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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**

## Brexit – The impact on businesses

**The UK has now left the EU and the Brexit transition period has ended with the completion of a new EU–UK free trade agreement. The nation's departure from the EU has been a long time coming, but the rules around trade were only agreed at the last minute. This has meant that many firms, both in the UK and EU, have had to catch up on how the new trade arrangements impact them.**

Those that import and export goods are the most likely to feel an immediate impact from the new trade framework. However, those who are part of a supply chain involving EU suppliers and customers are also likely to experience issues, that could affect cash flow and the cost of goods or materials used within their business.

### Tariff-free trade

One of the key selling points of the new free trade agreement reached in December is tariff-free trade. Whilst this ensures that many goods will not face levies when being imported to the UK or exported to the continent, new rules regarding the rules of origin mean that some products that previously faced no duties will now incur additional costs.

The rules of origin are complex and have already caught out a number of large companies, including Marks & Spencer famous Percy Pig sweets. The simplest way to think about the rules of origin is to give goods being imported and exported an 'economic nationality'. This determines where they have been produced or manufactured, not just where they have been shipped or bought from.

UK goods seeking to enter the EU have to prove that they are from the UK under particular rules agreed in the free trade agreement. This prevents a country without a trade deal from accessing the EU market through the UK and vice versa. Generally speaking, the free trade agreement says that goods must be locally sourced, or must have had sufficient work carried out on them in the UK to avoid paying a tariff.

Assessing the rules of origin can be difficult, especially for manufactured goods, where different components may come from different parts of the world. Many businesses are finding tariffs imposed where there were previously none and this is slowing down supply chains and adding additional costs to goods, which may make certain products uneconomic.

### Import VAT

Many businesses also now face additional costs as a result of import VAT. Goods that move into the UK from the EU from 1 January 2021 onwards will be considered imports, meaning import VAT will be payable and customs declarations will need to be made.

Businesses must account for VAT on all goods imported using a new postponed accounting system. This means that import VAT on goods is accounted for and paid via a company's usual VAT return, where it is accounted for as input and output VAT, rather than paying it immediately at the point of entry. Postponed VAT accounting, therefore, prevents an immediate impact on a business's cash flow when importing.

This applies to all goods imported by VAT registered importers to the UK from anywhere in the world if they're worth more than £135, including those from the EU. In most cases, import VAT should be recoverable by businesses.

### Other considerations

Beyond the immediate administrative and financial costs of post-Brexit trade, businesses also need to consider how delays experienced in supply chains, due to new checks at the border, may affect their ability to deliver goods or services on time. Failing to meet customer deadlines may result in a penalty under some contracts or at the very least it could affect a company's reputation or its cash flow.

Although the trade agreement is now in place, much of the practicalities of trade between the EU and UK are still being settled. With further changes to the customs procedures in April and July this year, as part of a phased move to the new system, businesses need to be prepared for disruption and potential financial distress.

**IF YOU KNOW OF ANY BUSINESS THAT IS STRUGGLING FINANCIALLY AS A RESULT OF BREXIT, PLEASE CONTACT US.**

# Commercial landlords call for action over abuse of CVAs

**The industry group representing commercial landlords, the British Property Federation (BPF), is calling on the Government to reform insolvency rules to prevent businesses using business restructuring proceedings to reduce rents. The BPF has sent a letter to the corporate responsibility minister, Lord Callanan, calling for an end to the flexibility of the UK's insolvency framework, which the group claims have allowed tenants to abuse Company Voluntary Arrangements (CVAs).**

The call comes after several big-name retailers, including Moss Bros, New Look and Ann Summers, sought to reduce rents as a result of the pandemic after the UK's national lockdowns and restrictions forced many to close stores and reduce costs. Commercial landlords claim there has been widespread misuse of CVAs, especially where there are only one or two comprised classes of creditors but other unaffected creditors can approve the CVA plans.

BPF Chief Executive, Melanie Leech, said: "The Covid-19 crisis has brought into sharp focus this abuse of process, which the BPF has been highlighting for years. While the crisis has brought genuine hardship to businesses up and down the country, it has also been cynically used as an excuse by wealthy individuals and private equity backers to shift onto property owners the cost of years of failings and underinvestment".

She fears that CVAs are being used a blunt instrument to "permanently rewrite contracts without any court oversight and to avoid contractual obligations freely entered into". This, she says is damaging to the high street, pension funds (many of which rely on rental income) and undermines the "UK's reputation among international investors."

As well as affecting landlords, the BPF claim that the use of CVAs is giving some firms and unfair advantage against their competitors and small retailers who may be less willing to use them. This they believe could affect innovation and creativity, which is why it is calling for the insolvency rules to be changed to give compromised creditors votes a greater weight than those of unaffected creditors and to require large CVA's to be independently scrutinised. The BPF also want CVAs to be a temporary measure and not a tool for permanently enforcing changes in contracts and leases.

Responding to the BPF's report, the British Retail Consortium (BRC) said the swathe of CVAs "highlights the need for wider reform of the commercial property sector, particularly the move to rents that can flex with economic circumstances". BRC Property Policy Advisor, Dominic Curran, said: "No retailer enters into a CVA lightly. They cause understandable concern and uncertainty for employees and suppliers."

**IF YOU OR SOMEONE YOU KNOW REQUIRES ADVICE ABOUT CVAs OR OTHER FORMS OF BUSINESS RESTRUCTURING, PLEASE SPEAK TO OUR EXPERIENCED TEAM. ASSIST THEM.**

# Businesses face up to £1.86bn in losses due to unpaid Invoices during the pandemic

**The latest Red Flag Alert insolvency report has found that UK firms could be facing losses amounting to £1.86 billion as a result of unpaid invoices from customers. It is thought that UK firms may write off an additional £20 million or more of bad debt from 2020 compared with the previous year.**

Red Flag's "Write Off Report" data from the end of last year shows that total levels of written off business-related debt in the United Kingdom increased by one per cent in 2020 due to unpaid work. While the total number of business insolvencies in 2020 remained low, thanks in large part to the Government's financial support, this latest report found that the average debts held by each UK firm increased by around seven per cent in the last year.

It is thought that the average UK company now has around £205,000 in unpaid invoices from last year, which means that many are facing cash flow issues, especially as the country enters its latest national lockdown. It is thought that the UK retail sector has suffered the most dramatic increases in written-off debt this year, with a 47.8 per cent increase from £59.3 million at the end of last year to £87.6 million by November 2020. This is followed by the construction industry, which saw write-offs increase by £31 million to around £283 million. Hoteliers have also seen debt write-off leap from £4.3 million to £13.8 million.

Government support, including the latest one-off grant and the ongoing loan and furlough schemes, is giving many businesses the breathing space they need to maintain sufficient cash flow during the lockdown, but the accumulation and writing off of bad debts is likely to have a long-term impact. Having unpaid invoices within a supply chain can also create a ripple effect that impacts smaller businesses further down the chain.

With unprecedented economic events such as these, it is often only once the crisis has ended and support is withdrawn that insolvencies spike, especially as written-off debt is expected to continue to grow consistently in the coming year.

**IF YOU ARE AWARE OF A COMPANY THAT IS STRUGGLING WITH DEBTS AND UNPAID INVOICES, THEY SHOULD SEEK HELP. SPEAK TO OUR TEAM TODAY TO FIND OUT HOW WE CAN ASSIST THEM.**

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