	June 2008

### 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 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. 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.

# Contents

<b>A</b>	<b>Executive summary</b> .....	<b>4</b>
	ASIC and company insolvency .....	4
	About statistics from external administrators' reports .....	4
	Summary of main findings .....	6
<b>B</b>	<b>Conditions and limitations on the statistics</b> .....	<b>8</b>
	General conditions/limitations .....	8
	Conditions/limitations on information in Section D .....	8
<b>C</b>	<b>Lodgements of statutory reports</b> .....	<b>12</b>
	Total lodgements of statutory reports .....	12
	Initial external administrators' reports lodged .....	14
<b>D</b>	<b>Initial external administrators' reports 2010–11</b> .....	<b>15</b>
	Lodgements by region .....	15
	Lodgement period .....	16
	Section lodged under .....	17
	Size of company .....	17
	Industry .....	17
	Nominated causes of failure .....	19
	Possible misconduct .....	22
	Liabilities and assets .....	34
	Employee entitlements .....	38
	Secured creditors .....	40
	Unpaid taxes and charges .....	40
	Unsecured creditors .....	44
	Cents in the dollar dividend .....	44
	Completion of external administration .....	48
	Proposed action .....	48
	Company officers .....	48
	External administrator's remuneration .....	48
	<b>Key terms</b> .....	<b>50</b>
	<b>Related information</b> .....	<b>52</b>

## A Executive summary

### ASIC and company insolvency

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

**Table 1: ASIC's activities in insolvency**

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

### About statistics from external administrators' reports

- 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 2010–11.

Note: In this report, spans of two years (e.g. 2010–11) always refer to financial years.

- 3 Last year's report, *Insolvency statistics: External administrators' reports 1 July 2007–30 June 2010* (REP 225), covered the financial years 2007–08, 2008–09 and 2009–10.
- 4 The previous report, *External administrators: Schedule B statistics 1 July 2004–30 June 2007* (REP 132), covered the financial years 2004–05, 2005–06 and 2006–07.
- 5 This report was compiled from the estimates and opinions contained in statutory reports lodged with ASIC by liquidators, receivers and voluntary administrators (external administrators) in the format of Schedule B to Regulatory Guide 16 *External administrators: Reporting and lodging* (RG 16) (Schedule B report).
- 6 Reports are lodged under the following sections of the Corporations Act:
- s533 (by a liquidator);
  - s438D (by a voluntary administrator); and
  - s422 (by a receiver).
- 7 External administrators must lodge a report with ASIC as soon as practicable:
- 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
  - in the case of a liquidation only, when unsecured creditors are unlikely to receive more than 50 cents in the dollar dividend.
- 8 Changes to the Corporations Act introduced a statutory time limit on the lodgement of reports by a liquidator appointed after 31 December 2007. Liquidators must now lodge reports as soon as practicable, and in any event within six months, after it so appears to him or her that any of the conditions in s533(1)(a), (b) and (c) apply. No statutory time limit was introduced under s422 or 438D.
- 9 We also ask external administrators to submit financial and other data when they complete their reports.

### **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.

## Important terms used in this report

- 11 The following terms are used in this report and are important for understanding the statistics. For a full list of terms used in this report, see 'Key terms' at the end of this report.

**Table 2: Meaning of important terms used in this report**

Term	Meaning in this document
<b>Electronically lodged report</b>	A Schedule B report lodged: <ul style="list-style-type: none"> <li>• directly by external administrators through the registered liquidators' portal on ASIC's website; or</li> <li>• on paper by external administrators in the Schedule B format, and subsequently entered by ASIC staff through the staff portal.</li> </ul>
<b>Initial external administrator report</b>	The first electronically lodged Schedule B report after a company enters external administration.
<b>Report</b>	An initial external administrator report.

## Summary of main findings

- 12 The following statistics are compiled from *initial* reports lodged by external administrators: see Table 2.

**Table 3: Profile of companies**

Characteristics	2010–11	2009–10	2008–09
<b>No. of employees affected</b>	78% of reports concerned companies with less than 20 employees	77% of reports concerned companies with less than 20 employees	75% of reports concerned companies with less than 20 employees
<b>Industries with most lodgements</b>	<ul style="list-style-type: none"> <li>• Other (business &amp; personal) services (1,887 reports or 23%)</li> <li>• Construction (1,862 reports or 23%)</li> <li>• Retail trade (864 reports or 11%)</li> </ul>	<ul style="list-style-type: none"> <li>• Construction (1,905 reports or 24%)</li> <li>• Other (business &amp; personal) services (1,735 reports or 22%)</li> <li>• Retail trade (818 reports or 10%)</li> </ul>	<ul style="list-style-type: none"> <li>• Other (business &amp; personal) services (1,787 reports or 23%)</li> <li>• Construction (1,760 reports or 23%)</li> <li>• Retail trade (904 reports or 12%)</li> </ul>
<b>Assets and liabilities</b>	<ul style="list-style-type: none"> <li>• 84% of failed companies had estimated assets of \$100,000 or less</li> <li>• 44% of failed companies had estimated liabilities of \$250,000 or less</li> </ul>	<ul style="list-style-type: none"> <li>• 85% of failed companies had estimated assets of \$100,000 or less</li> <li>• 46% of failed companies had estimated liabilities of \$250,000 or less</li> </ul>	<ul style="list-style-type: none"> <li>• 86% of failed companies had estimated assets of \$100,000 or less</li> <li>• 52% of failed companies had estimated liabilities of \$250,000 or less</li> </ul>

Characteristics	2010–11	2009–10	2008–09
<b>Deficiency</b>	65% of failed companies had an estimated deficiency of \$500,000 or less	66% of failed companies had an estimated deficiency of \$500,000 or less	72% of failed companies had an estimated deficiency of \$500,000 or less

**Table 4: Nominated causes of company failure**

	2010–11	2009–10	2008–09
<b>Top 3 nominated causes of failure</b>	<ul style="list-style-type: none"> <li>Poor strategic management of business (3,500 or 44% of reports)</li> <li>Inadequate cashflow or high cash use (3,291 or 41% of reports)</li> <li>Trading losses (2,657 or 33% of reports)</li> </ul>	<ul style="list-style-type: none"> <li>Poor strategic management of business (3,463 or 44% of reports)</li> <li>Inadequate cashflow or high cash use (3,205 or 41% of reports)</li> <li>Poor financial control including lack of records (2,609 or 33% of reports)</li> </ul>	<ul style="list-style-type: none"> <li>Poor strategic management of business (3,317 or 43% of reports)</li> <li>Inadequate cashflow or high cash use (2,943 or 38% of reports)</li> <li>Poor financial control including lack of records (2,596 or 34% of reports)</li> </ul>

**Table 5: Alleged possible misconduct**

	2010–11	2009–10	2008–09
<b>Top 3 alleged possible misconduct</b>	<ul style="list-style-type: none"> <li>s588G(1)–(2) Insolvent trading (3,979 or 49% of reports)</li> <li>s286 &amp; 344(1) Obligation to keep financial records (2,769 or 34% of reports)</li> <li>s180 Care &amp; diligence—Directors' &amp; officers' duties (1,593 or 20% of reports)</li> </ul>	<ul style="list-style-type: none"> <li>s588G(1)–(2) Insolvent trading (3,619 or 46% of reports)</li> <li>s286 &amp; 344(1) Obligation to keep financial records (2,944 or 37% of reports)</li> <li>s180 Care &amp; diligence—Directors' &amp; officers' duties (1,398 or 18% of reports)</li> </ul>	<ul style="list-style-type: none"> <li>s588G(1)–(2) Insolvent trading (3,141 or 40% of reports)</li> <li>s286 &amp; 344(1) Obligation to keep financial records (2,653 or 34% of reports)</li> <li>s180 Care &amp; diligence—Directors' &amp; officers' duties (1,409 or 18% of reports)</li> </ul>

**Table 6: Estimated dividends to unsecured creditors**

	2010–11	2009–10	2008–09
<b>Dividends to unsecured creditors</b>	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

### Electronically lodged reports

- 13 The total number of electronically lodged external administrator statutory reports increased from 98% in 2009–10 to 99% in 2010–11: see Section C.
- 14 The total number of electronic reports lodged *directly* by external administrators increased from 96% in 2009–10 to 97% in 2010–11.

## B Conditions and limitations on the statistics

### General conditions/limitations

- 15 When interpreting the statistics in this report, please keep the following conditions/limitations in mind:
- Although we encourage external administrators to report in the Schedule B report format, the use of this format is voluntary. It is not a statutory requirement. Reports not lodged in this format are only included in total lodgement statistics (see Section C and Table 7) and not in the rest of the report.
  - 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 delay in lodgement of reports: see Table 11. External administrators are not required to lodge reports where the pre-conditions of either s422, 438D or 533 of the Corporations Act are not met.
  - Some 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/limitations on information in Section D

- 16 To avoid double counting, all statistics are compiled only from the initial external administrator report, lodged when the company enters external administration (EXAD) status. This allows for the following situations:
- 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.
  - More than one report may also be lodged for each appointment type. Again, the statistics only include the first electronically lodged report.
  - 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.
- 17 While the statistics only include the first electronically lodged report, an external administrator may have lodged an additional report on paper in a narrative form (not the Schedule B format).

- 18 Financial information provided in external administrators' reports 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.
- 19 When completing the report, an external administrator selects from a predetermined set of options for qualitative questions, and ranges for quantitative questions.
- 20 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 which are significantly greater than estimated total liabilities). These reports have been eliminated from the employee entitlements statistics where the impact was material.
- 21 The top 12 industries by number of reports lodged are shown for some statistics by industry and remaining industries are grouped under 'Other industries'.
- 22 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**

- 23 In July 2008, we reissued RG 16 to enhance the quality of information disclosed. The key parts of the Schedule B report format that were amended are as follows:
- '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.
  - Contraventions were not included in REP 132. Possible misconduct was only disclosed in REP 225 for 2008–09 and 2009–10.

### **Changes to industry categories**

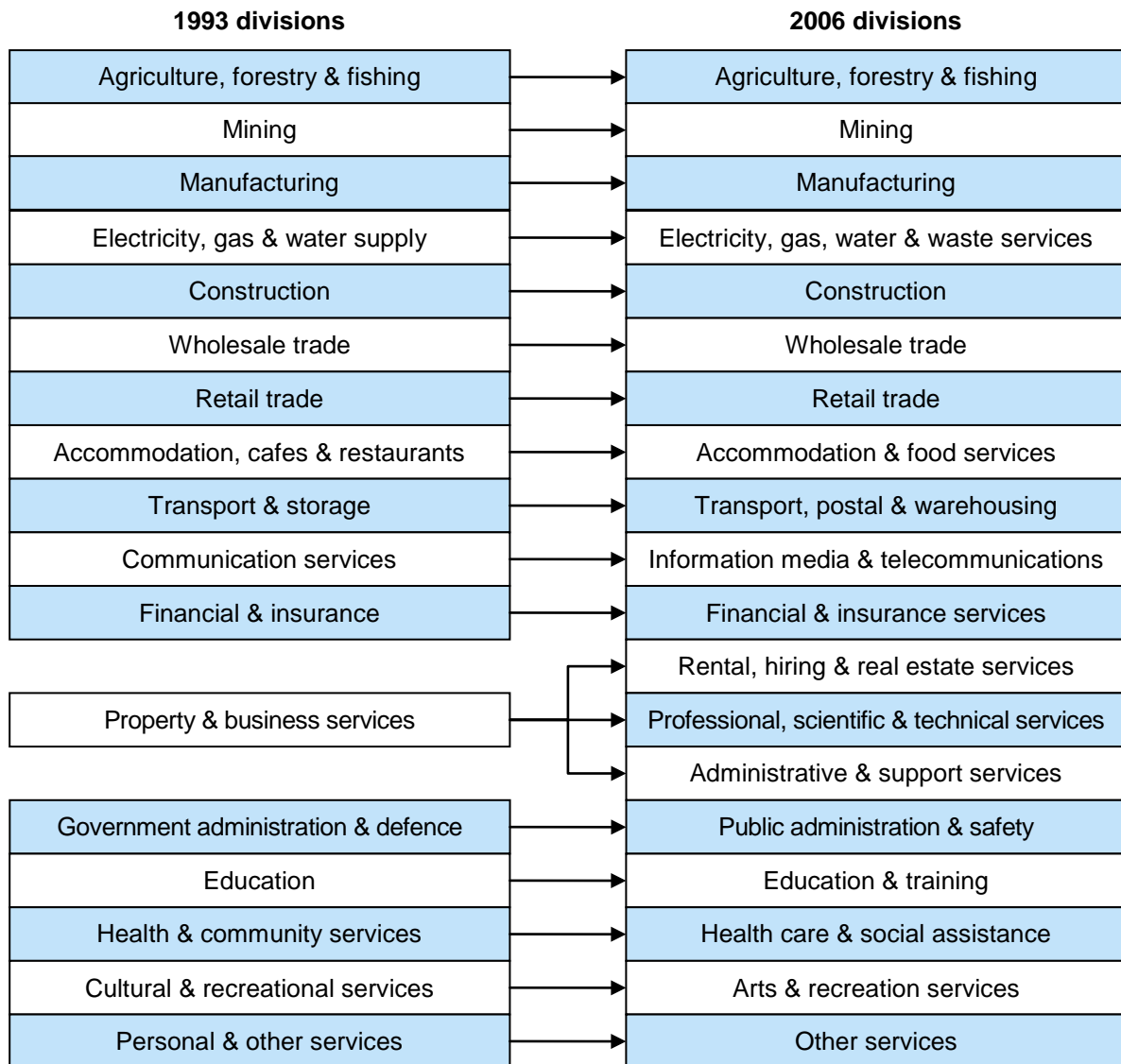
- 24 Industry categories were updated to align with 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) divisions. ANZSIC divisions are classified into subdivisions, group and classes. Due to the large number of changes made at subdivision and group level, comparison of industry data pre- and post-1 July 2008 is more difficult. Changes to the Schedule B report format for industry categories include the following:
- The 'Financial & 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 & insurance services' and do not align with ANZSIC subdivision, group or class titles. References to 'Financial & insurance services' sub-categories are abbreviated to 'FIS'.

- The number of divisions was increased by rearranging the 'Property & business services' category into 'Administrative & support services', 'Professional, scientific & technical services' and 'Rental, hiring & real estate services'.
- Some industries were renamed to better reflect their composition: 'Accommodation, cafes & restaurants' is now 'Accommodation & food services'; 'Cultural & recreational services' is now 'Arts & recreation services'; 'Education' is now 'Education & training'; 'Electricity, gas & water supply' is now 'Electricity, gas, water & waste services'; 'Health & community services' is now 'Health care & social assistance'; 'Personal & other services' is now 'Other services'; 'Government administration & defence' is now 'Public administration & safety'; and 'Transport & storage' is now 'Transport, postal & warehousing'.
- Schedule B's former industry category 'Agriculture' has been renamed 'Agriculture, forestry & fishing' in line with ANZSIC divisions.
- Information media & telecommunications' effectively replaced 'Communication services', bringing together a number of classes from previous divisions.
- A new Schedule B category 'Other (business & personal) services' (ANZSIC division name 'Other services') groups 'Personal & other services' and Schedule B's former industry category, 'Services to business'.

Detail of industry descriptions is available from [www.abs.gov.au/anzsic](http://www.abs.gov.au/anzsic). See also Figure 1.

**Figure 1: ANZSIC division changes**



## C Lodgements of statutory reports

### Total lodgements of statutory reports

25 The total number of external administrator statutory reports lodged has increased consistently over the three-year period ended 30 June 2011. Total reports lodged increased from 8,370 reports lodged in 2008–09 to 8,616 reports lodged in 2010–11.

Note: In this report, spans of two years (e.g. 2010–11) always refer to financial years.

26 The percentage of electronically lodged reports increased significantly from 36.8% in 2002–03 (when electronic lodgement first became available) to 98.9% of reports electronically lodged in 2010–11.

27 The number of reports lodged directly by external administrators through the registered liquidators' portal increased from 36.8% in 2002–03 to 97.2% in 2010–11.

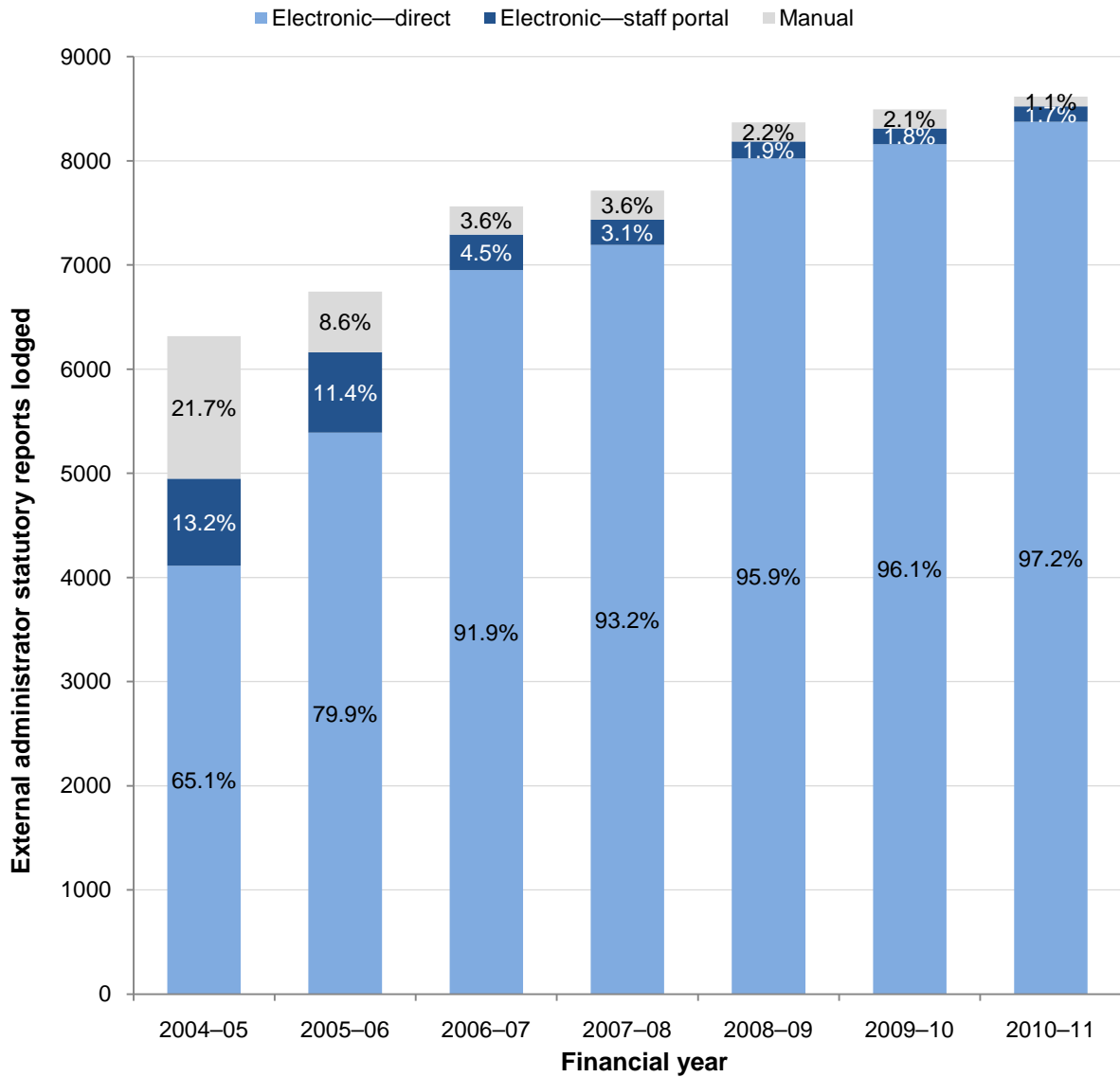
**Table 7: Total external administrator statutory reports lodged by lodgement type (1 July 2008–30 June 2011)**

Lodgement type	2010–11		2009–10		2008–09	
	No.	%	No.	%	No.	%
Electronic—direct	8,375	97.2%	8,161	96.1%	8,024	95.9%
Electronic—staff portal	149	1.7%	151	1.8%	163	1.9%
Manual	92	1.1%	182	2.1%	183	2.2%
<b>Total</b>	<b>8,616</b>	<b>100.0%</b>	<b>8,494</b>	<b>100.0%</b>	<b>8,370</b>	<b>100.0%</b>

**Table 8: Definition of lodgement types**

Electronic—direct	Schedule B reports lodged directly by external administrators through the registered liquidators' portal.
Electronic—staff portal	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	Reports lodged on paper by external administrators.  Note: Excludes supplementary reports (Schedule C reports). This figure relates to reports lodged on paper not in the Schedule B report format, as reports lodged on paper in the Schedule B format were entered through the staff portal: see above.

**Figure 2: Total external administrator statutory reports lodged by lodgement type (1 July 2004–30 June 2011)**



## Initial external administrators' reports lodged

28 To avoid double counting, the statistics in the rest of this report relate only to initial external administrators' reports electronically lodged in 2010–11: see Table 2.

29 The number of initial external administrators' reports lodged increased from 7,733 reports in 2008–09 to 8,054 reports in 2010–11: see Table 9.

**Table 9: Initial external administrators' reports  
(1 July 2008–30 June 2011)**

	2010–11	2009–10	2008–09
Total	8,054	7,903	7,733

30 Table 10 shows the percentage of reports lodged within six months of, and more than 12 months after, the appointment of the external administrator.

**Table 10: Initial external administrators' reports by timing of  
lodgement after appointment (1 July 2008–30 June 2011)**

Financial year	Reports lodged within 6 months	Reports lodged more than 12 months after
2010–11	50.9%	22.8%
2009–10	51.4%	23.0%
2008–09	53.1%	22.3%

## D Initial external administrators' reports 2010–11

### Key points

Initial external administrators' reports disclosed the following material movements in 2010–11 from the previous financial year:

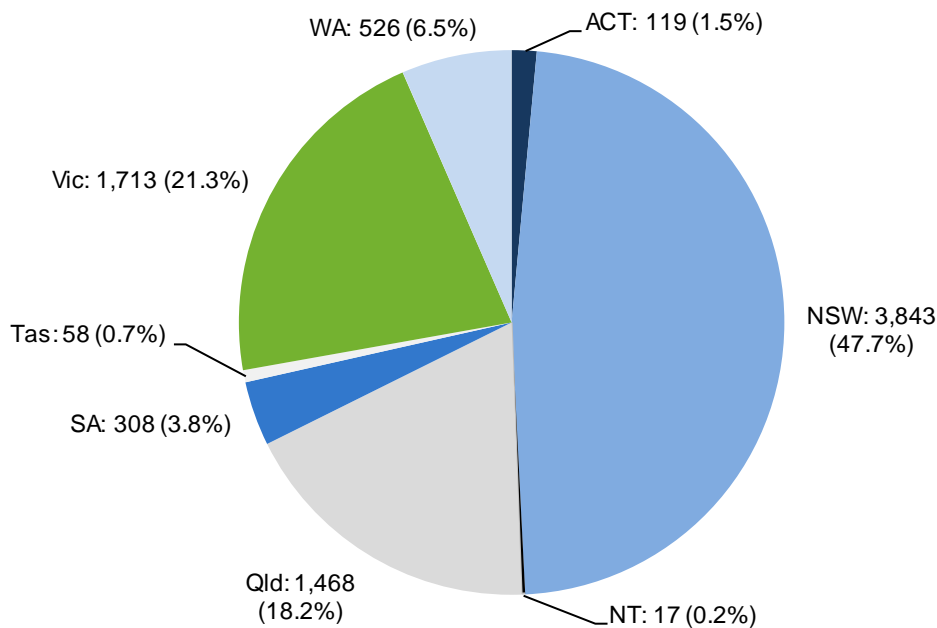
- Reports alleging criminal misconduct under s530B (requirement to provide liquidator with company's books) decreased from 15.2% to 11.5% of reports.
- Reports alleging an insolvent trading breach of civil obligations under s588G(1)–(2) increased from 45.8% to 49.4% of reports.
- Companies with estimated deficiencies of \$50,000 or less fell from 17.5% to 14.3% of reports.
- Companies with unpaid superannuation of \$100,000 or less increased from 34.6% to 37.7% of reports, while companies with unpaid superannuation that was not applicable fell from 61.4% to 57.4% of reports.
- Companies with no unpaid taxes and charges liability fell from 23.6% to 18.8% of reports.
- Companies where external administrators expected the time to completion was less than three months increased from 37.0% to 40.8% of reports, while expected completion between three and six months decreased from 33.1% to 29.0%.

Note: All other reported figures have not changed by three percentage points or more from the previous financial year.

- 31 For the year ended 30 June 2011, initial external administrators' reports made up 93.5% (or 8,054 reports) of the total number of external administrator statutory reports lodged: see Table 7 and Table 9 in Section C. This compares to 93.0% (or 7,903 reports) in 2009–10.

### Lodgements by region

- 32 Most reports in 2010–11 related to New South Wales registered companies (3,843 reports or 47.7%), followed by Victoria (1,713 reports or 21.3%) and Queensland (1,468 reports or 18.2%). The five remaining states and territories made up 12.8% of reports.

**Figure 3: Initial external administrators' reports by region (1 July 2010–30 June 2011)**

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

## Lodgement period

33 In the year ended 30 June 2011, 50.9% of reports were lodged within six months of the external administrator's appointment, compared to 51.4% in the year ended 30 June 2010. Another 22.8% of reports were lodged more than 12 months after appointment: see Table 11.

**Table 11: Initial external administrators' reports by lodgement period after appointment (1 July 2010–30 June 2011)**

Lodgement period after appointment	No.	%
Less than 2 months	1,002	12.4%
Between 2 and 5 months	3,099	38.5%
Between 6 and 12 months	2,119	26.3%
More than 12 months	1,834	22.8%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

Note 1: Liquidators appointed from 1 January 2008 must lodge reports as soon as practicable, and in any event within six months, after it so appears to him or her that any of the conditions in s533 apply.

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

## Section lodged under

- 34 Most reports in 2010–11 (95.0%) were lodged by liquidators for the purpose of complying with s533 of the Corporations Act: see Table 12.

**Table 12: Initial external administrators' reports by section of the Corporations Act (1 July 2010–30 June 2011)**

Section of Corporations Act	No.	%
Section 422 (reports by receiver)	89	1.1%
Section 438D (reports by administrator)	333	4.1%
Section 533 (reports by liquidator)	7,624	94.7%
Statistical purposes	8	0.1%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

## Size of company

- 35 The number of employees or the number of full-time equivalent employees is used as a measure of the size of the company. In 2010–11, 78.4% of reports related to companies with less than 20 employees: see Table 13.

**Table 13: Initial external administrators' reports—Size of company as measured by number of FTEs (1 July 2010–30 June 2011)**

Number of FTEs	No.	%
Less than 5 FTE	4,963	61.6%
Between 5 and 19 FTE	1,348	16.7%
Between 20 and 199 FTE	408	5.1%
200 or more FTE	23	0.3%
Not known	1,312	16.3%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

Note: FTE = Full-time equivalent employees.

## Industry

- 36 In 2010–11, the three industries with the highest number of reports lodged were Other (business & personal) services (1,887 reports or 23.4%), Construction (1,862 reports or 23.1%) and Retail trade (864 reports or 10.7%).
- 37 The top 12 industries are the same as for 2009–10, but with some changes in the order of ranking.

**Table 14: Initial external administrators' reports by industry type (1 July 2010–30 June 2011)**

Industry type	No.	%
Other (business & personal) services	1,887	23.4%
Construction	1,862	23.1%
Retail trade	864	10.7%
Accommodation & food services	611	7.6%
Manufacturing	474	5.9%
Transport, postal & warehousing	448	5.6%
Wholesale trade	246	3.1%
Rental, hiring & real estate services	244	3.0%
Agriculture, forestry & fishing	213	2.6%
Information media & telecommunications	212	2.6%
Professional, scientific & technical services	153	1.9%
Financial & insurance services (FIS)—Other financial services	150	1.9%
Administrative & support services	114	1.4%
Electricity, gas, water & waste services	110	1.4%
Arts & recreation services	100	1.2%
Education & training	95	1.2%
Health care & social assistance	94	1.2%
Mining	58	0.7%
Financial & insurance services (FIS)—Managed investments	52	0.6%
Public administration & safety	23	0.3%
Financial & insurance services (FIS)—Credit provider	22	0.3%
Financial & insurance services (FIS)—Insurance	12	0.1%
Financial & insurance services (FIS)—Superannuation	9	0.1%
Financial & insurance services (FIS)—Deposit taking institutions	1	0.0%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

Note: A number of amendments to the Schedule B report format were implemented effective from 1 July 2008, including changes to industry categories which were updated to align with 2006 ANZSIC divisions. ANZSIC divisions are classified into subdivisions, group and classes. The large number of changes made at subdivision and group level make comparison of industry data pre- and post-1 July 2008 less accurate. For details, see Section B and Figure 1 in this report.

## Nominated causes of failure

- 38 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 2010–11.
- 39 The top three nominated causes of failure for companies (see Table 15 and Table 16) were:
- poor strategic management of business (3,500 or 43.5% of reports);
  - inadequate cash flow or high cash use (3,291 or 40.9% of reports); and
  - trading losses (2,657 or 33.0% of reports).
- 40 Of the top 12 industries, the three industries that most exceeded the percentage of reports for these three causes of failure were:
- *poor strategic management of business*: Manufacturing (49.2% of reports), Wholesale trade (47.2% of reports) and Retail trade (45.7% of reports);
- Note: A number of industries grouped in the 'Other industries' category exceeded the average 43.5% of reports for poor strategic management of business. The top six of these were FIS—Managed investments (67.3% of reports), Arts & recreation services (57.0% of reports), Health care & social assistance and FIS—Credit provider (50.0% of reports each), Electricity, gas, water & waste services (46.4%), and Administrative & support services (43.9% of reports).
- *inadequate cash flow or high cash use*: Manufacturing (47.3% of reports), Retail trade (42.8% of reports) and Accommodation & food services (42.6% of reports);
  - *trading losses*: Manufacturing (44.3% of reports), Retail trade and Accommodation & food services (44.0% of reports each).
- 41 No region shared all of the same top three causes. The three largest states (New South Wales, Victoria and Queensland) shared the same top two causes of failure, being poor strategic management of business and inadequate cash flow or high cash use: see Table 16.

**Table 15: Initial external administrators' reports—Nominated causes of failure by industry (1 July 2010–30 June 2011)**

Causes of failure	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total
Under capitalisation	332	426	233	141	123	95	60	56	93	62	45	24	168	1,858
Poor financial control including lack of records	736	582	271	175	112	148	72	59	48	54	37	61	200	2,555
Poor management of accounts receivable	202	318	66	36	80	77	34	15	20	37	22	16	84	1,007
Poor strategic management of business	779	775	395	256	233	203	116	107	93	95	58	62	328	3,500
Inadequate cash flow or high cash use	719	783	370	260	224	181	103	99	82	86	57	45	282	3,291
Poor economic conditions	458	559	288	198	149	126	60	87	72	66	37	36	161	2,297
Natural disaster	5	4	3	9	8	1	1	0	12	1	1	0	3	48
Fraud	33	23	11	4	3	7	6	7	4	4	4	7	12	125
DOCA failed	8	11	3	6	11	3	0	3	1	0	0	0	4	50
Dispute among directors	51	44	33	19	20	12	13	6	8	12	7	5	26	256
Trading losses	571	525	380	269	210	142	88	62	75	76	44	25	190	2,657
Industry restructuring	21	21	22	9	24	4	6	3	22	8	0	2	22	164
Other	523	482	172	117	105	114	74	53	41	54	60	53	228	2,076
<b>Nominated causes of failure by industry</b>	<b>4,438</b>	<b>4,553</b>	<b>2,247</b>	<b>1,499</b>	<b>1,302</b>	<b>1,113</b>	<b>633</b>	<b>557</b>	<b>571</b>	<b>555</b>	<b>372</b>	<b>336</b>	<b>1,708</b>	<b>19,884</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 16: Initial external administrators' reports—Nominated causes of failure by region (1 July 2010–30 June 2011)**

Causes of failure	ACT	NSW	NT	QLD	SA	TAS	VIC	WA	Total
Under capitalisation	66	807	3	290	75	21	456	138	<b>1,856</b>
Poor financial control including lack of records	40	1,437	5	320	64	14	549	125	<b>2,554</b>
Poor management of accounts receivable	21	449	1	219	29	4	214	70	<b>1,007</b>
Poor strategic management of business	48	1,573	6	708	166	20	765	214	<b>3,500</b>
Inadequate cash flow or high cash use	39	1,515	7	598	132	24	753	222	<b>3,290</b>
Poor economic conditions	25	1,081	2	543	67	16	401	161	<b>2,296</b>
Natural disaster	0	15	0	19	0	0	12	2	<b>48</b>
Fraud	0	53	0	28	3	1	33	7	<b>125</b>
DOCA failed	2	19	0	13	5	0	8	3	<b>50</b>
Dispute among directors	5	102	0	49	11	3	58	28	<b>256</b>
Trading losses	58	1,181	7	470	150	21	539	231	<b>2,657</b>
Industry restructuring	2	55	1	14	9	2	50	31	<b>164</b>
Other	19	1,079	6	284	70	13	446	159	<b>2,076</b>
<b>Total</b>	<b>325</b>	<b>9,366</b>	<b>38</b>	<b>3,555</b>	<b>781</b>	<b>139</b>	<b>4,284</b>	<b>1,391</b>	<b>19,879</b>

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

## Possible misconduct

42 External administrators alleged misconduct in more than two thirds of reports (5,670 or 70.4%) in 2010–11. External administrators reported 14,387 possible breaches at an average of between two and three breaches per report where possible misconduct was reported: see Table 17.

**Table 17: Initial external administrators' reports—Possible misconduct (1 July 2010–30 June 2011)**

Reported misconduct	No. of reports	% of reports	No. of breaches
No misconduct reported	2,384	29.6%	0
'Possible misconduct' reported	5,670	70.4%	14,387
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>	<b>14,387</b>

43 As a result of reports lodged, we asked the external administrator to prepare either a supplementary s422, 438D or 533 report for 558 (9.8%) of the 5,670 reports for 2010–11 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;
- amount of the liabilities;
- deficiency suffered;
- availability of evidence;
- prior misconduct; and
- the advice of the external administrator that the reported possible misconduct warrants further investigation

44 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 2010–11, 17.6% of all reported misconduct related to post-appointment misconduct: see Table 18.

45 Alleged breaches of civil obligations are the most common breaches (10,035 or 69.8% of all reported misconduct). For a detailed analysis of civil breaches by section of the Corporations Act, industry and region, see Table 23 and Table 25.

**Table 18: Initial external administrators' reports—Categories of possible misconduct (1 July 2010–30 June 2011)**

Categories of possible misconduct	No. of breaches	% of breaches
Alleged criminal misconduct under Corporations Act by officers or employees:		
• pre-appointment criminal misconduct	1,595	11.1%
• post-appointment criminal misconduct	2,533	17.6%
Alleged breaches of civil obligations	10,035	69.8%
Other criminal offences	85	0.6%
Other possible misconduct	139	1.0%
<b>Total</b>	<b>14,387</b>	<b>100.0%</b>

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

Note 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

46 External administrators confirmed they had documentary evidence for 3,561 reports (44.2%) for 2010–11: see Table 20. Of these, they considered further inquiry into the alleged misconduct by us was warranted in only 851 reports, based on their assessment of the information and documentary evidence available.

47 Documentary evidence in the possession of a third party was identified in 449 reports. Based on this and their assessment, the external administrator recommended we make further inquiry in 143 reports.

Note: For 125 of the 143 reports where evidence was identified as being with a third party, the external administrator was also in possession of evidence. Therefore, these 125 reports were also included in the 851 reports where the external administrator recommended further inquiry.

48 Of the 851 reports where external administrators recommended further inquiry by ASIC, we requested supplementary reports (or Schedule C reports) for 257 reports (30.2%), of which 49 reports related to deficiencies of \$5 million or more. Of the remaining 594 reports where we did not request a supplementary report, 51 reports (8.6%) related to deficiencies of \$5 million or more: see Table 19. The amount of deficiency is only one input of our risk assessment model.

**Table 19: Initial external administrators' reports—Evidence with liquidator and further inquiry recommended by deficiency categories (1 July 2010–30 June 2011)**

Deficiency	Schedule C requested	Assessed & recorded	Total
\$0–\$50,000	6	42	48
\$50,001–\$250,000	51	172	223
\$250,001–less than \$500,000	39	116	155
\$500,000–less than \$1 million	47	92	139
\$1 million–less than \$5 million	65	121	186
\$5 million–\$10 million	21	22	43
Over \$10 million	28	29	57
<b>Total</b>	<b>257</b>	<b>594</b>	<b>851</b>

49 A further 63 reports indicated that further inquiry was warranted. However, the breaches related to post-appointment criminal misconduct where a separate request for assistance by the liquidator is required under our liquidator assistance program.

**Table 20: Initial external administrators' reports—Possible pre-appointment misconduct reported (1 July 2010–30 June 2011)**

	No. of reports	% of reports	No. of breaches
<b>External administrator has documentary evidence to support allegation</b>			
Yes	3,561	44.2%	7,452
No	2,109	26.2%	4,402
<b>Total</b>	<b>5,670</b>	<b>70.4%</b>	<b>11,854</b>
Of those with documentary evidence, did they recommend further inquiry by ASIC?			
Yes	851	10.6%	
No	2,710	33.6%	
<b>Total</b>	<b>3,561</b>	<b>44.2%</b>	

	No. of reports	% of reports	No. of breaches
<b>External administrator is aware of another person with documentary evidence</b>			
Yes	449	5.6%	1,017
No	5,221	64.8%	10,837
<b>Total</b>	<b>5,670</b>	<b>70.4%</b>	<b>11,854</b>
Where the evidence was with another person, did they recommend further inquiry by ASIC?			
Yes	143	1.8%	
No	306	3.8%	
<b>Total</b>	<b>449</b>	<b>5.6%</b>	

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

## Alleged criminal misconduct

### Pre-appointment criminal misconduct

- 50 Statistics for alleged pre-appointment criminal misconduct are shown by industry and region: see Table 22 and Table 24. 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 held evidence for 1,043 possible criminal breaches out of 1,595 (65.4%) reported in 2010–11. This compares with 59.6% in 2009–10, a rise of 5.8 percentage points, indicating a lower rate of reporting breaches where external administrators held no evidence.
- 52 The top three nominated criminal breaches for companies for 2010–11 were the same as in 2009–10 and 2008–09:
- Section 588G(3) Insolvent trading: 604 breaches reported (7.5% of reports);
  - Sections 286 and 344(2) Obligation to keep financial records: 470 breaches reported (5.8% of reports); and
  - Section 184 Good faith, use of position and use of information: 246 breaches reported (3.1% of reports).

- 53 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated criminal breaches were:
- *Section 588G(3) Insolvent trading:* Construction (8.8% of reports), Transport, postal & warehousing and FIS—Other financial services (8.7% of reports each);
  - *Sections 286 and 344(2) Obligation to keep financial records:* Transport, postal & warehousing (8.3% of reports), Construction (7.7% of reports) and Other (business & personal) services (7.5% of reports); and
  - *Section 184 Good faith, use of position and use of information:* Agriculture, forestry & fishing (10.8% of reports), FIS—Other financial services (8.7% of reports) and Professional, scientific & technical services (5.9% of reports).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 3.1% of reports for Section 184 Good faith, use of position and use of information. The top four of these were FIS—Managed investments (32.7% of reports), FIS—Credit provider (9.1% of reports), Arts & recreation services (6% of reports) and Mining (5.2% 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 subsequent to the appointment of the external administrator: see Table 21. The 2,533 post-appointment breaches related to 1,320 reports (16.4%).
- 55 We assist external administrators in obtaining compliance by officers with their obligations to prepare a report as to company's affairs, provide books and records, and assist liquidators through our liquidator assistance program.

**Table 21: Initial external administrators' reports—Possible post-appointment criminal misconduct reported by section of the Corporations Act (1 July 2010–30 June 2011)**

Section of Corporations Act	No. of breaches
Sections 429, 438B, 446C & 475 Report as to company's affairs	845
Section 530A Officers to help liquidator	760
Section 530B Requirement to provide liquidator with company's books	928
<b>Total</b>	<b>2,533</b>

Note: 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.

## Alleged breaches of civil obligations

- 56 Statistics for alleged breaches of civil obligations are available by industry and region: see Table 23 and Table 25. The tables also show the number of reports where the external administrator is able to advise evidence is available. External administrators held evidence for 6,237 possible breaches of civil obligations out of 10,035 (62.2%) reported.
- 57 The top three nominated civil breaches for companies for 2010–11 were the same as in 2009–10:
- Section 588G(1)–(2) Insolvent trading: 3,979 breaches reported (49.4% of reports);
  - Sections 286 and 344(1) Obligation to keep financial records: 2,769 breaches reported (34.4% of reports); and
  - Section 180 Care and diligence—Directors' and officers' duties: 1,593 breaches reported (19.8% of reports).
- 58 Of the top 12 industries, the three industries which most exceeded the percentage of reports for these three nominated breaches of civil obligations were:
- *Section 588G(1)–(2) Insolvent trading*: Information media & telecommunications (56.1% of reports), Retail trade and Wholesale trade (51.2% of reports each);
  - *Sections 286 and 344(1) Obligation to keep financial records*: FIS—Other financial services (40.7% of reports), Other (business & personal) services (39.8% of reports) and Construction (36.6% of reports); and
  - *Section 180 Care and diligence—Directors' and officers' duties*: FIS—Other financial services (28.0% of reports), Wholesale trade and Agriculture, forestry & fishing (24.4% of reports each).
- Note: Five industries grouped in the 'Other industries' category exceeded the average 19.8% of reports for Section 180 Care and diligence—Directors' and officers' duties. They were FIS—Managed investments (50.0% of reports), Health care & social assistance (34.0% of reports), FIS—Credit provider (27.3% of reports), Electricity, gas, water & waste services (23.6% of reports) and Arts & recreation services (22.0% of reports).

**Table 22: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and industry (1 July 2010–30 June 2011)**

Section of the Corporations Act	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total
Section 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	35	48	19	11	9	14	9	12	23	6	9	13	38	246
Section 206A Disqualified persons not to manage corporations	5	6	1	1	2	1	2	2	0	0	0	2	2	24
Sections 286 & 344(2) Obligation to keep financial records	141	144	30	24	13	37	13	18	4	5	6	10	25	470
Section 471A Powers of other officers suspended during winding up	5	12	4	0	2	2	1	4	0	3	2	0	2	37
Section 588G(3) Insolvent trading	161	164	60	35	32	39	18	18	12	7	7	13	38	604
Section 590 Offences by officers or employees	27	31	16	9	6	8	7	7	4	4	3	9	15	146
Section 596AB Agreements to avoid employee entitlements	4	0	0	1	0	0	0	1	1	0	0	0	2	9
Other criminal offences under the Corporations Act	7	16	5	7	2	2	4	1	1	2	1	2	9	59
<b>Total for industry</b>	<b>385</b>	<b>421</b>	<b>135</b>	<b>88</b>	<b>66</b>	<b>103</b>	<b>54</b>	<b>63</b>	<b>45</b>	<b>27</b>	<b>28</b>	<b>49</b>	<b>131</b>	<b>1,595</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 23: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and industry (1 July 2010–30 June 2011)**

Section of the Corporations Act	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total
Section 180 Care and diligence—Directors' and officers' duties	380	339	154	114	74	78	60	59	52	46	31	42	164	1,593
Section 181 Good faith—Directors' and officers' duties	155	144	69	41	36	40	35	35	40	20	25	25	125	790
Section 182 Use of position—Directors', officers' and employees' duties	119	118	56	39	31	37	32	27	36	17	19	25	90	646
Section 183 Use of information—Directors', officers' and employees' duties	39	43	24	12	8	14	11	10	27	9	7	10	44	258
Sections 286 & 344(1) Obligation to keep financial records	751	681	260	198	108	162	79	80	60	63	49	61	217	2,769
Section 588G(1)–(2) Insolvent trading	965	901	442	292	236	228	126	106	97	119	71	65	331	3,979
<b>Total for industry</b>	<b>2,409</b>	<b>2,226</b>	<b>1,005</b>	<b>696</b>	<b>493</b>	<b>559</b>	<b>343</b>	<b>317</b>	<b>312</b>	<b>274</b>	<b>202</b>	<b>228</b>	<b>971</b>	<b>10,035</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 24: Initial external administrators' reports—Possible pre-appointment criminal misconduct by section of the Corporations Act and region (1 July 2010–30 June 2011)**

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 184 Good faith, use of position and use of information—Directors', officers' and employees' duties	5	3	104	70	2	2	49	42	8	6	2	1	39	31	36	32	245	187
Section 206A Disqualified persons not to manage corporations	0	0	10	7	0	0	5	3	3	3	0	0	5	4	1	1	24	18
Sections 286 & 344(2) Obligation to keep financial records	7	6	332	142	0	0	42	32	5	3	2	2	58	36	24	15	470	236
Section 471A Powers of other officers suspended during winding up	2	2	10	7	1	1	4	3	2	2	0	0	14	13	4	3	37	31
Section 588G(3) Insolvent trading	14	8	311	170	2	2	115	102	37	32	8	7	86	58	31	25	604	404
Section 590 Offences by officers or employees	2	2	58	46	0	0	20	17	4	1	1	1	45	31	15	12	145	110
Section 596AB Agreements to avoid employee entitlements	0	0	3	2	0	0	2	2	1	1	1	1	2	0	0	0	9	6
Other criminal offences under the Corporations Act	1	1	37	35	0	0	8	5	1	1	0	0	6	5	6	4	59	51
<b>Total</b>	<b>31</b>	<b>22</b>	<b>865</b>	<b>479</b>	<b>5</b>	<b>5</b>	<b>245</b>	<b>206</b>	<b>61</b>	<b>49</b>	<b>14</b>	<b>12</b>	<b>255</b>	<b>178</b>	<b>117</b>	<b>92</b>	<b>1,593</b>	<b>1,043</b>

**Table 25: Initial external administrators' reports—Possible breaches of civil obligations by section of the Corporations Act and region  
(1 July 2010–30 June 2011)**

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	18	11	788	360	5	3	256	207	57	47	13	10	300	190	155	123	1,592	951
Section 181 Good faith—Directors' and officers' duties	10	7	352	233	3	2	128	115	21	16	9	8	169	119	97	82	789	582
Section 182 Use of position—Directors', officers' and employees' duties	13	10	269	192	0	0	103	89	37	31	4	3	150	102	69	54	645	481
Section 183 Use of information—Directors', officers' and employees' duties	4	3	103	64	0	0	56	49	9	6	1	0	48	29	36	31	257	182
Sections 286 & 344(1) Obligation to keep financial records	45	29	1,681	811	5	2	282	193	55	41	14	11	571	330	115	73	2,768	1,490
Section 588G(1)–(2) Insolvent trading	83	54	2,154	1,160	11	9	452	364	179	162	21	17	810	570	268	215	3,978	2,551
<b>Total</b>	<b>173</b>	<b>114</b>	<b>5,347</b>	<b>2,820</b>	<b>24</b>	<b>16</b>	<b>1,277</b>	<b>1,017</b>	<b>358</b>	<b>303</b>	<b>62</b>	<b>49</b>	<b>2,048</b>	<b>1,340</b>	<b>740</b>	<b>578</b>	<b>10,029</b>	<b>6,237</b>

Note: Civil breaches for companies with international registered addresses are not included in region statistics.

## Other possible criminal offences

59 There were only 85 other possible criminal offences (0.6% of overall offences) by a member or contributory under the Corporations Act or other Commonwealth statutes or state or territory laws. Of these, 67 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 2010–30 June 2011)**

Offence	No. of breaches	Evidence with liquidator	Evidence with other
Criminal offence under the Corporations Act (if a member or contributory)	18	9	10
Criminal offence under another Commonwealth statute	29	18	16
Criminal offence under a state or territory law	38	29	19
<b>Total</b>	<b>85</b>	<b>56</b>	<b>45</b>

## Other possible misconduct

60 '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 139 instances of other possible misconduct were reported in 2010–11 (1.0% of overall breaches).

**Table 27: Initial external administrators' reports—Other possible misconduct (1 July 2010–30 June 2011)**

Possible misconduct	No. of breaches	Evidence with liquidator	Evidence with other
May have misapplied or retained, or may have become liable or accountable for money or property of the company	58	48	17
May have been guilty of negligence, default, breach of duty or breach of trust in relation to the company	81	68	17
<b>Total</b>	<b>139</b>	<b>116</b>	<b>34</b>

## Referred to other authorities

- 61 For reports where external administrators reported possible misconduct, 157 reports in 2010–11 indicated the external administrator had or was intending to refer the matter to another authority. The highest three number of referrals were to state or territory police (47 reports), the Australian Tax Office (42 reports) and Fair Trading / Consumer Affairs (17 reports).

**Table 28: Initial external administrators' reports—Referred to other authorities (1 July 2010–30 June 2011)**

Authorities	No.
State police	47
Australian Federal Police	4
Fair Trading / Consumer Affairs	17
Australian Taxation Office	42
Australian Consumer & Competition Commission	2
Other	45
<b>Total</b>	<b>157</b>

Note: In the Other category, 14 reports indicated the external administrator had or was intending to refer the matter to creditors.

## Books and records

- 62 External administrators indicated they obtained or inspected the company's books and records in 6,139 reports (76.2%) in 2010–11. Of these, 3,719 reports indicated that the company's books and records were considered adequate.

## Assetless Administration Fund

- 63 In 2010–11, 381 of the 7,624 reports by a liquidator (as noted in Table 12) indicated the liquidator made, or intended making, an application for funding from the AA Fund.
- 64 The Australian Government established the AA Fund 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 fraudulent phoenix activity.

## Liabilities and assets

65 External administrators provide estimates of the assets, liabilities and overall financial deficiency of companies on which they report. Table 29 shows the assets and liabilities categories and Table 30 shows the deficiency for the top 12 industries by reports lodged (as noted in Table 14).

### Assets

66 In 59.7% of reports, companies had estimated assets of \$10,000 or less; 84.0% of reports indicated companies had estimated assets of \$100,000 or less.

67 Of the top 12 industries, those with the greatest percentage of reports estimating assets of \$10,000 or less were Other (business & personal) services (68.4%), FIS—Other services (67.3%) and Accommodation & food services (61.9%).

68 In 38.9% of reports, the external administrator reported the administration as assetless. Of the top 12 industries, those that most exceeded this percentage for assetless administrations (38.9%) were FIS—Other financial services (49.3%), Other (business & personal) services (45.4%) and Rental, hiring & real estate services (43.0%).

69 In 9.7% of reports, estimated assets were over \$250,000. Of the top 12 industries, those well above this percentage were Agriculture, forestry & fishing (24.4%), Rental, hiring & real estate services (19.3%) and Manufacturing (18.8%).

Note: In the 'Other industries' category, FIS—Insurance (41.7%), FIS—Managed investments (36.5%), Mining (27.6%), Education & training (14.7%), Health care & social assistance (12.8%) and FIS—Superannuation (11.1%) all exceeded this percentage across all industries (9.7%), but made up only 4.0% of all reports.

### Liabilities

70 In 44.4% of reports, the estimated liabilities of failed companies were \$250,000 or less, and 76.6% indicated estimated liabilities of less than \$1 million.

71 Of the top 12 industries, those with the greatest percentage of companies with estimated liabilities of \$250,000 or less were Other (business & personal) services (53.2%), Transport, postal & warehousing (52.7%) and FIS—Other financial services (46.0%).

Note: A number of industries grouped in the 'Other industries' category exceeded the average (44.4%). The top six of these were FIS—Superannuation (88.9%), Administrative & support services (59.6%), Public administration & safety (56.5%), Electricity, gas, water & waste services (55.5%), Arts & recreation services (54.0%) and FIS—Insurance (50.0%).

- 72 A comparison of those industries with estimated liabilities over \$10 million reveals that Agriculture, forestry & fishing (22.5%), FIS—Other financial services (8.0%) and Information media & telecommunications (5.7%) exceeded the proportion of reports in that category across all industries of 4.0%.

Note: In the 'Other industries' category, FIS—Managed investments (34.6%), FIS—Credit provider (13.6%), Mining (12.1%) and Education & training (7.4%) all exceeded this percentage across all industries (4.0%), but comprised only 2.8% of all reports.

## Deficiency

- 73 Across all industries, 47.4% of reports estimated the shortfall between estimated assets and estimated liabilities at \$250,000 or less; 65.3% of reports estimated a shortfall at 500,000 or less. When comparing the deficiency estimates between the top 12 industries, the three industries with the highest percentage of estimates at \$250,000 or less were Transport, postal & warehousing (56.5%), Other (business & personal) services (55.6%) and FIS—Other financial services (53.3%).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 47.4%. The top six of these were: FIS—Superannuation (88.9%), FIS—Insurance (66.7%), Electricity, gas, water & waste services (61.8%), Public administration & safety (60.9%), Administrative & support services (60.5%) and Arts & recreation services (57.0%).

- 74 Only 3.6% of all reports estimated a deficiency of over \$10 million. Of the top 12 industries, the industry which most exceeded this percentage was Agriculture, forestry & fishing (22.5%).

Note: Four industries grouped in the 'Other industries' category exceeded this percentage across all industries (3.6%): FIS—Managed investments (30.8%), FIS—Credit provider (13.6%), Mining (12.1%) and Education & training (7.4%). However, when combined, these industries comprised only 2.5% of reports.

Table 29: Initial external administrators' reports—Amount of assets and liabilities by industry (1 July 2010–30 June 2011)

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
<b>Asset categories</b>															
Less than \$1	857	736	295	246	124	170	85	105	76	68	57	74	238	3,131	38.9%
\$1–\$10,000	433	389	192	132	82	91	39	36	34	45	37	27	137	1,674	20.8%
\$10,001–\$20,000	154	169	95	46	40	37	24	13	11	25	10	11	66	701	8.7%
\$20,001–\$30,000	70	88	45	45	23	22	15	5	10	7	6	6	37	379	4.7%
\$30,001–\$50,000	98	88	50	32	31	20	23	12	8	13	9	4	38	426	5.3%
\$50,001–\$100,000	89	90	54	44	41	31	14	15	11	11	8	6	44	458	5.7%
\$100,001–\$250,000	81	117	66	27	44	35	17	11	11	26	8	11	47	501	6.2%
\$250,001–\$5 million	97	160	64	34	83	41	26	42	28	16	17	10	67	685	8.5%
Over \$5 million	8	25	3	5	6	1	3	5	24	1	1	1	16	99	1.2%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>
<b>Liability categories</b>															
\$1–\$250,000	1,003	816	358	259	145	236	92	88	47	91	64	69	312	3,580	44.4%
\$250,001–less than \$1 million	573	588	314	239	175	135	71	78	60	61	60	46	192	2,592	32.2%
\$1 million–less than \$5 million	242	324	148	86	109	64	62	54	46	38	22	21	122	1,338	16.6%
\$5 million–\$10 million	30	54	23	9	23	7	16	13	12	10	1	2	23	223	2.8%
Over \$10 million	39	80	21	18	22	6	5	11	48	12	6	12	41	321	4.0%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 30: Initial external administrators' reports—Amount of deficiency by industry (1 July 2010–30 June 2011)**

Deficiency categories	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
\$0–\$50,000	345	300	84	68	32	74	37	35	12	19	25	30	93	1,154	14.3%
\$50,001–\$250,000	705	559	289	214	126	179	60	65	45	82	44	50	242	2,660	33.0%
\$250,001–less than \$500,000	329	333	180	134	100	73	40	34	30	25	38	24	103	1,443	17.9%
\$500,000–less than \$1 million	222	264	137	91	78	62	32	43	29	30	19	15	94	1,116	13.9%
\$1 million–less than \$5 million	228	291	134	80	104	52	57	48	40	34	20	17	102	1,207	15.0%
\$5 million–\$10 million	22	49	20	7	16	2	17	10	9	10	2	3	18	185	2.3%
Over \$10 million	36	66	20	17	18	6	3	9	48	12	5	11	38	289	3.6%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

## Employee entitlements

75 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 31 and Table 32. '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 31: Initial external administrators' reports—Amounts owed in unpaid employee entitlements (1 July 2010–30 June 2011)**

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	326	4.1%	205	2.6%	187	2.3%	150	1.9%	154	1.9%
\$1,001–\$10,000	971	12.1%	974	12.1%	466	5.8%	178	2.2%	217	2.7%
\$10,001–\$50,000	516	6.4%	720	9.0%	376	4.7%	226	2.8%	269	3.4%
\$50,001–\$150,000	162	2.0%	216	2.7%	125	1.6%	146	1.8%	102	1.3%
\$150,001–\$250,000	42	0.5%	37	0.5%	17	0.2%	43	0.5%	29	0.4%
\$250,001–\$500,000	30	0.4%	48	0.6%	39	0.5%	29	0.4%	14	0.2%
\$500,001–less than \$1.5 million	14	0.2%	16	0.2%	11	0.1%	21	0.3%	9	0.1%
\$1.5 million–\$5 million	0	0.0%	3	0.0%	2	0.0%	22	0.3%	1	0.0%
Over \$5 million	1	0.0%	1	0.0%	4	0.0%	12	0.1%	4	0.0%
Not applicable	5,963	74.3%	5,805	72.3%	6,798	84.7%	7,198	89.7%	7,226	90.0%
<b>Total</b>	<b>8,025</b>	<b>100.0%</b>	<b>8,025</b>	<b>100.0%</b>	<b>8,025</b>	<b>100.0%</b>	<b>8,025</b>	<b>100.0%</b>	<b>8,025</b>	<b>100.0%</b>

Note: 29 reports identified as being internally inconsistent were excluded from this table.

### Unpaid wages

76 Unpaid wages were 'not applicable' in 74.3% of reports. In 16.2% of reports, external administrators estimated unpaid wages at between \$1 and \$10,000. Categories from \$10,001 to over \$5 million comprised 9.5% of reports.

### Unpaid annual leave

77 In all, 72.3% of reports showed unpaid annual leave as 'not applicable'. In 14.7% of cases, employees were owed \$1 to \$10,000, and 23.7% of companies owed \$50,000 or less. In 4.0% of reports, entitlements for unpaid annual leave were in the 'over \$50,000' category.

### Unpaid pay in lieu of notice

- 78 Unpaid pay in lieu of notice was 'not applicable' in most cases (84.7%). Only 2.5% of reports showed entitlements for unpaid pay in lieu of notice in the 'over \$50,000' category.

### Unpaid redundancy

- 79 Unpaid redundancy was 'not applicable' in 89.7% of reports. In all, 4.1% of reports showed employees were owed \$1 to \$10,000 in redundancy payments.
- 80 Only 0.1% of reports showed unpaid redundancy of over \$5 million.

### Unpaid long service leave

- 81 Employees were owed \$1 to \$10,000 in unpaid long service leave in 4.6% of reports, and unpaid long service leave of \$1.5 million or more was estimated in only 0.1% of reports.
- 82 The majority of reports (90.0%) indicated a long service leave debt was 'not applicable'.

### Unpaid superannuation

- 83 Due to the different value categories of superannuation entitlements, these figures are shown separately in Table 32. The results show a similar pattern to other employee entitlements with a large number (57.4%) of reports showing unpaid superannuation as not applicable.

**Table 32: Initial external administrators' reports—Amounts owed in unpaid superannuation entitlements (1 July 2010–30 June 2011)**

Amount owed	No.	%
\$1–\$100,000	3,034	37.7%
\$100,001–\$250,000	294	3.7%
\$250,001–\$1 million	90	1.1%
Over \$1 million	13	0.2%
Not applicable	4,623	57.4%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

Note: No reports were identified as being internally inconsistent.

## Secured creditors

84 Table 33 and Figure 4 show the amounts owed to secured creditors by industry. Most reports for 2010–11 (66.9%) indicated that nothing was owed to secured creditors.

85 A significant proportion (23.1%) of 2010–11 reports showed secured creditors were owed between \$1 and less than \$1 million.

86 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 (90.1%) was most exceeded by Professional, scientific & technical services (94.8%), Other (business & personal) services (94.2%) and Transport, postal & warehousing (93.3%).

Note: Six industries grouped in the 'Other industries' category exceeded the average 90.1%. The top four of these were Public administration & safety (100.0%), Administrative & support services (97.4%), Electricity, gas, water & waste services (97.3%) and Arts & recreation services (93.0%).

87 In 2.6% of reports, the company owed secured creditors more than \$10 million.

88 Three industries that significantly exceeded this percentage of reports across all industries with amounts owed to secured creditors over \$10 million (2.6%) were Agriculture, forestry & fishing (19.7%), FIS—Other financial services (5.3%) and Rental, hiring and real estate services (4.1%).

## Unpaid taxes and charges

89 Most reports (84.8%) indicated that the amount of unpaid taxes and charges was \$250,000 or less.

90 Of the top 12 industries, the three that most exceeded this percentage of reports owing \$250,000 or less in unpaid taxes and charges were: Retail trade (91.4%), Wholesale trade (89.8%) and FIS—Other (88.7%).

Note: In the 'Other industries' category, the three industries that most exceeded this percentage across all industries (84.8%) were FIS—Superannuation (100.0%), FIS—Credit provider (95.5%) and Arts & recreation services (92.0%).

91 Of the top 12 industries, the three industries that had the highest percentage of unpaid taxes and charges over \$1 million compared to the percentage across all industries of 2.9% were: Agriculture, forestry & fishing (9.4%), Construction (4.8%) and Rental, hiring & real estate services (4.5%). See Table 34.

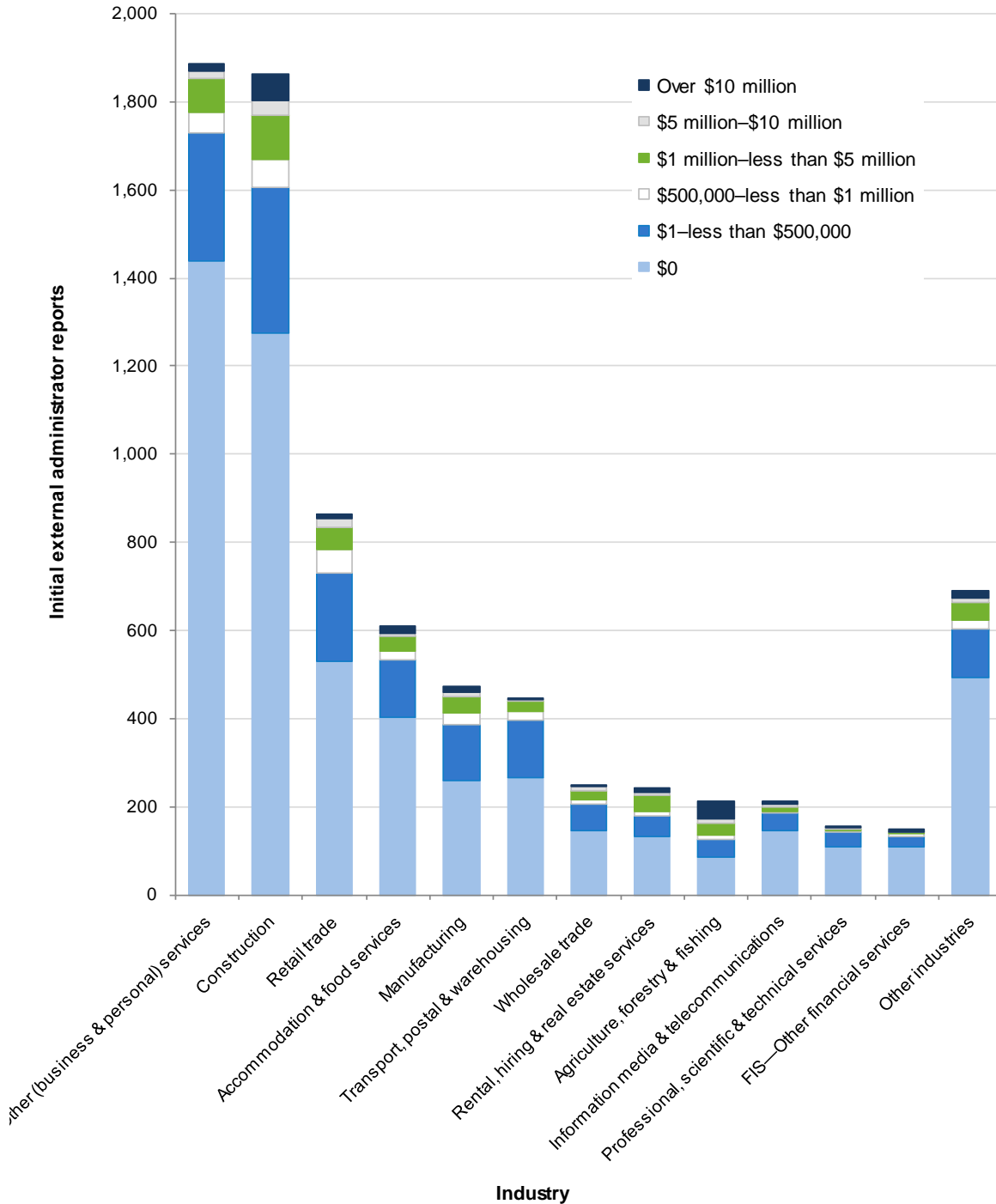
Note: In the 'Other industries' category, the three industries that most exceeded this percentage across all industries (2.9%) of unpaid taxes and charges of over \$1 million were FIS—Deposit taking institutions (100.0% or 1 report), FIS—Insurance (8.3% or 1 report) and Education & training (6.3% or 6 reports).

**Table 33: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2010–30 June 2011)**

Amount owed	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
\$0	1,439	1,276	529	402	260	267	145	131	86	145	110	108	494	5,392	66.9%
\$1–less than \$500,000	289	329	203	131	125	128	62	49	39	41	33	25	109	1,563	19.4%
\$500,000–less than \$1 million	49	63	52	21	29	23	9	11	10	5	2	6	20	300	3.7%
\$1 million–less than \$5 million	75	101	50	33	37	22	21	34	27	10	5	2	41	458	5.7%
\$5 million–\$10 million	17	33	19	8	8	2	8	9	9	5	1	1	9	129	1.6%
Over \$10 million	18	60	11	16	15	6	1	10	42	6	2	8	17	212	2.6%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Figure 4: Initial external administrators' reports—Amount owed to secured creditors by industry (1 July 2010–30 June 2011)**



Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 34: Initial external administrators' reports—Amount owed in unpaid taxes and charges by industry (1 July 2010–30 June 2011)**

Amount owed	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
\$0	349	345	147	83	67	67	75	58	73	35	26	41	152	1,518	18.8%
\$1–\$250,000	1,252	1,166	643	454	319	315	146	132	106	140	101	92	443	5,309	65.9%
\$250,001–\$1 million	240	262	66	68	76	57	21	43	14	30	25	16	74	992	12.3%
Over \$1 million	46	89	8	6	12	9	4	11	20	7	1	1	21	235	2.9%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

## Unsecured creditors

### Number of unsecured creditors

- 92 Most reports for 2010–11 (87.5%) indicated the company had 50 or less unsecured creditors. Of the top 12 industries, those which had the greatest percentages of 50 or less unsecured creditors were FIS—Other financial services (96.7%), Rental, hiring & real estate services (94.3%) and Other (business & personal) services (93.0%). See Table 35.

### Amount owed to unsecured creditors

- 93 The majority (61.2%) 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 & personal) services (71.8%), Transport, postal & warehousing (67.4%) and Professional, scientific & technical services (65.4%).
- 94 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 Agriculture, forestry & fishing (31 reports), Other (business & personal) services (25 reports) and Construction (20 reports).

Note: In the 'Other industries' category, FIS—Managed investments showed the fourth highest number of reports (12 reports) where companies owed more than \$10 million to unsecured creditors.

### Amounts owed to related parties

- 95 Of the total amount owed to unsecured creditors, 18.4% 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 Agriculture, forestry & fishing (34.3%), Professional, scientific & technical services (24.8%) and Wholesale trade (24.0%).

Note: A number of industries grouped in the 'Other industries' category exceeded the average 18.4%. The top four of these were: FIS—Managed investments (46.2%), Mining (39.7%), FIS—Superannuation (33.3%) and Health care & social assistance (22.3%).

## Cents in the dollar dividend

- 96 The dividend estimated as payable to unsecured creditors was less than 11 cents in the dollar for most reports (96.8%). Of the top 12 industries, the top three with an estimated return of less than 11 cents in the dollar were Retail trade (98.6%), Other (business & personal) services (97.8%) and Manufacturing

(97.5%). 'Other industries' includes two industries where 100.0% estimated less than 11 cents in the dollar: Public administration & safety (23 reports) and FIS—Deposit taking institutions (1 report).

97 Of the top 12 industries, the two industries with the greatest percentage of estimated returns of more than 50 cents in the dollar to unsecured creditors were Professional, scientific & technical services (2.6%) and Rental, hiring & real estate services (2.5%), compared to the proportion across all industries of 0.8%: see Table 36.

Note: In the 'Other industries' category, the following industries exceeded this percentage (0.8%): FIS—Managed investments (11.5%), FIS—Superannuation (11.1%), FIS—Credit provider (9.1%), FIS—Insurance (8.3%), Arts & recreation services (5%) and Administrative & support services (2.6%). However, when combined, these industries made up only 3.8% of all reports.

**Table 35: Initial external administrators' reports—Number of unsecured creditors, amount owed and reports where > 50% is owed to related parties by industry (1 July 2010–30 June 2011)**

	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
<b>Number of unsecured creditors</b>															
Less than 25	1,623	1,416	561	426	261	337	164	208	150	161	125	139	529	6,100	75.7%
25–50	132	219	141	106	94	54	37	22	22	31	15	6	67	946	11.7%
51–200	83	178	137	61	94	43	34	7	15	15	13	0	56	736	9.1%
More than 200	5	12	12	5	17	3	5	1	22	3	0	1	21	107	1.3%
Unknown	44	37	13	13	8	11	6	6	4	2	0	4	17	165	2.0%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>
<b>Amount owed to unsecured creditors</b>															
Less than \$250,000	1,354	1,118	477	379	228	302	114	132	92	127	100	97	412	4,932	61.2%
\$250,000–\$500,000	240	266	154	100	81	69	35	41	27	26	20	14	86	1,159	14.4%
\$500,001–less than \$1 million	136	206	112	70	63	38	39	33	30	19	10	10	70	836	10.4%
\$1 million–less than \$5 million	120	224	102	55	83	36	49	27	28	31	19	17	85	876	10.9%
\$5 million–\$10 million	12	28	8	3	10	1	8	6	5	6	1	3	11	102	1.3%
Over \$10 million	25	20	11	4	9	2	1	5	31	3	3	9	26	149	1.9%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>
<b>Amounts owed to related parties</b>															
> 50% owed to related parties	333	258	164	136	89	52	59	46	73	40	38	33	157	1,478	18.4%
<b>% of reports lodged for industry</b>	<b>17.6%</b>	<b>13.9%</b>	<b>19.0%</b>	<b>22.3%</b>	<b>18.8%</b>	<b>11.6%</b>	<b>24.0%</b>	<b>18.9%</b>	<b>34.3%</b>	<b>18.9%</b>	<b>24.8%</b>	<b>22.0%</b>	<b>22.8%</b>		

Note: 'Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

**Table 36: Initial external administrators' reports—Amount payable to unsecured creditors—Cents in the dollar dividend by industry  
(1 July 2010–30 June 2011)**

Cents in the dollar dividend	Other (business & personal) services	Construction	Retail trade	Accommodation & food services	Manufacturing	Transport, postal & warehousing	Wholesale trade	Rental, hiring & real estate services	Agriculture, forestry & fishing	Information media & telecommunications	Professional, scientific & technical services	FIS—Other financial services	Other industries	Total	% of total
0 cents	1,788	1,718	817	576	433	410	228	217	174	190	139	130	607	7,427	92.2%
Greater than 0 but less than 11 cents	58	84	35	19	29	23	8	16	29	12	7	8	41	369	4.6%
11–20 cents	16	30	3	6	6	8	6	3	4	8	1	4	10	105	1.3%
21–50 cents	15	23	5	8	5	5	2	2	3	1	2	6	12	89	1.1%
51–100 cents	10	7	4	2	1	2	2	6	3	1	4	2	20	64	0.8%
<b>Total for industry</b>	<b>1,887</b>	<b>1,862</b>	<b>864</b>	<b>611</b>	<b>474</b>	<b>448</b>	<b>246</b>	<b>244</b>	<b>213</b>	<b>212</b>	<b>153</b>	<b>150</b>	<b>690</b>	<b>8,054</b>	<b>100.0%</b>

Note: Other industries' includes Administrative & support services, Arts & recreation services, Education & training, Electricity, gas, water & waste services, remaining Financial & insurance services sub-categories (Credit provider, Deposit taking institutions, Insurance, Managed investments and Superannuation), Health care & social assistance, Mining and Public administration & safety.

## Completion of external administration

- 98 External administrators expected to complete their administration within six months of the date of lodging their report in 69.8% of cases. This was in addition to the time taken to lodge the report.

**Table 37: Initial external administrators' reports—  
Expected time to complete the external administration  
(1 July 2010–30 June 2011)**

Expected time	No.	%
0–less than 3 months	3,286	40.8%
3 months–less than 6 months	2,332	29.0%
6 months–1 year	1,834	22.8%
Over 1 year	602	7.5%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>

## Proposed action

### Public examinations

- 99 In 160 reports (2%), the external administrator noted that they were intending to hold public examinations to question a company's directors about the affairs of the company.

### Recovery proceedings

- 100 In 1,620 reports (20.1%), 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

- 101 External administrators advised in 499 reports (6.2%) that, in their opinion, there were shadow directors.

## External administrator's remuneration

- 102 Excluding the \$0 and 'not applicable' results, the most common category of external administrator's estimated collectible fees was liquidator fees, with

5,640 reports. Of these, 5,046 reports estimated collectible liquidator fees between \$1 and \$50,000.

103 Of the reports answering the voluntary administration fees question, 778 estimated the collectible fees to be between \$1 and \$50,000.

**Table 38: Initial external administrators' reports—External administrators' remuneration (1 July 2010–30 June 2011)**

Remuneration	Voluntary administration fees		Deed of company arrangement fees		Liquidator fees		Receiver/controller fees	
	No.	%	No.	%	No.	%	No.	%
\$0	797	9.9%	834	10.4%	2,158	26.8%	854	10.6%
\$1–\$50,000	778	9.7%	130	1.6%	5,046	62.7%	43	0.5%
\$50,001–\$100,000	185	2.3%	25	0.3%	384	4.8%	17	0.2%
\$100,001–\$250,000	96	1.2%	30	0.4%	163	2.0%	26	0.3%
Over \$250,000	59	0.7%	15	0.2%	47	0.6%	23	0.3%
Not applicable	6,139	76.2%	7,020	87.2%	256	3.2%	7,091	88.0%
<b>Total</b>	<b>8,054</b>	<b>100.0%</b>	<b>8,054</b>	<b>100.0%</b>	<b>8,054</b>	<b>100.0%</b>	<b>8,054</b>	<b>100.0%</b>

Note: 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
electronic—direct	Schedule B reports lodged directly by external administrators through the registered liquidators' portal
electronic—staff portal	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
electronically lodged report	A Schedule B report lodged directly by external administrators through the registered liquidators' portal, 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 administrator
initial external administrator report	The first electronically lodged Schedule B report after a company has entered external administration
insolvency practitioner	A generic term to describe registered liquidators generally, regardless of whether they have been appointed to one or more specific external administrations
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

Term	Meaning in this document
manual report	A report lodged by external administrators on paper not in Schedule B format
Practice Note 50	A guide first issued by ASIC on 28 April 1994 for external administrators regarding their reporting obligations to ASIC, superseded by RG 16 on 2 October 2007
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
report	An initial external administrator report
RG 16	Regulatory Guide 16 issued by ASIC on 2 October 2006 for external administrators on their reporting obligations to ASIC, replacing Practice Note 50
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
s9 (for example)	A section of the Corporations Act (in this example, numbered 9)
secured creditor	A chargee as defined by s9
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 an administrator), or s422 (by a receiver)
voluntary administrator	An administrator of a company but not a deed of company arrangement

## Related information

### Regulatory guides

RG 16 *External administrators: Reporting and lodging*

### Legislation

Corporations Act, Pt 5.2, 5.3A, 5.6

### Other

Statistics on companies entering external administration and insolvency appointments are available from [www.asic.gov.au/insolvency](http://www.asic.gov.au/insolvency).

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