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Newman & Partners
Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at **insolvency@newmanandpartners.co.uk**

Almost 500,000 UK businesses are facing financial distress

According to a new study, almost half a million businesses in the UK are experiencing significant financial distress. Of those affected, businesses in the property, leisure and tourism sectors are experiencing the most severe issues.

The latest Red Flag Alert has found that 484,000 businesses are in significant distress, which is equivalent to around 14 per cent of all active UK businesses. This is unsurprising considering that average insolvent company debt has increased by 122 per cent since 2015 to £66,000.

Amongst those worst affected were businesses linked to the consumer economy who were being affected by falling sales, according to the report. In particular, the Red Flag Alert highlighted higher levels of distress in the following sectors: hotels and accommodation, sport and health clubs and leisure and cultural activities.

The downturn in these industries has indirectly affected those reliant on the health of the consumer economy, such as real estate and property companies, who were most affected by the weakest consumer spending since records began in the mid-1990s.

According to the report, this sector saw a 15 per cent year-on-year increase in the number of companies in significant financial distress, rising to 49,342 in the second quarter of 2019.

There was also an increased level of significant distress within the financial services sector, with some 12,666 businesses now facing significant distress, an increase of five per cent compared to the second quarter of last year. Brexit is thought to have had a significant effect in this sector.

Financial distress can be a clear indicator of future insolvency. If you spot the signs of distress within a business it is imperative that you act quickly, so contact our team today.

Businesses offered a ‘bad deal’ in HMRC insolvency rule change

New rules that would make HMRC a preferred creditor in some cases, which were outlined last month in the draft Finance Bill, are a “bad deal” for UK businesses and the taxpayer, according to the insolvency trade body, R3.

The Government confirmed that it would push ahead with its proposals to prioritise the repayment of some tax debts in insolvencies from April 2020. The money paid to HMRC will come out of funds paid to other creditors, placing HMRC in front of pension schemes, trade creditors, certain lenders, and employees.

The proposals in the draft Finance Bill state that insolvencies starting on or after April 2020, will see debts owed to HMRC, including PAYE, employee NICs and VAT, given priority over debts owed to floating charge holders and unsecured creditors. Currently, all HMRC debt is unsecured. The Bill also clarifies that tax penalties will not form part of HMRC’s preferential claim.

Despite several warnings from the insolvency and restructuring profession that the move would threaten access to finance and could make it harder rescue businesses, their calls appear to have fallen on deaf ears. A consultation on the Government’s proposals closed in May 2019, which criticised its approach.

Commenting on the proposals, R3 President Duncan Swift said: “While the Government has removed one damaging part of its original proposals – unproven tax penalty debts won’t be included in HMRC’s new priority claims – this is very much a case of the Government shooting first and asking questions later. That’s not a recipe for good policy.

“The Government should have gone much further in cutting back the scope of its proposals. Unlike the earlier, pre-2003 version of this policy, the size of the Government’s priority claim is uncapped, creating significant uncertainty in insolvencies for lenders, businesses, and others. A cap on the age of tax debt eligible for priority status would have been an obvious way to limit the downsides of the proposal. Ensuring that tax debts don’t take priority over pre-existing floating charges would have made these proposals much fairer, too.

“The downsides of this policy are plain to see. More money back for HMRC after an insolvency means less money back for everyone else. This increases the risks of trading, lending and investing, and could harm access to finance, especially for SMEs. This means less money is available to fund business growth and business rescue, and, in the long term, could mean less tax income for HMRC from rescued or growing businesses. It’s a self-defeating policy.

“The policy really doesn’t seem worth it. The Government is expecting a relatively small tax boost – £195 million a year, at most – and seems prepared to accept damage to access to finance and increased costs in insolvency to get it. The wider costs of this policy will outweigh the benefits. The Government must think again.”

Further measures under consideration are to make company directors personally responsible for debts due to HMRC in certain circumstances. This is yet a further breach of the principle of limited liability, a principle on which the success of a modern economy is based. Furthermore, such recoveries from directors would not pass through the hands of a liquidator for the benefit of all the creditors, but would solely benefit HMRC.

If you are concerned about the potential upcoming changes and how it may affect your clients’ relationship with debtors, please contact us.

Company insolvencies reach a five-year high

The number of company insolvencies has reached the highest level since 2014, according to the latest data. The figures were published in the Insolvency Service’s second quarter (Q2) 2019 report.

Overall, the number of underlying company insolvencies between April and June 2019 increased by 2.6 per cent compared to the previous quarter, to 4,321. This represents an 11.9 per cent increase when compared to the same period last year, and the highest level in any quarter since Q1 2014. The report states that the rise was driven largely by creditors entering voluntary liquidations, which has increased by 6.9 per cent in comparison with the first quarter of 2019.

However, the Federation of Small Businesses (FSB) suggests that the large annual rise can be attributed to the “immense strain” that small businesses are under with “rising employment costs, business rates and sustained political uncertainty”. Late payments are also hampering businesses, with those in the construction sector facing significant issues, as more than 3,000 firms went under in the year ending June 2019.

The FSB also cites the downfall of other labour-intensive industries, such as administration, hospitality and retail, who are struggling to meet the demands of higher wages, automatic enrolment and skills shortages.

The growth in insolvency is obviously very concerning, but not entirely unsurprising considering the current trading conditions. If you are concerned about the insolvency of a client, please contact our specialist team at Newman and Partners.

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