Lauren Macksoud
Case Study II
Advice to Benedict Maximov

MEMORANDUM
PRIVILEGED AND CONFIDENTIAL

To: Benedict Maximov, and Counsel

From: The Law Office of Lauren Macksoud Esq. LLP

Date: April 15, 2024

Re: Efwon Group Reorganization

I. Introduction

Efwon is a multi-national group of companies with assets and lenders based in various jurisdictions. At present, Efwon Romania is in an insolvency proceeding in Romania, and a freezing injunction exists over its assets and income. This injunction is likely to cause it to default on obligations to its parent company, Efwon Trading, which will then cause Efwon Trading to default on its loan to its parent company, Efwon Investments Inc. With defaults looming, lenders to each entity could be preparing to commence enforcement actions at various entity levels.

Malaysian state company KuasaNas has indicated that it is interested in a multi-year sponsorship deal worth in excess of $100M annually. As a condition of funding, KuasaNas seeks (i) a 51% majority state in the racing team, (ii) a commitment that the team move to Malaysia, and (iii) resolution of the insolvency issues affecting the Efwon group of companies.

Mr. Maximov, as sole equity holder of Efwon Investments Inc., has asked how best to facilitate a deal with KuasaNas in order to save the Maximov F1 race team. Mr. Maximov also asked that we provide advice on how he can safeguard his investment in the Efwon group entities. In order to facilitate the delivery of this advice, we have prepared an organizational chart, attached as Annex 1, showing the existing relationship between the Efwon entities. Below is our advice on all relevant considerations.

a. Proposed Strategy and Whether One or More Proceedings Are Required

An out of court work out is almost always a better option than a formal bankruptcy or insolvency proceeding. Work outs are quicker, less expensive and allow parties maximum flexibility. In order for a successful work out to be achieved, all parties must agree to a standstill, where no creditor commences collection or foreclosure proceedings, and ultimately, all creditors agrees to amended terms. If an out of court work out cannot be achieved here, then we would propose the following.

Given that Efwon Investments is a U.S. based entity, the first lien secured lenders are U.S. based, and all debt is U.S. denominated, we are proposing that in order to reorganize and deal with their stakeholders, Efwon Investments and its subsidiaries first file for Chapter 11 in the United States, and then file ancillary proceedings for recognition of the U.S. proceeding in each

of the foreign jurisdictions in which the Efwon subsidiaries are located.[1] The cases would likely be jointly administered in the United States, but the debtor estates would not be substantively consolidated.

Efwon Investments is eligible to file for Chapter 11 in the United States Bankruptcy Court for one of the Districts in Texas. While Efwon Trading, Efwon Romania and Efwon Singapore are not U.S. entities, they may file for Chapter 11 if they have (i) a domicile, (ii) a place of business or (iii) property in the United States. *See* Section 109 of the Bankruptcy Code. The property prong of the eligibility criteria is particularly broad, and in the *In re Global Oceans Carriers Ltd.* case, the court found that a retainer paid on behalf of the debtors to U.S. bankruptcy counsel was sufficient property to satisfy the eligibility criteria set forth in Section 109 of the Bankruptcy Code. 251 B.R. 31 (Bankr. D. Del. 2000). Efwon Trading and Efwon Singapore should place assets in the United States, if not already done, so that they can file Chapter 11 along with Efwon Investments. More specifics on the nature and proposed goals of the Chapter 11 proceeding are set forth in part "d" below.

We understand that Efwon Romania has already been placed into insolvency by the injured drives and we further understand that lawyers acting for the drivers have obtained, pending an order being made, freezing injunctions over the company's assets and income. These freezing injunctions will make it difficult for Efwon Romania to transfer assets to the United States. Therefore, local counsel in Romania needs to be consulted immediately in order to dismiss the Romanian proceeding and lift the freezing injunction. Alternatively, Romanian counsel should advise whether the Romanian proceeding can be converted into an ancillary proceeding (either as a foreign main proceeding or a foreign non-main proceeding), leaving the opportunity for a U.S. Chapter 11 case to be the primary proceeding. If the Romanian courts refuse to recognize a U.S. Chapter 11, then Efwon could be left with dueling parallel proceedings in the U.S. and Romania. The remainder of this advice assumes that Efwon Romania is able to become a Chapter 11 debtor with an ancillary proceeding in Romania.[2]

The concept of comity will be important, regardless of which restructuring laws are selected by the Efwon companies. Comity is the process whereby one court recognizes and enforces the judicial determinations and proceedings of a foreign court. Each of the countries at issue here follow international rules of law and have adopted laws that implement due process rights. As discussed further below the U.S., Singapore and Romania have each adopted the Model Law. The Netherlands has adopted the EIR. Therefore, it is likely each of these jurisdictions will apply principles of comity in determining whether to recognize and enforce foreign judgments.

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[1] We recognize that there are viable enterprise level solutions available through other laws in other jurisdictions. We address some additional options below.

[2] As noted above, if the Romanian proceeding cannot be dismissed or converted, then Efwon could be left with dueling parallel proceedings in Romania and the United States. Another alternative is that the Romanian proceeding could be the main proceeding, with Efwon Investments filing an ancillary proceedings in the United States under Chapter 15 of the Bankruptcy Code, Efwon Singapore filing an ancillary proceeding in Singapore under their local implementation of the Model Law, and Efwon Trading B.V. filing either an ancillary proceedings under the EIR. The U.S. courts, as well as the Dutch and Singapore courts should recognize the Romanian proceedings, which would likely involve a sale of the assets and a reorganization of the foreign denominated debt. Romanian counsel would need to advise on all pros and cons of the existing restructuring laws in Romania, including whether Mr. Maximov is able to achieve his goals of owning equity in the reorganized entity and preserving his global real estate through a Romanian proceeding.

b. Location of Proceedings and How Proceedings May Influence Each Other

The primary reorganization proceeding will take place in the United States. Once in Chapter 11, the debtors can take advantage of the extraterritorial application of U.S. law and receive the benefits of Chapter 11, which include the following:

- The debtor's management remains in control of the companies. So absent any allegations of fraud or wrong-doing, Mr. Maximov should remain in control of all assets and run operations as a debtor in possession.

- The automatic stay applies to all assets of the debtor, where ever located and by whomever held. Therefore, assets in foreign jurisdictions are protected by the stay.

- The automatic stay also provides a debtor with breathing room such that it can stop paying certain debts, including principle payments on loans.

- A debtor can cram down, or confirm a plan over the objection of a class of creditors so long as the plan is fair and equitable to the creditor, and so long as the plan does not discriminate between creditors.

- Secured debt can be restructured. So a debtor can cram down on a secured creditor or, essentially rewrite the secured debt if, among other things, the realization by the secured creditor is the "indubitable equivalent" of their claims. Therefore, the debtor has options should certain creditors not consent to treatment.

- Contracts, including licenses, can be assumed and assigned even if not assignable. Therefore, the debtor should be able to assume and assign the licenses held by Efwon Romania to the purchase of the Efwon entities' assets.

Following the commencement of the Chapter 11 cases, Efwon Trading, Efwon Romania and Efwon Singapore should each commence ancillary proceedings in their respective domiciles. Both Romania and Singapore have adopted the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Cross-Border Insolvency (the Model Law). This means that the process for obtaining foreign assistance for and recognition of the U.S. Chapter 11 proceeding will be the same in both jurisdictions. It also means that the foreign representative (i.e. the debtor in possession) will have access to and the ability to coordinate with the courts in both countries. The Model Law focuses on access to the courts of an enacting state, simplifies procedures for recognition of qualifying foreign proceedings, specifies the relief available and empowers courts to cooperate in order to achieve a quicker and more efficient solution for a cross-border insolvency proceeding.

The Netherlands, on the other hand, has not adopted the Model Law. The Netherlands is bound by the Recast Regulation on Insolvency Proceedings 2015/848 (the recast EIR). But the recast EIR only provides for recognition of insolvency proceedings and enforcement of decisions among Members States of the European Union. The Netherlands is not party to any treaty with non-EU Member States. Therefore foreign non-EU insolvency proceedings are not automatically recognized in the Netherlands. Nonetheless, we understand that a Dutch court will recognize a foreign non-EU insolvency judgment if certain findings are made, including, among others, that

the jurisdiction of the foreign court was based on internationally acceptable grounds and that proper legal procedures were observed and proper service given. Efwon Trading should seek recognition of the U.S. Chapter 11 from the Dutch court on these grounds.

If recognition cannot be achieved in that manner, the Dutch WHOA also provides Efwon Trading an opportunity to have the Chapter 11 plan mirrored so that the overall goal of the Chapter 11 has effect in the Netherlands. Dutch counsel should be consulted to advise on these issues. If Dutch counsel fears recognition of the Chapter 11 proceeding is unlikely, then a new strategy could be devised where the primary insolvency proceeding involves Efwon Trading in a Dutch WHOA, with a Chapter 15 proceeding for recognition pursued against Efwon Investments in the U.S., and ancillary proceedings for recognition pursued against Efwon Singapore and Efwon Romania under the relevant iterations of the Model Law enacted in their respective jurisdictions.

c. What Impediments Exist to Proceedings Taking Place

Two key impediments have already been identified above, specifically the existing insolvency proceeding in Romania and the fact that the Netherlands has not adopted the Model Law. Another possible impediment to the proposed strategy is the question of how each of the non-U.S. jurisdictions will view the relevant company's center of main interest (COMI).

The Model Law uses the concept of a company's COMI to determine whether a court is obligated to recognize and assist a foreign insolvency proceeding as a "foreign main proceeding" or a "foreign non-main proceeding." The Model Law does not define COMI, but contains a rebuttable presumption that in the absence of evidence to the contrary, the place of the debtor's registered office is presumed to be the debtor's COMI. Courts in the European Union typically agree, but also consider additional facts to see whether that presumption has been displaced or whether other evidence exists as to whether the debtor's COMI was ascertainable to third parties. *See East-West Logistics LLP v. Melars Group Ltd* [2022] EWCA Civ 141. Courts in the United States also consider a debtor's "nerve center" in determining COMI. *Morning Mist Holdings Ltd. v. Krys (In re Fairfield Sentry Ltd.)*, 714 F.3d 127, 138 n.10 (2d Cir. 2012).

U.S. courts have also affirmed the principle that COMI migration for a legitimate purpose, such as to restructure a company, preserve going-concern value and jobs, and maximize asset values, does not offend the purposes underlying chapter 15 and the Model Law. *See In re Ocean Rig UDW Inc.*, 570 B.R. 687 (Bankr. S.D.N.Y. 2017). Local counsel should provide additional advice on how each of the non-U.S. jurisdictions assess COMI, and how they view the concept of COMI migration. If COMI migration is necessary here, then each of the non-U.S. subsidiaries should take steps to establish their centers of main interest in the United States in order to ensure that each of the ancillary proceedings will be recognized as "foreign main proceedings."

The following steps can be taken in order to shift COMI to the United States in preparation for this restructuring. The debtors can: (i) transfer or maintain their head offices, and the location of their books and records to the U.S.; (ii) transfer and hold board meetings in the U.S.; (iii) ensure officers and directors reside in the U.S.; (iv) appoint registered agents for payment and notices in the U.S.; (v) provide notification of the change to investment service providers, the U.S. Securities and Exchange Commission, and various media outlets; (vi) issue a press release noting the relocation of principal place of business to the U.S.; (vii) open a bank account in the U.S.; and (viii) conduct all restructuring discussions and negotiations from the U.S. *Id.* This list can be supplement upon receipt of further advise from local counsel.

If COMI cannot be shifted, or if it is unlikely that the foreign jurisdictions will find the foreign subsidiary's COMI to be in the United States, then there is a risk that the Chapter 11 proceeding may be recognized only as a foreign non-main proceeding (defined in the Model Law as a foreign proceeding, other than a foreign main proceeding, pending in a country where the debtor has an establishment), or may not be recognized at all. The term "establishment" is defined in Section 1502 of the Bankruptcy Code as "any place of operations where the debtor carries out a non-transitory economic activity." *See also In re Sphinx, Ltd.*, 371 B.R. 10 (Bankr. S.D.N.Y. 2007). More information is needed to determine whether Mr. Maximov conducts business of the parent and its subsidiaries out of an office in the United States in order to determine whether the establishment requirement can be satisfied.

The distinction between designation as a foreign main and a foreign non-main is likely not be material here as foreign non-main proceedings can receive, on a discretionary basis, the same scope of relief as is available automatically upon recognition as a foreign main proceeding. That relief includes, among other things: (1) staying the commencement or continuation of actions or proceedings concerning the debtor's assets, rights, obligations or liabilities; (2) staying execution against the debtor's assets; (3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor; (4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities; and (5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the US to the foreign representative or another person, including an examiner, authorized by the court.

d. Advantages/Disadvantages to this Proposal

Once the U.S. Chapter 11 proceeding has been commenced, and each of the ancillary foreign proceedings have been recognized, the Efwon companies as debtors will have the benefit of the extraterritorial application of the automatic stay. This will allow the Efwon group to execute their restructuring plan free from any risk of foreclosure or enforcement.

The issues plaguing the Efwon group of companies appear to be mainly financial (the companies are not generating sufficient revenue to cover debt service). However, information provided by Mr. Maximov suggests that Efwon Romania's revenue has been improving year over year. For instance, revenue in 2015 totaled $30M and in 2016, $60M. From 2019-2022 the team climbed from 17th place up to 6th place. If revenue improved from 2016 through present commensurate to the improvements achieved in revenue and performance during that time, then the Efwon group of companies should be able to show lenders sufficient financial improvement that would allow them to support a consensual restructuring. Further, there are additional benefits to be gained from the partnership with KuasaNas, including a large cash infusion to the business, significant operational savings (achieved through access to the Sepang GP racetrack for practice and training purposes) and further opportunities to improve revenue through access to new drivers who are qualified to obtain the coveted Super License.

We believe there are several viable options for a successful restructuring under Chapter 11. These options prioritize Mr. Maximov's articulated goals of maintaining significant equity in the reorganized Efwon companies, preserving ownership of his real estate and resolving all insolvency issues for the Efwon group so that a transaction can be consummated with KuasaNas. More information on the estimated value of the debtors' assets, which lenders are in or out of the money, and whether deals can be struck with all parties, however, is needed in order to provide more detailed advice.

One obstacle to Mr. Maximov's goal of retaining equity in the reorganized debtor is the absolute priority rule, outlined in Section 1129(b)(2) of the Bankruptcy Code. It stipulates that claims of a higher priority must be paid in full before lower priority claims can receive any recovery. It also requires that all creditors must be paid in full before equity interest holders can retain any interest in the debtor or receive any distribution under the plan. That said, there are several ways in which old equity can acquire an interest in a reorganized debtor without violating the absolute priority rule.

Consensual Plan Process

The first is through agreement of all parties. This can be achieved in a number of ways, including through (i) a pre-packaged bankruptcy process (where the distressed company negotiates and solicits votes for its plan before commencing the Chapter 11 case), or (ii) a prearranged bankruptcy (where the parties negotiate the terms of a plan before commencing the Chapter 11 case, but where no voting occurs before the filing). Prearranged bankruptcies are often negotiated and memorialized through a plan support agreement or a restructuring support agreement which, among other things, include an agreement by all parties to standstill in anticipation of the bankruptcy filing. These agreements are written contracts between the debtor and its creditors, and set forth the agreed upon framework for the treatment of debt, and the timeline for accomplishing the reorganization.

Fully consensual plans are attractive because they provide certainty on the outcome for each of the parties involved. They avoid the need for the appointment of an estate paid creditors' committee, and they result in a faster and less expensive confirmation process. A disadvantage is that the debtor may need to pay more, or offer additional incentives, in order to get consensus amongst all stakeholders.

Here, the debtors creditors include: (i) the 2014 Senior Lenders - senior secured by a pledge of the shares of Efwon Investments, a pledge of business revenue (likely generated by Efwon Romania, but more detail on this pledge would be helpful), and non-debtor assets (Maximov's real estate); (ii) the 2018 Monaco Lenders -second lien on revenue of Efwon, Trading, Efwon Romania and Efwon Singapore; (iii) the Romanian drivers – unsecured creditors with contingent, unliquidated and disputed claims (such claims are not generally entitled to vote unless temporarily allowed for purposes of voting by the court).[3] If agreement can then be reached with the key constituents referenced in (i)-(iii) above, the debtors can propose a pre-packaged or pre-arranged bankruptcy where the plan is filed knowing in advance that all parties agree to the terms.

The consensual plan to be negotiated here would be premised on a sale of the debtors' assets to Mr. Maximov and KuasaNas under Section 1129 of the Bankruptcy Code, as well as a financial restructuring of the 2014 Loan. As a reminder, there appears to be contractual subordination amongst the senior, mezz and junior lenders party to the 2014 Loan. So recoveries will vary. The debt restructuring could involve a partial paydown of the existing 2014 Loan or a modification to the loan terms, including to the interest rate, maturity date and interest type (i.e. cash or PIK). It could also involve the cancelation of the 2014 Loan in exchange for a new loan to the reorganized debtor with a reduced face amount and/or a modified interest rate. Either

[3] It is unclear whether the debtors have other unsecured creditors. For purpose of this analysis, we will assume that the debtors have few, if any unsecured trade or other creditors. The debtor's plan should provide that these unsecured creditors are paid in full, that way their claims are unimpaired and they are not entitled to vote on the plan.

option could include a modified collateral package, which would exclude or reduce the amount of personal real estate pledged by Mr. Maximov.[4]

This component of the pre-packaged plan should be particularly attractive to Mr. Maximov because he has pledged certain of his global real estate (up to a value of $75M) as collateral for the 2014 Loan. Mr. Maximov is not a debtor in the Chapter 11 proceeding so his real estate is not protected by the automatic stay. Upon default of the 2014 Loan, and absent a standstill agreement, the 2014 Lenders could foreclose on Mr. Maximov's pledged real estate in order to satisfy their debt.

Depending on where value breaks, the consensual plan could require some form of payment or incentive to the Monaco Lenders and the Romanian drivers, sufficient to get their consent. If the debtors struggle to get consensus from either the 2018 Monaco Lenders, then Mr. Maximov could offer to purchase the debt at a discount so he would end up controlling the claim associated with that debt.

Cram Down Plan

For a Chapter 11 plan to be confirmed, the Bankruptcy Code requires that only one impaired class accept the plan. Therefore, as long as the 2014 Lenders (designated impaired) vote in favor of the plan, the debtors can confirm a pre-packaged or pre-arranged plan over the objection of the Monaco Lenders and the Romanian drivers through the cram down process (described in more detail below). For purposes of this analysis, we would need to understand whether the Monaco Lenders (who appear to be both structurally and contractually subordinated to the 2014 Lenders) are fully or only partially secured (i.e. we would need more information on the value of their collateral). Under Section 506(a)(1) of the Bankruptcy Code, a secured creditor's claim is secured only to the extent of its collateral's value. Any amount owed in excess of the value of the collateral is bifurcated into a separate unsecured claim.

The Bankruptcy Code authorizes confirmation of a plan over the objection of a class of creditors. Section 1129(b) allows for cram down so long as (i) the plan does not 'discriminate unfairly' against the rejecting class and (ii) the plan is considered "fair and equitable". A plan does not unfairly discriminate so long as creditors of equal rank in priority receive equivalent recoveries.

Section 1129(b)(2)(A) provides three ways in which a plan can be fair and equitable with respect to a dissenting impaired class of secured claims. One options is for the plan to provide the secured creditor with the "indubitable equivalent" of its claim. Courts have interpreted "indubitable equivalent" to mean "the unquestionable value of a lender's secured interest in the collateral" or the present value of a secured creditor's claim. See *In re Philadelphia Newspapers, LLC*, 599 F.3d 298, 310 (3d Cir. 2010); *In re Sparks*, 171 B.R. 860, 866 (Bankr. N.D. Ill. 1994).

Section 1129(b)(2)(B) provides that a plan is "fair and equitable" with respect to a dissenting impaired class of unsecured claims if the creditors in the class receive or retain property of a value equal to the allowed amount of their claims or, failing that, if no creditor or equity holder of lesser priority receives any distribution under the plan. This is known as the "absolute priority rule."

[4] We note that Mr. Maximov pledged his real estate in 2014. It is highly likely that the real estate has significantly increased in value over the last 10 years. So Mr. Maximov may be able to negotiate new terms with the 2014 Lenders that reduces the number of properties pledged, if additional collateral support is still needed.

Here, the debtors can propose a plan that offers the Monaco Lenders, on account of any secured claim, an amount, if any, up to the value of their collateral. Given the fact pattern presented, it is likely the Monaco Lender's second lien is worth very little.[5] In order to preserves the absolute priority rule and cram down on any unsecured claim, the debtors will need to propose what is known as a "new value" plan. This type of plan allows equity holders to invest new capital to essentially by back their equity interest, even though unsecured creditors will receive less than full payment. In a new value plan, Mr. Maximov would need to provide value that is equal to the value of the interests that he will receive in the reorganized debtor. This value does not have to be enough to provide full payment to a nonaccepting class of unsecured creditors, but it should be sufficient, based on a market test that allows others to compete for that equity or propose an alternative plan. *See Bank of America National Trust and Savings Association v. 203 North LaSalle Street Partnership*, 526 U.S. 434, 442, 119 S.Ct. 1411, 1416, 143 L.Ed.2d 607 (1999).

In either scenario, the proposed plan would be premised on the sale of the debtors' assets to an entity owned by Mr. Maximov and KuasaNas pursuant to section 1129 of the Bankruptcy Code. This process offer the debtor the ability to transfer assets to a purchaser free and clear of most liens and claims, and offers the reorganized entity the ability to continue only beneficial contracts, while rejecting others.[6] Upon recognition of the Bankruptcy Court's confirmation order by the Romanian court, the debtors' assets would be sold free and clear of any claim the Romanian drivers may have against the Romanian debtor.

Mr. Maximov and KuasaNas would need to agree on how to apportion equity ownership in the purchasing entity, and would contribute their portions of the cash purchase price accordingly. One potential disadvantage here is that because Mr. Maximov constitutes an "insider" of the debtors, as that term is defined in Section 101(31)(B)(iii) of the Bankruptcy Code (i.e. a person in control of the debtor), the transaction will be subject to heightened scrutiny by the Bankruptcy Court. Overall, the plan will be confirmed if a sufficient number of creditors holding a sufficient amount of the claims in the class have voted to approve it. See Section 1126 of the Bankruptcy Code. The plan must also meet the remaining requirements of Section 1129 of the Bankruptcy Code.

Once the debtors receive an order of the Bankruptcy Court confirming the plan, the debtors would then seek recognition of that order in each of the ancillary proceedings commenced in the foreign jurisdictions. Recognition by each of the foreign jurisdictions would then implement the effects of the Chapter 11 on all of the debtors and their assets around the world. Efwon Singapore and Efwon Romania could be dissolved following confirmation and recognition of the plan, if it is determined that those entities are no longer necessary for the corporate structure.

e. Factors that Support Proposal and Additional Information Needed

As noted above, both Efwon Investments and its equity holder are based in the United States. Each of the 2014 Lenders is also based in the U.S. and the 2014 loan is U.S. dollar denominated. Mr. Maximov appears to be in control of business operations and conducts operations for all of the Efwon entities, including directing all financings, directing investments and makes decisions regarding sponsorship opportunities, out of the United States. These facts,

[5] Again, Mr. Maximov could offer to purchase the Monaco Lenders' claim at a steep discount in order to control the claim and the class it sits in.

[6] Either Mr. Maximov or KuasaNas may need to provide the debtors with debtor in possession financing in order to ensure that the debtors have sufficient liquidity to fund the Chapter 11 process.

coupled with the significant powers of the U.S. Chapter 11 process including the global implication of the automatic stay and the ability for the debtor to remain in possession, all supported the proposal outlined above.

A significant amount of additional information, however, is needed to confirm the advice provided herein. In particular, we would need the following information:

- Financial statements, including P&L, cash flow and balance sheets for each entity.
- Asset and liability information on an entity by entity basis. Schedule of leased vs. owned assets. Are there any assets that can be sold? Any liabilities that can be mitigated?
- Enterprise valuations for each of the Efwon entities so we can understand which creditors are in, and which are out of the money.
- Entity by entity revenues for 2017 through 2023 seasons.
- Copies of all loan agreements, including confirmation that 2014 Loan is U.S. law governed.
- The unpaid principal balance on each outstanding loan.
- Present value calculation of each outstanding loan.
- Confirmation that the Monaco Loan is secured by a lien that is contractually subordinated to all lenders under the 2014 Loan.
- A copy of any intercreditor agreement between any of the lenders.
- More facts regarding board composition, including location of board members.
- More facts regarding management and affairs of the companies including office or nerve center locations, and the addresses for each of the companies' registered offices.
- Additional operation information including an employee list, with location and salary information, and a list of all vendor contracts.
- Information on how Efwon Singapore hold the proceeds of the Kretek sponsorship. Were those proceeds transferred to Efwon Investments or Efwon Romania at any point? If so, how.

- Status of the Kretek agreement. Are any additional monies owed to Efwon Singapore? Does any entity owe any obligation to Kretek?

- A list of any priority or general unsecured creditors at any of the entities.

- A copy of the independent business review commissioned from the consulting firm, along with any market research as to other M&A options provided therewith.

- An entity by entity liquidation analysis.

- A copy of the FIA competition license so we can understand whether the licenses is transferable by its terms.

- Access to any other FIA by-laws or rules that govern the transferring of licenses, team ownership, etc.

f. Application of EIR, UNCITRAL or Other International Instruments and How they Assist or Impede the Strategy

We do not envision application of the EIR here. The recast EIR applies to all insolvency proceedings commenced in an EU member state, provided that the debtor's COMI is situated in a member state. Both the Netherlands and Romania are EU members states. Therefore, the recast EIR would be applicable to the Efwon entities if the primary insolvency proceeding were commenced by Efwon Trading or Efwon Romania and if the relevant court found such relevant entities' COMI to be in the EU. As noted above, however, the Efwon group includes non-EU members. We therefore recommend a different approach for the group insolvency proceeding.

The Model Law will be applied in any of the possible proposals mentioned above, including where the primary proceeding is in the United States, Romania or the Netherlands. This is because all of the jurisdictions in which the Efwon group operates, other than the Netherlands, have adopted the Model Law. So in the main proposal, where each entity in the Efwon group files for Chapter 11, Efwon Romania and Efwon Singapore will seek recognition of the U.S. Chapter 11 in their home countries through the Model Law, as implemented in their home country.

The Model Law promotes cooperation and coordination amongst the courts facilitating the cross boarder restructuring. It provides the insolvency administrator in the primary insolvency proceeding with access to courts in other jurisdictions, and it provides a mechanism for judgments to be recognized and implemented by other countries. Urgent relief can often be obtained on an interim basis, in circumstances where, absent such relief, assets may be at risk, or value may be destroyed. Since most of the countries in the Efwon family group have adopted the Model Law, and since confirmation of a Chapter 11 plan is recognized by the Model Law, then the Chapter 11 debtor/foreign representative should be able to anticipate what relief may or may not be recognized by the foreign jurisdictions involved in the group insolvency proceeding. Local practitioners in Singapore and Romania should be consulted in order to determine whether local laws in those jurisdictions have deviated from the text of the Model Law in any way.

g. Should Efwon have Structured Through England Rather Than The Netherlands?

Recent changes to both Dutch and English insolvency laws have provided both jurisdictions with attractive restructuring frameworks.

In 2020, the UK adopted the Part 26A Restructuring Plan process which, unlike the long-established scheme of arrangement, allows a Restructuring Plan to be imposed on a dissenting class of creditors (i.e. a cross-class cram down).[7] The Restructuring Plan also notably allows old equity to maintain a stake in the reorganized entity without proving new value. As referenced above, the U.S. Bankruptcy Code includes the absolute priority rule, which requires that creditors in a senior class are paid in full before any junior creditor or interest holder receives or retains property under the plan. The English Restructuring Plan, however, allows creditors can decide for themselves how to share value following implementation of the plan. This means creditors can agree to allow old equity to maintain their equity stake in circumstances where another jurisdictions might require that equity stake be wiped out. English courts reviewing these types of Restructuring Plans consider whether parties are making commercially rational decisions and appear to have broad discretion to determine whether the plan is ultimately fair. *See In the matter of AGPS Bondco plc* [2023] EWHC 916 (Ch)). Given Mr. Maximov's desire to maintain his equity interest in the Efwon companies, this distinction could have made the UK an attractive venue to commence the main insolvency proceeding.

In 2021, the Netherlands adopted the Act on Court Confirmation of Extrajudicial Restructuring Plans, also known as the WHOA. Similar to the Part 26A Restructuring Plan, the WHOA offers debtors the opportunity to cram down a plan on all affected creditors and shareholders. The WHOA is also similar to the Part 26A Restructuring Plan in that the debtor need not have its COMI in the jurisdiction. Sufficient connections to the jurisdiction will do. Both the WHOA and Restructuring Plan are designed for minimal court involvement, and both can be completed in a relatively short timeframe at a relatively low cost. Both allow for a moratorium, both allow for debt to equity swaps and both allow for confirmation of plans pertaining to domestic and foreign entities in the restructuring group.

Some distinctions between the two countries are that England has adopted the Model Law (which could simplify the recognition process between the English and U.S. courts), but the Netherlands has not. The countries also have some distinctions in voting thresholds required to approve a plan. But since we have selected a U.S. based restructuring plan, and we anticipate the ability to obtain recognition of the Chapter 11 proceeding in the Netherlands, it appears that Efwon Investment's decision to base its subsidiary in the Netherlands will not have significant impact on the Efwon entities' ability to effectuate a coordinated cross-border restructuring. That said, and as noted above, the key disadvantage to not structuring through England appears to be that Mr. Maximov will need to provide new value in order to maintain equity in the Efwon group.

h. Likely Outcome for Stakeholders

It is difficult to anticipate the likely outcome for each of the stakeholders involved here without more information on valuation, and without knowing what each stakeholder is ultimately

[7] While Restructuring Plans are available to non-English companies, entities are required to demonstrate a "sufficient connection" to the UK in order to establish jurisdiction. Efwon has no entity, assets or operations in the UK. Therefore, it is unlikely it would be able to demonstrate sufficient connections sufficient to establish jurisdiction in the UK, without incorporating a new English subsidiary to assume obligations.

offered and will agree to. But based on the fact pattern presented, and further to the responses provided above, it is possible that:

- The 2014 Lenders will likely accept some form of modification of their loan. This could be an extension of the maturity date, a reduction of the interest rate, a transition (for some period of time) to PIK interest, or any combination of the above. The 2014 Lenders could also agree to discharge the old loan in exchange for a new loan. In either instance, the 2014 Lenders will likely agree to a revised collateral package, one that does not include Mr. Maximov's personal real estate. If business revenues are projected to improve, the 2014 Lenders could be amenable to some form of debt for equity swap.

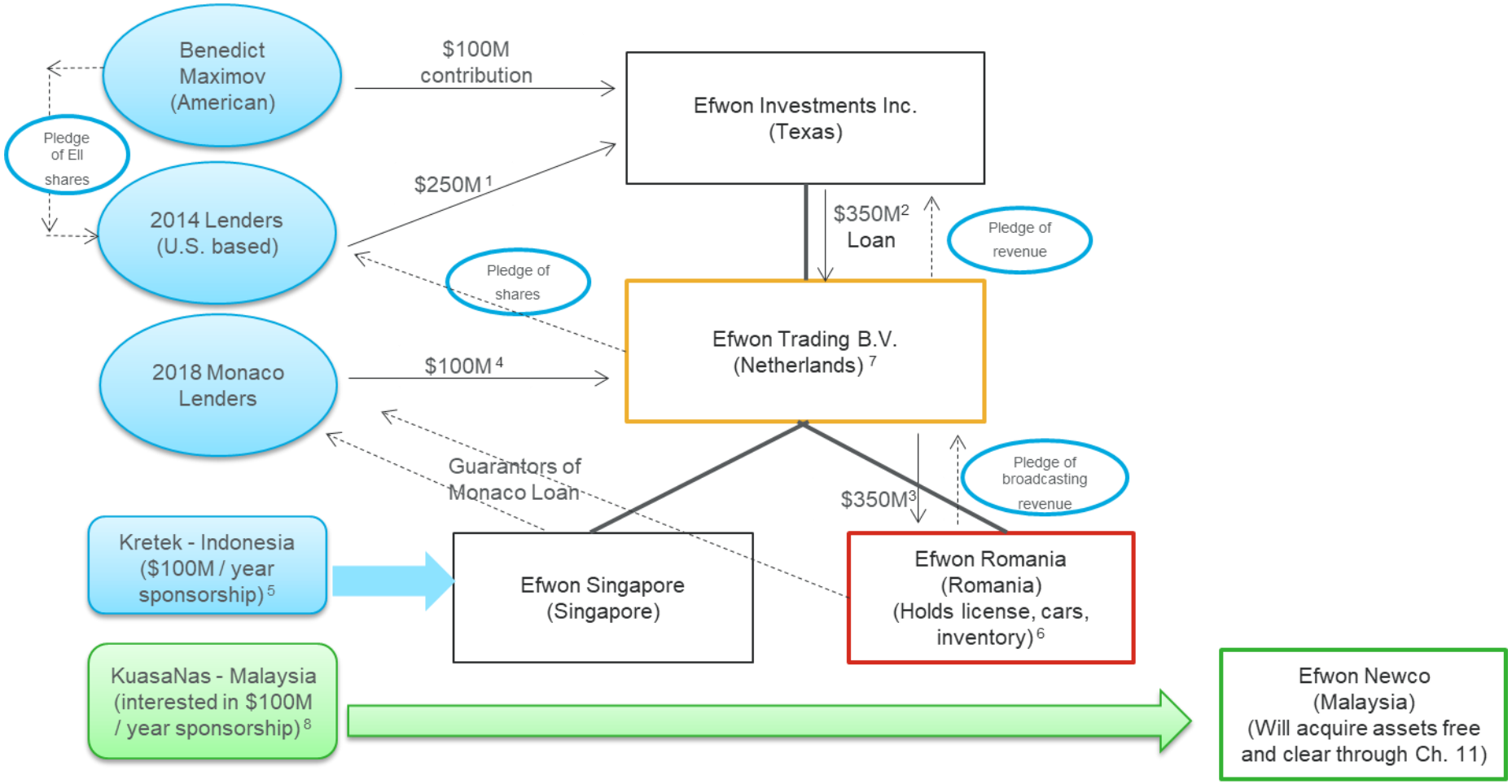
- The 2018 Monaco Lenders may also end up with a modified loan. But if they are truly out of the money, then the debtors may estimate their claim at zero and cram down on them. This would have the result of wiping their debt with no further obligations owed.

- The Romania drives have a contingent, disputed and unliquidated claim that the debtors could estimate at $0. It would then be up to the Bankruptcy Court to hold an estimation hearing and assess a value for an allowed claim. The allowed claim would then receive payment pro rata with other creditors in the class. Any unpaid portion of the claim would then be discharged, and no further claim could be brought against the reorganized debtor. If the Romanian drivers wanted to make a deal with the debtor, they could always agree to dismiss their claim in exchange for a forward looking contractual agreement with the debtor.

- Mr. Maximov would not receive any payment on account of his initial $100M equity investment in Efwon Investments. But through the confirmed plan, he would have an ownership interest in the reorganized debtor (likely a Malaysian entity co-owned by KuasaNas). The percentage ownership between Mr. Maximov and KuasaNas would be the result of a negotiation between those parties. It would likely be proportionate to the value of the new money investment provided by each, and would also factor in additional considerations, such as whether KuasaNas intends to remain a long term investor of the team, whether the team continues to benefit from the "Team Maximov" trade name and whether the association with Mr. Maximov continues to be a benefit to the team.

- Certain debtor entities would likely be dissolved, following plan confirmation.

Annex 1



1. 10 year loan, LIBOR =4%. $100M senior, $60M mezz, $90M junior. Secured by $75M of Maximov global real estate, pledge on revenue of ultimate investment, pledge over shares of Efwon Investments, etc.
2. Intercompany loan secured on future revenue.
3. Three separate loans - $150M (2014), $100M (2016) and $100M (2017).
4. Secured by likely second lien pledge of revenue from BV, Romania and Singapore.
5. Five year exclusive sponsorship (2019-2024).
6. Drivers put into Romanian insolvency proceeding in 2023. Freezing injunction over company assets/income. Likely default on payments to BV in 2024.
7. At risk of insolvency. Likely default on payments to Investments and Monaco lenders.
8. Condition of funding is acquisition of 51% majority stake & move team to Malaysia. Racetrack, new drivers and super license available. Deal close mid-2024 only if insolvency issues resolved.