John Glen MP
Economic Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Emailed to: est.action@hmtreasury.gov.uk

20 November 2020

Private and confidential

Sent on behalf of: Association of Chartered Certified Accountants; British Property Federation; British Retail Consortium; CBI; Chartered Institute of Credit Management; Engineering and Machinery Alliance; Finance and Leasing Association; ICAEW; Make UK; R3; Scottish Financial Enterprise; and UK Finance.

Dear Economic Secretary

Secondary Preferential Creditor Status

We write on behalf of our respective memberships in the manufacturing, retail, accounting, business recovery and insolvency, credit management, property and financial services spaces to urge the government to delay the extension of secondary preferential creditor status. This measure is due to come into effect on 1 December by virtue of section 98 of the Finance Act 2020 and will elevate the priority of the majority of taxes due at the point of insolvency. This will have a significant impact on the ability of businesses to access finance at this critical time.

Our respective memberships fully support the objectives of effective policies to protect crown revenues. However as the government is aware following extensive representations since the policy was first announced in 2018, a wide range of stakeholders have significant concerns about the impact this measure will have on access to finance, business growth, the rescue of viable businesses in sectors important to the UK economy, and levels of business insolvencies. The ongoing impact of covid-19 means these concerns are even more heightened.

The government has made some important interventions to support businesses over the last six months, including through its lending interventions and the Job Retention Scheme (both now extended), as well as the VAT deferral scheme. With economic uncertainty continuing and new national lock-downs hitting many of the businesses in sectors that will be disproportionately impacted by this policy, we urge the government to provide the breathing space for these interventions to have full effect by further delaying the implementation of the priority for certain taxes on the insolvency of a business in order to aid the prospects of recovery for the impacted sectors.

Whilst we accept that we have not been successful in convincing the government that the policy should not be progressed – and so we will not repeat those arguments here - you will be aware that research conducted amongst finance providers in 2019 estimated that the impact on lending may be more than £1 billion. This is against an assessment of direct additional tax returns of c£200 million (rather than a wider assessment of future tax foregone from businesses or growth that may be lost).

Since then the VAT deferral scheme has enabled the deferral of up to £30 billion of VAT by UK businesses. This has been an important policy intervention. However, as a consequence of the success of that policy in providing a £30 billion cashflow boost to UK businesses, the elevated priority will now

likely attach to those deferrals. This combination will exacerbate the likely impacts on the ability of businesses to access appropriate finance exponentially just at a time when such access is critical.

In a commercial sense the effect is retrospective, potentially impacting the finance facilities for hundreds of thousands of businesses. Moreover, the impacts are likely to be disproportionately felt in sectors that, by their nature, are dependent on raising finance against types of assets that can only be secured by floating charges – stock, raw materials, work-in-progress and potentially some types of intellectual property. These sectors include retail, wholesale, technology and manufacturing. In addition, the measure will have particularly severe impacts on lending under Scots law, with floating charges disproportionately important for securing finance in Scotland.

All of our memberships remain at the government's service to discuss the impacts in greater detail. We are also able to provide details of examples of specific, high-profile, businesses that are being directly impacted by this measure. For ease of communication, please contact Andrew.Cregan@brc.org.uk in the first instance for any further information. The government has shown that it can be flexible and act swiftly to take action to protect UK businesses where the circumstances demand it, and we urge at least a further delay of the implementation of this measure.

A copy of this letter goes to the Financial Secretary to the Treasury (fst.action@hmtreasury.gov.uk).

Yours sincerely

Helen Dickinson OBE
Chief Executive, British Retail Consortium

Stephen Phipson CBE
CEO, Make UK

Bob Wigley
Chair, UK Finance

Melanie Leech
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