ARM CEMENT PLC (IN LIQUIDATION)

Joint Liquidators' Update to the Creditors of the Company for the Period 1 October 2022 to 30 September 2023

November 2023

Table of Contents

Contents

1. Introduction

1.1. Background and Overview

Muniu Thoithi and George Weru were appointed as the Joint Administrators (the "Administrators" or "we") of ARM Cement PLC (under Administration) (the "Company"), effective 17 August 2018, pursuant to Section 534 (1) of the Insolvency Act of Kenya, 2015 (the "Act").

As prescribed in the Act, the objectives of the administration of a company are:

a) *to maintain the company as a going concern;*
b) *to achieve a better outcome for the company's creditors as a whole than would likely to be the case if the company were liquidated (without first being under administration); or*
c) *to realize the property of the company in order to make a distribution to one or more secured or preferential creditors.*

The Administrators undertook a review of the business and affairs of the Company, with a view to assessing which of the three statutory objectives of administration proceedings was most suitable considering the circumstances that the Company was facing.

This review was undertaken with the support of the Company's Management and independent cement industry subject matter experts ("SMEs"). The review included, but was not limited to, an analysis of:

i. the historical performance of the Company;
ii. the projected performance of the Company;
iii. a detailed technical review of the Company's plant and machinery; and
iv. an assessment of the continuing funding requirements of the Company and its prospects going forward.

From the analysis of the financial situation of the Company, it was apparent that it required a transaction for the injection of significant financing that would result in reduced leverage for it to operate in a sustainable manner. Given the overriding objective of administration proceedings – that is, achieving the best outcome for the creditors of the Company – the Administrators could not limit the objectives of such a transaction to the injection of equity into the Company because, at that time, it was not obvious that it would be achievable or that it would have resulted in the most optimal outcome for the creditors of the Company.

Consequently, any such transaction process would also have had to consider other options including the sale of the whole or part of the Company and/or its assets (e.g. its subsidiaries), to the extent that this was expected to result in a better outcome for the Company and its creditors.

The Administrators took the view that pursuing such a transaction, whilst operations were ongoing, was likely to achieve a better outcome than shutting the plants and undertaking an asset sale. Consequently, the Administrators took the view that continued trading was, in the interim, in the best interest of the Company and its creditors.

1.2. Administrators' Statement of Proposals

The Joint Administrators published public notices inviting the creditors of ARM for the first meeting of creditors of the Company, which was to be held on 23 October 2018, in the Daily Nation and The Standard newspapers on Tuesday, 9 October 2018. Further to this, the Administrators also circulated notices/invites of the said meeting to the creditors of the Company by way of email.

The main agenda for the meeting was the consideration and approval, by the creditors of the Company, of the Statements of Proposals prepared for their consideration by the Administrators, by way of a vote.

The Administrators took the creditors through their assessment of the Company's affairs and their recommended proposals for achieving the objectives of the administration, before asking the creditors to consider and approve the same. The Administrators also provided an opportunity for creditors to ask various questions regarding the Company and the administration.

The Administrators proposed that they be allowed to pursue **statutory objective (b)** of the three objectives of an administration as set out in Section 522 (1) of the Insolvency Act.

To achieve the purpose of Administration, the Administrators proposed that:

1. The Administrators continue to manage and seek financing (subject to existing contractual/security arrangements and applicable law) to run the affairs of the Company in such manner as they consider expedient, with a view to achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in administration);
2. The Administrators, in conjunction with their selected Transaction Advisors, undertake a robust, competitive, transparent and expedited/accelerated transaction process aimed at identifying strategic or financial investor(s) in ARM with a view to achieving a recapitalization of the Company through an injection of equity and/or a sale of all or some of the assets of the Company including any subsidiaries and/or a comprehensive restructure of its debt obligations;
3. The Administrators shall do all such other things and generally exercise all their powers under the Act which in their discretion they consider desirable in order to achieve the purpose of the Administration or to protect and preserve the assets of the Company or to maximize their realizations or for any other purpose incidental to these proposals;
4. The Administrators to continue the efforts aimed at collecting any debts (or claims) owed to the Company and make distributions in accordance with existing contractual/security arrangements and applicable law;
5. The Administrators continue the administration for the statutory period and use their best endeavours to achieve the purpose/objectives of the administration within that period ;
6. That the Administrators incur and pay the reasonable costs and expenses of the administration subject to the terms of any funding agreements;
7. In the event of a realization (in whichever form including a sale of the business or injection of capital by an investor), the Administrators distribute and appropriate funds of the Company to the various classes of creditors in line with the Act, after meeting costs of the administration;
8. The Administrators have their remuneration fixed in relation to the time properly spent by them and their staff on matters relating to the administration subject to the provisions of paragraph (6) above; and
9. The Administrators end the administration after it has achieved its purpose by either a Creditors Voluntary Arrangement ("CVA") or Creditors' Voluntary Liquidation ("CVL"), with the Administrators becoming Joint Liquidators if a CVL was pursued and Supervisors if a CVA is pursued.

At the first meeting, the Creditors of the Company approved the Administrators' Statement of Proposals for adoption and implementation in a near-unanimous decision. The Joint Administrators also prepared and filed, with the Court, the Chairman's Report on the outcome of the first meeting of Creditors.

The Administrators continuously focused their efforts on the implementation of the above approved proposals over the course of the administration.

We set out, in this report, an update on key matters and developments relating to the administration of the Company and its subsidiaries, following the approval of the proposals by the creditors.

1.3. Transition into Liquidation

The mandate of the administration of the Company ended on 30 September 2021, following substantive completion of the Kenya and Maweni (Tanzania subsidiary) transactions, the two most material aspects of the administration of the Company. The next course of action was the immediate commencement of the liquidation of the Company in line with the Administrators' Proposals, as approved by the Company's Creditors, and in line with the provision of the Act.

In line with the approved proposals, the Joint Administrators transitioned into the role of Joint Liquidators of the Company with effect from 1 October 2021 and continue to pursue an orderly wind-up of the affairs of the Company and its Subsidiaries.

1.4. Creditors’ Meeting of 15 November 2023

Section 413 (1) of the Act provides that, if the liquidation of the Company continues for a period of twelve months or more, the Liquidator shall convene a meeting of the Creditors to be held;

a) within three months after the end of that period of twelve months; and

b) within three months after the end of each subsequent period of twelve months

30 September 2023 marked two years since the commencement of the liquidation process. In line with the provisions of the Act, the Joint Liquidators have called for a meeting of creditors to update them on the status of the liquidation process.

This report details the matters to be discussed in that meeting.

2. Executive summary

2.1. Summary of estimated outcome to creditors of the Company

Majority of the realizations that are expected to result in a distribution to creditors of ARM have been completed. At the end of the liquidation process, it is estimated that the outcome in terms of distributions to various categories of creditors will be as follows:

a. Preferential Creditors of the Company will be 100% of amounts due

b. Secured Creditors of the Company will be in the range of 70% - 75% of amounts due; and

c. Unsecured trade and other creditors of the Company will be in the range of 7.6% - 8.5% of amounts due.

As of the day of this update, recovery to the various categories of creditors is as summarized below:

a. Preferential Creditors – 100%

b. Secured Creditors – 69.17%

c. Unsecured trade and other creditors – 7.61% (of which the first 6.78% has been distributed so far. With the balance 0.8 % expected to be distributed within the course of November 2023).

The difference between the realizations to date and the final expected realizations relates to realization amounts that are not yet available for utilization and which the Liquidators are working to resolve (retention amounts).

2.2. Way forward for the Company

The Liquidators will continue pursuing the orderly wind up of the affairs of the Company. Once this is concluded, the Company will be struck off the register of companies in Kenya and, therefore, cease to exist.

2.3. Next sections of the report

The remaining sections of the report provide further information on:

a. The affairs of the Company and its Subsidiaries

b. Estimated outcome to creditors and shareholders of the Company

c. The Receipts and Payments Statement for the liquidation

3. Update on the affairs of the Company and its subsidiaries

3.1. Kenya – ARM Cement PLC (under Administration)

As of November 2023, the outstanding retention amounts relates to pending tax matters. The tax matters that the Liquidators have been dealing with and in respect of which certain amounts are held in retention remain largely outstanding. These matters relate to PAYE (USD 0.54M) and VAT/WVAT (USD 3.3M). These retentions are based on KRA's initial claims at the start of the administration of the Company. We are currently engaging KRA with a view to resolving these matters. We expect that the PAYE will be resolved by the end of the year. Resolution of the VAT/WVAT matters is expected to run into 2024 given the pace at which KRA is handling the matters.

3.2. Subsidiaries in Tanzania, Rwanda and South Africa

3.2.1 Maweni Limestone Limited ("MLL") – Tanzania

As communicated in the previous update, All outstanding matters in relation to the Maweni transaction have been conclusively resolved. In September 2022, ARM and Maweni finalized on the outstanding reconciliation and distributed the amounts held in the escrow between themselves. ARM received c. USD 2.4 million from this distribution. These funds have since been distributed to the creditors of ARM Cement Plc.

3.2.3 ARM Tanzania Limited ("ARM TZ") - Tanzania

The sale of the business and assets of ARM TZ proved challenging due to the doubtful solvency of the business. As a result, the Joint Liquidators took the view that the best way forward was to put ARM TZ into liquidation.

ARM TZ is now in liquidation (effective 17 October 2022), with East African Law Chambers (EALC) ("Dentons TZ") acting as the liquidators. We understand that the sale of ARM Tz's assets is currently underway and the transaction has received FCC's approval. We expect that the transaction will be completed in the next 6 months.

Due to the limited value of ARM TZ assets and its significant liabilities, we do not expect the liquidation of ARM TZ to result in a material surplus to ARM. We note that the liquidators are currently engaging TRA with a view to quantify their total outstanding tax liability which will enable them form a view on estimated recovery to ARM, if any.

3.2.4 Kigali Cement Company Limited ("KCCL") – Rwanda

Following the sale of the assets of KCCL, the Liquidators are following up on the deregistration of KCCL from the company registry. As shared in the previous update, ARM Cement Plc did not receive any surplus from the transaction due to the outstanding liabilities of KCCL which exceeded the realized amounts.

3.2.5 ARM Rwanda Limited ("ARM Rwanda") – Rwanda

We note that ARM Rwanda which is a subsidiary of the Company is yet to be wound up. The company does not own any assets and therefore what is outstanding is the formalization of its exit such as deregistration. The liquidators are currently considering their options in relation to the same.

3.2.6 Mafeking Cement Pty Ltd ("Mafeking") – South Africa

As per our last update, Mafeking is involved two litigation matters whose uncertain nature and the length of time it might take to resolve, it is unlikely that there will be any realizations from any of the assets of the company. Consequently, the Liquidators have been considering the options available to them to achieve a cost-effective separation/divesture from Mafeking. The liquidators are currently finalizing a settlement in relation to the litigation matters which will conclude residual matters in South Africa.

4. Estimated outcome to creditors of ARM

The Insolvency Act, 2015 Kenya sets out the manner in which proceeds from a successful transaction involving the sale of assets and businesses of a Company in liquidation should be distributed. Specifically, *Section 582 (2) of the Act* provides that the second schedule to the insolvency Act is applicable in determining the priority of debts to the various classes of Creditors, while Section 474 of the Act provides for the Prescribed Part which is the share (20%) of net realizations from floating charge securities that is to be set aside for distribution to the unsecured creditors. Form 32 of the Insolvency Regulations, more comprehensively, details the Statement of Affairs of a company, including the order of payment of various categories of creditors.

For ease of reference, the order of application of proceeds of realization from fixed charge securities and floating charge securities is as summarized below.

a. In the case of fixed charge securities:

   i. Costs associated with realization of the fixed charge securities

   ii. Debts secured by fixed charge securities

b. In the case of floating charge securities

   i. Costs associated with realization of the floating charge securities

   ii. Preferential creditors

   iii. Prescribed Part (being 20% of net proceeds after (i) and (ii) above) – to be made available to unsecured creditors

   iv. Debts secured by floating charge securities

   v. Unsecured debts

4.1 Creditors of Maweni

The structure of the Maweni Transaction was such that the USD 116M injection would, firstly, be applied towards settling Maweni's liabilities with the surplus, if any, being up streamed to ARM for application in settling the liabilities of the Company.

Following this approach, the secured and unsecured creditors of Maweni have been settled in full.

A high-level summary of the application of proceeds from the Maweni Transaction is provided below.

USD (Millions)	As of 31 December 2022
Proceeds from sale of shares	USD (millions)
Net interest from escrow account	116.00
	1.26
Net Inflows	**117.26**
Payments	
TRA and NSSF Payments	11.88
Distribution to Maweni for settlement of its liabilities	71.23
Bank Charges and WHT on Interest Income	0.19
Total payments	**83.30**
Surplus to ARM	**33.96**

**Surplus to ARM includes c. USD 0.29M in loan repayment from Maweni to ARM for funding advanced during the administration. The net surplus up streamed to ARM out of the Maweni Transaction is c. USD 33.96M*

4.2 Creditors of ARM Cement PLC (in Liquidation)

The Administrators have been making distributions to the various classes of ARM creditors from the funds received in the Kenya transaction, as well as surplus (c. USD 33.96M) from the Maweni transaction, in line with the provisions of the Act. The table below summarizes the estimated creditor returns for each creditor category as of the date of this report.

Creditor Category	Total Amounts claimed (USD m)	Total Amount paid/ payable (USD m)	Recovery (%)
Preferential Creditors	3.07	3.07	100.00%
Secured Creditors	71.06	49.15	69.17%
Unsecured Creditors	80.20	6.01	7.61 %
Total	**154.33**	58.32	N/A

Note: *This is recovery to the creditors of ARM Cement PLC (in Liquidation) and excludes recovery to the creditors of Maweni who have been paid in full*

It is estimated that the secured creditors of ARM will recover between 70% - 75% of their total reviewed claim amounts, while it is estimated that the unsecured creditors will recover between 7.6% - 8.5% of their total reviewed claim amounts from the sale of the Company's assets (including subsidiary interests).

Final outcome to the respective creditor groups is largely dependent on the resolution of the pending retentions in relation to the Kenya transaction – the higher recoveries of 75% and 8.5% would only be achieved if all pending retention amounts are resolved successfully.

As of the date of this report, dividends distributed to unsecured creditors of the Company relate to the 7.6% (out of the available 7.61%, 6.78% has already been distributed) recovery in relation to their reviewed claims. The Liquidators will be distributing the balance c. 0.8% to the unsecured creditors during the month of November 2023.

The detailed estimated outcome statement for the administration/liquidation as of the date of this update is provided under subsection 4.5 below.

4.3 Summary of Retention Amounts

In total, c. USD 3.8 million is still held in retentions, largely in respect of unresolved tax. These amounts will become available for utilization, mainly being distribution to creditors, as and when the associated outstanding matters are resolved. These amounts, once unlocked, would be available for distribution to both secured and unsecured creditors. We expect that due to the complexity of the outstanding matters it will take about 12 months for these retentions to be unlocked.

Over and above the tax retentions, the Liquidators are also holding some provisions in respect of dividend amounts relating to contingent unsecured claims that remain unresolved (e.g., litigation matters) and dividends for unsecured creditors that were in the books of the Company but who have not submitted their claims. This amount, which is approximately USD 1 million, may also become available for distribution depending on the outcome of the contingent claims/matters and the final determination in relation to unsubmitted claims. This amount, if unlocked, will become available for distribution to the unsecured creditors only since the provisions are in respect of unsecured claims.

4.4 Estimated Outcome Statement for ARM Cement PLC (in Liquidation)

A detailed estimated outcome statement for ARM Cement PLC (in Liquidation), as of the date of this update, is set out below for reference on estimated outcomes to various categories of stakeholders of the Company. This analysis reflects the dividends that have become available for distribution to creditors as of the date of this report and excludes any potential future dividends – i.e., the EOS excludes distribution of the c. USD 3.8 million held as retentions and which might become available for distribution to creditors in the event the pending matters are resolved in favor of the Company. This amount excludes money retained by the company to fund its operations until it is wound up.

ARM Cement PLC (in Liquidation)

Estimated Outcome Statement (EOS) in the Administration/Liquidation of the Company

	USD (m)
Total proceeds of realization	
Proceeds of realization attributable to Fixed Charge Securities - Kenya Transaction	37.10
Proceeds of realization attributable to Floating Charge Securities - Kenya Transaction	12.90
Floating Charge Realizations relating to Surplus Proceeds from the Maweni Transaction	33.96
Floating Charge Realizations relating to Operating Activities (e.g. Collection of Book Debt)	1.36
Total realization	**85.31**
Application of realization proceeds attributable to Fixed Charge Securities	
Realization from fixed charge securities	37.10
Less: Retentions amounts utilized in settlement of obligations	(0.49)
Less: Retention amounts still held by the Liquidators	(2.45)
Less: Costs of realization apportioned to fixed charge realizations	(9.40)
Net proceeds available for distribution to creditors secured by fixed charges	**24.75**
Less: Debts secured by fixed charge securities	(71.06)
Shortfall to creditors secured by fixed charges	**(46.31)**
Application of realization proceeds attributable to Floating Charge Securities	
Realization proceeds from floating charge securities	48.22
Less: Retentions amounts utilized in settlement of obligations	(1.04)
Less: Retention amounts still held by the Liquidators	(1.39)
Less: Costs of realization apportioned to fixed charge realizations	(12.22)
Net proceeds available for distribution to preferential creditors	**33.57**
Less: Preferential creditors	(3.07)
Net proceeds available for computation of the prescribed part	**30.50**
Less: Prescribed part	(6.10)
Net proceeds available for distribution to holders of floating charges	**24.40**
Less: Secured Creditors (balance net of distributions from fixed charge realizations)	(46.31)
Shortfall to Secured Creditors	**(21.91)**
Prescribed part available for unsecured creditors	6.10
Less: Unsecured Creditors	(80.20)
Shortfall to unsecured creditors	**(74.10)**
Amounts available to shareholders	**-**

Summary of distribution to various categories of creditors	**USD (m)**
Dividends payable to Preferential Creditors	3.07
Dividends payable to Secured Lenders	49.15
Dividends payable to Unsecured Creditors	6.10

**Costs of realization

Costs of realization refer to expenses incurred to facilitate pursuit of the objectives of the administration and/or liquidation of the Company and financed from the proceeds of realization.

These expenses vary in their nature and include, but are not limited to:

a. funding utilized to support the trading operations of the Company before completion of the Kenya transaction, including costs associated with raw materials, repair and maintenance and operating expenses such as salaries and wages, power etc.;

b. funding to support the operations of the Company after cessation of trading activity, including ongoing salaries and wages, rentals, utilities etc.;

c. funding utilized to facilitate completion of the Ngaaie Transaction;

d. funding utilized to support the operations and/or orderly winding up, including transaction processes, of the affairs of the subsidiaries of the Company;

e. funding for professional fees incurred in the administration and/or liquidation of the Company including fees for the Administrators, Transaction Advisors, Industry SMEs, Tax Consultants and Legal Advisors;

f. funding for the finance costs associated with the USD 5 million administration loan provided by the secured lenders of the Company at commencement; and

g. Costs for procurement of critical licenses e.g., mining rights etc. that were required for operations and were requires by the purchasers of the Company and its subsidiaries.

4.5 Receipts and Payments Statement

The Liquidators' Receipts and Payments statement for the last 12 months of the liquidation, i.e., 1 October 2022 to 30 September 2023, is summarized below:

ARM Cement PLC (in Liquidation)
Statement of Receipts & Payments For the period 1 October 2022 to 30 September 2023

USD	
Receipts	
Opening balance[1]	15,221,501
Collection of Book Debt[2]	324,312
Total Receipts	**15,545,813**
Payments	
Secured creditors [3]	5,013,818
Administrators/Liquidators' fees & disbursements[4]	761,439
Unsecured creditors[5]	505,061
CAPEX[6]	476,380
Salaries & wages[7]	238,461
Consultancy fees[8]	200,110
Subsidiary related costs[9]	141,353
Others[10]	209,179
Total Payments	**7,545,802**
Net cash position	**8,000,011**

Notes

1. *Opening balance relates to the cash book closing balance as at 30 Sept 2022.*

2. *Collection of book debt includes collections for revenue earned before 17 August 2018 (debt collection).*

3. *This is the seventh and eighth interim dividends paid to the secured creditors after the resolution of the retentions.*

4. *Administrators/Liquidators' fees and disbursements refer to the costs associated with the running of administration proceedings.*

5. *This is the third interim dividend paid to unsecured creditors, which was approximately 1% of the adjudicated claim.*

6. *Relates to final compensation payments made in the month of November 2022 in relation to acquisition of Mwingi/Ngaiie limestone deposit.*

7. *Salaries and wages relate to payments made to retained employees who assist in the operations of the company.*

8. *Consultancy fees include fees paid to legal advisors and debt collectors.*

9. *Subsidiary related costs include the costs associated with the winding down of activities of the company's subsidiaries.*

10. *These include payments related to taxes, lease rentals, spares and consumables, insurance, bank charges and interest.*

11. *The net cash position comprises:*

(i) tax retention amounts

(ii) the provisions for dividends for contingent and unsubmitted unsecured creditors

(iii) amounts relating to the 0.8% dividend distribution to be made to the unsecured creditors within the course of the month of November 2023; and

(iv) amounts retained by the Liquidators as a provision for the costs of the liquidation (out of which any residual sums, at the conclusion of the liquidation, will also become available for distribution to the creditors).

5. Next Steps

Going forward, the Liquidators will continue pursuing an orderly winding up of the affairs of the Company (with a view to, eventually, getting it struck off the register of companies) through, inter alia:

a. resolution of outstanding retentions;

b. distributing any funds that become available funds to the creditors of the Company; and

c. pursuing orderly winding up of the affairs of material subsidiaries etc.

Dated 9th day of November 2023
George Weru
Joint Liquidator
Without Personal Liability

Glossary of Terms

Terms	Meaning
ARM or the Company	ARM Cement Company Plc(
ARM TZ	ARM Tanzania Limited Plc.
ARM RWANDA	ARM Rwanda Limited
SME	Subject Matter Expert
The Act	Insolvency Act, 2015
CMA	Capital Markets Authority
FCC	Fair Competition Commission (Tanzania)
CAK	Communications Authority of Kenya
MLL	Maweni Limestone Limited
NCCL	National Cement Company Limited
Huaxin	Huaxin Cement Company Limited
KCCL	Kigali Cement Company Limited
Mafeking	Mafeking Cement Proprietary Limited