

SPRING EDITION | FEBRUARY

Swift

The Online Turnaround Times



SPRING EDITION 2023



**IFT NORTH
CONFERENCE**



**IFT SOCIETAL
IMPACT REPORT**



FUTURE OF RETAIL



**IFT BRAND &
WEBSITE**



Swift

1 CEO MESSAGE

2 IFT SOCIETAL IMPACT REPORT

4 IFT NEWS

7 IFT NORTH CONFERENCE

8 IFT EVENTS

8 IFT FELLOWS

9 CORPORATE PARTNER NEWS - AZETS

10 FUTURE OF RETAIL PANEL - TENEO

11 DOING BUSINESS IN 2023 - GATELEY

12 UK FOOD MANUFACTURING - KROLL

13 THE IMPORTANCE OF DIRECTORS &
OFFICERS LIABILITY INSURANCE (D&O)
IN TURNAROUND SITUATIONS -
GALLAGHER

14 CONTACT DIRECTORY

SPRING EDITION

MESSAGE FROM THE CEO

Welcome to the spring edition of Swift.

As 2023 started we were delighted to launch our third annual Societal Impact Report, this year looking at the role our members and partners are playing in economic recovery and increasing UK productivity. We estimate that in 2022 members and partners saved in excess of 80,000 jobs and protected £3.6bn in shareholder value. You can read further findings from our report on page 2.

Thank you to our members for sharing the results. The messages have been picked up in key national media, including The Times, as well as regional, business and sector media. Results regarding specific sectors, such as retail and casual dining, gained specific coverage in The Yorkshire Post and Business Live, as well as sector press including The Retail Times.

Increasing activity has also been reflected in the sign-ups for our webinars and in-person events. Over the coming year we will be providing regular market and sector overviews, as well as insights into new legislative and market developments. You can find an overview of the key messages from our retail webinar on page 9.

Our in-person offering has got off to a flying start, with the recent London & South East Games Night for our IFT Next community, kindly hosted by Macfarlanes.

I understand that we had some experienced poker faces in the room (which isn't a huge surprise given the turnaround skillset!) and we're looking forward to hosting similar events soon.



I had a wonderful time catching up with members, partners and friends at the recent West and Wales regional dinner at the start of February, generously supported by Credibt. The dinner marked Simon Girling's last as regional chair and gave everyone in the region the chance to thank him for an excellent four and a half years in the role. He has now handed over to the wonderful Antonia Silvestri but his time of service will continue as he'll stay part of the committee. Simon and Antonia have also been elected to the Fellows Committee which you can read more about on page 8. Elsewhere in the regions, we have launched sales for our IFT North Regional Conference in Leeds on 16th March. We will be hearing from sector experts on the most salient issues in turnaround, so please contact info@the-ift.com to reserve your place. Next up will be our Midlands, West & Wales regional conference, taking place on 20th April in Birmingham.

Our 2023 Academy Programme kicked off at Evelyn Partners and Gateley Legal in January. Many thanks to Donald Muir, Bob Ellis, Victoria Kerton, Emily Makinson and Emmanuel Gobillot who spoke over the first two days of our sell out 2023 programme. Turn to page 4 to read more.

We are pleased to have completed the discovery phase of the work to evaluate our current brand. This involved an extensive engagement process with members and partners. Your feedback shows strong recognition and support for The IFT brand in terms of quality and standards, support for networking, sharing and enhancing skills and a growing role for advocacy. Our external brand advisers will help reflect these key points in our future messaging.

Turning to our advocacy activity, responding to member and partner views, we are looking to launch a programme of advocacy in relation to CIGA provisions. This will include discussing with members, partners and stakeholders how we can encourage the greater use of these tools to promote turnaround outcomes. We will look to drive the response required of key statutory stakeholders which will enable the use of Restructuring Plans more widely. Though couched in insolvency legislation, we are increasingly seeing the potential for turnaround activity using these tools on the company side.

Please do get in touch if you would like to learn more or get involved.

Sadly for us, but very happily for her, Tasha has been offered her dream job as Commercial Partnerships Executive at the England and Wales Cricket Board (ECB).

Tasha has been an outstanding member of the executive team in the more than two years that she's been with us. She's enhanced our systems for supporting and engaging CPs, whilst keeping a focus on great relationship management – and recruited three new corporate partners in very quiet market conditions.

You may see that this edition of *Swift* looks a little different. We have been working to provide a format that is both engaging and accessible, hence a slightly different look - we welcome your views on how we can improve further. Finally, thanks to members who have renewed since the start of the new year, as well as our new joiners, and I look forward to seeing you over the coming months.

Kind Regards,

Milly Camley
IFT CEO

IFT SOCIETAL IMPACT REPORT

Our Societal Impact Report was published in January, highlighting the huge contribution IFT members. Here are some of the highlights:

Independent members of the IFT helped save 81,800 jobs in 2022



IFT members continue to add shareholder value



Demand for turnaround expertise to continue to grow



Cultural resistance to turnaround support remains a major obstacle



Construction, manufacturing and tech the three sectors which required most input from turnaround specialists in 2022



Inflation is the biggest challenge for distressed businesses



Retail, automotive and casual dining sectors to feel the strain in 2023



Governance key focus for turnaround advisers



South East and London lead in number of distressed companies



Short-term survival most popular focus area during pandemic



Our **Societal Impact Report** was published in January. The report looks at the huge contribution IFT members and partners make and the value they create for society and the economy.

In 2022, we estimate IFT members and partners saved in excess of 80,000 jobs as initiatives to fix finances and revamp growth strategies bore fruit.

Members and partners also helped UK companies deliver more than £3.6bn in shareholder value.

The report was covered by key national, regional and sector publications:

THE  TIMES

**Turnaround advisers say
factories are struggling**

THE YORKSHIRE POST

Business

**Almost 30,000 Northern firms 'in
distress' as inflationary pressures bite,
new analysis suggests**

Retail Times
be inspired

Cost of living and cost of doing business crisis put
retail at risk in 2023, says IFT

**the
business
magazine**

**Hovertravel Adapts to
Provide Lifeline Services
during Pandemic
Lockdown**

THE CATERER

**Casual dining sector 'to be hardest hit'
by cost of living crisis**

BusinessLive 

**Steep rise in number of North East companies facing
'critical financial distress'**

BigHospitality

**Casual dining a 'high risk sector' as cost
of living crisis bites**

Talking Retail

brought to you by **Independent** Retail News

Cost of living and cost of doing business crisis
puts retail at risk in 2023, says IFT

IFT Brand & Website

We are continuing to work with brand specialists, Mobas, to ensure the IFT brand reflects the breadth and variety of work conducted by IFT members:

The engagement has shown support for the existing name and visual amongst members, partners and stakeholders. This recognises the gravitas of being an Institute, aligned with the quality

of accreditation and support for our name. We are, however, looking at a strap line to further expand the full value of our member expertise and our role as a membership organisation.

We will be providing opportunities to engage with us on this over the coming months and look forward to sharing this with our members and partners.



IFT Academy

We kicked off our 2023 Academy Learning Programme this month with Day 1 at Evelyn Partners. The cohort had an introduction to the The IFT Academy followed by an ice-breaking exercise as well as a business anthropology mission during lunch. During the day participants looked at the starting point of a turnaround situation and examined the concept of complexity using case studies. Later, they were joined by Donald Muir, who gave great insight into his Traveler Desert Walk - outlining the leadership journey in this important turnaround.

Day 2 at Gateley covered leadership in a turnaround situation as well as the role of discretionary effort, with bestselling author Emmanuel Gobillot. Participants looked at the concept of Growth Mindset and learning styles, and were then joined by experienced turnaround leaders who shared their experiences in the industry. IFT Fellow Bob Ellis then spoke about restructuring from a CRO's perspective, followed by Victoria Kerton and Emily Makinson of NatWest who spoke about recent themes, anticipated themes and considerations vis a vis viability and in turnaround. We're looking forward to Module 2 in Birmingham!



Regional events

West & Wales Regional Dinner

We held a West & Wales regional dinner in Bristol this month for our corporate partner and independent members, kindly sponsored by Credent Ltd. The dinner brought together 40 top turnaround and restructuring professionals across a breadth of firms alongside independent IFT Members.

After four and a half years as chair of the West & Wales committee, Simon Girling of BDO is handing over to Antonia Silvestri of TLT Solicitors, who has been an active committee member for some time, as well as recently becoming an IFT Fellow.

We'd like to thank Simon for his leadership and energy as chair, and for hosting such a wonderful networking evening for the region.



In other regional news, we are delighted to announce that Lizzy Wood is our new Chair of the NE region, having been a very active member of the committee, IFT Next champion, and made the seamless move from 2019 Rising Star to IFT accreditation.

A huge thanks to Phil White, who did a fantastic job in steering the region following the division of the IFT North region in 2019/20.

The NE Committee members are as follows:

Lizzy Wood (Chair), Shoosmiths | Phil White, Independent | Claire Fox (PwC) | Martin Barron (BTG Advisory) | Barney Smedley (DLA Piper) | Martin Jesper (Independent) | Matt Leech (Gateley Legal) | Anna Scott (Teneo).

Obituary - Mike Jervis

We were saddened to learn of the recent passing of experienced PwC restructuring partner, Mike Jervis.



Mike Jervis was one of the UK's most high profile insolvency practitioners and corporate restructuring advisers, having been active in the UK market for almost 40 years. Mike joined PwC in 1984, before joining Grant Thornton as partner in 1996 and then returning to PwC in 2002 to help drive focus across complex and international insolvencies.

Over the subsequent years at PwC Mike was involved in some of the most high profile and complex insolvency cases which played to Mike's strong technical knowledge, experience, his ability to unpick complex issues easily and his very easy and grounded communication style.

He was one of the original administrators of Lehman Brothers and helped navigate some of the groundbreaking Lehman "waterfall" case law and to return over £43bn to creditors.

More recently he supported the Insolvency Service oversee the Carillion liquidation which was one of the longest trading liquidations.

His experience was not confined to the UK, he was also appointed as liquidator of the UAE private equity firm Abraaj.

He was particularly sought after in the retail space having worked on the Game Group, Albemarle & Bond and Brantano and more recently was involved in the energy retail crisis and acted as administrator of Pure Planet.

Irrespective of who Mike was representing he had a reputation for being the consummate professional always acting in his clients' best interests but also recognising the need for compromise to achieve the right outcome for all parties involved.

Many members of the IFT had the benefit of working in close quarters with Mike over the years and will have witnessed this first hand.

One of Mike's strengths was his patience and his willingness to invest time with those he was working with and act as a sounding board for his fellow partners, directors and the wider restructuring team at PwC.

A significant part of the legacy that Mike leaves at PwC relates to the technical advancement and development of not only the PwC partner team but many other members of the restructuring community.

Mike's commitment to the team, his clients and those advisers he was working with was mirrored in his commitment to the profession as a whole.

He regularly shared his insights and perspectives at restructuring and insolvency conferences and was an active member of various ICAEW committees and supported the International Insolvency Institute.

Outside of work Mike was a passionate supporter of Everton Football Club. Whilst in his youth he was a promising footballer, however those who witnessed his prowess on the 5-a-side pitch reflect that his decision to go into restructuring and insolvency was probably a wise move. He enjoyed spending time on the South Coast of England where he had a holiday home.

He is survived by his wife, Hannah, and four sons - Tom, Matthew, Christopher and Charlie.

We are grateful to David Kelly, Head of Insolvency at PwC for kindly providing these words.

Mike Jervis of PwC died on the 6th January 2023 at the age of 61. It was far, far too young. Mike worked on a long list of high profile engagements including Lehman Brothers, Carillion plc and Jarvis plc. He had that most important of skills, he knew how to be effective.

When needful, Mike could command a large room of some of the most experienced restructuring professionals in the UK. His softly spoken authority was always compelling. Of course his penchant for Everton FC and posing moodily for the camera were more questionable attributes, at least to some! I will remember him with great affection and, above all, respect. On behalf of the IFT, Rest in Peace Mike. You are missed.

Andy Leeser, IFT Chairman

Obituary - Michael Lunn

We were saddened to hear of the recent passing of Michael Lunn, a leading figure in the world of business turnaround in the UK.

Michael was a leading figure in the world of business turnaround in the UK. From a highly successful career in the whisky industry he rose through the ranks to become CEO of Whyte and Mackay, the famous Scotch whisky distillers. He was a founding member of the Society of Turnaround Professionals, which later evolved to become the Institute for Turnaround we know today. He became a high-profile, accomplished turnaround and change leader.

I first met Michael when we were both recruited as TDs for the Department of Health, and between us we were given responsibility to turnaround the finances of several London NHS organisations. This became a landmark turnaround programme, widely recognised for its impact and success, and I worked closely with Michael, sharing an office in Tottenham Court Road.

Later, Michael and I worked together again at the high profile turnaround of Bernard Matthews, where Michael was appointed CRO. This turnaround was voted best private sector turnaround by the IFT in 2010.

Michael was very demanding of others but even more of himself. He was personally modest and although tough and uncompromising in business, he was also deeply empathetic and supportive when needed. I learned much working with him, not least of all gaining a broader appreciation of the top shelf of a bar gantry.

Among many others, he sponsored my application to join STP. He was a very proud family man, and frequently mentioned his beloved wife Jennifer, his children and grandchildren during the long periods away from the family home in Glasgow.

He was also an avid supporter of Scottish Rugby. Michael would never let the grass grow, and more recently has been heavily involved as a founding partner in building from scratch a new Scotch whisky business, Wolfcraig Distillers.

I know that the thoughts of many in the IFT as well as across the UK and Scottish business communities will be with Jennifer Lunn and Michael's family at this very sad time.

Words kindly provided by Keith Pringle, Transformation Director and IFT Member

"Michael was one of four partners in a turnaround firm called Regenesi when I first met him over 20 years ago. The other three were George Moore, Peter Callaghan, and Bob Chase. I had known Bob since the 1980s when we were both in GEC and he put me forward to join them as a fifth partner. Michael, George and Peter all interviewed me separately. In Michael's case it was over dinner.

I hadn't been involved in turnaround for very long at that time, and I only had a few cases under my belt, so I was surprised when Bob suggested that I might join Regenesi and rather nervous at the thought of being interviewed by three people who were already very experienced and well respected in the industry. I needn't have worried. Michael's approach to the meeting was to have a good meal and a relaxed chat. I don't remember what we discussed, but I passed the test and joined the firm a few days later. I learned a lot from Michael and the other partners during my time at Regenesi. Michael was always happy to listen and give advice, and always good company. I was saddened to hear that he had passed away. He will be missed by many."

Bill Reeves, Senior turnaround professional and retired IFT Fellow

"I worked with Michael on a number of situations over the years - not only was he extremely knowledgeable but also a delight to work with and as a consequence had many successful corporate turnarounds under his belt."

Blair Nimmo, CEO, Interpath Advisory



Michael Lunn was a leading figure within our industry. He was a founding member of the Society of Turnaround Professionals (STP) which later developed into the Institute for Turnaround.

I first worked with Michael when we had a turnaround NHS assignment in East London nearly 20 years ago : he was leading turnaround activity in London at that time, working closely with Keith Pringle, on behalf of NHS London and the Department of Health.

I found Michael to be very fair and straightforward, with a great, dry sense of humour – as well as having a fantastic knowledge of all matters Turnaround and taking, with grace, the difficult decisions that this often entails.

It was he who was kind enough to introduce me into the IFT. I have always valued his wise advice and he will be greatly missed.

Steve Swayne, Chair, Kingsgate

IFT NORTH CONFERENCE



IFT NORTH CONFERENCE 2023

16th March in Leeds, 08:30-17:00

Market Overview

Gemma Wright - Reward FG
Johnny Abraham - Independent IFT Member. Adam Sookia - Blaze Hill Capital

Restructuring Plans

Paul Bannister - Insolvency Gov
Lizzy Wood - Shoosmith
James Davison - DLA Piper
Jonny Lees - Teneo

Levelling Up

Construction

Ian Aldous - Mace, Mark Thornton - BDO, Lee Causer - BDO

Food Production & Supply Chain

Bridie Robinson - Lloyds, Michael Rice - Isara Capital

Investment Landscape

Matt Leech - Gateley, Josie, Richardson - Rcapital
David Keenan - Nimbus



Tickets (excl VAT): Members £50, Non-Members £75.
Contact info@the-ift.com to reserve your place or for more information.

IFT North Conference

The first of our regional conferences, the IFT North Conference, will take place at The Studio in Leeds on 16th March.

We will be hearing from experts on a range of key sectors so you can keep up to date on the market.

Tickets (excluding VAT):

- Members £50
- Non-Members £75

Please contact info@the-ift.com to reserve your place, and for further information.



UPCOMING EVENTS FOR YOUR DIARY

Member meetings and webinars are included in memberships and corporate partnerships.

To register for any of the events shown here, please email info@the-ift.com

2023 Conferences & Awards

Join us for networking, market and sector insights at our regional and national conferences:

IFT North Conference: 16th March, in Leeds
Price: (excl VAT): Member £50, Non-Member £75
Topics include: market overview, restructuring plans, investment landscape, food production and supply chains, construction.

IFT Midlands Conference - 20th April, in Birmingham
Price: (excl VAT): Member £50, Non-Member £75
Topics include: market overview, restructuring plans, investment landscape, food production and supply chains, construction.

National Conference - 8th September, in London.

Annual Awards - 19th October, in London.

Upcoming Events

- Market Overview Webinar - 23rd February 8am; open to all members/partner/Next
- IFT Academy Learning Programme Reunion - 2nd March. Invite: Academy alumni.
- IFT Next Midlands Darts Social - 14th March. Invite: IFT Next
- Healthcare Webinar with Kroll .
- Agriculture Webinar.
- Women in Turnaround Networking Social - 26th April. Invite: core network.



What and who is IFT Next ?

IFT Next is aimed at professionals who have identified turnaround and business support as their long-term career pathway; the network and events are typically suitable for those with the following titles: **Manager, Senior Manager, Director, Senior Solicitor, Relationship Manager/Director, Business Support Manager.**

To join the IFT Next Community, email info@the-ift.com to register your interest.

IFT FELLOWS

We are delighted to inform you that following the recent election process, Antonia Silvestri, Colin Wray, Kelly Jones and Simon Girling have been duly elected as members of the fellows committee. The fellows committee now consists of Ian Parker as Chair, alongside Antonia, Colin and Peter Charles as Fellows and Kelly and Simon as Members - If you would like to put forward any thoughts and suggestions as to the ongoing roles and functions of the Fellows then please feel free to contact the Executive team.



Ian Parker (Chair)
Independent Transformation Executive
[Verve 4 Growth](#)



Peter Charles
Independent
[Peter Charles Associates](#)



Antonia Silvestri
Partner
TLT LLP



Kelly Jones
Transformation Director
Kingsgate



Simon Girling
Partner
BDO



Colin Wray
Business Recovery and Reorganisation Specialist



**A warm welcome to new IFT
Corporate Partner**

Azets

Azets UK is a specialist local accountants and business advisory group providing audit, payroll, corporate finance, tax and banking and finance services.

Azets are currently ranked the 8th largest accountancy practice in the UK, with 80 offices and over 120,000 clients.

We are excited to further our relationship with their expert Advisory and Restructuring teams.



Future of Retail Panel

Rebecca Leaser, Associate Director at Teneo, who chaired our recent Retail Webinar panel update discusses what retailers can expect in 2023:

A large part of the Future of Retail panel held at the IFT conference in September focussed on the headwinds and structural changes that have faced UK retailers since the last financial crisis.

Our panellists in September predicted that these headwinds would continue to impact retailers' Christmas trading and 2023 outlook. This, however, was before the mini budget in October and the resultant exchange rate collapse and interest rate raise, which presented further challenges to retailers.

As such, we held an update panel where we were joined by Kiri Holland of BDO and Gavin George of Alteri to discuss how the rest of 2022 panned out for retailers and our predictions for 2023.

Key points discussed included:

Christmas trading 2022:

- On the whole, results releases were positive than expected with retailers that we look to as bellwether retailers (such as Next, M&S) posting better than expected sales and discounters (such as B&M, Aldi, Lidl) also posting stronger sales growths during the period.

- However, whilst sales rose in December, initial analysis suggests that this was attributable to inflation rather than an increase in underlying retail volumes and volumes were lower compared to Christmas 2021.
- Interestingly the Royal Mail strikes in December 2022 contributed to the continuation of the trend seen in 2022 of shoppers returning to stores, with pure play online retailers (such as ASOS and Very) posting a fall in Christmas sales.

2023 outlook for retailers:

- Certain headwinds are easing, such as stabilising exchange rates and energy prices. Freight costs having also begun to come down following highs in 2022.
- However, retailers are still facing a cost-conscious consumer and excess inventory from the pandemic, both of which could material impact retailers' margins.
- Success for retailers in 2023 will in part be based on the clarity of retailers' proposition – strong brands with a clear customer proposition should do well.
- There is also a strong theme emerging from retailers seeking to become consolidators (such as Next, M&S), effectively becoming the new generation of department stores.

The investing landscape for retailers:

- While mainstream PE are increasingly shying away from retail (excluding 'defensive' sub-sectors such as grocery and value retail), large listed PLCs (such as Next, M&S, JD Sports) are becoming more comfortable participating in the distressed M&A space with distressed PE.



Rebecca Leaser is an Associate Director at Teneo

This webinar is part of series of online webinars, where sector experts convene to discuss the most salient issues in turnaround. For more information, please contact info@the-ift.com



Doing Business in 2023

Gateley Legal are providing free 'Doing Business in 2023' support during a turbulent macroeconomic environment. Read on to find out more:

Free on-demand 'Doing Business in 2023' support from Gateley

Gateley has made a host of support content accessible online that highlights the latest guidance and options available to companies dealing with challenging market and financial conditions.

As part of Gateley's 'Doing Business in 2023' campaign, which is targeted at business owners and board members, three new and insightful webinar videos have been shared, covering the different stages of a business in crisis, stressed, distressed, and insolvent.

The video series looks at the key factors businesses should think about and offers guidance and support throughout the differing stages of distress that businesses might face.

Speakers include various Partner-level law and professional service practitioners from across Gateley's business platforms.

Actionable insight is provided throughout, that supports board level decision-makers in considering the best possible response to their unique crisis situations.

The first webinar in the series focuses on 'stressed' businesses and considers what to look out for when a business is under stress and some of the difficulties that can lead to this point.

A 'Distressed' businesses webinar is also available, focusing on potential issues faced by companies at this further developed stage of crisis and what leaders of a business need to do to ensure recovery.

And, the third stage of crisis, 'Insolvent' business is also covered with a webinar, that sees experts discuss what options an insolvent business has, and the duties directors must perform during an insolvency period.

Testing conditions

The support from Gateley comes at a time when recent global events have tested many business models as well as boards to their limits.

The global pandemic, war in Ukraine, energy crisis and associated challenges have emphasised the importance of maintaining a relentless focus on the financial resilience, diversity, flexibility and agility of a business.

Cash flow management, cost control, market forces, changing consumer demand and falling margins, are just some of the variables that businesses are facing.

As a board member, understanding what action to take, and when, is key to navigating these challenges and minimising business disruption whilst maximising value creation. The decline of a business from profitable to insolvent is seldom immediate – more often there are many stages along the way, where good choices may arrest or reverse the decline, and poor choices (or simply inaction) may accelerate it.

Each stage exhibits significant differences in terms of the situation, requisite strategy decisions, restructuring options and legislative requirements.

This is why Gateley advises to act at the earliest opportunity, ensuring more options are available on the road to recovery.

Support available

Gateley's "Doing Business in 2023" series covers a host of topics relevant to businesses and includes webinars, case studies, and guidance and best practice articles to help businesses and their owners consider possibilities available to them at each stage.

All videos and written content is available for free on Gateleyplc.com, where you can also contact a member of the restructuring team to support with any challenges your business may be facing.

The UK Food Manufacturing Industry in 2023

Jimmy Saunders, Managing Director at Kroll, discusses the challenges facing the food manufacturing sector:

Businesses and households are facing the highest annual cost of living crisis the UK has seen since the early 1980s.

The food manufacturing sector is no exception and is seeing cost increases that are more than the rate of inflation, with the additional challenge that suppliers to the retail sector are struggling to secure price increases commensurate with the rise in their costs.

A recent example of this is the much-publicised UK egg shortage that farmers say is driven not by avian influenza but because supermarkets are not willing to cover the soaring production costs, so farmers are not restocking their hens.

The British Free Range Egg Producers Association (BFREPA) reported that farmers are losing 29p per dozen eggs they produce, thus causing many to stop production altogether.

In a bid to prevent a repeat of the current egg shortages, BFREPA has now asked Defra to undertake a supply chain fairness review – similar to one it conducted of the pig sector in 2022 and the dairy sector during the summer of 2020 (which led to the dairy contract legislation due in 2023).

BFREPA membership's hope is that Defra will agree to a review that could ultimately lead to similar reform across the egg sector.

Recently, we have seen that retailers are working with suppliers to assist with costs and manage supply chain disruption.

However, there is some way to go before confidence returns to the sector.

The food manufacturing sector is also seeing many other challenges such as those seen in FIG 2.

How can Kroll help?

Kroll offers a specialised team of accounting, tax, compliance, cybersecurity, forensic and technology specialists who together will work with you and your client to manage risk.

Our teams have specific food industry knowledge, years of experience, proven analytical skills and comprehensive transactional expertise.

- Independent Business Reviews
- Financial Restructuring
- Strategic Options Analysis
- Stakeholder Management
- Operational Restructuring
- M&A Support
- Crisis and Interim Management



Jimmy Saunders is Managing Director at Kroll.

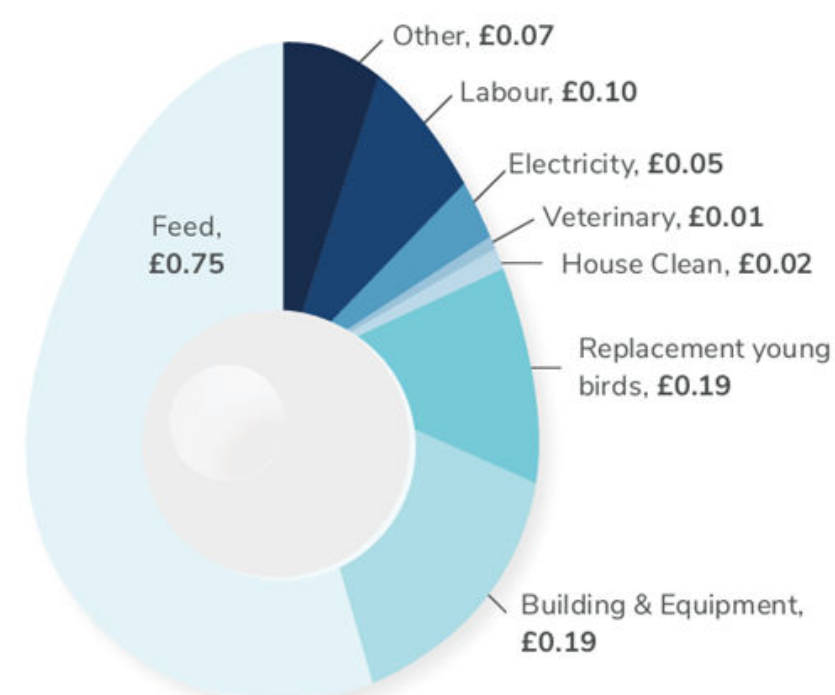


FIG 1

	Total costs for farmer to produce a dozen eggs	£1.38
	Price paid to farmers	£1.09
	Loss	£0.29

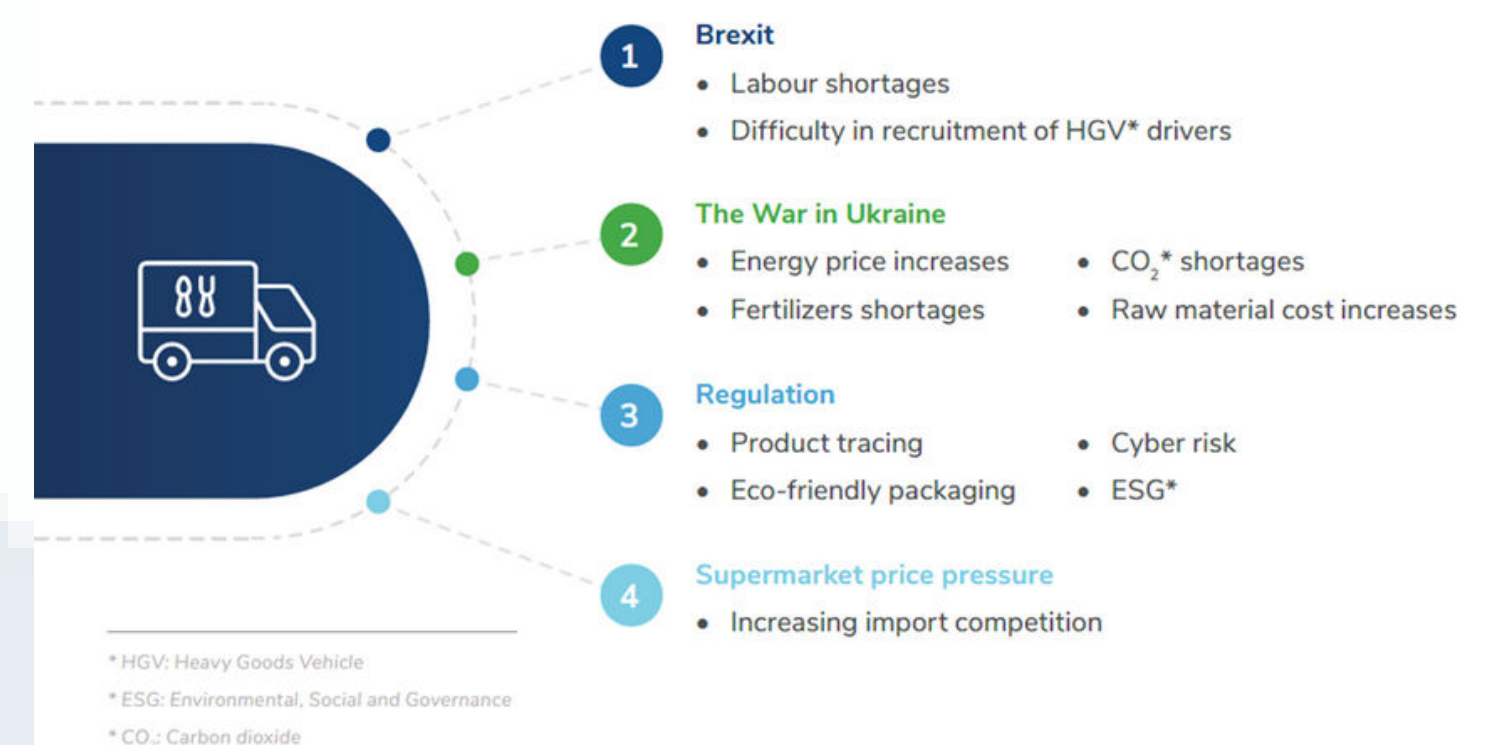


FIG 2

The importance of Directors & Officers Liability Insurance (D&O) in turnaround situations

Steve Bear, Executive Director at Gallagher discusses Directors' and Officers' (D&O) liability insurance and how it relates to turnaround:

What does D & O insurance cover?

Directors' and officers' (D&O) liability insurance is payable to the Directors, officers or any other senior managers of a company. It covers certain losses or advancement of defence costs in the event an insured person suffers a loss as a result of legal action alleging wrongful acts in their capacity as a director or officer.

D&O policies generally respond by reimbursing the employer company when indemnification has been provided to an individual. Alternatively, it can be paid directly on behalf of the individuals when no indemnification is available (most commonly because the company has become insolvent and no longer exists or lacks the funds to indemnify).

How does potential insolvency or turnaround relate to D&O?

Insolvencies are on the rise and it is crucial to understand if you are protected or not, as insolvency events can have a material impact on any existing D&O coverage in place. Outside of insolvency events, typically D&O claims come from a company's shareholders, financial/industry regulators, within its supply chain or its current or past employees. Within a state of insolvency, however, the appointed administrators, liquidators and/or creditors can also file litigation against both current and past Directors for breaches of their duties for losses that they have incurred. Typically, the actions most scrutinised are the decisions made by the director in the period immediately preceding insolvency, but claims can also leak into current or future periods, with turnaround specialists facing allegations of wrongdoing. All Directors must consciously ensure they are acting diligently through several potential passages of analysis and keeping a robust record of everything that has happened which they may later rely on further down the line.

To avoid exposure to liability in the simplest terms, judges and courts want to see you as a director doing your best to fulfil your duties through the toughest times, acting in good faith and without prejudice to minimise losses and never favouring any one group of stakeholders.

Case Study

A bankruptcy trustee filed an action against the board of Directors, including those responsible for the failed turnaround, alleging improper transfer of nearly \$100 million prior to the company's insolvency. The trustee alleged fraud against several of the defendants arising out of their participation in the transfer of the funds and alleged negligence and breach of fiduciary duty against the remaining defendants arising out of their failure to prevent the transfer. Coverage under the policy was triggered, with the company unable to provide indemnification due to its insolvency. Ultimately, the entire policy limit was exhausted by defence costs and settlement payments.

How do I protect my business?

The best way to find out if you are in need of help or a more comprehensive policy is to ask our team for our expert opinion. Gallagher is approachable, informed and happy to answer any of your questions.

We are committed to helping you navigate through the complexities and potential future pitfalls. It is never safe to assume you are fully covered without extensively discussing it with a reputable broker such as Gallagher first and preparing for any eventuality.

Our advice is to get this done as soon as possible to give yourself the best chance of the most competitive and comprehensive terms available in the market. It is important to maintain and provide up-to-date financial, operational and structural records to enable Gallagher to represent you in the most effective and efficient manner as well as for any necessary regulatory provision required in the future.

To avoid potential exposures to ever-increasing costly risks for companies under threat of insolvency now or in the future, this is the right time to speak to Gallagher and ensure you are prepared and protected.



Steve Bear is an Executive Director in the Financial and Professional Risks division at Gallagher.

ABOUT GALLAGHER:

Gallagher is one of the world's largest insurance brokerage, risk management and consulting firms.

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