

22 June 2022

CIRCULAR 05

THIS IS A CIRCULAR TO ALL THE AFFECTED PERSONS OF **VARYMIX PTY LTD** RELATING TO THE OUTCOME OF THE 2ND MEETING OF CREDITORS, HELD IN TERMS OF THE COMPANIES ACT, 71 OF 2008 AS AMENDED (THE ACT).

OUTCOME OF THE MEETING HELD IN TERMS OF SECTION 143 OF THE ACT

The business rescue practitioner wishes to advise all the affected parties of the outcome of the 2nd meeting of creditors held on the 17th of June 2022. The purpose of this meeting was to vote on the fee structure of the business rescue practitioner's remuneration. This is done in terms of Section 143 of the Companies Act.

BUSINESS RESCUE PRACTITIONER FEES

1. Security for BR P Fees

1.1. The Companies Act Section 135(3) dictates that a business rescue practitioner's fees are to be paid first. The practitioner is however willing to give leniency for the payment terms, by waiting before being paid, allowing the business to continue to function.

1.1.1. The first request that the BR P wishes to make in this regard is that any fees that are not taken as and when they become due, be seen as post-commencement finance and that security for the payment thereof be held over the assets of the business, work in progress, debtors' books and all other assets **not secured at the time of this meeting.**

1.1.2. This does not take preference over any security that is already in place at the time of this meeting, such as the various securities held.

1.1.3. Alternatively, the practitioner's fees will be paid as and when they become payable.

1.1.4. **The creditors voted in favour of the security provided for in terms of point 1.1.1.**

2. The Business Rescue Practitioner stated that the hourly rates payable to a Business Rescue Practitioner is governed in regulation 128 and section 143 of the Companies Act, and that practitioners are only permitted to request additional remuneration in the form of contingency fees, on condition that the directors of the business agree to these contingencies and further only if the attendees at a meeting called for this purpose, vote in favour of the proposed contingencies.

2.1. The practitioner presented the following remuneration proposal to the creditors.

3. For reference purposes the fee structure is set out below:

3.1. An hourly rate of R2000/hour with a maximum of R 25 000 per day (inclusive of VAT) as prescribed in regulation 128 of the Companies Act when appointed to a large company business rescue.

3.1.1. The practitioner has agreed to limit his fees to a retainer arrangement which is valued at R55 000/month plus VAT which is equivalent to 27 hours' worth of work per month, although it is envisaged that he will spend far more time than that on this project.

4. Contingency Fees:

4.1. The practitioner will be entitled to 50 hours' worth of fees on the adoption of the proposed business rescue plan,

4.2. The practitioner will be entitled to 50 hours' worth of fees at the substantial implementation of the business rescue process,

4.3. The practitioner will be entitled to 10% commission on any moveable and/or immovable assets sold during the business rescue process (gross proceeds),

4.4. A 10% commission on the sale of the business or any portion of the business during the business rescue process,

4.5. The practitioner will also be entitled to a trading royalty of 2.5%,

4.6. All of the above contingencies are excluding VAT, where applicable.

5. Third Party Payments:

5.1. The practitioner confirmed that regulation 128(3) and section 143(1) of the Companies Act provides for a company that is in business rescue to pay certain 3rd party expenses during business rescue process.

5.1.1. Although not required, the practitioner committed to provide details of these costs at each monthly meeting in the spirit of transparency.

5.2. These 3rd party expenses will include, but not be limited to:

5.2.1. Professional Indemnity Cover of the Business Rescue Practitioner

5.2.2. Fees for professional assistance such as accountants, lawyers, admin staff and others.

5.3. It is on this same premise that Mr Jaco Durandt was introduced to all the affected persons present at the meeting. Jaco will be in charge of all administration of the business rescue process and will be remunerated by means of a monthly retainer of R 3 500/month, which works out far less than should the practitioner do the administration at the hourly rate.

A proposal was put forward by the creditors that the voting on the fee structure be held over until a later date so that creditors, such as the banks, may be allowed to take the fee proposal to their respective committees so that an informed decision can be made and given to the practitioner.

The practitioner believes this to be a fair request. The current proposal for the remuneration of the practitioner is as hereinabove, however, a revised proposal will be sent out in a separate circular for the consideration of the creditors and a date for a meeting in which the vote on the proposal will be taken will be included in the same circular.

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

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