

Are we facing a Trade Credit Crunch?

The lack of current, reliable information will have a detrimental impact on the availability of trade credit as we emerge from the Covid crisis.

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This year businesses have had to react quickly as the economic environment changed almost overnight. The Government put in place measures to cushion the worst impacts for employees with the wide-ranging Coronavirus Job Retention Scheme (CJRS) scheme. It also enabled an unprecedented level of lending to businesses of all sizes via a range of retail banks and other lenders.

However, although the economy slowed dramatically in Spring 2020, activity did not come to a complete standstill. Risk holders in financial institutions as well as in credit and supply chain risk are now urgently seeking ways to assess the degree of exposure the measures taken in response to Covid has unleashed. As the organisation representing the Business Information Industry, we are constantly monitoring the level and effectiveness of information available to risk holders to allow them to make informed decisions about who they do business with. We believe that some measures the Government has taken (or in other cases not taken) will have an impact on the ability of these risk holders to manage their exposures effectively, with the result that crucial lines of trade credit may tighten as decision-makers take an over cautious approach. We urge the Government to engage with us and the trade credit community more widely so that they can more fully understand the potential unintended consequences of their actions for the provision of trade credit.

One such 'emergency' measure was the Corporate Insolvency and Governance Act, which, amongst other things introduced a Moratorium Process which can be triggered without prior notice to creditors, a requirement for suppliers and service providers to continue to trade with entities undergoing most insolvency processes, a temporary ban on the use of statutory demands and winding up petitions (where the reason for the company being unable to pay a debt is due to the Covid downturn) and a suspension of the wrongful trading provisions. It also used a Statutory Instrument passed at the end of June to extend the deadline for companies to file financial information at Companies House by three months.

While these measures were designed to try to relieve pressure on SMEs, in fact they may be adding to it. As commercial CRAs, all members have been asked why in many cases the latest filed accounts we hold on our records are from 2018. Even when 2019 accounts start to be filed in large numbers at the end of 2020, the financial data available in the public domain for many companies will be woefully out of date for those seeking to make decisions on the risks in 2021 and beyond.

We note that the payment deadline to pay Corporation Tax has not been similarly extended, meaning that for companies with taxable profits up to £1.5m (over 75% of companies liable for Corporation Tax fall into this category) the deadline to pay Corporation Tax is 9 months and 1 day after the period-end. Penalties and interest are applied for late payment, so SMEs will still need to prepare accounts within 9 months if they want to be sure of paying the correct tax due. So, the financial information will exist but will not be available for third party risk assessment.

It is a similar story with the Coronavirus Business Interruption Loans (CBILS) and Bounce Back Loans (BBLs). While the initiative to get money out to struggling businesses undoubtedly saved jobs and livelihoods in April and May, the lack of visibility as to which businesses now have these debts on their balance sheets is causing

a degree of nervousness amongst those who may be asked to extend trade credit. Nine UK Banks which are part of the Commercial Credit Data Sharing (CCDS) scheme are mandated to share current account information with Designated CRAs, so at least some information is available through this scheme. However, it is estimated that 20% of the loans were made by alternative finance providers. These lenders are under no obligation to provide information into the scheme, so there is limited visibility about exactly which companies have taken on debt during the crisis. Whilst having taken out a loan will not necessarily restrict businesses from obtaining trade credit in future, it is only reasonable that organisations which extend credit terms understand the full current financial situation of their customer. It is surely in everyone's interest for credit to be granted to an affordable level. Restricting information will potentially mean that a cloud of caution descends on to the trade credit space or, worse, that trade credit is extended to businesses which are not in a position to repay it. It is in nobody's interest for business failures to start contagion in the supply chain, which will further restrict availability of credit and slow the recovery. British Business Bank research from 2019, which was published in February 2020, showed that 36% of SMEs rely on trade credit and that 70% of them use trade credit instead of external finance.

To further complicate matters, the crisis has seen a rise in the use of a 'Notice of Intention to Appoint an Administrator' (NOI) provision contained within the Insolvency (England and Wales) Rules 2016, which came into force in April 2017. Under these rules, the company, its directors or a floating charge holder can file an NOI at Court. If a creditor has already taken action to recover a debt then this creditor has to be notified, but otherwise the NOI gives the company a moratorium which protects it from creditor action for 10 business days. There is no requirement to publish the NOI in the Gazette or file a notification at Companies House. The most recent high-profile case of an NOI being used was in the Administration of Go Outdoors Limited. In this instance, the parent company was also a chargeholder and therefore able to file the NOI, protecting Go Outdoors from creditor action for 10 days while a pre-pack administration was completed. At the time of its Administration GOL Realisations Ltd (as it was re-named on 25 June 2020) went into Administration owing £27,999,000 to 590 unsecured creditors, including £15,539,239 to parent company JD Sports Fashion PLC. Any payments to unsecured creditors would be made out of the Prescribed Part, which is capped at £800,000 (increased from £600,000 since 6 April 2020), meaning that the return to those creditors consigned into enforcement limbo by the NOI will be minimal.

We know that business confidence will be key to the economic recovery. While the measures put in place at the height of the crisis to cushion the severe blow faced by so many businesses and individuals were undoubtedly taken with the best of intentions, we must now recognise the implications of these changes on the confidence that businesses will have to trade with each other on credit terms. We call for the government to facilitate greater availability of key commercial data sources, so that businesses will be able fairly to assess their exposure risks and have the confidence to trade within their own risk appetite.