Update from John D Travers & Company

INSOLVENCY BULLETIN AUTUMN 2011

Volume 2 Issue 3

NEW RULES FOR PRE-PACKS ON HOLD FOR NOW

Government plans to implement a three working days' notice requirement for pre-pack administrations have been delayed until 2012.

It is now expected that amended draft regulations will be published in January 2012 - allowing for further consultation before implementation in April.

John Travers welcomes the move: "The aim of the new rules is to increase transparency, protect unsecured creditors and deter the rise of so-called 'phoenix' companies.

"However, professional practitioners believe that whilst the proposed changes are good PR for the Government, they could backfire when put into practice.

"It is probable that unsecured creditors would lose out anyway as many more businesses would end up being liquidated instead of being pre-packed for sale as a going concern.

"Undoubtedly, the pre-pack option may be open to abuse. However, when properly conducted, they are often the best deal in town."

'The original proposals created a barrage of objections from the insolvency profession.'

DEMAND FOR CREDIT LOOKS SET TO FALL

According to the Bank of England Credit Conditions report for Q3 2011, lenders are expecting a fall in demand for credit from the corporate sector across companies of all sizes during the next three months.

The results showed the availability of credit to businesses has been broadly unchanged for large and medium-sized companies, and slightly higher for small businesses during August and September, and that this levelling was expected to remain.

John Travers comments: "It appears that whilst there is some credit available, companies are reluctant to increase levels of debt against a backdrop of economic uncertainty and falling consumer confidence."

"Government proposals to launch lending bonds against corporate debt in order to increase the supply of credit are an admission that previous moves to boost lending have failed.

"And, if demand remains slack, it looks like this latest initiative could also be doomed."

SERVICE SECTOR SUFFERING

Experian's latest Insolvency Index shows that business failures shot up by 30 per cent and 12 per cent, year-on -year, in the services and construction industries respectively.

They also increased by a third in the leisure and hotels industry during July.

The figures follow several warnings from trade bodies for retail and construction firms that prospects for these sectors remain bleak.

INSOLVENCY
BULLETIN
AUTUMN 2011

RISK OF DOUBLE DIP RECESSION RISES

Corporate insolvencies for the third quarter of 2011 have rocketed nine per cent on the same three months last year, with 3,601 entering insolvency during the period, according to Price Waterhouse Coopers.

John Travers says the hike is not surprising although, to date, there has not been the typical upward spike in business failures signifying the end of a recessionary period.

The Midlands has seen a 24.7 per cent rise in the number of new cases of company administration in Q3, according to the London Gazette.

He warns that while the recent uptick may be more in line with expectations, it may be more as a result of chaotic world markets and difficult trading conditions rather than the cashflow issues generally associated with recovery and growth.

"With growth static, unemployment high and confidence low, all the indicators now point to the fact that the UK may, after, all be heading for the dreaded 'double dip' recession."

BOSSES MOST LIKELY TO BLAME FOR BUSINESS FAILURE

Prudent and imaginative management is key to business survival, says John Travers.

The causes of business failure, as cited by management, are generally 'cashflow difficulties' and 'market erosion'.

In reality, there is a catalogue of managers' weaknesses which spans from inexperience, over-optimism and imprudent accounting to obsolete products, eroded margins and over-gearing.

"None of these circumstances can be classified as exceptional, external and unforeseeable events," says John Travers.

"This can only translate into the failure of managers to anticipate, take control and react appropriately to their environment.

"The marketplace for most firms is a challenging and dynamic place, so entrepreneurial leadership and sound judgement are essential to ensure survival, otherwise managers must be prepared to accept the consequences."

Thoughts to conjure with...

- *The marked increase in the number of company liquidations may be due to falling tolerance on the part of creditors.*
- *Official statistics record those businesses going through a formal insolvency procedures – how many more are simply giving up and ceasing to trade?*

RETAILERS TRYING TO BUY TIME

The High Street as we know it will soon be history, believes John Travers

Lack of confidence amongst consumers is the most immediate cause, he says, with customers 'keeping their hands in their pockets to save for their redundancies'. However, the sector is increasingly vulnerable to macro trends: the threat of a hike in interest rates, pay freezes combined with inflation eroding real incomes, upward only rental agreements, a rampant Chinese economy, a weak pound and the steady rise of online shopping.

Analysis of trading figures from the FTSE350 reveals that of the 12 general retailers that disclose like-for-like trading figures – and excluding the supermarkets – just four are in positive territory.

"The prognosis for debt-fuelled privately held businesses is likely to be even worse," says John. "Even the healthiest retail businesses will find it difficult to weather this period, and some of those will no doubt be pushed into administration because of cash flow problems."

SIZE COUNTS WHEN IT COMES TO SURVIVAL

Firms with between 11 and 25 employees saw a higher rate of failure than businesses of other sizes, according to the latest Insolvency Index from Experian.

Year-on-year, the largest companies in the UK are starting to fare marginally better - insolvencies among those companies employing more than 500 staff fell 13 per cent in July.

Businesses with 51 to 100 staff experienced the biggest annual increase in insolvencies, with the proportion of businesses failing growing from 0.15 per cent of this business population in July 2010, to 0.22 percent in July this year.

The lowest rate of failure was for firms employing one to two staff, with only 0.07 per cent going under in July. Firms employing three to five employees saw a similarly insignificant failure rate of 0.13 per cent in the same month.

JOHN D TRAVERS
& COMPANY

LICENSED INSOLVENCY
PRACTITIONERS
BUSINESS ADVISERS

First Floor
58 Hagley Road
Stourbridge
DY8 1QD

t: 01384 374 000
f: 01384 375 300
w: johndtravers.co.uk