

Knowledge Sharing: Businesses in distress: What are the options and strategies?

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Current state of affairs - Government assistance:

- Increase statutory minimum for a creditor to issue a statutory demand/ commence bankruptcy proceedings to \$20,000
- Debtors now have more time to respond to a statutory demand/ bankruptcy notice – from 21 days to 6 months
- Temporary Safe Harbour for debts incurred during the 6 month period (from 25 March 2020)
 - Relief for Directors from their personal duty to prevent insolvent trading if debts are incurred ‘in the ordinary course of business’
- Government guarantee for bank loans up to \$250,000
- Rent moratoriums (state based legislation)
- Tax concessions and relief (eg: increase in asset write-offs, tax credits, land tax rebates)
- Industrial relations Laws eased

Current state of affairs - ATO:

- Committed to working 'shoulder-to-shoulder with businesses...'
- ATO enforcement and recovery teams essentially in 'hibernation'
- Taxpayers still need pay super and lodge on time

Current state of affairs - Banks:

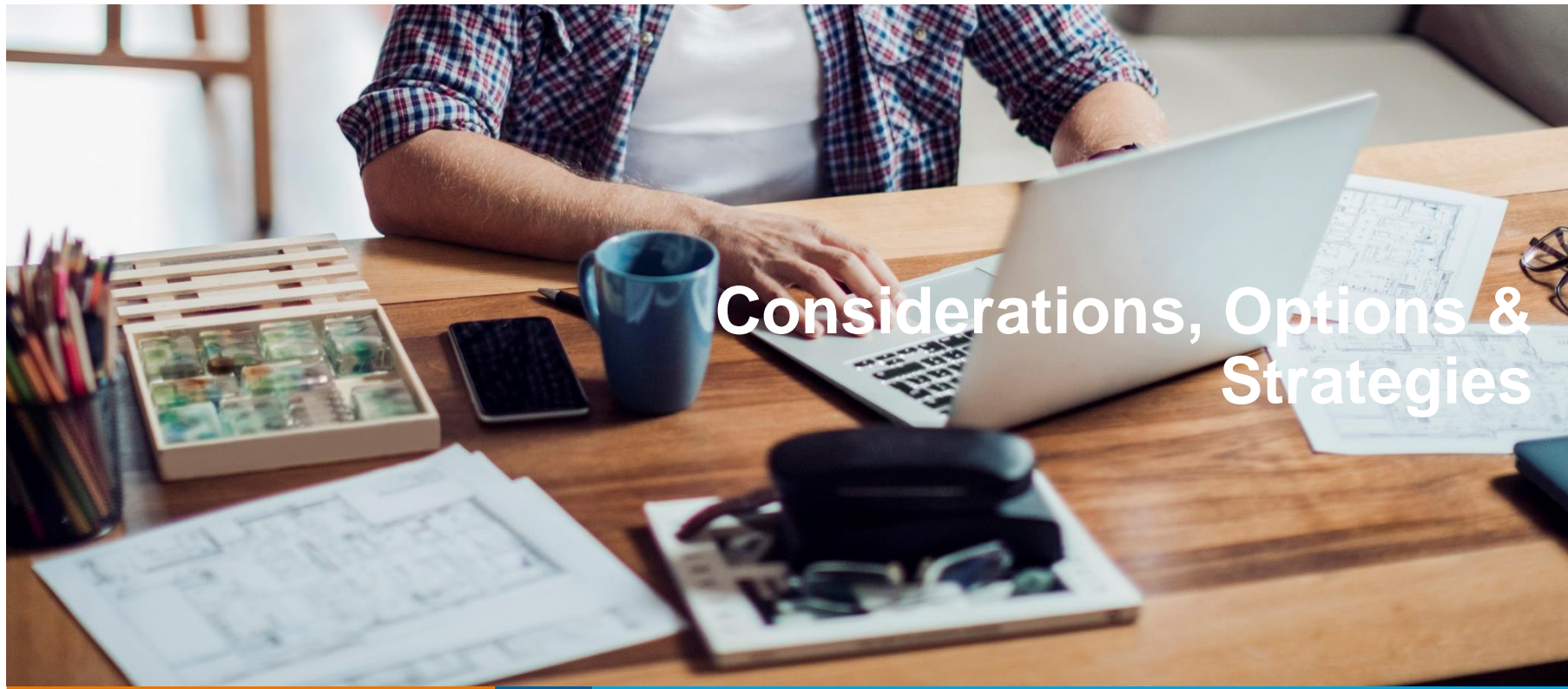
- Banks are generally deferring loan repayments for 6 months for affected businesses
- Interest is continuing to accrue
- Loan terms extended
- Credit rating not impacted – provided repayments up to date
- Assisting commercial landlords where they don't terminate or evict tenants

What hasn't changed?

- ATO Director Penalties – Directors are still exposed to liability for non-compliance
- Non-Bank security arrangements – Parties that hold security over assets of Individuals or Companies may still enforce their rights to recover and sell assets subject to security
- Bankruptcy or Company wind-up proceedings commenced prior to 25 March 2020 can still proceed

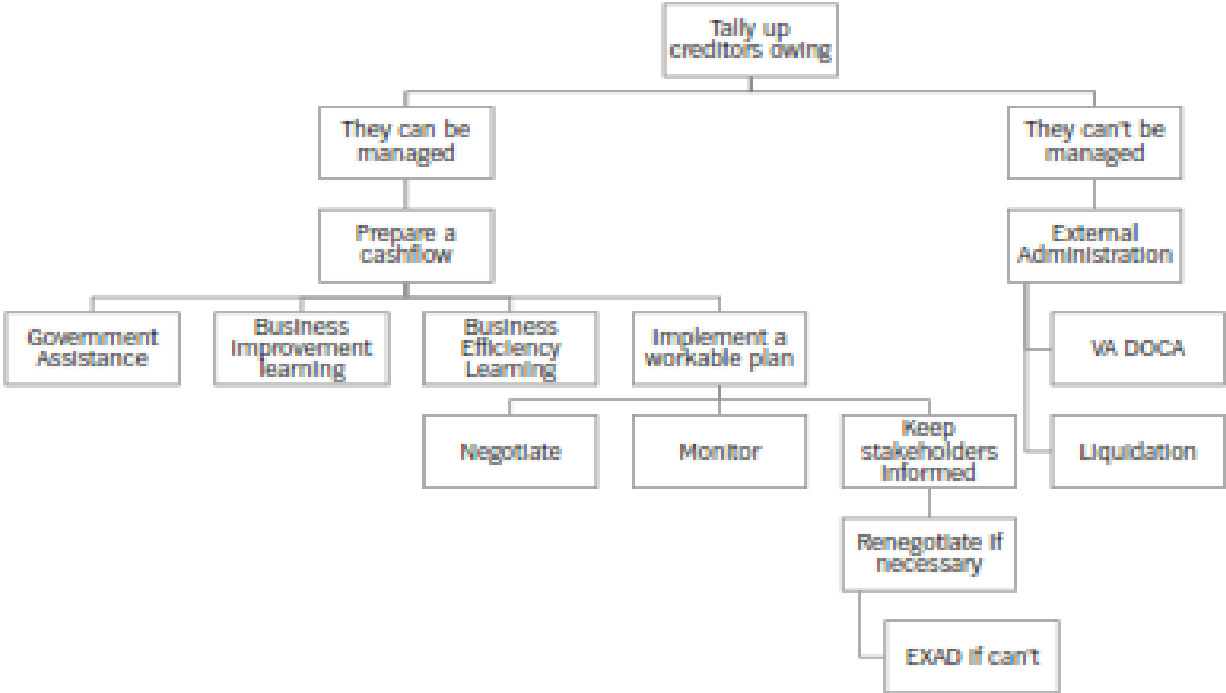
By the numbers

- ARITA has stated that of the insolvency firms surveyed:
 - Insolvency appointments are down 40-50% compared to this time last year
 - 20% of firms have implemented redundancies
 - 39% of firms had workloads significantly less compared to this time last year
- ASIC figures indicate:
 - 28% of wind up applications filed in April 2020 were filed in NSW, compared to 45% for Victoria and 20% for QLD
 - Wind up applications have dropped 20% between March 2020 and April 2020
 - Formal insolvency appointment have dropped 22% between March 2020 and April 2020



Considerations, Options & Strategies

Decision Tree



Can I afford to restart?

- What are the debts owed now and what are the arrangements to meet their payment
- Using cash flow modelling techniques, predict the time it will take to return to positive cash flow and profit
- Underpinning assumptions must be conservative and achievable
- When confident with cash flows, negotiate with key stakeholders (Banks, Landlords and ATO) return to normal terms, so that commitments to old creditors can be made
- Communicate payment plans to old creditors that provide regular and achievable distributions

Key Considerations

- **A business must be profitable before it can generate surpluses to meet old creditors**
- **A return to profit will take time**
- **Profits will need to be reinvested into the business until old debts are cleared**
- **Consider the learnings and forced savings from the last months**
 - Continue to diversify and broaden revenue streams
 - Reintroduce overhead costs slowly

A man with glasses and a beard is sitting at a desk, working on a laptop. He is wearing a grey t-shirt. The background shows a living room with a brown sofa and a window. The text "Your Questions" is overlaid on the right side of the image.

Your Questions

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