



Credit Wise

News for the credit management industry

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The nightmare before (during and after) Christmas

Christmas trading figures revealed how badly hit many high street retailers have been by the onset of recession in the UK. Michael Finch warns that 2009 looks set to be a tough year, not only for retailers but other businesses too.

According to the British Retail Consortium's December 2008 statistics, UK like-for-like sales were down by 3.3% on December 2007. This was the worst performance since the BRC's records began in 1994.

Shoppers generally delayed their festive shopping, hanging on for discounts and early clearance sales. In the battle to attract buyers, many retailers resorted to unprecedented discounting at the expense of margins. Marks & Spencer ran an aggressive campaign including two 20% discount days, but still saw like-for-like sales down 7.1% in the thirteen weeks to 27 December. For some, the double whammy of low sales and tighter margins triggered collapse. Famous casualties include Woolworths, Zavvi, The Officers Club, The Pier, Whittard, MFI, USC, Adams and Land of Leather.

A few bright sparks

There have been a few bright sparks amidst the general gloom. According to the BRC, the footwear and food sectors enjoyed increased sales compared to a year ago. It seems the British public refused to cut back on their traditional Christmas dinner. Non-food non-store sales – in other words internet based transactions – were strong. According to Nielson Online, visits to the top ten online UK retailers for the fourth quarter of 2008 were 37% up on the same period in 2007. The growth reflects increased shopper confidence in buying online and the late last orders dates offered by many internet retailers.

Outlook for 2009

Even so, for many retailers 2008 was a grim year and things are expected to get worse throughout 2009 and, more likely than not, into 2010. The BRC's chief economist is forecasting a shrinkage of the UK economy by up to 2.4% in 2009, a pessimistic adjustment to his previous forecast of a 2.4% contraction. The IMF offers similar sentiment; it expects a contraction of 2.8% in 2009, the worst economic forecast for any developed country.

Smaller retailers in particular will find it harder to raise finance. Already some viable businesses have had their



overdraft facilities removed with little warning. Retailers forced to offer large discounts and already struggling to manage cash flow will be particularly vulnerable to such funding threats.

It won't just be retailers who are affected. A slump in the high street has a knock-on effect on many businesses – manufacturers, suppliers and service providers such as landlords.

A few words of advice

What can retailers do to protect their businesses?

Cash is king. Working capital management is essential, as is the maintenance of a healthy working relationship with the bank manager. For further advice, see our publication 'Recession-proof your business' which is available on www.moorestephens.co.uk.

If viability or solvency issue is identified, business owners should seek immediate independent advice. This will often increase the options available and reduce the risk of the business becoming yet another retail sector casualty.



Pre-pack guidance

New guidance for insolvency practitioners has been issued that aims to reassure creditors when “pre-pack” sales take place.

Statement of Insolvency Practice SIP 16, Pre-packaged Sales in Administration sets out best practice and highlights the administrator’s duty to act in the best interests of the creditors as a whole. Insolvency practitioners who stray from the guidance are liable to disciplinary action.

The SIP lists the many matters that need to be disclosed to creditors as soon as possible, including the date of the transaction, assets sold and the amount payable for them.

Look out for more on SIP 16 in the next issue of Credit Wise.

A load of ROT

Stewart Perry and Charlie Vermeylen of DLA Piper UK LLP answer some of your questions on the use of Retention of Title (ROT) clauses.

What are ROT clauses?

ROT clauses provide that title in goods only passes from the supplier to the buyer on certain conditions, usually payment to the supplier of all sums owed. This means that in an insolvency, the supplier can simply take back the stock rather than having to accept a dividend as a normal unsecured creditor.

How can I make sure my ROT clause works?

There is no guarantee that any ROT clause will work as it depends not only on the wording of the clause but how the clause operates in practice. Two main areas which lawyers will always investigate are:

Incorporation – ROT clauses are only effective if the wording is incorporated into the contract between the parties. Suppliers should therefore seek to ensure that a signed agreement is entered into which incorporates their ROT clause.

Identification of the goods – ROT clauses are only effective if the supplier can identify which goods belong to him. This can be practically impossible where identical goods have been supplied by different suppliers.

Can an administrator do whatever he wants with ROT stock?

The simple answer is “No”. The moratorium created by an administration means that a supplier cannot take back his stock without the permission of the court or the administrator. However if an administrator deliberately deals with property in a manner inconsistent with another person’s rights and deprives them of possession and use, he can be liable for damages under the tort of conversion.

However, there are a number of variables which can impact on whether the supplier will have a claim.

Trading – Most ROT clauses give the buyer the ability to use stock in the “normal course of business”.

So if the administrator continues to trade the business, it is likely that normal sales of the goods will be permitted by this part of the clause.

Whole business sales – In most business sales, ROT stock is specifically excluded. Whilst the purchaser of the business will usually be the person dealing with any subsequent ROT claims, the ultimate liability for any valid claim will rest with the administrator.

Statutory defence – If the administrator reasonably believed that the goods belonged to the company, he is not liable for the damages unless he negligently incurred loss or damage to the supplier.

Court order – It is possible for the court to give permission for an administrator to sell ROT stock.

Do you have any tips to assist a supplier?

Review your standard terms and conditions and if you have any concerns over the strength of the ROT clause, seek advice.

Try to ensure the buyer enter a signed agreement incorporating your ROT clause.

As soon as the company enters administration, make the administrator aware of your ROT claim and attend upon the company’s premises and identify your goods. If possible, mark them with stickers and/or get a representative of the administrator to agree with your list. Also consider whether you would be in a better position by serving notice on the company (if you are contractually entitled to do so) to terminate the company’s right to sell the ROT stock in the course of business.

Spotlight on construction

How is life in the construction industry? Businesses are wary, but taking steps to protect themselves.

Donna Chambers, credit risk manager at WT Burden, supplier of civil engineering and building materials, is keeping a close eye on developments. “We have seen a bit of a slowdown but nit across the board,” she says. “Geographically we are busy in some areas.” The company has limited exposure to house builders, which is helping to minimise the impact of the economic crisis.

Steps have been taken to minimise the risk of problems. “We have changed our insurance company with effect from 1st January,” Chamber says. “We now have a lower first loss limit. We are tightening up in terms of referral through for legal action. We are getting our solicitors to

send out a letter two weeks earlier than we would normally.”

A credit manager in a major builders’ merchant notes the “severe shortage of money circulating within the industry”. Payments have slowed over the last six months, with a vicious circle of late payment developing – contractors who haven’t been paid are unable to pay their own accounts. However, “suing people is not necessarily the answer” if that pushes businesses and individuals into insolvency and bankruptcy. That said, more legal action is being undertaken in attempt to recover debts.



Riding the storm

With decades of experience and a wealth of risk assessment knowledge, Atradius offers a comprehensive range of credit management solutions that protect businesses of all sizes against the commercial and political risks inherent in domestic global trade. With their finger truly on the business pulse, we ask their viewpoint on the current economic climate.

In some ways, it's inevitable that when we're seeking terminology to describe the current state of the economy and global trade, that we turn to sea-faring phrases and clichés, such as 'the eye of the storm', 'battening down the hatches and that old favourite, 'unchartered waters'.

The simple fact is, that there is no historic reference point for the sheer size, severity or speed with which these current conditions developed, which have already left many businesses stranded and countless others trying to navigate a course through the storm, often with no clear heading or even knowing whether a safe port exists. OK, we've finished with marine metaphors for the moment, although they do help illustrate the challenges being faced on a global scale and not just here in Northern Ireland.

No business is immune from the current conditions, as demonstrated by the highly visible demise of major retailers, such as Woolworths, MFI and Zavvi. Northern Ireland has had its fair share of difficulties in recent weeks with many leading employers announcing redundancies on an unprecedented scale as they attempt to cut costs and hang on for survival.

Business failures across all sectors are running at extraordinarily high levels with the latest figures showing an increase in insolvencies of 51% by the last quarter of 2008 compared to the same period a year earlier. Home owners have seen the value of properties fall by almost 1.4% every month, which reinforces fears of an uncertain future. For many, this uncertain future has become a stark reality as the unrelenting rise in unemployment continues unchecked with the course of Woolworths alone resulting in 27,000 jobs.

Internationally, the failure of Lehman Brothers bank and a number of other financial institutions sparked a wave of panic and prompted government-led bail-outs in the UK, Europe and USA. Iceland's banking sector collapse exposed vulnerabilities in other banking systems that fanned the flames of market unrest and caused a further decline in confidence, as well as a severe reduction in credit availability. Closer to home, Moody's have downgraded a number of Irish lenders amid fears they face "significantly higher" loan losses than previously expected as the economy continues to deteriorate.

As cash flow now has even greater importance in business, avoiding revenue 'hits' from customer insolvencies and payment defaults is vital, which is why many firms are turning to credit insurance, some for the first time, to provide added protection in an increasingly



difficult trading environment. There is no doubt that the current conditions will improve and those businesses that emerge from the downturn may well be stronger as a result of the experience, but for the moment, the key focus for every enterprise, including Atradius, has to be here and now – dealing with the issues, managing the risks and developing a way forward, while being able to respond quickly in a rapidly changing environment.

By adhering to these principles, however, the credit insurance industry has become much more visible to media commentators and businesses, attracting critical coverage as credit limits and cover were re-aligned to reflect the highly volatile market conditions.

Interestingly, the publicity also raised the profile of credit insurance and its role in enabling trade, moving it up on the agendas of government and commercial enterprise, virtually overnight.

We're now in a position where the Government is not only implementing numerous positive stimuli and support packages for businesses and banking, to help overcome the lending inertia, but is also listening to credit insurers as part of a broader, more holistic approach to managing the crisis.

From our perspective, we are as committed to supporting our customers as ever. It is important that we maintain consistency and continuity wherever possible by backing our judgements and continuing to pay claims, which is what we've always done. Yes, we have responded to the changing market conditions and we will continue to work with clients as an integral part of this process.

Atradius has a long history, going back more than 90 years, of helping businesses successfully navigate the economic 'rough seas' and the 'stormy waters' of international trade.



Early success for CMS!

Since launching in January 2009, Moore Stephens CMS Division, headed up in Belfast, has taken on a number of outsourcing assignments, credit management consultations and now provide a wide range of seminars and in-house training.

More information is available on www.procredittraining.com



Offices in NI

Belfast
Donegall House
7 Donegall Square North
Belfast
BT1 5GB
T: 028 9032 9481
F: 028 9043 9185
E: belf@msca.co.uk

Coleraine
32 Lodge Road
Coleraine
County Londonderry
BT52 1NB
T: 028 7035 2171
F: 028 7035 8419
E: cole@msca.co.uk

Derry
21 – 23 Clarendon Street
Derry
County Londonderry
BT48 7EP
T: 028 7126 1020
F: 028 7136 0005
E: lond@msca.co.uk

Larne
3 High Street
Larne
County Antrim
BT40 1JN
T: 028 2827 2698
F: 028 2827 7882
E: larn@msca.co.uk

Limavady
Unit B
2 Flemming Way
Limavady
BT49 0FB
T: 028 7772 2189
F: 028 7772 2268
E: lima@msca.co.uk

www.moorestephens.co.uk/ni

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March 2009

Profile: Robin Larmour



Robin Larmour, Manager of the newly launched Credit Management Services Division of Moore Stephens, confirms that investing in credit control is money well spent.

Robin joined the Moore Stephens team at the start of December last year to develop the new CMS division based in the Belfast Office.

Trained and qualified as a Chartered Accountant in 1976, Robin gained experience in several accountancy firms before moving to work in industry. During his time working in one of the largest builders merchants in Northern Ireland, Robin became a Financial Director. It was whilst employed in this role that Robin gained extensive experience within the Credit Control side of business.

Having worked within the building supply trade, Robin says, "This must be one of the best training grounds for anybody involved in credit control or cash collection as this is the hardest sector to try and get money in and also one of the riskiest."

During this period of his career, Robin became a member of the Institute of Credit Management. "This has the advantage of keeping me fully up to date with developments in the area of credit management." Robin says. "There are always new ideas and products that

become available, many of which I have found useful to any firm that deals in credit."

Since coming on board with Moore Stephens Robin has visited numerous firms that have either experienced problems in getting money in from their customers or have expressed concern that their credit control procedures are not up to speed. "I have found from consulting with a number of firms, together with information gleaned from industry, that there is no doubt now is the time to spend more money and effort on credit control procedures." Robin says. "It is a false economy on the part of those enterprises who do not invest into this vital part of the business, especially during times where cash most certainly is king."

Moore Stephens Credit Management Services Division offer three key areas of service; (i) Consultancy on the credit control function, procedures and policies; (ii) Outsourcing the full credit control function or part thereof and; (iii) Training for all levels of staff involved in credit control.

Robin reports that, "Those firms that are utilising our services have been very pleased with the results and confirm that it has been money well spent."

rlarmour@msca.co.uk

Survey reveals drop in confidences

The latest Moore Stephens Credit Management survey shows a further drop in business confidence.

Credit managers across the UK expressed an average confidence level of 5.3 out of 10 in January, compared with scores of 5.8 and 6.0 recorded in our previous surveys. The biggest fall in confidence, from 6.0 to just 5.1, came in the South East. Northern Ireland returned the highest confidence level (6.5), followed by the North East at 5.8.

Our survey also reveals an expectation that Days' Sales Outstanding will increase in the next twelve months. Overall, 58% of respondents expected their DSO to increase over the next twelve months, up sharply from 41% in the previous survey. Many businesses are clearly expecting debtor days to increase throughout 2009 and we expect to see a surge in the number of disputes between customers and their suppliers; a typical tactic to delay payment. As one respondent noted, "Customers are looking for every excuse under the sun to delay payments. It doesn't get any easier with time."

The proportion of respondents expecting to ask for an increase in limits under their insurance policies fell from

47% in September to 36% now. Of this 36%, the proportion that expected their insurer(s) to grant an increase in limits fell from 25% to 17%. The majority, 58%, expected their insurers to reduce limits and 14% even expected them to withdraw cover altogether.

Elsewhere, the survey showed that the number of respondents who expected the overall cost of credit-managing their key accounts to increase over the next twelve months had increased from 53% to 60%.

Our latest survey shoed just how hard the recession is starting to hit UK credit managers. The fall in confidence had fed through into this one, and we expect things to get worse before they start to get better. The contraction in insurance cover is worrying, because it could exacerbate the stress on many credit managers.

For the full report, please visit www.procreditraining.co.uk.

michael.wykes@moorestephens.com