

27 November 2009

## **DOMINION FINANCE GROUP LIMITED (In Receivership & In Liquidation)** **Investors Report** **Confidential to Investors**

### **Update**

Release of this report has been delayed pending the outcome of Court action required to protect Dominion's interest in a mortgage. This had the potential to either prevent a distribution to investors in the short term or to cause a significant loss resulting from third party action if the mortgage was taken out of our control. Our position has now been accepted by the Court, so a distribution can now be made, albeit reduced somewhat by funds required to purchase a first mortgage.

### **Summary**

- Enforcements and realisations of securities have progressed well. In summary 64% have been realised and a further 18% are currently subject to summer season marketing campaigns;
- Realisations to date are consistent with original projections of total distributions in the range of 10 cents to 25 cents per dollar invested;
- A large part of realisations since the last distribution have been necessarily applied to repaying Dominion's debts to an unrelated finance company that were secured in priority to Dominion's interest in a number of mortgages;
- Further funds have been applied to support an order obtained from the Court to purchase a first mortgage in order to protect Dominion's interest in a loan security against actions threatened by the first mortgage. These funds will be recovered from future sales;
- This report includes the two weeks notice required prior to the next receivership distribution of 2 cents per dollar invested to be mailed before Christmas;
- The timing of further distributions depends on the results of summer season realisations currently underway. While this cannot be reliably projected at present, we are hopeful of making a further distribution around April.

### **Progress to Date**

We have realised a number of Dominion's securities by way of enforcement but only where we considered we were selling into a market that was as good as it would get net of holding costs of capital. Realisation has been deferred where there is virtually no market.

- a) Progress to 9 September can be summarised as:

	\$000	\$000	% of Original Estimate
Sales Settled (140 Properties)		103,855	
Paid to First Mortgagees or GST		85,372	
Realised and Settlement Received		18,483	43%
Realised and to be settled (net of GST)		9,100	21%
Realised to Date		27,583	64%
Summer Marketing Programme Underway		3,600	8%
Subject to mortgagor sale		4,340	10%
Realised or Currently Marketing		35,523	82%
To Be Realised (refer 2.2 below)		7,508	17%
October 2008 Initial Receivership Projections <i>(excludes NSFL and Negotiable SSA's)</i>		<b>43,031</b>	<b>100%</b>

- b) The very large proportion of Dominion loan securities that were subject to prior charges (most Dominion loan securities were subject to either prior mortgages or security sharing agreements) has complicated this administration and significantly reduced recoveries. Security sharing agreements and deeds of priority oblige Dominion to either realise securities and satisfy prior charges (the security sharing agreements) or process numerous sales that provide no benefit for Dominion.
- c) In the case of security sharing agreements, securities have had to be realised to satisfy prior charges in order to gain access to the (lowest quality) remainder.
- d) For second mortgage positions (the bulk of loans) we work to maximise realisations from securities to pay prior chargeholders in order to obtain access to the remaining surplus for Dominion investors. In some cases this has provided significant returns for Dominion. While the cost per dollar of realisation is significant in these circumstances because most of the realisation is paid to prior chargeholders, the only alternative would have been to abandon Dominion's interest in the remainder of the security which would have reduced realisations by far more than costs saved.
- e) Under the terms of a number of loan priority agreements, Dominion is required to process sales even where all proceeds from the security will go to the first mortgagee.
- f) We have completed reviews of 140 settlements to date. Receivership work has substantially improved reductions in the first mortgage debt in some cases and costs related to this have been recovered. Where the final outcome is such that the prior creditor is cleared, Dominion has received the benefit of the improved realisations.

The 17% of recoveries yet to be realised referred to above represents:

	<b>\$000</b>	<b>%</b>
Security over land in remote location	4,960	12%
Subject to management right, security issues or prior charges	2,540	6%
	<b>7,500</b>	<b>17%</b>

In summary, 64% of recoveries initially projected have been realised, with summer season marketing in progress (particularly for holiday resort securities for which there is little winter market) for a further 8%. A further 10% are subject to mortgagor sale campaigns. 82% of projected realisations have therefore either been realised or are subject to current summer season marketing. The remaining 17% of realisations largely represent very difficult securities to realise that will either take time to resolve or substantial time for the relevant market to recover.

Receivership realisation projections have been reviewed based on realisations achieved to date and updated projections for the remainder. Overall this has confirmed the reliability of the substantial work undertaken in assessing securities at the time of original receivership projections. Gains achieved to date may be largely offset by potential shortfalls on realisation of some of the remaining securities facing oversupplied illiquid markets.

83% of Dominion loans by value were secured by way of second mortgage (or unsecured) over properties facing illiquid markets and after first mortgagees that are becoming increasingly nervous that they may suffer a loss. This is leading to less flexibility by first mortgagees regarding medium term value recovery. This adds to uncertainty regarding remaining realisations.

Capitalised interest represents a significant amount of the book losses on Dominion loans. Most of these had been capitalising interest for a considerable period after the loan originally fell due for payment.

Dominion's loans included 13 developments in progress. Each required significant evaluation to determine Dominion's position:

- two developments were sold "as is" for 18% above our initial valuations;
- one was completed, disputes with the building contractor resolved and code compliance obtained after negotiations with the local authority and before promoting the property for sale;
- one has been largely completed and two thirds sold but remains subject to resolution of issues regarding historic classification with the local authority;
- one was kept afloat for the extended period required to realise;
- in one case a significant shortfall for Dominion was converted to a cash benefit of over \$350,000;
- the remainder look very likely to result in substantial shortfalls to the first mortgagee and no recovery for Dominion.

Some enforcements as second mortgagee are subject to the actions of others, resulting in considerable uncertainty which can affect returns to investors.

Recoveries have also been made more difficult because, at the time of our appointment, Dominion lacked:

- sufficiently detailed loan files to support proper evaluation of loan management/enforcement options;
- valuations (other than valuations briefed by borrowers) in virtually all cases;
- any clear strategy documented for management of loan defaults and enforcements

### **Prior Charges**

A large proportion of realisations of the 'saleable' assets over the past 6 months have been applied to repay a prior charge to a financier that lent money to Dominion in the lead up to suspension of payments to investors. As noted above this was necessary in order to obtain access to residual security for Dominion investors.

### **North South Finance**

Some realisations are held in trust pending an application to the Court for determination of entitlement to these relative to agreements purportedly effected by Dominion and North South Finance prior to receivership.

### **Directors And Officers Claim**

We are working with the liquidators in relation to this potential claim.

We have now met with two substantial Australian litigation funders who have both indicated that such a claim fits within their core business. Each has requested further detailed information setting out the basis of claim for their review. We are completing information for review by our lawyers. When our lawyers agree that the material is what is required we will:

- arrange for completion of remaining work forming the basis of a potential claim
- submit the information to the litigation funders and seek funding proposals.

If a decision is then made to pursue a claim we will decide whether it is better to go ahead with litigation funding or fund any claim from the receivership. This will be influenced by the extent to which:

- the risk to investors of potential non-recovery of significant costs for the legal action justifies payment of a significant success fee to litigation funders, and;
- the ability of the receivers to distribute up to \$1.0m or more to investors up to 2 years earlier (if litigation funding is used) justifies the payment of a significant success fee to litigation funders.

### **Claims Against Valuers**

Dominion's apparent total reliance on mortgage broker or borrower briefed valuations to support loan applications together with capitalised interest and fees on loans are probably the most significant contributors to the losses faced by Dominion investors. We believe that two valuers in particular wrongly overvalued properties in support of a number of second mortgage advances that should not have been made.

We have instructed lawyers in relation to two multi-million dollar claims against valuers. One of the valuation companies is in liquidation. While we have confirmed that this company carries insurance we have not as yet been able to determine the amount of cover.

## **Estimated Outcome**

We based our initial estimate of outcome on a very careful evaluation of each loan. Most of these required new valuations. The more challenging assets were also cross checked against real estate agent appraisals.

The initial realisation estimates have proven to be very reliable. The additional work referred to in this report has achieved a premium of 14% on realisations to date but this has been eroded by downwards revisions of 10% for estimated realisations from generally much poorer remaining securities, resulting in a projected outcome consistent with our initial estimates. It is possible that this could be improved slightly going forward but remaining securities are mainly very difficult assets involving disputes or facing very illiquid markets.

Overall we believe that our initial distribution estimates of 10 cents to 25 cents per dollar invested remain relevant.

## **Distribution**

We are pleased to notify you of a distribution of 2 cents per dollar invested to be mailed before Christmas. This notice constitutes a Trustee notice of distribution to investors under Clause 8.13 of the debenture trust deed.

## **Further Information**

We have previously provided details of the receivership website developed at the time of our appointment ([www.deloitte.com/nz/dominion](http://www.deloitte.com/nz/dominion)). We have filed the receivers' third statutory report on-line at the Companies Office and that report can be viewed free at the Companies' Office website [www.companies.govt.nz](http://www.companies.govt.nz).

We will continue to update the Trustee who is overseeing us, and will post further updates and matters of relevance to investors on the receivership website as appropriate.

In the meantime:

- for further information please visit the website [www.deloitte.com/nz/dominion](http://www.deloitte.com/nz/dominion);
- if you have questions please use the email facility on the website or call +64 9 306 0410 for investor queries. All other queries should be directed to +64 9 306 0411 or facsimile +64 9 306 0404.

## **Confidentiality**

This report is confidential to the Trustee and debentureholders and is not to be reproduced or used for any other purpose without our prior written consent in each case. We do not accept any liability whatsoever to any party from any use of, or reliance on, this report.

## **DOMINION FINANCE GROUP LIMITED (In Receivership & In Liquidation)**

*Rod Pardington*

**R G Pardington**  
**Receiver and Manager**