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LEGAL MEMORANDUM

Date: 15 April 2024

To: Mr. Benedict Maximov

From: Chan Wei Meng

RE: RESTRUCTURING ADVICE REGARDING EFWON GROUP

1. This memorandum provides our views on the proposed strategy to safeguard the investment of Mr. Benedict Maximov ("**Mr. Maximov**") in the Maximov F1 team, to effect the proposed rescue of the Maximov F1 team and to facilitate the investment by KuasaNas.

SUMMARY

2. The proposed strategy to rescue the Maximov F1 team and Mr. Maximov's position in relation to its investment in the Maximov F1 team would be for Efwon Trading to propose a consolidated composition plan for the Efwon Group under the WHOA that would compromise the debt obligations of Efwon Trading and the debt obligations of other entities within the Efwon Group that are owed to the third party creditors of Efwon Trading, even if these other Efwon Group entities are not debtors in the WHOA proceedings. The consolidated composition plan for the Efwon Group may be proposed with 2 classes of third-party creditors, namely (a) the secured class of third-party creditors, and (b) the unsecured class of third-party creditors.
3. If a consolidated composition plan for the Efwon Group is not feasible, the entities of the Efwon Group may consider proposing a standalone restructuring plan in each of its jurisdictions of the Efwon Group entities as proceedings in parallel with the WHOA proceedings in the Netherlands.
4. Based on the creditor profiles of each of the Efwon Group entities, it would be critical that the Efwon Group Consolidated Plan or each of the standalone restructuring plans for these entities be primarily acceptable to the Syndicated Lenders. A restructuring plan for Efwon Singapore will not be critical, as it will be possible to incorporate a new entity in Malaysia to secure the sponsorship from KuasaNas.

FACTUAL BACKGROUND

5. A brief summary of the relevant facts are as follows:

- (a) Efwon Investments Inc. ("**Efwon Investments**"), an entity incorporated under the law of Texas in the United States of America ("**USA**" or "**US**"), borrowed the sum of USD250 million from a syndicate of banks ("**Syndicated Lenders**", which includes two US bank lenders) to be repaid in 10 years at an interest rate of LIBOR+4%. The US\$250 million loan is secured by the following security assets:
- (i) a number of homes of Mr. Maximov across the world with a collective value of some USD 75 million;
 - (ii) a pledge on the projected revenue to flow back from the investments and participation in the F1 races;
 - (iii) a pledge over the shares of Efwon Investments;
 - (iv) a positive pledge;
 - (v) a negative pledge; and
 - (vi) a pledge over the shares in Efwon Trading in favour of the US lenders.
- (b) Efwon Trading B.V. ("**Efwon Trading**"), an entity incorporated under the law of Netherlands and a wholly-owned subsidiary of Efwon Investments, borrowed the sum of US\$350 million from Efwon Investments and US\$100 million from a lender based in Monaco ("**Monaco Lender**"). The US\$350 million loan from Efwon Investments is secured by a pledge on the projected revenue from the trading activities of Efwon Trading. The US\$100 million loan from the Monaco lender is secured by the projected revenue from the trading activities of Efwon Trading, Efwon Romania and Efwon Singapore (collectively, the "**Efwon Group**") and a guarantee from each of Efwon Romania and Efwon Singapore.
- (c) Efwon Romania, an entity incorporated under the law of Romania and a wholly-owned subsidiary of Efwon Trading, acquired a F1 team in Romania. Efwon Romania borrowed an aggregate sum of US\$350 million from Efwon Trading. The US\$350 million loan is secured by the F1 team's share of the broadcasting revenue from participation in the F1 races ("**Broadcasting Revenue**"). Efwon Romania entered into contracts with the drivers of the Romanian F1 team who hold Super Licences granted by the FIA. By reason of the guarantee granted by Efwon Romania to the Monaco Lender, Efwon Romania has a contingent liability of US\$100 million owing to the Monaco Lender. The projected revenue from the trading activities of Efwon Romania is subject to the security rights of the Monaco Lender in relation to the US\$100 million debt owing by Efwon Trading to the Monaco Lender.
- (d) Efwon Singapore, an entity incorporated under the law of Singapore and a wholly-owned subsidiary of Efwon Trading, secured a 5-year sponsorship agreement with Kretek on an exclusive basis worth US\$100 million annually from 2019 to 2023. By reason of the guarantee granted by Efwon Romania to the Monaco Lender, Efwon Romania has a contingent liability of US\$100 million owing to the Monaco Lender. The projected revenue from the trading activities of Efwon Singapore is subject to the security rights of the Monaco Lender in relation to the US\$100 million debt owing by Efwon Trading to the Monaco Lender.
- (e) The Romanian drivers were injured and have brought claims against Efwon Romania before the Romanian courts seeking substantial compensation. The Romanian drivers have filed for the insolvency of Efwon Romania and obtained, pending the winding up order of Efwon Romania, freezing injunctions over the assets and income of Efwon Romania. This will cause Efwon Romania to default its obligations to Efwon Trading and Efwon Trading to default on its obligations to Efwon Investments and the Monaco lender.

- (f) Given that the 5-year sponsorship by Kretek expired in 2023 and the investment by Mr. Maximov and the loans from existing lenders (syndicate of banks and the Monaco lender) have been fully utilised, there is a need to secure new sponsorship to provide funding for the budget for the 2024 racing season and subsequent racing seasons.
- (g) KuasaNas, a Malaysian state company supplying alternative energy fuels, were interested in finalizing a sponsorship deal for the 2024 racing season onwards in excess of US\$100 million annually on the conditions that (i) KuasaNas would be able to acquire a majority stake (51%) in the Maximov F1 team, (ii) the resolution of the insolvency issues affecting the companies in the Efwon Group, and (iii) the investment by KuasaNas is safe from the current turmoil.

PROPOSED STRATEGY

- 6. To rescue the Maximov F1 team and Mr. Maximov's position in relation to its investment in the Maximov F1 team, a restructuring plan will be required to restructure the indebtedness of the Efwon Group given that the Independent Business Review has concluded that the Efwon Group will not be able to service its debt. It is also critical to protect the Maximov F1 team against the lenders' legal and/or enforcement action and to secure the sponsorship from KuasaNas for the 2024 racing season and subsequent racing seasons.

(A) Proposed Debt Restructuring Plan

Efwon Investments

- 7. The creditors of Efwon Investments are the Syndicated Lenders. Given that Efwon Investments is an entity incorporated under the law of Texas in the United States of America, a restructuring option is for Efwon Investments to propose a plan of compromise under Chapter 11 of the US Bankruptcy Code ("**Chapter 11 Plan**"). Efwon Investments will need to secure a majority in number of the Syndicated Lenders and two-thirds in value of their claims to agree to the proposed Chapter 11 Plan¹.
- 8. The Chapter 11 Plan can be proposed in parallel with the other debt restructuring plan for the other entities of the Efwon Group. An example of the Chapter 11 Plan of Efwon Investments would be a debt composition that is based on Efwon Investments' entitlement from the parallel standalone debt restructuring plan to be proposed by Efwon Trading under the Dutch restructuring legislation, the Act on Court Confirmation of Extrajudicial Restructuring Plans ("**WHOA**"). The standalone debt restructuring plan to be proposed by Efwon Trading is elaborated below.
- 9. Alternatively, to restructuring Efwon Investment's indebtedness, Efwon Trading may seek the recognition under Chapter 15 of the US Bankruptcy Code of a consolidated composition plan for the Efwon Group (including the debts of Efwon Investments) to be proposed by Efwon Trading ("**Efwon Group Consolidated Plan**") under the WHOA. The Efwon Group Consolidated Plan is elaborated below.

¹ Section 1126(c) of the US Bankruptcy Code

Efwon Trading

10. The creditors of Efwon Trading are (a) Efwon Investments, an entity incorporated in Texas US, (which is owed US\$350 million) and (b) the Monaco Lender (which is owed US\$100 million). The Syndicated Lenders have claims against the projected revenue to flow back from the investment and participation in the F1 races by the Maximov F1 team (“**Projected F1 Racing Revenue**”) based on the security granted by Efwon Investments in favour of the Syndicated Lenders for the US\$250 million loan granted by the Syndicated Lenders to Efwon Investments. The US\$100 million loan from the Monaco Lender is secured by the projected revenue from the trading activities of Efwon Trading, Efwon Romania and Efwon Singapore and a guarantee from each of Efwon Romania and Efwon Singapore.
11. Given that Efwon Trading is an entity incorporated under the law of Netherlands, a restructuring option is to propose a composition plan under the WHOA.
12. To approve a composition plan for the indebtedness of Efwon Trading under the WHOA, Efwon Trading will need to secure the agreement by creditors holding a two-thirds majority of the total amount of debts of Efwon Trading. Based on the creditor profile of Efwon Trading, Efwon Trading will need to propose a restructuring plan that is acceptable to the appointed representative of Efwon Investments, which holds more than two-thirds of the indebtedness of Efwon Trading. The appointed representative of Efwon Investments would act in the best interest of the creditors of Efwon Investments, which are the Syndicated Lenders. Therefore, Efwon Trading will need to propose a restructuring plan that is acceptable to the Syndicated Lenders.
13. Alternatively, the restructuring plan of Efwon Trading under the WHOA may be proposed as a consolidated restructuring plan for the Efwon Group (i.e. the Efwon Group Consolidated Plan). An advantage of a restructuring under the WHOA is the ability to utilise the Efwon Group Consolidated Plan to compromise the obligations owed by other entities within the Efwon Group to the creditors of Efwon Trading, even if these other Efwon Group entities are not subject to the WHOA proceedings provided that these other Efwon Group entities have sufficient connection to Netherlands². Effectively, the Efwon Group Consolidated Plan will eliminate intra-group claims and only seek to restructure the debts owed to third-party creditors of the Efwon Group (e.g. the claims by the Monaco Lender, the Syndicated Lenders and the F1 racing team). The indebtedness owing to lenders by the Efwon Group originates from the same underlying debt owing to these third-party lenders. For example, the indebtedness owing by Efwon Trading to Efwon Investments originated from the loan granted by the Syndicated Lenders to Efwon Investments.
14. To approve the Efwon Group Consolidated Plan under the WHOA, Efwon Trading will need to secure the agreement by third party creditors holding a two-thirds majority of the aggregate external debts of the Efwon Group (i.e. debts owing to the Syndicated Lenders, the Monaco Lender and the F1 racing team). The Efwon Group Consolidated Plan can be proposed with 2 classes of third-party creditors, namely (a) the secured class of third-party creditors comprising the Monaco Lenders and the Syndicated Lenders, and (b) the unsecured class of third-party creditors comprising the Maximov F1 Team drivers.

² Debtors may apply for “non-public” proceedings under the WHOA which is open to any debtor with sufficient connection to the Netherlands. Sufficient connection may be established if a substantial part of the debtor’s assets or group companies are located in the Netherlands.

15. To implement either the stand-alone composition plan for the indebtedness of Efwon Trading or the Efwon Group Consolidated Plan in respect of Efwon Investments, Efwon Trading may seek the recognition of the restructuring plan via Chapter 15 of the US Bankruptcy Code.
16. For Efwon Trading to be eligible to commence Chapter 15 proceedings, it must be demonstrated that Efwon Trading is a “debtor” which is defined under the US Bankruptcy Code to mean a corporation that has a “domicile, a place of business or property in the US, or a municipality.” The test of eligibility has been broadly applied and may be satisfied by placing a retainer with a US lawyer or relying on the loan agreements entered into by Efwon Trading that are governed by US law and with a US forum selection clause, if any.
17. Apart from establishing its eligibility to commence Chapter 15 proceedings, in order to seek recognition of the Efwon Group Consolidated Plan, Efwon Trading will need to establish that the proceeding in the Dutch courts for the Efwon Group Consolidated Plan constitutes either a “foreign non-main proceeding” or a “foreign main proceeding”.
18. A foreign non-main proceeding is a proceeding pending where a debtor has an “establishment”, which refers to “any place of operations where the debtor carries out non-transitory economic activity”. Given that Efwon Trading is essentially an intermediate holding company that carries out the F1 racing operations via its wholly-owned Romanian subsidiary (i.e. Efwon Romania), it will be difficult to demonstrate that Efwon Trading has an establishment in the Netherlands at which it conducts non-transitory economic activity. Hence, it would be difficult to establish the WHOA proceeding as a foreign non-main proceeding for the purpose of the Chapter 15 proceeding. Therefore, it would be crucial to establish that the WHOA proceeding as a foreign main proceeding for purposes of the Chapter 15 proceedings.
19. A foreign main proceeding is a proceeding pending in the debtor’s centre of main interest (“**COMI**”). COMI is not defined in the Bankruptcy Code and the non-exclusive list of factors considered by US bankruptcy courts in determining a debtor’s COMI include: the location of the debtor’s headquarters; the location of those who actually manage the debtor (which, conceivably, could be the headquarters of a holding company); the location of the debtor’s primary assets; the location of the majority of the debtor’s creditors or of a majority of the creditors that would be affected by the case; and/or the jurisdiction whose law would apply to most disputes³.
20. The COMI of Efwon Trading will be presumed to be at its registered office in the Netherlands, absent evidence to the contrary. Unless the presumption is rebutted by evidence that the COMI is located other than in the Netherlands, the Dutch courts will open “main proceedings”. As demonstrated in *re Modern Land*⁴, notwithstanding that foreign non-main recognition was not appropriate because the debtor was unable to point to any sufficient connections that might constitute non-transitory economic activity in that jurisdiction, the court’s finding that the very conduct of restructuring proceedings can suffice to establish the location of COMI.

³ See *In re Sphinx, Ltd.*, 351 B.R. 103 (Bankr. S.D.N.Y. 2006)

⁴ *re Modern Land (China) Co., Ltd* [2022] Bankr LEXIS 1972 (Bankr. S.D.N.Y)

21. Alternatively, it may be necessary to take steps to establish Efwon Trading's COMI in the Netherlands before the commencement of insolvency proceedings⁵ in the Netherlands in order to obtain recognition of the WHOA proceeding as a foreign main proceeding.
22. Similarly, in order to implement the Efwon Group Consolidated Plan of Efwon Trading in respect of Efwon Romania, Efwon Trading may seek recognition of the Efwon Group Consolidated Plan in the Romanian courts pursuant to the UNCITRAL Model Law. In this regard, given that it will be difficult to demonstrate that Efwon Trading has an establishment in the Netherlands at which it conducts non-transitory economic activity, it would be difficult to establish the WHOA proceeding as a foreign non-main proceeding for the purpose of recognition of the Efwon Group Consolidated Plan by the Romanian courts pursuant to the UNCITRAL Model Law. Therefore, it would be crucial to establish that the WHOA proceeding as a foreign main proceeding for purposes of the UNCITRAL Model Law recognition proceedings by the Romanian courts. Hence, it will be necessary to demonstrate that the COMI of Efwon Trading is in the Netherlands.
23. As mentioned at paragraph 17 above, based on *re Modern Land*, notwithstanding that foreign non-main recognition was not appropriate because the debtor was unable to point to any sufficient connections that might constitute non-transitory economic activity in that jurisdiction, the very conduct of restructuring proceedings may be sufficient to establish the location of COMI.

Efwon Romania

24. The creditors of Efwon Romania are Efwon Trading, the Monaco Lender and the Maximov F1 Team drivers. Efwon Trading has claims against Efwon Romania for an aggregate US\$350 million which is secured against the Maximov F1 team's / Efwon Romania's share of the Broadcasting Revenue. The Monaco Lender has a claim of US\$100 million based on its security against the projected revenue from the trading activities of Efwon Romania. The Maximov F1 Team drivers are unsecured creditors.
25. The Syndicated Lenders have claims against the Projected F1 Racing Revenue based on the security granted by Efwon Investments in favour of the Syndicated Lenders for the US\$250 million loan granted by the Syndicated Lenders to Efwon Investments.
26. Given that Efwon Romania is an entity incorporated under the law of Romania, a restructuring option is to propose a restructuring plan via the judicial reorganization proceedings under the insolvency code of Romania. For the purpose of approving a restructuring plan, the creditors are divided into preference creditors who have claims benefiting from security (i.e. Efwon Trading, the Syndicated Lenders and the Monaco Lender) and unsecured creditors (Maximov F1 Team drivers). Efwon Romania will need to secure at least half of the classes of creditors and creditors representing at least 30% of the total claims to accept the restructuring plan.
27. Based on the creditor profile of Efwon Romania, Efwon Romania will need to propose a restructuring plan that is acceptable to the appointed representative of Efwon Trading and/or the Syndicated Lenders, either of which holds more than 30% of the indebtedness of Efwon Romania. The appointed representative of Efwon Trading would act in the best interest of the creditors of Efwon Trading, the majority creditor

⁵ See *Interedil Srl v Fallimento Interedil Srl* ECLI:EU:C:2011:671

- being Efwon Investment. The majority creditors of Efwon Investment are the Syndicated Lenders. Hence, if the restructuring plan of Efwon Romania is acceptable to the Syndicated Lenders, Efwon Romania will likely to be able to secure the requisite creditors' support to approve the restructuring plan. In this scenario, the restructuring plan of Efwon Romania must provide for the class of unsecured creditors to receive fair and equitable treatment, primarily at least what they would receive in the case of bankruptcy.
28. Given that Efwon Romania is an entity incorporated under the laws of Romania, which is a member of the European Union, once the restructuring plan via the judicial reorganisation proceedings of the insolvency code of Romania is duly approved and sanctioned by the Romania courts, the restructuring plan will be automatically recognized and become effective in the Netherlands (in respect of Efwon Trading) pursuant to the European Insolvency Regulation (Recast).
 29. Alternatively, the claims by the creditors of Efwon Romania (namely, Efwon Trading, the Monaco Lender, the Syndicated Lenders and the Maximov F1 Team drivers) against Efwon Romania could be included as part of the Efwon Group Consolidated Plan proposed by Efwon Trading under the WHOA.
 30. The Efwon Group Consolidated Plan can be proposed with 2 classes of third-party creditors, namely (a) the secured class of third-party creditors comprising the Monaco Lenders and the Syndicated Lenders, and (b) the unsecured class of third-party creditors comprising the Maximov F1 Team drivers.
 31. So long as Efwon Romania and/or the Efwon Group is able to secure the support from the Syndicated Lenders (in respect of the class of secured creditors), even if the class of unsecured creditors votes against the consolidated composition plan (e.g. the unsecured class of creditors comprising the Maximov F1 Team drivers), the Dutch courts can nonetheless approve the consolidated composition plan if, (a) at least one class has voted in favour of the plan (i.e. the class of secured creditors comprising the Syndicated Lenders and the Monaco Lender), (b) the statutory order of priority of creditors' claims remain the same, unless there is a justifiable business reason to deviate from this, and (c) the rejecting class of creditors is allowed to claim the cash equivalent of what it would have received in a liquidation scenario.
 32. To implement the restructuring plan via the judicial reorganisation proceedings of the insolvency code of Romania in respect of the Syndicated Lenders, Efwon Romania may seek the recognition of the restructuring plan via Chapter 15 of the US Bankruptcy Code.
 33. For Efwon Romania to be eligible to commence Chapter 15 proceedings, it must be demonstrated that Efwon Romania is a "debtor" which is defined under the US Bankruptcy Code to mean a corporation that has a "domicile, a place of business or property in the US, or a municipality." The test of eligibility has been broadly applied and may be satisfied by placing a retainer with a US lawyer or relying on the security agreements granted in favour of the Syndicated Lenders, if these agreements are governed by US law and with a US forum selection clause, if any.
 34. Apart from establishing its eligibility to commence Chapter 15 proceedings, in order to seek recognition of Efwon Romania's restructuring plan, Efwon Romania will need to establish that the proceeding in the Romanian courts constitutes either a "foreign non-main proceeding" or a "foreign main proceeding".

35. Given that Efwon Romania is essentially the operating entity that carries out the F1 racing operations, it will be likely be able to establish it has an establishment in Romania. It is also likely to be able to establish that Efwon Romania's COMI is in Romania, given the location of its registered office in Romania, the location of its primary assets, being the F1 drivers are contracted out of Romania, and presumably the headquarter or strategic planning of the F1 racing operations are located in Romania. Therefore, it is likely to be able to establish that the Romanian courts will open "main proceedings" or "non-main proceedings" for purposes of the Chapter 15 recognition proceedings.

Efwon Singapore

36. The sole creditor of Efwon Singapore is the Monaco Lender pursuant the guarantee granted by Efwon Singapore in favour of the Monaco Lender as security for the US\$100 million loan extended by the Monaco Lender to Efwon Trading. Hence, any restructuring of the debts of Efwon Singapore will have to be achieved via bilateral agreement between Efwon Singapore and the Monaco Lender.
37. Alternatively, the debts of Efwon Singapore could be restructured as part of the Efwon Group Consolidated Plan proposed by Efwon Trading under the WHOA proceedings, which allows the restructuring of the debts of other entities of the Efwon Group owing to the creditors of Efwon Trading even if these other Efwon Group entities are not debtors of the WHOA proceedings. The Efwon Group Consolidated Plan may be sought to be recognized in Singapore as a foreign main proceeding or as a foreign non-main proceeding under the Singapore Model Law.
38. Since it will be difficult to demonstrate that Efwon Trading has sufficient non-transitory economic activity in the Netherlands, it will be critical for Efwon Trading to establish that its COMI lies in the Netherlands so as to establish the WHOA proceeding in the Netherlands as a foreign main proceeding. Therefore, in order for Efwon Trading to establish that the WHOA proceedings as a "foreign main proceeding", it will be necessary to demonstrate that the COMI of Efwon Trading is in the Netherlands.
39. COMI is not defined in the Bankruptcy Code and the non-exclusive list of factors considered by US bankruptcy courts in determining a debtor's COMI include: the location of the debtor's headquarters; the location of those who actually manage the debtor (which, conceivably, could be the headquarters of a holding company); the location of the debtor's primary assets; the location of the majority of the debtor's creditors or of a majority of the creditors that would be affected by the case; and/or the jurisdiction whose law would apply to most disputes⁶. As mentioned at paragraph 18 above, based on *re Modern Land*, notwithstanding that foreign non-main recognition was not appropriate because the debtor was unable to point to any sufficient connections that might constitute non-transitory economic activity in that jurisdiction, the very conduct of restructuring proceedings may be sufficient to establish the location of COMI.
40. The COMI of Efwon Trading will be presumed to be at its registered office in the Netherlands. Unless the presumption is rebutted by evidence that the COMI is located other than in the Netherlands, the Dutch courts will open "main proceedings". Alternatively, it may be necessary to take steps to establish Efwon Trading's COMI in the Netherlands before the commencement of insolvency proceedings in the

⁶ See *In re Sphinx, Ltd.*, 351 B.R. 103 (Bankr. S.D.N.Y. 2006)

Netherlands in order to obtain recognition of the WHOA proceeding as a foreign main proceeding.

41. Alternative to seeking recognition of the Efwon Group Consolidated Plan as a foreign main proceeding under the Singapore Model Law, Efwon Trading, as a corporation liable to be wound up by the Singapore based on the substantial connection via its shareholdings held in Efwon Singapore, may seek to propose the Efwon Group Consolidated Plan under the scheme of arrangement regime in Singapore ("**Singapore Scheme**")⁷ in parallel to the WHOA proceedings. The Singapore Scheme by Efwon Trading may seek to restructure the debt obligations owed by Efwon Singapore to the creditors of Efwon Trading provided that there is a sufficient nexus or connection between the release of the debt obligations owed by Efwon Singapore and the relationship between Efwon Trading and its creditors⁸. This may be demonstrated if This can be demonstrated if the Efwon Group Consolidated Plan/ Singapore Scheme relies on the sponsorship revenue that Efwon Singapore will secure from KuasaNas for the proposed recovery to the creditors of the Efwon Trading under the Efwon Group Consolidated Plan/ Singapore Scheme.
42. If a restructuring of the debts of Efwon Singapore is not feasible, it is still possible to adopt a strategy not to pursue a debt restructure of Efwon Singapore but to incorporate a new entity in Malaysia to secure the sponsorship from KuasaNas.

(B) Protection Against Lenders' Legal/ Enforcement Actions

43. Pending the approval of the restructuring plan for each of the Efwon Group entities or the Efwon Group Consolidated Plan, it would be critical to protect the Maximov F1 team against the lenders' legal and/or enforcement action.
44. To obtain protection for the Maximov F1 Team against lenders' legal and/or enforcement action, this will require a moratorium strategy at Efwon Romania, which directly owns the Maximov F1 team, as well as a moratorium strategy at Efwon Investments and Efwon trading which, indirectly and directly, hold the entire shareholding in Efwon Romania.
45. There is no imminent necessity to secure and rescue Efwon Singapore as Efwon Singapore is solely an entity to secure sponsorship deals, and the sponsorship by Kretek has already expired with the completion of the 2023 racing season. The new sponsorship from KuasaNas may be secured by setting up a newly incorporated entity in Malaysia for this purpose.

Efwon Investments

46. Efwon Investments is an entity incorporated in Texas in the USA and it has two US bank lenders amongst other Syndicated Lenders. The shares of Efwon Investments are subject to a share pledge in favour of the Syndicated Lenders. The primary assets of Efwon Investments are its shareholdings in Efwon Trading ("**Efwon Trading Shares**") and the repayment of the US\$350 million loan ("**US\$350m Loan Repayment**") by Efwon Trading to Efwon Investments.

⁷ See section 210(11) of the Singapore Companies Act 1967

⁸ See *Pathfinder Strategic Credit LP v Empire Capital Resources Pte Ltd & Anor* [2019] SGCA 29.

47. The Efwon Trading Shares are subject to a share pledge created in favour of Efwon Investment's US bank lenders. The Syndicated Lenders of Efwon Investments also hold security over the Projected F1 Racing Revenue. The US\$350m Loan Repayment by Efwon Trading to Efwon Investments would derive from the Projected F1 Racing Revenue and hence the US\$350m Loan Repayment would be subject to the security created in favour of the Syndicated Lenders.
48. If Efwon Investments and/or the Efwon Group are able to secure the support of all of the Syndicated Creditors for the proposed Chapter 11 Plan or the Efwon Group Consolidated Plan (as explained above), it would not be necessary to obtain a non-consensual moratorium under Chapter 11 of the US bankruptcy code against the commencement of legal actions against Efwon Investments and its assets.
49. If protection against the commencement of legal actions against Efwon Investment and its assets is necessary, an automatic moratorium can either be obtained upon commencement of the Chapter 11 proceedings if the restructuring is proceeded via the US Chapter 11 process, or provisional relief following the filing of a Chapter 15 application, if the restructuring is via the Efwon Group Consolidated Plan under the WHOA.
50. The automatic moratorium under the Chapter 11 proceedings or the provisional or interim moratorium under the Chapter 15 proceedings against the Syndicated Lenders' enforcement of the security created over the Projected F1 Racing Revenue (including the partial repayments of the US\$350 million loan made by Efwon Trading to Efwon Investments from the revenue from the racing seasons for 2016, 2019 to 2022) will provide protection against the Syndicated Lenders' seizure of the loan amounts repaid to Efwon Investments.
51. The automatic moratorium or provisional or interim moratorium against the enforcement of the security created over the Efwon Trading Shares will also provide protection against the US bank lenders' enforcement of the share pledge over the Efwon Trading Shares. This will secure Mr. Maximov's position in relation to its investment in the Maximov F1 Team by securing Mr. Maximov's position in relation to Efwon Trading, which wholly-owns Efwon Romania which in turn owns the Maximov F1 team.

Efwon Trading

52. Efwon Trading is an entity incorporated under the laws of Netherlands and is a wholly-owned subsidiary of Efwon Investments. The Efwon Trading Shares are subject to a share pledge in favour of the US bank lenders of Efwon Investments. The primary assets of Efwon Trading are (a) its shareholdings in Efwon Romania and Efwon Singapore, which are both unencumbered, and (b) the US\$350m Loan Repayment for the loan extended by Efwon Trading to Efwon Romania.
53. US\$350 million of the loan from Efwon Trading to Efwon Romania is secured against the Broadcasting Revenue. The Broadcasting Revenue is part of the Projected F1 Racing Revenue and is therefore subject to a prior security pledge to the Syndicated Lenders of Efwon Investments. In addition, the US\$350m Loan Repayment by Efwon Romania to Efwon Trading would derive from the Projected F1 Racing Revenue and hence the US\$350m Loan Repayment would also be subject to the prior security created in favour of the Syndicated Lenders of Efwon Investments.

54. Apart from Efwon Investments, which had extended the loan of US\$350 million to Efwon Trading, the other creditor of Efwon Trading is the Monaco Lender which extended a US\$100 million loan to Efwon Trading.
55. Both the US\$350 million loan from Efwon Investments to Efwon Trading and the US\$100 million loan from the Monaco Lender to Efwon Trading are secured against Broadcasting Revenue and the projected revenue from the trading activities of Efwon Trading respectively. The US\$350m Loan Repayment would be funded from the Projected F1 Racing Revenue, which has been pledged as security to the Syndicated Lenders of Efwon Investments. Hence, the US\$350m Loan Repayment of the loan extended by Efwon Trading to Efwon Romania would be subject to the security interest of the Syndicated Lenders, Efwon Trading and the Monaco Lender in the order priority.
56. The US\$100 million loan from the Monaco Lender is also secured against the projected revenue from the trading activities of Efwon Romania (which would be from the Projected F1 Racing Revenue, which has been pledged as security to the Syndicated Lenders) as well as the revenue from Efwon Singapore (which would be the sponsorship revenue from Kretek of US\$100 million annually). The Monaco Lender was also granted guarantees from Efwon Romania and Efwon Singapore as security for the repayment of the US\$100 million loan by the Monaco Lender to Efwon Trading.
57. Given the prior security interest of the Syndicated Lenders over the Projected F1 Race Revenue, the Monaco Lender is out-of-the money in relation to the existing cash derived from the Projected F1 Racing Revenue. If Efwon Trading is liquidated, the Monaco Lender remaining security interest would be over the existing cash derived from the sponsorship revenue from Kretek. This would provide some negotiating leverage against the Monaco Lender.
58. The proposed moratorium strategy in relation to Efwon Trading is to obtain a moratorium against the commencement of legal proceedings against Efwon Trading and its assets. This will secure Efwon Trading against the risk of winding up and a liquidation sale of Efwon Trading's shares in Efwon Romania, which owns the Maximov F1 team. This can be achieved by seeking from the Dutch courts a moratorium against enforcement actions by creditors of Efwon Trading or a suspension of payments for a maximum period of four months (with a possibility to extend for another four months).
59. The moratorium against the commencement of legal proceedings against Efwon Trading will secure against the commencement of legal proceedings by Efwon Investments and the Monaco Lender as well as the enforcement of the security created in favour of the Syndicated Lender (i.e. the security created in favour of Efwon Investments over the repayment of the US\$350 million loan extended by Efwon Investments to Efwon Trading) as well as the enforcement of the security created in favour of the Monaco Lender. The moratorium can be enforced in respect of the Syndicated Lenders of Efwon Investments via a recognition under Chapter 15 of the US Bankruptcy Code.
60. To secure against the US bank lenders' enforcement of the share pledge over the Efwon Trading Shares, pending securing the support of the Syndicated Lenders (as explained above) this can be achieved by seeking provisional or interim relief of a moratorium of legal action against Efwon Investments' asset under Chapter 15 of the US Bankruptcy Code.

Efwon Romania

61. Efwon Romania is an entity incorporated under the laws of Romania and is a wholly-owned subsidiary of Efwon Trading. The shares in Efwon Romania are unencumbered. The primary assets of Efwon Romania are the Maximov F1 Racing Team, including the Super Licences granted by the FIA, the Projected F1 Racing Revenue, including the Broadcasting Revenue.
62. The Projected F1 Racing Revenue and the Broadcasting Revenue are subject to the security interest of the Syndicated Lenders, Efwon Trading and the Monaco Lender in the order priority.
63. Apart from Efwon Trading, which had extended the loan of US\$350 million to Efwon Romania, the other creditor of Efwon Romania is the Monaco Lender which extended a US\$100 million loan to Efwon Trading pursuant which is secured by the guarantee granted by Efwon Romania in favour of the Monaco Lender.
64. Given that Efwon Romania has filed for insolvency, enforcement proceedings are automatically stayed. This will provide some time for Efwon Romania to pursue a standalone restructuring plan via the judicial reorganisation proceedings of the insolvency code of Romania. Alternatively, if Efwon Romania pursues restructuring via the Efwon Group Consolidated Plan proposed by Efwon Trading, relief against enforcement action by creditors of Efwon Romania may be sought from the Romanian courts under UNCITRAL Model Law by establishing that the WHOA proceedings as a foreign main proceeding in respect of Efwon Trading.

Efwon Singapore

65. The sole creditor of Efwon Singapore is the Monaco Lender. This may present substantial negotiation leverage in favour of the Monaco Lender.
66. An alternate strategy would be to restructure the debts of Efwon Singapore as part of the Efwon Group Consolidated Plan by Efwon Trading. In this approach, protection against the commencement of legal actions against Efwon Singapore and its assets can be obtained by Efwon Trading making an application to seek recognition of the WHOA proceedings under the Singapore Model Law as a foreign main proceeding or an application to seek moratorium protection under section 65 of the Insolvency, Restructuring and Dissolution Act 2018 (“**IRDA**”) as part of the Singapore Scheme proceedings.
67. For the latter option, Section 65 of the IRDA provides for a moratorium to be granted to a company that is a subsidiary (i.e. Efwon Singapore), a holding company or an ultimate holding company of the company (i.e. Efwon Trading) that is proposing to restructure its debts via the Singapore Scheme. Efwon trading will need to demonstrate that Efwon Singapore plays a necessary and integral role in the compromise or arrangement relied on by Efwon Trading and the compromise proposed by Efwon Trading will be frustrated if legal actions are taken against Efwon Singapore. This can be demonstrated if the Efwon Group Consolidated Plan relies on the sponsorship revenue that Efwon Singapore will secure from KuasaNas for the proposed recovery to the creditors of the Efwon Group Consolidated Plan.

68. Alternatively, if a restructuring of the debts of Efwon Singapore is not feasible, the strategy would be to incorporate a new entity in Malaysia to secure the sponsorship from KuasaNas and not proceed with the restructuring of the indebtedness of Efwon Singapore, in which event protection against legal proceedings would not be necessary.

CONCLUSION

(A) Debt Restructuring Plan

69. In summation, the proposed strategy to rescue the Maximov F1 team and Mr. Maximov's position in relation to its investment in the Maximov F1 team would be for Efwon Trading to propose a consolidated composition plan for the Efwon Group under the WHOA that would compromise the debt obligations of Efwon Trading and other entities within the Efwon Group that are owed to the creditors of Efwon Trading, even if these other Efwon Group entities are not debtors in the WHOA proceedings. The Efwon Group Consolidated Plan can be proposed with 2 classes of third-party creditors, namely (a) the secured class of third-party creditors comprising the Monaco Lenders and the Syndicated Lenders, and (b) the unsecured class of third-party creditors comprising the Maximov F1 Team drivers.
70. It will be critical for the success of the restructuring that the terms of the Efwon Group Consolidated Plan be primarily acceptable by the Syndicated Lenders, which constitute a two-thirds majority of the total amount of the third-party debts of Efwon Trading. This would be also important to rescue Mr. Maximov's position given that the Syndicated Lenders hold various security over Mr. Maximov's personal assets.
71. Once the Efwon Group Consolidated Plan is duly approved and sanctioned by the Dutch courts, the Efwon Group Consolidated Plan can be recognized by (a) the Romanian courts and become effective in Romania in relation to Efwon Romania pursuant to the UNCITRAL Model Law, (b) be recognized by the US courts and become effective in the US in relation to Efwon Investments pursuant to Chapter 15 of the US Bankruptcy Code, and (c) be recognized by the Singapore courts and become effective in Singapore in relation to Efwon Singapore pursuant to the Singapore Model Law or pursuant to the Singapore Scheme.
72. Given that Efwon Trading is an intermediate holding company, it will be difficult to demonstrate that Efwon Trading has sufficient non-transitory economic activity in the Netherlands. Hence, it will be critical for Efwon Trading to establish that its COMI lies in the Netherlands so as to establish the WHOA proceeding in the Netherlands as a foreign main proceeding for purposes of seeking recognition of the WHOA proceedings in the US, Romania and Singapore.
73. The COMI of Efwon Trading will be presumed to be at its registered office in the Netherlands. Unless the presumption is rebutted by evidence that the COMI is located other than in the Netherlands, the Dutch courts will open "main proceedings". In this regard, it may be possible, based on *re Modern Land*, that the very conduct of restructuring proceedings may be sufficient to establish the location of COMI notwithstanding that foreign non-main recognition may not be appropriate because it is unlikely for Efwon Trading to point to any sufficient connections that might constitute non-transitory economic activity in the Netherlands.

74. Alternatively, it may be necessary to take steps to establish Efwon Trading's COMI in the Netherlands before the commencement of insolvency proceedings in the Netherlands in order to obtain recognition of the WHOA proceeding as a foreign main proceeding in the US, Romania and Singapore.
75. If it is not possible to establish Efwon Trading's COMI in the Netherlands before the commencement of insolvency proceedings in the Netherlands, Efwon Investment, Efwon Romania and Efwon Singapore may each consider proposing a standalone restructuring plan in each of US, Romania and Singapore as proceedings in parallel with the WHOA proceedings. Based on the creditor profiles of Efwon Investments and Efwon Romania, it would be critical that each of the standalone restructuring plans for these entities be primarily acceptable to the Syndicated Lenders. In relation to Efwon Singapore, if a restructuring plan is not feasible, it is possible to adopt a last resort strategy not to pursue a debt restructure of Efwon Singapore but to incorporate a new entity in Malaysia to secure the sponsorship from KuasaNas.

(B) Protection Against Lenders' Legal/ Enforcement Actions

76. In order to protect Efwon Trading against the lenders' legal and/or enforcement action, Efwon Trading may seek from the Dutch courts a moratorium against enforcement actions by creditors of Efwon Trading or a suspension of payments for a maximum period of four months (with a possibility to extend for another four months).
77. In relation to Efwon Romania, the commencement of insolvency proceedings in Romania provides automatic moratorium on enforcement proceedings. This will provide some time for Efwon Romania to pursue a standalone restructuring plan via the judicial reorganisation proceedings of the insolvency code of Romania. Alternatively, if Efwon Romania pursues restructuring via the Efwon Group Consolidated Plan proposed by Efwon Trading, relief against enforcement action by creditors of Efwon Romania may be sought from the Romanian courts under UNCITRAL Model Law by establishing that the WHOA proceedings as a foreign main proceeding in respect of Efwon Trading.
78. To secure against the US bank lenders' enforcement of the share pledge over the Efwon Trading Shares, an automatic moratorium can either be obtained upon commencement of the Chapter 11 proceedings as a standalone restructuring via the US Chapter 11 process, or provisional relief following the filing of a Chapter 15 application, if the restructuring is via the Efwon Group Consolidated Plan under the WHOA.
79. Protection against the commencement of legal actions against Efwon Singapore and its assets can be obtained upon the filing of application to seek recognition of the WHOA proceedings under the Singapore Model Law as a foreign main proceeding. Alternatively, if the Efwon Group Consolidated Plan is pursued as the Singapore Scheme in parallel to the WHOA proceedings, Efwon Trading would be able to secure moratorium protection for Efwon Singapore, as a company that is a subsidiary of Efwon Trading under section 65 of the IRDA by relying on the sponsorship revenue that Efwon Singapore will secure from KuasaNas for the propose recovery to the creditors of the Efwon Group Consolidated Plan.
80. Further, if a restructuring of the debts of Efwon Singapore is not feasible, the last resort strategy would be to incorporate a new entity in Malaysia to secure the sponsorship from KuasaNas and not proceed with the restructuring of the

indebtedness of Efwon Singapore, in which event protection against legal proceedings would not be necessary.

81. Should you have any queries on the proposed restructuring strategy, please do not hesitate to reach out to us. We will be happy to assist you further to achieve an acceptable solution.

Best regards



Chan Wei Meng