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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**

FCA and Insolvency Service join forces to sharpen-up enforcement

In recent weeks, the Financial Conduct Authority (FCA) and the Insolvency Service have joined forces in a bid to sharpen-up their enforcement activities. In mid-May, the two organisations grouped together to sign a Memorandum of Understanding, which the Insolvency Service said would "put a stop to those companies" that pay little regard to corporate law.

The news follows a somewhat turbulent year in corporate governance, with several scandals and shocking failings making headlines in recent months. According to the FCA and the Insolvency Service, the new partnership will enable both organisations to take more 'pronounced action' against directors and companies operating against the public interest.

Meanwhile, a consultation document recently published by the Insolvency Service has set out a number of proposals geared towards strengthening corporate governance and ensuring greater fairness for all stakeholders in insolvencies – including creditors and small and medium-sized enterprises (SMEs) in the supply chain.

Some key proposals outlined in the consultation include:

- Disqualifying and/or holding directors personally liable when there is evidence to suggest they have sold a struggling company or subsidiary 'recklessly'
- Creating new powers to reverse outcomes and challenge complex transactions that remove value prior to a company's insolvency to ensure thre fairer distribution of a company's assets when it fails
- Extending powers to investigate directors and former directors who might be avoiding accountability by allowing their companies to dissolve instead of going through the formal insolvency process

Elsewhere, the Insolvency Service has said it will share information relating to misconduct, investigations and enforcement with the FCA in order to better tackle corporate and financial misconduct and financial crimes.

Our team at Newman and Partners can provide help to you if your client is struggling with debt issues or facing insolvency. Such concerns are always best explored at the earliest possible opportunity. To find out more about our debt management services, please contact us.

Corporate insolvencies up 13 per cent in Q1

The number of underlying corporate insolvencies recorded during the first quarter (Q1) of 2018 was a full 13 per cent higher than figures recorded the previous quarter, new research reveals. The news follows the publication of insolvency and restructuring trade body R3's latest quarterly research – which also confirms that year-on-year, corporate insolvencies have risen by 0.6 per cent.

In the first few months of the year, a number of big-name companies and corporates, such as Carillion, Toys R Us and Maplin, entered into insolvency. Meanwhile, reports continue to suggest that companies operating in sectors such as construction and retail continue to grapple with mounting debt, due to the UK's late payments crisis and the impact of digitisation on high street footfall, respectively.

R3's report notes that many businesses are still feeling the strain of the 'domino effect' caused by the collapse of sector giants such as Carillion. Due to this, experts are warning that businesses ought to address any signs of financial distress at the earliest possible opportunity before their financial woes become too much to bear.

A spokesperson for R3 warned that "a lot of firms in a lot of different industries are facing changes in their sectors," which could very well have a negative impact on their cash flow. He warned that the retail sector was particularly at risk in today's economic climate, with households holding back on consumer spending in terms of non-essential items and the "inescapable" need for retailers to invest in expensive "e-shopping" technology to combat falling high street footfall.

"It's never too soon for a company to seek expert advice on its market position, and its viability as a going concern," he warned, encouraging anxious firms struggling with financial woes to explore their options sooner rather than later.

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Landlords and property bodies call for changes to CVAs

Prominent landlords and property bodies are calling for urgent changes to Company Voluntary Arrangements (CVAs) amid concerns that the increasingly popular insolvency procedure is placing too heavy a financial burden upon them.

CVAs, which typically enable struggling firms to settle their debts by paying a slice of what they owe to creditors over a set period, have repeatedly been used to help retailers cut their rents and shut-down premises at the expense of their landlords, a new report has said. In turn, this has been putting a strain on commercial property owners – who are now calling for greater regulation.

In recent days, research carried out by the University of Aston in Birmingham and the University of Wolverhampton has suggested that caps should be enforced on the lengths of each CVA and that 'standard terms' should be introduced. The research also argues that CVA directors and supervisors need 'clearer roles' and that there should be more engagement from creditors in the public sector.

Following the emergence of these findings, retail property group Revo has written to the House of Commons' Housing, Communities and Local Government Committee demanding an inquiry into the matter. Mark Williams, President of the property body, has voiced concerns that the CVA process is "being abused" and that many retailers are using it "solely to reduce rental liabilities and terminate lease agreements."

The concerns come at a time when a number of prominent high street retailers – such as House of Fraser and Mothercare – are exploring CVAs and similar plans, much to the behest of their landlords. Currently, the former retailer has found itself at loggerheads with landlords who are demanding better terms.

Up-to-date research suggests that CVAs made up just 1.8 per cent of corporate insolvencies last year, yet the debate surrounding the issue rages on, with figures indicating that many more retailers are beginning to consider the increasingly popular insolvency procedure this year.

Providing the right advice to your clients during a period of financial difficulty is crucial, and any concerns regarding insolvency are always best explored sooner rather than later. To find out more about our proactive services, please contact us.

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