

## HMRC investigations on the increase – bounce-back loans



*“Neither a borrower nor a lender be”* is a famous line from Shakespeare’s play, Hamlet. However, few of us take the sentiment literally as credit has become the lifeblood of economies and businesses the world over. In recent times, the financial lifelines provided by the Government to businesses during the pandemic kept the UK economy from sinking. But these lifelines were not gifts and with a potential recession looming, interest rates rising and loans maturing, Shakespeare’s reasoning that *“For loan oft loses both itself and friend, and borrowing dulls the edge of husbandry”* may yet come to haunt lenders relying on a taxpayer funded guarantee and directors of businesses who took loans without consideration as to the consequences for themselves or their businesses.

During the (relatively short) period of the pandemic nearly £80bn has been loaned to businesses through the three main schemes, the Coronavirus Business Interruption Loan Scheme, the Coronavirus Large Business Interruption Loan Scheme and the Bounce-Back Loan Schemes. More than 1.6m businesses have sought help through these government-backed schemes. In addition, the government committed some £70bn to the Coronavirus Job Retention Scheme (Furlough) in order to protect some 12 million jobs, and a further £16bn of business rates relief was given to help protect the economy.

All the schemes were designed with the checks and measures to prevent fraud. However, despite these measures, the reports of fraud are increasing. The most recent estimate of fraud losses as at the end of March 2022 was £3.5bn but the expectation is that the actual numbers will be much higher.

The main reason for these losses appears to be light to non-existent credit checks with borrowers being asked to self-certify only that they were based in the UK and trading, were affected by the pandemic and not insolvent as



of 1 December 2019. On the strength of such certifications it's now coming to light that loans were made available to dissolved companies, businesses that had never in fact traded or only started trading after March 2020, or who used the loans to support other group businesses. In other words, the loans should never have been made in the first place.

So, what is the government doing about it you might ask. Well, we're told that HMRC has recruited some 1,200 individuals into the Taxpayer Protection Taskforce whose job it is to root out fraud and recover payments from incorrect or fraudulent applications. In 2020/21 HMRC wrote to some 75,000 people, conducted 13,000 one-to-one fraud and error enquiries and recovered or stopped £743m of overclaimed grants. It expects to recover up to £1.5bn by the end of 2023.

Up to March 2022 there have been more than 60 arrests made and the Insolvency Service has achieved 106 director disqualifications, 48 bankruptcy restrictions and 13 companies have been wound up in the public interest. Given the scale of the frauds there is clearly much work to do and we expect to see all of these numbers increase substantially.

## How can we help

As mentioned above, the number of directors who are being investigated for misuse or abuse of the schemes is increasing. Depending on the seriousness of the offence, the disqualification period ranges from two to fifteen years with the average being six to nine years. Disqualification can have a serious impact on any business, particularly those that are owner-managed, as the disqualification order itself is published to both deter others from committing the same offence and to make known more generally that the individual is disqualified from acting as a director. The name of the individual is also included in the list of disqualified directors which is maintained at Companies House.

If you have received notification of an investigation, or are concerned about a possible investigation, then we have experienced insolvency and director's disqualification professionals who will be able to help you. Hopefully any investigation won't result in disqualification proceedings being commenced but, if it does, disqualifications can be resisted in the right circumstances and many others can be dealt with by way of a voluntary disqualification undertaking without the need for court proceedings.

## Contact us

**If you need any advice on the above, please contact our [commercial disputes team](#).**



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