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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**

Economic conditions in the UK could lead to a jump in insolvencies

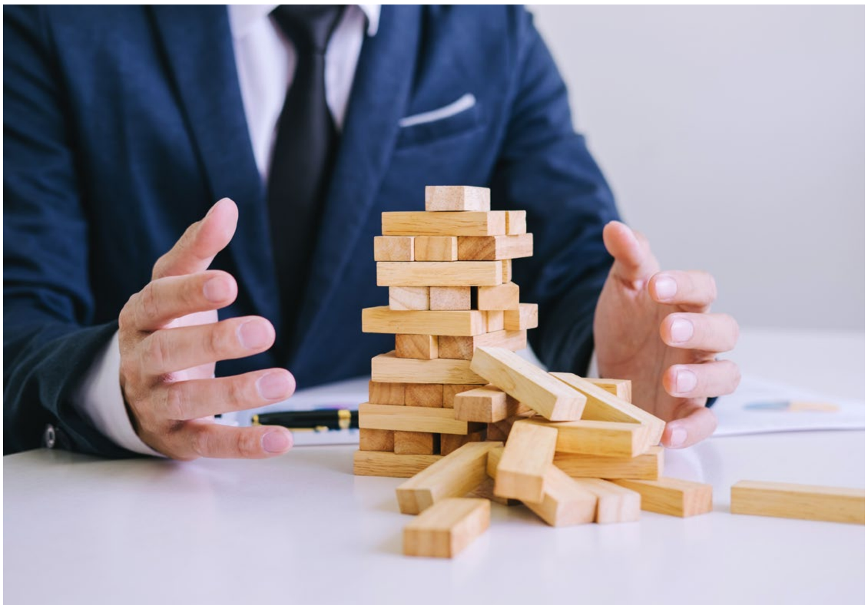
A new economic research report prepared by trade credit insurer, Atradius, has forecast that insolvencies in the UK are likely to rise by up to 27 per cent this year. This is against a global average rise in insolvency of 26 per cent, due to the economic difficulties the UK faces as a result of COVID-19 and Brexit.

The Atradius Insolvency Report has carefully analysed the economic impact of the COVID-19 pandemic and the knock-on effect on insolvencies around the world. The report has revealed that almost every major global economy, except for China, is expected to experience a recession this year, with global GDP forecast to contract by as much as 4.5 per cent.

Within the report, Atradius economists have also considered the prospects for the wider global economy and have said that the length and depth of the recession will be determined by the "ability of economies to manage health regulations".

This decline in the world economy is more acute than the last big recession in 2008. Out of all of the Northern European nations, the UK is expected to see the largest GDP contraction as a result of the "stringent lockdown" and "high Brexit uncertainty", the report says.

In many cases, the economic decline experienced by nations is not currently reflected in the insolvency levels experienced, as in the case of the UK where insolvencies were down more than 20 per cent year-on-year in the second quarter of the year. However, this is largely down to amendments to insolvency regimes in many countries and the introduction of significant financial support measures that have



been designed specifically to prevent businesses from failing.

Responding to the findings in the report, Atradius chief economist, John Lorié, said: "Government measures have reduced the anticipated increase in bankruptcy filings in a range of ways. They have either shifted the threshold for filing, reduced debtor's ability to force bankruptcy, or provided sufficient financial support to delay filings.

However, as the support programs begin to expire, the number of filings should climb rapidly."

If you are concerned about a client's financial position, they should seek help immediately.

TO FIND OUT HOW WE CAN SUPPORT BUSINESSES AFFECTED BY THE RECESSION, PLEASE SPEAK TO OUR TEAM.

Directors warned not to take wrongful trading suspension lightly

The Corporate Insolvency and Governance Act contained specific new rules on the continuation of the temporary suspension of wrongful trading, after it was originally introduced in March 2020 at the start of the COVID-19 outbreak in the UK. This rule change allows company directors to ensure that their businesses can continue to operate, despite the impact of COVID-19, without fear of personal liability for wrongful trading.

It provides a temporary ‘holiday’ from the rules in the Insolvency Act 1986 that are designed to protect creditors from rogue traders. In particular, it amends section 214 on wrongful trading, which requires company directors to assess the likely prospect of avoiding insolvency and whether they can continue trading.

Where a company cannot continue trading and there is no reasonable prospect of avoiding insolvency it is usually a director’s responsibility to cease trading. Where they continue to trade creditors could commence direct action against the director and the protection of limited liability would not apply.

The rules change this year restricts such a scenario happening, however, company directors must continue to be mindful of other considerations related to the continued trading of their business. As part of their obligations, directors must be mindful of the fact that all other sources of liability under the Insolvency Act 1986 remain unaffected, including the issuing of sanctions and fines against directors that attempt to defraud creditors or the company. The new Act also does not affect their fiduciary duties or the fraudulent trading provisions of section 213.

Directors must also fulfil their duties under the Companies Act 2006 and be mindful of the interests of creditors if the likelihood of insolvency increases. As such, while the temporary suspension of wrongful trading has offered welcome support, it should not change the importance that directors place on evaluating the financial position of their company or their responsibilities to creditors.

Directors will continue to be scrutinised for their actions in an insolvency scenario and so it is important that they receive the right advice and support. We have helped hundreds of businesses that are facing the prospects of businesses failure and can assist them with the process.

TO FIND OUT MORE ABOUT OUR SERVICE, PLEASE CONTACT US.

Research shows 10 per cent of businesses laden by COVID-19 debt could fail

As many as one in 10 businesses that have incurred debts from Government-backed Coronavirus schemes could fail, according to a new study from the British Chambers of Commerce (BCC) and banking group TSB. The research has revealed that around 42 per cent of businesses have used schemes, such as the Bounce Back Loan and Coronavirus Businesses Interruption Loan, during the current crisis.

The survey of 502 firms, predominantly operating in the manufacturing and services sectors, also revealed that most companies relying on schemes had done so to support critical day-to-day business operations. However, as a result of taking on this additional debt, a quarter of businesses have reported that they may have to scale back operations to repay what they owe in future, while a further 11 per cent said they might have to cease trading.

The survey also found that around 71 per cent had cash flow issues, 43 per cent used the money to cover critical overheads and 40 per cent said that without the support they couldn’t afford to pay staff. Responding to the findings, Dr Adam Marshall, Director of the BCC, said:

“With many businesses still facing reduced demand, depleted cash reserves, and continued uncertainty, bold solutions will be needed to prevent thousands of firms across the UK from falling into a spiral of unsustainable debt. If not addressed, large debt burdens could stifle the recovery, threatening jobs and constraining business activity and investment.”

As well as looking at the impact of the pandemic, the BCC research also asked businesses how they think loans and support should be repaid to reduce the financial stress on businesses. Of those companies asked, nearly a fifth said they would like a student-loan-style repayment system, whereby loans are contingent on a means-tested basis. This was followed by 16 per cent of businesses who said they would prefer a longer fixed-term period to repay the loan.

“Over the coming months, the Government, regulators and banks must work together with business communities to find solutions that help firms repay Coronavirus loans sustainably and access the support and services they need at this challenging time,” Dr Marshall added.

IF YOU ARE CONCERNED ABOUT YOUR CLIENTS’ DEBT ISSUES AS A RESULT OF THE FINANCIAL SUPPORT THEY HAVE RECEIVED DURING THE PANDEMIC AND WORRY IT MAY LEAD TO THEIR BUSINESS BECOMING DISTRESSED, PLEASE CONTACT US.

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