



# ASIC Industry Funding Model Review

svpartners

specialist accountants & advisors



Submission by  
SV Partners Pty Ltd  
28 October 2022

[svpartners.com.au](https://svpartners.com.au)

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# TABLE OF CONTENTS

---

03 Introduction

---

04 Our  
Submission

---

06 About  
SV Partners



# 1.0 Introduction

## 1.1 Who we are

SV Partners Pty Ltd (**SV Partners**) provides professional corporate and personal insolvency advice to accountants, financial institutions, corporations, financial and legal advisors, and individuals. With a team of over 130 insolvency specialists across the Eastern and Western seaboard, our expert advisors focus on recovery, reconstruction advice and formal insolvency appointments. We also operate one of the largest private bankruptcy practices in Australia.

## 1.2 Our Experience

Our executive and management teams have extensive experience in the insolvency and turnaround industry and hold memberships with Australian Restructuring, Insolvency and Turnaround Association (**ARITA**), Chartered Accountants Australia and New Zealand (**CAANZ**), Certified Practising Accountants Australia (**CPA**), Institute of Public Accountants (**IPA**), Australian Institute of Credit Management (**AICM**), Turnaround Management Association (**TMA**), Society of Construction Law Australia (**SOCLA**), Australian Institute of Company Directors (**AICD**) and the QLD Master Builders Association (**QMBA**).

We also hold positions on the Australian Taxation Office (**ATO**) Liquidator panel and Australian Financial Securities Agency (**AFSA**) 181A transfer panel.

## 2.0 Our Submission

SV Partners welcome the opportunity to provide our submission on the review into the ASIC Industry Funding Model, or the “ASIC tax” as some in the profession call it (**Review**).

We have had the opportunity to read the final version of the Australian Restructuring, Insolvency and Turnaround Association (**ARITA**) submission (dated 25 October 2022), and note that we strongly support ARITA’s views and recommendations contained therein.

SV Partners have responded to nearly every insolvency-related consultation issued by the Federal Government in the last 8 years. In our experience, despite our previous efforts, the Government has not listened to the profession when it comes to the insolvency and restructuring industry. Accordingly, to save us wasting our resources and time, our submission will only briefly deal with the questions raised in the Review.

Our submission is summarised as follows:

1. We adopt ARITA’s view that the insolvency profession is unique and ought to be exempted from the ASIC tax. This tax is having a disproportionate and material impact on the insolvency profession, particularly during a time in which insolvency rates continue to lag the period before the COVID-19 pandemic;
2. The material differences between the draft Cost Recovery Implementation Statement (**CRIS**) and final CRIS causes uncertainties in our ability for us to budget for the ASIC tax each year;
3. The lack of detail within the CRIS is unacceptable and does not allow the profession to adequately understand whether the direct and indirect costs are reasonable and proportionate in the circumstances. For example, the latest CRIS for FY22 estimated unknown indirect costs of c\$2m and unknown allowances for alleged capital expenditure of c\$400k. We also do not accept that ASIC directly incurred registered liquidator supervisory and surveillance costs of c\$1.3m in the prior financial year. ASIC should (as it requires of us) provide a detailed work in progress (**WIP**) and cost disclosure statement so that the profession may review same for reasonableness and efficiency. We are also concerned that ASIC is allocating costs of investigating dodgy pre-insolvency advisors in these alleged direct costs. We do not accept that the licenced profession should pay for the actions of unlicenced or dodgy persons;
4. We support ARITA’s view that the current level of reporting and overspending by ASIC provides **no accountability or transparency** and that, if ASIC was a private company, a registered liquidator may consider this lack of transparency and largesse to be a breach of s286 of the Corporations Act 2001 (Cth);
5. To the extent an alternative levy was to be considered to regulate the insolvency population, we propose either (a) a \$10 (or more) increase in the yearly annual company statement and invoice issued by ASIC each year; or (b) a prescribed fine payable by each director that allows

## 2.0 Our Submission cont.

their company to be deregistered by ASIC due to non-payment of the yearly annual company statement and invoice. This would encourage a company director to pay the ASIC invoices each year or engage with regulated liquidators (where their company is, or may become, insolvent); and

6. ASIC does not appear to be adequately fit for purpose when it comes to regulating the insolvency profession. It continues to demonstrate that it does not understand the profession, and we welcome the Senate's recently announced enquiry into ASIC and the parliamentary joint committee review into corporate insolvency (which ought look at moving ASIC's insolvency profession regulatory function to AFSA).

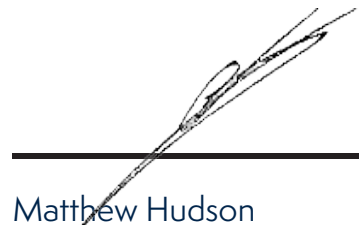
This submission is suitable for publishing on the internet. For all enquiries, please contact Matthew Hudson of this office.

Yours faithfully



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# About SV Partners

SV Partners is an expert accounting and specialist advisory firm focused on supporting businesses and individuals in financial stress.

SV Partners has been working with small to medium businesses across industries to help with financial stress for almost 20 years. We work hard to ensure the best possible outcome by carefully considering the full circumstances, addressing concerns and providing tailored solutions.

Every situation is different and our team ensures that clients understand all of the options available to them in navigating through financial stress. We deliver superior outcomes by focusing on exceptional service delivery, respecting our clients, exceeding their expectations and working effectively as a team.



## National Strength with Regional Capability

SV Partners is a national practice represented across Australia by a team of over 130.

In addition to our metro offices, SV Partners maintains a strong regional focus in QLD and NSW with offices in Mackay, Rockhampton, Sunshine Coast, Toowoomba, Gold Coast, Newcastle, Dubbo and Tamworth.

Our experience has allowed us to develop expert skills and apply them across small and large scale matters across industries.

