

22 December 2022

**TO THE CREDITOR**  
**AS ADDRESSED**

Dear Sir or Madam

**AUSSIE STRENGTH PTY LTD (IN LIQUIDATION)**  
**ACN 150 420 625 ("ASPL")**  
**AUSSIE STRENGTH GLOBAL PTY LTD (IN LIQUIDATION)**  
**ACN 646 609 501 ("ASG")**  
**(TOGETHER REFERRED TO AS "THE COMPANIES")**

We refer to previous correspondence regarding the Companies and provide herein an update.

## **1. LIQUIDATION OVERVIEW**

As you are aware, Peter Krejci and myself were appointed Joint and Several Administrators of the Companies on 13 September 2022. The Second Meetings of the Creditors held on 20 October 2022 pursuant to Section 439A of the Corporations Act 2001 ("the Act") was adjourned and subsequently resumed on 21 December 2022. At the Resumed Second Meetings, the Companies were placed into Liquidation, and we were appointed Joint and Several Liquidators.

As Liquidators, our primary duties are to realise assets, investigate the affairs of the Companies and its officers, and pursue recoveries for the benefit of creditors.

We will also write to you within three months of our appointment advising whether a dividend is likely and update you on the progress of our investigations. We may write to you again after that with further information on the progress of the Liquidation, if required.

By way of update, you will be aware that we had continued with the rolling stock sales and to date we have completed 47 separate sales. We have also realised the majority of the Companies' plant and equipment (with approval from the secured creditor, Commonwealth Bank of Australia). Items that were either uncollected and/or unable to be sold have been relocated to our auctioneer's warehouses for sale in the new year. We will be vacating the trading premises and returning the keys to the landlord on or prior to 24 December 2022.

There remains further work to be completed regarding the recovery of the other assets of the Companies, being various loan accounts owed by related parties. As previously reported, the return to creditors is contingent on these recoveries, along with potential voidable transaction claims against the Director.

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**BRI Ferrier... throughout Australia and New Zealand.**

Liability limited by a scheme approved under Professional Standards Legislation  
BRI Ferrier is an association of independent accounting firms. Each of the member firms is a separate and independent entity operating under the name 'BRI Ferrier' or related names.

We encourage all creditors who have not already done so, to register their claims against the Companies by submitting a Formal Proof of Debt form (**Annexure “1”**) together with relevant supporting documentation.

## 2. EMPLOYEE CLAIMS – FAIR ENTITLEMENTS GUARANTEE SCHEME

As ASPL is now in Liquidation and there are insufficient funds to meet outstanding employee entitlements immediately, the former employees of ASPL may be entitled to make a claim under the Fair Entitlements Guarantee scheme (“FEG”) to the Department of Employment and Workplace Relations (“the Department”) in respect of outstanding entitlements.

Please note that FEG will meet the majority of entitlements, other than:

- Outstanding superannuation entitlements;
- Entitlements such as rostered days off unless the relevant legislation, award, statutory agreement or written contract of employment provides they are payable upon termination of employment; and
- Employee entitlements of the Directors and related party creditors.

Employee creditors may lodge a FEG claim either:

- Online by referring to the following hyperlink: <https://extranet.employment.gov.au/feg>. Claims submitted online are likely to be processed substantially faster than those lodged by post; or
- By post, and returning the forms to the nominated address:

Fair Entitlements Guarantee Branch  
Attorney-General’s Department  
GPO Box 9880  
CANBERRA ACT 2601

FEG Claim forms are available either by contacting the Fair Entitlements Guarantee Hotline on 1300 135 040. The Department will distribute entitlements to you directly, if approved. Further information regarding the FEG claim process and eligibility is available from <https://www.dewr.gov.au/fair-entitlements-guarantee>

## 3. DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES

We refer to our Declaration of Independence, Relevant Relationships and Indemnities enclosed with our First Report to Creditors dated 15 September 2022 and note that there are updates required to same.

## 4. OTHER MATTERS

Pursuant to Clauses 70-40, 70-45, 75-15, 85-5, 90-24 and 90-35 of the Insolvency Practice Schedule (Corporations) and Rule 70-30 of the Insolvency Practice Rules (Corporations) 2016, we are required to give certain information to creditors as to their rights in the administration. Accordingly, we attach as **Annexure “2”** further information regarding “Creditor Rights in Liquidations”.

Previously attached to our Second Report was an ASIC information sheet entitled “Insolvency information for directors, practitioners, employees, creditors and investors”. This publication provides basic information

about the different types of external administrations, including Liquidation, and reference to further sources of information available on the ASIC website at [www.asic.gov.au](http://www.asic.gov.au).

Please note that we are not required to publish notices in the print media. ASIC maintains an online notices page for external administrators to publish notices in respect of an administration. Creditors are encouraged to visit <http://insolvencynotices.asic.gov.au> throughout the liquidation to view any notices which may be published by the Liquidators in respect of the Companies.

These notices include:

- ▲ notices relating to appointments;
- ▲ notices of meetings of creditors; or
- ▲ notices calling for proofs of debt and intention to declare dividends.

Should you have any further queries in this matter, please contact Mr Max Florian of this office on (02) 8263 2300 or email to [mflorian@brifnsw.com.au](mailto:mflorian@brifnsw.com.au)

Yours faithfully

**AUSSIE STRENGTH PTY LTD**  
**AUSSIE STRENGTH GLOBAL PTY LTD**  
**(BOTH IN LIQUIDATION)**

A handwritten signature in black ink, appearing to read 'Jonathon Keenan', written in a cursive style.

**JONATHON KEENAN**

Joint and Several Liquidator

Encl.

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Joint and Several Administrators of: (please tick one)

☐

Aussie Strength Pty Ltd (Administrators Appointed) ACN 150 420 625  
Aussie Strength Global Pty Ltd (Administrators Appointed) ACN 646 609 501

1. This is to state that the company was, on 13 September 2022 <sup>(1)</sup> and still is, justly and truly indebted to <sup>(2)</sup> (full name):

.....  
(‘Creditor’)

.....  
of (full address)

for \$ .....dollars and .....cents.

Particulars of the debt are are (please attach documents to support your claim e.g. purchase orders, invoices, interest schedules):

Date	Consideration <sup>(3)</sup> state how the debt arose	Amount \$	GST included \$	Remarks <sup>(4)</sup> include details of voucher substantiating payment

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

Insert particulars of all securities held. Where the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, specify them in a schedule in the following form:

Date	Drawer	Acceptor	Amount \$ c	Due Date

☐

I am **not** a related creditor of the Company <sup>(5)</sup>

☐

I am a related creditor of the Company <sup>(5)</sup>  
relationship: .....

- 3A.<sup>(6)\*</sup> 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, still remains unpaid and unsatisfied.

- 3B.<sup>(6)\*</sup> I am the creditor's agent authorised to make this statement in writing. I know that the debt was incurred and for the consideration stated and that the debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

<input type="checkbox"/>	<p>The External Administrators' (whether as Voluntary Administrators/Deed Administrators/Liquidators) will send and give give electronic notification of documents in accordance with Section 600G of the Corporations Act 2001. Please provide your email address below:</p> <p>Contact Name: .....</p> <p>Email Address: .....</p>
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DATED this ..... day of .....2022

NAME IN BLOCK LETTERS.....

Occupation.....

Address.....

Signature of Signatory.....

OFFICE USE ONLY

POD No:			ADMIT (Voting / Dividend) - Ordinary	\$
Date Received:		/ /	ADMIT (Voting / Dividend) – Preferential	\$
Entered into CORE IPS:			Reject (Voting / Dividend)	\$
Amount per CRA/RATA		\$	Object or H/Over for Consideration	\$
Reason for Admitting / Rejection				
PREP BY/AUTHORISED			TOTAL PROOF	\$
	DATE AUTHORISED	/ /		

### Proof of Debt Form Directions

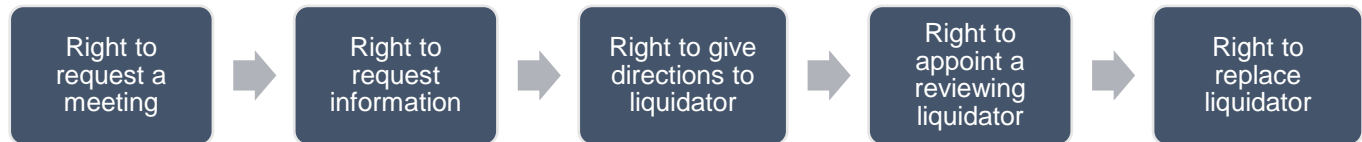
- \* Strike out whichever is inapplicable.
- (1) Insert date of Court Order in winding up by the Court, or date of resolution to wind up, if a voluntary winding up.
- (2) Insert full name and address (including ABN) of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor.
- (3) Under "Consideration" state how the debt arose, for example "goods sold and delivered to the company between the dates of .....", "moneys advanced in respect of the Bill of Exchange".
- (4) Under "Remarks" include details of vouchers substantiating payment.
- (5) Related Party / Entity: Director, relative of Director, related company, beneficiary of a related trust.
- (6) If the Creditor is a natural person and this proof is made by the Creditor personally. In other cases, if, for example, you are the director of a corporate Creditor or the solicitor or accountant of the Creditor, you sign this form as the Creditor's authorised agent (delete item 3A). If you are an authorised employee of the Creditor (credit manager etc), delete item 3B.

### Annexures

- A. If space provided for a particular purpose in a form is insufficient to contain all the required information in relation to a particular item, the information must be set out in an annexure.
- B. An annexure to a form must:
  - (a) have an identifying mark;
  - (b) and be endorsed with the words:
    - i) "This is the annexure of *(insert number of pages)* pages marked *(insert an identifying mark)* referred to in the *(insert description of form)* signed by me/us and dated *(insert date of signing)*; and
  - (c) be signed by each person signing the form to which the document is annexed.
- C. The pages in an annexure must be numbered consecutively.
- D. If a form has a document annexed the following particulars of the annexure must be written on the form:
  - (a) the identifying mark; and
  - (b) the number of pages.
- E. A reference to an annexure includes a document that is with a form.

## Creditor Rights in Liquidations

As a creditor, you have rights to request meetings and information or take certain actions:



### Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

### Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

Additionally, creditors have the right to request information at any time. A liquidator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the liquidation, and the provision of the information would not cause the liquidator to breach their duties.

A liquidator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the liquidator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

### Requests must be reasonable.

#### They are not reasonable if:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

Specific queries about the liquidation should be directed to the liquidator's office.

## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

If a liquidator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons.

An individual creditor cannot provide a direction to a liquidator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

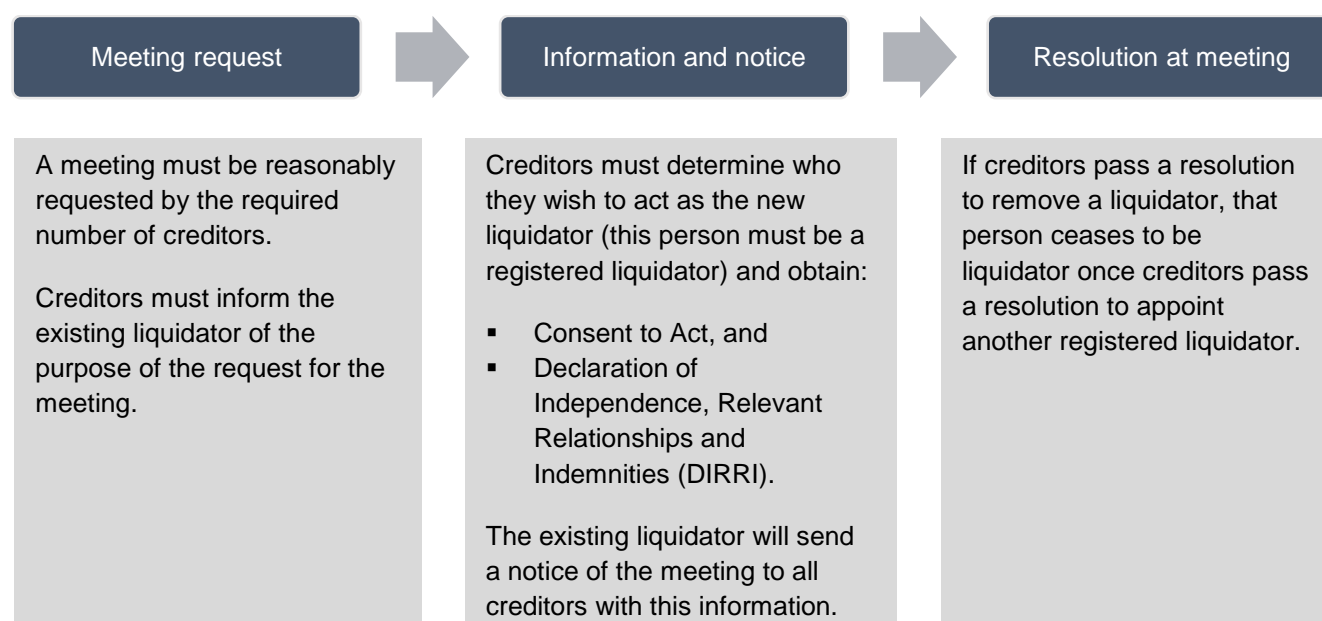
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the liquidator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



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