



## Bounce back loans\* and insolvency

### ***My company is struggling but it has a bounce back loan – can I still liquidate?***

Bounce back loans (BBL) and the coronavirus business interruption loan scheme (CBILS) were introduced early in the covid19 pandemic as the government realised that businesses needed support to cover overheads whilst starved of income during periods of lockdown. The loans were processed and advanced by banks, attracted much lower interest rates than commercial loans and repayments were deferred. The application process was simplified and funds arrived within days and even hours of an application being submitted – exactly what the government wanted at the time to get cash out quickly.

HOWEVER.... Because they were so easy to get, the process was very quickly abused. Fraudulent applications were rife, which was only really uncovered once the deferred repayment periods came up and loans defaulted. We do not use the term “fraudulent” lightly here and this is where it gets important and relevant to directors of companies that have a BBL and are now facing potential insolvency.

Having a BBL does not prevent you from placing a limited company that is insolvent into an insolvency process and doing so does not automatically create problems – there are no personal guarantees on BBLs and the debt does not have special status in the order of priority – it is simply an unsecured debt.

BUT... we are duty bound to look at BBL use and abuse as part of our routine investigations once a company is placed into liquidation. If the loan has been applied for within terms and funds have been spent on business use, then as a rule of thumb, there should be no issue. However, if that is not the case, the following two main issues arise:

- i. if you obtained a BBL using false information, that is treated as a fraudulent application. Even if it was for a small amount and/or has been paid off, the act of deceit is still there and may be grounds for disqualification and/or a compensation order if the case is targeted by the Insolvency Service once the company goes into liquidation.
- ii. Secondly and more commonly, if you have used funds personally, the best interpretation of this is that you have created a director’s loan account relationship that will need to be repaid. The alternative interpretation is based on fraud and misfeasance. In both cases, funds will need to be repaid.

So, if you have a BBL and need to liquidate your company, let us know when you contact us – we will be frank about the risks and how they can be approached.

*\*This note also applies to CBILS and CLBLS*