

10 May 2023

CIRCULAR TO CREDITORS & SUPPLIERS

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842

("THE COMPANY")

APPOINTMENT OF VOLUNTARY ADMINISTRATORS

Joseph Hansell, Kate Warwick and I, Vaughan Strawbridge were appointed as Joint and Several Administrators of the Company on 9 May 2023 by a resolution of the Company's directors.

As voluntary administrators we have assumed control over all aspects of the Australian and New Zealand companies, which we are continuing to trade, whilst we work with the management team to assess the financial position of the group and the options for a recapitalisation or sale of the business.

The businesses trade independently to the US business, which has announced they have ceased to trade. We are working with the Australian and New Zealand management teams to seek to achieve a restructure or sale of the Australian and New Zealand businesses, and are seeking your continued support while we undertake this process.

OPERATIONS AND TRADING - ONGOING SUPPLY TO THE COMPANIES

Orders will continue to be placed using the Australian and New Zealand companies current processes. Persons authorised to sign purchase orders are listed at Appendix 1. **We do also ask that you open a new account for the relevant purchasing company styled with the company name followed by "Administrators Appointed"**. Please charge future purchase orders to these accounts which will be paid in accordance with usual terms of credit. Please also note payment for all future authorised orders are guaranteed by the Voluntary Administrators.

The current management team are working with us to minimize the impact of the appointment on the continued operations of the Company and we seek your assistance in this regard, while we assess the options for a recapitalisation or sale of the business.

Please continue to liaise with the Company through your normal contacts. If there are any issues that arise please do not hesitate to also contact one of our team at the email address provided below.

FTI Consulting (Australia) Pty Limited

ABN 49 160 397 811 | ACN 160 397 811 | AFSL Authorised Representative # 001269325

Level 22 | 1 Macquarie Place | Sydney NSW 2000 | Australia

Postal Address | PO Box R367 | Royal Exchange NSW 1225 | Australia

+61 2 8247 8000 telephone | +61 2 8247 8099 fax | fticonsulting.com

OUTSTANDING PAYMENTS AND CLAIMS

For all new orders placed these amounts are guaranteed by the Voluntary Administrators and will be paid on normal terms.

For all outstanding amounts due to you at close of business 8 May 2023, these will form a claim against the Company. All creditors of the Company are now creditors in the voluntary administration. As a creditor, you have certain rights, although your debt will be dealt with in the voluntary administration. Further information regarding your rights as a creditor is **enclosed** with this circular.

It is important to note that a voluntary administration creates restrictions on creditors being able to enforce their rights. You generally cannot enforce your claim, recover your property, enforce your security, commence an action to place the company into liquidation or act on a personal guarantee. Please refer to Important statements for all creditors and suppliers **attached**.

PPSR AND RETENTION OF TITLE CLAIMS

If you have leased the company property, have a retention of title claim or hold a Personal Property Security in relation to the company, please contact my staff as soon as possible. Further information is **enclosed** - please refer to Requirements for parties with security interests and other claims **attached**.

VOLUNTARY ADMINISTRATION

Voluntary administration is a process under the law which allows companies unable to pay their debts, or likely to become unable to pay their debts to appoint an independent, qualified person (called a voluntary administrator) to take control of the Company and its operations. This process allows breathing space to work out the best outcome for all stakeholders and involves the voluntary administrators calling creditors' meetings over the following 20 business days at which creditors decide the future of the Company. The creditors will determine if the Company:

- a) Be returned to the directors;
- b) Be placed into liquidation; or
- c) Enter into a Deed of Company Arrangement.

According to the Company's records, you may be a creditor of the Company.

MEETINGS OF CREDITORS

As voluntary administrator, I am required to hold two meetings of creditors.

First meeting of creditors

When a Company enters into voluntary administration, the Administrators are required to convene a first meeting of creditors within eight (8) business days after the commencement of the voluntary administration.

The First Meeting of the Creditors will be held at **11:00 am (AEST) on Thursday, 18 May 2023 via electronic facilities only**. Although there is no physical place where creditors are able to attend the meeting, I am required by law to nominate a notional place for the meeting. This location is set out in the *Notice of First Meeting of Creditors*. Please do not attend at this location.

In this regard, please find **enclosed** the following documents:

- a) Notice of First Meeting of Creditors of the Company under Administration;
- b) Form - Appointment of Proxy; and
- c) Formal Proof of Debt or Claim Form.

To attend the meeting you **must** complete and submit the above forms and then register via the below link:

Registration link: https://fticonsulting-inc.zoom.us/webinar/register/WN_ESv9c83BQk6n-yElVystlQ

If you intend to appoint another person to act on your behalf at the meeting, or you are a corporate creditor, you are required to complete and return the **enclosed** proxy form appointing your representative to JennyCraigGroup@fticonsulting.com no later than **4:00pm (AEST) on Wednesday 17 May 2023**.

You can appoint anyone who is attending the meeting as your proxy and direct them how you wish your vote to be cast. If you choose to do this, they must cast your vote as directed.

Creditors are required to lodge proofs of debt for voting purposes no later than **4:00pm (AEST) on Wednesday 17 May 2023**, failing which they may be excluded from voting at the meeting. A Proof of Debt or Claim Form is **attached** for this purpose. Proofs of Debt may be sent to FTI Consulting, JennyCraigGroup@fticonsulting.com.

General information regarding the conduct of meetings of creditors and the completion of proxy forms and proof of debt forms is **enclosed** and can also be found on our website at <http://www.fticonsulting-asia.com>.

Statutory notices and advertisements about the Company will be published on ASIC's Published Notices website at <https://publishednotices.asic.gov.au/>.

Second meeting of creditors

A second meeting of creditors will be held, at which creditors will vote on the future of each of the Company. Details of that meeting and a Report to Creditors on the Company's business, property, affairs and financial circumstances will be sent to you in due course.

COSTS OF THE VOLUNTARY ADMINISTRATION PROCESS

Attached to this circular is my Initial Remuneration Notice, which provides you with information about how I propose to be paid for undertaking the voluntary administration.

I will seek approval of my remuneration at the second meeting of creditors. I will provide you with further information regarding my remuneration before that meeting, detailing the tasks that I have attended to will be required to attend to, and the costs of those tasks.

If you have any information that you think may help with the administration of the Company, the going concern sale or help the administrators with the investigations into the Company's affairs, please contact us. Our details are **attached** – please refer to Administrators' background and contact details.

ONGOING COMMUNICATIONS AND CONTACT DETAILS

We understand this is a very difficult time for all suppliers and creditors. Your continued support is important during the voluntary administration whilst we undertake the assessment of the options available for a recapitalisation or undertake a sale process.

Yours faithfully

A handwritten signature in black ink, appearing to be 'V. Strawbridge', with a horizontal line extending to the right.

Vaughan Strawbridge

Joint and Several Administrator

NOTICES AND ATTACHMENTS INCLUDED IN THIS CIRCULAR

The administration will be conducted on the basis of the information contained in the following notices and attachments:

Administrators' background and contact details

Important statements for all creditors and suppliers

Requirements for parties with security interests and other claims

Administrators' trading procedures. This includes the specimen signatures of the Administrators and their authorised persons.

Details and notices for the first meeting of creditors

Notice of First Meeting of Creditors of the Company under Administration;

Form - Appointment of Proxy;

Formal Proof of Debt or Claim Form (for voting purposes);

Guidance notes for completing proxy and proof of debt or claim forms.

Independence and remuneration disclosures

Initial advice to creditors – basis of remuneration;

FTI Consulting Standard Rate schedule; and

The Administrators' Declaration of Independence, Relevant Relationships and Indemnities.

Information sheets about your rights and the voluntary administration process

Information regarding your rights as a creditor;

Information sheet called *"Insolvency information for directors, employees, creditors and shareholders"*;

Additional information sheets on the administration process can be obtained at www.asic.gov.au (search for "insolvency information sheets") or www.arita.com.au/creditors.

ADMINISTRATORS' BACKGROUND AND CONTACT DETAILS

ABOUT US

Joseph Hansell, Kate Warwick, and I, Vaughan Strawbridge, are Senior Managing Directors at FTI Consulting (Australia) Pty Ltd. We are Registered Liquidators and also Professional Members of the Australian Restructuring Insolvency and Turnaround Association ("ARITA").

FTI Consulting specialises in corporate finance and restructuring and is part of FTI Consulting, Inc. a global business advisory firm dedicated to helping organisations protect and enhance enterprise value. You can find out more at www.fticonsulting.com.

CREDITOR ENQUIRIES – FIRST MEETING OF CREDITORS AND GENERAL MATTERS

For queries about the forthcoming meeting or the administration generally, please contact this office by one of the following methods:

Telephone: (02) 8247 8000
Email: JennyCraigGroup@fticonsulting.com
Post: PO Box R367, ROYAL EXCHANGE NSW 1225

IMPORTANT STATEMENTS FOR ALL CREDITORS AND SUPPLIERS

NO ADOPTION OF ANY CONTRACTS OR ASSUMPTION OF LIABILITIES OF THE COMPANY BY THE ADMINISTRATORS

The Administrators are not personally adopting, and will not adopt, any agreement or contract that you may have with the Company. The Administrators will not be liable for any liability of the Company under any agreement or contract with you.

Any payments made by the Administrators for any goods or services does not constitute, nor in any way imply, adoption of any contract or an assumption of any liability of the Company by the Administrators.

EXISTING DEBTS AND CLAIMS CANNOT BE PAID BY ADMINISTRATORS

The Administrators cannot pay any creditor's debts or claims that arise from circumstances or arrangements that were in place with the Company before the Administrators' appointment. Payment of these amounts will depend on the outcome of the administration.

NO SET-OFF AGAINST PRE-APPOINTMENT DEBTS OR CLAIMS

Any amounts due from you to the Company must not under any circumstances be set-off against amounts due from the Company to you.

PROTECTION OF COMPANY PROPERTY AND GENERAL RESTRICTIONS ON THIRD PARTY RIGHTS DURING THE ADMINISTRATION

Without leave of the Court, or the Administrators' written consent:

A proceeding in a court against the Company or in relation to any of its property cannot be begun or proceeded with;

Except for perishable property – owners, lessors and creditors with security interests in the Company's property, cannot enforce their security interest, sell any such property they hold, and are not entitled to take possession or otherwise recover such property; and

No enforcement process in relation to property of the Company can be begun or proceeded with.

See sections 440B to 440F of the Corporations Act 2001 for further details.

REQUIREMENTS FOR PARTIES WITH SECURITY INTERESTS AND OTHER CLAIMS PARTIES WHO ARE REQUIRED TO CONTACT US

Please contact this office on (02) 8247 8000 or via email to JennyCraigGroup@fticonsulting.com as soon as possible if you:

Have supplied any goods or collateral to the Company and you have registered a security interest in such property on the Personal Property Security Register ("PPSR");

- Are otherwise claiming security or proprietary rights in any asset or property owned by or in possession of the Company;
- Lease or hire goods or property to the Company;
- Are claiming a lien over property of the Company; and/or
- Have commenced legal proceedings against the Company.

We will be writing to all parties who have registered a security interest on the PPSR.

PARTIES WITH PMSI, RETENTION OF TITLE AND CONSIGNMENT CLAIMS OVER PROPERTY

Parties with these claims are requested as soon as possible to:

Give us details of the items supplied to the Company (including any features by which that property is able to be identified, for example - serial number/s) and which remain unpaid for; and
Provide details of your registration on the PPSR with all relevant supporting documents.

GENERAL STATEMENT

The Administrators will consider the information and details provided to them in support of any claims. Where a claim is valid and not disputed, the Administrators will comply with their obligations at law. This should not be interpreted as, in any way, limiting or restricting the rights of the Administrators or the Company, whose rights are expressly reserved.

Please note the Administrators may require payment of their reasonable expenses and remuneration incurred in the identification, preservation and distribution of property to secured parties, purchasers and/or other persons that the property belongs to. This also includes circumstances where property (such as inventory, for example) is made available for collection.

Affected parties should seek their own advice as applicable and as they deem appropriate.

ADMINISTRATORS' TRADING PROCEDURES

PURCHASE ORDER TO BE ISSUED TO SUPPLIERS FOR GOODS AND SERVICES

The Company will raise a purchase order for goods and services that are required during the period of the administration. Goods supplied or services rendered to the Company after our appointment will be paid in accordance with these procedures provided that:

A purchase order has been issued for the applicable good or service;

The purchase order has been signed by the Administrators or our authorised signatories. The specimen signatures of our authorised representatives for this purpose are included with this circular; and

The Administrators' liability does not exceed the amount specified on the purchase order.

NEW ACCOUNTS AND OTHER ACCOUNTING PROCEDURES TO BE FOLLOWED

Suppliers must comply with the following procedures:

Close any existing accounts against the Company. These accounts will be for goods supplied and services rendered up to and including the date of appointment;

Open a new account for the Company with the words "Administrators Appointed" added after the Company's name. This new account is to be used for goods supplied and services rendered to the respective Company during the period of the administration;

Update contact details for the Company within your systems to also include the Administrators' contact details; and

Please ensure your invoices include the Administrators' purchase order number. This will likely be a new number sequence to help demarcate pre and post-appointment orders.

PAYMENTS AND ACCEPTANCE OF LIABILITY FOR GOODS OR SERVICES

Validly authorised liabilities created after our appointment in accordance with these procedures will be paid in accordance with your/the Company's usual terms unless we determine otherwise.

All payments made by the Company or Administrators must be applied against liabilities incurred by the Administrators. These payments cannot be set-off against any other claims against or liabilities incurred by the Company.

If you have current orders or bookings with the Company (including goods in transit or pending delivery), you will need a new purchase order to be issued in accordance with these procedures (and before any goods or services are provided) before the Administrators will accept liability.

It is your responsibility to contact us if you require clarification about any of these arrangements.

ADMINISTRATORS' TRADING PROCEDURES – AUTHORISED PERSONS

The following persons are authorised to sign purchase orders for the Company:

Name	Company	Signature	Order Limit (\$)
Vaughan Strawbridge	FTI Consulting		Unlimited
Joseph Hansell	FTI Consulting		Unlimited
Kate Warwick	FTI Consulting		Unlimited
Neil Dempster	FTI Consulting		\$25,000

DETAILS AND NOTICES FOR THE FIRST MEETING OF CREDITORS

NOTICE OF THE FIRST MEETING OF CREDITORS OF COMPANY UNDER ADMINISTRATION

The agenda for the meeting is set out in the notice.

Although there is no physical place where creditors are able to attend the meeting, I am required under law to nominate a notional place for the meeting for administrative purposes such as establishing the time of the meeting. The notional place for this meeting is set out in the *Notice of First Meeting of Creditors*. Please do not attend at this location.

Attendance at the meeting is not compulsory.

Video conferencing, including telephone facilities are available for those creditors wishing to attend by telephone.

Should you wish to attend the virtual meeting and you would like to vote, you must register and complete the relevant forms and provide them by 4.00PM (AEST) on Wednesday, 17 May 2023 to JennyCraigGroup@fticonsulting.com

If you wish to attend by telephone, please contact JennyCraigGroup@fticonsulting.com no later than 4:00PM (AEST) on Wednesday, 17 May 2023 so arrangements can be made for your attendance.

MEETING REGISTRATION FORM

If you wish to attend the first meeting of creditors, you must register via the below link by **4:00PM (AEST) on Wednesday, 17 May 2023**.

Registration link: https://fticonsulting-inc.zoom.us/webinar/register/WN_ESv9c83BQk6n-yElVystlQ

If you do not register for the meeting, you may be considered an observer and you will not be able to vote.

FORM - APPOINTMENT OF PROXY

This form should be completed if you intend to appoint another person to act on your behalf at the meeting, or if you are a corporate creditor.

FORMAL PROOF OF DEBT OR CLAIM FORM

This form allows you to tell us what you are owed by the Company. You must send us a completed form if you wish to vote at the meeting.

Return via email to: JennyCraigGroup@fticonsulting.com

NOTICE OF FIRST MEETING OF CREDITORS OF THE COMPANY UNDER ADMINISTRATION

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842

("THE COMPANY")

On 9 May 2023, the Company, under Section 436A, appointed Joseph Hansell, Kate Warwick and Vaughan Strawbridge of FTI Consulting, Level 22, 1 Macquarie Place, SYDNEY NSW 2000, as Joint and Several Administrators of the Company.

Notice is now given that a first meeting of the creditors of the Company will be at **11:00am (AEST) on 18 May 2023**.

The meeting is being held virtually and all creditors wanting to attend the meeting are required to attend via Zoom. Although there is no physical place where creditors are able to attend the meeting, I am required under law to nominate a notional place for the meeting for administrative purposes such as establishing the time of the meeting. The notional place for this meeting is FTI Consulting, Level 22, 1 Macquarie Place, Sydney NSW. **PLEASE DO NOT ATTEND AT THIS LOCATION.**

Further details regarding the meeting will be provided once a creditor has registered their attendance for the meeting.

If you wish to attend the meeting, you must register at the below link and return the below forms on or before **4:00PM (AEST) Wednesday 17 May 2023** to **JennyCraigGroup@fticonsulting.com**.

- Meeting Registration:

https://fticonsulting-inc.zoom.us/webinar/register/WN_ESv9c83BQk6n-yElVystlQ

- Proxy form (if required); and
- Proof of Debt Form.

A link to view the meeting will subsequently be sent to you by email.

Please note your name will be visible to other attendees of the meeting and in meeting documents we prepare and lodge with ASIC.

The purpose of the meeting is to determine:

- Whether to appoint a committee of inspection; and
- If so, who are to be the committee's members.
- At the meeting, creditors may also, by resolution:
- Remove the administrator(s) from office; and
- Appoint someone else as administrator(s) of the Company.

- Discuss any other relevant business which may arise.

Dated 10 May 2023

A handwritten signature in black ink, appearing to be 'V. Strawbridge', with a horizontal line extending to the right.

Vaughan Strawbridge

Joint and Several Administrator

C/- FTI Consulting
Level 22
1 Macquarie Place
SYDNEY NSW 2000

MEETING INFORMATION SHEET

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842

("THE COMPANY")

WHO CAN ATTEND THE FIRST MEETING OF CREDITORS?

The following parties may attend the meeting:

Creditors of the Company; or

A person appointed by a Creditor to attend the meeting on behalf of the Creditor.

WHAT DO I NEED TO DO TO ATTEND THE FIRST MEETING OF CREDITORS?

Completion and return of documents

If you wish to attend the meeting, you must complete and return specific documents to us by the date and in manner specified in the section "When and how do I return the completed documents" below.

The required documents are shown in the below table and are dependent on the class of creditor to which you belong. An explanation of the documents is provided below the table.

Creditor class	Registration Form (via link)	Formal Proof of Debt	Appointment of Proxy
Employee	✓	✓	Refer to note below.
Individual / Partnership	✓	✓	Refer to note below.
Company	✓	✓	✓
Statutory	✓	✓	✓

Note: Only a company or statutory creditor is required to appoint a proxy. Individuals (including employees) and partnerships may appoint a proxy, but only if they want that proxy to attend the meeting on their behalf.

Explanation of documents

An explanation of the documents described in the table is set out below.

Meeting Registration. The Registration Notice, which is accessed via the below link, provides us with your contact details. We will use those contact details to provide you with the necessary access and voting codes for the meeting.

Registration link: https://fticonsulting-inc.zoom.us/webinar/register/WN_ESv9c83BQk6n-yElVystlQ

Formal Proof of Debt. The Formal Proof of Debt provides us with details of the debt owing by, or your claim against the Company. If available, please attach to the proof of debt such documents (e.g. invoices) that substantiate your claim. Employees do not need to provide a Formal Proof of Debt.

Appointment of Proxy (if applicable). The Appointment of Proxy allows you to appoint another person (known as a proxy) to attend the meeting on your behalf. It is mandatory for a company or statutory creditor to appoint a proxy to attend the meeting on its behalf, or attorney. If an individual is attending in person, a proxy form is not required.

HOW DO I ACCESS THE ABOVE MEETING DOCUMENTS?

The meeting registration form is an online form and is available via the following link:

https://fticonsulting-inc.zoom.us/webinar/register/WN_ESv9c83BQk6n-yElVystlQ

Copies of the meeting documents are **attached**, namely:

- Formal Proof of Debt;
- Appointment of Proxy;
- Nomination for Proposed Committee Inspection

WHEN AND HOW DO I RETURN THE COMPLETED DOCUMENTS?

The required completed documents must be returned to us no later than **4:00PM (AEST) on Wednesday 17 May 2023**. Please return your documents by one of the following methods:

Post: Attn: Jenny Craig Weight Loss Centres Pty Ltd (Administrators Appointed)
PO Box R367, Royal Exchange NSW 1225

Email: JennyCraigGroup@fticonsulting.com

If you are returning the documents by post, please allow sufficient time for the documents to arrive prior to the cut-off time.

HOW DO I ASK A QUESTION AT THE MEETING?

Creditors may submit questions by email sent to JennyCraigGroup@fticonsulting.com prior to the meeting. Alternatively, creditors can use the question-and-answer function during the meeting.

The Administrators may be unable to answer all questions due to time constraints. If this occurs, the Administrators will select questions that are more relevant to the broader creditor base, ahead of those relevant to specific creditors.

Creditors with specific questions may contact us by email after the meeting.

WHAT HAPPENS NEXT?

Following return of your documents, we will complete the following steps:

Email you or your proxy a confidential link to access the meeting on-line; and

A unique code will also be provided so that you can vote at the meeting.

WHAT IF I CAN'T ACCESS THE MEETING?

All parties attending the meeting are responsible for ensuring that they have the technology and internet connection to attend the meeting on-line. Unfortunately, we are unable to assist with any technical issues relating to accessing the meeting.

FORMATION OF A COMMITTEE OF INSPECTION

At the meeting, we may recommend that a Committee of Inspection be formed. A Committee of Inspection has the following roles:

to advise and assist the Liquidator, Voluntary Administrator or Deed Administrator (collectively referred to as the External Administrator);

to give directions to the External Administrator;

to monitor the conduct of the External Administration.

In respect of directions, the External Administrator is only required to have regard to those directions. If the External Administrator chooses not to comply with the directions of the Committee of Inspection, the External Administrator must document why.

A Committee of Inspection also has the power, amongst other things, to approve remuneration of the External Administrator after the External Administrator has complied with specified statutory obligations.

Who can be a member of the Committee of Inspection?

To be eligible to be appointed as a member of the Committee of Inspection, the person must be:

a creditor;

a person holding the power of attorney of a creditor;

a person authorised in writing by a creditor to be appointed as a member; or

a representative of the Commonwealth where a claim for financial assistance has, or is likely to be, made in relation to unpaid employee entitlements.

A company can be a member of the Committee of Inspection. It is represented by an individual authorised in writing to act on that creditor's behalf. It also allows the creditor to maintain its representation if a change in the individual is required.

Can I become a member of the Committee of Inspection?

If you wish to become a member of the Committee of Inspection (in the event that one is formed at the meeting), please complete and return the Nomination for Proposed Committee of Inspection.

Please note that, depending on the number of creditors nominating, there is no guarantee that your nomination will be successful.

Further information

Further information about a Committee of Inspection can be found in the **attached** information sheet issued by ARITA.

NOMINATION FOR PROPOSED COMMITTEE OF INSPECTION

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842

("THE COMPANY")

Name of creditor:

Name of representative:
(if applicable)

I nominate to be a member on any Committee of Inspection formed at the first meeting of creditors scheduled to be held on **18 May 2023 at 11:00am (AEST)**.

I am a creditor / representative of a creditor of the Company and have submitted a Proof of Debt in the Administration.

I understand the duties and obligations should I be appointed to the proposed committee.

.....

Signature of Creditor / Person authorised by Creditor

Information Sheet: Committees of Inspection

You have been elected to be, or are considering standing for the role of, a member of a Committee of Inspection (COI) in either a liquidation, voluntary administration or deed of company arrangement of a company (collectively referred to as an external administration).

This information sheet is to assist you with understanding your rights and responsibilities as a member of a COI.

What is a COI?

A COI is a small group of creditors elected to represent the interests of creditors in the external administration. The COI advises and assists the external administrator and also has the power to approve and request certain things – this is discussed in more detail below.

Membership of the COI is a voluntary, unpaid position.

Who can be elected to a COI?

To be eligible to be appointed as a member of a COI, a person must be:

- A creditor
- A person holding the power of attorney of a creditor
- A person authorised in writing by a creditor; or
- A representative of the Commonwealth where a claim for financial assistance has, or is likely to be, made in relation to unpaid employee entitlements.

If a member of the COI is a company, it can be represented by an individual authorised in writing to act on that creditor's behalf. It also allows the creditor to maintain its representation if a change in the individual is required

A COI usually has between 5 and 7 members, though it can have more, or less, depending on the size of the external administration.

A member of a COI can be appointed by:

- resolution at a meeting of creditors
- an employee or a group of employees owed at least 50% of the entitlements owed to employees of the company
- a large creditor or group of creditors that are owed at least 10% of the value of the creditors' claims,

If an employee or group of employees, or a large creditor or group of creditors, appoints a member to the COI, they cannot vote on the general resolution of creditors to appoint members to the COI. Each of these groups also have the power to remove their appointed member of the COI and appoint someone else.

Specific queries should be directed to the external administrator's office.

If you are absent from 5 consecutive meetings of the COI without leave of the COI or you become an insolvent under administration, you are removed from the COI.

What are the roles and powers of a COI?

A COI has the following roles:

- to advise and assist the liquidator, voluntary administrator or deed administrator (collectively referred to as the external administrator)
- to give directions to the external administrator
- to monitor the conduct of the external administration.

In respect of directions, the external administrator is only required to have regard to those directions. If there is a conflict between the directions of the COI and the creditors, the directions of the creditors prevail. If the external administrator chooses not to comply with the directions of the COI, the external administrator must document why.

A COI also has the power to:

- approve remuneration of the external administrator after the external administrator has provided the COI with a Remuneration Approval Report (a detailed report setting out the remuneration for undertaking the external administration)
- approve the use of some of the external administrator's powers in a liquidation (compromise of debts over \$100,000 and entering into contracts over 3 months)
- require the external administrator to convene a meeting of the company's creditors
- request information from the external administrator
- approve the destruction of the books and records of the external administration on the conclusion of the external administration
- with the approval of the external administrator, obtain specialist advice or assistance in relation to the conduct of the external administration
- apply to the Court for the Court to enquire into the external administration.

An external administrator is not required to convene a meeting of creditors if the request by the COI is unreasonable, or provide requested information if the request is unreasonable, not relevant to the administration or would cause the external administrator to breach their duties.

A request to convene a meeting of creditors is unreasonable if:

- it would substantially prejudice the interests of a creditor or third party
- there are insufficient funds in the external administration to cover the cost of the request
- a meeting of creditors dealing with the same matters has already been held or will be held within 15 business days, or
- the request is vexatious.

If a request for a meeting is reasonable, the external administrator must hold a meeting of creditors as soon as reasonably practicable.

A request for information is unreasonable if:

- it would substantially prejudice the interests of a creditor or third party
- the information would be subject to legal professional privilege
- disclosure of the information would be a breach of confidence
- there are insufficient funds in the external administration to cover the cost of the request
- the information has been provided or is required to be provided within 20 business days, or
- the request is vexatious.

If the request for information is not unreasonable, the external administrator must provide the requested information within 5 business days, but the law provides for further time in certain circumstances.

An external administrator must inform the COI if their meeting or information request is not reasonable and the reason why.

How does the COI exercise its powers?

A COI exercises its powers by passing resolutions at meetings of the COI. To pass a resolution, a meeting must be convened and a majority of the members of the COI must be in attendance.

A meeting is convened by the external administrator by giving notice of the meeting to the members of the COI. Meetings of the COI can be convened at short notice. The external administrator must keep minutes of the meeting and lodge them with ASIC within one month of the end of the meeting.

ASIC is entitled to attend any meeting of a COI.

What restrictions are there on COI members?

A member of a COI must not directly or indirectly derive any profit or advantage from the external administration. This includes by purchasing assets of the company or by entering into a transaction with the company or a creditor of the company. This prohibition extends to related entities of the member of the COI and a large creditor(s) that appoints a member to the COI.

Creditors, by resolution at a meeting of creditors, can resolve to allow the transaction. The member of the COI or the large creditor(s) that appoints a member to the COI is not allowed to vote on the resolution.

Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency. This information is available from ARITA's website at www.arita.com.au/creditors.

ASIC provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at www.asic.gov.au (search "insolvency information sheets").

**For more information, go to www.arita.com.au/creditors.
Specific queries about the liquidation should be directed to the liquidator's office.**

FORM - APPOINTMENT OF PROXY

JENNY CRAIG WEIGHT LOSS CENTRES PTY. LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842

("THE COMPANY")

I/We _____ (name of signatory)
 of _____ (creditor name)
 a creditor of the Company, appoint _____ (name of proxy)
 of _____ (address of proxy)
 or in his/her absence _____ (details of alternate proxy)

as my/our ☐ general proxy or ☐ special proxy to vote at the meeting of creditors to be held on Thursday 18 May 2023 at 11.00am (AEST) or at any adjournment of that meeting.

Voting instructions - for special proxy only	For	Against	Abstain
Resolution			
To appoint a committee of inspection.	☐	☐	☐
To remove the Administrators and appoint someone else as administrator(s) of the above company.	☐	☐	☐

*I/*We authorise *my/*our proxy to vote as a general proxy on resolutions other than those specified above
 (delete if not required)

Dated:

.....
 Name and signature of authorised person

.....
 Name and signature of authorised person

CERTIFICATE OF WITNESS – only complete if the person given the proxy is blind or incapable of writing.

I, of
 certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him before he attached his signature or mark to the instrument.

Dated:

Signature of witness:

Description:

Place of residence:

FORM 535 – FORMAL PROOF OF DEBT OR CLAIM

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED)

ACN 006 109 842 ("THE COMPANY")

To the Administrators of Jenny Craig Weight Loss Centres Pty Ltd (Administrators Appointed) ACN 006 109 842 ("the Company")

This is to state that the Company was on 9 May 2023, and still is, justly and truly indebted to:

.....

 (full name, ABN and address of the creditor and, if applicable, the creditor's partners)

for \$ (dollars and cents)

Particulars of the debt are:

Date	Consideration	Amount (\$/c)	Remarks
	(state how the debt arose)		(include details of voucher substantiating payment)

To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:

.....
 (insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

Date	Drawer	Acceptor	Amount (\$/c)	Due Date
------	--------	----------	---------------	----------

Signed by (select correct option):

☐ I am the creditor personally

☐ I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied

☐ I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: Dated:

Name: Occupation:

Address:

* If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor

RECEIVE REPORTS BY EMAIL	YES	NO
Do you wish to receive all future reports and correspondence from our office via email?	☐	☐
Email:		

If being used for the purpose of voting at a meeting:

- a) Is the debt you are claiming assigned to you? ☐ Yes ☐ No
- b) If yes, attach written evidence of the debt, the assignment and consideration given. ☐ Attached

- c) If yes, what value of consideration did you give for the assignment (eg, what amount did you pay for the debt?) \$
- d) If yes, are you a related party creditor of the Company? ☐ Yes ☐ No
(If you are unsure contact the JennyCraigGroup@fticonsulting.com)

GUIDANCE NOTES FOR COMPLETING PROXY AND PROOF OF DEBT OR CLAIM FORMS

FORM - APPOINTMENT OF PROXY

A person can appoint another person to attend the meeting on their behalf by completing the Form of proxy.

If the creditor is a company or a firm, a person needs to be appointed to represent the company.

This representative needs to be appointed by completing the Form of Proxy in accordance with section 127 of the *Corporations Act 2001* ("the Act"). Alternatively, the appointed person must be authorised to act as a representative for the company per section 250D of the Act.

The Form of proxy is valid only for the meeting indicated (or any adjournment).

You may appoint either a general proxy (a person who may vote at their discretion on motions at the meeting) or a special proxy (who must vote according to your directions). If you appoint a special proxy, you should indicate on the form what directions you have given. In many instances, there will be a box or section on the proxy form where you can mark how you want your proxy to vote for you.

If you are unable to attend the meeting and you do not have a representative who can attend on your behalf, you may if you wish, appoint any person, including the Chairperson of the Meeting, as either your general or special proxy.

INFORMAL PROOF OF DEBT OR CLAIM FORM

The proof of debt submitted during an Administration is informal in that it does not mean that the Administrator has agreed with your proof for the purpose of making a dividend distribution.

It is used for voting purposes at any meetings of creditors and also to help establish the overall level of creditor claims in the administration. In the event that there are monies to be distributed to creditors in the future, you will need to submit a Formal Proof of Debt or Claim form.

You should include a description of how your debt/claim arose, whether you are claiming a security interest in property and if you have any guarantees and indemnities for the debt. If you need more space, you can attach any additional details you wish to include – just make sure that you mention this on the Form so we know what you've attached and how many pages.

You should provide supporting documents that substantiate what you are owed by the Company. This may include things like account statements, unpaid invoices and their corresponding purchase orders, PPSR registration, agreements/terms of trade, contracts, lease or hire agreements, court order or judgment, guarantee or loan document, emails/other correspondence with the Company.

If you need help in completing the forms or if you are uncertain what information you should attach, please email or telephone the nominated FTI Consulting contact person.

INITIAL ADVICE TO CREDITORS – BASIS OF ADMINISTRATORS' REMUNERATION

REMUNERATION METHODS

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

Time based / hourly rates

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

Fixed fee

The total fee charged is normally quoted at the commencement of the Voluntary Administration and is the total cost for the Voluntary Administration. Sometimes a practitioner will finalise a Voluntary Administration for a fixed fee.

Percentage

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

Contingency

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

METHOD PROPOSED

We propose that our remuneration is calculated on a time basis. We believe this method is appropriate as it ensures that only the actual work performed is charged for. There are also various tasks required to be completed which do not involve the realisation of assets, such as reporting to ASIC, undertaking investigations, corresponding with creditors and answering their queries, and completing other statutory tasks required by law.

ESTIMATE OF REMUNERATION FOR THE VOLUNTARY ADMINISTRATION

We estimate our remuneration for undertaking the will be approximately \$1,000,000.00 (exclusive of GST), subject to the following variables which may have a significant effect on this estimate and that we are unable to determine until the Voluntary Administration has commenced:

The full scope and extent of necessary work (from experience, unforeseen matters typically arise and may require us to perform additional work beyond that currently anticipated).

Prior to my appointment, I provided an estimate of the cost of the Administration to the directors. This estimate is consistent with the estimate provided to the directors prior to my appointment.

Approved remuneration may exceed the amount of this \$1,000,000.00 (exclusive of GST) and can be paid from the assets of the Voluntary Administration after approval by creditors or the Court.

EXPLANATION OF HOURLY RATES

The rates for our remuneration calculation are attached together with a general guide showing the qualifications and experience of staff that will be engaged in the Voluntary Administration and the role they take in the Voluntary Administration. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

DISBURSEMENTS

Disbursements are divided into three types:

Externally provided professional services – these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.

Externally provided non-professional costs such as travel, accommodation and search fees –these are recovered at cost.

Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs.

I am not required to seek creditor approval for disbursements paid to third parties but must account to creditors. However, I must be satisfied that these disbursements are appropriate, justified and reasonable.

I am required to obtain creditors' approval for the payment of internal disbursements which were not charged at cost (and which may therefore have a profit or advantage attached to them), prior to these disbursements being paid from the Administration. These disbursements typically would include internal photocopying, printing and facsimile costs. However, as we do not charge our external administrations for internally generated FTI disbursements where they have not been charged at cost (such as photocopying and printing charges for the use of internal photocopiers, printers, etc.), creditor approval is not required.

Details of the basis of recovering internal and external disbursements in this Administration are provided in the table below. Full details of any actual costs incurred will be provided with future reporting.

FTI Disbursements Schedule

Disbursement type	Charge Type	Charge Rate (excl GST)
Advertising	External, non-professional	At cost
ASIC Industry Funding Model Levy – metric events	External, non-professional	At cost (at prescribed ASIC rates)
Couriers and deliveries	External, non-professional	At cost
Data Room Charges	External, professional	At cost
Facsimile	Internal (FTI)	Not charged
Legal Fees	External, professional	At cost
Mail out	Internal (FTI)	20 cents per email
Postage	External, non-professional	At cost
Photocopying – internal	Internal (FTI)	Not charged
Photocopying – outsourced	External, non-professional	At cost
Printing – internal	Internal (FTI)	Not charged
Printing – outsourced	External, non-professional	At cost
Records costs – storage, destruction, boxes	External, non-professional	At cost
Search fees	External, non-professional	At cost
Staff motor vehicle use - mileage	Cents per km	At prescribed ATO rates
Staff travel - accommodation, meals etc	External, non-professional	At cost
Stationery and other incidental disbursements	External, non-professional	At cost
Telephone	Internal (FTI)	Not charged
Valuation Fees	External, professional	At cost
Other externally provided professional services		At Cost
Other externally provided non-professional services		At Cost

FTI Consulting CF&R Standard Rates effective 1 July 2022 (excluding GST)

Typical classification	Standard Rates \$/hour	General guide to classifications
Senior Managing Director/Appointee	740	Registered Liquidator and/or Trustee, with specialist skills and extensive experience in all forms of insolvency administrations. Alternatively, has proven leadership experience in business or industry, bringing specialist expertise and knowledge to the administration.
Managing Director	680	Specialist skills brought to the administration. Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee. May also be a Registered Liquidator and/or Trustee. Alternatively, has extensive leadership/senior management experience in business or industry.
Senior Director	620	Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee, where required. May also be a Registered Liquidator and/or Trustee or have experience sufficient to support an application to become registered. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	550	Significant experience across all types of administrations. Strong technical and commercial skills. Has primary conduct of small to large administrations, controlling a team of professionals. Answerable to the appointee, but otherwise responsible for all aspects of the administration. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant 2	500	Typically an Australian Restructuring Insolvency & Turnaround Association professional member. Well developed technical and commercial skills. Has experience in complex matters and has conduct of small to medium administrations, supervising a small team of professionals. Assists planning and control of medium to larger administrations.
Senior Consultant 1	450	Assists with the planning and control of small to medium-sized administrations. May have the conduct of simpler administrations. Can supervise staff. Has experience performing more difficult tasks on larger administrations.
Consultant 2	405	Typically Institute of Chartered Accountants in Australia qualified chartered accountant (or similar). Required to control the tasks on small administrations and is responsible for assisting with tasks on medium to large-sized administrations.
Consultant 1	375	Qualified accountant with several years' experience. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 2	350	Typically a qualified accountant. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 1	315	Typically a university graduate. Required to assist with day-to-day tasks under the supervision of senior staff.
Treasury	300	Typically, qualified accountant and/or bookkeeper with at least 4 years' experience working in a treasury function in a professional services setting. Undertakes treasury activities and is skilled in bookkeeping, funds handling, banking, payroll, tax compliance, accounts receivable and accounts payable. May be responsible for the management of discreet, medium-complexity accounts services relating to business trade on activities.
Junior Associate	250	Undergraduate in the latter stage of their university degree.
Administration 2	250	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management. May also have appropriate bookkeeping, accounting support services or similar skills.
Administration 1	210	Has appropriate skills and experience to support professional staff in an administrative capacity. May also have appropriate bookkeeping, accounting support services or similar skills.
Junior Accountant	210	Undergraduate in the early stage of their university degree.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice and are subject to periodical review.

DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

JENNY CRAIG WEIGHT LOSS CENTRES PTY LTD (ADMINISTRATORS APPOINTED) ACN 006 109 842 (“THE COMPANY”)

The purpose of this document is to assist creditors with understanding any relevant relationships that we have with parties who are closely connected to the Company and any indemnities or upfront payments that have been provided to us. None of the relationships disclosed in this document are such that our independence is affected.

This information is provided so you have trust and confidence in our independence and, if not, you can ask for further explanation or information and can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, our fellow Senior Managing Directors/Managing Directors, FTI Consulting (Australia) Pty Ltd (FTI Consulting or Firm) and associated entities, as detailed in **Annexure A**.

We are Professional Members of the Australian Restructuring Insolvency and Turnaround Association (ARITA). We acknowledge that we are bound by the ARITA Code of Professional Practice.

Independence

We have assessed our independence and we are not aware of any reasons that would prevent us from accepting this appointment.

There are no other known relevant relationships, including personal, business and professional relationships that should be disclosed beyond those we have disclosed in this document.

Circumstances of appointment

How we were referred this appointment

This appointment was referred to FTI Consulting by Michelle Terracciano, a director of the Company, after an introduction by Clayton Utz, who are the lawyers for the Company.

We believe that this referral does not result in us having a conflict of interest or duty because:

- The Directors have not to our knowledge previously referred insolvency-related or other work to FTI Consulting.
- There is no expectation, agreement or understanding between us and the Directors regarding the conduct of the Voluntary Administrator and we are free to act independently and in accordance with the law and applicable professional standards.

For completeness, we note:

- Clayton Utz refers work (including insolvency-related engagements) to FTI Consulting from time to time. Neither the Administrators nor FTI Consulting have any formal or informal referral arrangements with Clayton Utz, and to our knowledge they do not exclusively refer such work to us or FTI Consulting.
- FTI Consulting is not reliant upon referrals from Clayton Utz, who are one of a considerable number of firms, organisations and persons who refer work to, or seek advice from, FTI Consulting. This engagement is not financially significant to FTI Consulting and the receiving or otherwise of other referrals from Clayton Utz is not material to FTI Consulting.
- Work referrals arising from networks of business professionals, advisors and other persons are normal and accepted arrangements, and do not inherently impact on us discharging our statutory duties and obligations with independence and impartiality.
- There is no expectation, agreement or understanding between the Voluntary Administrators and the referrer about the conduct of this administration and we are free to act independently and in accordance with the law and the requirements of the ARITA Code of Professional Practice.
- While FTI Consulting has in the past engaged Clayton Utz to provide legal advice, this has been for separate, non-related insolvency/restructuring engagements. Clayton Utz is one of many external firms who provide such advice and assistance to FTI Consulting from time to time, which is on a non-exclusive basis and based upon professional service and expertise.

Did we meet with the Company, the directors or their advisers before we were appointed?

☒ Yes ☐ No

We had four (4) meetings between 3 May 2023 to 8 May 2023 as described in Annexure A. These meetings receipt of information in respect to the business served the purpose of:

- Understanding and obtaining sufficient information about the financial position of the Company;
- Outlining the process of and following the appointment of voluntary administrators; and
- For us to provide a consent to act.

We received no remuneration for these meetings.

In our opinion, these meetings do not affect our independence for the following reasons:

- The Courts and relevant professional bodies recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or is an impediment to accepting the appointment.
- The nature of the advice provided to the Company is such that it would not be subject to review and challenge during the course of our appointment.
- No advice has been given to the directors in their capacity as directors of the Company, or in relation to their personal circumstances.
- The pre-appointment advice will not influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the appointment as Voluntary Administrators of the Company in an objective and impartial manner.

We have provided no other information or advice to the Company, directors (if applicable) and its advisors prior to our appointment beyond that outlined in this DIRRI.

Declaration of Relationships

Within the previous 2 years we or our firm have had a relationship with:

The Company	☐ Yes ☒ No
The directors	☐ Yes ☒ No
Any associates of the Company?	☒ Yes ☐ No Vaughan Strawbridge and Joseph Hansell are appointed as Voluntary Administrators of Jenny Craig Weight Loss Centres (NZ) Limited, a subsidiary of the Company. We believe that the contemporaneous appointments do not result in a conflict of interest or duty because: ■ We are not aware of any potential conflicts of interest arising from our appointment over Jenny Craig Weight Loss Centres (NZ) Limited. If it becomes apparent that pre-appointment dealings may give rise to a conflict which may impact the outcome for creditors of the Company, we undertake to disclose any such conflicts to creditors and, if required, seek Court directions as to the appropriate means of resolving the potential conflict. ■ We have obligations in respect of each of the companies individually (as defined in Section 435A of the Corporations Act 2001 and not to the Jenny Craig Group as a whole. As such, it is acknowledged that potential conflicts could possibly arise in the course of carrying out our duties in respect of each company in the Jenny Craig Group. ■ We are of the view that the appointment to of Jenny Craig Weight Loss Centres (NZ) Limited will have significant benefits to the conduct of the Voluntary Administrations, particularly as this will offer cost savings and will facilitate a comprehensive and accurate understanding of the activities and financial position of Jenny Craig in Australia and New Zealand. ■ This relationship does not influence our ability to be able to comply with the statutory and fiduciary obligations associated with the appointment as Voluntary Administrators of the Company in an objective and impartial manner.
A former insolvency practitioner appointed to the Company?	☐ Yes ☒ No

A secured creditor entitled to enforce a security over the whole or substantially the whole of the Company's property?

☐ Yes ☒ No

Do we have any other relationships that we consider are relevant to creditors assessing our independence?

☐ Yes ☒ No

Indemnities and up-front payments

We have not received any up-front payments or indemnities for this appointment. This does not include any indemnities we may be entitled to under the law.

Dated 10 May 2023



Vaughan Strawbridge



Joseph Hansell



Kate Warwick

Notes:

1. The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.
2. If circumstances change, or new information is identified, we are required under the Corporations Act 2001 or Bankruptcy Act and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors. For creditors' voluntary liquidations and voluntary

administrations, this document and any updated versions of this document are required to be lodged with ASIC.

ANNEXURE A

FTI Consulting (Australia) Pty Ltd and associated entities

FTI Consulting Inc (ultimate holding entity)

FTI Consulting – FD Australia Holdings Pty Ltd

FTI Consulting (Australia) Pty Ltd

FTI Technology (Sydney) Pty Ltd

FTI Consulting (Perth) Pty Ltd

FTI Consulting (Sydney) Pty Ltd

FTI Capital Advisors (Australia) Pty Ltd

FTI Consulting Australia Nominees Pty Ltd

Annexure B

Interactions between FTI Consulting staff and Company representatives/other third parties during the period 3 to 8 May 2023

Date	Medium	FTI Consulting attendees	External attendees	Agenda/purpose/discussion
3 May 2023	Video conference	Vaughan Strawbridge Joseph Hansell	Michelle Terracciano Harpreet Hayer Kevin To Timothy Sackar Sam Rowling	■ General discussion with respect to the business and affairs of the Company ■ Discussion with respect to the voluntary administration process
4 May 2023	Video conference	Vaughan Strawbridge Jan Haubruck	Kevin To	■ General discussion with respect to the business and affairs of the Company
5 May 2023	In person meeting and via video conference	Vaughan Strawbridge Jan Haubruck	Michelle Terracciano Harpreet Hayer Kevin To Timothy Sackar Sam Rowling	■ General discussion with respect to the business and affairs of the Company ■ Discussion with respect to the voluntary administration process
8 May 2023	Video conference	Vaughan Strawbridge	Michelle Terracciano Harpreet Hayer Kevin To Timothy Sackar Sam Rowling	■ General discussion with respect to the business and affairs of the Company ■ Discussion with respect to the voluntary administration process

Non FTI Consulting staff positions held at the date of interactions

Name	Position/title held	Representing
Michelle Terracciano	CEO and Director of the Company	The Company
Harpreet Hayer	General Counsel of the Company	The Company
Kevin To	CFO of the Company	The Company
Timothy Sackar	Partner, Clayton Utz	The Company
Sam Rowling	Lawyer, Clayton Utz	The Company



Insolvency for investors and shareholders

If a company is in financial difficulty, it can be put under the control of an independent external administrator (liquidator or voluntary administrator) or receiver. The role of the external administrator or receiver depends on the type of appointment.

This information sheet (INFO 43) gives general information for shareholders on:

- liquidation
- voluntary administration
- receivership

Liquidation

There are two types of liquidation for an insolvent company – creditors' voluntary liquidation and court liquidation. The most common type is a creditors' voluntary liquidation, which usually begins when:

- an insolvent company's shareholders resolve to liquidate the company and appoint a liquidator, or
- creditors vote for liquidation following a voluntary administration or a terminated deed of company arrangement (DOCA).

In a court liquidation, a liquidator is appointed by the court to wind up a company following an application, usually by a creditor. Directors, shareholders and ASIC can also make a winding-up application to the court.

The liquidator's role

The liquidator's role is to:

- protect, collect and sell the company's assets
- investigate and report to creditors about the company's affairs, including:
 - unfair preference payments (payments to certain creditors over others) that may be recoverable
 - uncommercial transactions that may be set aside
 - possible claims against the company's officers (including insolvent trading)
 - creditor defeating dispositions, including illegal phoenix activity.
- inquire into the failure of the company – and possible offences by people involved with the company – and report to ASIC
- distribute money from the collection and sale of assets after payment of the costs of the liquidation, including the liquidator's fees (subject to the rights of any secured creditor) – first to priority creditors, including employees, and then to unsecured creditors.

Except for lodging documents and reports required under the *Corporations Act 2001* (Corporations Act), a liquidator is not required to incur an expense for the winding up unless there are enough assets to pay their costs.

The directors' role

Directors cannot use their powers after a liquidator has been appointed. They must help the liquidator, including providing the company's books and records, and a report about the company's affairs.

Shareholders and liquidation

The liquidator's main duty is to all the company's creditors. The shareholders will only get paid any return on their shares in an insolvent liquidation after all creditors get paid in full. If shareholders also have a claim as a creditor, then they may receive a payment as a creditor (separate from any return on shares).

Reporting to shareholders

An external administrator or receiver is not required to report to shareholders on the progress or outcome of the liquidation.

An external administrator (liquidator or voluntary administrator) must keep books that give a complete and correct record of the administration of the company's affairs – and shareholders are entitled to inspect these books at the external administrator's office. A managing controller (or receiver and manager) must also keep books that correctly record and explain all transactions entered into as managing controller – and allow shareholders to inspect these records.

Every year, on the anniversary of their appointment and at the end of the liquidation (or administration or receivership), the liquidator (or voluntary administrator or receiver) must lodge with ASIC a detailed list of receipts and payments (i.e. an annual administration return). A copy of these returns can be found on ASIC Connect.

Transfer or alteration of shares

A transfer of shares in a company or alteration of status of shareholders during liquidation (or voluntary administration or receivership) will not be effective unless the liquidator (or voluntary administrator or receiver) gives written consent or the court permits. The liquidator (or voluntary administrator or receiver) or court will need to be satisfied the transfer of shares, or the alteration in the status of shareholders, is in the best interest of the company's creditors and does not breach the rights of shareholders under the Corporations Act.

When giving written consent to a transfer of shares in a company or alteration of status of shareholders, the liquidator (or voluntary administrator or receiver) can impose conditions that must be satisfied before the transfer or alteration is effective. For share transfers, the affected shareholder, prospective shareholder or creditor may apply to the court to set aside any or all these conditions.

Similarly, a shareholder or a creditor may apply to the court to set aside any or all conditions that must be satisfied for an alteration in the status of shareholders to have effect. A shareholder or creditor may also apply to the court to authorise an alteration in the status of shareholders if the liquidator (or voluntary administrator or receiver) refuses the alteration.

A liquidator can call on the holders of any unpaid or partly paid shares in the company to pay the amount outstanding on those shares to the company.

If a liquidator makes a written declaration that they have reasonable grounds to believe there is no likelihood shareholders will receive any further distribution in the winding up, shareholders can realise a capital loss. To realise a loss, the shares in the company must have been purchased on or after 20 September 1985. If no such declaration is made by a liquidator, the deregistration of a company at the end of a liquidation also enables realisation of any capital loss.

Financial reporting and annual general meeting (AGM) requirements

The Corporations Act imposes financial reporting obligations on listed and very large companies. These obligations do not apply if the company is in liquidation. Companies in liquidation that are also AFS licensees may only rely on our relief from the financial reporting and AFS licensee reporting obligations if they have cancelled and do not hold an AFS license on the date they would be required to lodge the relevant report with ASIC. For more information, see ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251.

Public companies in liquidation do not need to hold AGMs.

Voluntary administration

Voluntary administration is designed to resolve a company's future direction quickly. An independent registered liquidator (the voluntary administrator) takes full control of the company to try save the company or the company's business.

The voluntary administrator aims to administer the company's affairs to obtain a better return to creditors than if the company had been placed straight into liquidation. A better return may be achieved through a DOCA which is generally proposed by the directors or other third-parties, usually in consultation with the voluntary administrator.

The voluntary administrator's role

After taking control of the company, the voluntary administrator investigates and reports to creditors about the company's business, property, affairs and financial circumstances. They also report on the three options available to creditors:

- end the voluntary administration and return the company to the directors' control
- approve a DOCA through which the company will pay all or part of its debts and then be free of those debts
- wind up the company and appoint a liquidator.

The voluntary administrator must give an opinion on each option, including an opinion on any DOCA proposal and recommend which option is in the best interests of creditors.

The voluntary administrator has all the powers of the company and its directors, including the power to sell or close the company's business or sell individual assets in the lead up to the creditors' decision on the company's future.

The voluntary administrator is also responsible for reporting possible offences committed by people involved with the company to ASIC.

If a DOCA proposal is approved, the voluntary administrator will usually become the deed administrator and oversee its operation.

The directors' role

Directors cannot use their powers while the company is in voluntary administration. They must help the voluntary administrator by providing the company's books and records and completing ASIC form Report on Company Activities and Property (ROCAP) – as well as any further information about these that the voluntary administrator reasonably requires.

If the company goes from voluntary administration into a DOCA, the directors' powers depend on the DOCA's terms. When the DOCA is completed, the directors regain full control of the company, unless the DOCA provides for the company to go into liquidation on completion.

If the DOCA is not completed and the company goes into liquidation, the directors cannot use their powers.

Shareholders and voluntary administration

Reporting to shareholders

Shareholders do not get to vote on the future of the company. A voluntary administrator (or receiver) is not required to report to shareholders on the progress or outcome of the voluntary administration.

Transfer or alteration of shares

Shareholders are bound by a DOCA approved by creditors. The deed administrator may transfer shares in the company with the written consent of the shareholder or with the court's permission. A shareholder, a creditor, ASIC or any other interested person can oppose a court application to approve a share transfer.

Financial reporting and annual general meeting (AGM) requirements

While subject to voluntary administration or under a DOCA (or in receivership), listed and very large companies must still comply with their statutory financial reporting obligations.

ASIC provides relief so that a company in voluntary administration (or receivership) automatically has a six-month extension of time for lodging financial reports that are due when the administrator (or receiver and manager) is appointed or will become due in the six-month period after the appointment. The automatic relief applies even if the company enters a DOCA during the six-month period after the voluntary administrator's appointment. If a voluntary administrator is appointed before a receiver and manager is appointed, then our automatic deferral relief will apply from the date the voluntary administrator is appointed.

To get the benefit of this automatic deferral relief, the voluntary administrator (or receiver and manager) must have arrangements during the deferral period to answer, free of charge, reasonable questions from shareholders about the administration (or receivership). At the end of this deferral period, if the company remains in voluntary administration or under a DOCA (or in receivership), the company may apply to ASIC for further deferral relief.

A public company in voluntary administration (or receivership) may also apply for an extension of time to hold an AGM. A public company under a DOCA may also apply for an extension of time to hold an AGM in certain circumstances.

Listed companies should also inform the relevant securities exchange if the company relies on automatic relief or is granted further relief or an extension of time to hold an AGM. This information should also be available on the company's website and the voluntary administrator's (or receiver and manager's) website.

For more information on ASIC's automatic relief or applying for other relief, see [Regulatory Guide 174 Relief for externally administered companies and registered schemes being wound up](#) (RG 174).

Receivership

A company goes into receivership when an independent registered liquidator (the receiver) is appointed by a secured creditor or by the court to take control of some or all the company's assets.

Court receiverships and controllerships are not covered in this information sheet.

A secured creditor is someone who holds a security interest, such as a mortgage, in some or all the company's assets, to secure a debt owed by the company. Lenders usually require a security interest in company assets when they provide a loan.

Security interests over personal property other than land are registered on the Personal Property Securities Register (PPSR) if the creditor wants to ensure their security interest is enforceable and given priority in an insolvency. You can [search the PPSR](#) to find out if anyone holds a security interest (other than a mortgage over land) in the company's assets.

The powers of the receiver are set out in the security agreement between the company and the secured creditor, the appointment documentation and the Corporations Act.

Under the terms of appointment, if a receiver has the power to manage the company's affairs, they are known as a receiver and manager or a managing controller.

The receiver's role

Generally, the receiver's role is:

- to collect and sell enough of the secured assets to repay the debt owed to the secured creditor
- if they have been appointed under a non-circulating security interest (e.g. over land, plant or equipment), to pay the money collected:
 - first, to the secured creditor
 - second, to the company or an external administrator (if appointed) if there are any funds left over
- if they have been appointed under a circulating security interest (e.g. over cash, debtors or stock), to pay the money collected:

- o first, to priority creditors (including certain employee entitlements)
 - o second, to the secured creditor
 - o third, to the company or an external administrator (if appointed) if there are funds left over
- to report to ASIC any possible offences or irregular matters.

The receiver is usually paid from the money collected during the receivership.

The directors' role

Receivership does not affect the legal existence of the company. The directors continue to hold office, but their powers depend on the powers of the receiver and the extent of the assets over which the receiver is appointed. Control of the secured assets, including the company's business, is taken away from the directors.

Directors must provide the receiver with a [ROCAP](#) and must allow the receiver access to books and records relating to the charged property.

Shareholders and receivership

The receiver's main duty is to the company's secured creditor. The duty owed to unsecured creditors and shareholders is an obligation to take reasonable care to sell the secured assets for not less than its market value or, if there is no market value, the best price reasonably obtainable. A receiver also has the same general duties as a company director.

Reporting to shareholders

See above for information on [reporting to shareholders](#).

Financial reporting and annual general meeting (AGM) requirements

See above for information on [financial reporting and AGM requirements](#).

More information

- › [Information Sheet 39](#) *Insolvency information for directors, employees, creditors and shareholders* (INFO 39)
- › [Australian Restructuring Insolvency & Turnaround Association \(ARITA\) website](#)
- › [ARITA Code of Professional Practice for Insolvency Practitioners](#)

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.

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