

ESOR CONSTRUCTION (PTY) LTD (UNDER RECEIVERSHIP)

STATUS REPORT OF THE RECEIVER FOR CREDITORS IN TERMS OF THE BUSINESS RESCUE PLAN ADOPTED ON 5 MARCH 2019.

BACKGROUND AND INFORMATION (AS CONTAINED IN PREVIOUS REPORTS)

1. Esor Construction (Pty) Ltd (“the company”) was placed under Business Rescue in terms of Section 129(1) of the Companies Act 2008 (“the Act”) on 13 August 2018.
2. Johannes Frederick Klopper and Liebenberg Dawid Ryk van der Merwe were licensed by the Commission in respect of the company and appointed as Business Rescue Practitioners (BRPs) to this company on 14 August 2018 in terms of Section 138 of the Act. The BRPs published the Business Rescue Plan on 11 February 2019 and which was amended on 25 February 2019.
3. At the meeting in terms of section 151 of the Act to vote upon the Business Rescue Plan (“the BR Plan”) on 5 March 2019 the statutory majority of creditors adopted the BR Plan and the BRP’s filed a Notice of Substantial Implementation in terms of which BR proceedings ended on 8 March 2019. The BRPs role therefore ceased on 8 March 2019 and changed to that of Receiver for Creditors (“Receiver”) pursuant to the adopted BR Plan.

4. THE EFFECT OF THE ADOPTED BR PLAN

- 4.1. Upon the adoption of the BR Plan it became final and binding in law as is provided for in terms of the provisions of section 152 (4) of the Act.
- 4.2. Previous reports referred to Paragraph 4.8 of the adopted BR Plan and which it was pointed out that this paragraph provides that whatever was forecasted and estimated in the BR Plan may change as assets are realised and claims proved.

4.3. The BRP Plan also makes it clear that forecasts are by their very nature uncertain and the ultimate outcome may differ.

4.4. As all the terms of the BR Plan are binding in law in terms of the abovementioned section 152 (4) of the Act the aforesaid paragraph 4.8 is likewise binding on all affected persons.

4.5. In terms of the adopted BR Plan unsecured/concurrent creditors with admitted claims against the company will only participate in the proceeds of the collection of the Group Company Loans (“GCL claims”) as set out in paragraph 7.4 of the BR Plan.

5. We hereby report as follows on progress made with the collection and distribution of the GCL claims:

5.1. ESOR AFRICA

5.1.1. The long awaited ruling from the Competition Tribunal was handed down on 5 May and a fine of R15,7m was imposed upon the Esor Africa. It should be noted that the same fine was imposed on the company and that Esor Africa and the company are jointly and severally liable.

5.1.2. All the remaining funds available for distribution will therefore accrue to the Competition Tribunal and no further dividend will accrue to the company from Esor Africa.

5.2. SAFDEV TANGANANI

5.2.1. The Receiver reported in the previous status reports the proceeds of the sale of shares transaction were received in August 2021.

5.2.2. The amount of R5m together with interest accrued has been accounted for in the attached distribution account together with the proceeds of the dividend received from Esor Africa.

5.3. ESOR UITVLUGT (PTY) LIMITED (UNDER BUSINESS RESCUE) (“ESOR UITVLUGT”)

5.3.1. Paragraph 19 of the BR Plan provided that the Receiver for Creditors would procure that the company’s interest in Esor Uitvlugt be realised. Various parties have during December 2021

continued to express interest in submitting proposals in order to restructure the affairs of Esor Uitvlugt but nothing firm has to date materialised.

- 5.3.2. Affected persons are reminded that it was provisionally agreed between the Receiver and Investec that the Esor Uitvlugt may have to be liquidated in 2022 if nothing is realised by 31 December 2021. During the course of the last few months the Receiver continued to engage with Investec as the parties decided to further explore possible solutions.

5.4. DISTRIBUTION

- 5.4.1. As the ruling by the Competition Tribunal was handed down on 5 May the Receiver, in conjunction with the company's management, finalised the distribution and pursuant thereto all creditors who provided valid banking details were paid during the first two weeks of June 2022.



J F KLOPPER - RECEIVER FOR CREDITORS

Date: 20 JUNE 2022