

SUMMARY OF TRADING AND ECONOMIC IMPLICATIONS FROM EXTENSION TO INSOLVENT TRADING, WINDING UP AND BANKRUPTCY RELIEF

The extension to 31 December 2020 creates further uncertainty and delay on when there will be a return to normalised (albeit probably new normal) trading terms for many businesses, and that will reinforce general business confidence.

There are a number of business that are surviving because of Government support and related measures that have been labelled “Zombie” businesses. These entities may be able to survive until well into 2021 (as noted above a further extension of insolvent trading relief to 31 March 2021 would be more likely than not) that may reduce unemployment exposure but also may prevent the movement of resources and recovery of the economy.

Until the unfortunate process of unviable, unsustainable businesses are sold/closed or another solution reached, it is unlikely that the real confidence and recovery of the economy will occur, and further debt will be incurred by governments and businesses that will take years to recover or repay.

What can business do to mitigate potential impact on their investment/business?

So, what should business and their owners do to reduce their risk arising from the Insolvent Trading relief extension?

1. Protect their Company and themselves from potential failure of customers and suppliers
2. Monitor key customers and suppliers for signs of distress (delayed payments or supply or incomplete payment/supply)
3. Conduct a risk assessment of any customers or suppliers of concern – credit check, company searches etc
4. Source alternative supply or consider supply to other customers
5. Consider acquisition or joint venture if beneficial to secure the supply chain or improve business performance
6. Focus on debtor management and tighten terms for some or all customers based on a risk assessment – including potential actions in the table below
7. If in any doubt, take expert legal or commercial advice and cease supply to or from the distressed party
8. If any funding is being provided by Directors/related parties then funding should be secured with assistance from lawyers or using a product like KRODOK
9. Change the terms of supply to reduce exposure or exit the relationship until new terms are agreed.

The above is difficult as it may involve relationships that cover generations and some supply arrangements are crucial to ongoing success of businesses; however, rational decision making is required in times of uncertainty to protect the business, even though there is likely to be considerable personal and emotional distress from taking necessary actions.

Finally unfortunately, it appears that there is likely to be period of extended distress that will require careful management as the recession hits and government support reduces over 2021.

Proactive Actions

Other actions to be considered that can assist with mitigating risk relate to a strategic review of the business and options available for consideration:

1. **Make the business easier to operate, manage and make decisions**
Review of business systems and capability to deal with lockdown and/or social distancing requirements, remote working and integration with other systems
2. **Manage cash & get the right facilities to reduce interest and costs**
Implement appropriate working capital management and funding structure to reduce risk of the owners, enable the business to manage cash effectively and identify the right bank facilities/provider for the business; and
3. **Manage strategy for value creation**
Assessment of the value of the business and drivers to maintain or increase business to assist with consideration for investment areas and strategic targets. This may also assist with assessment of acquisition opportunities and long-term goals.

Debtor Risk Management Actions

Potential Mitigation Actions	Impact/Reasoning
Reduce trading terms	Reduce trading days down for clients with any concerns to mitigate any exposure.
Upgrade trading terms	Ensure trading terms include provision for PPSR registration and personal guarantees.
Implement PPSR Registration	Where possible register on the PPSR for retention of title and tracing claims to improve chances of a recovery if the worst happens.
Cover costs with prepayments	For large orders over the next few months request prepayments to ensure that the exposure is mitigated to your margin - costs are covered. COD terms for any clients that are particularly concerning.
Director personal guarantees	Require Directors provide personal guarantees and a statement of assets to support the provision of creditor. If there is no issue it shouldn't be an issue. If not provided revert to prepayment.
Debtor insurance	Ensure debts are covered by insurance and costs of insurance are mitigated/ reduced by provide the insurer with details of the collection management process including the issues above. Reassess in early 2021.
New Clients/Large Orders - Perform due diligence	<p>Conduct normal google due diligence, ASIC company search, ASIC director searches and property searches - potentially incorporate the costs into a new account fee that is applied as a discount on payment of the first three orders or not.</p> <p>Ensure those claiming to be in control of the business are Directors or have authority from Directors.</p>
Track clients of concern	Register on ASIC and other databases for any change in address, officeholder or other event for relevant entities of concern.

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