

ANSWERS TO QUESTIONS ON NOTICE

**Treasury Portfolio**

**Inquiry into corporate insolvency in Australia**

2022 - 2023

**Division:** Market Conduct Division  
**Topic:** Personal and corporate insolvency differences  
**Reference:** Spoken (p. 57)  
**Senator:** Deborah O'Neill

**Question:**

CHAIR: The implied difference between personal and corporate insolvency is always that there is a lot more money and it is more complex in corporate insolvency. That is kind of the embedded subtext all of the time. But it seems to me—and please correct me if I am wrong—that in the course of these hearings it has become more and more apparent that the complexity of much of the corporate insolvency is actually pretty similar in shape to what is happening in the personal bankruptcy space in terms of level of debt, but is caught up in an entirely different system without any access to a government-run liquidator.

Mr Dickson: It might be worthwhile for us to try and see if we can find any data on that. I am not sure if it exists but I would be happy to take that on notice. I think back to one of the earlier jobs in my career, which was the collapse of HH, which was a different order of magnitude. We have seen other very large-scale insolvencies, so we are aware that there are, as you point out, different categories. The question is: What does the distribution of assets and potential losses look like across the entire cohort over time?

**Answer:**

ASIC's insolvency statistics – Series 3 External administrator reports (published here: <https://asic.gov.au/regulatory-resources/find-a-document/statistics/insolvency-statistics/insolvency-statistics-series-3-external-administrator-reports/>) released in January 2023 contain statistics on the estimated total liabilities based on initial external administrators' and receivers' reports for corporate insolvency lodged with ASIC.<sup>1</sup>

The statistics, extracted below, show that less than 10 per cent involved estimated total liabilities of \$50,000 or less. Over 70 per cent involved estimated total liabilities in the \$100,001 to less than \$5 million range.<sup>2</sup>

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<sup>1</sup> The reports are prepared under sections 422 (Receivers), 438D (Voluntary Administrators) and 533 (Liquidators) of the *Corporations Act 2001* and Regulation 5.5.05 of the *Corporations Regulations 2001* (Simplified liquidation process).

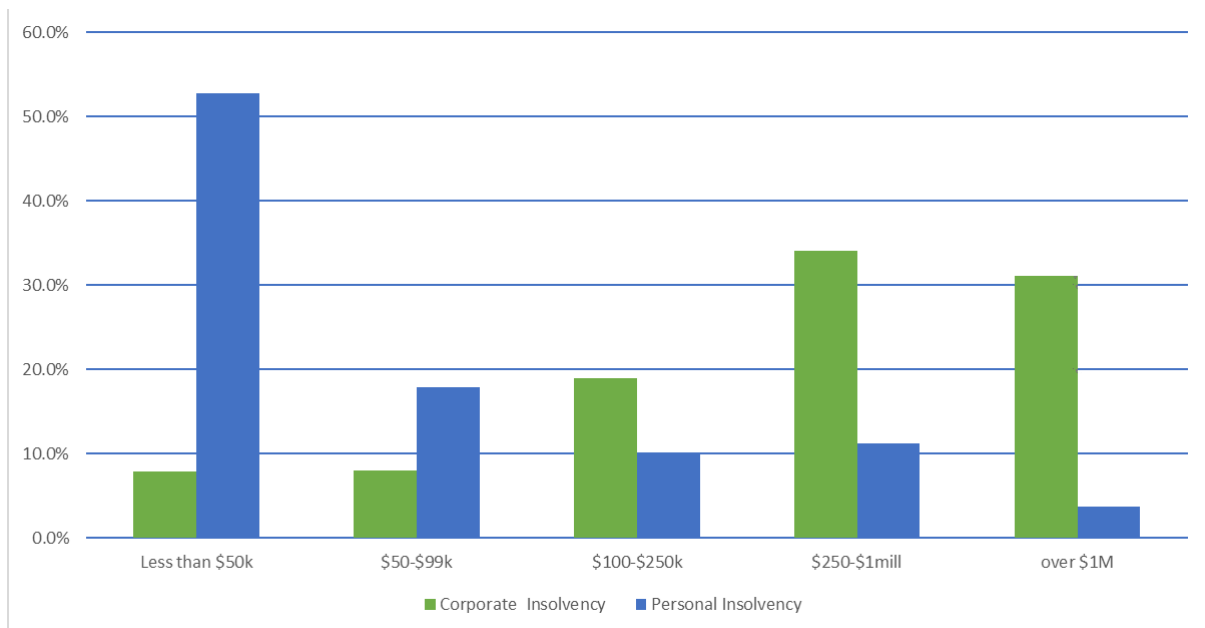
<sup>2</sup> The reports contain the appointee's estimate of liabilities at the time the report is lodged. As the relevant reports relate to the reporting of suspected breach of relevant laws, or where there is an expectation that the liquidator will pay less than 50 cents in the dollar, not all external administrations and controller appointments lodge a report with ASIC. As such this data does not relate to all external administrations and controller appointments but rather a subset.

Estimated total liabilities											
	<\$1	\$1-\$10,000	\$10,001-\$20,000	\$20,001-\$30,000	\$30,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$1m	\$1m-\$5m	\$5m-\$10m	>\$10m
<b>FY 21-22</b>	0.7%	1.7%	1.4%	1.1%	3%	8%	19%	34%	21%	4.6%	5.7%
<b>FY 20-21</b>	0.4%	2%	1.6%	1.7%	3%	8.6%	18.8%	31%	22%	3.5%	6.5%

The *State of the Personal Insolvency System* Report published by the Australian Financial Security Authority (AFSA) notes that 52.7 per cent of people who entered into personal insolvency during 2021-22 had less than \$50,000 in liabilities.<sup>3</sup>

The following is a visual representation of the above data. Note the AFSA data does not total to 100 given not all estates have disclosed liabilities owed.

#### COMPARISON OF ESTIMATED TOTAL LIABILITIES IN CORPORATE AND PERSONAL INSOLVENCY



<sup>3</sup> Australian Financial Security Authority, [State of the Personal Insolvency System](#), [afsa.gov.au](https://www.afsa.gov.au), 2023, p 3.