

# Insolvency Bulletin



## Summer of discontent is here

Expectations of strong growth among manufacturers were dashed with news the sector was 'treading water' in the second quarter, according to a CBI survey.

Results showed production levels were flat in the three months to June, and companies continue to anticipate a modest expansion in output over the next quarter.

Small and medium-sized businesses are struggling to maintain their export orders, which reached the lowest levels since January 2010.

The motor vehicles, aerospace and transport equipment sector was one of the few export drivers, reporting orders comfortably above average.

## One year on, FLS is failing business

### LENDING RESTRICTIONS PILE ON THE PRESSURE

Latest figures from the Bank of England show the number of loans offered by banks has continued to fall despite the Funding for Lending Scheme (FLS), announced with great fanfare last summer.

The stock of lending to businesses contracted by £5bn in the three months to February alone, while the annual growth rate of lending to both small and medium-sized enterprises (SMEs) and large businesses also fell.

"There is clearly a tension between the goals of making banks safer and ensuring they lend to growing companies," says John Travers.

"The continued contraction in lending is damaging many potentially sound businesses and, in the light of current talk to overhaul the UK's banking system, we would do well to look to create a new model which will help underpin long term growth."



## Stats show IPs helping to save jobs

### INSOLVENCY PROFESSION VINDICATED

The UK insolvency industry saved over 750,000 jobs and 6,000 businesses in 2012, as evidenced by a new analysis by ComRes on behalf of R3.

Engaging with insolvency practitioners (IPs) does not necessarily signal the end of a business.

ComRes' analysis of the insolvency industry found that in 45 per cent of cases, the business advised by IPs avoided full closure. Of those in formal insolvency procedures, 27 per cent continued in some form. This comes

against a background of falling corporate insolvency numbers, down 11 per cent from 2009.

"This is good news," says John Travers. "It contradicts the popular view that we are harbingers of doom and shows that engaging with IPs does not necessarily signal the end of a business."

The total number of business insolvency cases in the UK stood at 17,819 in 2006, and peaked at 25,432 in 2009 but has since declined by 11 per cent to 22,590 for 2012.

## New rules afoot

### UK JOINS EU ON INSOLVENCY REFORM

The UK has opted in to the EU Commission's proposals to amend the regulation of insolvency proceedings.

The European Commission published its proposals to reform the existing EU Insolvency Regulation in December 2012. Business Minister

Jo Swinson has recently announced that the UK Government has exercised its right under the EU Treaty to opt-in to the regulation, and will participate fully in negotiations and implementation of the regulation in its final form.

**New ruling****SHADOW DIRECTORS**

In the recent case of Re: UKLI Ltd involving the disqualification of a director, the High Court has helped clarify the tests for de facto and shadow directorships.

Whilst the concept of shadow directorship is relatively familiar, that of de facto director is not. The court ruled that the two are distinct, but not mutually exclusive. It is therefore possible for a de facto director to also be a shadow director.

John Travers warns: "The message is clear. Anyone involved in running a company, whether formally appointed or not, should be aware that they may, if they meet the relevant criteria, be deemed to be a de facto or shadow director and will therefore be expected to comply with directors' duties as set out in the Companies Act 2006."

**Red tape cuts set to aid discontented creditors****IMPROVED ACCESS TO COMPLAINTS MECHANISM**

The new single gateway for complaints against insolvency practitioners will make the process easier and more transparent, says Business Minister Jo Swinson.

The move is part of a Government drive to cut red tape and reduce costs by measures such as reducing the numbers of meetings that have to be held during an insolvency procedure and enabling IPs to use electronic communications so that savings can be passed onto creditors. It is expected that more than £30m per year will be saved.

From now on, nearly all practitioner complaints will come through a common Complaints Gateway hosted by the Insolvency Service in Leeds. Previously, complainants would have needed to work out to which of the eight relevant authorising bodies their complaint should be addressed.

John Travers comments: "Most of these measures are common sense and as such welcome. With the likelihood of an increase in the numbers of business failures, I support any drive that will help improve creditors' perception of insolvency."

**Banks may be shoring up the zombies  
FORMAL INSOLVENCY  
NUMBERS STILL DOWN**

The number of U.K. companies becoming insolvent edged down in June continuing the trend of recent years, according to the latest figures from Experian.

June's insolvency tally is equivalent to 0.08 per cent of U.K. companies. At the peak of the financial crisis in March 2009, following the collapse of investment bank Lehman Brothers, 0.13 per cent of companies went insolvent.

However, more than a thousand companies still run out of money each month as the economy falters, it also showed.

Experian's figures show insolvency rates rising for larger companies and falling for smaller firms.

The next quarterly statistics from the Government's Insolvency Service are due to be published on 5 August.

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**AND THE AWARD GOES TO...**

...trainee accountant 24 year-old Zoe Bond from Kinver.

Zoe was presented with this year's John D Travers & Co Award for Special Achievement, a prize intended to encourage and reward students at Halesowen College working towards AAT Level 3.

AAT course leader Mary Samuels said: "We greatly value our links with local employers and this award is also highly prized by our students."

