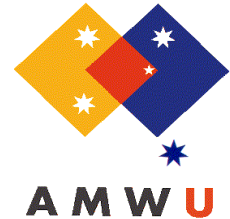


24 January, 2012



The Manager
Governance and Insolvency Unit
Corporations and Capital Markets Division
The Treasury
Langton Crescent
PARKES ACT 2600

National Office
Level 3, 133 Parramatta Rd
Granville NSW 2142

By email: insolvency@treasury.gov.au

Dear Manager

RE: Exposure Draft - Corporations Amendment (Phoenixing and Other Measures Bill) 2012

The AMWU broadly supports the Bill and recognises that, as with the 2011 bills dealing with companies' non-compliance with PAYG withholding and superannuation guarantee obligations, this Bill is a positive step in advancing the protection of workers entitlements. The AMWU has seen a copy of the ACTU's submission into this Bill and endorses that submission. We adopt the comments made in that submission, particularly in respect of, (1) the need for proper funding and resourcing of ASIC if all the legislation in this area is going to be effective, and (2) the probable limitations of the Bill in respect of the role and payment of liquidators.

The AMWU, in its submission to the Action Against Fraudulent Phoenix Activity November 2009 proposals paper¹, made a number of suggestions which we feel would also greatly assist in combating phoenix activity and the protection of workers' entitlements.

The central suggestion that we made concerned the trust fund option. As stated in our submission, 'the trust fund option if instigated Australia wide will guarantee payment of entitlements in the event of insolvency, providing a comprehensive solution to this issue.' Employers will be forced to meet their legal obligations and responsibilities and the taxpayer will not ultimately be left to make good the loss suffered by the workers.

The AMWU is encouraged that the Government continues to implement legislation to combat the deleterious activities of rogue directors, but would press the Government to further examine the other suggestions the AMWU has previously made and engage in further consultation.

Yours sincerely

MIKE NICOLAIDES
ACTING NATIONAL SECRETARY AMWU

¹ http://www.treasury.gov.au/documents/1892/PDF/Australian_Manufacturing_Workers_Union.pdf