
From: Douglas Widdowson
Sent: Wednesday, 1 April 2009 12:42 p.m.
To: Peter Williams
Subject: RE: SCF File Note 1 April 09.doc
Attachments: SCF File Note 1 April 09 (2).doc

[See my commrnt](#)

From: Peter Williams
Sent: Wednesday, 1 April 2009 12:29 p.m.
To: Douglas Widdowson
Subject: SCF File Note 1 April 09.doc

Hi Doug, revised SCF file note as discussed.

Cheers Peter

FILE NOTE

AUTHOR

Peter Williams
Senior Risk Analyst- Domestic Deposit Taking
Oversight

COPIED TO

DATE

01/04/09

SUBJECT

SOUTH CANTERBURY FINANCE (SCF)

Introduction

This file note deals with related party transactions transacted in December 2008 and January 2009 by SCF that may breach the terms of the Crown Deed of Guarantee (Non-Bank Deposit Takers).

Background

We noted the following material changes in the company's January 2009 DGS return:

- Related party lending of \$70 million.
- Increase in fixed assets of \$53 million.
- Increase in listed equity investments of \$90 million.

We sought background/explanation from Trustee Executors, the company's Trustee, specifically seeking their views on:

- The transactions being arm's length and at fair value.
- Whether the transactions adversely impacted on Trust Deed covenants.
- Whether the transactions enhanced the financial strength of the company.

In terms of the specific transactions the Trustee advised the following:

[Withheld under section 9(2)(ba) of the Official Information Act 1982]

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(No specific information was provided on the January related party lending of \$70m)

The Trustee also disclosed the following general concerns about the company via the provision of copy of a letter they sent to the company in November 2008:

[Withheld under section 9(2)(ba) of the Official Information Act 1982]

Possible Breach of Crown Guarantee

The possible breach related to the following clause in the Crown Guarantee:

Clause 6.2 Arm's Length Transactions

During the Guarantee Period the Principal Debtor shall not (and shall ensure that its subsidiaries shall not), without the prior written consent of the Crown:

- (a) Enter into any transaction (or series of linked transactions) having a value exceeding one percent (1%) of the value of the assets of the Principal Debtor otherwise than on arm's length terms;*
- (b) Enter into any transaction (or series of linked transactions) having a value exceeding one percent (1%) of the value of the assets of the principal debtor with any person who controls or is under common control with the Principal Debtor (other than a wholly owned subsidiary) unless:*
 - The transaction is on arms length terms; and*

- *An independent expert approved by the Crown in writing first certifies to the Crown in writing that the transaction is ,in the opinion of that expert, on arms length terms.*

Reason for Breach

- SCF entered into the Crown Guarantee on 19 November 2008.
- SCF total assets (TTA) were:
 - 31/12/08 \$2,136,000k
 - 31/01/09 \$2,230,400k
- 1% of TTA were:
 - 31/12/08 \$21,360k
 - 31/01/09 \$22,300k
- The transaction related to the purchase of the SCF loans by the parent in December 2008 was:
 - A related party transactions under clause 6.2 (b)
 - Exceed the 1% of TTA limit - \$89.6m against the limit of \$21.36m.
 - Did not have the prior consent of the Crown (confirmed by Treasury)
 - Did not have a written certificate provided by an approved expert that the transaction was arms length (confirmed by Treasury).
- The transaction related to the purchase of the of listed equity investments in January 2009 from related parties (in the opinion of the Trustee) was:
 - A related party transactions under clause 6.2 (b)
 - Exceed the 1% of TTA limit - \$90m against the limit of \$21.36m.
 - Did not have the prior consent of the Crown (confirmed by Treasury)
 - Did not have a written certificate provided by an approved expert that the transaction was arms length (confirmed by Treasury).

Other Possible Breaches

We do not have sufficient information regarding the January 2009 related party transactions to make a judgment as to whether these too may breach clause 6.2 (b).