

GIPC Case Study II

Strategic Advisory Report on Navigating Insolvency
and Securing Partnership with KuasaNas

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Executive Summary

1. This strategic advisory report provides a detailed pathway for Benedict Maximov to navigate the imminent financial and legal challenges faced by Efwon Investments and its subsidiaries, secure a crucial sponsorship with KuasaNas, and safeguard the long-term viability of Team Maximov. It outlines a structured approach for addressing insolvency concerns, securing new sponsorship, and implementing risk management strategies.

Introduction

2. Benedict, you entered the Formula 1 racing scene through Efwon Investments with the aim of elevating your international profile. The acquisition of a licensed F1 team presented a fast track into the racing world. However, financial strains and operational challenges regrettably have threatened the sustainability of this venture. This report provides strategic guidance to address these challenges effectively so that you can build on this experience and as a consequence emerge in even better shape. This report outlines how to build a solid foundation for long-term success in this ambitious endeavour.

Background and Current Situation

Financial Overview

3. Efwon Investments Inc., initially funded by both personal investment and substantial borrowing, is facing severe financial pressure due to the underperformance of your F1 team and the potential withdrawal of your major sponsor, Kretek. The pending sponsorship deal with KuasaNas represents a critical juncture for the group's financial recovery and can play an instrumental part in the group's future growth and ultimate success of your Formula 1 team.

Legal and Operational Challenges

4. Unwelcome legal actions initiated by the team's drivers and the risk of insolvency pose clear and present threats to operational stability. The freezing of certain assets has restricted liquidity, further complicating the financial landscape. These challenges necessitate immediate strategic and legal interventions, all of which are outlined in the following paragraphs.

Matters Raised by Your General Council

5. Before presenting our strategic response to the insolvency challenges facing you and your team, I first address the specific concerns raised by your general counsel.

(a) Proposed Strategy for Dealing with the Group and Its Various Stakeholders

6. I recommend implementing a coordinated legal strategy across multiple jurisdictions, using the UNCITRAL Model Law on Cross-Border Insolvency to synchronize proceedings. This establishes a communication protocol that ensures transparency and engagement with stakeholders at every stage.
7. Below is a stakeholder engagement program that includes regular updates through digital platforms and direct meetings. This strategy is supported by principles found in the UK Companies Act, which encourages fair treatment and engagement of stakeholders during insolvency.¹

(b) Whether One or More Insolvency Proceedings or (Preventive) Restructuring Frameworks are Required

8. The UK's Corporate Insolvency and Governance Act 2020 introduces a moratorium and restructuring plan that binds creditors, which could be highly beneficial to you. This can be

¹ Companies Act 2006, Section 172.

compared to Dutch "WHOA" (Wet Homologatie Onderhands Akkoord) that allows for a similar out-of-court restructuring process to avoid formal insolvency.

9. Given the case's complexities and strategic considerations, the most advantageous action would be to pursue a preventive restructuring framework in the UK, utilizing the restructuring plan introduced by the Corporate Insolvency and Governance Act 2020. This recommendation is based on several critical factors:

Advantages of the UK Restructuring Plan

10. **Creditor Engagement and Binding Dissenters:** the UK restructuring plan allows for a class of creditors to be bound by the plan even if they vote against it, provided that no creditor is worse off than they would be in a likely liquidation scenario. This feature is invaluable in managing dissenting creditors, especially in a complex multinational group like yours.
11. **Flexibility and Efficiency:** the restructuring plan under the UK framework offers flexibility in terms of implementation and can be tailored to meet your specific needs without the full formalities of insolvency proceedings. It also tends to be quicker and less costly compared to traditional insolvency processes.
12. **Cross-Border Recognition:** the UK's adoption of the UNCITRAL Model Law on Cross-Border Insolvency facilitates the recognition of the restructuring plan across the multiple jurisdictions where you operate, enhancing the effectiveness of the restructuring efforts.
13. **Preservation of Business Value:** by avoiding formal insolvency proceedings, the restructuring plan helps preserve not only the operational continuity and inherent value of your business, which is crucial for maintaining the company's brand and operational capacities in the competitive Formula 1 environment, it also protects your reputation, which is crucial.

Justification for Choosing the UK over the Netherlands et al.

14. While the Dutch WHOA also offers an attractive framework for restructuring, the UK's legal environment provides more predictable outcomes due to its well-established case law and judicial system, which is experienced in handling complex international cases. The U.S. is prohibitively expensive, Singapore less well established, and Romania and Indonesia lack sufficiently well-developed regimes. Additionally, the broader international recognition of UK court decisions and the English language being the business lingua franca further support the decision to choose the UK for your restructuring.

(c) Where and How These Proceedings Will Take Place

15. England and Wales is the jurisdiction of choice due to its internationally recognized and well established framework for cross-border insolvency, facilitating easier cooperation with the courts

in the other countries where you operate. This decision is underpinned by the precedent set in Re MG Rover Ltd, which showcased the effectiveness of UK courts in handling complex cross-border insolvencies.²

(d) How These Proceedings May (or May Not) Interact or Influence Each Other

16. The interaction of proceedings would be governed by the EU's Insolvency Regulation (EIR) and the UNCITRAL Model Law, ensuring that decisions in one forum are recognized and enforced in others, thereby reducing conflicts of interest and enhancing procedural efficiency.
17. However, the interaction is particularly complex given the multinational nature of your operations, involving jurisdictions with varying legal systems, namely the UK, the United States, the Netherlands, Romania, Indonesia, Singapore and potentially, in the future, Malaysia.
18. The key frameworks governing cross-jurisdictional interaction in this case are:
19. **UNCITRAL Model Law on Cross-Border Insolvency:**
20. This Model Law provides a framework designed to assist in the coordination of cross-border insolvency proceedings. It facilitates recognition of foreign proceedings and provides relief mechanisms that can help manage creditors' actions across different jurisdictions.
21. Under the Model Law, once a primary insolvency or restructuring proceeding is recognized as the "main proceeding" in one country (i.e., the UK), other countries where the debtor has assets or operations can recognize this primary proceeding. This recognition helps minimize conflicting decisions and streamlines the management of the debtor's global assets.
22. **European Insolvency Regulation (EIR):**
23. For EU member states, EIR provides rules for jurisdiction, recognition and coordination of insolvency proceedings across the EU. It focuses on determining the center of main interests (COMI) of the debtor, which would likely be in the Netherlands if Efwon's primary operations and administrative management are located there.
24. EIR ensures automatic recognition of insolvency proceedings across EU member states, which would directly impact any parallel proceedings initiated in jurisdictions like Romania if Efwon has significant operations there (albeit we are arguing the group is managed from London).

Potential Interactions and Influences

25. Proceedings in the UK can influence those in other jurisdictions by setting precedents on substantial aspects such as the restructuring strategy, creditor hierarchy and asset disposition.

² Re MG Rover Group Ltd, High Court of Justice (Chancery Division), 2005, [2005] EWHC 2347 (Ch), paras 34-45.

Courts in jurisdictions recognizing the UK proceeding may defer to the decisions made by the UK court, especially regarding asset control and creditor payments.

26. Once the UK proceedings are recognized as the main proceedings under the UNCITRAL Model Law or EIR, other jurisdictions would generally impose a stay on local claims against the debtor. This stay prevents creditors from pursuing separate actions that could disrupt the orderly restructuring or liquidation process being managed in the UK.
27. Despite these international frameworks, local creditors may challenge the foreign main proceeding if they feel their recovery prospects are adversely affected. These challenges can occur due to perceived inequities in the distribution proposals or due to local legal or cultural expectations of creditor treatment.
28. Consequently, conflicts between proceedings may arise, particularly in the interpretation of the debtor's COMI, the extent of asset control, or the distribution to creditors. These conflicts might require negotiated solutions or direct judicial communication between jurisdictions.
29. Outside the EU or in countries not adopting the UNCITRAL Model Law (e.g. Romania and Indonesia), recognition of the UK proceeding may face legal hurdles. For instance, Malaysian courts might require separate filings to recognize foreign restructuring plans, influencing the timing and effectiveness of the overall restructuring strategy.
30. In conclusion, effective management of these interactions requires a proactive legal strategy that anticipates potential conflicts and leverages international insolvency cooperation mechanisms. Regular communication between the courts and insolvency practitioners involved in different jurisdictions, supported by clear documentation of the proceedings in the main jurisdiction, will be crucial. Additionally, strategic engagement with local creditors to address their concerns and ensure equitable treatment can mitigate resistance to foreign main proceedings and foster a more cooperative environment for the restructuring process.

(e) What Impediments May Exist to Proceedings Taking Place

31. Potential challenges include the recognition of UK proceedings in non-EU jurisdictions post-Brexit, differing national insolvency laws and potential resistance from local creditors. These are illustrated in challenges noted in *Rubin v Eurofinance SA* concerning cross-border enforcement.³
32. These challenges stem from legal, procedural and practical considerations inherent in managing multinational insolvency cases. Understanding these impediments is crucial to navigating them effectively and ensuring the success of the restructuring process.

³ *Rubin and Another v Eurofinance SA and Others*, Supreme Court of the United Kingdom, October 24, 2012, [2012] UKSC 46, paras. 101-120.

Legal and Jurisdictional Challenges

33. **Jurisdictional Disputes:** determining the center of main interests (COMI) is crucial, as it influences where the primary proceedings should be initiated. Disputes over the COMI can arise, particularly in cases like yours where the operational presence and administrative management of the company are spread across multiple countries. For Efwon, which has significant operations potentially in the Netherlands, Romania, and the UK, and plans to move to Malaysia, we should expect the establishment of a clear COMI to be contentious and plan accordingly.
34. **Recognition of Proceedings:** non-recognition of the main insolvency proceedings by other jurisdictions where the debtor has assets or operations can severely impede the restructuring process. This is particularly relevant in countries that have not adopted the UNCITRAL Model Law on Cross-Border Insolvency or are not members of the European Union, which may lead to parallel proceedings and conflicting judgments.
35. **Local Creditor Opposition:** local creditors may oppose foreign main proceedings if they believe their rights are being diminished or that the distribution under foreign law is less favorable than under local insolvency regimes. Such opposition can manifest in legal challenges that delay the proceedings.

Procedural and Practical Challenges

36. **Complexity of Debt Structures:** Efwon's financing arrangements may involve multiple layers of debt with varying degrees of security and terms, governed by different legal systems. This complexity makes it difficult to formulate a universally acceptable restructuring plan, potentially complicating negotiations and aggravating agreement among creditors.
37. **Differing Insolvency Laws:** variations in insolvency laws across jurisdictions can lead to differing treatments of similar creditor classes, creating uncertainty and potential inequity in the treatment of stakeholders. This discrepancy can cause delays and complicate the enforcement of the restructuring plan.
38. **Cultural and Language Barriers:** cross-border insolvencies often involve navigating different languages and business cultures, which can impact negotiations, hamper the understanding of legal rights, and delay the execution of insolvency procedures. Misunderstandings or miscommunications can impede consensus-building and prolong the restructuring process.

Strategic and Financial Challenges

39. **Operational Disruptions:** insolvency proceedings, particularly if perceived as hostile or poorly managed, can disrupt ongoing business operations. Loss of key personnel, supplier relationships, or customer trust during the process can diminish the value of the debtor's estate, complicating recovery for all parties.

40. **Asset Valuation and Disposal Issues:** valuing and disposing of assets across different jurisdictions can be fraught with challenges due to varying market conditions and legal restrictions on asset transfers. These issues can delay the restructuring process and affect the overall recovery for creditors.
41. **Funding of Proceedings:** securing adequate funding to continue operations during the insolvency process and to cover the costs of the proceedings is a significant challenge. This is especially critical in cross-border scenarios such as this, where legal and administrative costs can escalate quickly.
42. In conclusion, navigating these potential impediments requires a well-coordinated strategy such as the one I propose below, which includes early engagement with key stakeholders, the selection of the most appropriate jurisdiction for initiating proceedings, and the effective use of international insolvency cooperation mechanisms. Additionally, employing experienced legal and financial advisors who are familiar with the intricacies of international insolvency law is essential. These measures can help mitigate the risks associated with cross-border restructuring and enhance the likelihood of a successful resolution for you.

(f) What Advantages / Disadvantages May Exist in Relation to Proceedings Being Organised in the Way You Propose

43. The advantages include the predictability of UK law and a high degree of creditor trust. Disadvantages might be higher costs and perceived foreign dominance in local operations, potentially leading to political or social resistance.
44. To navigate the insolvency or restructuring process for Efwon Investments Inc. effectively, it is critical to assess the advantages and disadvantages of organizing proceedings under the UK's Corporate Insolvency and Governance Act 2020, especially using the new restructuring plan. This plan allows a company, with the approval of the court, to bind all creditors to a restructuring plan, even those that may dissent, provided certain conditions are met. This strategy can be pivotal given your cross-border operations and Efwon's financial complexities.

Additional Advantages of Organizing Proceedings in the UK

45. **Binding Dissenting Creditors:** as noted above, the restructuring plan can bind all classes of creditors, including those voting against the proposal, provided it meets the condition of not leaving any creditor worse off than in liquidation. This feature is crucial in effectively restructuring Efwon, which may face resistance from diverse creditor groups spread across different jurisdictions.
46. **International Recognition:** the UK is renowned for its sophisticated legal framework and courts that are well-respected internationally. This reputation facilitates the broader recognition of UK

court decisions, including insolvency resolutions, under international laws such as the UNCITRAL Model Law on Cross-Border Insolvency, which many countries have adopted.

47. **Flexibility and Creativity in Solutions:** UK insolvency law, particularly the restructuring plan, offers considerable flexibility, allowing for innovative solutions tailored to complex corporate structures and financial situations. This can be beneficial for Efwon, which requires a bespoke approach given its unique challenges in the competitive Formula 1 industry. Being based in the birthplace of Formula 1, the British courts understand the industry well.
48. **Preventive Approach:** the preventive nature of the restructuring plan helps avoid the full impact of insolvency, preserving more value for stakeholders and maintaining business operations, which is less disruptive and can lead to a more stable post-restructuring environment.
49. **Legal Expertise and Precedents:** the UK's legal system has a wealth of expertise and a substantial body of precedent in handling large and complex insolvency cases, providing predictability and legal certainty in the restructuring process.

Disadvantages of Organizing Proceedings in the UK

50. **Cost Implications:** legal and administrative costs associated with restructuring under UK law can be significant, particularly for a multinational entity like Efwon, which needs to manage proceedings across multiple jurisdictions. The complexity and scale of the restructuring can lead to high legal fees and related costs.
51. **Perceived Foreign Dominance:** organizing proceedings in the UK might be viewed unfavorably in other countries where Efwon operates, particularly if there is a significant local stakeholder base that feels alienated or disadvantaged by a foreign court's dominance in the decision-making process.
52. **Complex Cross-Jurisdictional Issues:** while the UK restructuring plan is robust, implementing it across jurisdictions with different insolvency regimes can be complex and fraught with legal challenges. Non-recognition or conflicts with local insolvency laws could undermine the effectiveness of the restructuring.
53. **Potential Delays Due to Legal Challenges:** the innovative aspects of the restructuring plan, particularly around binding dissenting creditors, can lead to legal challenges that test untried aspects of the law. This could result in delays and uncertainties, impacting the overall timeline and the effectiveness of the restructuring.
54. **Risk of Non-cooperation from Foreign Creditors:** there is a risk that foreign creditors might not cooperate with a UK-based restructuring process, especially if they believe that their rights are being compromised. This could lead to legal disputes or creditors seeking remedies in their own jurisdictions, complicating the restructuring effort and delaying proceedings.

55. In conclusion, the decision to organize the restructuring proceedings for Efwon Investments Inc. under the UK's legal framework presents a mix of strategic advantages and potential risks. The ability to bind all creditors, the international respect for UK legal processes and the flexibility offered by the UK's restructuring plan are significant positives. However, these must be weighed against the potential high costs, the complexity of managing a cross-jurisdictional process, and the possible resistance from foreign stakeholders. Effective planning, stakeholder engagement, and expert legal guidance will be critical in navigating these challenges and leveraging the advantages to achieve a successful restructuring for Efwon. The solution outlined below caters for these challenges.

(g) The Factors That Will Allow You to Determine the Above

56. The factors include the legal structure of debt arrangements, the geographical distribution of assets, the composition of creditors and existing legal precedents such as Re Nortel GmbH, which discussed jurisdictional authority and creditor distributions.⁴

57. To enhance the proposal, further analysis of specific factors provides deeper insights and strengthens the strategic decision-making process. Here are some additional factors and considerations that could be elaborated on to refine and support our suggested actions:

Additional Factors to Consider

58. **Financial Analysis and Forecasting:** detailed financial projections, including comprehensive cash flow forecasts, profitability analyses and scenarios under different restructuring options would demonstrate the financial outcomes expected from the UK restructuring plan.

59. **Liquidity Assessment:** the company's short-term liquidity requirements should be evaluated to ensure operations can be maintained throughout the restructuring process. This highlights the necessity of the chosen approach for maintaining business continuity.

60. **Stakeholder Analysis:** the creditor composition and their preferences should be ascertained by performing a detailed analysis of the creditor base, including secured vs. unsecured creditors, and their geographical distribution. Understanding their legal rights and likely responses to the UK restructuring plan can help tailor negotiations and communications strategies.

61. **Employee and Trade Union Impact:** consideration should be given to the impact of restructuring on employees. I recommend engaging with trade unions early in the process. This will help anticipate potential opposition and plan mitigation strategies to maintain workforce stability and support.

⁴ Re Nortel Networks UK Ltd and related companies, High Court of Justice (Chancery Division), 2013, [2013] EWHC 718 (Ch), paras. 58-76.

62. **Regulatory Compliance and Legal Risks:** an assessment of the regulatory implications in the key jurisdictions where Efwon operates is required, paying particular attention to any specific compliance issues that might arise from restructuring under UK law.
63. **Potential Legal Challenges:** it is important to identify possible legal challenges from creditors or other stakeholders and plan preemptive legal strategies to address these challenges effectively.
64. **Cross-border Legal Synergies and Conflicts:** I recommend undertaking an analysis of the compatibility of UK restructuring mechanisms with the insolvency laws of other significant jurisdictions in which Efwon has operations. This can help in foreseeing any legal conflicts and enable us to plan accordingly. (This analysis is provided as a separate item in the Appendix – see *Comparative Analysis of Insolvency Proceedings*.)
65. **International Treaties and Agreements:** it is important to review relevant international treaties and agreements that might influence the recognition and enforcement of the UK restructuring plan, such as bilateral agreements that affect commercial and insolvency law.
66. **Market and Industry Trends:** we should consider the specific trends and challenges in the Formula 1 racing industry, including market dynamics, competitive pressures and economic factors, all of which may impact the restructuring outcome.
67. **Impact on Brand and Reputation:** reputational management is more important today than ever before, given how each individual now has the power to be a CNN news broadcaster via their handheld electronic device. This means every touchpoint with a consumer, supplier or creditor poses a risk to reputation and therefore brand. Consequently, we must evaluate how the restructuring process might affect Efwon's brand and your personal reputation among fans, sponsors and partners, and plan strategies to mitigate any negative perceptions. In this way, we maintain commercial relationships, your market position and your personal standing on the international stage.
68. **Technological and Operational Considerations:** the opportunity to identify opportunities for operational improvements and efficiencies that can be realized through the restructuring process, such as optimizing supply chain management and other technological upgrades, should not be missed.
69. This will include digital transformation, where we consider the role of digital technologies in improving business processes and customer engagement, which will be integral to the restructured business model.
70. In conclusion, by incorporating these additional factors into the proposal, the recommendation for proceeding with the restructuring under the UK legal framework can be presented with a more robust justification. This comprehensive approach not only addresses financial and legal aspects, it also considers operational, market and human factors, ensuring that the restructuring strategy is well-rounded and aligned with both the company's long-term strategic goals and immediate

operational needs, as well as remaining true to your overriding objective of joining the "proper, respectful," international jetset. This holistic view significantly strengthens this proposal, making it increasingly compelling to stakeholders and even more likely to achieve the desired outcomes for you and for Efwon Investments Inc.

(h) Any Further Facts or Information That May Be Needed to Answer the Questions / Solve the Situation

71. Additional details needed include exact locations of significant assets, a detailed list of creditors and their jurisdictions, and any existing legal agreements that could affect the restructuring efforts.
72. Below I highlight eight subject areas broken down into 15 points where additional data and insights would be beneficial:
73. **Detailed Asset and Liability Assessment:** a complete asset inventory, including a comprehensive list and valuation of all assets, encompassing critical intangible assets like brand value and intellectual property, especially as they pertain to Efwon's operations in the competitive Formula 1 arena.
74. **Liability Ledger:** a detailed documentation of all liabilities, categorized by type, seniority, and jurisdiction. This should include contingent liabilities and off-balance-sheet items that might impact the restructuring.
75. **Operational Data:** this should include performance metrics providing detailed performance data of all operational segments, identifying areas of strength and weakness. This can help pinpoint operational efficiencies or restructuring needs during the proceedings.
76. **Supply Chain and Contractual Obligations:** this should include full details on supply chain dependencies and terms of key contractual agreements, including any potential penalties for breach or non-performance that might arise during restructuring.
77. **Credit Arrangements and Financing Agreements:** namely the terms of existing debt instruments, noting the exact terms of all credit arrangements, including covenants, security agreements, and conditions of default. This is crucial for negotiating with creditors and understanding the implications of our restructuring strategies.
78. **Intercreditor Agreements:** this includes information on any intercreditor agreements that might dictate the order of payout or procedures in the event of a restructuring or insolvency.
79. **Stakeholder Information:** this includes stakeholder mapping, where we identify and analyze all stakeholders, including investors, creditors, suppliers, customers, and employees, in order to understand their interests, influence, and potential reactions to our restructuring plans.

80. Employee Information: all details of employment terms, pension liabilities, and other employee-related obligations must be understood. Employee relations are often crucial in restructuring and can impact both operational continuity and public perception.
81. **Legal and Regulatory Compliance:** information regarding any current legal disputes (aside from those brought by the drivers), or potential litigation risks which could affect the restructuring.
82. Regulatory Compliance: a detailed review of compliance with relevant regulatory requirements, particularly those that could impact restructuring proceedings or result in significant liabilities.
83. **Market and Competitive Landscape Analysis:** this should include insights into market trends, competitive dynamics and economic factors that could influence the restructuring outcome.
84. Competitor Benchmarking: an analysis of how competitors have managed similar situations or used restructuring to improve their market position.
85. **Risk Assessment and Scenario Planning:** here we would develop a risk matrix that outlines potential risks associated with the restructuring, including financial, operational, and reputational risks.
86. Scenario Analysis: this entails the creation of various scenarios based on different restructuring approaches, so we can understand the range of potential outcomes and prepare contingency plans.
87. **Technological Infrastructure:** I recommend a review of the group's IT and digital assets, assessing the current state affairs and understanding how these could be leveraged or updated both during and after restructuring.
88. By gathering and analyzing these detailed data points, the restructuring team can better tailor their approach to Efwon's specific circumstances, anticipate challenges and design more effective solutions. This comprehensive preparation will help ensure that the restructuring plan is robust, feasible and acceptable to all stakeholders, thus maximizing the chances of a successful outcome.

(i) Where You Envisage the Application of the European Insolvency Regulation and/or UNCITRAL Model Law and/or Other International Instruments in Achieving This

89. The application of the European Insolvency Regulation would primarily involve determining the center of main interests (COMI) which dictates jurisdiction, as discussed in *Interedil Srl (in liquidation) v Fallimento Interedil Srl*.⁵

⁵ *Interedil Srl (in liquidation) v Fallimento Interedil Srl and Others*, Court of Justice of the European Union, October 20, 2011, Case C-396/09, [2011] EUECJ C-396/09, paras 42-48.

Strategic Application of the European Insolvency Regulation (EIR)

90. Determining the Center of Main Interests (COMI): the UK is identified as Efwon's COMI based on the centralized administrative functions and decision-making processes located in London. This is supported by the precedent set in *Re Eurofood IFSC Ltd (C-341/04)*, where the European Court of Justice emphasized the importance of administrative management in determining COMI.⁶
91. Leveraging Secondary Proceedings: secondary proceedings will be initiated in Romania, where Efwon has significant operational facilities. This approach follows the framework used in *Re Nortel Networks SA (2015)*, where secondary proceedings in various EU jurisdictions were coordinated with the main proceedings to manage local assets and creditor claims efficiently.⁷
92. Enhanced Coordination Mechanisms: coordination among EU member state courts will be facilitated through regular updates and shared case management platforms, as was effectively implemented in *Re Lehman Brothers International (Europe)*, ensuring coherent and synchronized handling of Efwon's restructuring across the EU.⁸

Strategic Application of the UNCITRAL Model Law on Cross-Border Insolvency

93. Recognition of Foreign Proceedings: the UK restructuring proceedings will be submitted for recognition in the United States, where Efwon has considerable business interests. The successful recognition of *Re ABC Learning Centres Ltd* by the U.S. courts underlines the feasibility and benefits of this approach, such as facilitating asset protection and creditor coordination.⁹
94. Cross-border Relief Mechanisms: following recognition, we will seek interim relief measures including staying proceedings against Efwon and empowering the UK administrator to manage U.S.-based assets, similar to measures granted in *Re Qimonda AG*, where the U.S. court provided extensive cooperation to the German administrator.¹⁰

⁶ *Re Eurofood IFSC Ltd (C-341/04)*, Court of Justice of the European Union, 2006, ECLI:EU:C:2006:262. This citation references the judgment from the Court of Justice of the European Union on the factors relevant to determining the COMI, particularly focusing on administrative management.

⁷ *Re Nortel Networks SA and related companies*, High Court of Justice, Chancery Division, Companies Court, London, 2015, [2015] EWHC 2270 (Ch). This citation refers to the coordination of secondary proceedings across EU member states, underlining the practical application of the EIR in managing cross-border asset and creditor issues.

⁸ *Re Lehman Brothers International (Europe) [In Administration]*, High Court of Justice, Chancery Division, 2008, [2008] EWHC 2997 (Ch). This citation refers to the proceedings involving Lehman Brothers in the UK, which highlighted significant aspects of cross-border insolvency practice, particularly in terms of applying the European Insolvency Regulation and coordinating with insolvency proceedings in other jurisdictions. The case demonstrated effective judicial cooperation and the use of protocols to streamline and synchronize insolvency proceedings across different legal systems, particularly between the UK and the US.

⁹ *Re ABC Learning Centres Ltd*, Federal Court of Australia, 2010, [2010] FCA 1309. This case demonstrates the Australian court's recognition of foreign insolvency proceedings under the UNCITRAL Model Law, providing a framework for international cooperation.

¹⁰ *Re Qimonda AG Bankruptcy Litigation*, United States Bankruptcy Court, Eastern District of Virginia, Richmond Division, 2009, 433 B.R. 547. This citation details the U.S. court's decision to grant relief measures under the Model Law, supporting the administration of foreign insolvency proceedings.

95. Facilitating Cooperative Communications Between Courts: we propose a model similar to that used in the Re Nortel Networks Corporation case, where courts in the U.S. and Canada held joint hearings to resolve issues collaboratively, enhancing the efficiency and consistency of cross-border insolvency resolutions.¹¹

Integration of Additional International Instruments and Best Practices

96. Bilateral Agreements: the UK, United States, Romania and Singapore have adopted the UNCITRAL Model Law, while Indonesia has its own set of rules governing insolvency which are primarily contained in Law No. 37 of 2004 regarding Bankruptcy and Suspension of Debt Payment Obligations.¹² This law does provide for some aspects of recognizing foreign insolvency practitioners and proceedings but does so without the comprehensive framework or procedural ease that the UNCITRAL Model Law offers. This may lead to inconsistencies and introduces an element of unpredictability in this case.
97. Adherence to International Best Practices: the restructuring strategy will align with the guidelines from the International Insolvency Institute, which recommend proactive stakeholder engagement and transparent communication, as highlighted in the successful restructuring of Re Parmalat SpA (2008), where extensive international creditor coordination was critical.¹³
98. Case Studies and Precedents: the restructuring plan will incorporate lessons from the Re General Motors Corp, where a swift and structured pre-packaged bankruptcy filing in conjunction with international legal cooperation facilitated the company's rapid emergence from bankruptcy.¹⁴

(j) In Particular, How the Provisions of These Texts May Assist or Impede the Strategy You Propose to Implement

99. Provisions that facilitate cooperation and recognition across borders will assist, while differences in how insolvency is viewed (liquidation vs. restructuring) may impede efforts. The Model Law's flexibility demonstrated in Re ABC Learning Centres Ltd supports complex cross-border

¹¹ In the Matter of the Cross-Border Insolvency of Nortel Networks Corporation et al., United States Bankruptcy Court for the District of Delaware, Jointly Administered under Case No. 09-10138(KG), 2009. This reference illustrates the use of joint court hearings between the U.S. and Canada, facilitating coordinated decision-making in complex multinational insolvency scenarios.

¹² Indonesia, Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, Republic of Indonesia, 2004.

¹³ Re Parmalat SpA, United States Bankruptcy Court, Southern District of New York, 2008, Case No. 04-10116 (SMB). This case provides an example of extensive international creditor coordination and the effective use of the UNCITRAL Model Law in a global restructuring scenario.

¹⁴ In re General Motors Corp., United States Bankruptcy Court for the Southern District of New York, 2009, Case No. 09-50026 (REG). This citation outlines the procedures and impacts of a pre-packaged bankruptcy filing, offering insights into the strategies used in one of the largest restructurings in U.S. history.

restructuring.¹⁵ Below we highlight how the provisions assist the strategy, where they may pose impediments to it and suggest potential enhancement to mitigate these risks.

How Provisions Assist the Restructuring Strategy

100. The UNCITRAL Model Law facilitates the recognition of foreign insolvency proceedings and grants relief that can help protect the debtor's assets located in different countries. For Efwon, which likely has assets and operations not just in the countries cited but spread globally, this recognition is crucial for preventing piecemeal liquidation of assets. It allows for a coordinated restructuring process. An example of this is seen in the case of *Re ABC Learning Centres Ltd*, where the Australian proceedings were recognized in the US, allowing a unified approach to asset management and creditor negotiations.¹⁶
101. EIR stipulates that upon opening insolvency proceedings in one EU member state, automatic stay provisions prevent the commencement or continuation of other judicial processes against the debtor in all other member states. This would assist Efwon in stabilizing its situation across Europe, preventing disruptive actions by individual creditors, and ensuring a collective approach to its financial recovery.
102. Cooperation and Communication: both the EIR and UNCITRAL Model Law emphasize the importance of cooperation between courts and insolvency practitioners across borders. This facilitates the sharing of information, joint administration of proceedings and even concurrent hearings. Such coordination is vital for Efwon to ensure that decisions in one jurisdiction are informed by and aligned with proceedings in other jurisdictions, as demonstrated effectively in the *Re Nortel Networks Corporation* case.¹⁷

Potential Impediments from These Provisions

103. Complexity of COMI Determination: under EIR the requirement to establish the Centre of Main Interests (COMI) can be complex, particularly for a multinational corporation like Efwon with a dispersed geographical footprint. Disputes over the COMI can lead to delays and jurisdictional conflicts, as seen in the *Interedil Srl* case, complicating the initiation of the primary insolvency proceedings.¹⁸

¹⁵ *Re ABC Learning Centres Ltd*, Federal Court of Australia, 2010, [2010] FCA 1309, paras. 20-33.

¹⁶ *Ibid.*

¹⁷ *Nortel Networks Corporation et al.*, United States Bankruptcy Court for the District of Delaware, Jointly Administered under Case No. 09-10138(KG), 2009.

¹⁸ *Interedil Srl (in liquidation) v Fallimento Interedil Srl and Others*, case C-396/09, Court of Justice of the European Union, October 20, 2011, ECLI:EU:C:2011:671. This case is significant for illustrating the criteria and considerations involved in determining the COMI under the European Insolvency Regulation, which is crucial for establishing jurisdiction in cross-border insolvency proceedings within the European Union.

104. Differing National Laws: while the UNCITRAL Model Law facilitates recognition, it does not harmonize substantive insolvency laws across countries. This means Efwon might face differing insolvency outcomes depending on local laws, especially in non-EU countries that may have conflicting priorities or more creditor-friendly approaches.
105. Reluctance of Local Courts: there can be a reluctance or refusal by local courts to cede control to a foreign main proceeding or to recognize foreign court rulings, particularly if there is a perceived adverse impact on local creditors. This can impede the effective implementation of a globally coordinated restructuring strategy.
106. Political and Economic Factors: in jurisdictions with unstable political or economic environments, there might be additional risks and challenges in enforcing international insolvency provisions. External pressures or local government interventions could affect the predictability and effectiveness of insolvency proceedings.

Enhancing the Strategy

107. To mitigate these impediments, Efwon could adopt several approaches:
108. Proactive Legal Planning: engage in early and proactive jurisdictional analysis to anticipate and address potential COMI disputes.
109. Stakeholder Engagement: implement a comprehensive communication and engagement strategy with all stakeholders, including local creditors, to ensure their concerns are addressed and to garner support for the restructuring plan.
110. Expert Legal Representation: employ experienced legal teams in key jurisdictions who are familiar with local insolvency laws and can navigate the complexities of cross-border recognition and enforcement.
111. By carefully considering how these international insolvency provisions can both assist and potentially impede the restructuring strategy, Efwon can prepare more effectively to leverage the advantages while mitigating the risks associated with their multinational restructuring effort.

(k) Should Efwon (with Hindsight) Have Structured Through England Rather Than the Netherlands?

112. Structuring through England would have provided greater predictability and access to innovative restructuring tools, as seen in the use of the scheme of arrangement in *Re Apcoa Parking Holdings GmbH*.¹⁹ Below is an analysis of the structuring decision.

¹⁹ *Re Apcoa Parking (UK) Ltd*, High Court of Justice (Chancery Division), 2014, [2014] EWHC 3849 (Ch), paras. 67-85. In this case, the High Court of Justice provided approval for a scheme of arrangement for the Apcoa Parking group, which operates across several European countries. This scheme was particularly noteworthy because it involved changing the governing law of its financial instruments from German to English law, facilitating the restructuring process under the more flexible English legal framework. This citation highlights a strategic use of English law to

Analyzing the Structuring Decision: England versus the Netherlands

Advantages of Structuring Through England

113. **Renowned Legal Framework:** the UK is globally recognized for its sophisticated and creditor-friendly insolvency regime, providing a stable and predictable environment for managing complex insolvency cases. This is supported by specialized insolvency courts and established case law, which can offer greater assurance to investors and creditors.
114. **Innovative Restructuring Tools:** the introduction of new restructuring tools in the UK, particularly the restructuring plan under the Corporate Insolvency and Governance Act 2020, which can bind dissenting creditor classes, offers significant flexibility. This is akin to the Chapter 11 proceedings in the U.S., allowing for a comprehensive restructuring approach that could better address multinational financial complexities like those faced by Efwon.
115. **Cross-border Insolvency Recognition:** the UK's implementation of the UNCITRAL Model Law on Cross-Border Insolvency promotes easier recognition of its insolvency proceedings internationally, simplifying the management of global assets and creditor relations.

Advantages of Structuring Through the Netherlands Initially

116. While the UK offers robust insolvency tools, structuring through the Netherlands may have provided specific benefits:
117. **Favorable Corporate Environment:** the Netherlands offers a business-friendly corporate environment with significant tax advantages and a strategic geographic location within Europe. This setup can be attractive for companies looking to maintain a strong EU presence.
118. **EU Jurisdictional Benefits:** being part of the EU, the Netherlands provides certain jurisdictional benefits under the European Insolvency Regulation (EIR), which facilitates easier coordination of insolvency proceedings across EU member states. This is particularly valuable for a company like Efwon, which may have significant operations and assets spread across Europe.
119. **WHOA Framework for Restructuring:** the Dutch legal system includes the WHOA (Wet Homologatie Onderhands Akkoord), which allows for a court-sanctioned restructuring plan even without formal insolvency proceedings, similar to the UK scheme but within a distinctly EU context.

manage complex cross-jurisdictional restructuring, highly relevant for Efwon Investments Inc. as it navigates its own restructuring across multiple legal systems.

Disadvantages of Not Structuring Through England Initially

120. **Missed Early Opportunities:** by not initially structuring through England, Efwon potentially missed leveraging early the sophisticated legal tools available in the UK, which might have provided a more streamlined approach to restructuring during financial distress.
121. **Complexity in Changing Jurisdiction:** should Efwon attempt to shift its COMI to the UK as we suggest, it may face skepticism from courts and creditors, questioning the motive behind such a move—potentially leading to legal challenges and delays.
122. **Potential Jurisdictional Disputes Post-Brexit:** post-Brexit changes mean that the automatic recognition of UK proceedings under the EIR across the EU is no longer straightforward, potentially complicating cross-border insolvency proceedings for Efwon.
123. In conclusion, with the benefit of hindsight, while structuring through the Netherlands offered significant corporate and EU-specific benefits, the robust insolvency and restructuring frameworks available in the UK would have provided Efwon with more powerful tools readily available to manage its financial complexities effectively. Given the global scale of Efwon’s operations and the potential for financial distress impacting multiple jurisdictions, the strategic flexibility offered by the UK’s legal system, particularly for handling complex, cross-border insolvencies, might have been more advantageous. Moving forward, Efwon could benefit from considering restructuring initiatives that leverage the strengths of the English system, particularly in managing international operations and creditor negotiations.

(I) What Will the Outcome for Each of the Various Stakeholders Be, Are They Likely to Accept the Same and, in Case They Will Not, Can They Be Forced to Accept Them?

124. Stakeholder outcomes will depend on the restructuring plan’s acceptance. Stakeholders might resist if their recovery is lower than expected. English law allows cramming down dissenting creditors under certain conditions, providing a framework as seen in *Re Lehman Brothers International*.²⁰
125. To further elaborate on the outcome for each of the various stakeholders in Efwon Investments Inc.’s restructuring, as well as their likely acceptance and the mechanisms for enforcing acceptance if needed, we need to comprehensively analyze the stakeholder landscape. This includes understanding the implications of the restructuring plan under UK law, particularly how it affects different stakeholder groups, and the legal tools available to manage dissent or non-acceptance. We tackle this below.

Stakeholder Outcomes, Acceptance and Enforcement

²⁰ *Re Lehman Brothers International (Europe)*, High Court of Justice (Chancery Division), 2012, [2012] EWHC 2997 (Ch), paras. 15-38.

126. **Secured Creditors:** typically retain rights to their collateral. The restructuring plan may renegotiate terms, but secured creditors are likely to recover better compared to unsecured creditors.
127. Acceptance: they are likely to accept the plan if it respects their secured status and offers a clear path to recovery that is better than in liquidation.
128. Enforcement: under the UK restructuring plan, if necessary, the court can approve a plan that binds these creditors, provided it does not impair their expected recovery under a liquidation scenario.
129. **Unsecured Creditors:** may face significant haircuts on their claims depending on Efwon's financial situation. The plan might offer them a proportional share of the remaining assets or potential equity in the restructured company.
130. Acceptance: their acceptance might be challenging if the cuts are deep; however, the prospect of receiving more through the restructuring plan than in liquidation might be a compelling factor.
131. Enforcement: the UK's restructuring plan can be confirmed by the court even if not all classes of creditors agree, using a "cram-down" provision, provided that no creditor is worse off than in liquidation.
132. **Employees:** efforts would typically be made to preserve employment to maintain operational stability. However, restructuring may lead to job reductions or changes in employment terms.
133. Acceptance: generally, employees may accept the plan if it secures the long-term viability of the company and their jobs. Communication and transparency are crucial here.
134. Enforcement: employment relations are more sensitive and less about legal enforcement. Maintaining a cooperative approach is key, though legal mechanisms for reducing workforce costs can be applied if absolutely necessary.
135. **Equity Holders:** often see their holdings diluted or wiped out in restructuring scenarios, especially if the company is under severe financial distress.
136. Acceptance: they are likely to resist the restructuring plan, especially if it significantly dilutes their shares.
137. Enforcement: equity holders have fewer protections under insolvency law, and their acceptance is often not required for the plan to proceed if it is deemed that they would receive nothing in a liquidation scenario.

138. **Trade Creditors and Suppliers:** may receive a portion of their claims, similar to unsecured creditors, but the company may negotiate to maintain critical supplier relationships.
139. **Acceptance:** if the restructuring ensures continued business relationships and potential for future revenue, acceptance is more likely.
140. **Enforcement:** as with unsecured creditors, trade creditors can be bound by the terms of the restructuring plan approved by the court.

Strategic Considerations for Managing Non-Acceptance

141. **Negotiation and Mediation:** before forcing acceptance through legal means, Efwon should engage in negotiation and mediation efforts to reach a consensus, which can prevent legal challenges and promote a cooperative recovery environment.
142. **Transparent Communication:** keeping all stakeholders informed about the reasons for the restructuring decisions and the expected outcomes can facilitate acceptance.
143. **Legal Safeguards:** where stakeholders do not accept the restructuring plan, it is critical to ensure that the plan is fair and complies with the legal provisions that protect stakeholder interests, particularly around ensuring that no party is worse off than they would be under liquidation.
144. By addressing these elements, Efwon can effectively manage the complex stakeholder dynamics involved in its restructuring process, aiming for maximum consensus while being prepared to legally enforce the plan where necessary.

Strategic Response to Insolvency Issues – core recommendations

Restructuring Initiatives

145. A preventive restructuring process should be initiated immediately to renegotiate debt terms and optimize operations. Considering the complexities of international insolvency laws, the potential for restructuring through English courts should be evaluated for its strategic benefits in cross-border insolvency scenarios.

Engagement with Creditors

146. Proactive engagement with creditors is essential to renegotiate debt terms and prevent aggressive legal actions. Transparency in communication and demonstrating a viable plan for debt restructuring will be crucial.

Securing the Deal with KuasaNas

Negotiation Strategy

147. Negotiations with KuasaNas should be accelerated to finalize the sponsorship agreement, which is contingent upon the relocation of the team's operations to Malaysia and a majority stake acquisition by KuasaNas. The KuasaNas deal is essential not only for immediate financial relief but also for the long-term sustainability of the venture.

Risk Management and Mitigation

Legal Strategy

148. A robust legal strategy should be developed to address the claims from drivers effectively. This includes negotiating settlements or preparing for a vigorous legal defense to minimize potential liabilities.

Financial Risk Controls

149. Financial risk controls should be strengthened to monitor and manage the financial health of Efwon Investments and its subsidiaries actively. This includes implementing stringent budget controls and developing a contingency plan, should the sponsorship deal face delays or cancellation.

Further Recommendations

Immediate Actions

150. **Finalize negotiations with KuasaNas** to secure the sponsorship deal and ensure immediate financial stability of Efwon Investments Inc. Here are the detailed steps which guide the negotiation process.
151. **Preparation and Background Research:** to understand KuasaNas' objectives we would conduct thorough research to identify KuasaNas' business goals, its market strategies, and its reasons for wanting to invest in a Formula 1 team. This valuable information enables us to tailor the negotiation to align Efwon Investments' offerings with KuasaNas' strategic objectives.
152. **Financial and Legal Preparation:** we review all financial projections and legal stipulations, prepare a detailed presentation of the financial health and future profitability of the F1 team, and in so doing demonstrate financial diligence and transparency which builds trust and confidence in the viability of their investment in the team.

153. **Strategic Negotiation Tactics:** these emphasize the strategic benefits of sponsorship by highlighting the global exposure, branding opportunities, and technological partnerships that come with sponsoring a Formula 1 team. This ensures KuasaNas appreciates the value addition beyond mere financial investment, seeing potential in brand enhancement and market expansion.
154. **Address Potential Concerns:** we anticipate and prepare for any potential concerns KuasaNas might have, such as financial risks or operational challenges, and proactively address these with viable solutions to help expedite their decision-making process.
155. **Incentive and Concession Strategy:** we offer incentive benefits such as exclusive marketing rights at events, custom content creation and co-branded merchandise. These incentives make the sponsorship deal more attractive to KuasaNas, enhancing the perceived value of their investment.
156. **Flexible Deal Structuring:** Efwon Investments should be prepared to offer flexible terms in the deal structure, such as phased investments or performance-based increments. This flexibility in deal structuring can alleviate concerns about large upfront investments and align interests towards mutual success.
157. **Leverage Relocation and Stake Acquisition:** here we clearly outline the benefits of relocating the team operations to Malaysia, such as lower operational costs, strategic location advantages and closer collaboration. By demonstrating how relocation contributes to operational efficiency and market presence, we persuade KuasaNas to finalize the deal.
158. **Stake Acquisition Strategy:** this discusses the long-term benefits and strategic control KuasaNas gains through a majority stake acquisition, ensuring KuasaNas understands the control and decision-making power they will have, aligning it with their long-term corporate strategies.
159. **Finalizing the Deal:** to finalize the deal we seek high-level engagement which involves senior executives from both sides in the final stages of negotiation to underscore the importance of the partnership. Engagement from top management can help iron out any remaining issues and ensure the closure of the deal.
160. **Legal and Compliance Checks:** these are undertaken to ensure all legal and regulatory requirements are met, and to conduct a final review of the contract with legal teams from both sides. This prevents future disputes and solidifies the agreement.
161. **Communication and Follow-Up:** we maintain open and transparent communication channels throughout the negotiation process to ensure both parties are aligned and any adjustments to the deal can be made promptly.

162. **Post-Deal Strategy:** a post-deal integration and engagement strategy to keep KuasaNas actively involved and satisfied with their investment ensures the long-term success of the sponsorship and Efwon's ongoing stability.
163. By following this comprehensive approach, Efwon Investments can effectively finalize negotiations with KuasaNas, securing not just a sponsorship deal but a strategic partnership that enhances not only the financial stability of Efwon Investments, but also its growth prospects and ultimately its value.
164. **Begin restructuring proceedings through the courts of England & Wales:** the English courts are preferred because the English legal system is equipped with a robust framework for dealing with insolvency and restructuring. The Insolvency Act 1986, as amended by the Corporate Insolvency and Governance Act 2020, provides mechanisms such as administration, company voluntary arrangements (CVAs), and restructuring plans. For cross-border scenarios such as this, the UK has adopted the UNCITRAL Model Law on Cross-Border Insolvency, which facilitates cooperation between jurisdictions.
165. There are several strategic benefits of this approach. Firstly predictability, for England and Wales has long-established legal precedents and detailed statutory framework. This predictability is beneficial for companies and creditors to understand potential outcomes and plan accordingly.
166. Secondly flexibility, as the legal framework allows for tailored solutions, such as the restructuring plan introduced under the Corporate Insolvency and Governance Act 2020, which can bind creditors to a restructuring plan even if they vote against it, provided it meets certain conditions.
167. Thirdly recognition and enforcement, arising because English insolvency proceedings are widely recognized internationally, making it easier to enforce judgments across borders. This is particularly advantageous in managing the assets and liabilities of a company like Efwon Investments, which has operations and creditors in multiple countries.
168. Fourthly expertise in complex cases, given that the English courts have extensive experience in handling large and complex international insolvency cases. This expertise means that cases are managed efficiently and effectively, with a deep understanding of cross-border legal and financial issues.
169. Fifthly access to specialist courts such as the High Court in London, which has a specialist insolvency and companies court that deals exclusively with complex corporate insolvency matters. This specialization ensures that cases are heard by judges with specific expertise in insolvency law.
170. Sixthly Cross-Border Cooperation, as the English legal system's approach to cross-border insolvency is proactive and cooperative. The courts are known for their willingness to cooperate with courts in other jurisdictions to facilitate a coherent approach to multinational insolvency

cases, which will be crucial for Efwon Investments, as it needs to coordinate proceedings in multiple countries.

171. Finally, the jurisprudence and case law of the English courts set important precedents in cross-border insolvency, such as the landmark case of MG Rover, which can provide guidance and a framework for handling similar cases.²¹ These precedents can be particularly useful for navigating the complexities associated with multinational businesses facing insolvency.
172. There are of course some jurisdictional challenges in establishing jurisdiction in England for non-UK companies unless there is a significant connection to the UK, such as creditors or assets located within the jurisdiction. Given that the UK is the home of Formula 1, it is likely that these connections will exist. These challenges are addressed below.
173. When advocating for the case of Efwon Investments Inc. to be heard in the English courts, several compelling arguments can be put forward. These arguments emphasize the legal connection to the UK, the advantages of English legal precedents and systems, and the benefits to the stakeholders involved.
174. To establish jurisdiction in English courts for insolvency proceedings, it is crucial to demonstrate a significant connection to the UK.
175. This can include the presence of assets that Efwon Investments or its subsidiaries holds in the UK, serving as a basis for jurisdiction. Assets could include bank accounts, real estate, or investments managed within the UK.
176. The location of creditors is also important. If a substantial number of creditors are based in the UK, or if major financing agreements were governed by English law, this establishes a nexus that supports the jurisdiction claim.
177. Contracts entered by Efwon Investments or related entities that are governed by English law, including loans, sponsorships, or partnership agreements, strengthen the argument for English jurisdiction.
178. English insolvency law is known for its equitable treatment of creditors, which might appeal to a diverse group of stakeholders, ensuring that their rights are protected under a well-regulated system.
179. Utilizing the Cross-Border Insolvency Regulations 2006, which incorporate the UNCITRAL Model Law on Insolvency, the English courts can effectively manage the international aspects of the case. This regulatory framework facilitates cooperation with courts in other jurisdictions, which could be critical given Efwon Investments' global operations.

²¹ Ibid.

180. Furthermore, conducting proceedings in English, which is widely used in international business, can reduce translation costs and errors, streamline proceedings, and ensure clear communication among international stakeholders.
181. The English courts offer innovative mechanisms like schemes of arrangement or a restructuring plan that can bind dissenting creditors if the plan is fair and equitable. This can be particularly advantageous for Efwon Investments if there is a need to override minority creditor objections to implement a viable restructuring plan.
182. While there are cost implications of this strategy, as proceedings in English courts can be expensive, these are outweighed by the above benefits.
183. Therefore, restructuring through English courts offers several strategic benefits that can be crucial in managing the insolvency of a multinational enterprise like Efwon Investments Inc. The predictability, flexibility, and international recognition of English insolvency proceedings provide a solid foundation for effectively addressing complex cross-border insolvency issues.

Long-Term Strategies

184. To reduce dependency on a single sponsor and stabilize revenue streams, I recommend diversifying sponsorship.
185. To secure the long-term financial stability of Efwon Investments Inc and its Formula 1 racing venture, a diversified sponsorship portfolio is essential. The following proposal outlines a strategic approach to diversify the sponsorship sources, reducing dependency on any single sponsor and stabilizing revenue streams. This strategy is designed to appeal to a range of potential sponsors from various sectors and regions, leveraging the global appeal of Formula 1 racing.
186. First, we identify sectors that have a natural affinity with Formula 1 and those that are looking to expand their global reach or align with the values and visibility that the sport provides:
187. Technology and Innovation: companies in electronics, software development, and emerging technologies (like AI and IoT) can benefit from the high-tech nature of Formula 1.
188. Luxury Brands: high-end manufacturers in automotive, watches and fashion often seek association with the prestige of Formula 1 and have the prerequisite budget.
189. Energy and Sustainability: with the growing emphasis on sustainable practices, renewable energy companies and green tech firms could be potential sponsors.
190. Health and Fitness: brands focusing on sports equipment, health supplements and wellness products.

191. Financial Services: banks, insurance companies and fintech firms looking to enhance their international presence.
192. Telecommunications: as global communication is crucial, telecom companies can gain visibility and association with high-speed performance.
193. We suggest regional diversification of sponsorship, expanding the search for sponsors beyond traditional markets to include Asia-Pacific, leveraging growing markets like China, India, and Southeast Asia, where brands are seeking to build global recognition; the Middle East, to capitalize on the wealth and investment in sports and entertainment seen in countries like UAE and Saudi Arabia; South America and Africa - emerging markets with growing economies and increasing interest in global sports platforms.
194. We propose a multi-tier sponsorship model to accommodate different levels of investment and exposure. Title Sponsors are the major partners who get the highest visibility, including branding on the team name and main spaces on cars and uniforms; Secondary Sponsors are a significant yet smaller branding presence on cars, uniforms and other team materials; and Official Suppliers are the brands that provide essential services and products to the team, gaining visibility through endorsements and specific product placements.
195. These customized sponsorship packages meet the diverse marketing goals and the budgets of potential sponsors, who are divided into seven core areas: Brand Activation Opportunities are opportunities for sponsors to engage with fans through experiential marketing at races and digital campaigns; Exclusive Content Access provides sponsors with exclusive content for their marketing use, such as behind-the-scenes footage, team interviews and other exclusive content; VIP Hospitality offers premium race-day hospitality for sponsors to entertain clients and partners; Strategic Alliances and Partnerships are an opportunity for the team and its sponsors to work together for technological exchange and innovation; Research and Development Collaborations are partnerships with technology companies to enhance racing performance through advanced technologies, which can serve as a testbed for sponsor technologies; and Sustainability Initiatives are collaborations on environmental projects, such as carbon offsetting or sustainable logistics, to improve the team's green credentials.
196. To ensure this expansion of sponsorship support is successful, we coordinate an aggressive marketing and PR campaign to attract new sponsors. This includes success stories and case studies to highlight successful partnerships and their impact on the sponsors' brand recognition and sales, as well as targeted presentations and proposals directly to potential sponsors to showcase their potential ROI and our alignment with their brand values.
197. This campaign is closely monitored and the results input into a system for ongoing evaluation to ensure the campaign's effectiveness. This system consists of performance metrics to regularly review sponsorship outcomes in terms of media exposure, audience reach, and brand

engagement, and feedback loops to maintain open communication channels with sponsors for feedback and adjustments to maximize benefits for all parties.

198. By implementing this comprehensive strategy, Efwon Investments Inc. can attract a wider range of sponsors, ensuring a more stable and lucrative financial base for its Formula 1 racing team while enhancing the brand's global stature and appeal.
199. **Operational enhancements:** to enhance the operational efficiency and improve the performance of Efwon Investments Inc.'s Formula 1 team, both on the racetrack and financially, a focus on technological advancements and cost efficiencies is crucial. Here we propose a detailed plan for operational enhancements.
200. Starting with **technological advancements**, the lifeblood of any successful Formula 1 team, we recommend the introduction of advanced data analytics and machine learning, deployed via algorithms that optimize car performance by analyzing real-time data during races and testing. This leads to improved decision-making regarding car setup, race strategy and driver performance, leading to better race results and more points in the constructors' championship, thereby adding significant value to the team.
201. Aerodynamic enhancements are brought about via investment in wind tunnel testing and CFD (computational fluid dynamics) technology to enhance the aerodynamics of the race cars. This reduces drag and improves downforce, translating to faster lap times and better race outcomes.
202. Energy efficiency is improved by the development and implementation of hybrid power units and energy recovery systems (ERS) that maximize fuel efficiency and power output, resulting in a more efficient use of energy resources, reducing costs and boosting performance in compliance with F1 regulations.
203. Simulation technologies use advanced racing simulators for driver training and race setup optimization to enhance driver performance and vehicle setup without the high costs of physical testing.
204. Next we turn to **cost efficiencies**, beginning with supply chain optimization to streamline the use of parts and materials using just-in-time inventory systems, thereby reducing waste and storage costs, lowering overheads, reducing inventory costs and minimizing the risk of excess and obsolete stock.
205. Vertical integration addresses critical component manufacturing, either bringing it in-house or establishing close partnerships with key suppliers to reduce costs and improve supply reliability. This results in enhanced control over production, reduced lead times and cost savings from bulk purchases and negotiated rates.

206. We suggest standardization across components wherever possible to reduce manufacturing and maintenance costs, reduction in design and production expenses, simplified logistics and easier maintenance.
207. Technological partnerships with tech companies result in shared development costs and access to cutting-edge technologies, leading to financial savings on R&D and accelerated innovation cycles.
208. Operational restructuring is undertaken to streamline operations, adopting lean manufacturing principles to optimize production processes and eliminate waste, leading to more efficient operations, reduced costs and improved product quality.
209. Outsourcing non-core functions such as logistics, catering and some aspects of manufacturing enables the team to focus on core competencies like design, engineering and racing, reducing operational costs and increasing efficiency.
210. Embracing the principle of CANI (Continuous and Never-ending Improvement), a performance metrics system is implemented to establish a robust system to track the effectiveness of technological and operational changes. This continuous feedback allows for ongoing adjustments and improvements, ensuring that the team remains competitive and financially viable.
211. The implementation of an R&D feedback loop ensures communication between the racing team and its R&D division to ensure that insights from the track are quickly incorporated into vehicle development, leading to faster adaptation to racing conditions and more rapid integration of innovative solutions, thereby enhancing results and adding value to the team.
212. Implementing these technological advancements and operational efficiencies will not only boost the performance of the Formula 1 team but also enhance its financial sustainability by reducing costs and improving returns on investment.

Conclusion

- 213. The strategies recommended herein are designed to address the immediate challenges while setting a foundation for future growth and stability. Prompt, decisive action is required to navigate this critical period and position Efwon Investments for a successful future in Formula 1 racing, thereby enhancing your reputation worldwide.**

Appendices

Appendix A: Detailed Financial Forecasts and Budgets

Financial Forecast Table (All figures in USD millions)

Year	2024	2025	2026	2027	2028
Revenue					
Sponsorship Income	120	150	180	200	220
Broadcasting Rights	50	55	60	65	70
Merchandising	10	15	20	25	30
Total Revenue	180	220	260	290	320
Expenses					
Operational Costs	70	65	60	55	50
R&D	50	45	40	35	30
Marketing	20	25	30	35	40
Safety/Compliance	10	10	10	10	10
Total Expenses	150	145	140	135	130
Net Income	30	75	120	155	190

Assumptions

214. Sponsorship Income: reflects new deals and an increase due to the added value from the partnership with KuasaNas and diversification.
215. Broadcasting Rights: increases with team performance and viewer interest.
216. Merchandising: grows as brand visibility and team success attract more fans.
217. Operational Costs: decreases as efficiencies from new operational strategies take effect.
218. R&D: initial high costs decrease as major developments complete and focus shifts to refinement.
219. Marketing: increases to support expanding global presence and fan engagement.
220. Safety/Compliance: remains constant, reflecting ongoing commitments to meet standards.

Analysis

221. Revenue Growth: the steady increase in total revenue reflects successful marketing and the impact of new sponsorships and better race performances.

222. Expense Management: effective control over operational costs and strategic allocation to R&D and marketing are crucial for improving profitability.
223. Net Income: improvements in net income highlight the successful implementation of the recommended strategies and the operational efficiencies achieved.

Appendix B: Analysis of International Insolvency Proceedings

Introduction

224. Appendix B serves to guide Efwon Investments Inc. through the complexities of international insolvency law, pertinent to its restructuring efforts across multiple jurisdictions. The analysis leverages authoritative legal texts, landmark cases and current practice norms to propose strategic approaches for managing cross-border insolvency issues effectively.
225. Given our recommendation of the use of the courts of England and Wales, the relevant insolvency regulations are the UNCITRAL Model Law on Cross-Border Insolvency.
226. The legal framework of the Model Law provides a comprehensive set of procedural laws designed to facilitate the cooperation between courts and insolvency practitioners in cross-border insolvency cases. It emphasizes four main areas: access, recognition, relief and cooperation.
227. As discussed in *Collier on Bankruptcy* and exemplified by the proceedings in *In re ABC Learning Centres Ltd*,²² the Model Law aims to equip jurisdictions with the necessary framework to handle multinational insolvencies efficiently.
228. Application to Efwon: this framework will be essential in coordinating insolvency proceedings for Efwon across its operational territories, ensuring recognition and enforcement of orders across borders.
229. European Insolvency Regulation (EIR): this regulation applies to insolvency proceedings within the EU member states, focusing on jurisdictional determination, automatic recognition of proceedings, and secondary proceedings for assets located in different member states.
230. The case of *Interedil Srl v Fallimento Interedil Srl* provides a significant precedent on jurisdictional disputes and the interpretation of 'centre of main interests' (COMI).²³ Given Efwon's activities in the Netherlands and Romania, understanding EIR's implications is crucial for planning any EU-based insolvency strategies.
231. US Chapter 11 and Chapter 15: Chapter 11 of the US Bankruptcy Code allows for reorganization under the bankruptcy laws of the United States, which is particularly relevant for

²²Alan N. Resnick and Henry J. Sommer, eds., *Collier on Bankruptcy*, 16th ed., vol. 2, sec. 6.02[1], LexisNexis, 2023

²³*Interedil Srl (in liquidation) v Fallimento Interedil Srl and Others*, Court of Justice of the European Union, October 20, 2011, Case C-396/09, [2011] EUECJ C-396/09, paras 42-48.

corporate restructuring. Chapter 15 provides a mechanism for dealing with cross-border insolvency cases, facilitating cooperation with foreign courts and practitioners.

232. *Norton Bankruptcy Law and Practice* provides guidance on navigating these chapters, while *In re Qimonda AG Bankruptcy Litigation* illustrates the application of Chapter 15 in protecting US assets during foreign proceedings.²⁴ Efwon should consider the protections offered by these chapters, especially if its financial restructuring impacts its US-based operations or creditors.

233. Comparative Analysis of Insolvency Proceedings

234. **Jurisdictional Advantages:** this section compares the insolvency frameworks of the UK, US, Netherlands, Romania, Indonesia and Singapore, considering recovery rates, process efficiency and legal costs. The choice of jurisdiction can significantly affect the outcomes of insolvency proceedings, as demonstrated in the case of *In re Stanford International Bank*, where cross-jurisdictional cooperation facilitated the equitable distribution of assets.²⁵

Similarities Across Insolvency Regimes

235. **Protection of Creditor Rights:** all six jurisdictions have legal frameworks that protect creditor rights during insolvency proceedings, ensuring creditors can claim and potentially recover their dues.

236. **Corporate Restructuring Provisions:** the UK, US, Netherlands, Singapore and Indonesia offer structured mechanisms for corporate restructuring that allow businesses to continue operations while reorganizing their debts. Romania is also enhancing its restructuring provisions, albeit more gradually.

237. **Legal Framework for Cross-Border Insolvencies:** with the exception of Romania and Indonesia, the other countries have adopted or are influenced by the UNCITRAL Model Law on Cross-Border Insolvency. Indonesia has not formally adopted the Model Law, which affects its integration with global insolvency practices.

238. **Court Oversight:** each regime involves court proceedings in insolvency cases to some extent, ensuring that the process adheres to legal standards and operates under judicial oversight.

Differences Between Insolvency Regimes

239. **Efficiency and Duration of Procedures:** the UK and Singapore are noted for their efficient insolvency proceedings due to streamlined processes.

²⁴ William L. Norton Jr. and William L. Norton III, *Norton Bankruptcy Law and Practice* 3rd, vol. 2, sec. 47:5, Thomson Reuters, 2023.

²⁵ *In re Stanford International Bank, Ltd., et al.*, 424 F. App'x 338, United States Court of Appeals for the Fifth Circuit, 2011.

240. The US is efficient for large corporations but can be lengthy and complex, especially in Chapter 11 cases.
241. The Netherlands has improved efficiency with the introduction of WHOA.
242. Romania and Indonesia are generally less efficient, with bureaucratic processes and a slower pace in resolving insolvency cases.
243. **Recovery Rates:** the UK, US, Singapore and the Netherlands have high recovery rates due to strong legal protections for creditors and advanced restructuring frameworks.
244. Romania and Indonesia have lower recovery rates, reflecting less developed legal frameworks and economic factors influencing insolvency outcomes.
245. **Legal Costs:** the US and UK have high costs due to complex legal systems and the extensive use of legal counsel.
246. The Netherlands and Singapore have more moderate costs, benefiting from streamlined processes.
247. Romania and Indonesia are lower cost jurisdictions, which potentially is offset by less efficient systems and extended case durations.
248. **Approach to Corporate Restructuring:** the UK, US and Singapore favour business rescue, encouraging restructuring over liquidation.
249. The Netherlands has a similar focus with recent legal innovations like WHOA.
250. Romania and Indonesia remain more traditional, with a stronger focus on liquidation, although Indonesia has begun improving its restructuring provisions.
251. **Cultural and Judicial Outlook:** the UK, US, Singapore and the Netherlands all promote a rescue culture for businesses, emphasizing restructuring to preserve enterprise value.
252. Romania and Indonesia have historically been more inclined towards liquidation, with Indonesia slowly adapting its laws to support restructuring efforts.
253. Indonesia's insolvency regime is governed by Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. The law includes provisions for restructuring through the Suspension of Debt Payment process (Penundaan Kewajiban Pembayaran Utang, PKPU), which is somewhat analogous to US Chapter 11 but less developed. The process allows debtors to negotiate with creditors under court supervision to avoid formal bankruptcy.

254. PKPU aims to be resolved within 270 days, though practical delays can extend this timeline.
255. Legal costs in Indonesia are generally lower than in more developed economies but can escalate due to procedural delays and complexities in larger cases. While there is a growing shift towards valuing restructuring to preserve business operations, especially in larger corporate insolvencies, the market and legal practitioners are still adapting to these approaches.
256. Based on the comparative analysis, the most advantageous jurisdiction for Efwon's filing is recommended, namely England and Wales, supported by a detailed rationale that considers legal, operational and financial factors.
257. Using cases and texts, this section argues for England and Wales as a jurisdiction that maximizes Efwon's strategic interests while ensuring fairness to creditors.
258. To reiterate, I recommend choosing England and Wales as the jurisdiction for initiating insolvency proceedings because this legal system is renowned for its robust and well-defined insolvency framework, primarily governed by the Insolvency Act 1986 and the Corporate Insolvency and Governance Act 2020. The predictability of outcomes and the wealth of legal precedents means it is a reliable jurisdiction when facing complex cross-border insolvency issues.
259. The courts of England and Wales have extensive experience in managing large and complex international insolvency cases. This expertise ensures that the cases are handled efficiently and with a high level of professionalism, which can be crucial for a company like Efwon with operations and creditors spread across various countries.
260. The UK's legal decisions are widely recognized and easily enforceable across many jurisdictions due to historical ties, bilateral agreements, and its standing in international law. This aspect is particularly important for Efwon, as it needs effective coordination and enforcement of insolvency proceedings in the other countries where it operates.
261. The UK has adopted the UNCITRAL Model Law on Cross-Border Insolvency, which facilitates cooperation between courts and insolvency practitioners in different countries. This legal framework supports the efficient management of Efwon's assets and liabilities across borders, minimizing legal hurdles and streamlining proceedings.
262. For Efwon, which likely has significant management and operational presence in or connections to the UK, establishing COMI in the UK is strategically beneficial. This setup can leverage the UK's creditor-friendly laws and practices, which may provide more control over the restructuring process.
263. The UK's restructuring regime, including mechanisms like company voluntary arrangements (CVAs) and the new restructuring plan introduced in the 2020 legislation, offers flexible and powerful tools for restructuring. These tools can bind creditors to a plan even if not

all creditors agree, which can be essential in complex cases where consensus may be hard to achieve.

264. Initiating proceedings in a jurisdiction with a strong legal framework and a reputation for fairness can have a positive impact on investor confidence. For Efwon, which may need to preserve or enhance its attractiveness to future investors or partners like KuasaNas, filing in the UK can send a strong signal about the seriousness and transparency of its restructuring efforts.

265. In conclusion, the selection of the UK, specifically the law of England and Wales, as the jurisdiction for Efwon's insolvency proceedings is recommended based on its advanced legal framework, expertise in managing complex cases, and the strategic advantages it offers in handling cross-border insolvencies. This choice will support Efwon's goals of efficiently restructuring its operations while managing its obligations across multiple countries.

Appendix C: Stakeholder Engagement and Management Plan

Executive Summary

266. This plan outlines a comprehensive strategy to engage and manage relationships with all key stakeholders during Efwon Investments' restructuring process. Designed with the high-profile nature of Formula 1 racing and your business vision in mind, this strategy ensures continuity, protects value, strengthens the brand and enhances your legacy.

267. **Stakeholder Identification and Prioritization:** each stakeholder group has been identified based on their influence and impact on the racing team's operations and its future: Strategic Partners and Sponsors, including KuasaNas and other major sponsors critical to the team's financial health and brand visibility; Team Members, from top-level management to the pit crew, ensuring their commitment and top performance; Investors and Financial Institutions - key financial backers whose support is crucial for restructuring and future investments; Regulators and Sporting Authorities, to ensure compliance and maintaining good standing within the Formula 1 community; and finally the Fans and Media, the lifeblood of the team's public image and global brand recognition.

268. **Communication Objectives and Messaging:** each communication is crafted to align with the stakeholders' interests, using language that resonates with their concerns while presenting a clear vision for the future. For Strategic Partners and Sponsors, we reinforce the value of their investment, detailing the strategic steps being taken to stabilize the team and secure long-term success. For Team Members, we communicate stability and prospects, emphasizing commitments to their welfare and career growth within a restructured environment. For Investors, we recommend regular, detailed financial updates and insights into the restructuring process, highlighting opportunities for enhanced returns and the security measures in place. For Regulators, we suggest ongoing updates on compliance, proactive engagement in regulatory discussions and a commitment to uphold the highest standards of the sport. And for Fans and the

Media, it is essential to engage with transparent, positive messaging about the team's resilience, focusing on future races, behind-the-scenes content and fan events.

269. **Engagement Tools and Channels:** we recommend utilizing a mix of traditional and innovative tools to ensure effective and continuous engagement, across four core areas:
270. Digital Platforms: use customized dashboards for sponsors and investors, offering real-time insights into the team's performance and financial health.
271. Direct Communications: direct personalized emails and letters from you, the team owner, reinforcing your commitment to the team's success and to delivering value for all stakeholders.
272. Media Engagements: regular press releases, exclusive interviews, and media days to keep the team in the public eye and maintain positive media relations.
273. Stakeholder Events: annual gatherings, race event invitations, and virtual meetings to foster a sense of community and shared purpose.
274. The above will be closely monitored using a robust system for tracking engagement effectiveness and stakeholder satisfaction. This will include surveys, direct interviews and an open-door policy for receiving and addressing concerns promptly; engagement analytics - metrics to measure the reach and impact of communication efforts, adjusting strategies as needed to maximize engagement; and regular reviews with you and key management personnel to assess the plan's effectiveness and make necessary adjustments.
275. All of this will be carefully documented and comprehensive reports constructed in order to maintain transparency and accountability. This includes monthly reports detailing engagement activities, stakeholder feedback and the impact of communication efforts, as well as an Annual Stakeholder Review, presented at the annual stakeholder meeting, discussing past activities, current status and future strategies.
276. This Stakeholder Engagement and Management Plan is designed not just to navigate through the current restructuring but to position Efwon Investments Inc. as a resilient leader in the competitive world of Formula 1 racing. By implementing this plan, we will secure the trust and support of all stakeholders, safeguarding and enhancing the legacy of you and your Formula 1 team.

Bibliography

- United Nations Commission on International Trade Law. UNCITRAL Model Law on Cross-Border Insolvency. Vienna: UNCITRAL, 1997.
- European Parliament and Council. Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on Insolvency Proceedings (recast). Official Journal of the European Union, L 141, 5 June 2015.
- United States. United States Code. Title 11 - Bankruptcy. §§ 101-1532. Washington, D.C.: U.S. Government Publishing Office, 2021
- United Kingdom. Corporate Insolvency and Governance Act 2020. London: The Stationery Office, 2020.
- Romania. Legea privind procedura insolvenței [Law on Insolvency Procedure], Law No. 85/2014. Bucharest: Official Gazette of Romania, 2014.
- Indonesia. Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, Republic of Indonesia, 2004.
- Cross-Border Insolvency Regulations 2006 (SI 2006/1030).
- Chan Ho, Look, *Cross-Border Insolvency: Principles and Practice*, Thompson Reuters (Professional) UK Limited, London, 2016.
- Kokorin, Ilya and Wessels, Bob, *Cross-Border Protocols in Insolvencies of Multinational Enterprise Groups*, Edward Elgar Publishing Limited, Cheltenham UK, 2021.
- INSOL International Global Insolvency Practice Course, *Position on recognition under the Model Law on Cross-Border Insolvency provisions in the US, UK and Singapore*, Hon. Allan L. Gropper (Ret) U.S. Bankruptcy Court, SDNY, Peter J. M. Declercq, INSOL Fellow, DCQ Legal, UK and Sushil Nair, Drew and Napier, Singapore.
- Hon. Allan L. Gropper (Ret.), *Recognition and Relief in Chapter 15*, The International Scene, American Bankruptcy Institute, January 2023, page 100.
- Keay, Andrew and Walton, Peter, *Insolvency Law Corporate and Personal*, Fourth Edition, LexisNexis 2017, Bristol UK.
- Alan N. Resnick and Henry J. Sommer, eds., *Collier on Bankruptcy*, 16th ed., vol. 2, LexisNexis, 2023.
- William L. Norton Jr. and William L. Norton III, *Norton Bankruptcy Law and Practice* 3rd, vol. 2, Thomson Reuters, 2023.