Cripps

The insolvency landscape in 2023

As we get into the swing of 2023, the most recent government insolvency statistics present a rather bleak picture for companies, with another rise in registered insolvencies in December 2022 – 32% higher than in December 2021, and 76% higher than December 2019.

In particular, compulsory liquidations rose again from the historical lows seen during the Covid-19 pandemic, with HMRC continuing to take an aggressive stance towards unpaid VAT and tax debts accrued during the pandemic.

Banks are also starting to lose patience in relation to accrued unpaid debt – Barclays issued over 100 winding-up petitions between October and December 2022, though this only accounted for around 3% of total petitions issued in this period.

It seems likely that this trend will continue over the next few months, especially given the further hike in interest rates last week and further rises predicted.

Zombie companies

The concern over 'zombie' companies – those that generate only just enough cash to continue operating and pay interest on their debts (rather than reducing the principal amount) with nothing left to invest in growth – has been around for several years now. They were able to survive – just – due to low interest rates that were in place for over 10 years following the global financial crash. The recent increases, however, could be the death knell for these companies as they will struggle to pay the higher interest costs of their debt.

As well as rising interest rates, some companies are carrying high levels of HMRC debt and were also forced to take out government-backed Covid loans to survive the pandemic lockdowns. A recent article from BDO LLP suggests that over 1 in 10 mid-market businesses (those in the £10m to £500m turnover bracket) could be deemed 'at risk' of being or becoming a 'zombie'. These are businesses that have both a 5-year turnover compound annual growth rate of less than 5%, coupled with an interest cover ratio in their latest financial year of less than 2 times. The sectors most at risk are identified in the article as education and leisure & hospitality. This accords with our recent experience, with clients in both sectors consulting us for restructuring advice in the face of rising costs.

Short-term action recommended by BDO includes rigorous cost management and elimination of non-essential expenditure, as well as reviewing the organisational structure and reducing headcount if necessary.

How we can help

We are experienced in providing restructuring advice, as well as advice on the duties of directors faced with a cash flow crisis. Please get in touch with joanna.ford@cripps.co.uk to find out more.

Joanna Ford

Partner and Head of Commercial Dispute Resolution