

Guidance on Early Warning Tools under the EU (Preventative Restructuring) Regulations 2022

Insights - 01/01/2023

The Corporate Enforcement Authority (CEA) has published an 'Information Note' on those provisions of the EU (Preventative Restructuring) Regulations 2022 which require directors to have to have regard to the interests of creditors where a director believes or has reasonable cause to believe that a company is or is likely to be unable to pay its debts, or becomes aware of its insolvency. The information note aims to assist directors in understanding early warning tools to alert them to circumstances that could give rise to a likelihood that a company is unable to pay its debts and identify the restructuring frameworks available.

The information note includes a list of circumstances that could give rise to a likelihood that the company will be unable to pay its debts including

1. Declining/rapidly declining sales;
2. Aged debtor profile deterioration;
3. Suppliers reducing, or withdrawing, credit terms;
4. Holding high volumes of slow moving/obsolete stock;
5. Unsustainable increases in expenses; and
6. Depleted/non-existent cash reserves.

The note also states that directors are obliged to take steps to ensure that they are aware of the company's financial position on an ongoing basis. To achieve this, directors should ensure that adequate accounting records are maintained and management accounts are prepared and reviewed on a regular basis. It is also recommended that regular budgets and cashflow forecasts are prepared.

For more on the EU (Preventative Restructuring) Regulations 2022, please contact any member

of our team via their below details.

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