

WOODGATE & CO.

Turnaround & Insolvency

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The Manager
Business Conduct Unit
Market Conduct Division
Treasury
Langton Crescent
PARKES ACT 2600

Dear Sir,

I refer to the request for feedback and comments in regards to the corporate statutory demand threshold and hereby submit:

1. The administration of corporate external administrations has become increasingly regulated. More documents and details are provided to creditors and other stakeholders. Insolvency practitioners have persistently and consistently asked rhetorically why is the cost burden of doing this extra work put on creditors, when they don't read the reports issued by the external administrator? It's a little bit like issuing a prospectus – hardly anybody reads them cover to cover. And that's the point. It only takes one creditor (or prospective investor) to read the report (prospectus) for them to be alerted to deficiencies in information and issues of public interest. Only one. But it impacts upon all creditors (and prospective investors).

A debtor who is unable to pay a creditor owed \$2,000 is most likely going to have overdue debts of a substantially greater aggregate amount. One creditor taking action. Which impacts upon all creditors.

2. The statutory threshold of \$2,000 can be made up of a number of creditors' claims. However, there is no free information market to enable creditors to easily and cost effectively aggregate their claims.
3. The cost of proceeding with a winding up application is not just the debt due to the creditor, which may be as low as \$2,000, but also the cost of the legal proceedings (which is more often than not greater than those costs fixed by the court) and the creditor company's management time. Each creditor manager should ask the question, in banking parlance, 'shall we put good money after bad?' Today, the legal fees to wind up a company may range from approximately \$5,800 to \$7,100. Thirty years ago, that may have

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amounted to \$2,900 to \$3,400. Thus it can be seen that it is already prohibitive to take steps to wind up a company which owes \$2,000.

A further element to consider is that often an insolvent company, whilst it has an overdue debt of \$2,000, is likely to have underreported or unreported liabilities. In this regard, I am considering G.S.T., and to a lesser extent PAYG withholding and the superannuation guarantee charge, if there is no one stop reporting.

4. Finally, the alternative of obtaining judgment and attachment of that judgment to an asset of the company, by way of a visit by the Sheriff or a garnishee order, is unattractive. This is due to firstly, the associated costs of obtaining a judgment and, secondly, the limited assets that a company may have as a result of decades of economy wide restructuring.

Yours faithfully,

A handwritten signature in cursive script that reads "Giles Woodgate".

**GILES WOODGATE
PARTNER**