

## What you need to know about Small Business Restructuring (SBR)

For businesses experiencing financial difficulties, the Federal Government has a new simplified restructuring process. SBR allows directors to retain control of a company with the assistance of a restructuring practitioner and develop and implement a restructuring plan with creditors.

Importantly, the SBR regime is designed so businesses have the best chance of continuing to trade, the process can be time and cost-efficient, the company is initially protected from forceful creditors and asset seizure, and early intervention gives the company the best chance at trading through and extinguishing debt.

SBR is a cheaper alternative to voluntary administration for eligible companies.

### Eligibility criteria

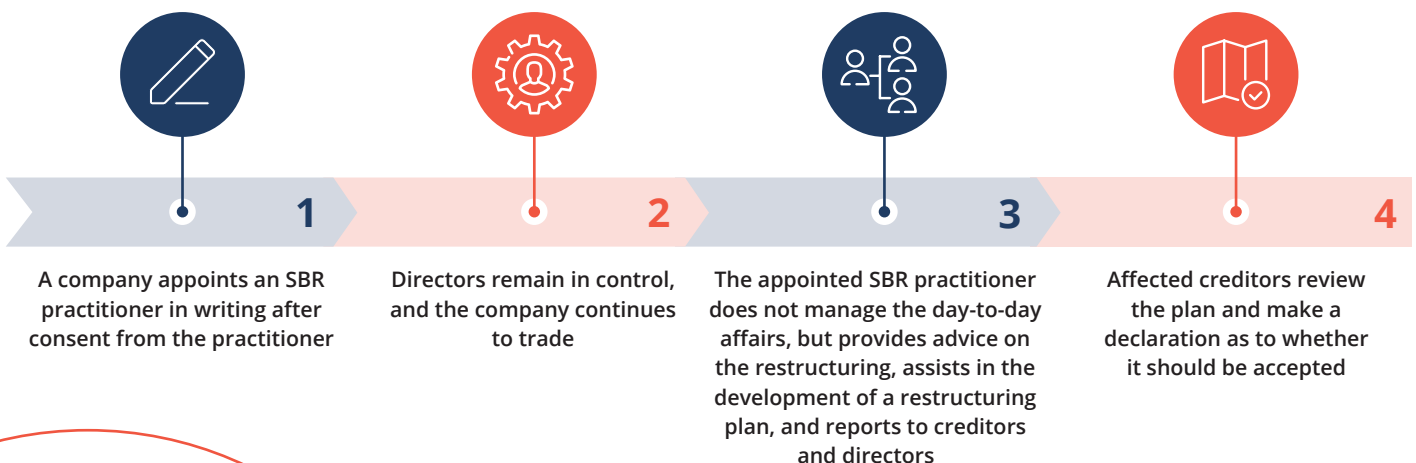
To be eligible for restructuring, a company must meet the criteria under Part 5.3B of the *Corporations Act 2001 (Cth)*:

- The company's total liabilities must not exceed \$1m.
- The company or current or former directors must not have been subject to SBR or simplified liquidation process within the previous seven years.

Before appointing a restructuring practitioner, directors will also have had to, or ensure they are able to, pay all outstanding employee entitlements due and payable and ensure all returns, notices, statements, applications, or other documents as required by taxation laws are up to date. So, all ATO lodgements and payment of superannuation need to be up to date. Tax debts, other than superannuation, do not need to have been paid.

A restructuring practitioner is appointed in writing by the company directors, who may do so if eligibility requirements are met on the day the appointment is to be made. The board of directors must also resolve that the company is insolvent or likely to become insolvent and that a restructuring practitioner should be appointed.

### The restructuring process



## Role of the respective parties

Once the company develops a restructuring plan with the restructuring practitioner's assistance, the restructuring practitioner must make a declaration to creditors. That includes a statement as to whether the practitioner believes the company is likely to discharge the obligations contained in the plan.

The restructuring practitioner may also decide whether to terminate the SBR, consent to dealings outside of usual business, and resolve disputes with regard to creditor claims.

Meanwhile, the company's directors maintain control over property and the day-to-day business.

## How does the process conclude?

There are numerous ways in which the restructuring may come to an end:

- All payments and obligations of the restructuring plan have been satisfied
- The directors make a declaration that restructuring is to end
- The company fails to propose a structuring plan within 20 days upon commencement
- Creditors do not accept the proposed plan, or the practitioner cancels it
- The court orders the restructuring be brought to an end, or a liquidator is appointed

## Support from Levi Consulting

The most successful SBR outcomes occur when businesses seek assistance early, giving companies the best chance to trade through difficult periods, and limiting exposure for directors to experience personal liability.

Levi Consulting has a wealth of experience directing businesses through what is a challenging time. As experts in insolvency and restructuring, we understand both the obligations of companies and their directors, how to engage creditors and find resolutions during times of financial distress.

David Levi is a Registered Liquidator, registered with the Australian Securities and Investments Commission. He is qualified to act as a restructuring practitioner.

### Consultation at no cost

Company directors and advisers are welcome to call David Levi for an initial consultation that will not incur a fee on **0418 602 466**. Training for advisers in relation to these and other topics can also be arranged via videoconference. Levi Consulting services all Australian States and Territories.