



ASIC
Australian Securities &
Investments Commission

Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Inquiry into Corporate Insolvency in Australia
Question No.	005
Topic	Correction to ASIC Table 29
Reference	Spoken, 14 December 2022, Hansard page 72
Committee member	Senator Deborah O'Neill

Question

CHAIR: There'll be other questions on notice, but I want to interrogate table 29. As to the whole question of whether there's market failure in the sector and whether cross-subsidising is an inappropriate way to have a modern business running, where it's providing a public good through filling in reports for ASIC, which they say are not being used—do you have a different view about that? This is the remuneration here. Could you talk me through that and either tell me why you think everything is hunky-dory here or convince me that there's no need for change.

Mr Day: It's hard to answer that question because, if you look at our submission about remuneration, there's a large amount of remuneration paid in this industry. What this table shows is that a lot of that remuneration is in certain areas and certain types of appointments. I think some of that, about where it's paid, is probably not that surprising. Outside of that, I'm really in your hands about how you want to explore the information.

Senator SCARR: Is this the average per appointment? I'm just trying to interpret the table.

CHAIR: It says its remuneration by appointment type, and I'm assuming you've given us the best data that you've got. I'm still none the wiser about the real shape of where the money is moving and what's happening, and I can't see where we would get any better data than from you, to whom they report—and ASIC is the manager of the register. We haven't even got to talk about the register. Thirteen of 14 are falling off the register because you guys take them off, rather than them going through a process. Can you help us understand what this data reveals, and is there more data?

Senator SCARR: For example, if I go down to 'creditors' voluntary liquidation', it's got '1,093'. The guide to the table is telling me that it's in thousands, so that's \$1,093,000.

Mr Day: On average.

Senator SCARR: Is that an average? It can't be the total.

CHAIR: It says its remuneration paid 'by appointment type as disclosed in forms 5603 lodged in the period 1 September 2017 to 30 September 2022'. Is that an aggregate over that period of time? If it is, they'd be paid pretty badly.

Senator SCARR: No, it's not. That can't be right.

Ms Eszenyi: Millions.

Mr Day: It should be millions. Apologies.

CHAIR: Right. Okay. So that changes things, and we start to get a bit of a better sense of the scale.

Mr Day: We might take on notice a better explanation, just to ensure we give you the correct number. We'll take that on notice and provide that as maybe an addendum to the submission.

Senator SCARR: Because, Mr Day, the other issue is that, if it's a mega-liquidation or VA, that could distort the numbers, so a normal distribution would be helpful. I don't know if that's possible, but do you understand what I'm saying?

Mr Day: We'll see what we can do. I understand.

Answer

ASIC apologises for the incorrect labelling in Tables 28 to 30 in ASIC's submission. All amounts to in Tables 28 to 30 of our submission should be millions rather than thousands. Amended tables are at the end of this document.

Amended tables 28-30 provide further analysis of Table 4 on page 23 of ASIC's submission.

Table 4 of ASIC's submission provided a summary of the variance between the remuneration amount reported as determined/fixed by creditors committee or court and the amount reported as paid in the Remuneration Table in [Form 5603 End of administration return](#) (Form 5603) lodged by registered liquidators in the period 1 September 2017 to 30 September 2022 (regardless of when the appointment commenced).

Meaningful analysis of the impact of large voluntary administrations and liquidations on the amounts reported would be unreasonable diversion of resources at this time for reasons including:

- Requires analysis of 213,210 lodged forms including analysis of reasons for variances
- Different processes employed by different registered liquidators for example as referred to in paragraph 97 of ASIC's submission
- Consideration of impact of multiple appointments on reported remuneration
- Consideration of the impact of pooled or other grouped administrations on reported remuneration
- Impact of administration appointments transitioning from one type of external administration appointment to another type of external administration appointment and the impact on reported remuneration. For example:
 - a voluntary administration appointment may transition to either a deed of company arrangement or a creditors' voluntary liquidation
 - a deed of company arrangement may transition to a creditors' voluntary liquidation
 - a creditors' voluntary liquidation may transition to a simplified liquidation
 - a court liquidation may be stayed to permit a voluntary administration appointment to proceed
- Submission of Forms 5603 which are incomplete or incorrect
- The impact of length of the appointment and changes in the Law and forms required to be lodged over time and the systems used to record information.

Tables 28 to 30 provide a more detailed analysis of remuneration determined/fixed and paid by breaking down the total amount of remuneration determined/fixed and paid (i.e. the \$4,142,181,803 and \$3,241,419,920 respectively) into the type of transitioning external administration appointment to which it relates i.e.:

1. Table 28 provides a detailed breakdown of remuneration determined/fixed (total \$4,142,181,903)
2. Table 29 provides a detailed breakdown of remuneration paid (total \$3,241,419,920)
3. Table 30 provides a breakdown of the variance between the remuneration disclosed and determined/fixed and the remuneration paid (total \$900,761,883).

Amended Table 128: Remuneration determined/fixd by creditors, committee or court (\$ Million) by appointment type as disclosed in forms 5603 lodged in the period 1 September 2017 to 30 September 2022

Appointment type	Remuneration Type (\$ Million)														
	Administrator	Controller	Deed Administrator	Simplified liquidation	Court Liquidation	Creditors' Voluntary Liquidation	Members' Voluntary Liquidation	Managing Controller	Provisional Liquidator	Receiver	Receiver and Manager	Restructuring plan practitioner	Restructuring practitioner	Scheme Administrator	Total
Administrator	574	0	16	0	0	14	0	0	0	0	0	0	0	0	606
Controller	0	8	0	0	0	0	0	0	0	0	0	0	0	0	8
Deed Administrator	616	0	323	0	0	2	0	0	0	0	0	0	0	0	941
Simplified liquidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court Liquidation	17	0	7	0	456	3	0	0	4	0	2	0	0	0	490
Creditors' Voluntary Liquidation	308	0	25	0	0	1,309	5	0	0	0	2	0	0	0	1,648
Members' Voluntary Liquidation	0	0	0	0	0	0	55	0	0	0	0	0	0	0	55
Managing Controller	0	1	0	0	0	0	0	2	0	0	0	0	0	0	2
Provisional Liquidator	0	0	0	0	0	0	0	0	4	0	0	0	0	0	4
Receiver	0	0	0	0	0	0	0	0	0	8	2	0	0	0	10
Receiver and Manager	0	0	0	0	0	0	0	0	0	1	315	0	0	0	317
Restructuring plan practitioner	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Restructuring practitioner	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
Scheme Administrator	0	0	0	0	0	0	0	48	0	0	0	0	0	9	57
Total	1,516	9	371	0	457	1,328	60	50	9	9	321	0	2	9	4,142

(a) Source: Forms 5603 lodged with ASIC for the period 1 September 2017 to 30 September 2022.

(b) Note: Rounding of remuneration paid to nearest \$ Million may mean data in table does not equal the total displayed.

Amended Table 229: Remuneration paid (\$ Million) by appointment type as disclosed in forms 5603 lodged in the period 1 September 2017 to 30 September 2022

Appointment type	Remuneration Type (\$ Million)															Total
	Administrator	Controller	Deed Administrator	Simplified liquidation	Court Liquidation	Creditors' Voluntary Liquidation	Members' Voluntary Liquidation	Managing Controller	Provisional Liquidator	Receiver	Receiver and Manager	Restructuring plan practitioner	Restructuring practitioner	Scheme Administrator		
Administrator	140	0	0	0	0	0	0	0	0	0	0	0	0	0	0	140
Controller	0	24	0	0	0	0	0	0	0	0	0	0	0	0	0	24
Deed Administrator	352	0	270	0	0	1	0	0	0	0	0	0	0	0	0	623
Simplified liquidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court Liquidation	13	0	7	0	381	2	0	0	3	0	2	0	0	0	0	407
Creditors' Voluntary Liquidation	238	0	14	0	0	1,093	4	0	0	0	1	0	0	0	0	1,350
Members' Voluntary Liquidation	0	0	0	0	0	0	58	0	0	0	0	0	0	0	0	58
Managing Controller	0	1	0	0	0	0	0	4	0	0	0	0	0	0	0	5
Provisional Liquidator	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Receiver	0	0	0	0	0	0	0	0	0	9	2	0	0	0	0	12
Receiver and Manager	0	0	0	0	0	0	0	0	0	2	561	0	0	0	0	563
Restructuring plan practitioner	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Restructuring practitioner	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1
Scheme Administrator	0	0	0	0	0	0	0	48	0	0	0	0	0	0	8	57
Total	742	25	291	0	382	1,096	62	52	4	11	567	0	1	9	3,241	

(a) Source: Forms 5603 lodged with ASIC for the period 1 September 2017 to 30 September 2022.

(b) Note: Rounding of remuneration paid to nearest \$ Million may mean data in table does not equal the total displayed.

Amended Table 330: Variation between remuneration determined/fixed by creditors, committee or court and remuneration paid (\$ Million) by appointment type derived forms 5603 lodged in the period 1 September 2017 to 30 September 2022

Appointment type	Remuneration Type (\$ Million)														
	Administrator	Controller	Deed Administrator	Simplified liquidation	Court Liquidation	Creditors' Voluntary Liquidation	Members' Voluntary Liquidation	Managing Controller	Provisional Liquidator	Receiver	Receiver and Manager	Restructuring plan practitioner	Restructuring practitioner	Scheme Administrator	Total
Administrator	435	0	16	0	0	14	0	0	0	0	0	0	0	0	465
Controller	0	(16)	0	0	0	0	0	0	0	0	0	0	0	0	(16)
Deed Administrator	264	0	53	0	0	1	0	0	0	0	0	0	0	0	319
Simplified liquidation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court Liquidation	5	0	0	0	75	1	0	0	1	0	0	0	0	0	83
Creditors' Voluntary Liquidation	71	0	11	0	0	216	1	0	0	0	0	0	0	0	298
Members' Voluntary Liquidation	0	0	0	0	0	0	(3)	0	0	0	0	0	0	0	(2)
Managing Controller	0	0	0	0	0	0	0	(2)	0	0	0	0	0	0	(2)
Provisional Liquidator	0	0	0	0	0	0	0	0	4	0	0	0	0	0	4
Receiver	0	0	0	0	0	0	0	0	0	(1)	0	0	0	0	(2)
Receiver and Manager	0	0	0	0	0	0	0	0	0	0	(246)	0	0	0	(246)
Restructuring plan practitioner	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Restructuring practitioner	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Scheme Administrator	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	774	(16)	80	0	76	232	(1)	(2)	5	(2)	(246)	0	0	0	901



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