

3 Feb 2020

Notes – Meeting: APRA, ASIC, receivers

- APRA asks receivers what trying to achieve, particularly perspective of RSE trustees. Response:
 - Taipen trustees lent money to Sargon and shareholder entities, over \$200mil. Borrowers are Sargon Capital, Triminantium investment management limited, Triminantium asset management. Another borrower was Phillip Kingston. All companies 100% liable for Sargon part of facility (60% - to Trimanitum but Sargon guarantor) and 40% money to Phillip Kingston with shares over Triminantium Growth Ops. Security over Trimanitum shares.
 - Thinks 18 months ago loan started. 3 defaults, some payments made late, some made partly, some missed in full. September payment late but not full, then default interest payments didn't make, then missed December quarter payment in full
 - Total amount lent \$200mil. First drawdown was 1bn hkd, hasn't gone down much.
 - Towards end of 2019, interest payment of \$3.5mil due, Tai Peng trustees sought to engage with companies why amount wasn't paid. That conversation unsuccessful; CEO seemed unwilling to discuss. Draft stand-still deed put to Sargon capital, no response from CEO in 1 week. Given distance, lack of communication and understanding, TaiPeng felt no option but to enforce rights. Receivers sent demands and reserved rights to appoint receivers if communication wasn't forthcoming
 - Receivers have couple of conversations with Kingston. Purpose of appointment was to find out information. Tai Peng's security stops at ultimate holding company, receivers appointed to get in, look at business.
 - Says Westpac also looking to appointing investigating accountant. Thinks Westpac is lender to operating entities, aware they're concerned that don't have a lot of info from company
 - Recent discussions about options for receivers to work with Kingston informally, received response from Kingston lawyers saying if give money will cooperate
 - Receivers understand now that administrators appointed to the next layer of holding companies
 - Lawyer for receivers suggest it's more widespread and not isolated to ultimate holding company
 - \$800,000 frozen in Sargon accounts upon appointment
 - Kingston not cooperating, have been provided limited information. Receivers in dark about underlying, operating companies
 - s 37(1)(a) [REDACTED]
 - Receivers received call from lawyers representing 2 minority shareholders in Sargon (believe 17% of equity). They have 2 directors on Sargon board, they were surprised at level of indebtedness to Tai Peng – default, informal negotiations prior to appointment
 - Vendor financing 30mil in default
- Receiver next steps
 - Notes will need instructions from Chinese company,
 - Receivers interested in not impacting operating elements, may not be possible given VA
 - Most receivers can do is engage with VA, but question of whether Kingston gives them access to information

- Receivers issued statutory notices and warned obligations to assist and provide books and records, if don't cooperate, next step is to go see ASIC to see if can assist with extracting information
- What they have about operating companies – have drafts for consolidated Sargon Capital incl. operating companies 30 June 2019, notes can't break down to individual underlying businesses
- s 37(1)(a) [REDACTED]
- [REDACTED]
- APRA info share: difficulty engaging and getting info from Sargon as well
- Receiver ask if independent boards: APRA says ultimately boards appointed by shareholders
- APRA notes changes of independent non-executive directors. Shareholders have made some changes to composition of boards. OneVue nominated directors on board of Diversa, some changes following transactions
- Receivers increasingly suspicious about lack of communication where legally obliged
- Receivers say accounts at 30 June 2019 suggests 50-60mil in cash, therefore unclear why interest not paid. Thinks money in is more than money out.
- Powers available to receiver: sale of business as going concern.
- APRA asks about situation with RSEs. Response
 - If well performing, solvent, has value, limited parties in sector for transacting with
 - Solicitors think key question is if APRA can be confident management operating appropriately and in compliance
- Receivers planning to write to ASIC

ASIC meeting post-APRA meeting

- Send letter
- s 37(1)(a) [REDACTED]
- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- Notices
 - s 37(1)(a) [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
- Meeting with Kingston
 - Ask about capital requirements