Safe Harbour

Safe Harbour is designed to provide directors of a financially distressed company with time and protection while they develop and implement a Restructuring Plan

It is intended to support directors to responsibly pursue viable restructuring options, while providing protection from personal liability for insolvent trading, provided certain statutory requirements are met.

Unlike a formal insolvency appointment, directors remain in control of the company while they pursue one or more courses of action that are reasonably likely to lead to a better outcome for the company (compared to an immediate insolvency appointment). This can provide valuable breathing space to stabilise the business, preserve value and assess restructuring options.

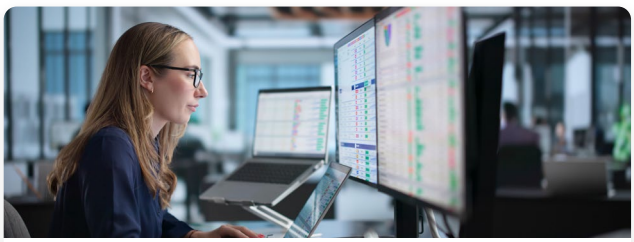
Protection depends on directors taking timely, informed and well documented steps. This includes properly understanding the company's financial position, obtaining advice from an appropriately qualified entity, maintaining compliance obligations and implementing a credible plan that can be monitored and adjusted over time.

When to Consider Safe Harbour

Safe Harbour should be considered where directors have identified an emerging insolvency risk but believe credible restructuring options are available. It may be appropriate where the company is underperforming, facing cash flow pressure or experiencing broader stakeholder pressure, but there remains a realistic basis to pursue a turnaround rather than appoint an administrator or liquidator.

Early advice and action is crucial. Safe Harbour works best when directors move swiftly to assess the company's position, seek appropriate advice and develop a plan before the position deteriorates further.

Safe Harbour Framework



Initial Assessment

Safe Harbour can become relevant once directors start to suspect the company may be insolvent or may become insolvent. From the outset, directors need to properly inform themselves of the company's financial position and determine whether there is a genuine restructuring pathway available.



Seek Advice from an Appropriately Qualified Entity

Directors should obtain advice from an appropriately qualified entity with the skills, experience and expertise required to assess the company's financial difficulties and the options available to address them.

Our team are highly experienced in providing this advice.

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Maintain Compliance and Reporting Requirements

Directors must continue to meet key compliance obligations to be eligible for, and to gain the benefits of, Safe Harbour protection. This includes:

- Properly informing themselves of the company's financial position;
- Paying employee entitlements as and when they fall due;
- Complying with statutory tax reporting requirements;
- Taking steps to avoid misconduct that could worsen the company's position; and
- Ensuring the company maintains adequate financial records.



Develop and Implement a Restructuring Plan

A successful Safe Harbour outcome is underpinned by a formal Restructuring Plan with clear milestones, timelines, responsibilities and articulation of expected financial impact. It is best practice to prepare cash flow forecasts that demonstrate the company's ability to implement the plan, consulting with key stakeholders where appropriate and actively monitoring delivery as the plan progresses.



Better Outcome Assessment

Safe Harbour is dependent on the assessment of whether the proposed course of action is reasonably likely to lead to a better outcome for the company than the immediate appointment of an administrator or liquidator. While this assessment critically includes likely returns to creditors, it should also incorporate a broader view considering the impact on the company and other stakeholders, including employees and shareholders.

We help directors assess a restructuring against an immediate insolvency scenario, pressure test assumptions and articulate why the plan is or is not reasonably likely to deliver a better outcome for the company and its stakeholders. We specialise in producing clear, evidence-based frameworks that support sound decision making for the company and its directors.



Governance, Documentation and Monitoring

Safe Harbour is not a one-off decision. Protection continues only for so long as the course of action remains reasonably likely to lead to a better outcome. Directors should therefore prepare and retain evidence of the steps taken, including minutes, resolutions, formalised restructuring plans, financial forecasts and better outcome assessments, and refresh the analysis if there is a material departure from the plan.

We support directors with the governance and documentation required to maintain a robust Safe Harbour position. We then stay close to management and the board throughout implementation, helping track progress, refresh analysis, mitigate risks and respond quickly if circumstances should change.

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How We Support You

Teneo supports directors, boards, shareholders and their advisors with clear, commercial and solutions focused advice when a business is facing financial distress. We help assess whether Safe Harbour protections are available and appropriate, and whether any proposed restructuring plan is likely to deliver a better outcome for creditors.

We combine restructuring and turnaround capability with lead advisory expertise, geographic coverage, sector experience and multi-disciplinary skill sets. We help directors make informed decisions during the development and implementation of restructuring plan.

We bring trusted and respected expertise to situations that are often highly sensitive. Allowing directors to access the restructuring and insolvency expertise needed to pursue Safe Harbour protection, while also benefiting from a broader advisory platform that supports stakeholder confidence through a period of heightened pressure.



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