

**IMPROVING OUTCOMES FOR CREDITORS – AN ANALYSIS
OF THE EFFICIENCY AND STRENGTH OF CREDITORS’
PROTECTIONS PROVIDED BY THE PROVISIONS OF PART 1-4
OF SCHEDULE 1 OF *CORPORATIONS AMENDMENT
INSOLVENCY ACT 2007* (Cth)**

The rationale for the latest changes in corporate insolvency laws was in part to improve outcomes for creditors by strengthening creditor protections and improving the efficiency of the insolvency process. To do so four key areas were identified: enhancing employee entitlements protections; improving information to creditors; streamlining external administration by removing unnecessary procedural requirements and introducing a statutory pooling process.

It is contended, however, that the attainment of efficiency and strong creditor protections are divergent goals, made more so by the manner of regulating for such goals. The purpose of this article is to highlight with examples from the latest changes in external administration laws, the divergent nature of both goals; to show that the use of mandatory provisions while achieving creditor protection, may be at the expense of procedural efficiency, depriving the external administrator of flexibility; and that to maximise creditors’ outcomes requires a continual balancing of the goals of creditor protection and efficiency.

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