



MEMO

To: Board of Directors
From: Company Secretary
Subject: **CLOSING DOWN A COMPANY**

For various reasons the shareholders or directors of a company may decide that the company is no longer required; perhaps its business is not viable, maybe the shareholders/ directors have had enough of owning/running the company and just don't want to continue it, or the company may be dormant with no business and/or assets.

If the company is financially insolvent one of the insolvency procedures set out in the Corporations Act – most commonly liquidation, voluntary administration or receivership – must be followed.

If the company is financially solvent the procedures are far less onerous, the main alternatives being:

- a) de-register the company; or
- b) wind-up the company.

De-registration

If shareholders have no further use for a company and it is not in financial difficulty or insolvent, they may wish to simply close it down; that is, voluntarily deregister it. A company ceases to exist on deregistration.

ASIC will deregister a company if it meets **all** the following requirements:

- all shareholders of the company agree to deregister
- it is not carrying on business
- it's assets are worth less than \$1,000
- it has no outstanding liabilities
- it is not a party to any legal proceedings
- it has paid all fees and penalties payable under the Corporations Act.



Winding-up

A solvent company may be wound up through a shareholders' (or members') voluntary winding-up. Such procedure is initiated by the company's shareholders and involves the orderly winding-up of the company's affairs, the appointment of a liquidator* to manage the process of realising the company's assets, ceasing or sale of its operations, payment of its debts (if any) and distribution of surplus assets (if any) among its shareholders.

Whichever approach is taken, the company remains registered with ASIC even after it ceases to trade and is still subject to the legal requirements of a registered company, including payment of the annual review fee (to ASIC) each year, until the process is completed and the company ceases to exist.

Please review this summary information and then we can address the procedures involved with either approach in more detail.

** NOTE: a proprietary company does not need to appoint a registered company liquidator and the liquidation could be managed by anyone*

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.