**Association of Business Recovery Professionals**

3rd Floor (East), Clerkenwell House
67 Clerkenwell Road, London EC1R 5BL

Tel: 020 7566 4200
Fax: 020 7566 4224
Email: association@r3.org.uk

www.r3.org.uk

Rt Hon Rishi Sunak MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Friday 12th February 2021

Dear Mr Sunak,

**Budget 2021: supporting company and business rescue in the aftermath of the pandemic**

I write as President of the insolvency and restructuring trade body R3, ahead of your Budget Statement on 3 March, to provide you with three key policy recommendations which we believe will help to support company and business rescue as we begin to look, hopefully, to the end of the pandemic. These three recommendations would help to mitigate widespread failures and support the rescue of viable businesses in the aftermath of COVID-19:

1. a medium-term plan for the withdrawal of the temporary COVID-19 business support measures, which enables no-longer viable businesses to wind-down in an orderly way, while crucially giving those firms with a future the opportunity to rescue or restructure their business – saving jobs, repaying Government loans, and securing future tax income in the process.

2. the Government adopting a cross-departmental policy to support all viable restructuring processes; and,

3. HMRC adopting a more engaged and supportive role as a creditor in insolvency and restructuring processes.

The pandemic has meant that many businesses that would have been viable pre-COVID-19 are now at risk of failure, and it is important that these businesses are given the best chance of survival. R3 has welcomed the temporary support measures implemented by the Government, as they have provided much needed breathing space for many struggling firms and prevented the scale of insolvencies that one might have expected in current circumstances.

While this has been undoubtedly positive, for many directors and other business owners, this breathing space may have had the unintended consequence of taking away the immediate pressure of having to consider, and take, the steps necessary to wind-down or restructure their struggling businesses. Further, the lack of an indication as to when and how these measures may be withdrawn has made it difficult for R3 members to work with directors and others with much certainty about the possible future trading and financial situation facing these firms.

R3 members have also expressed concerns that HMRC – a key creditor in insolvencies – has not always been supportive of restructuring proposals in the past, exercising a policy approach that focusses on preventing tax abuses and non-compliance rather than business rescue and a maximisation of recoveries of unpaid tax. We would urge the Government to acknowledge that the current circumstances require a change in approach. The needs of viable businesses are very different to what they were pre-pandemic, and as a result, there is a need for a change in mindset. We would encourage HMRC to adapt its approach as a creditor in restructuring and insolvency situations accordingly.

We believe that the insolvency and restructuring profession, working with the Government, can help to support company and business rescue in the months ahead. The recommendations we set out below will be key in supporting this vital work for the UK economy.

**The Government must set out its plan for withdrawing the economic and legislative COVID support measures**

As part of R3's 'Back to Business' campaign, R3 is stressing the importance of directors seeking early advice, as early intervention increases the range of rescue options available to businesses and enables more jobs to be saved. While Government support measures have so far prevented a surge in insolvencies, the lack of a clear medium-term plan with regards to the withdrawal of these support packages has made it difficult for directors to know when to seek advice and for the insolvency profession to plan restructuring proposals with much certainty about the future trading and financial circumstances facing these firms.

These measures cannot be kept in place permanently, and a timetable for their withdrawal will give our profession – and the wider business community – a framework around which to start planning with the aim of rescuing viable businesses. Moreover, it is crucial that this plan enables no-longer viable businesses to wind-down in an orderly way, while crucially giving those firms with a future the opportunity to rescue or restructure their business – saving jobs, repaying Government loans, and securing future tax income in the process.

**Government departments should support all viable restructuring proposals**

A key question is how these support measures can be withdrawn without leading to a cliff edge of insolvencies of otherwise viable businesses. One key step the Government could take to mitigate the risk of such a cliff edge would be to adopt a policy across all departments to support restructuring proposals where a business was viable pre-COVID-19 – and would still be viable, were it not for the pandemic. Support for viable restructuring proposals would provide those businesses with time to deal with accrued pandemic liabilities, thus avoiding a formal insolvency process and a potentially more severe outcome for employees and creditors. This cross-Government approach is not currently in place.

**HMRC should adopt a more engaged and supportive role as a creditor in insolvency and restructuring processes**

With its recently acquired secondary preferential creditor status, HMRC's support as a creditor will be particularly important in ensuring that viable restructuring proposals can be agreed. In the past, R3 members have reported that HMRC can often be a 'passive' creditor, not always supporting efforts to make an insolvency procedure as effective as possible, while unsecured creditors and others have been critical of HMRC's lack of support for Company Voluntary Arrangements ('CVAs').

It is important that HMRC recognises that the current circumstances and needs of viable businesses are very different to what they were pre-pandemic and adapts accordingly, assessing cases on a more commercial and flexible basis and altering its approach to the collection of tax debts and Time to Pay arrangements. Alongside this change in approach, HMRC must be sufficiently resourced to meet its now-additional responsibilities as a preferential creditor, and to do so on a timely basis, and its staff should be adequately trained to understand the importance of HMRC's role in determining the success of insolvency and restructuring processes.

HMRC could further support the rescue of viable businesses by agreeing to forego its preferential status for dividend purposes and revert to being an unsecured creditor in restructuring processes. This change in approach may mean that CVAs can become an option for a larger number of viable businesses, by reducing the number of preferential creditors a company has to pay. This approach would require no change in legislation and would merely require an operational decision to be taken by the organisation.

If you or your officials require any further information please do not hesitate to get in contact with R3's Public Affairs and Policy Officer, Pim Ungphakorn, on 020 7566 4202 or at pim.ungphakorn@r3.org.uk.

Yours sincerely,

Colin Haig
R3 President