

Question on notice no. 93

Portfolio question number: 93

2018-19 Budget estimates

Economics Committee, Treasury Portfolio

Senator Peter Whish-Wilson: asked the Department of the Treasury on 30 May 2018

Senator WHISH-WILSON: Mr Jordan, in relation to your opening statement and your responses to Senator Keneally's questions about Four Corners, [...] The government announced its commitment to establish a beneficial owners register in December 2016. Can you update us on that?

[...]

Ms Mrakovcic: That question should probably be referred to Markets Group in Treasury. I'm happy to take it on notice for them.

[...]

Senator WHISH-WILSON: It's company structures, right?

Ms Purvis-Smith: That's right. My understanding is that Markets Group have put out a consultation paper and are responsible for the legislation, so questions in relation to that should be referred to Markets Group.

Senator WHISH-WILSON: But it is an anti-tax-avoidance strategy, correct?

Ms Purvis-Smith: In relation to the material on companies-and again, I think this is best framed to Markets Group-it's relating to the change in the Corporations Act.

Senator WHISH-WILSON: If you could take that on notice, and I'll put some questions to them as well. I want to know what work's been done on it, and whether we're still going to see some kind of legislation.

Answer —

See attachment.

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Division/Agency: Consumer and Corporations Policy Division
Question No: 93
Topic: Beneficial Owners Register
Reference: Hansard page 17 (30 May 2018)
Senator: Peter Whish-Wilson

Question:

Senator WHISH-WILSON: Mr Jordan, in relation to your opening statement and your responses to Senator Keneally's questions about Four Corners, [...] The government announced its commitment to establish a beneficial owners register in December 2016. Can you update us on that?

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Ms Mrakovic: That question should probably be referred to Markets Group in Treasury. I'm happy to take it on notice for them.

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Ms Purvis-Smith: In relation to the material on companies—and again, I think this is best framed to Markets Group—it's relating to the change in the Corporations Act.

Senator WHISH-WILSON: If you could take that on notice, and I'll put some questions to them as well. I want to know what work's been done on it, and whether we're still going to see some kind of legislation.

Answer:

The Government committed in December 2016 in the Open Government National Action Plan to improve transparency of information of beneficial ownership and control of companies available to relevant authorities. The Government's objective is to assist relevant authorities to address illegal activities of tax evasion, money laundering, corruption and terrorism financing.

As part of this commitment, the Government released a public consultation paper seeking views on the details, scope and implementation of a beneficial ownership register for companies. Treasury has considered submissions to the public consultation and has provided the Minister for Revenue and Financial Services with recommendations to increase the transparency of beneficial ownership of companies.

What action, if any, is to be taken in relation to this matter is a policy matter for Government.

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Division/Agency: Consumer and Corporations Policy Division
Question No: AET68
Topic: Law enforcement agencies
Reference: Hansard page 76 (20 February 2019)
Senator: Chris Ketter

Question:

Senator KETTER: Which law enforcement agencies have argued in favour of a beneficial ownership register?

Ms O'Rourke: We have got all of the submissions available, but we might take on notice exactly which agencies are the ones that have supported the different options that Ms Williamson described.

Senator KETTER: The ATO, for example?

Ms O'Rourke: Again, I'd like to take the question on notice to make sure I properly describe their position.

Answer:

The Government undertook public consultation on the details, scope and implementation of a beneficial ownership register for companies as well as other options to improve beneficial ownership transparency from 13 February to 13 March 2017.

Treasury also engaged with the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office and the Australian Transaction Reports and Analysis Centre as part of this consultation process. These agencies supported increasing transparency of beneficial ownership information for companies, and supported a register of beneficial ownership as one avenue to achieve this objective. However, ASIC does not support implementing a register on its current information technology platforms.

Key Message:

- The Government is committed to improving the transparency of information around beneficial ownership and control of companies available to relevant authorities. The Government is currently considering what action may be needed to improve the transparency of beneficial ownership information.

Key Facts And Figures:

- Exploitation of company and trust structures results in gains for criminals and financial losses to the Australian economy. Greater transparency around who controls and benefits from these entities will enable authorities to better tackle illicit activities including tax evasion and money laundering.

Coalition Action:

International commitments

- As a founding member of the Financial Action Task Force (FATF), Australia is committed to developing and meeting international standards to combat money laundering and terrorist financing. Australia has also committed to the G20 High-Level Principles on Beneficial Ownership Transparency to improve the transparency of Australia's beneficial ownership information. Australia reiterated its commitment to the FATF standards and beneficial ownership transparency at G20 meetings in 2015, 2016, 2017 and 2018.

Australia's first Open Government National Action Plan 2016-18

- On 7 December 2016, the Government committed to improve the transparency of information on beneficial ownership and control of companies for relevant authorities in Australia's first Open Government National Action Plan 2016-18 (NAP1).
- Australia has completed two of the three milestones under this commitment: 1) Treasury "to release a public consultation paper", and 2) Treasury "continuing to consult with stakeholders [and] provide a recommendation to Government".
- The final milestone is outstanding. That is, to "Begin work to implement Government decision on transparency of beneficial ownership of companies." This milestone is marked as "Delayed" on the Open Government National Action Plan (OGNAP) website and the overall NAP1 commitment for beneficial ownership has not been completed.
- The Government will continue to publicly report on the status of this commitment via the OGNAP website until it has been completed.

Release of consultation paper

- Between 13 February and 13 March 2017 the Government released for public consultation a paper entitled 'Increasing Transparency of the Beneficial Ownership of Companies'. Twenty-three non-confidential submissions to the consultation have been published on the Treasury website. Submissions were received from professional bodies, academics and individuals. The majority of stakeholders broadly supported increasing the collection of information on the beneficial ownership of companies.

QTB Number	QB18-000056	Adviser	s 22
Contact Officer	s 22	Contact Number	(02) s 22
Division responsible	Consumer and Corporations Policy Division Name		
Office Responsible	Treasurer	Date of Update	26 June 2019

BENEFICIAL OWNERSHIP

Background:

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- The Government has consulted publicly on improving transparency around who owns, controls and benefits from companies to assist relevant law enforcement authorities in combating illicit activities including tax evasion, money laundering, bribery, corruption and terrorism financing.
- The Government is currently considering what action may be needed to improve the transparency of beneficial ownership information.
- : As with any law or regulatory change, careful consideration needs to be given as to the impacts of collecting beneficial ownership information, what information should be collected and which agencies it should be made available to.

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Question on notice no. 98

Portfolio question number: 98

2018-19 Supplementary budget estimates

Economics Committee, Treasury Portfolio

Senator Peter Whish-Wilson: asked the Department of the Treasury on 24 October 2018

- (1. What is the status of the commitment to establish a beneficial ownership register for companies?
2. When will a beneficial ownership register for companies be established?

Answer —

See attachment.

Senate Economics Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
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Division/Agency: Consumer and Corporations Policy Division
Question No: 98
Topic: Beneficial ownership register
Reference: Written (2 November 2018)
Senator: Peter Whish-Wilson

Question:

1. What is the status of the commitment to establish a beneficial ownership register for companies?
2. When will a beneficial ownership register for companies be established?

Answer:

1. In December 2016 the Government committed in the Open Government National Action Plan to improve transparency of information of beneficial ownership and control of companies available to relevant authorities. The Government's objective is to assist relevant authorities to address illegal activities such as tax evasion, money laundering, corruption and terrorist financing.

As part of this commitment, the Government released a public consultation paper seeking views on the details, scope and implementation of a beneficial ownership register for companies.

2. No commitment to implement a register has been made by Government. The Government is considering what action may be needed to increase the transparency of beneficial ownership of companies.

Question on notice no. 100

Portfolio question number: 100

2018-19 Supplementary budget estimates

Economics Committee, Treasury Portfolio

Senator Chris Ketter: asked the Department of the Treasury on 24 October 2018

(1. Treasury's consultation on increasing transparency of the beneficial ownership of companies finished on March 2017. Has Treasury provided advice to Government stemming from this consultation?

2. When did Treasury provide advice to Government about beneficial ownership?

3. Has Treasury engaged in legislative drafting for beneficial ownership as a result of this consultation?

4. When will Treasury release draft legislation on reforms to beneficial ownership?

Answer —

See attachment.

Senate Economics Legislation Committee
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Division/Agency: Consumer and Corporations Policy Division
Question No: 100
Topic: Beneficial Ownership
Reference: Written (02 November 2018)
Senator: Chris Ketter

Question:

1. Treasury's consultation on increasing transparency of the beneficial ownership of companies finished on March 2017. Has Treasury provided advice to Government stemming from this consultation?
2. When did Treasury provide advice to Government about beneficial ownership?
3. Has Treasury engaged in legislative drafting for beneficial ownership as a result of this consultation?
4. When will Treasury release draft legislation on reforms to beneficial ownership?

Answer:

1. Yes.
2. Treasury's advice to the Minister for Revenue and Financial Services was provided after the consultation period closed and during the implementation period for the OGNAP.
3. The Government is considering what action may be needed to increase the transparency of beneficial ownership of companies. Next steps could include development of any necessary legislative reforms and their implementation.
4. See response to question 3.

Question on notice no. 69

Portfolio question number: 69

2018-19 Additional estimates

Economics Committee, Treasury Portfolio

Senator Chris Ketter: asked the Department of the Treasury on 20 February 2019

Senator KETTER: Can you tell me which stakeholders argued against a beneficial ownership register?

Ms O'Rourke: If you don't mind, I'd like to take that on notice to give you a complete list?

Answer —

See attachment.

Senate Economics Legislation Committee
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Division/Agency: Consumer and Corporations Policy Division

Question No: AET69

Topic: Which stakeholders argued against a beneficial ownership register?

Reference: Hansard page 77 (20 February 2019)

Senator: Chris Ketter

Question:

Senator KETTER: Can you tell me which stakeholders argued against a beneficial ownership register?

Ms O'Rourke: If you don't mind, I'd like to take that on notice to give you a complete list?

Answer:

The Government consulted publicly on the details, scope and implementation of a beneficial ownership register for companies as well as other options to improve beneficial ownership transparency from 13 February to 13 March 2017.

All non-confidential submissions have been published on Treasury's website. One of these submissions – from the Australian Investor Relations Association – argued against the establishment of a centrally operated register of beneficial ownership.