



## PART 1

# How can a Regulator become a “super creditor” ranking ahead of anyone else — even compromising secured lenders?

Increasing regulation is impacting many Duff & Phelps clients, including lenders and companies, in unintended ways.

- The Food Standards Agency (“FSA”) regulates over 822,000 food and feed establishments in the UK.
- With over 1,200 staff and a £70m budget, it has considerable statutory powers.
- It has the power to impose fines or criminal convictions for breaches of its Articles.

We have recently been appointed as Administrators over an abattoir where, before our involvement, the company had been fined over £100k for breaches.

The FSA, after obtaining judgment against the company, invoked its powers under the Meat (Official Controls Charges) Regulations 2009. As a result it required the purchaser of the business to pay the outstanding fine otherwise it would refuse to allow it to trade.

As a consequence the FSA became a ‘super creditor’ with the ability to ensure it was paid ahead of anyone else.

The lesson here is to be particularly aware when dealing with entities regulated by the FSA that any fines imposed by them may have a detrimental effect on any lenders security if the business needs to be sold as a going concern.

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# Duff & Phelps Restructuring

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## Our Approach

Duff & Phelps is a global financial advisory and corporate finance firm which provides independent and solution driven advice to the business at all stages of the life cycle.

We take speedy ownership of a situation and have developed a proven track record for delivering successful outcomes even in the most challenging of circumstances.

With our range of complementary skills and services we are well placed to assist you and your clients to find workable solutions in these challenging circumstances.

## Our Team is Experienced in Assisting Corporates Under Financial Strain:

- Raising additional funding via our network of special situation funds and investors
- Cash flow monitoring
- Non-core disposal plans
- Independent business and viability reviews
- Contingency planning
- Strategic options analysis
- Stakeholders management and operational turnaround
- Corporate restructuring
- Negotiating Time to Pay agreements with HMRC

## Why Choose Us?

- Top 10 UK advisory practice with consistent success even in the most challenging situations
- We take speedy ownership of a situation and deliver effective solutions to improve business performance
- We strive to preserve value for all stakeholders
- We develop and maintain strong client relationships

**For more information please visit:**

**[www.duffandphelps.co.uk](http://www.duffandphelps.co.uk)**

## About Duff & Phelps

Duff & Phelps is the premier global valuation and corporate finance advisor with expertise in complex valuation, dispute and legal management consulting, M&A, restructuring, and compliance and regulatory consulting. The firm's more than 2,000 employees serve a diverse range of clients from offices around the world. For more information, visit [www.duffandphelps.com](http://www.duffandphelps.com).

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