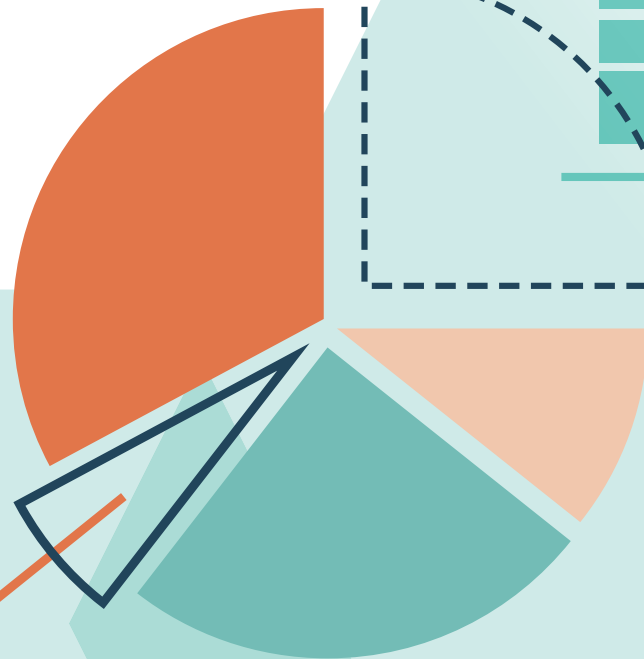


# Credit Management & Bad Debt Recovery Guidelines

Prompting questions to drive thinking beyond  
the initial response and into setting you up for  
future efficient optimised outcomes

June 2020





# INTRODUCTION

**Due to the COVID-19 pandemic, many business may find themselves in a position where cashflow becomes a major issue.**

While it is always good practice to have a solid credit management policy in place alongside a bad debt recovery approach in a business, it is never more important than in times of economic uncertainty as we are faced with COVID-19.

The approach may vary customer by customer, and market by market, but it must balance supporting your customers with managing potential risk. Companies need to assess the financial damage and determine the impact it has had.

For example, in the process, agreeing reasonable payment terms with all parties to try and restart the trading of the business.

The ultimate goal is usually to emerge stronger, with greater quality of market share without increasing the level of risk or extending credit further where there is a material risk of failure.

# CONTENTS

The following steps encourage you to consider a suitable approach for credit management:

- **Credit Management Guidelines**
  - Prompting Questions for your Business to consider
- **Important Credit Elements to Note**
- **Spotting Financial Difficulty**
- **Bad Debt Recovery**
- **Processing Legal Recovery**
- **Options for Enforcing Judgment**



# CREDIT MANAGEMENT QUESTIONS - 1

Area	Are you clear on the facts & details behind	Relevance – seeking to ensure you
<b>Debts</b>	<ul style="list-style-type: none"> <li>Insurance and Securities (Personal Guarantees, Bank Guarantees, mortgages, etc) overall and for each of your debtors</li> </ul>	<ul style="list-style-type: none"> <li>...know what security, insurance and leverage are in place for each account in order to protect each invoice from Bad Debts</li> </ul>
<b>Credit History</b>	<ul style="list-style-type: none"> <li>How each account emerged from last Recession – strength or ?</li> <li>Did they have a bad debt before?</li> <li>Did they have a doubtful debt before?</li> <li>What’s their history on repayment plans (if they had them)?</li> <li>Those that needed repayment plans or other interventions, did they approach you or did it happen and then you had to respond?</li> <li>Has their credit terms changed over the last 5 years?</li> </ul>	<ul style="list-style-type: none"> <li>...understand the credit history on accounts, the likelihood of them engaging with you first or having to be engaged</li> <li>...have evidence and facts to hand to support your good decision making when the time arises</li> </ul>
<b>Customer Risk Assessments</b>	<ul style="list-style-type: none"> <li>What is the ownership profile for your accounts? Plc, Ltd, Sole Trader etc.</li> <li>What other businesses is your customer involved in?</li> </ul>	<ul style="list-style-type: none"> <li>...understand if there are other exposures that can have an impact (positive or negative) on this business</li> <li>...understand if they are properly planned for the future</li> </ul>

# CREDIT MANAGEMENT QUESTIONS - 2

Area	Are you clear on the facts & details behind	Relevance – seeking to ensure you
<p><b>Groups/ Similarities</b></p>	<ul style="list-style-type: none"> <li>• There are often similarities at a high level when it comes to customers - have you assessed the similarities and how you can target activity and solutions at these efficiently and effectively as a group</li> <li>• Risk Assessments</li> <li>• Exposure to the issue (e.g. COVID-19) main impact areas and likely medium terms impacts &amp; recovery</li> <li>• Debt Value assessments</li> <li>• Customer types and their end customer demographics - and impact of the issue on their disposable incomes</li> <li>• Overheads – fixed including debt repayments versus variable costs</li> </ul>	<ul style="list-style-type: none"> <li>• ...have considered individual customers and also how they can be efficiently addressed</li> <li>• ...have thought through the logical groupings of customers and how different groupings may be impacted in a similar way</li> </ul>

# CREDIT MANAGEMENT QUESTIONS - 3

Area	Are you clear on the facts & details behind	Relevance – seeking to ensure you
<b>BATNA</b>	<ul style="list-style-type: none"> <li>• Your Best Alternative to Negotiated Agreement for each customer?</li> <li>• Each customer’s strategic importance or not?</li> <li>• What you are willing to move to ?</li> <li>• Adjust &amp; Negotiate agreements</li> </ul>	<ul style="list-style-type: none"> <li>• ...have considered the “What if?”</li> <li>• For example, what if your customer ceases trading- what is your walk away point?</li> </ul>
<b>Doubtful Debts</b>	<ul style="list-style-type: none"> <li>• Riskier debts and how you monitor these to avoid them becoming bad</li> <li>• Resources to support this effort?</li> </ul>	<ul style="list-style-type: none"> <li>• ...have considered your debts and ranked them normal – doubtful – bad</li> <li>• ...have you considered the effort you need to expend to track and manage debts in a volatile scenario</li> </ul>
<b>Bad Debts</b>	<ul style="list-style-type: none"> <li>• Your process for handling Bad Debts</li> <li>• Their impact on trading relationships with that entity/ individuals and/or connected companies</li> <li>• Recovered Bad Debts – what impact does this have?</li> <li>• Resources to support this?</li> <li>• Budgets? – for bad debts and for defending them</li> <li>• What’s already provided for in your accounts?</li> <li>• Do you have a legal debt recovery practitioner available and contracted rates</li> </ul>	<ul style="list-style-type: none"> <li>• ...you’ve got a robust approach in place... policy, process, people, communications, systems, resources and budget</li> </ul>

# CREDIT MANAGEMENT QUESTIONS - 4

Area	Are you clear on the facts & details behind	Relevance – seeking to ensure you
<b>Critical Customers</b>	<ul style="list-style-type: none"> <li>• Why they're critical</li> <li>• If failing, what will you do?</li> </ul>	<ul style="list-style-type: none"> <li>• ...have thought through the biggest risks before they materialise and have pre-agreed actions to take to mitigate it from happening and to manage if it happens</li> </ul>
<b>Terms &amp; Conditions</b>	<ul style="list-style-type: none"> <li>• Your Terms and Conditions</li> <li>• The last version that your customer received and when</li> <li>• Your 'Retention of Title' entitlements</li> </ul>	<ul style="list-style-type: none"> <li>• ...understand the small print and can easily explain it to customers and you don't risk a debt recovery in courts if it comes to that</li> </ul>
<b>Governance</b>	<ul style="list-style-type: none"> <li>• Local governance and processes</li> <li>• Corporate Governance</li> <li>• Local reporting and tracking – short, medium and long term</li> </ul>	<ul style="list-style-type: none"> <li>• ...understand the impacts of this on discussions, decisions and timelines</li> </ul>



# CREDIT MANAGEMENT QUESTIONS - 5

Area	Are you clear on the facts & details behind	Relevance – seeking to ensure you
<b>Reporting</b>	<ul style="list-style-type: none"> <li>• Different for each individual customer - short, medium and long term</li> <li>• Are your measures balanced between (Lagging) Credit &amp; Sales, (Leading) market &amp; economic indicators and Anecdotal (the mood in trade and with recovery teams)</li> </ul>	<ul style="list-style-type: none"> <li>• ...are tracking and monitoring the customers repayments</li> <li>• ...are you tracking stocks and markets</li> </ul>
<b>Principles</b>	<ul style="list-style-type: none"> <li>• What is your position?               <ul style="list-style-type: none"> <li>• equipment and charges</li> </ul> </li> <li>• Your position on defending your debtors – e.g. will you take an aggressive stand from the outset to ensure you don't become an easy target? This will cost short term but may possibly pay back longer term</li> <li>• Your budget/investment required/allowed on this</li> <li>• Product Uplift – decisions, governance, process and impacts</li> </ul>	<ul style="list-style-type: none"> <li>• ...your principles are in place and understood</li> </ul>
<b>Working within your business</b>	<ul style="list-style-type: none"> <li>• KPI's are aligned and shared</li> <li>• Are you engaging across the business – sales, finance, marketing, credit, senior management, order processing?</li> <li>• Clarity on the decision making and any delegated authorities</li> </ul>	<ul style="list-style-type: none"> <li>• ...are all working on one approach with one overall goal. It is a clear Commercial Approach with Credit Management Principles, not Sales Versus Credit Control</li> </ul>

# IMPORTANT CREDIT ELEMENTS TO NOTE

## Credit Limits

- Typically credit limits are only changed on an annual basis, in a total customer base review process
- It is likely that you will need to review these more frequently
- It is vital that your governance process is followed with no exception, especially if you are put under pressure to do this quickly
- Ensure you are regularly discussing volumes of blocked orders, releases and credit exposure with your sales and finance teams
- Be extra vigilant when releasing credit blocked orders and ensure you have the right approval
- If you have credit insurance, ensure you are complying with the detailed rules

## Payment Terms

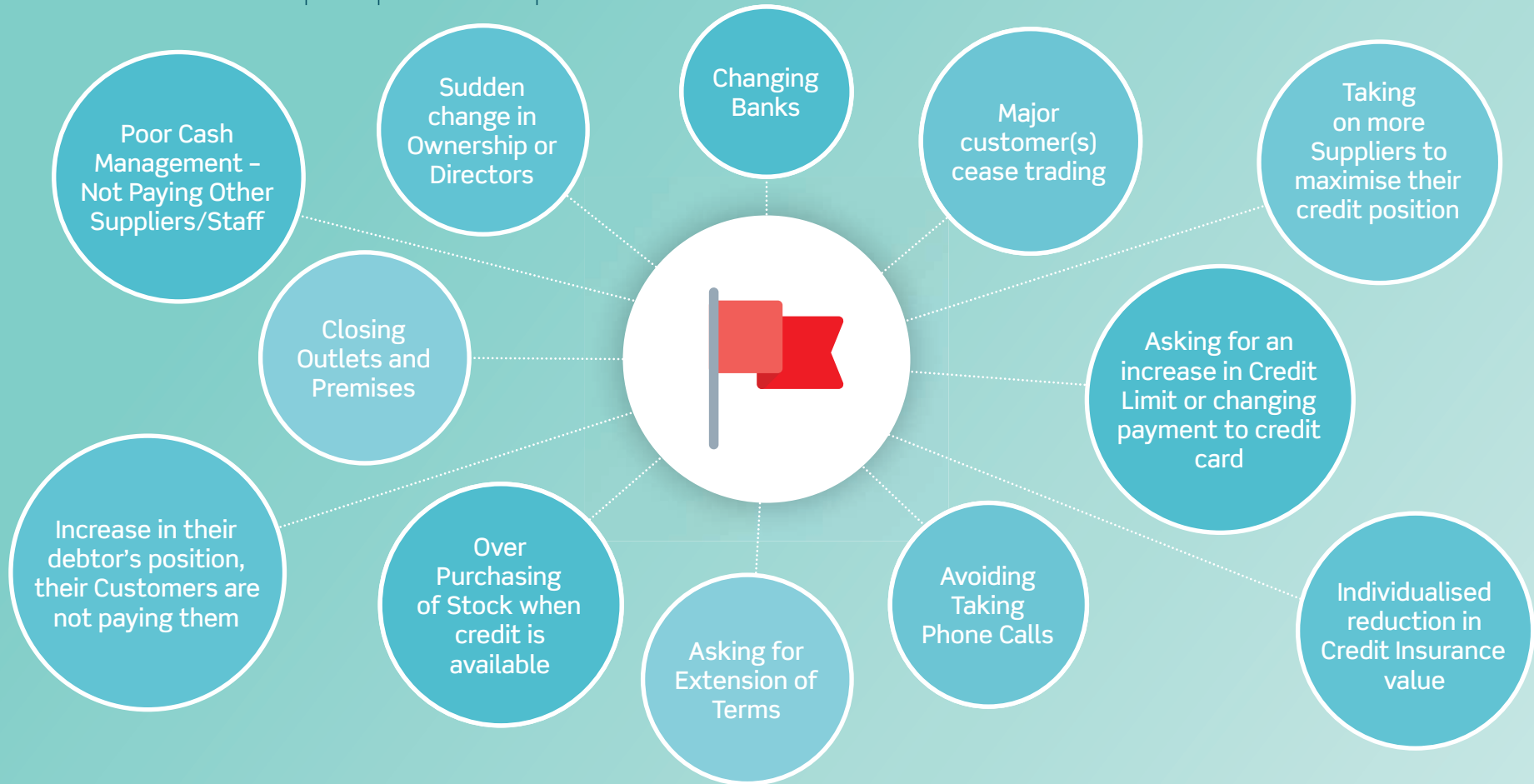
- The timeliness and frequency of customer payments is driven by their payment terms
- In the normal course of business these are rarely changed, however in these times they may change more frequently
- Reducing payment terms is a good way to encourage smaller but more frequent payments to maintain a reasonable level of credit, this should be encouraged to maintain cash flow
- Customers are likely to want to do the opposite and extend payment terms, you should ensure that approvals are appropriate and valid
- If you have credit insurance, ensure you are complying with the detailed rules

## Risk Categories

- In difficult times, risk categories are also vital. They determine your order blocking strategy and approach to credit limits & terms and indicate the financial and trading health of your customer base
- Credit Reports (insurance cover, your debtor's ledger, etc) need to be checked for changes and acted upon
- Make sure that the risk category is current and reflects the current position

# RED FLAGS – SPOTTING FINANCIAL DIFFICULTY

Below are some of the signs that *may indicate* financial difficulty in a customer's business; it should be the responsibility of ALL Team members to be aware of these and to speak up if these are spotted



Always remember: These are only indicators that **may** indicate an issue and should cause you to consider and explore “Why is this happening?” rather than ignoring it or overreacting to it. Bear in mind, all the above happen for very normal business reasons most days and are not an issue of any sort – so the recommended approach is always of enquiry, not accusation.

# DEALING WITH CUSTOMER INSOLVENCIES

In certain circumstances, the external environment may force some of your customers to shut down their business, it is important to consider following these guidelines

## You should seek support from your Senior Team, Legal and Finance advisors

- Legal Permission may be needed to access customer premises
- You may have to prove ownership of goods, by showing copies of your T&C's and invoices (may have to link batch codes to stock to prove you supplied it if it could come from multiple sources)
- You can trade with Receivers and Examiners directly but make sure to open a new account and full paperwork from them. They can take ownership of stock on the premises if they pay you for it.

Cease Trading immediately upon notification received.  
Ensure account is fully blocked



Where possible Retention of Title claims should be made  
with the insolvency practitioner for the business



Any remaining stock should be collected or the  
insolvency practitioner agrees to pay for it in full



Senior Management, Senior Sales Teams and Legal  
Teams are typically fully engaged in all collection  
activity and subsequent court proceedings

# BAD DEBT RECOVERY

## Step 1: Forecasting Bad Debts

You can never guarantee that every single customer will pay a bill on time, but there are things you can do to keep late or missed payments to a minimum.

Anticipating the likelihood and potential level of bad debts will mitigate some of the risks and the time spent dealing with debtors. These steps can be used to identify the nature of any potential credit problems and minimise any cashflow issues.

1. Know your customer - Regular credit checks will save time and money in the future. Make your payment terms clear and consistent from the start and advise customers about any late payment charges.
2. Meet basic requirements - ensure to get as much contact information as possible from customers.
3. Create Relationships - Regularly check customer satisfaction for your products and services and discuss any approaching invoices due.
4. Bad debt provision - will anticipate the likelihood of debtors failing to make payment. When possible, set aside cash to meet shortfall in the event of bad debt.

## Step 2: Keeping your cashflow healthy

Small businesses are highly dependent on healthy cashflow and the consequences of late payment can have a huge impact.

Therefore, managing cashflow and enforcing credit control is essential to protect your business from the effects of bad debt. Here are a few steps you can take to offset the risk of bad debt for your business and manage your debtors effectively.

1. Keep track of figures - it is important to know who owes you and how much. Make sure you keep it updated and easily accessible. Make payments a simple and accessible method.
2. Send prompt reminders - be proactive and communicate with clients when invoices are due.
3. Consider bad debt protection - provides reassurance that any debts will be protected whether it is from a co-op or processor where they are unable to repay.

# BAD DEBT RECOVERY

## Step 3: Effective Credit Control

No matter how small or big your business is, you must ensure you have good risk control in order to improve your company's cashflow and increase your profit level.

Setting up an efficient and effective credit control system is an essential part of reducing the risk presented to your business by bad debt. You should achieve a balance between ensuring that your business receives payments in a timely manner and keeping your customers happy.

1. Responsibility - appoint an employee to create and maintain a credit policy that covers all customers, payment terms, changing credit limits and using third party enforcements.
2. Procedures - ensure the correct ones are in place to minimise risk. Its important to chase debts after they have become due.
3. Reach an agreement - If your customer has a genuine reason for not making a payment, it may be possible to reach an agreement without the need for legal action that could result in the termination of the relationship.
4. Persistent debtors - If a customer continues to default on the money they owe, and you're spending more time chasing them than their business is worth, you should consider concluding your business with them.
5. A stop list - of customers you do not want to give more credit to. This can be for various reasons, but it is an important document to create to safeguard your business. Update the list regularly and circulate it to appropriate employees. Do not supply any more goods to these customers until they are taken off the list and all invoices paid. Always inform late payers that they are 'on stop'. Bad debts will impact your cashflow, making it difficult for you to pay your debts and manage your business effectively.

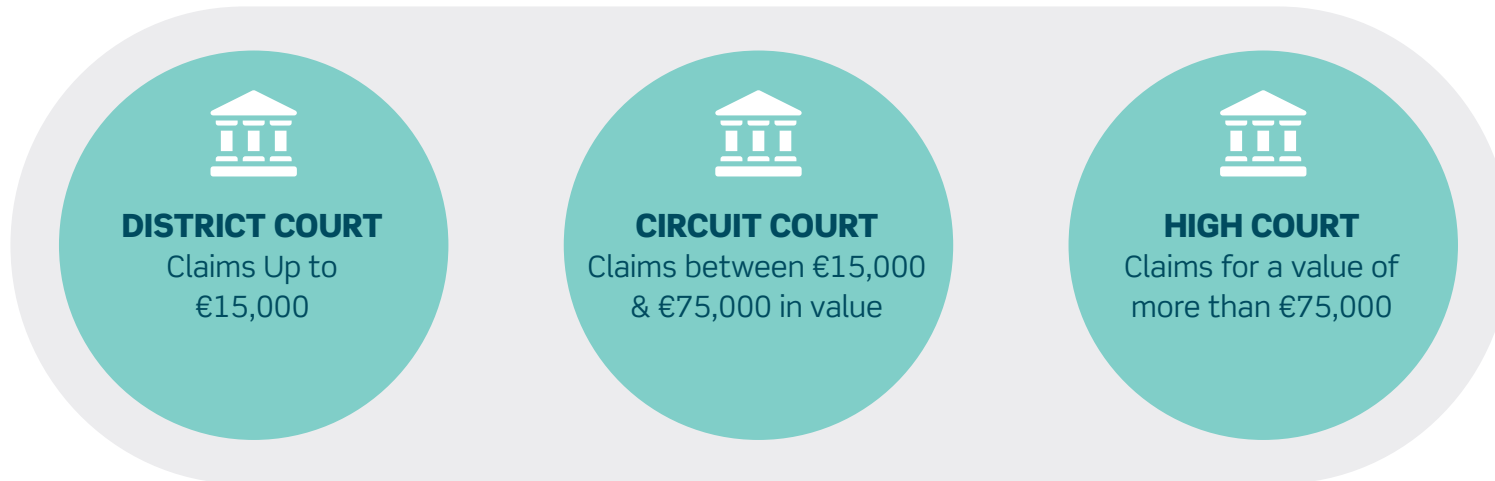
# BAD DEBT RECOVERY

## Before You Progress To Legal Debt Recovery...

1. Be sure you have ALL the appropriate paperwork and it is correct and complete. This includes:
  - a. Unpaid Invoices
  - b. Statements
  - c. Copy of the terms and conditions for the unpaid invoices
  - d. Copy of the proof of delivery signed by customer
  - e. Copies of emails and letters and notes from phone calls/meetings clearly showing dates and times
2. If there are any problems/document gaps/lack of clarity - these need to be rectified before you progress your legal claim or your legal advisor needs to advise how big an issue it will be in proving the debt and the terms of the debt. Issues or gaps in documentation can render your debt unenforceable. A simple example is you've not invoiced the correct legal entity, or the delivery docket is wrong (this could be as simple as a spelling error)
3. If your documentation is complete, issue a demand letter requesting payment within 7 days and advising non payment will lead to the debt being progressed legally up to and including court enforcement action and publication of the debt
4. If not paid but
  - a. communication from customer and progress is being made - write and advise of agreed delay for specific period to allow for resolution but if not resolved you will be progressing to legal recourse
  - b. no/negative communication and/or no progress is being made - pass to your legal recovery team but agree process and costs with them

# PROGRESSING WITH LEGAL RECOVERY

The choice of courts for Legal recovery is significantly based on the value of the debt:



## 3 Major Steps in Debt Collection:

- 1. Demand Letter (typically 7-day but sometimes 14-day notice)** - your legal recovery issue this when they receive instructions from you to pursue the debt. If they receive a response, they will engage to try to recover the debt and if not, they will continue the process
- 2. Issuing Legal Proceedings in Court** - your legal team will apply to court, prove the debt and gain Judgment against the Debtor
- 3. Enforcement of the Debt**



# OPTIONS FOR ENFORCING JUDGMENT

- 1 Register a Judgment in the Registry of Judgments** - all judgments will be listed in Stubbs Gazette.
- 2 Lodgement of Judgment with Sheriff** - The Sheriff will attempt to seize any of the debtor's assets. Proceeds from the sale of assets to cover the money owed, you will receive via your solicitor.
- 3 Judgement Mortgage** - This judgment can be registered as a mortgage over any asset (land or property) owned or part owned by the debtor. It prevents the property from being sold and you have the right to have the property sold off and the proceeds used to pay the debt.
- 4 Instalment Order** - Depending on the financial circumstances of the debtor, a Court Order can rule that a debt may be paid off in instalments.
- 5 Bankruptcy** - This applies only when the debtor is an individual and the debt is very large. It usually means that the debtor will lose everything they own. Currently in Ireland someone must remain an undischarged bankrupt for five years.
- 6 Garnishee Order** - If you are aware of third parties who owe debts to the debtor that you are seeking repayment from, in certain circumstances a Court Order can be granted ordering the third party to pay you directly in the amount of your debt.
- 7 Enforcement against Companies** - In relation to enforcement against Companies a debtor has the additional option to Petition the High Court for winding up (liquidation) of the company on the grounds of insolvency. A 21-day notice is issued and if there is no response then you should file a petition in the High Court to request the winding-up of the debtor company. If successful, a liquidator is appointed who will then realise (sell) all the assets of the company and distribute the proceeds to the creditors.

## For more information:

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An Roinn Talmhaíochta,  
Bia agus Mara  
Department of Agriculture,  
Food and the Marine



**EUROPEAN UNION**

This measure is part-financed  
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