Glossary

Administration

If a company falls into financial difficulties the directors or a third party will sometimes appoint an Administrator to run the company. This is to determine whether the company can trade out of its problems or be sold on to enable the company to be turned around. If the company is not a viable concern then the assets will be sold and distributed to its creditors.

Administrator

A person who controls a company which has gone into Administration. The Administrator has overall control of the company and any decision must be taken by the Administrator.

Annulment

Annulment is another term for cancellation.

Arrears

This is a term used when a debt has not been paid on time and the payments become overdue. If the debt is not paid then action may be taken to reclaim the money.

Assets

Anything that is owned by an individual or company which has a value either now or will have a value at some time in the future. Examples include vehicles, shares, money in the bank or in hand, property and book debts.

Bankruptcy

This is an option a person may use if they are unable to pay their debts as and when they become due. They would lose control of their assets and would not be allowed to become a company director for the period of bankruptcy. Certain occupations and credit ratings are affected by bankruptcy.

Bankruptcy Restrictions Order or Undertaking

A court order making an individual bankrupt. A bankruptcy restriction order or undertaking is where a restriction is made against a bankrupt. This could result in the restrictions of bankruptcy continuing for a period of between 2 and 15 years.

Book Debts

These are monies that are owed to an individual or company for goods supplied or services provided.

Business Debts

These are debts that are in a sole traders or partnerships trading name. For businesses who have the same trading name as their personal name, business debts are those that have been accumulated specifically from the business.

Business Insolvency

Business insolvency can be defined in two different ways:

Cash Flow Insolvency -unable to pay debts as they fall due and
Balance Sheet Insolvency-having negative net assets in other words, liabilities exceed assets.

CCJ

A CCJ (county court judgment) is a court action where an individual or company has taken another person or companyto court for unpaid debts. The court will order the payment of the debt within a period of time andif it is not, the person or company owed the money will be entitled to take further action.

Charging order

This is an order made by the court giving the trustee in bankruptcy a charge on a debtors interest in their home. This will continue after they are discharged from bankruptcy.

Companies House

All limited companies and PLCs are registered here. All information is stored and is available to the public. Companies House also incorporates and dissolves companies.

Company Debts

These are debts owed by a company to a third party,for examplea supplier or a lender.

County Court

A county court is a court based in, or with, a jurisdiction covering one or more counties.

Credit Rating

Banks and financial services use this as a tool to establish whether a company or person is safe to lend money to. A good rating may result in a lender accepting a loan request or lending more money. A low rating may mean a lesser amount is offered or the request refused. The rating will take into account factors such as whether there are any CCJs (county court judgments) outstanding or any defaults on paying debts.

Creditors

This is anybody who is owed money by a company or person. It can also be someone who will (or may) be owed money in the future due to some obligation that has already been entered into.

Creditors Petition (Bankruptcy)

A person can only be made bankrupt if the debt is unsecured and for a fixed sum that they appear unable to pay. Any individual owed more than 750 can petition to make you bankrupt.Bankruptcycan also be petitioned for by a group of people if the combined sum due to them is more than 750. The proceedings will normally take place at your local county court with bankruptcy jurisdiction.

Company Voluntary Arrangement (CVA)

This route is usually taken by directors who feel their company has a viable future and are willing to work hard to keep it alive. If this route is taken, an arrangement is entered into with creditors to repay a percentage of the sum owed to them over a period of time. The directors will keep control of the company and continue to trade as normal.

Creditors Voluntary Liquidation (CVL)

The company will stop trading, all contracts will be terminated and assets sold. The shareholders of the company will decide to liquidate the company and will enlist the services of an insolvency practitioner to complete all the necessary arrangements. In some instances, the business of the company can be sold to another company as a going concern.

Debt Management Plan (DMP)

This is an informal agreement between an individual and their creditors enabling an individualto consolidate their unsecured debts and to repay them with one affordable regular monthly repayment.

Read more about informal strategies and refinancing options here.

Debtors

These are individuals or companies that owe money to a third party for goods or services provided, for example customers.

Debtors petition (Bankruptcy)

This is where an individual declares themselves bankrupt by visiting their local county court andpresenting a petitionfor their own bankruptcy.

Debts

These are monies that are owed to an individual or company for goods supplied or services provided.

Default notice

This is issued by a creditor before the commencement of legal action. It will allowthe debtorseven days to pay the amount stated. If this is not settled, then the creditor can take court action.

Directors

A director is a person who conducts the affairs of a limited company. Directors are responsible for the running, management and control of a company. The limited liability of a company ensures directors are protected from personal risk; they must however act professionally and correctly to ensure this protection.

Director Disqualification

If a person is declared bankrupt they will be unable to act as a director of a company for a period of time. Similarly, if a director has been found to have acted improperly, the Insolvency Service may decide that they should be disqualified as acting as a director or be for a period of time.

Discharged

A bankrupt usually receives a discharge from bankruptcy automatically, no more than a year after he was made bankrupt. Discharge means he is freed from the restrictions of being a bankrupt.

Dissolution

In order to commence dissolution proceedings the company must not have been trading for at least three months. The company can then be dissolved. This will legally break up a company that no longer wishes to trade.

Distraint

This is used by landlords as a tool where there is unpaid rent. Where a landlord has agreed a payment plan for rent and this is not adhered to, they have various options and can instruct an agent to enter the property and remove goods or assets to cover the value of the debt. This can usually be carried out within one week of a missed payment. They do not need a court judgment to implement these actions.

Department for Business, Energy & Industrial Strategy (DBEIS)

DBEIS is a government agency working to create the conditions for business success and help the UK respond to the challenge of globalisation. They promote enterprise innovation and creativity. DBEIS run The Insolvency Service in England and Wales and also help in many employment issues such as redundancy.

Factoring

Some financial institutions provide this service. Companies receive payment for their unpaid sales invoices and the financial institution assist in the collection of the debts. The factoring company takes a percentage of this debt as a fee.

Fixed and Floating Charges

A fixed charge is usually secured by a particular asset, for example property or machinery. With a fixed charge, the borrower could not sell the asset without the permission of the lender. A floating charge however is usually secured on things like raw materials or component stocks and therefore the borrower can deal with these stocks in the normal course of business, consuming them and replacing them whenever necessary. Should the charge crystallise, for instance, as a result of a failure to pay interest at the proper time, the stocks which were present at that moment become subject to the charge and the borrower would be unable to make use of them without the permission of the charge holder.

Fraudulent Trading

Where trade continues without any means of repaying the debts and with the intention of defrauding creditors. Directors that continue to trade in these circumstances risk disqualification or becoming personally liable for the worsened trading position.

Going Concern

Where a company is trading and making a profit. The business of a company can sometimes be sold as a going concern, i.e. with the same trading style, employees, customer listetc. but legal adviceshould be sought by both the seller and buyer before negotiations take place.

Her Majestys Revenue & Customs (HMRC)

A government department who regulates and collects customs and duties for instance VAT and PAYE.

Income Payments Order (IPO)

An Income Payments Order is a legally binding agreement thatis made following bankruptcy. A persons income and outgoings will be looked at and if there is any surplustheymay need to pay a proportion of this towardsthe bankruptcydebts and costs.

Individual Voluntary Arrangement (IVA)

Similar to a CVA, an IVA is an agreement between a person and their creditors to repay a percentage of the amounts owed, usually over time. The agreement (proposal) needs to be accepted by the majority of creditors voting but if accepted, all creditors will be bound by the terms.

Read more about our Individual Voluntary Arrangement services here.

Insolvency

Insolvency means the inability to pay ones debts as they fall due. Usually used to refer to a business, insolvency refers to the inability of a company to pay off its debts.

Insolvency Practitioner

An insolvency practitioner is a licenced professional who specialises in dealing with insolvency. They are authorised by the HMRC and other recognised professional bodies such as the ACCA, ICAEW and R3.

Insolvent

This is when a company or individual cannot afford to repay their debts as and when they are due, or whose liabilities are greater than their assets.

Interim Order

If a person or company is proposing a Voluntary Arrangement they can apply for an interim order in court. This protects them against any formal insolvency proceedings being brought by a third party (including bankruptcy in the case of an individual).

Joint and Several Liability

If one or more person enters into an agreement (such as a mortgage or rent agreement), then all those named on the agreement are liable for the full amount. An example of this would be a joint mortgage where the mortgage company can pursue either or both people named on the mortgage for any amounts outstanding.

Legal Charge

A form of security (e.g. a mortgage) to ensure payment of a debt.

Liabilities

Debts and obligations of the company or individual. Examples of these would be bank loans, mortgages, credit cards, wages and rent.

Limited Company

A company with its own legal identity. A limited company has members who own shares in the company and directors who are responsible for running it. The directors and shareholders are not personallyliable for any of the companys actions providing they act in accordance with their duties as set out by the Companies Act.

Limited Liability

Owners of a company have their liability for the companys debts limited. Their liability is limited to the paid-up value of the shares they own i.e. it is limited to the amount they agreed to pay for the shares when they purchased them.

Liquidation

When a company becomes insolvent, the directors can chose to recommend to the shareholders that the company be wound up voluntarily. It ceases to trade and once a Liquidator is appointed, its assets are sold and the resulting funds utilised to pay at least some of its debts. Directors and shareholders can also place a company intosolvent liquidation where the company is able to pay its liabilities in full and the surplus is then distributed to the shareholders as capital.

Liquidator

A person who is a licensed insolvency practitionerresponsible for dealing with the winding up of a company.

Mortgage

A mortgage is the transfer of an interest in property (or the equivalent in law a charge) to a lender as a security for a debt usually a loan of money.

Monthly Repayments

Monthly repayment is the combined principal and interest owed on a loan, paid on a monthly basis. With regards a voluntary arrangement or debt management plan it means the monthly amount the debtor has agreed to pay towards its debts.

Members Voluntary Liquidation (MVL)

If a company is placed into liquidation when it has sufficient assets to pay all its creditors in full, this is known as a members voluntary liquidation (MVL)

Read more about our Members Voluntary Liquidation services here.

Net Assets

Net assets are sometimes the same as net worth, or assets minus liabilities. The term net assets is commonly used with charities or not- for- profit entities. Although these entities do not make money, it is important to maintain reasonable reserves to help future growth.

Negative Equity

This occurs when the value of an asset used to secure a loan is less than the outstanding balance on the loan. When applied to the owner-occupied housing market, a fall in the market value of a house to below its mortgaged amount is the usual cause of negative equity.

Net Liabilities

In business, net liabilities, sometimes called net worth, are the total assets minus total outside liabilities of an individual or a company.

Official Receiver

The Official Receiver is an officer of the court and civil servant employed by The Insolvency Service, who deals with bankruptcies and compulsory liquidation.

Partnerships

A type of business entity in which partners (owners) share with each other the profits or losses of the business.

Pension Fund

A fund where pension contributions are paid into and held.

Personal Guarantee

A guarantee given by an individual that they will pay a company debt or loan if the company is unable to. Usually a condition requested by a lender or a supplier offering credit terms for which the directors of a company will be asked to sign. If the company defaults on the repayments then the lender or supplierwill call on the personal guarantee to repay either part or all of the remaining debt.

PLC

A public company may offer to sell its shares to the public. A public company must satisfy Companies House that at least 50,000 worth of shares have been issued and that each share has been paid up to at least one quarter of its face value.

Positive/Releasable Equity

Applied to the owner-occupied housing market, when the market value is greater than the amount the borrower owes on it is the usual case of positive or releasable equity.

Preferential Creditor

A creditor who is entitled to receive payments prior to unsecured creditors. These include certain elements ofemployees claims and occupational pension scheme arrears.

Proposal

The voluntary arrangement proposal sets out what is being offered to creditors and what they can expect to receive after the costs of the voluntary arrangement have been deducted. The exact contents of the proposal will vary upon the individual circumstances.

Proxy

A company or individual may appoint a proxy holder to attend and vote at a creditors meeting on their behalf by completing a proxy form and lodging it in accordance with the directions set out in the letter enclosing the notice of the meeting. Another form of voting is by postal resolution, where a creditor can vote on a resolution without there being a physical meeting convened.

Receiver/Receivership

A Receiver is appointed by a lender (usually a bank) with a charge or mortgage over the company's assets. The Receiver then sells the assets of the company in Receivership in order to repay the debt to the lender.

Redundancy

Redundancy is a form of dismissal of an employee. It could be that the company is down-sizing or closing a department or closing the whole company. Employees may be able to make a claim to the Insolvency Service if the company cannot afford to pay what is due to the employee in full.

Secured Debt

A debt that is secured against an asset or assets.

Shareholders

Own stakes in limited companies. Shares can be purchased on the open market if it is a quoted PLC. They can vote on how a company is run and theycan receive ashare of the profits as a dividend.

Sole Trader

As a sole trader, you run your own business as an individual and retain all business profits after tax. Youare alsoresponsible for the business,and thereforeresponsible for any lossesthe business makes.

Statement of Affairs

This is a statement of a companys assets and liabilities at the date of its winding up, Receivership or Administration. It is prepared by the directors usually with the assistance of a licensed Insolvency Practitioner.

Supervisor

When an individual or company enters into a Voluntary Arrangement, a Supervisor is appointed. The Supervisor ensures that contributions are made as they fall due and kept up to date. Failure to keep the contributions up to date could result in the Supervisor defaulting and failing the Voluntary Arrangement and this could lead to liquidation or bankruptcy.

Trustee

The Trustee in Bankruptcy is either the Official Receiver or an Insolvency Practitioner and will take control of your assets. The Trustees main objective is to sell these assets and share the proceeds among the creditors.

Turnover

Money a company takes for its services before any expenditure is deducted. It is not the profit of the company.

Unsecured Creditor

A creditor who does not hold security against an asset (a mortgage is a secured creditor).

Value Added Tax (VAT)

Is a duty levied on goods and services which are liable for VAT. If you run a business you will usually have to register for VAT if your taxable turnover exceeds a level set by the Government.

Winding Up Petition (WUP)

A creditor can apply for a winding up petition to be heard in court if a company does not pay the money due to the creditor. This could lead to the company being wound up compulsorily with directors having limited control over the process.