



Survival of the fittest

These are challenging times. Not only does your business have to run faster to stay still, but you also have to be alert to the adverse impact others can make to your business whether it is a distributor going bust, stock being trapped in a supply chain or a customer failing to pay you. We have identified some key questions we think you should consider to assist you to survive and prosper in the downturn.

Financing

- Are my current facilities sufficient to cover my cash needs over the next 3/6/12 months?
- What facilities do I/should I have? Term/Overdraft/Invoice Discounting?
- Am I in danger of breaching any financial covenants or other terms of my finance agreements?
- Do I have sufficient credit insurance on my customers? Am I in compliance with the policy?
- Can I raise finance from the Company's shareholders?
- Am I eligible for any Government/Development Agency grants?

Contracts

- Can I find the important documents?
- Who am I most exposed to? Is it customers, suppliers, distributors, agents, employees, joint venture partners, or other stakeholders? How do I monitor them?
- IT: Is my hardware and/or software supplier secure? Do I have other IT risks?
- Don't accept the status quo. What can be renegotiated or done differently?

Customers

- What T&C's govern my contract? How do I know? (ie am I sure what terms I have contracted on?)
- How do I enforce payment terms?
- Is there a retention of title clause? And is it the right type? How is stock controlled?
- Can I obtain payment guarantees/letters of credit?
- Do I know my set off rights and position?

Suppliers/Distributors

- What T&C's govern my contract? How do I know?
- How do I contain my exposure if have paid upfront?
- Do I have an alternative source of supply/distribution?

Overheads

- Are my overheads appropriate for my business in the coming months/year?
- Property – can I sell/sub-let any surplus? Do I have any onerous leases? Can I renegotiate with my landlord?
- Employees – should I be considering downsizing? Should I consider seeking changes to their terms and conditions? Shorter weeks?

Other Liabilities

- Tax- do I need to seek time to pay?
- Pensions- are there any unfunded commitments?
- Any other Achilles Heels?

Internal Controls

- Are my internal financial/accounting controls adequate? Do I have up to date and accurate information on how my business is doing and on cash flow?
- Am I adequately recording matters in board minutes? Do the Directors have any conflicts of interest? Is there a danger of wrongful trading?

In the past few months we have been advising on many issues arising from the above including from the collapse of Woolworths and Zavvi and the fall out from the banking crisis. If any answers to the above questions concern you, do get in touch.

Contacts



David Hall
Partner

+44 (0) 117 902 2798
david.hall
@burges-salmon.com



Roger Hawes
Partner

+44 (0) 117 939 2243
roger.hawes
@burges-salmon.com



Rupert Weston
Partner

+44 (0) 117 939 2228
rupert.weston
@burges-salmon.com



Matt Britton
Associate

+44 (0) 117 902 7715
matthew.britton
@burges-salmon.com



Tracy Fennell
Associate

+44 (0) 117 902 6680
tracy.fennell
@burges-salmon.com