

October 2023

Communique

Welcome to our October newsletter for 2023 which is full of news on insolvency, restructuring, interest rates and the global economy.

KEY INSOLVENCY STATISTICS



During September 2023, insolvencies continued to be higher than pre-COVID levels with Court activity being significantly increased from the big four banks however the ATO winding-up applications have continued to subside from their peak in May/ June.

Although appointments of a small business restructuring practitioner(SBRP) were lower than in August, the trend is certainly upward.

SMALL BUSINESS RESTRUCTURING (SBR) GAINS POPULARITY

As mentioned above, SBR has increased in popularity particularly where the company has been served with a statutory demand from the ATO. Unsurprisingly, the ATO is a creditor in 98% of SBRs and is the major creditor in 90% of them.

Where a director has received a standard director penalty notice(DPN) as opposed to a lockdown DPN, the appointment of an SBRP will cause the DPN to be remitted and it cannot be reinstated. A standard DPN is one where the company has been compliant with lodging its tax returns within 3 months of the due date.

All tax returns must be brought up to date before the restructuring plan is proposed to creditors. The ATO will confirm with the SBRP as to what returns remain outstanding. In addition, the company must pay all outstanding wages and employee entitlements including SGC other than accrued leave for current employees. Total unsecured liabilities must not exceed \$1m. There are further requirements to be eligible which can be discussed on a case by case basis.

97% of SBRs have progressed to the acceptance phase and the ATO has approved over 90% of the plans submitted for its consideration. This can be compared favourably against approximately 30% approval for Deed of Company Arrangement proposals.

Where the ATO is a creditor, a draft plan and report can be submitted to them before being sent to creditors in order to gain their input. This is useful as the plan cannot be varied during the acceptance phase. For a plan to be accepted, you need a majority in value.

Many small companies have director's loans and the ATO takes into consideration whether the director has paid themselves instead of paying the ATO debt. This may mean a higher dividend to be proposed in the restructuring plan. The average dividend rate proposed is approximately 22c in the dollar.

Restructuring plans are very flexible and may include a cash contribution, payments from future trading profits or the sale of company assets. For plans involving the payment from the company's future profits, a detailed cash flow forecast is required to support the payments. The ATO may also require quarterly reports from the SBRP to check on the progress.

Should you have a client interested in Small Business Restructuring then please contact our office to discuss as there are strict eligibility requirements. Helm Advisory specialises in Small Business Restructuring.

RBA HOLDS INTEREST RATES STEADY



The Reserve Bank's new Governor has started her governance by holding the official interest rate steady at 4.1%. However annual inflation increased to 5.2% in August 2023 which was the first increase in four months. All eyes will be on the next inflation figures due out later

this month. It would not be unusual for the RBA to announce an increase in the official interest rate on Melbourne Cup Day.

THE GLOBAL ECONOMY

China's economy is struggling with youth unemployment at a record high of 21.3 percent in June after which China's statistics bureau abruptly stopped publishing this statistic. Jobless graduates have been feeling the pinch from rising housing costs and the slowing economy resulting in them leaving the cities. Manufacturing is falling short of expectations and the property market continues to languish as the likelihood of deflation looms ahead. Evergrande Group with total liabilities of more than A\$467 billion and its founder suspected of crimes, is edging closer to the risk of liquidation. Attempts to restructure its debt have been thwarted by the investigations into crimes.

Europe is concerned about future growth as China's economy falters and the restrictive interest rates adopted worldwide make it difficult for major exporters. Australia will also need to deal with the southbound trajectory of China as a major trading partner over the long term. On the bright side, China is looking at slashing tariffs on Australian wine which should bring smiles to the Australian wine producers.

The global oil price peaked a week ago at US\$96.55 a barrel and has fallen to US\$85.80 a barrel recently despite OPEC confirming its commitment to cut production to drive process up. The price drop is likely due to the drop in demand in the US which is at its lowest level for 22 years. Demand for credit in the US has also dried up as the rising costs of borrowing have affected demand for mortgages and credit cards.

The US dollar has been strong rising more than 7 per cent on a trade-weighted basis since mid-July and has caused a plunge in the Australian dollar from US69 cents to just over US63 cents. This causes other countries to intervene to shore up their currencies against the rise of the US dollar.

The US economy and the world economy may not have escaped the risk of a recession yet.

A NIGHT AT THE MUSEUM



Helm is organising its annual black tie event on 30 November 2023 at the Australian Museum. Put a note in your diary now to save the date. More information to follow.

We can help you now

If you have clients who are experiencing difficulty in paying their debts and/or need to restructure their business, please contact me.



Stephen Hathway

[0413 443 224](tel:0413443224)



Philip Hosking

[0434 407 748](tel:0434407748)



Felix Sudarto

[0407 419 820](tel:0407419820)



Bruce Huynh

[0402 662 982](tel:0402662982)



Shijun Chan

[0431 986 778](tel:0431986778)

Helm Advisory

Suite 3 Level 6, 75 Castlereagh Street, Sydney



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