

*July 2023*  
**Communique**

Welcome to the start of the new financial year and we hope that the year is rewarding and successful for you. It won't be without its challenges with the after-effects of numerous interest rate increases yet to be felt and the world economy slowing down with some economies likely to slip into recession.

## MEMBERS VOLUNTARY LIQUIDATION



A Members Voluntary Liquidation (MVL) is used for the winding up of a solvent company and commences with the lodgement of a Declaration of Solvency (Form 520) signed by the directors which is required to be lodged with ASIC before issuing the notice of meeting of members.

It is commonly used where the company has been used as an investment vehicle and the main investment has been sold. The Company is no longer required however the funds need to be distributed amongst the members. All tax returns need to be lodged up to the date of appointment of the liquidator in order to obtain tax clearance from the ATO before making a distribution.

Although directors can look at appointing an accountant or someone else, 80% of the MVL appointments are for a registered liquidator as they are used to the lodgement process and

can continue to act where the company may be found to be insolvent. In addition, a registered liquidator has all the precedents to provide the directors with a seamless process.

By making a formal appointment as opposed to lodging a deregistration form with the ASIC, provides peace of mind for the directors that they have followed the proper process prior to deregistering the company.

Contact our office if you have any questions regarding this type of appointment.

## HOLDING DOCA



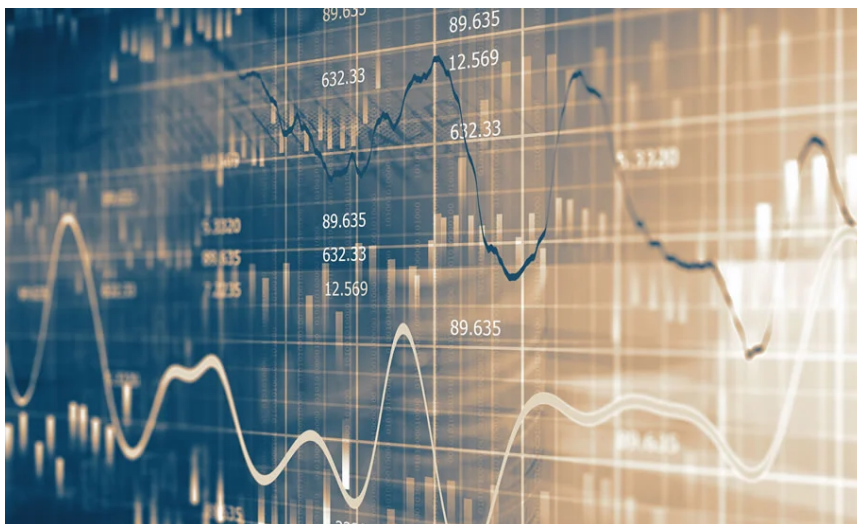
Recent cases in the NSW Supreme Court and the Federal Court of Australia confirm that the use of a Holding DOCA is not an improper purpose when used as a means to avoid the operation of s 32B of the Securities for Payments (SOP) Act. This section prevents a company in liquidation from utilising the SOP Act.

The company in voluntary administration, Kennedy Civil Contracting Pty Ltd (Kennedy) had served several payment claims to Richard Crookes Construction Pty Ltd (Crookes) under the SOP Act. Crookes had responded to some of the payment claims but had failed to respond to other claims.

Kennedy filed a notice of motion seeking summary judgement under the SOP Act due to Crookes failure to pay in accordance with payment schedules and not issuing payment schedules. Crookes filed a notice of motion claiming that the proceedings were an abuse of process and also filed proceedings in the Federal Court that the DOCA be terminated.

The Court held that the holding DOCA preserved Kennedy's claim under the SOP Act and that utilising the provisions of the Corporations Act to avoid s32B of the SOP Act was not an improper purpose. Companies in a similar situation may wish to consider a holding DOCA as a way of obtaining payment of claims under the SOP Act or alternatively extend the administration convening period to enable recovery of debts under the SOP Act.

## HOLD THOSE RATES



The Reserve Bank of Australia announced on 4 July 2023 to keep interest rates on hold following a decrease in the inflation rate to 5.6% and to gauge the effect of the previous rate increases on consumer behaviour and the Australian economy.

In their recent bulletin, Macquarie Bank noted that the US yield curve has inverted where the Treasury yield rose above the 10-year yield in July which has historically preceded recessions by 12-18 months. The two-year yield rose as high as 5.06% in March resulting in the most inverted yield curve since 1981. Time will tell whether the inverted yield curve is still a good barometer of recessions.

Meanwhile, the ASX 200 performed well in the 22-23 financial year with a strong return of 14.8%. The housing market continues to show signs of recovery after a low in February 2023 which was 10% below the peak in April 2022. The recovery in the last few months has gained momentum however on a low turnover due to a shortage of stock.

The labour market continues to be strong with near-record-low unemployment.

## NEW LIMITS AND INCREASED THRESHOLDS FROM 1 JULY 2023



Following our article in last month's communique, there are a number of new limits and increased thresholds that employers need to be aware of in the new financial year.

#### Superannuation

The Superannuation Guarantee Charge has increased to 11% from 1 July 2023 and is set to increase by 0.5% each year up to 12% in 2025-2026. In addition, there is a new concessional superannuation cap of \$27,500pa for the 2023-2024 financial year.

#### Redundancy

The new limit for the tax-free component of genuine redundancy payments is \$11,985 plus \$5,994 for each completed year of service.

#### National minimum wage

The new national minimum wage is now \$882.80 per week or \$23.23 per hour for employees who are not covered by an award or employment agreement.

#### Unfair Dismissal

The unfair dismissal compensation limit is set at \$83,750 for the 2023/2024 financial year. The high-income threshold for claiming unfair dismissal is set at \$167,500pa.



# BALI CONFERENCE 2023

Our sister company HA-Assist is holding a Bali Conference from 2 August to 4 August 2023. Come join us for a get together and networking in a relaxed part of the world.

Scan the QR Code or click the button below to find out all about our HA Assist Bali Conference.

A promotional graphic for the HA-Assist Bali Conference 2023. The background is a scenic view of a beach with a wooden table in the foreground holding two green smoothies and a fruit basket. In the background, a blue boat is on the water. The graphic includes the HA-Assist logo in the top left, two circular inset images showing a conference room and a cultural performance, and contact information at the bottom.

**HA Assist**  
responsive insolvency support

**HA-ASSIST**  
**2ND BALI CONFERENCE 2023**

Dates: 1st\* - 4th August  
Location: Mercure Bali Sanur Resort

\*JetStar, Virgin and Qantas arrive at 10.30PM or later local time.

**Contact Us**  
E. [office@ha-assist.id](mailto:office@ha-assist.id)  
[www.ha-assist.id](http://www.ha-assist.id)



**RSVP NOW!**

RSVP

# We can help you now

If you have clients who are experiencing difficulty in paying their debts and/or need to restructure their business, please contact me.



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