

## Have you received a Creditor's Statutory Demand?

When you (the Company) have an outstanding amount that you owe to a supplier (creditor), the creditor could serve a Statutory Demand.

If you fail to:

- Pay the amount claimed in the Statutory Demand;  
or
- Apply to the Court within 21 days to set aside the Statutory Demand;

then the creditor can rely on the Statutory Demand as proof that the Company is insolvent in making an application to wind up the Company.

You can apply to the Court to set aside the Statutory Demand if:

- There is a genuine dispute as to the amount claimed;
- You have an off setting claim which would reduce the debt claimed;
- The claim is prospective, contingent or unliquidated;
- The claim relates to a determination under the Security of Payments Act (being an interim payment determination subject to any final assessment).

The Statutory Demand will be sent to the registered address of the Company recorded on the Company search at ASIC. It is therefore important to ensure that the ASIC records for the Company are up to date.

A creditor does not require a judgement to issue a Statutory Demand prior to making an application to wind up the Company. Therefore you should not ignore a Statutory Demand and immediately one is received, seek professional advice.

Gideon Rathner is the Partner in charge of the Corporate Reconstruction & Insolvency practice. He has over 30 years experience in insolvencies, identifying the business drivers and reviewing businesses in financial distress. He leads a young, dynamic and energetic team that is solution focussed. Should you have any questions concerning either your business or a Statutory Demand, please contact us at Lowe Lippmann.

