

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Inquiry into corporate insolvency

2022 - 2023

Division: Market Conduct Division
Topic: Portfolio split of insolvency regimes
Reference: Written
Senator: Deborah O'Neill

Question:

At present, the corporate insolvency regime sits within Treasury while the personal bankruptcy regime is administered by the Attorney-General's portfolio.

- a. Can you please provide the committee with the historical context of how this came to be?
- b. Does this delegation of responsibilities pose difficulties for the administration of the respective regimes?
- c. Are there particular benefits arising from these arrangements?

Answer:

- a. Historically, corporate insolvency was dealt with by the Attorney-General's Department. Following the election of the Howard Government in 1996, responsibility for corporate insolvency (along with business law and practice, corporate and securities law) was transferred to the Department of the Treasury. Bankruptcy remained with the Attorney-General's Department. This was part of broader changes to departmental responsibilities, which involved the transfer of responsibility for the *Companies Act 1981* and the *Corporations Act 1989* to Treasury except to the extent administered by the Attorney-General's Department. See Administrative Arrangements Order 23 April 1996, and Administrative Arrangements Order 11 March 1996 for further detail.
- b. This is a question for the regulators, the Australian Securities and Investment Commission (ASIC) and the Australian Financial Security Authority (AFSA), as they administer the system.
- c. This is a question for the regulators, ASIC and AFSA, as they administer the system.