

EMEA DC Meeting Statement – 22 March 2023

regarding the DC Questions in relation to Vue International Bidco plc

DC Issues: 2023020201 and 2023022701

1. SUMMARY

The EMEA Credit Derivatives Determinations Committee (the **DC**) met on 20 March 2023 and 22 March 2023 to discuss (i) whether or not a Restructuring Credit Event had occurred in relation to Vue International Bidco plc (**VIB**); and (ii) whether or not there was a Successor to VIB. The DC concluded that a Restructuring Credit Event had occurred and that Vue Entertainment International Limited (**VEIL**) was the sole Successor to VIB. No determination has been made in relation to whether or not a Bankruptcy Credit Event has occurred with respect to VIB (DC Issue number 2023030601).

2. INFORMATION

- 2.1 One of the challenges in relation to resolving the DC Questions has been the availability of detailed public information. The DC notes that under the DC Rules, the DC is not under any obligation to research, investigate, supplement, or verify the veracity of, any information. Therefore, Eligible Market Participants raising a DC Question should provide detailed public information in relation to their potential DC Question. Eligible Market Participants are also reminded of the representation required under DC Rule 2.1(c).
- 2.2 The DC has the power under the DC Rules to dismiss a DC Question for any reason. Given the challenges relating to the availability of detailed information, the DC had extensive discussions considering whether to dismiss the DC Questions. However, ultimately the DC decided against using its power to dismiss the DC Questions.
- 2.3 The DC considered that the press release of Vue dated 26 January 2023 (the **Vue January Press Release**) was sufficient to satisfy the requirements of Section 2.1(b) of the DC Rules. In reaching its determinations, the DC considered the information submitted by the Eligible Market Participants who raised the Restructuring Credit Event and Successor DC Questions (as listed on the DC Website), together with information obtained from other public sources including Companies House in the UK, the company register in Jersey and the security interests register in Jersey.

3. ANALYSIS

3.1 Reduction in the amount of principal or premium and postponement of the maturity date

- (a) The DC considered the information in the Vue January Press Release, the terms of the amended and restated Senior Facilities Agreement originally dated 21 June 2019 (in the form set out in the Explanatory Statement for the discontinued Scheme of Arrangement from July 2022) (the **Explanatory Statement**)¹ (the **Existing Senior Facilities Agreement**) and certain information published by ratings agencies. The DC noted that (i) the Vue January Press Release described the transaction as being fully consensual; and (ii) the Latham & Watkins press release described the recapitalisation as having been consented to by all lenders and involved the “amendment and restatement and/or partial equitisation of the group’s first lien and second lien senior secured financing arrangements”.²

¹ Available via reorg.com, a news and intelligence website operated by Reorg Research, Inc..

² See: <https://www.lw.com/en/news/2023/01/latham-advises-committee-of-lenders-on-recapitalisation-of-vue-cinemas>

- (b) Based on the public information, the DC concluded that an event within the scope of Sections 4.7(a)(ii) or 4.7(a)(iii) of the 2014 Definitions had occurred which bound all holders. This was on the basis that the reinstatement of the EUR 634,000,000 term loan facility (the **EUR Term Loan**) with VEIL as the borrower resulted in (i) a postponement of the maturity date from June 2026 to December 2027; and (ii) a reduction in the principal amount.

3.2 Credit Deterioration

The DC considered the information set out in the Publicly Available Information submitted in respect of the Restructuring Credit Event and the Successor questions, which referred to the financial challenges faced by Vue. Based on such information, the DC concluded that the reduction in the principal amount and the postponement of the maturity date had directly or indirectly resulted from a deterioration in the creditworthiness or financial condition of the Reference Entity.

3.3 Multiple Holder Obligation

- (a) In relation to the number of holders of the EUR Term Loan, the DC considered (i) news reports from July 2022 referring to a group of lenders; (ii) data compiled by 9fin (a leveraged finance intelligence website) of CLO holdings in respect of the EUR Term Loan; (iii) the shareholder register of Jubilee Topco Limited available from the Jersey Financial Services Registry as of 26 January 2023 confirming that Jubilee Topco Limited has more than 30 members (the Vue January Press Release referred to the first-lien lenders taking 100% equity ownership); and (iv) the signing instructions on the Vue International Bidco plc Financial Restructuring web page hosted by Kroll³ (but excluding any information on that page that requires a password protected login), which appeared to be coordinating the seeking of signature pages from multiple lenders. On the basis of the available information when taken as a whole, the DC was of the view that the EUR Term Loan had more than three lenders that are not Affiliates of each other.
- (b) The DC considered clause 40.2(g) of the Existing Senior Facilities Agreement⁴ and noted that “Facility Changes” require the consent of each Lender [...] whose Commitment is being extended or redenominated or to whom any amount is owing under the Finance Documents (in each case, except as set out in the Finance Documents) which is being deferred or redenominated or reduced (as the case may be)”. The DC noted that there was no information that suggested any of the lenders under the EUR Term Loan had been exempt from the process. Therefore, this would require the consent of all lenders under the EUR Term Loan. Clause 40.2(g) also refers to it being subject to the provisions of the Intercreditor Agreement. Unlike the Existing Senior Facilities Agreement, the Intercreditor Agreement was not made public under the Explanatory Statement. However, the DC noted that (i) references to the Intercreditor Agreement are common in the amendment provisions of loan agreements (the LMA form for example states that the amendment provision as a whole is subject to the Intercreditor agreement); and (ii) it would be non-standard for such references to result in the lowering of an all affected lender consent threshold to less than sixty-six-and-two-thirds level. Accordingly, the DC concluded that the EUR Term Loan was a Multiple Holder Obligation.

3.4 Timing

- (a) One of the challenges the DC faced related to timing. The event would only be a Restructuring Credit Event if it occurred on or after the Credit Event Backstop Date.
- (b) The Vue January Press Release was issued on 26 January 2023 – the DC noted this was not definitive as the borrowing of the new money facility is listed in the events in it whilst the available information

³ See: <https://deals.is.kroll.com/vue>

⁴ Whilst the DC was aware that certain amendments to the Existing Senior Facilities Agreement were contemplated by the Scheme to introduce a new money facility, the DC concluded that it was unlikely (based on market practice) that provisions to (i) reduce the principal amount; or (ii) postpone the maturity date would have been introduced following July 2022 and on or prior to the Credit Event Backstop Date such that a reduction and postponement would not require the consent of the lenders affected by such reduction or postponement.

suggests that such facility was borrowed in September 2022. The DC concluded that the postponement and reduction in principal occurred on or around 26 January 2023 on the basis of information in (i) the statement of Latham & Watkins LLP and the documentation for the discontinued scheme of arrangement (as to the aim of the transaction); (ii) security filings and releases at Companies House in the UK in relation to VIB and Vue Entertainment Limited; (iii) financing statements filed in Jersey by VEIL, Jubilee Newco Limited and Jubilee Topco Limited; (iv) rating agency reports; and (v) the public information on the Kroll restructuring webpage.

3.5 Other views in relation to the Restructuring Credit Event

The DC Members observed that the matters under consideration required certain questions of fact to be determined on the basis of the available information. The dissenting DC Member noted that as the information did not directly address all matters in hand (in particular the timing of the events in question) the question was whether it could be inferred from the evidence that a Restructuring Credit Event had occurred on or after the Credit Event Backstop Date. The dissenting DC Member considered that it was unable to draw such an inference in the present case.

4. SUCCESSOR ANALYSIS

The statements made by the rating agencies⁵ note that the borrower of the reinstated debt is VEIL (not VIB). The DC also had regard to the filings at UK Companies House and the security interests register and company register in Jersey. The DC was of the view that VEIL was the Successor to VIB on the basis that (i) VEIL was the borrower under the reinstated facility; and (ii) there was information supporting that VIB was no longer liable for the reinstated facility (including the releases of security granted by VIB). The DC also concluded that the Succession Date was 26 January 2023. Note that the DC Member that did not vote in favour of the determination on the Succession Date was of the view that the Succession Date occurred at a point between the Successor Backstop Date and 8 February 2023. However, such DC Member was of the view that there was insufficient public information to conclude the exact Succession Date.

5. NEXT STEPS

- 5.1 The DC notes that it has not yet determined the Bankruptcy DC Question. The DC will continue to consider such question.
- 5.2 In relation to settlement following the occurrence of a Restructuring Credit Event, the DC notes that public copies of the new money facility, the reinstated facility and the amended intercreditor agreement are not available. If Eligible Market Participants are aware of public copies of such documents, please contact the DC Secretary.

⁵ See <https://ratings.moodys.com/ratings-news/392772>; <https://ratings.moodys.com/ratings-news/398077>; <https://ratings.moodys.com/ratings-news/398205>; <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/2886978>; and <https://disclosure.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/2941436>