December 2023

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**

Insolvency lessons from the Wilko case

The collapse of Wilko, a longstanding UK high-street retailer, whilst sad for the employees and customers, offers clients and their advisers a wealth of insights and lessons.

With 93 years of trading history, the downfall of Wilko was a multi-factorial affair, encompassing a range of issues from financial mismanagement to external economic pressures.

This article aims to provide a comprehensive analysis of the Wilko case, highlighting key learning points for accountants advising their clients.

The importance of early warning signs and proactive measures

Wilko's journey towards administration was marked by several early warning signs, which, if addressed timely, might have altered its fate. The retailer faced challenges including supply chain disruptions, competitive pressures, and a significant pension shortfall.

Advisers should seek to recognise such early indicators and advise on proactive strategies, such as restructuring or seeking new investment, to avert a potential crisis. These are also signs upon which a proactive approach might be taken to position yourself correctly when insolvency is declared.

Navigating complex financial arrangements

Wilko's financial struggles were exacerbated by its transition from an unused credit facility to a more secured debt position with Australian lender Macquarie. This move, coupled with the economic disruption following former Prime Minister, Liz Truss's, mini-Budget, led to untenable interest terms.

Advisers should aim to navigate complex financial arrangements, especially in volatile economic climates, and advise on sustainable financial structures to dispose of assets and settle debts.

The role of auditors in insolvency

The case also brought to light the critical role of auditors within insolvency proceedings. Wilko's auditors, EY and PwC, were scrutinised for their reporting and whether they adequately flagged the risks faced by the retailer.

Stakeholder management during insolvency

One of the most challenging aspects of Wilko's insolvency was stakeholder management. The situation demanded delicate negotiations with creditors, landlords, and employees. The liquidators had to balance the interests of secured creditors like The Pension Protection Fund, Barclays, and Hilco UK, who were expected to be paid in full, against those of unsecured creditors.

The dynamics of asset liquidation and business rescue

Wilko's administration saw various parts of its business being acquired by competitors like Poundland, B&M, and The Range. This scenario underscored the nuances of asset liquidation versus business rescue. In this case, the liquidators evaluated the viability of selling off parts of a business against attempting a wholesale rescue, considering the long-term sustainability and potential job losses.

Considerations in retail sector insolvencies

The Wilko case illustrates the unique challenges of retail sector insolvencies as opposed to other sectors. High street retailers face intense competition, changing consumer habits, and high operational costs, so advisers working in this sector must consider these dynamics and explore innovative solutions.

Impact on employees and the broader economy

The collapse of Wilko had a significant socio-economic impact, with around 12,000 jobs at risk. Liquidators must handle such situations with empathy and responsibility, ensuring that employees are supported throughout the process and that their statutory rights are respected. Collaboration with government bodies and employment agencies for re-employment support is also vital. In the Wilko case, *nearly 10,000 former Wilko staff were paid £42m by the Insolvency Service*.

Learning from failed rescue attempts

Several rescue attempts for Wilko, including those by Doug Putman and private equity firm M2 Capital, failed due to various reasons like inflexible landlords and financial constraints. Liquidators understand the intricacies of rescue deals and the importance of flexibility and adaptability in negotiations.

Regulatory and legal compliance

Throughout the insolvency process, regulatory and legal compliance is paramount. The case highlighted issues like potential director misconduct and the need for liquidators to ensure that all actions are within the bounds of legal and regulatory frameworks.

The Wilko case presents a rich tapestry of challenges and learning opportunities for advisers and insolvency practitioners. It emphasises the need for a multifaceted approach, considering financial and operational, and human aspects of insolvency. By drawing lessons from this case, advisers can enhance their practices and better navigate the complexities of client difficulties, particularly in the volatile retail sector.

If you or your clients require advice on insolvency matters, please get in touch with our team.

The impact of the Autumn Statement 2023 on late payments: An insolvency perspective

Late payments are a serious problem for businesses, especially smaller enterprises. They disrupt cash flow, hinder financial planning, and can ultimately push companies towards insolvency.

In the UK, Small and Medium-sized Enterprises (SMEs) often struggle to stay afloat due to delayed payments from larger clients. The ripple effects of late payments can be devastating as they not only hamper a business's ability to invest and grow but also impact its ability to meet its own financial obligations, such as paying suppliers and employees. In extreme cases, persistent late payments can lead to insolvency, necessitating the intervention of insolvency practitioners (IPs).

The Autumn Statement 2023, presented by Chancellor Jeremy Hunt, included pivotal consultations around the issue of late payments. Businesses and financial experts have widely welcomed this move. It is crucial to understand these changes and their potential impact on the insolvency landscape.

New measures against late payments

The Chancellor's address included a range of measures aimed at curbing the culture of late payments. One of the key proposals is to exclude habitual late payers from Government contracts.

This creates a significant incentive for businesses to adhere to agreed payment terms. Furthermore, there was an emphasis on increasing the reputational risk for large corporates that use their smaller suppliers as a form of free credit.

The role of insolvency practitioners

For insolvency professionals, these consultations represent a potential shift in the business landscape. The focus on penalising late payments could lead to a decrease in the number of businesses facing insolvency due to cash flow issues. This proactive approach by the Government could reduce the financial strain on small businesses, allowing them breathing space to stabilise and grow.

Additionally, IPs might see a change in their advisory role. With fewer businesses pushed to the brink by late payments, IPs could focus more on helping companies with restructuring and turnaround strategies, rather than solely dealing with insolvency processes.

Implications for accountants and financial advisors

Accountants and financial advisors should closely monitor these developments. Understanding the nuances of the new policies will be crucial in advising clients effectively.

This includes helping businesses understand their rights regarding late payments and advising them on steps to take if they are on the receiving end of delayed payments.

The wider impact on business health

The Government's stance on late payments is a significant step towards creating a healthier business environment. By ensuring that payments are made on time, businesses can better manage their cash flow, invest in growth, and contribute more effectively to the economy.

A step in the right direction

The Autumn Statement's focus on combating late payments is a commendable move towards supporting the backbone of the UK economy - the small and medium-sized businesses.

As insolvency practitioners, we welcome this development, potentially leading to a healthier business environment and a reduction in insolvency cases caused by cash flow issues. In summary, it's a progressive step towards a more robust and equitable business landscape, benefitting businesses, their advisors, and the economy at large.

If one of your clients has experienced insolvency as a result of late payments, please get in touch with our team.

Restructuring as a tool to avoid insolvency

Insolvency is far from an inevitable outcome for struggling companies and restructuring can be a potent strategy to circumvent complete business collapse. However, the restructuring process can be complex and might be seen as financial trouble in the eyes of creditors and key stakeholders. As such, the process needs clear and effective management.

Below, our experts discuss how restructuring can prevent insolvency and examine some prevalent restructuring techniques.

Understanding restructuring

Restructuring refers to the reorganisation of a company's structure, operations, or finances. This process is undertaken with the aim of enhancing efficiency, reducing costs, or managing debt. The essence of restructuring lies in its ability to transform the financial and operational aspects of a business for the better, thus steering it away from the brink of insolvency.

Preventing insolvency through restructuring

Here are some common restructuring techniques to consider.

- **Debt restructuring:** Often, businesses facing insolvency have significant debt burdens. Debt restructuring involves negotiating with creditors to modify the terms of debt agreements. This can include extending payment terms, reducing interest rates, or converting debt into equity. By alleviating the debt burden, companies can improve cash flow and stabilise their finances.
- **Operational restructuring:** This involves making changes to the operational aspects of a business to boost efficiency and profitability. It can include measures like downsizing, asset sale, outsourcing non-core activities, or streamlining processes. Operational restructuring helps in cutting costs and enhancing operational efficiency, thus contributing to financial stability.
- **Organisational restructuring:** This involves altering the internal structure of the company, such as changing management, merging departments, or decentralising operations. By doing so, companies can eliminate redundancies, improve decision-making, and foster a more effective organisational culture.
- **Strategic restructuring:** Strategic restructuring includes revising the business model or strategy. Companies may diversify their product line, enter new markets, or adopt new technologies. These strategic shifts can open up new revenue streams and mitigate the risks associated with over-reliance on a single product or market.

Case studies and techniques

Several high-profile case studies illustrate the efficacy of restructuring in averting insolvency. For instance, a well-known retail chain successfully averted insolvency by restructuring its debt and closing unprofitable stores.

Another example is a manufacturing company that avoided insolvency by restructuring its operations, leading to cost savings and improved efficiency.

When implementing restructuring, professionals will consider the following techniques:

- **Cost-benefit analysis:** Before undertaking any restructuring measure, it is crucial to conduct a thorough cost-benefit analysis. This helps in identifying the most effective strategies and in understanding the potential impact on the company's financial health.
- **Stakeholder engagement:** Engaging with stakeholders, including creditors, employees, and shareholders, is vital. Transparent communication and negotiation can facilitate the restructuring process and ensure stakeholder buy-in.
- **Legal and regulatory compliance:** Restructuring must be carried out in compliance with legal and regulatory requirements. This includes adhering to employment laws, contractual obligations, and insolvency regulations.
- **Professional advice:** Seeking professional advice from insolvency experts is essential. These professionals can provide valuable insights, help in navigating complex financial situations, and ensure that the restructuring process is executed effectively.

To conclude, restructuring is a critical tool for companies on the verge of insolvency and by implementing strategic, operational, organisational, and debt restructuring, businesses can revitalise their operations and financial standing.

For accountancy and insolvency professionals, understanding and applying these restructuring techniques is pivotal in guiding companies away from the precipice of insolvency and towards a path of sustainable growth and stability.

If your clients need help with restructuring strategies, please contact a member of our experienced team.

CAREFUL CONSIDERATION IS NEEDED BEFORE TAKING OUT ANY FORM OF FINANCE AND SPECIALIST ADVICE SHOULD BE SOUGHT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT US.

Newman & Partners Insolvency
Lynwood House
373/375 Station Road
Harrow
Middlesex HA1 2AW

T: 020 8357 2727
F: 020 8357 2027

E: insolvency@newmanandpartners.co.uk
W: www.newmanandpartners.co.uk

Newman & Partners
Licensed Insolvency Practitioners