

The handcuffs are on debt recovery, but for how long? What you can do in the meantime...

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As part of the Federal Government's response to the COVID-19 crisis, a handbrake has effectively been applied to court proceedings aimed at bankrupting individuals and placing companies into liquidation. This has been achieved by lengthening the time for debtors to respond to formal demands, from 21 days to 6 months, for both bankruptcy notices (in the case of individuals) and statutory demands (for payment of debts incurred by companies). As part of the same reforms, the minimum debt amount that can be the subject of bankruptcy or winding up proceedings has been increased to \$20,000.00.

The Federal Government intends to keep these extended compliance periods and amounts in place until at least the end of 2020. While they remain in place, debtors will be well aware that creditors have limited options open to them to enforce their debts.

Anecdotal evidence would suggest that many of those debtors are choosing to trade on their businesses well beyond the point at which they have become insolvent (that is, unable to pay their debts as they fall due).

At the risk of stating the obvious, measures like placing a freeze on enforcing debts, or banks deferring loan repayment obligations, do nothing to reduce the amount of debt that is out there. Rather, it pushes the debt problem out into next year, in the hope that COVID-19 restrictions will have ended or at least greatly eased by then.

All of this begs the question: what will happen once those restrictions are lifted? Most industry pundits are predicting a tsunami of liquidations and bankruptcies by 2021.

In the meantime, all business who supply goods and services on credit are well advised to maintain best practice credit control. This would include:

- Carefully reviewing all credit agreements as they are signed, to ensure they are enforceable if the need arises;
- Keeping accurate and reliable records of debtors, and maintaining a policy of contacting debtors as soon as agreed trading terms are breached;
- Incorporating personal guarantees into your terms of trade when possible, and
- Considering whether the terms of trade allow you to register your sales agreement on the Personal Property Securities Register (PPSR), which may give you priority over other creditors and allow you to enforce your debt notwithstanding the current restrictions.

If you are having difficulty collecting money and need a helping hand, our Debt Recovery Team can advise you on the best options for your circumstances and your budget.

If you would like more information or advice in relation to insolvency, restructuring, or debt collection practice and procedure, contact Jeffrey Brown on 02 9806 7446 or jeffreyb@matthewsfolbigg.com.au