

**23 August 2022**

**CIRCULAR 10**

THIS IS A CIRCULAR TO ALL THE AFFECTED PERSONS OF **VARYMIX NINETEEN (PTY) LTD** RELATING TO THE OUTCOME OF THE 4<sup>TH</sup> MEETING OF CREDITORS, HELD IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

**OUTCOME OF THE 4<sup>TH</sup> MEETING OF CREDITORS**

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The business rescue practitioner wishes to advise all the affected parties the outcome of the 4<sup>th</sup> meeting of creditors held on **22<sup>nd</sup> of August 2022**.

Mr Pattinson welcomed the attendees and notified the attendees that the meeting would be recorded and a circular pertaining to the outcome of the meeting will be circulated to the affected persons.

Mr Pattinson also confirmed that the current due date for the business rescue plan is the 20<sup>th</sup> of September 2022 – but the intention is to publish well before that. The reasons for bringing the publication date forward will be dealt with in the course of the meeting.

It was further confirmed that the final proof of claim circular was sent to all affected persons known to the practitioner. The practitioner is aware of some disputes that have been raised by either the business or the creditors. The practitioner would like to state that at this stage, it is more important to ensure that your claim is included in the Business Rescue Plan, even if the amount is still in dispute. If the amount is disputed, this will be resolved prior to any disbursements being made. Please ensure that your claim is included in the list as sent out, otherwise, please submit a claim to the practitioner or his assistant (details at the end of this circular).

## **REASON FOR URGENCY AND CHANGE OF DIRECTION**

The Motheo TVET College (which owed the business around R5.5m) committed to pay the monies due over to Varymix several weeks ago. This would have allowed the business to fund its current projects and to continue trading into the future on a profitable basis.

This payment has however not been forthcoming and as a result, the practitioner is no longer of the opinion that the business can be successfully rehabilitated and continue trading into the future on a solvent basis.

1. The proposal made by the practitioner is therefore as follows:
  - 1.1. That the business performs what is known as a structured wind-down.
  - 1.2. This differs from a liquidation in that it allows the business to continue and complete the current projects (so as to not face any penalties for projects not completed). The business will however not take on any new projects and will only complete the projects that will be profitable for the business to do so.
  - 1.3. The winding down of the business provides for the structured disposal of the company's assets – and although a public auction will not be required, all assets will be sold on a public platform where all creditors will be invited to take part along with the public.
  - 1.4. The practitioner will start disposing of all assets not required to trade the business as soon as possible to fund current projects.
  - 1.5. Once all projects are completed, the balance of the assets will be sold, and the proceeds will be for the benefit of the creditors.
    - 1.5.1. The income generated from the completion of the projects will firstly be utilised to complete ongoing projects, but will ultimately also be for the benefit of the creditors.

The practitioner briefly outlined the major benefits of adopting the structured wind-down as opposed to a traditional liquidation.

A question was raised at this point regarding the possibility of purchasing the debt owed to the business including the debt owed by the Motheo TVET college to the business.

A creditor is interested in making an offer to purchase that debt – this was noted, and the practitioner will be in contact with this creditor and any other creditors who may be interested in same.

### **QUESTIONS ASKED DURING THE MEETING**

#### 1. Consent for the sale of assets

As mentioned above, there are assets that are currently not in use and will not be used to complete any projects going forward in terms of the structured wind-down.

The request is therefore for permission to dispose of these assets and the funds generated from same to be utilised to return to certain sites to complete projects which will yield greater returns for the affected persons.

These assets will not be disposed of before the security on these items has been confirmed.

There was no objection to this proposal.

#### 2. Consent to pursue debt owed to the business

The practitioner is requesting authorisation to attempt to collect debts that are due to the business. The business has made every effort (within the confines of the business) to collect these debts.

The practitioner is however of the opinion that formal debt collection methods must now be utilised now – including debt collectors and attorneys if need be.

There was no objection to this proposal.

#### 3. Consent to pursue debt owed by the directors/shareholders

As above, there is outstanding debt due to the business, in this case – due by the shareholders/directors.

The value of what is owed is approximately R2m

Letters of demand have already been issued by the practitioner for the repayment of this debt.

It is however time to approach an attorney for more formal debt collection methods and in the case of non-payment, possible sequestration orders being brought against those directors.

The cost of these sequestrations would also then be recoverable from the estates and thus not directly cost the business or the affected persons any additional money.

There was no objection to this proposal.

#### 4. Consent to dispense with the need for an independent valuation of assets

In most cases, practitioners will use the asset valuation as contained in the AFS of the business – Mr. Pattinson is however of the opinion that this is not sufficient as the AFS include depreciation on assets that may still hold value.

Therefore, it is necessary to do an actual valuation of the physical assets that the business is in possession of and not look only at the AFS.

This is where the dilemma arises, an independent valuation of the assets of Varymix, due to the fact that it is all spread out at various sites, would be unnecessary and expensive.

Therefore, the request is that we dispense with the need for an independent valuator and do a formal valuation of the assets but rather use values as determined by the practitioner and the business.

This was further motivated by the fact that all assets would be sold on a public platform and the income received shared with all parties and the valuation would thus be superfluous.

There was no objection to this proposal.

## **QUESTIONS AND COMMENTS**

5. A question was raised as to whether the AFS of the business is freely available to the greater body of creditors.

The practitioner confirmed that at this time, the AFS cannot be shared with the creditors. The latest set of signed financials will however be attached as an annexure to the Business Rescue Plan when published.

6. Another question was raised regarding the claims that were submitted in terms of this business rescue by the connected parties of Varymix (such as Dixotime/directors/shareholders).

The practitioner confirmed that these claims from connected entities would be subordinated to the benefit of the independent creditors.

All forms and circulars relating to the Business Rescue process for Varymix Nineteen (Pty) Ltd can be accessed at <https://pattinson.biz/document-library>

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