

CLIENT RISK AREAS

CHECKLIST FOR ACCOUNTANTS & ADVISORS



Tick the box if applicable

For Internal Use Only

Client	
Reference	
Financial Year / Period	

COMPANY / ENTITY DEBTS – POTENTIAL PERSONAL LIABILITY

- Late or Non-lodgement of Business Activity Statements** – may result in Director Penalty Notices (“DPN's) being issued by the ATO.
- Non-lodgement of SGC Returns** – may result in Director Penalty Notices (“DPN's) being issued by the ATO in relation to unpaid Superannuation entitlements.
- Division 7A Loans** – loans that are repayable to the entity.
- Register of Personal Guarantees** – consider whether a register of personal guarantees should be created and maintained. Also check do check for caveatable interests. Consider completing officeholder searches.
- Construction / Building Entities (where applicable)** – check if a Deed of Covenant has been provided. Check terms.

ENTITY STRUCTURE ISSUES

- Entities with both spouses acting as Officeholders / Directors** – risk exposure for both parties and all personal assets.
- Trust/s with Individual Trustees** – risk exposure for the individuals acting as trustees.
- Trading Entity Director holding personal assets such as the family home and/or making loan repayments on personal assets** – personal asset risk exposure if the director (risk) is

also holding personal assets. Need to also consider if the director (risk) is building up equity through loan contributions. Separate personal assets from business assets.

- Inter-entity Loans / Relate Party Loans** – risk exposure for the group assets and/or individual assets.
- Trading Entity holding Assets** – risk exposure for business assets including IP and P,P&E.

SECURITY VIA PPSR

- Director Credit Loans that are unsecured** – if an entity owes money to a director and the loan has not been appropriately secured it will result in a loss of creditor priority. There are timing considerations for securing loans.
- Asset Holding Entity unsecured over trading entity** – has the asset holding entity registered a PPSR lease over the trading entity? Has it been appropriately documented? If not, there is a risk exposure on the assets of the asset holding entity.

BANKS & FUNDERS

- Lending Covenants** – do they exist? Have they been complied with? Banks may deem non-compliance as a default event.
- Cross Collateralisation** – check as most banks can rely on inter entity guarantees or all monies clauses.
- Lending and banking with one bank/financiers** – potential risk exposure if something goes wrong.

ESTATE PLANNING

- Estate Planning** – does the client have existing or updated estate planning in place? Consider products such as Moat and Castle, Family Protection Trusts, SMSF Wills and Testamentary Trusts from LightYear Docs.
- Successor Director** – for sole director companies is there a successor director solution in place?

POTENTIAL INSOVENT TRADING

- Debts when due and payable** – is the entity paying its debts when they are due and payable? Are creditors being paid outside their normal terms of trade?

- Safe Harbour** – do director/s have assets which are potentially at risk due to potential insolvency? Should a safe harbour plan be implemented to protect these personal assets?
- Collection Letters / Statutory Demands** – has the entity received letters from collection agencies for payment of debts, statutory demands for payment, judgements issued, and/or wind-up orders?
- Changes to Creditor Terms** – has the entity been placed on different terms such as COD with essential suppliers?
- Priority Payments** – does the entity pay one or any suppliers in priority to another to receive goods/services?
- Creditor/ATO Payment Plans** – has the entity entered into instalment payment plans with any of its creditors and/or the ATO?
- Current Asset Ratio / Asses v Liabilities** – are the current liabilities of the entity in excess of current assets? Are total liabilities greater than total assets?

ACTION PLAN

If you ticked one or more boxes, then it maybe time to review the financial position and performance of the business. Additionally, asset protection services are recommended and should be considered. We can provide expert advice on these areas.



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Website

www.eventumoptimum.com.au



Email

registrations@eventumoptimum.com.au
michael@eventumoptimum.com.au
rod@eventumoptimum.com.au



LinkedIn

[@mjeffriess](https://www.linkedin.com/company/eventumoptimum)



Twitter

[@eventumoptimum](https://twitter.com/eventumoptimum)
[@mickajeffriess](https://twitter.com/mickajeffriess)



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