Small Business Restructuring: Pass or Fail?

Andrew Spring, Jirsch Sutherland Partner

On January 1, 2021, the Federal Government introduced its new simplified restructuring process, drawing on key features of the US Chapter 11 bankruptcy process. After the unprecedented impact on trading due to the pandemic, the aim was to enable eligible small businesses to restructure their debts and maximise their opportunity for survival while remaining in control of their business. Fast forward 22 months and the Small Business Restructuring (SBR) Process is hitting its stride – and Jirsch Sutherland is at the forefront, having handled around 10 per cent of SBRs since the start of the 2022 financial year.

“SBRs were slow to get off the ground but there’s now greater awareness of the process and the benefits – particularly as the ATO ramps up its debt collection and other financial pressures increase,” says Andrew Spring, Jirsch Sutherland Partner and Small Business Restructuring Practitioner. “The restructuring process was designed to enhance the rate of successful restructuring outcomes while also providing a pathway for distressed small businesses that historically would never have entered voluntary administration due to the cost and the loss of control associated with that process. The SBR is certainly proving an effective and efficient solution for viable businesses and one that the ATO has given its unofficial tick of approval to.”

Pros	Cons
Easier to get clients to engage earlier with qualified insolvency professionals	Impact on trade credit relationships post restructure
Directors feel empowered throughout the process by retaining control of the businesses day to day operations	$1M debt ceiling – including related party claims
ATO supportive for the process	Potential impact on insurances