

# ADVISER

## CORPORATE FAILURE: INFORMATION FOR SUPPLIERS AND CREDITORS

If you are a supplier or a creditor for a company which enters administration, credit insurers will expect you to act prudently and take the necessary steps to mitigate losses. Debts must be registered with the Administrator, and insurers will expect insureds to enforce any security held. This could take several forms such as guarantees, charges over assets, and, most commonly, retention of title (ROT).

### ACTIONS FOR SUPPLIERS HOLDING ROT

Suppliers holding a ROT with a company in administration should consider the below actions:

- Contact the Administrator as soon as details are announced. The Administrator will often have a designated team dealing with ROT issues.
- Notify the Administrator that you hold ROT as soon as possible.
- Complete a ROT questionnaire, if needed. You will also need to supply a statement of account, evidence that your ROT clause is contained within your terms and conditions of sale, and demonstrate that the ROT has been incorporated into the sales contracting process.
- Know that the Administrator will often use stock lists to determine the level of goods held per supplier. For example, if a buyer has a large number of retail outlets, any physical stock inspection could prove to be a logistical problem.
- Request immediate access to the company premises to undertake your own stock inventories in the event that the Administrator does not have up-to-date stock lists. You should expect that a representative of the Administrator will be present at the time and you will need to make sure that the stock list is mutually agreed.
- Be aware that it is common for the Administrator to refer ROT claims to their own legal advisors for comment, meaning it could take some time to process claims.

We would also recommend the following:

- If your ROT is accepted, the Administrator should pay full invoice price for any goods sold since its appointment. The Administrator may ask you to raise new invoices to accommodate any payments.
- If your ROT is rejected, and you feel this is not justified, we recommend that you take legal advice before responding to the Administrator.
- If you need a solicitor to act for you, your insurers should be able to assist in finding a suitable representative.

## RECOMMENDATIONS FOR REQUEST OF NEW SUPPLIES

If a request for new supplies is made, it should always come from and be signed by the Administrator's designated team. When such requests are made, you should keep the following in mind:

- You should anticipate that the Administrator will seek credit terms.
- Marsh would not anticipate that a default on payment would occur. However, if you are credit insured, you should consult with your insurer before committing to further sales.
- We recommend, where possible, you have an agreement on the ROT claim before you continue to supply new goods.

If you are credit insured and have a credit insured debt, you should be aware that your policy will make provisions for the allocation of funds, typically against the old credit insured debt. Therefore, prior to any new business transactions, we recommend that you consult with your insurer.

## CONTACT US

Should you have any queries, please speak to your usual Marsh contact or our specialist trade credit claims unit:

EDDIE FEATHER  
Trade Credit Claims Leader  
+44 (0)161 954 7313  
eddie.feather@marsh.com



Chartered

The information contained herein is based on sources we believe reliable and should be understood to be general risk management and insurance information only. The information is not intended to be taken as advice with respect to any individual situation and cannot be relied upon as such.

Marsh Ltd is authorised and regulated by the Financial Conduct Authority.

Copyright © 2018 Marsh Ltd All rights reserved

GRAPHICS NO. 18-0226