Sink or swim? How small business restructuring is keeping the little ones afloat

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By Rebecca Georges, a Law Clerks of Matthews Folbigg, in our Insolvency, Restructuring and Debt Recovery Group.

With the costs of living continuing to rise, so too have operational costs for businesses.

However, the introduction of small business restructuring (SRB) has allowed a number of small businesses to swim against the tide and stay afloat at a time when insolvency rates are at an all-time high.

What is small-business restructuring (SBR)?

Small business restructuring is the process by which a company works with a small business restructuring practitioner (generally someone who is also a registered liquidator) to put a restructuring plan in place which will allow provide a greater return to creditors, whilst allowing a business to continue in operation.

A significant advantage of an SBR is that the directors retain control over their business during this process. The SBR process is only for eligible companies, and the outcome is determined by a vote of the company's creditors.

The regime was implemented in 2020 by *Corporations Amendment (Corporate Insolvency Reforms) Act 2020* as a response to the financial pressures faced by small businesses, which was especially important during the height of the COVID-19 pandemic.

ASIC Report 810 – "Review of small business restructuring process: 2022–24"

In June 2025, the Australian Securities Investment Commission (ASIC) released a detailed report analysing the trends and outcomes of the small business restructuring process for the 2022 to 2024 financial period.

The report revealed that while there was initially a low and slow uptake of SBR process, the number of SBRs dramatically increased from 82 appointments in 2021-22 year to 3,388 appointments in 2022-24.

ASIC anticipates that this number will continue to approximately 3,000 in the 2025 year alone.

Why?

The report attributes this growth to a range of factors.

The first, and perhaps the most obvious one, is that as costs increase so too does financial distress for businesses. More businesses (but especially smaller ones) are struggling to stay afloat on their own. This is especially true for the food and services industry which accounts for almost a quarter (23%) of SBR appointments.

The second is that it is possible that more small businesses are entering SBRs is because they have been proven to work - and work well.

The appointment of small business restructuring practitioners and their contributions to the proposed restructuring plans appears to have had a positive impact as around 83% of proposed restructuring plans are being accepted. Moreover, of the proposed plans that have been accepted, 96% of them are either ongoing or have been fulfilled. ASIC states that although it is impossible to quantify the number of small businesses that have continued to operate as a result of SBR process, of the ones that had fulfilled their restructuring plans, 93% remain registered, which is a good indication that the SBR regime has had some, if not a significant role in keeping many small businesses up and running.

The future of SBR – what are the potential risks and dangers?

However, for all the current successes of the SBR process, the report raised several concerns regarding the potential long term-effects on small businesses.

The report discusses the potential misuse of the SBR regime as more small businesses take on the process. While there were several safeguards put into place such as applicants restricted to making an SBR appointment once every seven years and the independence of SBR practitioner, the report recognised several issues raised by stakeholders including:

1. The ongoing trade-off between having expertise of competent restructuring business providers and the costs of that process which might otherwise be contributed to creditors;

2. The possibility that while SBR plans may help in the short-term, they may ignore fundamental internal issues, which could result in recurrence and/or business failure in the long-term; and

3. Concerns that SBR processes advertised on social media may be misleading or fail to give balanced information about the requirements and consequences of the SBR process.

Additionally, the ASIC report points out the Australian Tax Office's (ATO) substantial and growing role in SBRs. The report records the ATO was listed as a creditor in at least 93% of companies that had lodged a restructuring plan. This growing percentage could be an indication of the significant small business debt outstanding to the ATO, particularly since COVID. On the positive side, however, the ATO generally supports restructuring plans.

Finally, it is important to note that there are strict eligibility requirements for entering a SBR and as such not every small business will fall within these criteria. These requirements include:

1. The total liabilities of the company must not exceed $1,000,000;

2. Before entering into a restructuring plan the company must have paid all outstanding employee entitlements, and lodged (but not necessarily paid) all tax lodgements;

3. A person who has been the director of the company within 12 months prior to appointment must not be a director of another company which is under restructuring or liquidation within the last seven years; and

4. The company must not have been subject to liquation process within the last seven years.

Read the ASIC report here

For more information or advice in relation to Insolvency, Restructuring or Debt Recovery law, please contact a Principal of the Matthews Folbigg Insolvency, Restructuring & Debt Recovery Group:

- Jeffrey Brown on (02) 9806 7446 or jeffreyb@matthewsfolbigg.com.au
- Hayley Hitch on (02) 9806 7434 or hayleyh@matthewsfolbigg.com.au;
- Stephen Mullette on (02) 9806 7459 or stephenm@matthewsfolbigg.com.au.