

Amsterdam, 8 August 2016

Update on the OKD Insolvency

New World Resources Plc (“NWR Plc” and together with its subsidiaries, the “NWR Group”) today provides an update on the status of the insolvency of OKD, a.s. (“OKD”) and it clarifies various factually incorrect statements that have appeared in recent Czech insolvency court filings and in media reports regarding the NWR Group’s 2014 comprehensive balance sheet restructuring (the “2014 Restructuring”).

Introduction

Further to the announcements on 3, 4 and 16 May 2016 regarding the filing of and the impacts of the filing of an insolvency petition by OKD, the shares in NWR Plc remain suspended from the London Stock Exchange, Prague Stock Exchange and Warsaw Stock Exchange.

As previously announced on 16 May 2016, as a result of the insolvency petition being filed by OKD, the EUR 35 million super senior credit facility (“SSCF”) lenders and requisite majority of holders of the EUR 352 million Senior Secured PIK Notes due 2020 (“SSNs”) have issued a demand upon the guarantees given by OKD for payment of the SSCF and SSN liabilities (the “Guarantees”). Consequently, Citibank N.A., acting as the security agent on behalf of the creditors under the SSCF and the SSNs (the “Security Agent”), registered creditors’ claims in respect of the Guarantees in the total amount of approx. CZK 10.5 billion. The Security Agent is the largest creditor in OKD’s insolvency proceedings.

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Registered creditors’ claims

On 18 May 2016, the Regional Court in Ostrava (the “Court”) delivered a notification to all known foreign creditors of OKD inviting them to register their claims with the Court by a deadline of 30 days after receipt of the notification.

As of 3 August 2016, according to the filings made with the Court, approx. 550 creditors have registered their receivables against OKD for a total amount of CZK 20,281,010,690.77 out of which more than CZK 17 billion have been contested and denied

by the insolvency trustee. The filings suggest that all creditors are unsecured, except for Zeppelin CZ, s.r.o. that claims to have a secured claim of CZK 68,903,810.99 retention over machinery belonging to OKD.

According to the filings registered with the court, the five largest creditors (by value of the registered claim) of OKD as follows:

Creditor	Registered claim (CZK)	Comment
The Security Agent	10.5 billion	Guarantee claim in respect of SSN and SSCF, being contested by OKD and insolvency trustee
Ministry of Industry and Trade	1.888 billion	Contingent claim, no funds have been provided at this time to OKD by the Ministry of Industry and Trade, being contested by insolvency trustee
Veolia Průmyslové služby	1.34 billion	Apart from CZK 54 million, being contested by OKD and insolvency trustee
Natixis	518 million	ECA Facility under which OKD is co-obligor
Advanced World Transport group creditors	462 million	

Temporary injunction and appointment of the members of the interim creditors committee

On 25 May 2016, OKD filed a motion for a temporary injunction against NWR Holdings B.V. (“**NWR BV**”), arguing that there is a conflict between OKD’s interests and the interests of Ashmore Investment Management Limited, Gramercy Funds Management LLC and M&G Investment Management Limited (together, commonly referred to as the “**Ad-Hoc Group**” or “**AHG**”) given that the Ad-Hoc Group indirectly controls OKD and is, at the same time, its key creditor.

On 26 May 2016, the Court decided *ex parte* that: (i) OKD’s operations may only be halted and/or restricted with the prior consent of the interim creditors’ committee (the “**ICC**”) or, until the ICC is appointed, the prior consent of the Court; and (ii) the effectiveness of any decisions of NWR BV in its capacity of the sole shareholder of OKD is conditional on the consent of the ICC or, until the ICC is appointed, the prior consent of the Court.

On 1 June 2016, the Court appointed Advanced World Transport, a.s., Czech Social Security Administration and the Coalfield Brotherhood Cash Office, a health insurance company, as the three members of the ICC. The Security Agent was excluded from the ICC. The Creditors Meeting will appoint a regular creditors' committee that should replace the ICC appointed by the Court.

On 9 June 2016, NWR BV filed its objection to the temporary injunction.

On 16 June 2016, OKD filed its reply with the Court to NWR BV's objection to the temporary injunction. In the reply, OKD also asserted that the NWR Group "forced" OKD to assume the Guarantees.

On 17 June 2016, the Security Agent filed a reply dated 9 June 2016 to OKD's motion for a temporary injunction against NWR BV. In the filing, the Security Agent noted that (i) NWR Plc (and not the AHG) is the entity controlling OKD and (ii) the Security Agent is the largest creditor and not the AHG, therefore it is incorrect to describe the AHG as both the controlling entity of OKD and the largest creditor.

On 7 July 2016, the Senior Prosecutor's Office in Olomouc supported NWR BV's objection in its statement filed with the High Court. It concluded that:

'the contested decision of the Regional Court in Ostrava [is] incomprehensible, unreviewable and based on an incorrect legal assessment of the matter.'

On 15 July 2016, the High Court in Olomouc (the "**High Court**"), in an un-appealable ruling, upheld the Court's 26 May 2016 decision to issue the temporary injunction. The High Court noted in its judgment that it will not examine who currently controls OKD as it did not find it relevant for the assessment of the temporary injunction. In the High Court's view, the relevant "material reason", was the High Court's belief that, pursuant to the 2014 Restructuring, NWR BV and New World Resources N.V. ("**NWR NV**") "burdened" OKD with the Guarantees. The High Court noted that Mr Boudewijn Wentink signed on behalf of NWR NV, NWR BV and OKD the 2014 Restructuring documentation which burdened, among others, OKD.

OKD's and the insolvency trustee's rejection of the Security Agent's creditor claims

On 25 July 2016, the insolvency trustee of OKD published a list of registered creditor claims which indicated that OKD and the insolvency trustee did not recognise the Security Agent's claims in respect of the Guarantees given by OKD for payment of the SSCF and SSN liabilities. In the filing, OKD and the insolvency trustee made certain statements, including that:

(a) The debts secured by the Guarantees do not exist;

- (b) NWR NV forced OKD to assume obligations as guarantor of the Guarantees;
- (c) The Guarantees were not duly and properly agreed and executed by OKD; and
- (d) No consideration for the Guarantees was provided.

The above statements, and the reasoning given in the High Court ruling, are factually incorrect, as follows from the overview of the NWR Group's 2014 comprehensive balance sheet restructuring below.

On 8 August 2016, the Security Agent filed a statement with the Court responding to OKD's and the insolvency trustee's rejection of its creditor claims.

2014 Restructuring Facts

Overview and benefits to OKD

As was publicly stated by the NWR Group at the time, the primary objectives of the 2014 Restructuring were to:

- (a) mitigate the risk of any of the NWR Group companies (in particular NWR Group's key operating subsidiary, OKD) having to file for bankruptcy or liquidation (or another formal insolvency process); and
- (b) implement a new capital structure so that the NWR Group will possess a strengthened balance sheet and a more appropriate debt service and maturity profile in light of the ongoing difficult trading conditions in the global coal mining market.

As a result of the 2014 Restructuring, OKD's obligations as a guarantor under the EUR 500 million old senior secured notes due 2018 were fully and finally released ("**Old Guarantee**"), and OKD became a guarantor under the Guarantees. Accordingly, OKD's exposure to liability as a guarantor was reduced by 33% from €500 million under the Old Guarantee to €335 million under the Guarantees. In addition, immediately following the 2014 Restructuring, the NWR Group injected vital cash (via shareholder loans) into OKD to ensure it continued as a going concern – EUR 64 million was injected into OKD between 2014 and 2016. Even prior to the 2014 Restructuring, OKD received significant amounts of monies from the NWR Group over the years. Between 2010 and 2016, OKD received the benefit of EUR 650 million of shareholder loans — funded by the issuance by NWR Group entities of bonds that were guaranteed by OKD — of which EUR 586 million was converted into equity of OKD and is never to be repaid by OKD. The evidence of the inflow of these

monies into OKD is contained in the independently audited financial statements contained in OKD's Annual Reports, which are a matter of public record and available on OKD's website (<http://www.okd.cz/en/about-us/annual-reports>).

In addition, the 2014 Restructuring was implemented through a scheme of arrangement under Part 26 of the Companies Act 2006 (the “**UK Scheme of Arrangement**”), which was sanctioned by the Chancery Division (Companies Court) of the High Court of Justice of England and Wales (“**UK High Court**”). In the UK High Court judgment of 5 September 2014, Mr. Justice Norris adjudged that:

“New World has raised debt finance for group operations by way of two note issues, amongst other means. First, there are some senior secured notes governed by New York law. These secured notes are repayable in 2018 and are issued in the principle sum of €500million. They are secured by pledges over the entire shareholdings of OKD and Karbonia and are supported by guarantees from these companies. (...)

Under the (...) scheme the claims of the senior noteholders will be compromised and released and, in return, they will receive a pro rata share of some new senior notes to be issued by New World at a higher rate of interest, including a facility for capitalising unpaid interest at a higher rate, secured by a new guarantee and security package. (...)

The effect of the new scheme will be to provide additional liquidity for the group's operations through the injection of new equity. It will improve the capital structure of the group by reducing its current debt burden (...) and it will reduce the overall burden of interest rate payments. The company will therefore have, and the group will have, a stable platform through which to trade through the present reduction in coal prices (...)”

Accordingly, the statement that the 2014 Restructuring “burdened” OKD with guarantee obligations is factually incorrect. The 2014 Restructuring significantly reduced OKD's guarantee obligations by approx. EUR 165 million (by release of the Old Guarantees), deferred all of OKD's remaining debt liabilities, and raised vital additional liquidity that resulted in EUR 64 million of fresh cash being injected by the NWR Group into OKD from 2014-2016 to enable the loss-making OKD business to continue trading during this period.

OKD Guarantees

We set out some facts confirming that (i) OKD assumed the obligations under the Guarantees independently and without compulsion from any NWR Group entity, (ii) OKD duly and properly agreed to enter into the Guarantees and (iii) consideration was provided to OKD in respect of the Guarantees.

On 21 July 2014, OKD signed a deed of undertaking, in which it agreed to be bound by and comply with the obligations expressed to apply to it under the UK Scheme of Arrangement and the 2014 Restructuring documents. This included both the release of the Old Guarantees and the granting of the Guarantees by OKD in respect of the SSN and the SSCF.

On 2 September 2014, the board of directors of OKD (which included two of the three current day OKD directors who now seek to disregard the Guarantees), approved: (i) the UK Scheme of Arrangement and the 2014 Restructuring documents (which included the release of the Old Guarantee and entry into of the Guarantees) and the transactions anticipated by the documents and (ii) the authorization of Boudewijn Wentink (who was not an OKD employee nor on the OKD board of directors nor on any of the boards of any of the NWR Group entities at that time) to sign (on OKD's behalf) under Power of Attorney any and all documents in connection with the 2014 Restructuring. The Power of Attorney was granted on the same day by OKD.

On 3 September 2014, the supervisory board of OKD took the same decision; accepting the guarantee obligation freely as being in OKD's interest.

On 5 September 2014, a hearing before the UK High Court took place. During the proceedings, it was noted that the UK Scheme of Arrangement (including the SSN and the SSCF pursuant to which OKD was released from the Old Guarantee and assumed the Guarantees):

“would be recognised by the Czech court as a foreign judgment and/or as a settlement under the Brussels Regulation. Failing that, and as an alternative, the scheme would be recognised as a foreign judgment under the Czech Act”.

The UK High Court, taking into consideration, amongst other, the Guarantees, adjudged that the UK Scheme of Arrangement was fair and sanctioned this scheme in its judgment of 5 September 2014 (the **“UK Court Order”**).

On 9 September 2014, the United States Bankruptcy Court for the Southern District of New York recognised the UK Scheme of Arrangement as a foreign main proceeding pursuant to Chapter 15 of the US Bankruptcy Code. US Bankruptcy Judge Stuart M. Bernstein adjudged that the UK Court Order, the UK Scheme of Arrangement and the restructuring documents (including the SSN and the SSCF pursuant to which OKD was released from the Old Guarantee and assumed the Guarantees), as applicable, are:

“recognised, granted comity, and entitled to full force and effect against all entities in accordance with their terms and that such terms shall be binding and fully enforceable.”

Furthermore, in 2014, Ernst & Young provided an independent valuation in respect of the Guarantees, which was used as the basis of guarantee fees due to OKD in respect of the Guarantees. Between 2009 and 2015, OKD received approx. EUR 15 million in guarantee fees, in consideration for providing the Old Guarantee and the Guarantees.

Accordingly, the statements that: (i) NWR NV or NWR BV forced OKD to assume obligations as guarantor, (ii) the Guarantees were not duly and properly agreed and executed by OKD and (iii) no consideration for the Guarantee was provided, are factually incorrect.

Please see the NWR website for copies of the authorising documents and the various Czech court filings referred to above.

Creditors Meeting on 11 August 2016

On 10 August 2016, a day before the Creditors Meeting, all (with very few exceptions) registered claims of OKD will be reviewed at a hearing before the Court. The insolvency trustee and OKD will be given the opportunity to contest the registered claims. The creditors will also be given the opportunity to contest the registered claims of other creditors (but only if the written contesting petition is delivered to the court at least three business days before the court hearing).

In the event that the insolvency trustee denies a registered claim, the respective creditor may exercise his voting right at the Creditors Meeting only if the Creditors' Meeting adopts a resolution that the creditor is entitled to vote. No creditor is allowed to vote in his own matter. If the Creditors' Meeting does not adopt such resolution, the insolvency judge may decide upon the voting rights of that denied creditor. A denial by another creditor or by OKD does not affect voting rights of the creditor with a contested claim.

We understand that the Creditors Meeting scheduled for 11 August 2016 is likely to decide the following matters:

- (a) should OKD's insolvency be conducted through bankruptcy (i.e. ultimately OKD would be liquidated) or through a reorganisation;
- (b) should the ICC continue with the same members or whether new members will be voted in (alternatively the number of creditors may be increased from 3 up to 7);
- (c) should the current insolvency trustee be replaced and by whom; and

- (d) should a licensed appraiser be appointed (in case a reorganization is the agreed approach).

The resolution of the Creditors Meeting requires a simple majority of votes present or duly represented creditors, calculated according to the amount of their claims (every CZK 1 of the receivable represents one vote).

Concluding Remarks

It is not yet clear what will happen regarding the Security Agent's creditor claim in respect of the Guarantees, what will happen at the Creditors Meeting, and what implications the outcome of these two proceedings will have on OKD and the NWR Group. So long as OKD continues to operate, there remains a possibility that OKD as an entity will emerge from insolvency. We will continue to monitor the situation closely, however, given the current status, the analysis set out in our 16 May 2016 announcement regarding the likely impacts of OKD filing for insolvency on the NWR Group and its creditors remains unchanged.

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About NWR Plc:

New World Resources Plc is a Central European hard coal producer. NWR Plc produces quality coking and thermal coal for the steel and energy sectors in Central Europe through its subsidiary OKD, the largest hard coal mining company in the Czech Republic.