

ASIC responses to Questions on Notice

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Written QoN – W004

Question

In light of our exchange in the committee hearing around a beneficial ownership register, would there be pro-competitive benefits to identifying overlapping ownership across Australian firms?

Answer

Australia's Corporations Act provides for disclosure of the legal and beneficial ownership of shares in a variety of circumstances. In listed public companies, legal and beneficial ownership is disclosed publicly where a person - and their associates - gains a direct or indirect interest in 5% or more of a listed public company (a 'substantial holding'). Overlapping ownership of listed public companies is not separately identified but can be determined where a person has a substantial holding in each firm.

Proprietary companies and public companies that are not listed are required to report their membership to ASIC at incorporation. Proprietary companies must also report any changes to their largest 20 members to ASIC. This information is accessible on ASIC's register. Although it is possible to identify overlapping ownership by accessing ASIC's register, this information is not separately recorded.

We understand that, in the form currently being considered, the beneficial ownership register – at least where maintained by companies - may not identify overlapping ownership.

Generally, the key stated benefits in introducing a beneficial ownership register are the benefits to regulators, particularly in relation to the regulation of various financial crime issues such as money laundering and tax evasion. There may be circumstances where identification of the beneficial owner of various Australian firms, including where that ownership is overlapping across Australian firms, is also useful for consumers and business. However it is not expected that a primary benefit of beneficial ownership registers would be promoting competition in the Australian markets.