Hilco Valuation Services

HILCO VALUATION SERVICES EUROPE

SUMMER NEWSLETTER

Welcome to our Summer Update. We are looking forward to what the summer months and the rest of 2021 will bring as lockdowns continue to ease across the UK.

In this second update of 2021, we are sharing departmental updates from the second quarter, an in-depth look at changes in the printing industry, an update on our activities regarding Arcadia and our latest “Legally Speaking” feature, this time kindly provided by Addleshaw Goddard.

We are also delighted to announce the launch of our new website, found at hilcovs.co.uk.

As always, we are on hand to help and advise during this time and are contactable through email, phone and video calls.

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MACHINERY & BUSINESS ASSETS

INVENTORY

ACCOUNTS RECEIVABLE & INVENTORY FIELD EXAM

REAL ESTATE

INTELLECTUAL PROPERTY

MACHINERY & BUSINESS ASSETS

Despite the slowdown in the number of insolvencies in 2021 the Machinery and Business Asset teams have been kept busy on a variety of assignments in the last few months. These have included asset based lending valuations, disposal and valuation assignments for insolvency practitioners and valuations for financial reporting.

In the London office, the team have been working on the insolvencies of three substantial retailers; however, we have seen a reduction in the number of new cases in this sector, suggesting the High Street might be stabilising, although whether that will remain the case in the long term is difficult to gauge.

Spot the vespa!

We have undertaken several multi-site valuation pieces of late, offering lenders the option of full site visits, sample site visits or complete desktop appraisal services. We will always offer advice on the best valuation methodology in order to ensure both client and customer receive the highest levels of service.

We have experienced both ends of the spectrum in certain asset classes of recently. This was evidenced in a valuation requirement for a fleet of clean energy buses followed immediately by a separate valuation requirement for a series of classic AEC Routemaster buses dating back to the 1950's. Another leap through time in the automotive sector was seen following the sale of a 2020 Range Rover on behalf of an Insolvency Practitioner to the valuation of a Warrick Auto Carrier, a motorised delivery tricycle dating back to the 1910's. This had been lying at the Debenhams store in Guildford since the 1970's and required a specialist contractor to extricate it from the building as the previous access points had been blocked up in the intervening years.

Valuations over the last few months have ranged from an Advanced Thermal Treatment Gasification Plant to an Open Cast Mining Gold Refinement Plant and just about everything else in between to include Film Sets, Fashion Studios and Farming Equipment.

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UPDATE ON ARCADIA GROUP LIMITED (IN ADMINISTRATION)

We are in the process of concluding the physical asset sales of Arcadia Group Limited (in Administration) "Arcadia" on behalf of Teneo Restructuring and felt it would be of interest to provide an update on our activities. This includes some stats linked to online sale interest, audience participation and, most importantly, registrations.

From the outset, we decided to extend sale notifications to as wide an audience platform as possible. The reasoning for this strategy was to capitalise on interest levels given the high-profile media coverage of Arcadia and the sheer volume and disparate nature of available assets; these included photo studio assets, hand-held retail stock management devices, designer furniture, Apple Mac and IT technology, sewing / cutting room equipment and a canvas print of Kate Moss!

As a result of innovative marketing approaches, engagement with social media networks, effective advertising copy and presentation, we achieved 'off the scale' response levels which generated highly competitive bidding across all sales.

Collectively our Arcadia sales webpages saw 22,454 page views throughout their duration on our dedicated website and in sale order the number of registrations are illustrated below:

- **Wenlock Road (1 Day Online Auction)** - 207 lots with 452 registered bidders.
- **Colegrave House (2 Day Online Auction)** - 709 lots with 803 registered bidders.
- **Colegrave House and Leeds Distribution Centre (2 Day Online Auction)** - 883 lots with 245 registered bidders.
- **Milton Keynes Distribution Centre (2 Day Online Auction)** - 714 lots with 172 registered bidders.

In addition to the above, we have conducted a number of private treaty sales for a range of assets including;

- Catering Equipment
- Network and Security Systems Infrastructure
- Office Furniture
- Hand-Held Stock Control Devices
- Data Centre Equipment

To coin a horse racing term, we are 'approaching the final furlong with the finishing line in sight' with regards to our involvement in Arcadia; the final sale being Data Centre Equipment located at a third-party colocation facility in Nottingham which closed 30 June 2021, to be collected post-sale in July/August 2021.

While each stage of the Arcadia sale process has presented different challenges, we have demonstrated that as a result of the strategies applied, efforts of our sale preparation, marketing and admin teams together with the support of the Administrators and retained Arcadia staff, sale results achieved across the board have been at levels that have surpassed expectations.

Finally, Nat Baldwin and our Intellectual Property team are dealing with the Administrators in connection with the intellectual property assets of Arcadia and other associated brands which I am sure will be referenced in future correspondence.

Should you wish to discuss any aspect of our involvement in Arcadia further, please do not hesitate to contact Kevin.

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THE PRINTING INDUSTRY'S MOVE TO DIGITAL

During the last eighteen pandemic filled months it seems the whole world has gone digital, and the printing industry is no exception, or at least there has been a strong move away from traditional printing methods. Anecdotal evidence from UK printers and the used equipment dealer market has many tales of low demand, leading to printers mothballing at least one of their large capital-hungry lithographic presses in favour of a digital print solution.

Demand for new and replacement lithographic presses is known to be weak, but the order books for digital printing systems are full, with previously unknown extended lead times for supply of these systems becoming the norm. This would suggest that at this point in the economic recovery, the demand forecast for print is challenging with investment in a large, expensive lithographic press proving questionable and investment in a cheaper digital solution being a safer decision for many print businesses at this time.

This change of direction to a digital print solution has not happened overnight but has merely been accelerated by current market forces, shorter print runs, better workflow automation, reduced overheads and faster turnarounds, which have been a constant feature of the industry’s cost-conscious and somewhat shrinking customer base for many years.

However, most digital print equipment is supplied by the OEM as a complete production solution with software licenses, upgrades, maintenance and even consumables supply combined in one monthly or quarterly payment in a pure rental or finance lease agreement.

With the introduction and various amendments to IFRS 16, great care must be taken by the company’s auditor and their financial decision makers to accurately recognise this asset class and its future liabilities.

Here at Hilco Valuation Services we have many years’ experience of the printing industry and have the expertise to accurately value the machinery utilised within the business and to fully understand the complexities of these financial agreements for both transfer of ownership and disposal purposes.

If you would like any print valuation advice or to talk through a particular print oriented situation, please contact Spencer.

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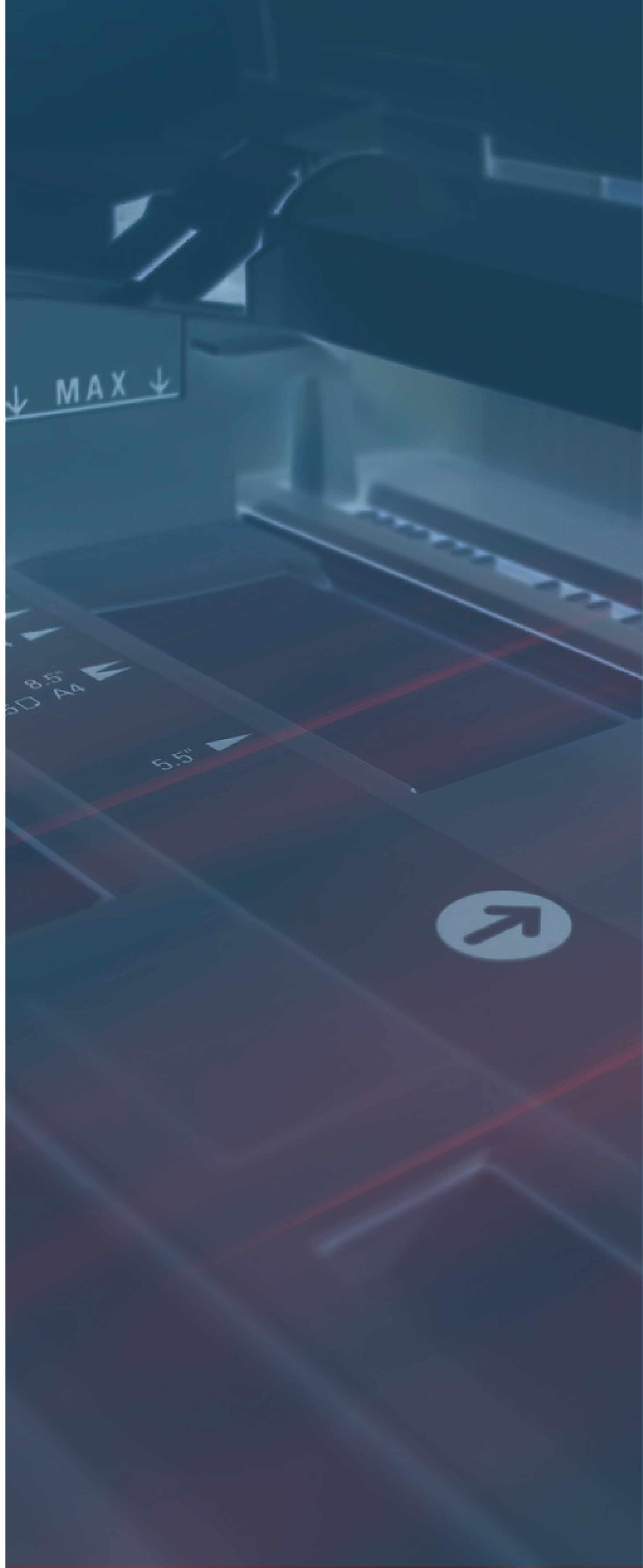

INVENTORY

It has been a busy Spring for the inventory team, with a number of new instructions and collateral reviews. As mentioned in the previous newsletter, many lenders are continuing to move to 3 monthly and 6 monthly reviews rather than the usual 12 month, annual reviews.

We have also noted that lenders continue to assess the impact of reduced availability due to the re-introduction of Crown Preference, particularly as a number of businesses have taken advantage of the Government's PAYE and VAT deferment schemes, leading to unusually high levels of arrears.

A number of lenders are looking to increase availability by considering more complex work out and conversion scenarios to increase potential availability.

Instructions have been received across all industry sectors, moving away from the concentration on the retail and aviation sectors experienced throughout 2020.

The coming quarter promises to be interesting as lockdown measures lift and we can assess the true impact of Coronavirus across all industries and particularly the retail sector, as stores return to a more normal trading pattern.

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ACCOUNTS RECEIVABLE & INVENTORY FIELD EXAM

The team have been consistently busy throughout the first half of 2021 working on numerous assignments in the UK, Europe, the Far East and Australia. It has been particularly pleasing to see increased demand for the inventory field exam service line to complement our inventory appraisals.

Both the Accounts Receivable and Inventory Field Exams continue to be utilised to support acquisitions and re-financings. We are also working on recurring reviews for existing lenders as well as specific scope Borrowing Base audits.

We have worked on a wide range of industry sectors, including steel, engineering services, construction, manufacturing, fuel, plant hire, wholesalers and recruitment.

We also welcome the opportunity to provide initial, high level guidance at the very early stage of a potential transaction, utilising the team's years of experience in previous lending and advisory roles.

We are able to work on projects either remotely or on-site (government restrictions allowing).

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REAL ESTATE ADVISORY

Nearly back to normal – or are we?

City centres are getting busier but are still a fraction of their usual footfall and as office occupiers, large and small, continue their internal debates on flexible working practices, how much space do they really need and how do they make the space they have more ‘attractive’? There is going to be an inevitable impact on office space demand, quality (not quantity) and on the consumer retail that relies on those office workers.

One client said that of an office of 900 people in London, their plan was that only 400 people would actually be present in the office at any one time, everyone would be hot desking and the pre-Covid plan to take another floor in the building had been shelved.

Landlords already rocked by rent arrears and loss of tenants, particularly in the retail sector through restructuring, will need to think smart, be nimble and consider their tenants as a relationship not just a ‘cash machine’. Likewise real estate lenders will need to work with the borrowers. A ‘Holy Triumvirate’ – lenders, borrowers and tenants working together – or will they?

The rent moratorium has been extended until 25th March 2022 and whilst this is welcome news to high street tenants and hospitality, it will further exacerbate the ‘debt timebomb’ to be navigated by landlords and tenants alike.

Recent secured lending valuation and review instructions have been diverse, ranging from a shipyard, steel works, a £100 million plus central London residential portfolio. On the reverse side we are working with various lenders and their advisors reviewing and assisting on work out strategies on residential land with planning, a part completed residential apartment block in London, a substantial hotel development site in a major north west city, retail shopping centres and a range of other real estate assets across the UK.

New agency disposal instructions in recent weeks have included a commercial quayside property in Great Yarmouth, a warehouse in Watford, an unbroken freehold block of 32 residential apartments with ancillary commercial space in London on behalf of Administrators and a self-contained office building in Ashford, also on behalf of Administrators.

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Hilco Global
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INTELLECTUAL PROPERTY

While the challenges and pauses to society brought about by Covid-19 are often spoken about, less so is the accelerated change in consumer trends. Across all sectors, companies are beginning to demonstrate new ways of working and conducting business in light of the pandemic, with intellectual property at the core of this transformation.

The pandemic has demonstrated how critical maintaining an online presence is for high-street businesses, such as retailers and restaurants. Over the past 12 months, businesses have lived or died by the strength of their ecommerce offering, mobile shopping applications, and in the case of restaurants, food delivery platforms and partnerships. Furthermore, as location has become irrelevant, businesses have had to solely rely on the strength of their brand to attract consumers and generate sales.

With a fresh and growing awareness of intellectual property in the market, we are beginning to see an uplift in enquiries from companies looking to safeguard and protect their intellectual property assets from the trading risks of their business.

The mechanics for achieving this are typically incorporating an IP Holding Company (IPCo) and then transferring the business's intellectual property assets into the new entity at fair value, for which an intellectual property valuation is normally required.

With inflation thought likely to rise post-Covid, the increase in asset prices is likely to drive further demand in this area as companies look to capitalise on existing asset prices before inflationary growth.

Elsewhere, we have continued to manage a steady stream of sales from insolvency, including the well-publicised Arcadia and Outfit brands, Ralph & Russo, and a plethora of IPv4 blocks and Microsoft Licences.

We expect that our disposal activity will continue to grow as we progress further in 2021 and restrictions around creditor petitions are lifted.

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"We are delighted to have Mike Davison from Addleshaw Goddard kindly submit a piece for this newsletter's Legally Speaking section. Legally Speaking is where we invite a representative from the legal world to provide updates and advice to operators and participants in our sectors.

Mike's article focuses on the new ***National Security & Investment Bill*** *and his commentary has particular reference to potential impact in the M&A space."* - Kevin Smyth

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The National Security and Investment Act 2021 ("NSIA") What is it and why do we care?

Mike Davison writes:

On 29 April 2021 the NSIA received Royal Assent. Whilst secondary legislation will need to be passed to give effect to the NSIA, it is expected to come into force until the end of 2021. However, the NSIA, once operative, will have retrospective application to matters entered into after 12 November 2020. It will bring in a stand-alone national security vetting regime to replace existing powers under the Enterprise Act 2002 to scrutinise mergers on national security grounds. The Secretary of State for Business, Energy & Industrial Strategy (BEIS) will be the key decision maker.

The new regime will apply to investments/acquisitions by investors from any country, including the UK, and there is no minimum turnover or market share safe harbour. NSIA provides powers for the Secretary of State to scrutinise and, where necessary, impose remedies on specific acquisitions of control of qualifying entities and assets.

This is legislation that needs to be considered carefully not only by buyers and sellers, but also potentially by lenders who may be affected by the legislation and certain Insolvency Practitioners as well – particularly where a Lender expects to recover his position by appointing a receiver to recover the value of a particular asset. When contemplating any transaction in a relevant sector (see below) you should make sure that you have properly considered whether the NSIA may be relevant to your transaction – whether as a lender or as a buyer.

What does it do?

Proposed acquirers of certain shares or voting rights in entities in the most sensitive areas of the economy will be required to notify and obtain prior clearance for their acquisitions from the Secretary of State ("notifiable acquisitions").

A notifiable acquisition can occur where shareholdings or voting rights in an entity are increased to 25% or more and can also include increases in shareholdings or acquisitions of voting rights.

There are 17 relevant sensitive sectors (at least for now): advanced materials, advanced robotics, AI, civil nuclear, electronic communications, computing hardware, critical suppliers to government, critical suppliers to emergency services, cryptographic authentication, data infrastructure, defence, energy, engineering biology, military and dual use goods/technologies, quantum technologies, satellite and space technologies and transport.

A notifiable acquisition that is completed before being cleared by the Secretary of State will be void and the acquirer may be subject to criminal or civil penalties for completing the acquisition without clearance.

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Power of BEIS

The Secretary of State will have the power to "call-in" acquisitions of control over qualifying entities or assets ("trigger events") which give rise, or may give rise, to a national security risk, to undertake a national security assessment. The call in power may be exercised in respect of notified and non-notified transactions.

Trigger events occur where a person gains control of a qualifying entity or asset:

Qualifying entities include, for example, companies, limited liability partnerships, other bodies corporate, partnerships, unincorporated associations and trusts, but not individuals. An investor gains control where it:

- increases its shareholding or voting rights in the entity to more than 25%, 50% or 75%;
- acquires the ability to pass or block a corporate resolution governing the entity's affairs;
- acquires the ability to materially influence the policy of the entity.

Qualifying assets cover land, tangible or moveable property, and ideas, information or techniques which have industrial, commercial or other economic value such as trade secrets, databases, algorithms, designs, software.

An acquirer gains control of an asset where it acquires the ability to use the asset, or to direct or control how it is used (or to do these things to a greater extent than previously). Asset acquisitions are not subject to mandatory notification, but may be called in.

The call in power may be used up to five years after the trigger event, subject to this being done within 6 months of the Secretary of State becoming aware of the trigger event and can be used retrospectively.

According to the draft **Statement of Policy Intent**, when exercising the call in power the Secretary of State will consider:

Target risk – the nature of the target and whether it is in an area of the economy where the government considers risks are more likely to arise

Trigger event risk – the type and level of control being acquired and how this could be used in practice

Acquirer risk – the extent to which the acquirer raises national security concerns; will be assessed on a case by case basis:

Voluntary Notifications - There will be a voluntary notification system for acquisitions which fall outside the mandatory regime, to encourage notifications from parties who consider that their trigger event may raise national security concerns.

What are the potential outcomes:

Where a mandatory or voluntary notification is made the Secretary of State will have 30 days to call it in for full assessment.

Where a call-in notice is given (on a notified or non-notified transaction) there will be a 30 working day assessment period for deciding whether to impose remedies or take no further action. That period may be extended by a further 45 working days if more time is required and any additional period that may be agreed between the Secretary of State and the acquirer.

The assessment may result in either a notification of no further action or a final order preventing, remedying or mitigating the national security risk. There will be a process for appealing the Secretary of State's decision to the High Court on the basis of judicial review.

Failure to comply with the new regime may result in fines of up to the higher of 5% of worldwide turnover or £10 million, and/or imprisonment of up to five years.

How can it affect Lenders?

Although so far there is little guidance on how the NSIA might apply to financing arrangements, it has been very clear that financing arrangements are not exempt from the scope of the NSIA. This may impact structuring finance deals. Briefly, the NSIA could apply to financing arrangements in the following ways:

continued

1. Specific Transaction: In the event that lenders are financing a specific transaction – such as a property purchase or a company acquisition – they will need to be satisfied as to whether or not the underlying transaction could trigger a review under the NSIA – by applying to a qualifying asset or entity.

2. Enforcement of Security: The act of granting a finance facility of creating or taking security will not usually itself trigger the application of the NSIA (unless somehow it provides the lender with some control over the borrower). However, where a lender enforces its security over the shares, voting rights or any qualifying assets, the NSIA may become relevant. This may also apply on any transfer of relevant security

3. Insolvency and Secured Creditors: the NSIA has a specified exception for administrators (and creditors while an entity is in administration) so that an administrator or creditor who exercises control over the borrower in such circumstances will not trigger any review under the NSIA. However, this only applies to administrators/creditors, so it will not apply to other officeholders appointed in respect of other insolvency processes or any enforcement action taken by a secured party, including the appointment of receivers. This would be relevant for example if seeking to realise the value of equipment or property through a fixed charge receiver.

Should lenders be concerned?

None of these are necessarily barriers to a deal, they just need to be considered. Lenders should be aware of a borrower being or becoming active in a relevant sector and generally should consider whether the NSIA might apply when making any structure arrangements. If there is a risk that the NSIA might apply, a lender should make sure that the nothing in the facility or security documents causes and issue and that any exit plan has considered any risks that might apply when enforcing security.

There are many ways to mitigate the risks, but it mostly comes down to making sure that you do not fall foul of the NSIA or are prepared for it if you think it's a risk.

What level of impact can be expected?

The Government's Impact Assessment predicts between 1,000-1,830 notifications per year (and around 70 to 95 detailed national security assessments each year, resulting in around 8 – 10 remedies decisions.

As well as Lenders referred to above, businesses contemplating deals should be considering whether the transaction could be subject to review and should draft the transaction documents mindful of the risk that the deal may be called in.

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Mike Davison is Head of Asset Based Lending & Trade Finance at Addleshaw Goddard LLP a leading UK corporate law firm. Mike has been a partner in the Addleshaw Goddard Finance team for over ten years and regularly advises lenders on structuring all types of working capital solutions for customers, how to address issues on live portfolio matters as well as advising borrowers on their requirements. Mike also advises office takers in relation to turnaround and workout strategies.

OUR CHARITY EXERCISE CHALLENGES

Throughout March and May, members of our Hilco team have been taking part in our charity exercise challenges. The team smashed their accumulative distance targets in both challenges; covering 1,706.2 miles (2,745.8km) in March and 2,083.5 miles (3,533km) in May by walking, running, cycling and rowing. We are delighted to have been able to raise **£1,000 for both Dementia UK and The Donkey Sanctuary respectively** and look forward to supporting another charity in July with our next challenge.

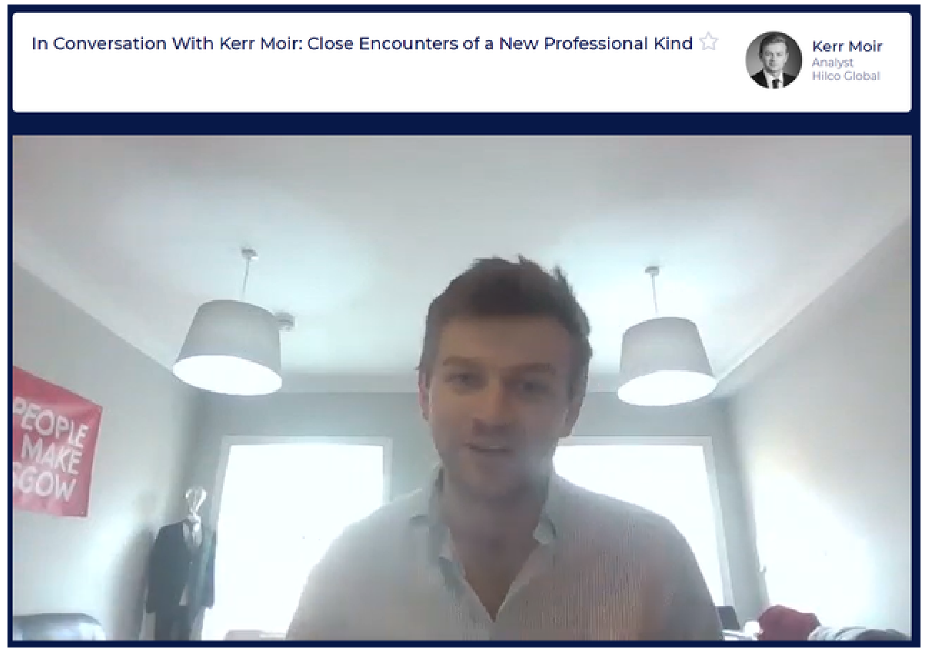
Challenge organiser **Andy Hancock** from our Machinery & Business Assets team commented:

> *"We sailed through our target in May (after our very successful inaugural challenge in March) and it is great to see everyone getting out, especially as lockdown restrictions begin to ease. Despite the wettest May on record, everyone endured and we are looking forward to reaching for our trainers in July for another great cause. Just hoping for better weather!"*

COMPANY NEWS

R3 ANNUAL CONFERENCE

We were delighted to be a Gold Sponsor of the R3 Annual Conference which took place between Monday 17 May and Thursday 21 May 2021. Taking place virtually, the conference provided an interesting and engaging environment for those in the industry and we enjoyed catching up with everyone. It was great to see familiar faces throughout the live sessions and social events, including our very own Kerr Moir from our Intellectual Property team, who contributed as part of the session; Close Encounters of a New Professional Kind.



SFI AWARDS

Hilco Global Real Estate Advisory are delighted to have been a sponsor of the 2021 Specialist Finance Introducer (SFI) Awards, which took place virtually on Thursday 24 June 2021. The Awards celebrate this specialist sector and focus on rewarding excellence and thought leadership.