



## CASE STUDY 2

# ADVICE TO M. BENEDICT MAXIMOV WITH REGARDS TO EFWON GROUP

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To: Benedict Maximov

From: Jaufre Rouanet, JRC Corporate Consulting - Restructuring Practice

Date: 15 February 2024

Subject: Strategic Advice on Facilitating the Deal with KuasaNas and Addressing Insolvency Issues

Dear Sir,

## Introduction

1. We have been asked to advise you on facilitating a transaction with KuasaNas (KN), supporting the continuity of business of Maximov F1 team and safeguard your (“M. Maximov”, “M.B.”) personal interest.
2. This advice is further rendered on the basis of the information provided by you, your team and your General Counsel. It covers the companies of the Efwon Group (“EG”) presenting the business of Maximov F1 and including the following legal entities Efwon Investments Inc. (“EI”) registered in Texas, USA, Efwon Trading B.V. (“ET”) registered in the Netherlands, Efwon Romania (ER) registered in Romania and Efwon Singapore (“ES”) registered in Singapore. Reference is made to Appendix 1 for an indicate legal and debt organisation chart.
3. At the date of this memo, we understand :
  - a. the debt map and third-party creditors of EG for a total of over \$350m as follow:
    - i. Against EI:
      1. Senior Banks: Outstanding debt of USD 100 million (principal, not considering partial repayments if any).
      2. Mezzanine Creditors: Outstanding debt of USD 60 million (principal, not considering partial repayments if any).
      3. Junior Creditors: Outstanding debt of USD 90 million (principal, not considering partial repayments if any).
    - ii. Against ET:
      1. Monaco Lender: Outstanding debt of USD 100 million (principal, not considering partial repayments if any).
    - iii. Against ER:
      1. Driver claims still to be ascertained by the Romanian court.
  - b. The lawyers acting for the drivers have filed for the insolvency of Efwon Romania (ER) and obtained a freezing injunction over ER’s assets and income.
  - c. KuasaNas is still going through the Malaysian government review.



## Strategic Plan Overview

4. Based on the current situation and information received, we would like to suggest deploying a strategic plan including the following sequence:
  - a. Dealing with immediate financial distress
  - b. Engaging with stakeholders
  - c. Assessing the adequate restructuring frameworks or insolvency proceedings to address the current business situation of the Efwon Group
  - d. Suggested restructuring plans and Organisational transformation
  - e. Detailed execution through court proceedings
  - f. Stakeholders at restructuring:
  - g. Suggested structuring of the KN Deal:
  - h. Long-Term Strategic Vision and Business plan

### A. Dealing with Immediate Financial Distress:

5. Current facts with regards to legal proceedings and current financial distress includes:
  - a. The inception of a filing for the insolvency of Efwon Romania and freezing injunctions over the company's assets and income.
6. The Promoter might need to engage immediate steps to mitigate the impact of asset freezes on the operational capabilities of the Maximov F1 Team: considering the Group structure, available liquidity outside of Romania might be limited. The inventory of those resources and its management needs to be taken as a priority and assessment of require interim support should be computed and envisioned to support the inception of a restructuring process.
7. In addition, direct effect of the legal actions in Romania and the potential future default on the obligation of ER to ET, could trigger default of ET on its debt to the Monaco Lender and EI and subsequently trigger default of EI on its debt to the US Syndicate.
8. Accordingly, immediate action to address the filing in Romania would include:
  - a. Perform a legal review and engage representation: Engage with a local Romanian law firm that specializes in insolvency and employment disputes to represent Efwon Romania. A thorough review of the claims made by the Drivers, the terms of their employment contracts, and the circumstances leading to the filing should be undertaken promptly.
  - b. Challenge the filings (claims and insolvency) made by the Drivers:
    - i. Challenge the grounds for an insolvency case: The Drivers are looking for damages through a claim filed with the court. The filing for insolvency is not relevant as this claim remains contingent till the Romania court make judgement on this case.
    - ii. Challenge the Legal Grounds: understand the source of information on which the Drivers built their case, challenge the petition directly in court by questioning the factual accuracy or legal grounds of the drivers' claims. This could require demonstrating that the company is not



- insolvent at the time of the court filing or that the filing was made in bad faith and the relevance to an insolvency case:
- iii. Addressing the freezing injunction: File a motion to lift the injunction, arguing that it disproportionately harms the business and its stakeholders, including other employees and creditors.
  - iv. Note that under the Romania insolvency proceedings framework<sup>1</sup>:
    1. ER (the Debtor) may request the syndical judge to order the creditor to deposit a bail of up to 10% of the debt.
    2. One of the criteria for insolvency of the debtor included when after 60 days of the due date, the Company has not paid his debt to the Creditor. As of December 2023, we are not aware of such overdue.
9. The above activities will address and delay the potential impacts of the filings in Romania on the position of ER. Simultaneously, engaging with the stakeholders is required on the overall Group to de-risk other uncontrolled third parties' potential proceedings which could impair the value destructive of the business.

## B. Engaging Stakeholders:

10. Engagement with the various stakeholders aims at ensuring alignment of the various parties to drive toward satisfaction of the objective of the transaction with KN, the continuity of Maximov F1 and the protection of M. Maximov's interest.
11. Primarily, it is critical to engage with the local Directors for Netherlands and Romania to :
  - a. Provide support with local lawyers and advisors who can assist them in understanding complex restructuring scenarios and supporting them in making informed decisions.
  - b. Ensure that the directors understand any regulatory implications of restructuring, and how compliance will be maintained to protect the company's operational licenses and market reputation.
  - c. Provide detailed legal advice on the restructuring processes available in Romania and the Netherlands, including any recent changes in insolvency and restructuring laws that may benefit the company.
  - d. Educate them on the options available to protect the businesses and support the long-term viability of Maximov F1, the preservation of value through a plan compared with a liquidation scenario: The Directors have a duty of care to the shareholders and the creditors of the businesses, and an uncontrolled liquidation could bring significant value loss.
12. The Financial Creditors:

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<sup>1</sup> Romanian law governing the insolvency procedure is the Law. 85/2014 on insolvency prevention procedures and insolvency



- a. As presented under the Debt map, it includes the Bank Syndicate with EI and the Monaco Lender with ET.
  - b. For both, we need to clarify that currently the value of the business breaks in the Debt and the current set of securities under a liquidation scenario does not offer incremental value compared to a restructured plan.
  - c. There is a number of uncertainties with regards to the new partnership agreement with KN which are due to clarify in the coming months. The terms of the agreement could result in positive upsides for all the parties.
  - d. On this basis, ET and EI should be negotiating standstill agreements with their lenders to prevent any enforcement action and to delay for a comprehensive restructuring plan.
  - e. The presentation of the conclusion of the IBR would support a restructuring case through the deal with KN instead of a liquidation case: the presentation of an Estimated Outcome Statements showing that the Financial Creditors are “better off” in a restructuring scenario versus the liquidation of the estate is a support to entering a standstill arrangement to potentially be followed by a restructuring plan. The engagement with the Creditors can include the use of the INSOL Principles for Multi-Creditors Workouts<sup>2</sup> with regards to setting up the ground for an out-of-court restructuring when supported by the two group of creditors: the Monaco Lender and the US Syndicate.
13. The Romanian Drivers:
- a. In addition to the legal activities with regards to the Romanian legal proceedings (see supra B.7) where the claims and legal challenges in Romania are to be addressed with a robust defence strategy, Efwon Group Management should explore settlement options to avoid protracted litigation.
  - b. Initiate direct negotiations with the drivers and their legal representatives to reach an out-of-court settlement. Consider mediation as a way to facilitate these discussions, aiming for a resolution that addresses the drivers' concerns while avoiding prolonged litigation.
  - c. Depending on the financial analysis and the legitimacy of the drivers' claims, consider proposing a settlement offer that could include financial compensation, adjustments to their contracts, or other benefits that address their grievances without severely impacting the company's finances.
14. Other stakeholders:
- a. With regards to engagement with internal stakeholders (teams and employees) and external stakeholders (FIA and KN), a clear message is to be delivered of : “the Efwon Group is committed to address the situation with the team in Romania and to engage with the Financial Creditors. The Promoter remain engaged in building the way forward for the business with existing and future partners”.

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<sup>2</sup> Statement of Principles for a Global Approach to Multi-Creditor Workouts II – April 2017 – See <https://insol.azureedge.net/cmsstorage/insol/media/document-library/books/statement-of-principles-for-a-global-approach-to-multi-creditor-workouts-ii.pdf>



- b. The objective is to re-risk further delay or questioning of the going concern of the business which could jeopardize the KN due diligences or the FIA License.
- 15. Overall, to support entering into standstill agreements, the Group could propose early and transparent engagement with all stakeholders, including lenders, sponsors, and governmental entities. The objective is to build consensus around a restructuring plan, emphasizing the mutual benefits of a successful turnaround.
- 16. Nevertheless, may standstill and out-of-court engagement not be effective, the Group and its counsel should explore and progress proactively restructuring and insolvency options throughout its various jurisdictions.

### C. Restructuring Frameworks and Insolvency Proceedings:

- 17. Based on the review of the statement of affairs of each of the Group entity (See appendix 3), insolvencies would be triggered by call on the Group obligations toward its external financial creditors and in a waterfall, the call on due from the Group debtors (ET and ER).
- 18. Out-of-court Workout:
  - a. Prior to formal proceedings, may the Financial Creditors, the Monaco Lender and the US Syndicate, and the resident Directors in Romania and Netherlands, accept a form of Stand-still agreement, or entering into a framework similar to the INSOL Principles for Multi-Creditors Workouts, the Group could workout a restructuring programme and an agreed plan could be presented to KN as a pre-packed transaction.
  - b. Efwon Group might seek to negotiate directly with creditors to restructure its debts. This could include extending debt maturities, reducing interest rates, or converting debt into equity. This approach can preserve relationships with creditors and minimize legal and administrative costs.
  - c. Nevertheless, may one of the parties not adhere with the proposal for an out-of-court process, court supported preventive, or insolvency proceedings should be assets at each jurisdiction level.
- 19. Efwon Investments Inc.: US proceedings
  - a. Considering the risk to M. Maximov's estate, may the syndicate reject entering on a long-term stand-still agreement (till completion of a restructuring aligned with securing the KN deal), it is suggested to enter a Chapter 11<sup>3</sup> proceedings to protect Efwon Investments and allow for a reorganisation. May the restructuring proceedings become cross-border, including the Netherlands where is the debtor of EI (ET) registered, EI would require seek international recognition of the Dutch proceeding through Chapter 15 of the US Bankruptcy Law.
  - b. Key drivers toward entering Chapter 11 includes:

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<sup>3</sup>United States Courts: Chapter 11 - Bankruptcy Basics. <https://www.uscourts.gov/services-forms/bankruptcy/bankruptcy-basics/chapter-11-bankruptcy-basics>



- i. An automatic stay : Upon the filing of a Chapter 11 bankruptcy petition, an automatic stay is immediately put into effect. This stay halts all collection activities, foreclosure actions, and enforcement of security interests against the debtor’s assets. This means that during the stay, the syndicate of banks would not be able to foreclose on or seize the real estate pledged by Maximov unless they receive specific permission from the bankruptcy court.
  - ii. Debtor in Possession: As a debtor in possession, the company (or Maximov, in his capacity associated with the company) retains control over its assets, including those pledged as collateral, unless a trustee is appointed. The debtor can use these assets in the ordinary course of business during the bankruptcy.
  - iii. The reorganization plan proposed by the debtor must address how it intends to manage the claims of secured creditors. This might involve restructuring the debt, such as by extending the term, reducing the interest rate, or even cramming down the debt (reducing the principal to the value of the collateral). Secured creditors, including the syndicate, have the right to vote on the plan. The plan must be accepted by at least one class of impaired creditors and must meet other statutory requirements for confirmation.
- c. Considering the current level of indebtedness of the overall business, a cram down<sup>4</sup> of the less secured creditors could present a relief to the business. Under the security package provided to the Syndicate, collateralized with \$75m of properties around the world, would be the floor to a reduction of the value of the debt.
- d. Required Chapter 15 for cross-border proceedings:
- i. Notwithstanding the above, considering the sole asset of EI is its loan to ET in Netherlands, if an insolvency proceeding is started in the Netherlands, it will be required to seek recognition of the Dutch proceedings in US Court under Chapter 15 of the US Bankruptcy code. This will be helping the management of the estate in a cross-border process.
  - ii. Chapter 15 is the codification of the U.S. adoption of the Model Law on Cross-Border Insolvency, promulgated by the United Nations Commission on Internal Trade (“UNCITRAL”)<sup>5</sup>.
  - iii. There is no automatic stay, but the US Court will recognise the Dutch proceedings.

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<sup>4</sup> Chapter 11 of the U.S. Bankruptcy Code provides the framework for reorganization. The cram down provision is found in Section 1129(b) of the Code

<sup>5</sup> Chapter 15 of the US Bankruptcy Code. See [A Tale of Two Chapters – “Recognizing” the Significant Differences Between Chapter 15 and Chapter 11 Bankruptcy Cases], October 2023. <http://www.sidley.com>



- iv. Under Chapter 15, the foreign proceeding generally governs any litigation or recovery actions, with the U.S. court acting in a supporting role. Hence, the proceed will be driven from the Netherlands for ET.
20. Efwon Trading: Dutch proceedings<sup>6</sup>
- a. Keeping apart bankruptcy (faillissement) filing which in the Netherlands focuses on the company liquidation, ET has two legal tools to support it restructuring effort:
  - b. Suspension of payment (Surseance van betaling)<sup>7</sup>
    - i. The Dutch legal system can grant a suspension of payments for a period of 18 months through a petition to the debtor. This is a formal insolvency proceeding.
    - ii. This filing is registered as part of the Central Insolvency register hence public.
    - iii. The Court will appoint an administrator to workout with the Company through the process. This is to be considered in consideration of the support or not of the local director (see supra).
  - c. Dutch Scheme (WHOA, or "Wet Homologatie Onderhands Akkoord")
    - i. The WHOA is a preventive procedure<sup>8</sup> designed to help companies restructure their debts without entering formal insolvency proceedings. It allows a company to offer a restructuring plan to its creditors and shareholders that can be implemented with court approval even if not all parties agree.
    - ii. The WHOA can prevent bankruptcy and has proven effective if the company still has viable operations but struggles due to a heavy debt load.
    - iii. Engaging in this process will provides ET with breathing space to negotiate and implement a restructuring plan under less pressure.
    - iv. ET can propose a restructuring plan, which needs approval from a majority of the creditors in each class: In ET case, 2 creditors, the Monaco Lender and EI will be required to vote. EI represent a significant majority of the debt.
    - v. If approved, the plan is then submitted to a Dutch court for confirmation, which can confirm the plan even if not unanimously supported, provided it is fair and equitable.
  - d. Considering the assets of ET includes mainly the shares and advances to Efwon Romania (ER), as well as the shares of Efwon Singapore (ES), the solvency situation of those assets should be considered for the design of the overall proceedings' strategy.

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<sup>6</sup> Reference is made to Krijn Hoogenboezem – RESOR and his lectures as part of the Global Insolvency Practice Course.

<sup>7</sup> Information for entrepreneurs in the Netherlands: Filing for a suspension of payment <https://business.gov.nl/regulation/suspension-payment/>

<sup>8</sup> Procedure available since 2021.





#### 21. Efwon Romania

- a. Insolvency and restructuring proceedings in Romania are governed by the following legislation<sup>9</sup>:
    - i. Law 85/2014 on preventing insolvency proceedings and insolvency
    - ii. Law 246/2015 on recovery and dissolution of insurers, and
    - iii. European Regulation 2015/848 on Insolvency Proceedings.
  - b. In addition to the out-of-court restructuring and negotiated settlement options (see par. 12) with the Drivers, Romania legal framework presents options as formal procedures including:
    - i. Preventive Concordat (Concordat Preventive):
      1. This formal procedure aims at preventing bankruptcy through a restructuring plan approved by the Company and its creditors and approved by the Court.
      2. Efwon Romania could propose a repayment plan that must be approved by a majority of creditors holding at least 75% of the total claim value: Efwon Trading.
      3. When approved, it will prevent the initiation of bankruptcy proceedings and binds all creditors to the terms of the plan, even those who voted against it.
    - ii. Alternatively, ER can enter into the insolvency proceedings which could either progress through a reorganisation under insolvency law or a bankruptcy. This process will be under a judicial administration or bankruptcy trustee.
  - c. The insolvency proceedings include options for debtor or creditors to propose reorganisation plan in order to restructure and continue the debtor's activity, or liquidation of some of the assets it owns, or a combination of the two. Reorganisation plans need to contain a payment plan for the registered receivables that may stretch up to 3 years.
22. Efwon Singapore remains solvent based on its estimated statement of affairs and is not expected to be required to enter any process. In addition, this entity could certainly be used as a vehicle for the deal with KN considering :
- a. Its existence as part of the historical operation of the Efwon Team
  - b. Previous participation of the Sponsorship contract with Kretek.
  - c. Company based in Singapore, hence close to Malaysia.

### D. Suggested restructuring plans and Organisational transformation

#### **Restructuring plan objectives:**

23. With the view on the objective of preserving the transaction with KN, key strategical point could include:
- a. Transfer the Business and assets from Efwon Romania to a legal vehicle free on proceedings,

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<sup>9</sup> <https://cms.law/en/int/expert-guides/cms-expert-guide-to-restructuring-and-insolvency-law/romania>



- b. Considering that under the deal with KN, the operations are expected to be held in Malaysia, a new legal vehicle is expected to be required in Malaysia to hold assets, FIA license and employment contracts.
- c. Efwon Singapore being an Asia based entity, having already performance history under the previous sponsorship contract with Kretek can incorporate a subsidiary in Malaysia. The geographical and business proximity of Singapore and Malaysia makes significant sense<sup>10</sup>,
- d. The parent of Efwon Singapore, Efwon Trading hold the overall debt to Financial Creditors,
- e. Those Financial Creditors could see protection of their rights if their debt would be novated directly to Efwon Singapore, hence making the lenders closer the business cash-flow generation and simplifying the overall corporate structure of the Group,

### **Restructuring plans**

24. On this basis, we would advise the Efwon Group and M. Benedict Maximov to enter into a Group restructuring plan suggesting:
- a. **New Co in Malaysia for the Deal with KN:** The incorporation of Efwon Malaysia subsidiary of Efwon Singapore,
  - b. **Restructuring plan of Efwon Romania through a transfer of business, assets and debt from Efwon Romania to Efwon Malaysia** including:
    - i. Transfer of the FIA License (subject to the confirmation, acceptance and non-objection of the FIA),
    - ii. Transfer of the assets and equipment
    - iii. Transfer of key employees including Drivers (subject to the settlement package and waiver of the legal proceedings) with a joining bonus subject to perfection of the deal with KN.
    - iv. Transfer of the \$450m Liability against Efwon Trading.
    - v. After execution of the listed restructuring plan steps above, Efwon Romania does not have residual assets. The contingency claim from the Drivers should have been addressed by consensual settlement or through the restructuring of Efwon Romania. All other debt and liabilities would have been transferred to Efwon Malaysia.
    - vi. Efwon Romania could then enter into a voluntary liquidation.
  - c. **Restructuring plan of Efwon Trading through a push down of its liabilities to its subsidiary**, suggesting :
    - i. Novation of the debt from the Monaco Lenders to Efwon Singapore. The Monaco Lender maintains his security on the revenue of Efwon Singapore (making it senior to Efwon Investments).

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<sup>10</sup> Reference is made to Cross-border restructuring and insolvency between Singapore and Malaysia – 26 Feb. 2024 – Singapore Academy of Law - See <https://journalsonline.academyPublishing.org.sg/Journals/SAL-Practitioner/Insolvency-and-Restructuring/ctl/eFirstSALPDFJournalView/mid/596/ArticleId/1928/Citation/JournalsOnlinePDF>



- ii. Novation of the debt from Efwon Investment to Efwon Singapore. The US Syndicate security package is amended for the pledge of shares to be transferred from Efwon Trading to Efwon Singapore.
  - iii. The \$450m loan from Efwon Trading transferred to Efwon Malaysia is transferred from Efwon Trading to Efwon Singapore.
  - iv. The shares of Efwon Singapore are transferred from Efwon Trading to Efwon Investments (as the largest creditor),
  - v. After execution of the listed restructuring plan above, Efwon Trading BV is a company holding shares of Efwon Romania without liabilities.
  - vi. Efwon Trading can enter a voluntary liquidation.
- d. Reference is made to Appendix 2 – Indicate Legal and Debt Organisational Chart post-restructuring.
25. In addition to the Legal reorganisation, a financial restructuring should be designed. This will be ascertained based on the estimated Cash-Flow Available for Debt Service resulting from a Efwon Group after restructuring and KN Deal completion. Considering the overall principal face value of the Creditors Debt today (\$350m), a potential haircut and rescheduling of the debt will be expected. The quantification of it is directly resulting from the IBR completed and a refreshed plan based on the KN final deal terms.

## E. Detailed execution through court proceedings

26. Considering the absence of positive outcome for consensual out-of-court engagement with the various stakeholders, start at the earliest engagement in the various jurisdictions:

### **Efwon Romania**

27. Considering that the Romanian court did not issue a judgment on the insolvency filed by the lawyers of the Drivers, **Efwon Romania through its local director should file for a preventive concordat**. Change of Director and appointment of a restructuring professional might be required.
28. This would allow Efwon Romania to work out and propose a viable restructuring plan. Considering that Efwon Trading is the fulcrum creditor accounting for the overall amount of the debt at the petition date, it would be expected to represent over 75% of the total value of the debt, threshold for preventing the initiation of bankruptcy, binding all creditors to the terms of the plan, even those who voted against it.
29. Reference is made to par. 23.b for Efwon Romania restructuring plan head of terms.
30. We expect through the preventive concordat to be able to release the freezing injunctions over the company's assets and income enabling the performance of the transfer of Business and Assets from Efwon Romania to Efwon Malaysia.

### **Efwon Trading:**



31. **Efwon Trading, through its local director should initiate WHOA proceedings in the Netherlands.** Change of Director and appointment of a restructuring professional might be required.
32. Reference is made to par. 23.c for Efwon Trading restructuring plan head of terms.

### **Cross-border Considerations:**

33. Considering the main creditor of Efwon Trading BV is Efwon Investments and subsequently the US Syndicate of Bank, to protect and recognise the restructuring proceedings engaged in the Netherlands, **Efwon Investments should file for recognition of the Dutch WHOA as the main proceedings under chapter 15 of the US Bankruptcy code.** Under the protection of Chapter 15, the management of the assets and engagement with the creditors in Europe and in the USA will be more effective.
34. In addition, recent cases demonstrated the recognition by the US court of proceedings and plans under the Dutch Scheme recognised under the European Directive
  - a. US Chapter 11 is a public procedure
  - b. Dutch WHOA can be recognized throughout the EU Member states (including Romania); however, COMI can be challenged.
  - c. Dutch proceedings are more flexible and more cost effective than the US Chapter 11
35. Considering Romania and Netherlands are part of the European Union, the restructuring of Efwon Trading and Efwon Romania can leverage the EU Insolvency Regulation for coordinated handling of proceedings within EU member states, ensuring that actions taken in one member state are recognized and enforced in others:
  - a. EU Directives with regards to insolvency recognition<sup>11</sup> states that *"Once a judgment opening insolvency proceedings in one Member State becomes effective, it must be recognised in all other Member States with the same effect."*

### **Impediments to the proceedings**

36. Potential risk to the process includes:
  - a. Previous and currently **Outstanding claims:**
    - i. Efwon initiatives are started after in inception of the insolvency case in Romania. A Preventive Concordat proceeding should be filed and recognised before a court order being issued on the insolvency case. May the insolvency order be issued, a reorganisation under insolvency law should be engaged with the appointed judicial administration.

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<sup>11</sup> REGULATION (EU) 2015/848 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 May 2015 on insolvency proceedings



- Nevertheless, the suggested restructuring plan should present a corporate benefit to Efwon Romania and supported by the Court.
- ii. In addition, the claim from the drivers remains uncertain in terms of magnitude and impact as an additional debt to Efwon Romania.
  - iii. Even if described as a key requirement, the level of engagement and support of the directors of ET and ER remain uncertain and could create material delay or misalignment in conducting the suggested approach.
- b. **Costs:** In order to conduct the restructuring in the various jurisdiction, extensive engagement and support of legal counsels for each country will be required. It will as well require an international coordination of the activities to protect the interest of the Group and of its promoters. Accordingly, we will expect the cost associated with this process to be material (in excess of several hundred thousand).
- c. **Timing:** conducting several court driven processes in multiple jurisdictions could require a significant amount of time. In addition to the financial obligations vis-à-vis its lenders, the group might face operating struggles and inability to attend the 2024 season. Hence, in addition to the legal procedures, commercial solutions and engagement should be thought with each stakeholder to accelerate the process.

#### **Further key consideration**

37. The above consideration with regards to risk and performance of the process can be significantly mitigated through an out-of-court restructuring process. Accordingly adequate resources and engagement (by appointment of restructuring professional at the inception of the project) should be invested.
38. Perfection of securities:
- a. Considering the number of securities provided throughout the Group, the confirmation of the perfection of those securities might play a critical role in the ranking of the stakeholders and their ability to recover funds.
  - b. The confirmation with the Companies and the public register of the perfection of the documentation around the securities could significantly change the ranking of the creditors in the Estimated Outcome Statement presenting the case of liquidation of the Group compared with suggested restructuring scenarios.
39. Note that may Efwon Trading be incorporated in England rather than the Netherlands, the automatic recognition of the judgment on the restructuring proceedings in Romania would not be automatically recognised in the UK: Since the 31 December 2020, the UK is no longer treated as an EU member state for the purpose of the Recast Insolvency Regulation and therefore the co-ordination mechanisms set out in the Recast Insolvency Regulation<sup>12</sup> between EU member states and the UK no longer apply. Accordingly, an insolvency proceeding for Efwon

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<sup>12</sup> Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015



Trading be commenced in the UK would not bind the Courts of an EU Member State, including Romania.

**Alternative scenario:**

40. May the suggested restructuring proceeding court driven, or out-of-court fail, or may the Malaysian Government reject the suggested KN deal, The Group would have to go through liquidation at each of the jurisdictions. Considering the concentration of Group assets in Efwon Romania, the expected recovery would likely be including:
- a. In Romania:
    - i. the employees, and Drivers,
  - b. In the Netherlands:
    - i. The Monaco Lender (unlikely)
  - c. In the USA:
    - i. The 2 Senior Secured Banks for up to \$75m (being the value of the personal Guarantee of the homes of M. B. Maximov.).
41. The above clarify the strong incentive for all parties to support the restructuring.

**F. Stakeholders at restructuring:**

42. The impact of the suggested restructuring plan for the existing stakeholders includes:
- a. For the Financial Creditors, Monaco Lender and the US Syndicate: These creditors are seeing a novation of debts from Efwon Trading to Efwon Singapore and potentially Efwon Malaysia). This could stabilize their chances of repayment by tying their claims to potentially more financially stable or strategically important parts of the group. The adjustment of security packages, such as maintaining or obtaining senior security on new revenue streams, would aim to preserve or enhance their positions. **This would support renegotiation of the nominal value of their debt through the negotiation of the terms of the restructuring.**
  - b. For the key Employees including the Drivers: the proposed transfer of key employees to Efwon Malaysia with potential joining bonuses and settlement packages aims to retain critical talent and ensure business continuity. This could be positive for these employees, provided that their new contracts and working conditions in Malaysia are favourable. However, the legal and logistical complexities of such transfers must be managed carefully.
  - c. Other Key stakeholder, the FIA: The transfer of the FIA license and other operational assets to Efwon Malaysia is critical for the continuity of the racing operations. The success of this transfer heavily depends on the approval and cooperation of the FIA. If successful, it could mean a seamless transition and potentially greater operational efficiency in a new geographic and regulatory environment.



## G. Suggested structuring of the KN Deal:

43. In parallel to the restructuring workstreams, the Efwon Team should continue to work closely with KuasaNas to finalize the sponsorship and investment agreement, ensuring that the restructuring plan aligns with their strategic objectives and regulatory requirements.
44. Based on the work performed as part of the Independent Business Review, it has been identified that
  - a. Efwon will need improve operations to be more cost efficient
  - b. Needs to secure the sponsorship deal with KuasaNas
45. The KN option is the only option for future debt service and be cash positive. **Hence, the KN contract should be drawn as a condition precedent to the execution of a restructuring plan.** The rejection of the KN deal would trigger a de-facto insolvency of the Group to be recognized by each of the Group entities.
46. The KN deal presents a solid recovery base for the existing Financial Lenders (Monaco and Syndicate) and a strategic partner considering the suggested head of terms:
  - a. A funding of \$100m per annum,
  - b. Willingness to pay part of the total consideration for the deal directly at closing
  - c. Move of the teams to a potentially lower cost base platform than Romania
  - d. The use of the Sepang GP Racetrack
  - e. Hiring of new drivers to obtain Super Licenses
47. The engagement with KN could bypass the requirement to transfer the Efwon Romania license.
48. Considering the above, a suggested deal with KN would including:
  - a. Transfer of 51% of ownership of Efwon Malaysia. Those funds are paid to Efwon Singapore and used as an initial settlement to the Financial Creditors and settlement of the restructuring costs.
  - b. Engagement in the sponsorship program with first year paid at inception. Those funds will be allocated to:
    - i. Allocate part of the closing funding for the FIA required deposit (refunded during the season)
    - ii. Secure the Transfer business and assets from Efwon Romania (settlement of transfer bonus for key staff / driver settlement).
    - iii. Support the 2024 Championship.
  - c. The cash requirements are to be considered through the build up and deployment of a Strategic Business plan.

## H. Long-Term Strategic Vision and Business plan:

49. Develop a comprehensive business model that reduces dependency on a single sponsor or investor, diversifying revenue streams to build a more resilient financial structure.
50. On this basis, Management should consider turnaround plans as:
  - a. Assess the cost savings from transfer of operations from Romania to Malaysia,



- b. Increasing the revenue streams through additional contractual arrangements and marketing / visibility expansion:
    - i. Developing the social media presence of the teams as event as the attendance to Corporate and social events.
    - ii. Adding additional sponsorship layers as additional revenue streams: explore second and third level of sponsorship. In addition to naming rights (given to KN), smaller global partnerships, each with distinct levels of marketing assets tailored to specific business objectives.
  - c. Consider strategic alliances or partnerships within the F1 ecosystem to enhance competitive positioning and operational efficiency.
  - d. Look for mutualisation of the costs through the integration of the Efwon Team with the existing ecosystem of KN : overhead split and integration with KN, leverage from the Sepang GP racetrack to save on operating cost for training, practice, storage of cars and equipment. Assess to create a Efwon/KN booth at the racetrack site for visit and merchandising.
  - e. Maintaining cost efficiency through budgeting and cost controllership.
51. The above turnaround plan should focus on delivering an assessment of the allocation of “new money”, being the initial funding of KN under the deal under review, between operational/capital expenditure investment and Financing support and settlement with the current creditors.
52. The restructuring business plan should present
- a. The cash-flow from operations
  - b. The allocation of new money required for opex and capex to present the CFADS (Cash-flow available for debt services) and accordingly the amount of new money available to serve the existing creditors upfront and over a long-term period.
53. The above will allow the estimation of the debt capacity and profile for the business which would be required to resize the debt from the Financial Creditors.

## I. Representations and warranties

54. We have not investigated and, except as specifically stated in this letter, make no comments with regard to any warranties, facts, opinions or representations in any document or on their accuracy or adequacy.

## J. Tax, accounting and financial matters

55. We provide no advice as to financial and accounting matters or the tax consequences of the transactions contemplated by the documents.

## K. Confidentiality and reliance

56. This letter is given for the sole benefit of and may only be relied on by the addressee, solely for its use on the strict understanding set out in paragraph 1, 2 and 3. It may not be relied on or disclosed to any other person in any other context, nor is it to be quoted or made public in any other way without our prior written consent except as expressly provided in paragraph 57.





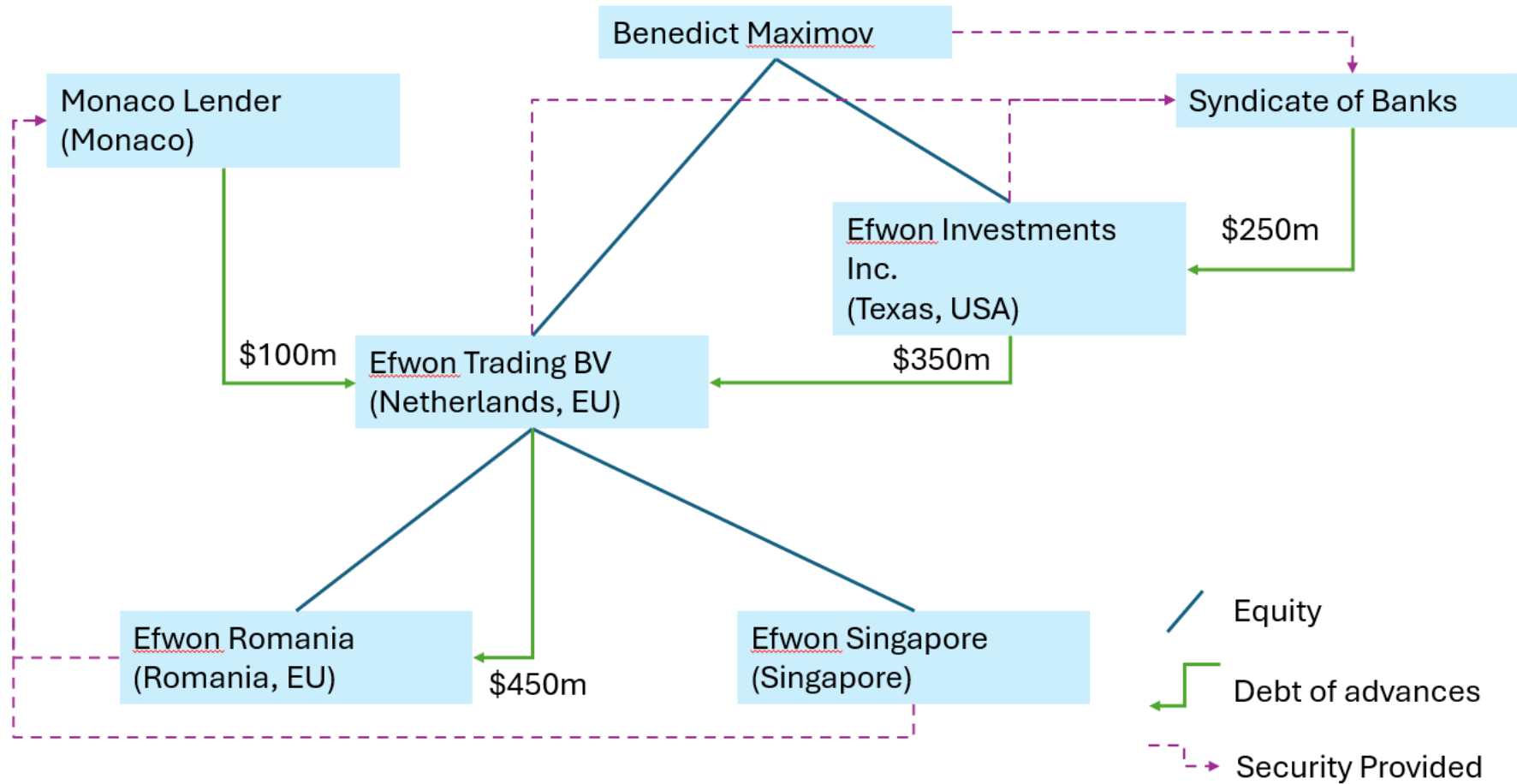
57. A copy of this letter may be disclosed:
- a. to a professional adviser (Professional Adviser) of the addressee who is subject to professional obligations to maintain the confidentiality of this letter;
  - b. to the addressee's affiliates (and any Professional Adviser of any such person), and any of its or their officers, directors or employees; and
  - c. to any other person to whom this letter is required to be disclosed pursuant to any applicable law or regulation (and any Professional Adviser of any such person),
58. but only on a non-reliance basis and only if:
- a. any permitted recipient of this letter is informed that they are not an addressee of this letter and that they must not rely on it; and
  - b. such person is informed of the confidential nature of this letter.

Yours faithfully

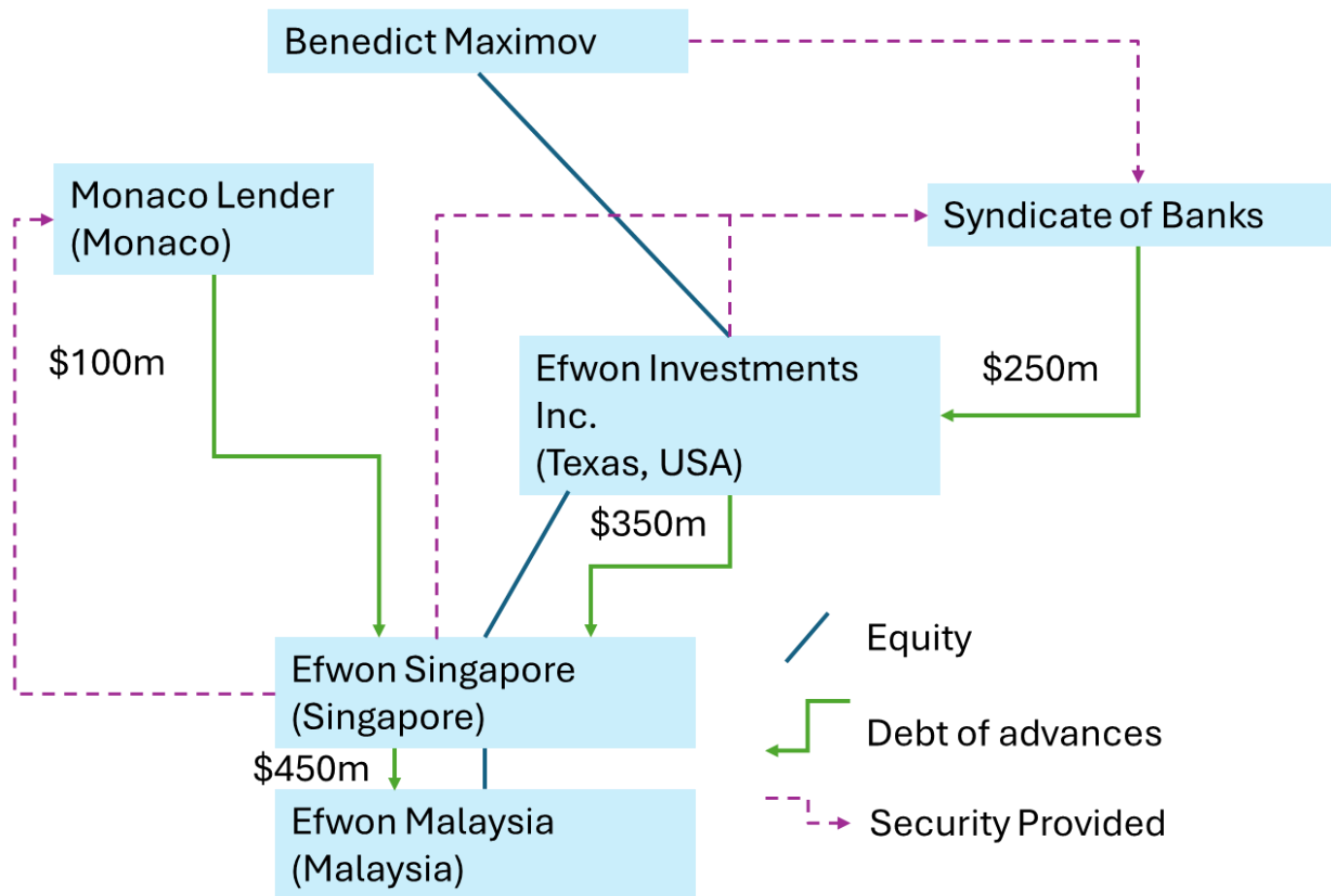
Jaufre Rouanet

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**APPENDIX 1 - Indicative legal and debt organisation chart pre-restructuring.**



**APPENDIX 2 - Indicative legal and debt organisation chart post-restructuring.**



**APPENDIX 3 – Estimated Statement of Affairs of the Efwon Group****Benedict Maximov**

Assets		
Shares / Investment in Efwon Investments Inc.	100	(B)
Shares / Investment in Efwon Trading	0.1	
Real Estate (pledged)	75	(B)
<b>Total Assets</b>	<b>175.1</b>	
Liabilities		
None	0	
Equity / Net Worth		
<b>Estimated Net Worth</b>	<b>175.1</b>	

**Efwon Investments Inc. - Texas**

Assets		
Loan to Efwon Trading	350	(B)
<b>Total Assets</b>	<b>350</b>	
Liabilities		
Syndicate - 2 Senior lenders	100	
Syndicate - 2 Mezzanine Fin. Creditors	60	
Syndicate -5 Junior Fin. Creditors	90	
<b>Total Debt</b>	<b>250</b>	
Equity		
Shareholding - B.M.	100	

**Efwon Trading B.V. - Netherlands (EU)**

Assets		
Shares Efwon Romania	0.1	(B)
Advance to Efwon Romania Y1 (2015 Season)	150	(B)
Advance to Efwon Romania Y2 (2016 Season)	100	(B)
Advance to Efwon Romania Y3 (2017 Season)	100	(B)
Advance to Efwon Romania Y4 (2018 Season)	100	(B)
Shares Efwon Singapore	0.1	(B)
<b>Total Assets</b>	<b>450.2</b>	
Liabilities		
Debt to Efwon Investments Inc.	350	
Loan from Lender based in Monaco Y4 (2018 Season)	100	
<b>Total Debt</b>	<b>450</b>	
Equity		
Shareholding - B.M. (value not confirmed)	0.1	

**Efwon Romania - Romania (EU)**

Assets		
Teams and License	50	
<b>Total Assets</b>	<b>50</b>	
Liabilities		
Advance from Efwon Trading Y1 (2015 Season)	150	
Advance from Efwon Trading Y2 (2016 Season)	100	
Advance from Efwon Trading Y3 (2017 Season)	100	
Advance from Efwon Trading Y4 (2018 Season)	100	
<b>Total Debt</b>	<b>450</b>	
Equity		
Shares Efwon Trading		
P/L Loss Y1 -2015	-100	30
P/L Loss Y2 - 2016	-100	60
P/L Loss Y3 - 2017	-100	n.c.
P/L Loss Y4 - 2018	-100	n.c.
P/L Loss Y5 - 2019	0	(A)
P/L Loss Y6 - 2020	0	(A)
P/L Loss Y7 - 2021	0	(A)
P/L Loss Y8 - 2022	0	(A)
P/L Loss Y9 - 2023	0	(A)
<b>TOTAL Equity</b>	<b>-400</b>	



**Efwon Singapore - Singapore**

Assets		
Receivables from Sponsorship -Kretek	0	
Liabilities		
Payables of Sponsorship - Efwon Romania	0	
Equity		
P/L	0	(C)

- (A) Kretek Sponsorship through Singapore
- (B) Assets presenting a collectability risk under the waterfall effect from the Efwon Romania Insolvency
- (C) Total of \$500m revenue of Sponsorship from Kertek and \$500m of Sponsorship charges from Efwon Romania

Efwon Singapore is a solvent Company having received and paid Sponsorship revenues from Kretek to Efwon Romania (holding the FIA License and rights).