

Rapport

News and views from the F A Simms & Partners Group

Welcome Message...



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Welcome to the summer edition of our Rapport Newsletter.

This edition includes two articles covering two very important topic areas for Company Directors; non-bank finance (Pg1) and the dividends tax changes (Pg4). These articles will hopefully help give further details of both topics so that our readers will be able to advise their clients on these areas in more detail.

In June we held a ½ day CPD event which was well attended and received very good feedback regarding the topic of presentations. We would like to confirm that we will be holding more of these events in 2016, with added dates and locations. We shall bring you more details regarding these events as soon as we have finalised the dates and locations.

As ever if you have a question or comment with regards to anything you read in this newsletter then please do not hesitate to contact a member of the team on **01455 555444** or email our Marketing Department at mwood@fasimms.com

The growth of Peer-to-Peer finance

Peer-to-Peer lending is a direct alternative to a bank loan. Whether your loan is for a piece of machinery, purchasing a property, buying stock or even working capital, Peer-to-Peer lending for businesses offers the most accessible and flexible way of getting finance for an established business.

Peer-to-Peer lending reached £1.2bn in 2014 which takes the total lending by the industry to £2.18bn; which sees it double in size since the end of 2013.

The data published by the Peer-to-Peer Finance Association (P2PFA) earlier this year found that there has been a 90% increase in firms using Peer-to-Peer lenders for business finance in 2014 with figures showing 73,700 using it at the start of the year, and 139,749 using it by the end of the year.

There has also been an increase in providers offering lending via this alternative finance platform. Figures again show an increase from 86,000

to 114,697 throughout 2014. To see a full list of these lenders visit: www.alternativebusinessfunding.co.uk.

This continued boost in the alternative finance lending market shows how opportunistic UK businesses are when it comes to seeking finance for their company.

A recent survey of 1,000 SMEs by Liberis, Business Friendly Finance show figures of the increase demand in alternative finance. The Business Monitor research showed that 30% of small businesses interviewed in this survey applied to an alternative funding provider for their finance. Comparison figures show only 18% applied for a bank overdraft and 31% applied for a bank loan.

Earlier in the year leading banks Santander and RBS committed to referring businesses that were rejected for a bank loan to alternative providers via online platforms such as Funding Circle. This marked a milestone in

the alternative finance industry as it highlighted that banks are supporting these alternative routes to finance if they are unable to provide sufficient funding.

Richard Simms, comments: *"The flexibility of this finance platform is what has made it the fastest growing non-bank lending provider within the UK. The quick response to borrowers and the fixed interest rates are two of the main advantages of applying for this finance. I can only see this platform continue to increase in popularity over the course of the next few years."*

Going forward the Peer-to-Peer industry has another milestone to accomplish and that is becoming part of the ISA wrapper. It is yet to be determined where it will be placed within this wrapper and this decision will be critical to its success. A survey conducted by the P2PFA shows that 74% of people who took part in the survey would like to see it being placed in a separate lending ISA.

CVL Case Study

Void security or preference payment? You decide

We were approached by a director of a transportation company who needed to liquidate their company due to suffering from long term insolvency.

After an initial meeting was held it was decided to place the company into a Creditors' Voluntary Liquidation. In doing so, statutory investigations with regards to the director's actions while trading proceeded. These investigations occur within every formal insolvency process.

During the investigations it was found that the director had taken security out on some money that they had invested into their company. The director stated that the security was on "new monies" invested by himself into the company which made him a floating charge creditor within the liquidation. The security that was taken out means the director would receive funds from the liquidation before unsecured creditors such as the company's suppliers and HMRC who are all classed as unsecured creditors. This therefore means that his investment into the company would be paid back before unsecured creditors of

the company due to the security he had taken out.

During insolvent liquidation processes there is an order in which creditors are paid depending on whether or not they have taken out security. This order is set out within the Insolvency Act 1986 and it is:

- Fixed charge creditors
- Preferential creditors
- Floating charge creditors
- Unsecured creditors

Upon further investigations into the security, the paper trail of the investment showed that the money invested by the director never left the company, and that in fact he had just taken out security on "old monies"; money that was already within the company. This therefore meant one of two things.

1. The director did not take security out on "new monies" and in this case would void their security against the funds and they would therefore be classed as an un-secured creditor.
2. The director took out the security when they knew of the insolvency

and state of the company in order to receive some monies back from the company personally before other creditors. This would be classed as a "preference payment" and would eventually have to be paid back into the company from the director.

A preference payment occurs when a company has the desire to place a creditor or group of creditors in a better position than the others by making a payment to them over the others. In this case the director is placing themselves as a creditor of the company in a better position than their other group of creditors.

Upon bringing this to the director's attention he admitted that the money he had taken security out on was in fact "old monies" and as such made the security void and classed him as an unsecured creditor in the liquidation process.

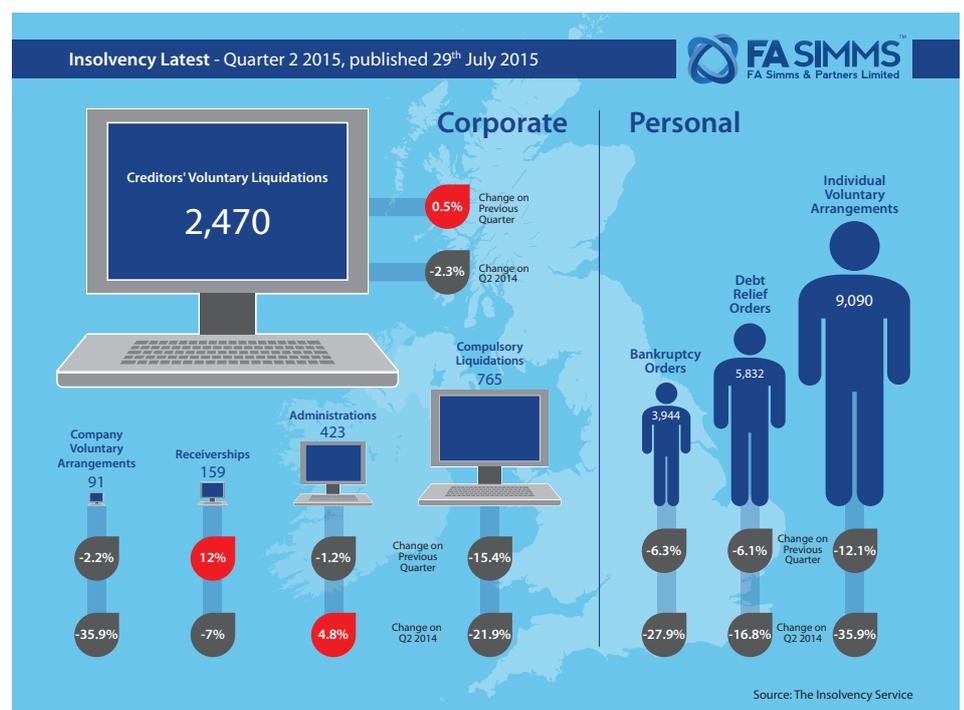
It must be noted that preference payments if found can result in disqualification, fine or sometimes imprisonment for the director depending on the seriousness of the situation.

In the 12 months ending Q2 2015, 1 in 207 active companies went into liquidation. This is a drop from 1 in 200 which was the figure at the 12 months ending Q1 2015 and 1 in 177 in the 12 months ending Q2 2014. These figures relate to the improvement in the UK economy over the last couple of years and support the decrease in continual company liquidation figures.

The top 5 industries that are seeing the highest levels of company liquidations are:

1. Construction
2. Wholesale, retail; repair & vehicles
3. Accommodation & food service
4. Administrative & support service
5. Manufacturing

The drop in company liquidations supports the current economic growth which saw a 0.7% growth in Q2 2015 and a 0.4% growth in the first quarter of 2015. The figures do highlight that there are still certain industries that are still struggling more than others and are seeing higher levels of company liquidations than other industries.



The personal insolvency figures show in the 12 months ending Q2 2015 1 in 523 adults (0.19% of the adult population) became insolvent. This is the lowest figure since the 12 months ending Q1 2006 and supports a continued decline in these figures.

Client identification and verification

Client identification and verification is a three stage process, which can be made much easier with the support provided by AMLCC. In this edition of Rapport we provide a quick revision of the key stages of this process and highlight how recent changes in law will affect you next year.

The Money Laundering Regulations require us to:

1. Identify our client and any beneficial owner(s): This is normally a quick and simple process. If your client is an individual or sole trader you immediately know who they claim to be and know there is no separate beneficial owner. If your client is a company or other entity with a simple share or ownership structure, again it is relatively quick to establish who the beneficial owner(s) are;
2. Consider risk: Again, this is relatively straight forward. For the purposes of money laundering, most clients will not be particularly high risk and the documentation available takes you through the process of identifying specific risk factors.
3. Verify the client (and where relevant beneficial owner(s)) by 'documentary evidence'.

For corporate clients and other entities, it is the third stage which is the most time consuming. It may be necessary to conduct searches at Companies House to confirm the company you act for is registered. Normally you then need to verify beneficial owners or persons with control (this would normally be significant shareholders and directors). This may be done by obtaining evidence directly (seeing their passport, driving license etc.) Alternatively, this may be supplemented or replaced with electronic verification such as that provided via AMLCC.

This electronic verification works by interrogating a wide range of independent data sources to enable users to reach a decision instantly. It carries out a comprehensive check on the individual's electronic footprint and produces a detailed report.

However, sometimes it is stage 1 above, which is the most complex. For example, where your client is at the foot of a complex group structure you may have to trace the structure through several

layers to establish whether or not ultimate beneficial owners exist which you need to verify.

How you identify these distant beneficial owners will become easier from April 2016, however, in the build up to this, additional obligations will be laid on company directors and their advisors.

Register of persons with significant influence over UK companies

Although it may sound innocuous, The Small Business, Enterprise and Employment Act, which received Royal Assent earlier this year will have a practical impact on all accountants. The Act is a wide-ranging piece of legislation, and it is important to remember that despite its name, it will impact companies of all sizes. It creates a requirement for all UK companies to maintain a register of every individual who has, directly or indirectly, significant control over the company and for some of this information to be filed on public record at Companies House.

The definition of what constitutes 'significant control' is still to be fully defined, but it will catch persons having control of more than 25% of the company or controlling by other means more than 25% of the voting rights of a company.

Where a company is owned by one or more individuals, the process of capturing and filing the information is straight forward. The data will already be contained on the register of members. However, where the company is part of a wider structure, the directors of the company will be obliged to make enquiries to their shareholders, and their shareholders' shareholders until it is ascertained who the individuals with 'significant control' are.

For example, your company is 40% owned by a small group of individuals. From the register of members it is clear that none control more than 25% so no

action needs to be taken. However, the other 60% belongs to another company. The directors of the company (perhaps assisted by you) will need to ascertain whether anyone controls more than 25% of that company. This process will continue up the structure until the identity of those individuals with 'significant control' are identified, or it is confirmed that no one meets the definition.

In the case of a trust in the chain of ownership, the trustee will normally be regarded as the beneficial owner, but the beneficiaries may be considered beneficial owners in certain circumstances.

People who meet the definition of a person with 'significant control' will be legally obliged to co-operate with the company, as will anyone else who holds information likely to be useful in identifying such persons. As those in the regulated sector acting for the company, such accountants and lawyers, might be expected to have the relevant knowledge, they may be exposed to numerous requests of this nature. Failure to respond appropriately is an offence. Breaches of these provisions by the officers of the company will also be a criminal offence.

Companies will be required to establish and keep the register from January 2016 and to file this information with Companies House (together with the new annual check and confirm process which will replace the annual return) from April 2016. This information will need to be updated annually.

Although the onus is on the directors of the company rather than their accountant to provide the information, it is highly likely that you will become involved in the process of collecting and filing the information. However, once this information is freely available, it is likely to make the process of identifying 'beneficial owners' of new clients for anti-money laundering purposes easier as more information will be on public record.

Please contact Richard Simms, Alix Mortimer or Kirsty Taylor if you have any questions regarding the AMLCC product

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Richard Simms



Alix Mortimer



Kirsty Taylor

Under the Spotlight



Name
Juliana Ieremie

Position
Cashier

How long have you been with F A Simms & Partners?
7 years and 7 months

What are your interests and hobbies?
Reading & Sightseeing

Who are your favourite music artists?
Ed Sheeran, Taylor Swift & Olly Murs.

If you weren't working in insolvency what career path would you want to be following?
Either a teacher or a detective within the police force.

What would you say was one of your greatest achievements?
Being able to do what I do as a non-native English speaker.

Which foreign country would you say was your favourite?
It would have to be Italy, can't wait to visit there again.

Quick fire questions...

Football or rugby?
Football

Coronation Street or Eastenders?
Neither

Chinese or Indian?
Chinese

Finally please tell us two truths about yourself and one untruth

- 1. I am a very good ice skater.*
- 2. I love watching crime documentaries.*
- 3. I have won two swimming competitions.*

The Dividend Tax Change: How will this affect small businesses?

During the summer budget that was announced in July 2015 the Chancellor announced a change to the way dividends are to be taxed.

From April 2016 the new rules are set to come into force where a 7.5% increase in tax is to be charged on any dividends taken from a business that exceed £5,000 per year.

The overall tax paid will depend on the income tax rate band that the Director currently pays. Here is a table that sets out how the tax rate will change:

Dividend tax rates	2015/16	2016/17
Non-taxpayers	0%	0%
Basic rate taxpayers	0%	7.5%
Higher rate taxpayers	25%	32.5%
Additional rate taxpayers	30.6%	38.1%

Directors will also need to be aware that if the dividend income pushes the overall income from one tax band into the next then they will pay the higher dividend tax rate on the portion of income that falls into that higher tax band.

Under the current system, basic-rate taxpayers pay no tax on their dividend income. This is because dividends are only eligible to be taken from a company's profits and therefore will have already had corporation tax applied to them.

The new dividend tax change will effectively mean that a business may have to pay two lots of tax on company profits; corporation and dividend tax. This will apply if the dividends that are paid exceed the £5,000 limit and the individual is currently a basic rate taxpayer or above.

Dividend income will still be eligible for the personal allowance. For example; if next year a Director had a dividend income of £16,000, the first £11,000 would be covered by the personal allowance and the remaining £5,000 would be covered by the new dividend allowance. This situation would result in a Director paying zero tax.

Due to these changes it is expected that businesses are going to bring forward dividends to the current tax year ahead of the change and then alter this system accordingly going forward.

Areas we can advise on:

- Cash flow pressure
- HMRC pressure
- Legal action threatened by creditors
- Business rescue support
- Corporate and personal insolvency
- Solvent liquidations

Why you should contact us:

- Quick & efficient service
- Competitively priced
- Free initial advice and meeting
- We take away the stress & burden
- 4 Licensed Insolvency Practitioners
- Regulated by the Insolvency Practitioners Association (IPA)

Services we provide:

- Creditors' Voluntary Liquidation
- Members' Voluntary Liquidation
- Company Administration
- Pre-Pack Administration
- Company Voluntary Arrangement

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