



Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Inquiry into Corporate Insolvency in Australia
Question No.	022
Date	1 March 2023
Topic	Schemes of arrangement
Reference	Spoken, 1 March 2023, Page 35
Committee member	Senator Paul Scarr

Question

Senator SCARR: I have some questions for ASIC if I could. We have some evidence from the AMWU, the Australian Manufacturing Workers Union, with respect to a scheme of arrangement that was entered into by Ovato. The concern raised by the AMWU was that the position of some of their members, the employees, was compromised through the scheme of arrangement processed. My question to ASIC in the first instance is whether or not ASIC has followed that scheme of arrangement process, whether or not ASIC has considered the views of important stakeholders such as the AMWU and whether or not ASIC is looking to publish any guidance, regulatory guidance or any thoughts more generally with respect to the scheme of arrangement process being used in that context. Since it was raised, I should say that I've looked at some of the commentary in relation to the scheme of arrangement, and a number of experts in the field say it was a somewhat novel application of the process—in particular, how it sought to bind trade creditors. So I'm interested in ASIC's views in that regard.

Mr Day: Thanks for that question, Senator Scarr. I'd simply indicate that, yes, there are some interesting things there. We're not really well-briefed about that for today. I'm more than happy to take those good questions on notice. I know that one of our specialist teams is thinking about that matter and considering it, so I would really like to take it on notice so that I can give you a better answer.

Senator SCARR: I'm happy for you to take it on notice, Mr Day. One of the issues which particularly concerned me was that it appeared the AMWU had received advice that they didn't have standing to actually turn up at the court proceeding and provide the concerns of their members to the judge who was considering application of the scheme of arrangement provisions. In the course of taking it on notice, could you please consider that aspect as well?

Mr Day: Yes. I'm not surprised that their advice says they don't have standing, but I'm more than happy to take that on notice and give you our thoughts about that.

Answer

ASIC did engage with the schemes of arrangements for Ovato Limited, Ovato Print Pty Ltd, Hannanprint NSW Pty, Hannanprint Victoria Pty Ltd and Inprint Pty Ltd (**Ovato Schemes**). ASIC approached the Ovato Schemes in accordance with its policy outlined in [ASIC Regulatory Guide 60 Schemes of arrangement](#).

ASIC has been monitoring schemes of arrangements to consider whether the novel features of the Ovato Schemes are being repeated. To date, ASIC has not identified any similar schemes that have been proposed and accordingly does not plan to publish any further guidance at this stage.