

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Treasury Portfolio**  
Budget Estimates 2014  
3 June to 5 June 2014

**Department/ Agency:** ASIC

**Question:** BET 824-826

**Topic:** Assetless Administration Fund

**Reference:** Written – 12 June 2014

**Senator:** Xenophon

**Question:**

I am aware of an Assetless Administration Fund (AA Fund)[1] that may be made available to registered liquidators appointed under Chapter 5 of the Corporations Act 2001 (Corporations Act) as a liquidator in a creditors' voluntary winding up, or a court-ordered winding up, of a company.

I understand that the AA Fund finances investigations and reports by liquidators into the failure of companies with few or no assets, where it appears to ASIC that enforcement action may result from the investigation and report. I am interested in how the fund works, including the criteria that must be met before funding of liquidator investigations, reports and actions from the Assetless Administration Fund may be made available to a liquidator.

824. Would you please advise me regarding the amount of funding that is currently contained in this fund, and how much of that amount may be granted to a liquidator if the liquidator identifies an area of concern that ASIC may be interested in having investigated or reported on further, where the company is assetless?
825. Is there any limit to the amount of funding that may be made available?
836. Can you also please advise me regarding the number of requests that ASIC has received over the past three years for access to the fund, and how many of those requests were granted?

**Answer:**

824. The funding allocation for FY14 is \$3.551m.

There are three types of funding applications which can be received and assessed by ASIC.

The most common type of funding application received by ASIC relates to possible director banning under s206F of the Corporations Act (application form EX02). Funding available to the liquidator for such applications is up to the amount of \$8,250.00 (inc. GST).

Funding of other matters of interest to ASIC, that is, those relating to reports to ASIC of alleged misconduct where enforcement action may be warranted, (lodged via application form EX03), is not capped.

The third type of funding application that ASIC can consider is one which seeks funding for a liquidator's legal action to recover assets where fraudulent or unlawful phoenix activity is suspected. Such applications are freeform and lodged with ASIC via a dedicated email address: [rg109@asic.gov.au](mailto:rg109@asic.gov.au).

Theoretically, it is possible for ASIC to allocate funds to a single matter but, in reality, this would be unlikely. ASIC has systems in place to ensure that expenditure does not exceed the annual funding allocation.

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Examples of significant matters funded by ASIC include:

- Storm Financial Ltd (\$720,000); and
- Kleenmaid Group of Companies (\$693,000)
- Trio Capital Limited (\$390,139)

Funding committed and /or spent for FY14 as at 17 June 2014 totals \$2.583m.

825. Treasury allocates a fixed amount per financial year which may vary year on year. The funding allocation has been relatively consistent over the last three years being \$3.471m in FY12, \$3.566m in FY13 and \$3.551m, in FY14.

Also as noted above, director banning, (EX02) applications may be funded up to \$8,250 (inc. GST) whereas other matters, (EX03) applications are uncapped and the funding allocated depends on ASIC's assessment of the regulatory impact/significance of the matter.

826. Over the last three years, the number of AAF applications received has increased as per the table below:

Applications received	FY11	FY12	FY13	FY14 as at 17/06	Total
Director bannings	315	466	425	438	1644
Other matters	100	100	102	109	411
Winding up of companies under Pt 5.4C of the Corporations Act	N/A	N/A	N/A	31	31 <sup>*</sup>
Liquidator seeking recovery of Assets	N/A <sup>1</sup>	N/A	3		3

**AAF applications approved (FY11 to 17 June 2014)**

Applications approved	FY11	FY12	FY13	FY14 as at 17/06	Total
Director bannings	169	237	197	158	761
Other matters	47	31	39	46	163

<sup>1</sup> No provision for funding recovery of assets existed in FY11 and 12

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Winding up of companies under Pt 5.4C of the Corporations Act	N/A	N/A	N/A	31	31*
Liquidator seeking recovery of Assets	N/A	N/A	0	0	0

(\*)ASIC has a discretionary power to order the winding up of abandoned companies to assist employees of companies that are abandoned. ASIC appoints a liquidator to such companies and funds the liquidator to wind up the company and assist employees obtain their entitlements to the Fair Entitlement Guarantee scheme administered by the Department of Employment. The appointments are funded up to the amount of \$8,800 from the Assetless Administration Fund.