Information sheet: Proposals without meetings

You are a creditor in a bankruptcy or personal insolvency agreement (collectively referred to as a regulated debtor's estate). You have been asked by the trustee to consider passing a proposal without a meeting.

This information sheet is to assist you with understanding what a proposal without a meeting is and what your rights as a creditor are.

What is a proposal without a meeting?

A proposal without a meeting is a cost-effective alternative to a meeting. The trustee can use a proposal without a meeting to obtain the consent of creditors to a particular course of action.

The trustee is able to put any proposal to creditors by giving notice in writing to the creditors.

What information must the notice contain?

The notice must:

- include a statement of the reasons for the proposal and the likely impact it will have on creditors if it is passed
- invite the creditor to either:
    - vote yes or no to the proposal, or
    - object to the proposal being resolved without a meeting, and
- specify a reasonable time for replies to be received by the trustee.

If you wish to vote or object, you will also need to provide details of your debt substantiating your claim in the regulated debtor's estate. This is part of the form. You should ensure that you also provide documentation to support your claim.

If you have already provided a statement of claim or proof of debt, you do not need to lodge another one.

The trustee must also provide you with enough information for you to be able to make an informed decision on how to cast your vote on the proposal. With some types of proposals, the law or ARITA's Code of Professional Practice sets requirements for the information that you must be provided. For example, if the trustee is asking you to approve remuneration, you will be provided with a Remuneration Approval Report, which will provide you with detailed information about how the trustee's remuneration has been calculated.

What are your options if you are asked to vote on a proposal without a meeting?

You can choose to vote yes, no or object to the proposal being resolved without a meeting.

How is a resolution passed?

A resolution will be passed if more than 50% in number and 50% in value (of those creditors who did vote) voted in favour of the proposal, but only so long as not more than 25% in value objected to the proposal being resolved without a meeting.

What happens if the proposal doesn't pass?

If the proposal doesn't pass and an objection is not received, the trustee can choose to amend the proposal and ask creditors to consider it again, or the trustee can choose to hold a meeting of creditors to consider the proposal.

The trustee may also be able to go to Court or to AFSA to seek approval, depending on the nature of the approval sought.

What happens if I object to the proposal being resolved without a meeting?

If more than 25% in value of creditors responding to the proposal object to the proposal being resolved without a meeting, the proposal will not pass even if the required majority of creditors vote yes.

The trustee will also be unable to put the proposal to creditors again without a meeting.

You should be aware that if you choose to object, there will be substantial additional costs associated with convening a meeting of creditors or the trustee seeking the approval of the Court. This cost will normally be paid from the available assets in the regulated debtor's estate.

This is an important power and you should ensure that it is used appropriately.

Where can I get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides general information to assist creditors with understanding regulated debtor's estates and insolvency.

This information is available from ARITA's website at arita.com.au/creditors.

AFSA provides information on a range of personal insolvency topics. This information can be accessed on AFSA's website at www.afsa.gov.au.

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