

Parliamentary Joint Committee on Corporations and Financial Services

ANSWERS TO QUESTIONS ON NOTICE

Treasury Portfolio

Inquiry into Corporate Insolvency in Australia

Wednesday, 14 December 2022

Division/Agency: Australian Prudential Regulation Authority

Question No: APRA01QoN

Topic: Triggers for General Insurer judicial management

Reference: Spoken (Hansard Page 60)

Senator: Deborah O'Neill

Question:

CHAIR: Where APRA has grounds to believe the general insurer may be unable to meet its liabilities in the insurance act, there is a provision for the external administration and winding up of general insurers. The most commonly used form of administration under that part of the law is judicial management, and that was introduced into the insurance act in 2008. What are the triggers for APRA applying for a general insurer to be placed in judicial management?

Mr Tattersall: I might take that on notice because I'm not a general insurance specialist.

Answer:

Under the *Insurance Act 1973* (the Insurance Act), APRA may apply to the Federal Court for an order that a general insurer be placed under judicial management if one or more of the following triggers is met:

1. After the insurance business of the general insurer has been investigated by an inspector appointed under the Insurance Act and having regard to the results of the investigation, it is in the best interests of policyholders of the general insurer that the order is made; or
2. The time needed to make or complete an investigation of the insurance business of the general insurer under the Insurance Act would be likely to prejudice the interests of policyholders of the general insurer and one of the following is satisfied:
 - i. in the absence of external support, the general insurer is, or is likely to become, unable to meet its policy or other liabilities as they become due; or
 - ii. the general insurer has failed to comply with a:
 - a. prudential standard; or
 - b. recapitalisation direction; or
 - c. direction given by APRA under section 104 of the Insurance Act; or
 - iii. an external administrator has been appointed to the holding company of the general insurer and that appointment poses a significant threat to the operation or soundness of the general insurer, the interests of policyholders or the stability of the Australian financial system; or

- iv. in relation to a foreign general insurer:
 - a. in the absence of external support, the general insurer is, or is likely to become, unable to meet its liabilities in Australia from its assets in Australia; or
 - b. an external administrator has been appointed to the general insurer (or an application has been made to appoint an external administrator); or
- v. there are reasonable grounds for believing that the financial position or management of the general insurer may be unsatisfactory.

There are other powers which APRA may utilise if it has prudential concerns regarding the viability of a general insurer. These include issuing a direction to the general insurer or appointing a statutory manager to the general insurer. Relevant Insurance Act triggers must be met before APRA uses either of these powers.