

Minutes of South Bank University Enterprises Ltd
Held at 6pm on Thursday 19 July 2012
in 1B33, Technopark, London Road

Present

Richard Flatman Chairman
Bev Jullien
Tim Gebbels

Representing the Shareholder

David Longbottom Chairman of the Board of Governors on behalf of the
Shareholder

In attendance

James Stevenson Company Secretary
Michael Broadway Governance Officer

Welcome and Apologies

1. Richard Flatman took the chair and declared that all the directors of the Company were present and that the meeting had been duly convened.
2. The Board noted that Ed Tinley had resigned as a director with effect from 4 July 2012.

Declarations of Interest

3. The directors declared that they had no interest, direct or indirect, in the transactions and proposals to be considered by the meeting for the purposes of section 177 of the Companies Act 2006 ("the Act") and the articles of association of the Company.

Constitution

4. The Board noted that London South Bank University ("the Parent") had approved amendments to the Articles of Association.
5. The Board noted that the Parent had agreed to the composition of the Board of Directors and the Schedule of Matters Reserved to the Board.

Recapitalisation

6. The Chairman reported that in order for the Company to continue making Gift Aid payments to the Parent, it would be necessary to recapitalise the balance sheet in order to create distributable reserves. It was proposed that the Company capitalise its debt to the Parent by the issue of new shares to the Parent at a share premium followed by a capital reduction (paper **UE.18a(12)**).

Capitalisation of debt owing by the company

7. It was noted that the Company was indebted to the Parent in the sum of £700,000 (“the Debt”), as part of the inter-company balance.
8. It was reported that the Company had agreed in principle with the Parent that:
 - a. the Debt be capitalised in the manner set out below (“the Capitalisation”); and
 - b. the Capitalisation be effected by the issue by the Company of 5 ordinary shares of £1 each in the capital of the Company at an aggregate premium of £700,000.
9. Accordingly, it was reported that it had been agreed in principle between the Company and the Parent that the Parent would accept the issue, credited as fully paid, of 5 ordinary shares of £1 each in the capital of the Company (issued at a premium) (“the Shares”) in full and final satisfaction of the Company’s obligations in respect of the Debt subject to the payment by the Parent of the sum of £5 in cash in respect of the par value of such shares.
10. In connection with the Capitalisation, there was produced to the meeting a final form subscription letter addressed to the Company from the Parent (“the Subscription Letter”) (paper **UE.18b(12)**).
11. The board carefully considered the Capitalisation and the terms of the Subscription Letter.
12. The board having done so and having considered the Capitalisation generally and the matters set out in section 172 of the Act declared it was to the benefit and in the best interests of the Company and would promote the success of the Company for the benefit of its members as a whole to effect the Capitalisation and based on the expectation that it will enable the Company to

enhance its profitability and therefore promote the success of the University by way of increased gift aid receipts and it was resolved that:

- a. the Capitalisation be approved; and
- b. the terms of the Subscription Letter be approved.

Issue of New Shares

13. The Chairman reported that under Article 3(a) and section 551 of the Act it was necessary for the parent to authorise the directors of the Company to allot new shares through an ordinary resolution (the "Ordinary Resolution") (paper **UE.19(12)**).
14. The draft ordinary resolution was produced to the meeting by which the parent, would:
 - a. pass the Ordinary Resolution to approve the allotment of twenty five additional ordinary shares;
15. Having considered the Ordinary Resolution it was resolved that:
 - a. the form of the Ordinary Resolution be approved;
 - b. the Ordinary Resolution be presented to the Parent of the Company; and
 - c. that the board meeting be adjourned to enable the same to be considered by the parent.
16. The meeting then briefly adjourned to allow the Ordinary Resolution to be signed.
17. Upon resumption of the meeting the directors noted that the Ordinary Resolution had been approved and duly signed for and on behalf of the parent.
18. Upon authorisation to allot additional shares the Board resolved to issue five ordinary shares of £1 each at an aggregate premium of £700,000 to the Parent (paper **UE.20(12)**).
19. A duly completed form SH01 (paper **UE.21(12)**) reflecting the capital of the Company as amended by the Special Resolution was produced to the

meeting and it was resolved that such form be approved. The form was then signed by the Secretary.

Capital Reduction

20. The Chairman reported that it was proposed that the Company reduce its share capital in accordance with the provisions of Chapter 10 of Part 17 of the Act in order to create distributable reserves (paper **UE.22(12)**). Specifically, it was proposed that the Company reduce its share capital by the cancellation of £700,000 of the amount standing to the credit of the share premium account of the Company (“the Capital Reduction”).
21. The Chairman reported that:
 - a. immediately prior to the Capital Reduction the share capital of the Company was £10 divided into ten ordinary shares of £1 each all of which were fully paid up and with a share premium account of £700,000; and
 - b. immediately following the Capital Reduction the share capital of the Company would be £10 divided into ten ordinary shares of £1 each all of which were fully paid up.
22. The Chairman further reported that pursuant to section 641 of the Act, the Capital Reduction could be effected by way of a special resolution supported by a solvency statement in accordance with the procedures set out in sections 642 to 644 of the Act.
23. The directors noted that, pursuant to section 3(2) of The Companies (Reduction of Share Capital) Order 2008:
 - a. the prohibition in section 654(1) of the Act which provides that a reserve arising from a reduction in capital is not distributable, did not apply to a reduction of capital effected by way of a special resolution supported by a solvency statement in accordance with the procedures set out in sections 642 to 644 of the Act; and
 - b. that a reserve arising from a reduction of capital carried out in such a way was to be treated for the purposes of Part 23 of the Act as a realised profit.

24. Accordingly, the directors considered it appropriate to consider the procedures set out in sections 642 to 644 of the Act and the following points were noted in respect of those procedures:
- a. that the Capital Reduction must be approved by a special resolution of the Company (“the Special Resolution”);
 - b. that the Special Resolution must be supported by a statement of solvency which all the directors of the Company were required to make in accordance with section 643 of the Act, a form of which (which had been prepared in accordance with The Companies (reduction of Share Capital) Order 2008) was produced to the meeting (“the Solvency Statement”) (paper **UE.23(12)**) and the directors noted that the form and text of the Solvency Statement would involve each of them making statements that they had formed the opinion:
 - i. as regards the Company’s situation at the date of the statement, that there was no ground on which the Company could then be found to be unable to pay (or otherwise discharge) its debts; and
 - ii. that (on the basis that it is not intended to commence winding up of the Company within 12 months) the Company will be able to pay (or otherwise discharge) its debts as they fall due during the year immediately following that date;
 - c. that in forming the opinions set out in the Solvency Statement the directors were required to take into account all of the Company’s liabilities (including any contingent or prospective liabilities);
 - d. the provisions of section 643(4) of the Act which provide that where a director makes such a statement, without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the Registrar of Companies (“the Registrar”), an offence is committed by that director for which on conviction he or she would be liable to a term of imprisonment not exceeding 2 years or a fine or both;
 - e. that the Company must not be prohibited from effecting the Capital Reduction by its articles of association and it was noted that there was no such prohibition in the Company’s articles of association;

- f. as the Special Resolution was proposed as a written resolution, a copy of the Solvency Statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him;
- g. that within 15 days after the Special Resolution is passed the Company must deliver to the Registrar:
 - i. a print of the Special Resolution;
 - ii. a copy of the duly signed Solvency Statement;
 - iii. a statement of capital in the form of prescribed form SH19;
 - iv. a statement prepared in accordance with section 644(5) of the Act, duly signed by all the directors of the Company, confirming that the Solvency Statement was made not more than 15 days before the date on which the Special Resolution was passed; and was provided to all the members in accordance with section 642 of the Act, a form of which was produced to the meeting (“the Compliance Statement”);

and that the Capital Reduction would take effect upon registration by the Registrar of the above documents.

25. Having carefully considered the above matters the directors unanimously resolved:
- a. that the Capital Reduction was in the best interests of the Company and that it would promote the success of the Company for the benefit of its members as a whole having regard to the matters set out in section 172 of the Companies Act 2006; and
 - b. that the necessary steps be taken by the Company to effect the Capital Reduction.

Solvency Statement

26. The directors considered the following documents, each of which was produced to the meeting:

27.

- a. The draft University Enterprise business plan (paper **UE.24(12)**);

- b. Management accounts for the period to 30 June 2012 (paper **UE.25(12)**);
 - c. A summary of all current projects (paper **UE.26(12)**);
 - d. Five year forecasts of income and expenditure for the Company for the period to 31 July 2017 (paper **UE.27(12)**); and
 - e. A cash flow forecast to 31 July 2013 (paper **UE.28(12)**).
28. The directors noted that the Management Accounts showed that the Company had made a net profit of £ £500,264 to 30 June 2012 and the directors confirmed that from their knowledge of events since the Management Accounts Date, there had been no material adverse change in the financial position of the Company since that date.
29. The directors also noted that they had no intention to commence winding up the Company within 12 months of the date of the Solvency Statement.
30. Having reviewed and discussed the documents listed in paragraph 26 above, the directors confirmed that in their opinion the Company would have sufficient working capital to enable it to pay its debts immediately following the date of the Solvency Statement and, having regard to the intentions of the directors in the management of the Company's business and to the amount and character of the financial resources which will be available, the Company will, following the date of the Solvency Statement, be able to continue in business as a going concern and thus be able to pay its debts as they fall due. The directors also confirmed that they had taken account of all contingent and prospective liabilities (for example contingent liabilities that are required to be disclosed in the notes to annual financial statements and commitments under hire purchase agreements or supply contracts) that a court would take into account when considering whether it could pay its debts under Sections 122 and 123 of the Insolvency Act 1986.
31. In light of the above, each of the directors formed the opinion that, as regards the Company's situation at the date of the Solvency Statement, that there was no ground on which the Company could then be found to be unable to pay (or otherwise discharge) its debts; and that the Company will be able to pay (or otherwise discharge) its debts as they fall due during the year immediately following date of the Solvency Statement.

32. It was therefore resolved that the form of the Solvency Statement was approved. Each of the directors then signed the Solvency Statement and the Solvency Statement was dated with the date of the meeting.

Special Resolution

33. A draft written resolution (“the Special Resolution”) (paper **UE.29(12)**) was produced to the meeting by which the Parent would:
 - a. pass the Special Resolution to approve the Capital Reduction.
34. Having considered the Special Resolution it was resolved that:
 - a. the form of the Special Resolution be approved;
 - b. the Special Resolution be presented to the Parent; and
 - c. that the meeting be adjourned to enable the same to be considered by the Parent.
35. The meeting then briefly adjourned to allow the Special Resolution to be signed.
36. Upon resumption of the meeting the directors noted that the Special Resolution had been approved and duly signed by the Parent and that prior to signing the Chairman of the Parent had inspected the original signed Solvency Statement.

Compliance Statement and Form SH19

37. The directors considered the form of the Compliance Statement (paper **UE.30(12)**) and noted that it required them to confirm, in accordance with section 644(5) of the Act, that:
 - a. the Solvency Statement was made not more than 15 days before the Written Resolution was passed; and
 - b. a copy of the Solvency Statement had been provided to the members of the Company in accordance with section 642(2) of the Act.
38. It was resolved that the form of the Compliance Statement be approved. Each of the directors then signed the Compliance Statement and the Compliance Statement was dated with the date of the meeting.

39. A duly completed form SH19 (paper **UE.31(12)**) reflecting the capital of the Company as reduced pursuant to the Special Resolution was produced to the meeting and it was resolved that such form be approved. The form was then signed by the Secretary.

Returns to the Registrar of Companies

40. The secretary was instructed to deliver all to the Registrar within 15 days of the date of the meeting:
- a. a print of the Special Resolution;
 - b. a copy of the duly signed Solvency Statement;
 - c. the Compliance Statement; and
 - d. the form SH19.
41. The secretary was instructed to notify the Company upon receipt by them of confirmation that the above documents had been registered by the Registrar and as such the Capital Reduction had been effected.

Date of next meeting

42. The board noted that the date of the next meeting was Friday 14 September 2012 at 2.30pm.

Conclusion

There being no further business, the meeting then ended.

Approved as a correct record.

.....
Chairman