

Company Voluntary Arrangements

(CVAs)



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LICENSED INSOLVENCY
PRACTITIONERS (UK)

The Insolvency Act 1986

Company Voluntary Arrangements (CVAs)

Description

Where a company is worth saving because it is profitable or because the value of its assets needs protecting while they are sold, a CVA can be a suitable process.

Advantages

- **Trading can continue with minimum disruption thereby preserving the goodwill of the business**
- **Unsecured creditors' claims are frozen at the date of the CVA**
- **Workforce restructuring may take place with employee claims being dealt with under the Employment Rights Act by the Redundancy Payments Fund**
- **Assets are restrained by the company and may be utilised in ongoing trading**
- **The directors retain control of the company**
- **Directors in CVAs are not subject to the reporting requirements of the Company Directors Disqualification Act 1986**

Disadvantages

- CVAs may need the support of banks/directors for on going funding which can be difficult to obtain
- A full proposal and financial projections are always required which take time and have a financial cost
- CVAs require ongoing support from trade and other creditors
- A CVA is on the public record and must be notified to Companies House
- A CVA may terminate a contract

Suitability

- Where there is a viable core business with goodwill
- Where there is a short term cash flow problem
- Where there is suitable bank and creditor support
- Where management skills are well developed
- Where creditor pressure is not so severe that a winding up petition is imminent

Procedure

- Initial meetings with the Insolvency Practitioner to discuss the appropriateness of the CVA
- The proposal will be made by the directors but normally the Insolvency Practitioner will assist in its drafting and act as Nominee
- The proposal is then sent to creditors and members with a Notice with no less than 14 days clear notice and no more than 28 days from the Nominee's report of a decision procedure/date
- The proposal sets out the company's statement of affairs, a history, details of past trading, trading projections/cash flows, how it is proposed to pay creditors, how trading will be conducted, the role of the Supervisor, default provisions, estimated outcome statements and standard terms and conditions
- The Nominee must seek a decision from creditors as to whether they approve the proposal with or without modifications. The decision must be taken by a decision procedure. The initial decision date is the date on which the decision will be made by correspondence, electronic voting, a virtual meeting or a physical meeting (if thresholds are met)
- The Nominee files a copy of the proposal with the Nominee's report in Court setting out the decision procedure required in order to consider the proposal
- A decision procedure such as a virtual meeting of creditors is convened to approve, modify or reject the proposal and confirm the Supervisor's appointment
- Approval requires a majority of 75% or more by value of creditors voting
- The proposal may not affect the rights of secured or preferential creditors without their agreement
- The shareholders' meeting, which cannot be later than 5 days after the decision event, serves to ratify the decision of the creditors' meeting. If there is a dispute, the wishes of the creditors are paramount

Fees and Costs

The Insolvency Practitioner will provide a fixed fee proposal for advice and preparation of the proposal together with the Nominee's fee. The fees of the Supervisor will be estimated in the proposal and are subject to creditors' agreement. They are usually drawn from assets/realisations in the CVA

For more in
depth advice,
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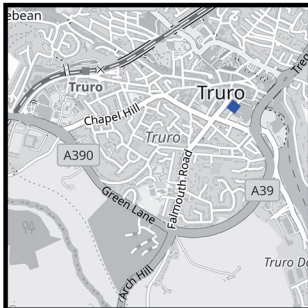
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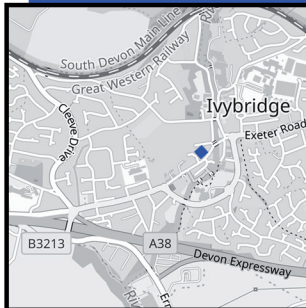
good reasons to contact us first:

- 1** Consultation up to one hour free of charge at either our Truro or Ivybridge or Exeter offices or at your or your client's premises
- 2** Complete independence
- 3** Confidentiality
- 4** Comprehensive experience in all insolvency matters
- 5** Competitive fees
- 6** Established local practice

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