News story: New tools to improve rescue opportunities for financially-distressed companies

The measures have been announced alongside new reforms that will help the Government tackle reckless directors and improve corporate governance to protect creditors, employees and other stakeholders in companies approaching insolvency.

Proposed reforms will help strengthen the UK’s business environment which is a key part of the UK’s Industrial Strategy – the Government’s long-term plan to build a Britain fit for the future – ensuring the UK remains one of the best places to start and grow a business and is an attractive place to invest.

The new rescue measures aim to strengthen the insolvency regime follow a consultation in 2016 where the majority of respondents were in favour of the Government’s proposals. These plans have similarities to aspects of the US’s Chapter 11 Bankruptcy Code and other international regimes and balance support for a company in distress with the interests of its creditors.

These include a period of ‘breathing space’ – a moratorium – allowing viable companies more time to restructure or seek new investment to rescue their business free from creditor action. There is also a new restructuring plan procedure that will provide an alternative option for financially-distressed companies to restructure their debts.

Companies will be supported through a rescue process by the introduction of new rules to prevent suppliers terminating contracts solely by virtue of a company entering an insolvency process.

Following concerns about some recent high-profile corporate failures, new measures are also being introduced to help ensure that creditors, employees and other stakeholders are treated fairly by the directors of ailing companies.

These proposals include new powers for the Insolvency Service to investigate directors of dissolved companies, enhancements to existing antecedent recovery powers and the ability to disqualify directors of holding companies who unreasonably sell insolvent subsidiaries.

Further insolvency-related tools announced aim to help unsecured creditors through applying an inflationary increase to the cap on the ring-fenced pot of money available to unsecured creditors, called the prescribed part that has remained unchanged since its introduction in 2003.

On the same day, the Government introduced measures to improve corporate governance that aim to tackle reckless directors and better protect pensions, small suppliers and workers who lose out when companies go bust.

Following last year’s corporate governance reforms, the Government will raise standards further by:

- requiring that bosses explain to shareholders how the company can afford to pay dividends and financial commitments such as investments and pension schemes
- asking the Investment Association to investigate to see if action is needed to ensure that companies are giving their shareholders an annual vote on dividends
- greater access to training for directors and minimum standards for independent board review