

**uniquebusinessfinance**



## **Glossary of Terms**

### **Downloaded Information Pack**

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## Glossary of Terms

### **The Act/IA86**

The Insolvency Act 1986

### **Administrator**

An insolvency practitioner appointed to handle the affairs of a company subject to an administration order

### **Administration order**

An order directing that during the period for which the order is in force, the affairs, business and property of a company shall be managed by an administrator. The primary statutory purpose is to enable the company to survive as a going concern.

### **Administrative receiver**

An Insolvency Practitioner ("IP") appointed by a debenture holder secured by a floating charge over substantially all of the assets of a company with the responsibility to realise the assets on behalf of the appointor.

### **Administrative receivership**

A procedure in which an IP is appointed by a debenture holder to realise assets and pay the appointor and preferential creditors. The Enterprise Act 2002 has restricted the incidence of such appointments in the future.

### **Authorised insolvency practitioner**

A person authorised by the DTI or a professional body to act as administrator, liquidator, nominee, supervisor or trustee.

### **Chargeholder**

An individual or company who is granted security over assets in exchange for borrowing.

### **Compulsory liquidation**

The winding up of a company following a petition presented by a company's creditors.

### **Contributory**

Shareholder.

### **Creditor**

An individual or a company to whom money is owed.

### **CVA**

Company Voluntary Arrangement

### **CVL**

Creditors' Voluntary Liquidation

### **Debenture**

A written document, usually under seal, issued by a lender as evidence of a debt. The term is used in relation to loans secured by charges, including floating charges, over the assets of a company.

### **DTI**

Department of trade and industry.



### **Director**

A person who conducts the affairs of a company. The appointment is registered at Companies House.

### **Dissolution**

A process whereby a company is removed from the Companies Register.

### **Dividend**

Any amount distributed to creditors in an insolvency.

### **Extortionate credit transactions**

These are relevant where a company is party to a transaction involving the provision of credit to the company and having regard to the risk undertaken by the giver the terms require grossly exorbitant payments or otherwise grossly contravenes ordinary principles of fair dealing. The Court can amongst other things set the transaction aside or vary the terms.

### **Fixed charge**

A charge secured on specific company assets. Such assets cannot be sold without the consent of the secured creditor.

### **Floating charge**

A charge secured on the assets of the company generally. These assets can be sold without the lender's consent. The charge will crystallise on the appointment of an administrative receiver or on the presentation of a winding up petition.

### **Insolvency**

The inability to pay debts as and when they fall due or having an excess of liabilities over assets

### **IVA**

Individual Voluntary Arrangement.

### **Liquidation**

The process of realising a company's assets and distributing the net proceeds to the company's creditors.

### **Liquidator**

An insolvency practitioner appointed to deal with the assets and liabilities of a company once the resolution to wind up has been passed.

### **Member**

Shareholder of a limited company.

### **MVL**

Members' Voluntary Liquidation

### **Nominee**

An IP chosen by the individual or corporate debtor to report on the debtor's proposal for an IVA or CVA.

### **Official Receiver**

The civil servant employed by the DTI whose responsibilities cover bankruptcies and compulsory liquidations.

**Preference**

This occurs where a company "does" or "suffers anything to be done" which puts that person in a better position in the event of insolvent liquidation than they would otherwise have been in (sec 239 IA86). It must be proved that the company "must have been influenced by a desire" to prefer. It is presumed that this is the case if the person is a connected person. A Court Order will be made to restore the position.

**Proof of debt**

A document submitted in an insolvency to substantiate a creditor's claim.

**Proxy**

The authority given by a member or creditor to another party to attend and vote at a meeting on their behalf.

**The Rules/I.R 86**

The Insolvency Rules 1986.

**Secured creditor**

A creditor who holds security over a company's or persons assets for money owed.

**Shadow director**

A person who while not formally appointed as a director gives instructions on which the directors and staff of a company are accustomed to act.

**Statement of affairs**

A sworn document completed by a bankrupt or company director detailing the assets and liabilities of the estate or company.

**Supervisor**

A person appointed to supervise the implementation of a CVA or IVA following approval by the creditors.

**Transaction at an undervalue**

This is a gift/zero consideration transaction or one in which the value received by the company is significantly less in money or moneys worth than that given. The company must be insolvent at the time or becomes insolvent as a consequence of the transaction. It is presumed that the company was insolvent if the transaction involves a connected person. A Court Order will be made to restore the position.

**Trustee in bankruptcy**

An Insolvency Practitioner or the Official Receiver who holds office in bankruptcy.

**Voluntary Arrangement**

A binding agreement supervised by an insolvency practitioner between an insolvent company or individual and their creditors.

**Voluntary liquidation**

Either a Members Voluntary Liquidation which occurs when a company is solvent and is initiated and controlled without reference to creditors or a Creditors' Voluntary Liquidation where the company is insolvent and the liquidation is undertaken in line with the wishes of the creditors.