Emily McAlister <emily@retirement.capital>

FW: TCA Buying the UCR Shares from the SSAS

3 messages

Simon Carlin <simon@thelostcoin.co.uk> 4 June 2021 at 17:17
To: "Emily McAlister (emily@retirement.capital)" <emily@retirement.capital>, "Gavin McCloskey (gavinm@retirement.capital)" <gavinm@retirement.capital>

Hi Emily and Gavin

Can one of you reply to the last 2 paragraphs please? The trustees have made contact with the former accountant for the company Undercover Rock Ltd so will be able to get an informed valuation.

Regards,

Simon Carlin

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From: Simon Carlin
Sent: 19 May 2021 11:10
To: Emily McAlister <emilym@pensionpractitioner.com>
Cc: Rich Emerson (rich@theclimbingacademy.com) <rich@theclimbingacademy.com>
Subject: RE: TCA Buying the UCR Shares from the SSAS

Hi Emily

I have spoken with Rich Emerson at TCA this morning.

The company TCAG can pay cash for the shares at first, but as they would like to keep access to cash they would subsequently like to take a loan of a similar amount to effectively spread the purchase cost over a period of up to 5 years. Rich will speak to his accountant about the company valuation.

On security TCAG currently has a floating charge to the bank which they are seeking to get removed. This would then free up the company's assets to be offered as security for the new loan. However the Directors would prefer to keep the company unencumbered (from registered loans) as they seek to grow further in the future from various potential sources of bank financing.

If the Directors gave personal security does the legal charge for this show up on Companies House? I would presume not as although the company has borrowed the money it is the directors who are personally guaranteeing the funds. Please clarify.

And separately please clarify what assets/asset types can (and cannot) be offered as security by the Directors and any requirements for this.

Many thanks

Regards,

Simon Carlin

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From: Emily McAlister <emilym@pensionpractitioner.com>
Sent: 17 May 2021 13:15
To: Simon Carlin <simon@thelostcoin.co.uk>
Subject: Re: FW: TCA Buying the UCR Shares from the SSAS

Hi Simon,

Both Tony and Gavin have looked at your email. Please see the response below:

There isn't enough liquidity in the scheme to be able to do a traditional loanback then purchase, and a 'swap' isn't acceptable under the regs, so the only way I can see this being done is if the shares are bought first to provide the scheme with sufficient liquidity, with a loan then put in place to replace the funds in the company - in which case, does the company have sufficient cash on hand to be able to purchase the shares first?).

Firstly, we'll need a current valuation of the shares (or an accountant's letter giving their best opinion as to the value). I understand that their intention is just to simply shut the company down , but, since the parties are connected, the shares would need to be purchased on arms-length terms, ie at a market rate. Are arrangements in place to satisfy the outstanding balance of the loan prior to closing UCR down?

The proposed security itself is also troublesome. I would not sanction the placing of a charge against a primary residence (no matter what agreements are put in place behind the scenes to avoid a sale actually occurring), as the email above suggests this property is - is this the case? On top of that are the issues involved in placing a charge on a property based in France (ie, would we require a French solicitor to register it? Does it act the same way as a charge under the UK legal system? Is the property completely unencumbered? And so on), and the need for an independent valuation. Is there any other security that can be used in its place?

If you can get back to me with the information requested please.

Thank you

Emily

On Fri, 7 May 2021 at 19:21, Simon Carlin <simon@thelostcoin.co.uk> wrote:

> Hi Emily
>
> This one is probably for Gavin I suspect!
>
> The trustees of TCA SSAS currently own a 49% shareholding in Undercover Rock Ltd (at the time of purchase it was unconnected so all ok). The other 51% is held by the sponsoring employer The Climbing Academy Group Ltd.
>
> The proposal is for TCAG Ltd to purchase the scheme's shares in UCR Ltd for circa £140k by means of a staged payment, so effectively the trustees will replace the shares in UCR with a loan of £140k to TCAG Ltd over a 5 year period. Because TCAG Ltd currently has a charge to their bankers then other security is being proposed for the loan, namely the apartment in France where Richard now lives (worth approx. 0.5 million Euros). Provided the loan security is drafted properly then it can be worded to say that the apartment must be sold in order to fulfil the debt rather than come directly into the trustees ownership.
>
> Please confirm what will be required in terms of valuations, timescales, fees for such a proposal.
>
> Current scheme assets are now worth £340k and existing loan to connected party of £21,383 so max loan is £170k less £21,383 = £148,617.
>
> I await your advices in the next few days.
>
> Regards,
>
> Simon Carlin
>
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>
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>
> ---
>
> **From:** Richard Emerson <rich@theclimbingacademy.com>
> **Sent:** 06 May 2021 09:13
> **To:** Simon Carlin <simon@thelostcoin.co.uk>; Alan Cassidy <alan@theclimbingacademy.com>
> **Subject:** TCA Buying the UCR Shares from the SSAS
>
> Hi Simon, we met as a board on Tuesday and have now confirmed that we want to buy the UCR shares from the SSAS over a period of 5 years (though all the shares will be bought at once and UCR Ltd will be closed down).
>
> The initial purchase price will be C140K - effectively the 125K paid plus inflation. We will then add interest at 5.5% over base rate to this over the 5 years.
>
> In terms of security, whilst the bank might be willing to remove the debenture that they currently hold, we believe that having the business clear of such papers will be important over the coming years as we try to get into a higher

level of banking with more flexibility to fund us.

We would therefore like to provide alternative security and I am open to using my flat here as that security. We discussed the nature of that security being a document that would require me to sell the flat to cover the loan in the event of default. We discussed this as a board and are confident that we can have a second set of agreements between the 4 of us that will ensure that in that event, we are able to share the risk and to avoid me having to sell the apartment.

Ideally we'd like to get started on this change as soon as possible, though I imagine it might take a little while. Can you let us know what the next steps are so that we can make progress?

Many thanks

Rich

Rich Emerson
Chief Executive
+44(0) 7970 621092

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Kind Regards

Emily McAlister
Administrator

Please note our new administration and post processing centre:

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Pentrebach

Merthyr Tydfil

CF48 4DR

T: 0800 634 4862
F: 020 8711 2522

Emily McAlister <emily@retirement.capital> 7 June 2021 at 15:30
To: Simon Carlin <simon@thelostcoin.co.uk>
Cc: "Gavin McCloskey (gavinm@retirement.capital)" <gavinm@retirement.capital>

Hi Simon,

Gavin will reply to you on this - hopefully this evening.

Kind regards
Emily
[Quoted text hidden]
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gavin mccloskey <gavinm@retirement.capital> 7 June 2021 at 18:59
To: Simon Carlin <simon@thelostcoin.co.uk>
Cc: "Emily McAlister (emily@retirement.capital)" <emily@retirement.capital>

Hi Simon,
Following on from the correspondence on this, which my colleague Tony has been giving technical guidance here, I thought that I would drop you a further line so we can find a solution to this.
Whilst theoretically, the pension scheme can have a charge against proceeds of sale in respect of french property, there remains a significant risk in that HMRC could determine that the pension scheme does have an "interest" in residential property
on default and in the absence of a security trustee holding the property as a receiver the pension scheme would be taxed on the market value of the french property. For this reason, I don't think it is a risk worth taking for securitisation.
PG's only work on unconnected transactions, as there is no security for the pension scheme to hold an unencumbered interest. It can offer a further layer of protection above a securitised asset but we cannot under the new approach with HMRC rely on PG's for securitisation.
My thoughts around this issue of security and cashflow need is for a preference share structure between the pension scheme and an SPV company in which a preferential dividend distribution is issued, but keeps TCA free from charges being registered against companies house. Effectively, the pension scheme would, via preference share arrangement, fund an SPV which would JV with TCA on new business needs. This is perhaps the route that might work for all parties, whilst keeping it arms length from the sponsoring employer. It is a method of an unsecured investment and would be restricted to 50% of the net value of the pension fund. Would this be something the trustees would consider?
Kind regards
Gavin

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Certified ISO 9001:2015 Quality Management

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