Insolvency

Options for a faltering business

Fact Sheet

Introduction

There is no stock solution for turning round a business in financial difficulty, but there are a number of options available to you, depending on your circumstances.

All of the following need careful consideration, so take professional advice before deciding what to do. Remember too that the sooner you deal with things, the better the chances for your business.

Refinancing
This enables you to pay off existing loans with a new loan that offers better repayment terms for your business. You would need to satisfy lenders that this is a viable option for you and them.

Restructuring
There are various ways you can restructure finances to take the pressure off your business. Here are the main options:-

Company voluntary arrangement (CVA – a compromise or arrangement with creditors that is supervised by an insolvency practitioner. Often only a portion of the debts are payable and the arrangement is binding on all creditors. 75% of creditors must agree to the arrangement.

There can be a temporary moratorium on repayments for 28 days (extendable for up to a further two months) if your business meets two of the following three conditions:

(a) Turnover now more than £6.5million (or £10.2 million for financial years beginning on or after 1 January 2015 (if the directors of the company so decide) or otherwise in relation to a financial year beginning on or after 1 January 2016)

(b) Balance sheet total not more than £3.26 million (or £5.1 million for financial years beginning on or after 1 January 2015 (if the directors of the company so decide) or otherwise in relation to a financial year beginning on or after 1 January 2016)

(c) No more than 50 employees.

This is not an easy option. If the CVA fails, administration or liquidation is often the next step.

A scheme of arrangement – allowing a company to make a compromise or arrangement with its creditors or members. Often the scheme will involve giving shares in payment of debts.

This is not purely an insolvency solution and businesses can pursue a scheme at any time. You would need to hold creditor and shareholder meetings and attend two court hearings.

Administration – this provides a statutory moratorium preventing creditors from exercising their rights and gives an administrator time to investigate a company's finances and look for a solution.

This might be to sell the business as a going concern or to sell off its assets to pay or part-pay creditors.

On entering administration control of the business passes to the administrator. You have no further say over its running, although legally you still own your shares until matters are concluded.

Hive downs: selling the business minus its debts
Fundamentally strong businesses can get into trouble, for example if a major customer goes bust owing a large amount. In cases such as these the Administrator may consider a hive down.

Basically the assets of the business (staff, equipment, premises, contracts, spares) are transferred to a new company. This is sold and the proceeds used to pay the creditors of the failed business.

Liquidating the business This is also referred to as 'winding up'. It can be a voluntary process if you want to cease trading or it can be compulsory if you owe money to a third party and they successfully apply to the court.

Basically the assets of the business are sold to pay its debts. You retain any balance, once any fees or costs have been paid.