FA SIMMS
FA Simms & Partners Limited

Company Voluntary Arrangement ("CVA") Key Facts

Providing **Solutions**

The CVA Option

A CVA provides a realistic alternative to company closure for an insolvent company. A CVA gives Directors the opportunity to trade through a difficult period by deferring payments to creditors. Upon conclusion of the CVA the Company is free from the burden of its historic liabilities.

If a business is being affected by decreasing sales, reduced profit margins or by increasing overheads this is likely to lead to a tightening of cash flow. This can lead, despite positive signs of future trading, to increasing pressure from creditors as arrears accrue to suppliers, HMRC and financiers.

CVAs are popular with Companies who see the future as brighter but are burdened with historic debt.

Key Fact: A CVA may not be your only option, please contact us to discuss all your options.

Benefits of a CVA

A CVA is a formal method of business recovery providing protection to the Company and allowing the business to continue to trade; whilst enabling a better outcome for creditors than company closure.

A CVA provides the Company the opportunity to restructure its debts whilst taking steps to either cut unprofitable areas or to simply start seeing the benefits of a turnaround plan, for example increased spending on marketing.

There is less focus on Directors in a CVA. Limited investigations are undertaken and no report is submitted to the Insolvency Service on their conduct.

Key Fact: The Company remains under the control of the Directors with limited intervention or disruption being caused by us as the CVA supervisors.

What is a CVA?

A CVA is a legally binding agreement between a Company and its creditors to pay back as much as they can afford over a given period of time.

Key Fact: There is no mandatory repayment time frame or repayment amount.

When Is a CVA Used?

A CVA enables the business to continue to trade and repayments to creditors can be made from ongoing profits introduced monthly or via a lump sum. Debts will also crystallise meaning that no further interest is accrued.

Fit, feasible and fair – the CVA should represent a fair offer to both the Company and its creditors, which is both capable of being achieved and is fit to be proposed to and considered by the Company's creditors.

Best outcome for the creditors – the proposal must ensure that what is being offered would be better than the alternative, which is usually Creditors' Voluntary Liquidation.

Key Fact: Following successful completion of the CVA the balance of debt not repaid through the CVA is written off.

When Is A Company Insolvent?

When a company is falling behind with payments due to suppliers, HMRC, financiers or staff with no clear opportunity to get back on terms then the company is likely to be insolvent.

Evidence of this might be chasing letters, court enforcement or bailiff action.

Key Fact: A tightening of cash flow is a symptom of company problems, throwing more money at it may only defer the insolvency of the company! Invest with caution!

How Do HMRC Respond To CVAs?

Although government legislation is intended to promote business rescue, HM Revenue & Customs may reject a CVA proposal on the grounds of a previous history of poor payment. Companies need to ensure that every effort has been made to seek repayment plans with HMRC, and that the HMRC debt is not vastly disproportionate to other creditors. HMRC will also require that all returns are filed and up to date before accepting a CVA proposal.

Key Fact: Our experience of working with the HMRC leads to a very high success rate for our CVAs being acceptable to HMRC.

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How to Start a CVA?

The Company Directors will need to instruct us, as Licensed Insolvency Practitioners, to work with them to propose a CVA to the company creditors.

Key Fact: We will only contact creditors with the approval of the Directors.

Process to Approve a CVA

A meeting of the Company's creditors is called to vote on whether to accept the CVA proposal.

There are two voting percentages that are required to approve a CVA.

Firstly 75% of creditors by value who vote are required to approve the CVA.

Secondly 50% of creditors by value, who are not associated with the company, are required to approve the CVA.

Key Fact: Few creditors actually attend a CVA creditors' meeting. Voting is usually by proxy vote, i.e. a vote by post.

Helping Employees in a CVA

Employees with outstanding claims can make a claim against the Redundancy Payments Office.

Key Fact: This greatly assists with the use of a CVA as a restructuring tool.

Please Don't Forget

The information within this Key Facts guide is not designed as advice in light of your specific company circumstances and is not a substitute for advice from one of our Licensed Insolvency Practitioners.