

expert, professional, friendly...

June 2009

Business failures up 35% but the rate may now be slowing

The number of firms going out of business across the country in the first quarter of this year rose by 35% compared with the same period in 2008, according to figures released by the commercial information provider Equifax.

The figures, from Equifax's Business Failures Report, are even more alarming for the South East where the number of firms going bust rose by 47.5% over the same 12 months. The picture is a little more encouraging when the figures for the first quarter of this year are compared with those for the last quarter of 2008. The increase over the two quarters was only 3.3% suggesting that the rate of increase is slowing – for the time being at least.

Neil Munroe, Equifax's External Affairs Director, warned against taking too much encouragement from one quarter's figures. "It would be immensely dangerous to take too much from just

one quarter's performance, but it is a useful benchmark to watch in the coming months. But the bottom line is that our latest figures reinforce the fact that the variety of Government and private sector initiatives still have a long way to go in helping stimulate confidence in the business community.

"Indeed, there is a risk that as we head into the new tax year we might even see the numbers creep up again as some businesses find it impossible to stay ahead of their creditors including the tax man."

The construction industry was the worst affected with 65.2% more businesses failing over the 12-month period. However, between Quarter 4 in 2008 and Quarter 1 this year, the increase in failures was just 15.3%, suggesting that the sector may be reaching the bottom. Mr Munroe said: "Whilst the comparison between Quarter 4 2008 and the first



three months of this year show some slowing down of the very high levels of failures we were seeing last year, it is clear that more action continues to be needed from Government and the banks to inject funds into the economy as a whole, both to encourage consumer confidence and help businesses with important cash flow support.

"It is also crucial that those businesses that are holding their own take the right precautions to protect themselves from some of the risks of these exceptionally tough trading conditions."

The figures make it clear that there is still a long way to go before we can start talking seriously about a significant economic recovery. All businesses need to keep a close watch on their cash flow and be prepared to act quickly to recover debts before the situation gets out of hand. A solicitor's letter is often enough to achieve prompt payment. For more stubborn cases, there are several legal avenues to explore to ensure that invoices are settled.

Consumers backing away from taking out loans

The economic downturn is hitting lenders hard with dramatic falls in the number of consumers taking out both secured and unsecured loans.

Figures released by the Finance and Leasing Association (FLA) show that the number of secured loans in February this year fell by 83% compared with February 2008. Unsecured loan business fell by 45% over the same period.

The total amount of finance provided to consumers in the 12 months up to February this year was £58.2bn. That's a 12% fall on the 12 months leading up to February 2008. FLA members provided £660m in unsecured loans in the first two months of this year compared with £1.1bn in the same period last year.

New credit card business was down by 11% in February compared with February 2008.

The FLA believes that consumer reluctance to commit to long-term



repayments is an influencing factor, together with the fact that rising unemployment means that granting loans is more risky for lenders and so they may be more cautious.

However, store instalment credit bucked the trend and actually showed an 8% increase in February. The FLA believes this may be due to stores offering attractive deals such as deferred payments and interest free credit. The purchases often involve small amounts, suggesting consumers are more confident of being able to repay low cost loans.

Where next



For all enquiries please contact
Steve Griva
Director of Operations for Debt Recovery
0208 290 7301
sgriva@judge-priestley.co.uk

Changes to insolvency law could keep firms afloat

Large and medium-sized companies could soon benefit from changes to insolvency laws which will help them avoid going into administration.

The Insolvency Service is now consulting on two major proposals. The first measure would give businesses more breathing space to enable them to seek legally binding Company Voluntary Agreements (CVA) with their creditors without first having to go into administration.

At the moment, only small companies are able to obtain a moratorium on creditor action while seeking an agreement with their creditors. This would be extended to large and medium sized businesses.

The second measure would give absolute priority to creditors who lend money to companies in administration



or a CVA. Such creditors would be at the top of the list for recovering their money if the company eventually failed. It's hoped this extra safeguard will make it more attractive to lend to companies in difficulties and thereby give those companies access to the funding they need to survive and stay in business.

A Government spokesman said: "Giving more businesses extra breathing space will encourage company rescues. It could make all the difference between a firm staying in business or entering insolvency - preventing the knock-on effects that failures have on employees, directors and creditors."

If the proposals do go ahead then they will help to keep struggling companies afloat and may help their creditors recover their money eventually. However, creditors can also protect themselves by monitoring their customers' payment records closely and taking prompt legal action to recover debts before the situation gets out of hand.

Firms should also consider all their options carefully before entering into any agreements and take legal advice to ensure they are doing everything possible to protect their interests.

Number of personal insolvencies could reach 150,000

The number of personal insolvencies could reach a record high of 150,000 in 2009, according to the accountancy firm KPMG.

The warning follows figures released by the Insolvency Service which show that 30,253 people either went into bankruptcy or entered into an Individual Voluntary Arrangement in the first quarter of this year. That is an increase of 22.9%

on the same period last year and the highest number for any quarter since records began.

From a creditor's point of view, the situation is likely to be exacerbated by the introduction of Debt Relief Orders (DRO) which came into effect in April. These allow people who owe less than £15,000 - and have virtually no assets or surplus income - to write off their

debts without having to enter into a full bankruptcy.

Research by KPMG showed that 13% of all IVAs put forward in the first quarter of this year were rejected. The average debt owed by people entering into an IVA during this period was £50,020. However, there were 500 people who had debts of more than £100,000.

IVAs were introduced under the 1986 Insolvency Act to provide professionals and company directors with an alternative to bankruptcy.

The objective was to provide debtors with the certainty of making regular, reasonable payments over an agreed period at the same time as providing the maximum possible returns to creditors.

How successful they have been in achieving this aim is open to question. Firms would certainly be wise to consider all their options carefully before agreeing to Individual Voluntary Arrangements as they can break down after only a few payments. It is best to take legal advice before taking an action that could prove costly in the long run.

CCJs against firms at eight-year high

The number of county court judgments against firms in England and Wales is at its highest level for more than eight years.

Figures released by the Registry Trust reveal that there were 192,100 commercial CCJs in 2008. That's the highest number since 2000.

The Trust is a non-profit making organisation which administers the registry of judgments and fines on behalf of the Ministry of Justice. It has revealed that the number of judgments against corporate businesses rose from 95,900 in 2007 to 102,200 in 2008. That's a rise of 6.5%.

Judgments against non-corporates over the same period rose by 0.5% from 89,500 to 89,900. It was the fourth successive year in which the number of judgments rose.

The chairman of the Registry Trust, Malcolm Hurlston, said: "The general upward trend in commercial judgments shows that 2008 has been a tough year for businesses, particularly in the small and medium-sized enterprise (SME) sector. This looks set to continue into 2009, when the impact of the recession really starts to hit. We expect to see a further increase in the number of commercial judgments this year."