



Amendments to insolvency and corporations laws extended until 31 December 2020

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In what for many was a controversial move in the first place, amendments to insolvency and corporations laws (**Relief Laws**) have now been extended to 31 December 2020. The Relief Law were initially enacted in March 2020 in response to the COVID-19 pandemic and were due to end on 25 September 2020. The extension, announced on 6 September 2020, comes as the economic impacts of COVID-19 and health measures to prevent its spread continue to affect Australian business.

The measures

For clarity, the measures in place include:

- an increase in the threshold of debt at which creditors can issue a statutory demand on a company from \$2,000 to \$20,000;
- the time which companies have to pay the debt, enter an agreement or have the demand set aside has also increased from 21 days to 6 months;
- an increase in the minimum amount of debt required for a creditor to initiate bankruptcy proceedings from \$5,000 to \$20,000;
- the time to respond to a bankruptcy notice has also increased from 21 days to 6 months; and
- directors are relieved of their duty to prevent insolvent trading and are absolved from personal liability associated with insolvent trading.

Our thoughts

The effects of COVID-19 continue to significantly affect business and the extensions will further assist those who owe debts. In particular, the continuance of the measures will further ease the burden of cash flow problems for businesses during a period of reduced trading.

However, the extension will have its drawbacks for those seeking to recover debts. ASIC statistics show that there has been a 12% decrease in companies being declared insolvent in comparison to the last financial year. Although this seems to be a positive, it is unusual that in the current trading environment the number of businesses becoming insolvent is lower than last year.

The issue is that 'zombie' companies (companies which would otherwise collapse that are staying afloat due to the Relief Laws and other government measures) are accruing debts to suppliers that may never be repaid once they enter liquidation. This will likely to occur once the Relief Laws are lifted.

The threat that suppliers will not be paid by these 'zombie' companies places additional pressure on these businesses, in an already impaired trading environment. This would seem counterintuitive to the purposes of the Relief Laws.

If you are a business owner, individual or director of a company and you are unsure of your position, require assistance or further clarification on the Relief Laws then please contact [Chris Kintis](#) on 02 8235 1251 or your usual CK contact.

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