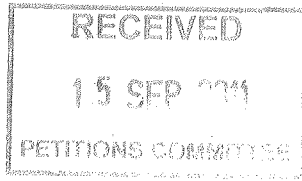




466/774

**DEPUTY PRIME MINISTER
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8 SEP 2011

The Hon John Murphy MP
Chair
The House Standing Committee on Petitions
PO Box 6021
Parliament House
CANBERRA ACT 2600

Dear Mr Murphy,

Thank you for your letter of 23 May 2011 forwarding to me a petition submitted for consideration of the Standing Committee on Petitions, regarding the presumption of insolvency of authorised deposits-taking institutions. I apologise for the delay in responding to you.

The Australian Securities and Investment Commission (ASIC) is responsible for regulating Australia's corporate, markets and financial services. ASIC is an independent Commonwealth Government body and contributes to Australia's economic reputation and wellbeing by ensuring that Australia's financial markets are fair and transparent, supported by confident and informed investors and consumers. ASIC regulates Australian companies, financial markets, financial services organisations and professionals who deal and advise in investments, superannuation, insurance, deposit taking and credit via the *Corporations Act 2001* and the *Australian Securities and Investments Commission Act 2001*.

As the petitioners have noted, under subsection 461(h) of the *Corporations Act 2001*, the Court may make an order winding up a company if ASIC prepares a report stating that the company is unable to pay its debts and should be wound up or alternatively it is in the interests of the public, the company's members. This is in addition to the power of the Court to wind up a company if it considers the company to be insolvent. Under the *Corporations Act*, the Treasurer has no standing to apply to the Court to wind up a company.

Section 459C of the *Corporations Act* permits a creditor to rely on a presumption of insolvency in limited cases. These include when a creditor has failed to comply with a statutory demand for payment of debt. In each case, the presumption of insolvency can be rebutted by evidence to the contrary. The general provisions relating to the winding up of companies also apply to ADIs.

As Australia's corporate, markets and financial services regulator, ASIC makes many decisions about corporations, securities and financial products and services that can affect individuals. Individuals have the right to request further information regarding individual decisions made by ASIC or to seek a statement of reasons from ASIC for decisions made. Individuals may also have a right to seek review of an ASIC decision by the Administrative Appeals Tribunal (AAT). The AAT is an independent body which can review some of ASIC's decisions.

Should the petitions wish to raise their concerns with ASIC, it can be contacted by calling 1300 300 630, by visiting www.asic.gov.au, or by writing to:

Australian Securities and Investments Commission
GPO Box 9827
Your Capital City

The petition also raises the issue of the Government's fiscal stimulus. The stimulus supported the economy during the global downturn, and was the main reason why Australia avoided recession. Due in part to the effectiveness of Australia's stimulus packages, the Australian economy weathered the global financial crisis better than almost all other advanced economies.

Without the Government's fiscal stimulus, the Australian economy would have followed the rest of the advanced world into recession. Australia was one of only three advanced economies to avoid recession and while other economies suffered large job losses, the Australian has economy created over 700,000 jobs since the end of 2007. As was noted in the 2011-12 Budget, the Australian labour market remained remarkably resilient during the GFC. Since March 2007, employment has increased by around 9¼ per cent in Australia compared with around 3 per cent in Canada, 2¼ per cent in New Zealand and a decrease of 4¾ per cent in the United States

In relation to the petitioners concerns with Australia's involvement in the G20 forum, I note that the Gillard Government is committed to realising the benefits from working with the G20 to help build a lasting global recovery, while maintaining the flexibility to do what is right for Australia's economy and for Australian families.

The G20 was established in 1999, in the wake of the 1997 Asian Financial Crisis, to bring together major advanced and emerging economies to stabilize the global financial market. Since its inception, the G20 has held annual Finance Ministers and Central Bank Governors' Meetings and discussed measures to promote the financial stability of the world and to achieve a sustainable economic growth and development. To tackle the financial and economic crisis that spread across the globe in 2008, the G20 members were called upon to further strengthen international cooperation. Accordingly, the G20 Summits have been held in Washington in 2008, in London and Pittsburgh in 2009, and in Toronto and Seoul in 2010.

The concerted and decisive actions of the G20, with its balanced membership of developed and developing countries helped the world deal effectively with the financial and economic crisis, and the G20 has already delivered a number of significant and concrete outcomes which have benefited Australia. Further information on the important work of the G20 can be found here: www.g20.org.

I note that, when the Committee has considered this response, it will be presented in the House and posted on the Committee's website.

Thank you for bringin this petition to my attention. I trust this information will be of assistance to you.

Yours sincerely

WAYNE SWAN