

Fraud, Furlough and Facemasks

Carmel King reports on the opportunities and challenges in the current working environment



CARMEL KING
Co-Chair of INSOL Europe
Anti-Fraud Forum; Director,
Grant Thornton UK LLP

The global pandemic has forced change at breakneck speed, mostly without a blueprint. As ever, fraudsters are operating at the vanguard, operating free of the shackles of the law or ethics, identifying and exploiting the gaps.

In December 2020, the FATF published its Update on COVID-19 related Money Laundering and Terrorist Financing. The FATF analysis found that “*criminals are continuing to exploit the opportunities created by the pandemic across the globe, with mounting cases of the counterfeiting of medical goods, investment fraud, adapted cyber-crime scams, and exploitation of economic stimulus measures put in place by governments.*”

Furlough

Like its European counterparts, the UK government’s coronavirus job retention scheme, also known as the furlough scheme, was an essential, albeit blunt, instrument to support employers and workers in response to the pandemic. Devised on the hoof and implemented on an urgent basis, the system was obviously open to exploitation. At the time of writing, the UK government has provided £43 billion of support of 9.6 million jobs, across 1.2 million employers. In August 2020, The Times reported that 30,000 applications for the scheme were rejected by HM Revenue & Customs, variously because the applicant had no employees on their payrolls or could not evidence any trading activities. HMRC estimates that 10% of the furlough scheme support may have been paid out to incorrect or fraudulent

claims. This is a staggering figure for such a short period of time, and as the scheme winds down, HMRC is refocussing its attention on tackling this abuse.

The government has taken steps to counter furlough fraud. An online whistle-blower reporting facility was established at the outset. In six months, the hotline received 8,000 calls. The 2020 Finance Bill included a 90-day amnesty for companies to repay funds if they discovered an error in their claim. It also provides HMRC with powers to investigate furlough abuse and levy fines. HMRC has reported that it is investigating 27,000 ‘high-risk’ claims. In July 2020, a 57-year old was arrested as part of an investigation into a suspected £495,000 furlough fraud. The man’s computers and digital devices were seized, and funds in a business bank account frozen. The man was also arrested in connection with a multi-million-pound tax fraud and alleged money laundering offences.

What can insolvency practitioners expect to see as a result of the furlough scheme? Governments are no different from businesses in their concerns about recession, and cash is king in circumstances where the costs of the pandemic have been astronomical. Currently, the anticipated wind-down of the furlough scheme is April 2021. I expect HMRC to push heavily for firms to take up the opportunity to return funds under the amnesty without threat of penalty or sanction. The imposition of fines should enable HMRC to take enforcement action against companies under the Insolvency Act and investigations may also

result in further arrests and enforcements under the Proceed of Crime Act. Where the fraudsters are sophisticated, there is a very good argument for the asset tracing and recovery activities to be passed to liquidators and receivers to enable HMRC to continue working its way through what is likely to be a very long list.

Recession

These are (to use what is now such a cliché) uncertain times. At the time of writing, we are facing a potential third lockdown, however the position remains changeable on a local and national level, and who can predict what the landscape will be as you read this? One certainty however is a recession. A record 20.4% fall in GDP marked the UK’s entry into recession in mid-2020, and the eurozone reported a 12.1% drop in GDP in the second quarter of 2020. The shape of this recession is yet to reveal itself, and we hope for something ‘U’ or ‘V’ shaped rather than anything more complicated. What reveals itself at the depths of the dip will be of interest to insolvency practitioners and fraud specialists.

Recessions can leave little room for manoeuvre where behaviours in a bullish market may have gone unnoticed and fraud has gone under the radar. Frauds perpetrated by individuals for their own personal gain, such as double invoicing, will be coming to light where company performance is being scrutinized more closely and more regularly, or where additional checks and balances are being introduced. Other frauds perpetrated with the aim of facilitating the growth of the company are likely to be laid bare where investors are more careful

“

Recessions can leave little room for manoeuvre where behaviours in a bullish market may have gone unnoticed and fraud has gone under the radar

”

with their due diligence. In the good times it is easier to be a bit more creative with accounting, to 'enhance' an earnings figure here to attract some capital investment there.

Recession will also impact the behaviour of employees. Working conditions now can give rise to motive, opportunity, and justification, the three factors of the fraud triangle framework which describes an individual's decision to commit fraud. Motive: I have received a pay cut, or I perceive an impending risk of redundancy. Opportunity: Sudden lockdowns put a strain on compliance departments, previously segregated duties have been desegregated due to furloughed staff. Justification: Nobody will miss it, I don't get paid what I'm worth anyway, I'm working five days on four days' pay!

These behaviours are not limited to the corporate world. Our practice has seen an increase in recent months in matrimonial disputes and disputes over deceased's estates, in particular when there is a suspicion that assets have been hidden or dissipated to the detriment of rightful beneficiaries.

Investigators and forensic specialists should be busy with the identification of schemes and introduction of rigorous processes and systems to detect and prevent fraud. Restructuring specialists will be looking at whether failing limbs of organisations can be isolated to save the remainder, if indeed anything worth saving remains. Asset recovery specialists will be busy across the board.

Working from home

Employees now working from home may engage in behaviours they may not have previously considered acceptable. The formality around work has suddenly been dramatically reduced, if not removed entirely, and the associated risk amounts to more than just inadvertently displaying your pyjamas to your colleagues when having a stand and a stretch during the morning Zoom call. Home Wi-Fi and remote login systems may be more vulnerable to cyber-attack than offices with hard-wired network connections. Technical support may be delayed or indeed non-existent in smaller organisations. Working from home can introduce complications for technical updates, patches and rollouts or delay them entirely. Couple an understandably heightened level of health-related anxiety with an unscrupulous fraudster and you get people clicking on links in emails, social media messages and text messages where otherwise they would never dream of it. The fraudsters are using sophisticated means to exploit people for personal and financial information. We have seen financial support scams involving fake government emails. Health scams around track and trace systems or PPE and hand sanitiser are particularly cynical. Lockdown scams around TV licensing and subscription services, online dating and fake investment opportunities have been on the rise.

Losses to individuals on a reasonably small scale are perhaps not something practitioners will immediately see in their pipeline.



When those losses tip over into bankruptcy, where prosecution authorities actively pursue the fraudsters (and they are), and where companies suffer losses as a result of a relaxation in employees' attitude to risk, there is potential for us to assist.

This is just a brief summary of what my practice is seeing, and what we might expect to see in the next twelve months or so. My fellow Anti-Fraud Forum Co-Chair Bart Heynickx and I are delighted to be working with R3 and London's Fraud Advisory Panel on a virtual conference to take place in February 2021, during which our distinguished speakers will consider global financial crime, innovations in cross-border asset tracing and recovery, rogue companies, cryptocurrency fraud, digital forensics and much more.

I hope readers can join us for what promises to be a most engaging overview of the counter-fraud practitioner's toolkit in this new world. ■

“

Employees now working from home may engage in behaviours they may not have previously considered acceptable

”



FRAUD
ADVISORY
PANEL



INSOL
EUROPE



R3

Virtual Fraud Conference
2 & 3 FEBRUARY 2021

Preparing for the New World: A Toolkit For Action

Live & On-demand Sessions • Virtual Exhibition & Networking