

Menzies Corporate Restructuring highlights new, little-known lifeline for smaller, troubled companies

Submitted by: Sapphire PR

Tuesday, 4 March 2003

4 March 2003: Menzies Corporate Restructuring (MCR), providers of turnaround and restructuring services for small to medium sized businesses (SMEs), believes that too few business advisors and smaller companies are aware of an important provision relating to Company Voluntary Arrangements (CVAs) in the new Insolvency Act. And yet, if it is activated by a smaller company in distress, it will offer more control over its destiny, effectively 'buying time' from creditors whilst a rescue plan may be put together.

Andrew Stoneman, managing partner, MCR, explains, "The new Act states that troubled small companies can apply for an automatic moratorium from their creditors for 28 days, a period that can then be extended with creditor consent. This is a major shift, allowing smaller companies to restructure their balance sheets via a Company Voluntary Arrangement, but without all the fuss and costs associated with an Administration Order."

He continued, "There's been a lot of attention on the high profile Enterprise Act which comes into affect in the Summer, but we think that this change to CVAs has pretty much slipped by. And yet it's important that smaller companies in trouble are aware of this as it will clearly remove the pressures that used to exist, giving them valuable breathing space and thinking time to put together a satisfactory rescue plan."

The automatic moratorium will enable directors of small companies who intend to put forward a proposal for a CVA to automatically obtain protection for their company and prevent action being taken by creditors – effectively ring-fencing the company. Of great significance is the fact that no bank or holder of a fixed or floating charge can appoint an administrative receiver.

The new legislation has been designed to encourage the use of CVAs as these have so far been infrequently used by UK insolvency practitioners. Stoneman explains, "The existing CVA procedure did not sufficiently protect companies against creditors whilst they try to put forward proposals to creditors. This is why CVAs were rarely used."

A further crucial change from the current Administration Order process is that during the moratorium, the directors remain firmly in control of management and day to day issues rather than this being transferred to an insolvency practitioner as it previously did. Under the new procedure, an insolvency practitioner will need to be appointed, but just to act as a nominee and merely monitor the position.

The new provision only applies to businesses with less than 50 employees and turnover of less than £2.8 million or assets worth less than £1.4 million.

Stoneman concludes, "A well thought out CVA has every chance of successfully enabling a company to sort itself out with the benefit of additional time and less stress/pressure, but it certainly presents some interesting challenges for lenders who I'm sure will need to redraft their own loan documentation in response to this important change."

This new piece of legislation is just the first change in Insolvency Law this year, with further changes due and represents the biggest overhaul of Insolvency Law since 1986. MCR is putting together an easy to read, jargon-free guide for SMEs that highlights these changes and the impact of these to SME businesses. To register to receive a free copy, please contact MCR on tel: 020 7291 9750 or email: mcr@menzies.co.uk

About Menzies Corporate Restructuring (MCR)

MCR is the corporate restructuring and turnaround division of Menzies Chartered Accountants. It was formed in April 2001 to offer turnaround, restructuring and insolvency services of outstanding quality to banks, lenders, business owners and individuals in the mid-sized / SME market sectors. It aims to provide the most practicable ways to resolve issues affecting business performance.

The firm's three founding partners offer an impressive 40 years combined experience in this niche sector and practice and ethos of high-level involvement to ensure that each assignment capitalises upon the expertise and knowledge of the team.

Already, MCR is enjoying significant business wins across a range of sectors and is increasingly being asked to restructure businesses and find turnaround solutions to help companies avoid formal insolvency. Specialist sectors include nursing and residential care homes, hotels, leisure, the internet, e-commerce, automotive, telecommunications, manufacturing and construction. MCR is based in central London and has access to wider accounting and auditing services from the Menzies Group.

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