

10 March 2003

**FIRST PUBLIC REPORT OF ADMINISTRATORS
PURSUANT TO ARTICLE 227 OF THE NETHERLANDS BANKRUPTCY ACT**

in the provisional suspension of payments granted by the Amsterdam Court on 23 January 2003 to:

- **JOMED N.V.**
in Amsterdam
suspension of payments number: 03.003-S
Administrators: R.J. graaf Schimmelpenninck and M.Ph. Van Sint Truiden
(Houthoff Buruma, Parnassusweg 126, 1076 AT Amsterdam)
Supervisory Judge: Ms A. van Dijk
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1. **INTRODUCTION**

1.1 Introductory observation

The present report concerns a first report of the findings of the Administrators in the provisionally granted suspension of payments of JOMED N.V. (hereinafter: “Jomed NV”).

It should be emphasised that the financial and, partly, other information was received from the company. This information has not been furnished with an audit opinion and is still subject to examination. At a later stage it may turn out that this information needs (some) adjustments.

1.2 Incorporation, address and shareholders

Jomed NV was incorporated on 17 August 1977. It has its registered seat in Amsterdam, and its business address at Bamfordweg 1, in 6235 NS Ulestraten (near the city of Maastricht). The shares of Jomed NV are listed on the Zurich stock exchange (*SWX Swiss Exchange*) in Switzerland.

1.3 Management Board and supervisory directors

According to the trade register the management board of Jomed NV consists of the following persons: K.J. Rudolf Ott, Randolf von Oepen, Jorge J. Quinoy, Joakim Eriksson and Jörgen P. Peterson. The managing directors in the period prior to the suspension of payments since 1997 were Mr Tor L. Peters (from 15 December 1997 to 13 January 2003), Mr Antti J.J. Ristinmaa (from 18 April 2000 to 27 January 2002) and Mr Peter Klemm (from 18 April 2000 to 31 May 2002).

The trade register shows that the supervisory board is made up of Messrs Jan-Erik Österlund, Ahmed Aykaç, René Garo, Samuel E. Navarro and Lothar Späth.

1.4 Business activities and organisation

Jomed NV is the holding company of and has control over (mainly 100% participations in) several companies, established in Australia, Belgium, Brazil, Canada, Germany, France, Italy, Japan, Luxembourg, the Netherlands, Poland, Singapore, Venezuela, the United States, the United Kingdom, Sweden, South-Africa and Switzerland (collectively the “Jomed Group”). The most important activities are in Germany (production, R&D), the United States (production, R&D), Sweden (sales, group finance) and Switzerland (production, R&D, sales). A corporate chart of the Jomed Group has been attached to this report as **annex 1**.

The Jomed Group is involved in the field of the development, the production, the bringing on the market and the sale of medical devices along with related products

and services. The companies belonging to the Jomed Group are mainly involved in medical technologies in the field of intravascular cardiology, intravascular radiology, intravascular ultrasound (IVUS) and related cardiological technologies, in particular by means of the development, the production, the sale and the distribution of cardiovascular devices.

1.5 Reason for the suspension of payments

Early January 2003 it appeared that the (consolidated) annual accounts 2001 and the quarterly reports for the second and third quarter of 2002 of Jomed NV contained inaccuracies. Jomed NV therefore put out press releases on 7 and 13 January 2003, copies of which are attached as **annexes 2 and 3**. As a result of this press reporting, four creditors with whom Jomed NV took out a convertible loan for an amount of €25 million in July 2002, made use of a stipulation included in the loan agreement, which resulted in them claiming the full loan plus a penalty of 20%. As a subsequent result, the banks that financed Jomed NV and/or its subsidiaries, froze the existing credit lines and subsequently decided, to a large extent, to set off the funds that Jomed NV and/or its subsidiaries received against the amounts owed by virtue of their lending, as a result of which the banks, or at any rate some of them, saw their claim decreasing considerably. Since the aforementioned creditors feared that their positions would deteriorate as a result of this, they filed a petition for the bankruptcy of Jomed NV. Simultaneously, the management board of Jomed NV applied for the granting of the present suspension of payments in order to allow itself some time to achieve a financial restructuring without endangering the *paritas creditorum*.

1.6 Provisional suspension of payments

On 23 January 2003 Jomed NV was granted provisional suspension of payments by a ruling of the Amsterdam Court appointing A. van Dijk as supervisory judge and R.J. graaf Schimmelpenninck and M.Ph. Van Sint Truiden as administrators. A copy of this ruling has been attached as **annex 4**.

The ruling also included a cooling-off period pursuant to article 241a of the Netherlands Bankruptcy Act for a period of one month. This period was extended to 21 March 2003 by a ruling of the Amsterdam Court on 21 February 2003. A copy of this ruling has been attached as **annex 5**. As the petition also requests the opening of main insolvency proceedings with extraterritorial effect as meant in article 3, first paragraph of EC Regulation 1346/2000, the Court determined by its ruling of 13 February 2003 that it is entitled to open main insolvency proceedings. A copy of this ruling has been attached as **annex 6**.

1.7 Activities of the administrators

Immediately after the provisional granting of the suspension of payments, the Administrators and (a delegation of) the management board and the supervisory board of Jomed NV made efforts to obtain an interim financing arrangement in order to face the acute liquidity problems this way. After it appeared that the banks were not prepared to provide such a financing arrangement, Jomed NV entered into an agreement with Edwards Lifesciences AG (“Edwards”), whereby Edwards granted a loan of US\$ 5 million until 31 March 2003. This preferential loan to a bankrupt estate (*boedelkrediet*) of US\$ 5 million has been onlent to the subsidiaries for the purpose of the continuity of the business operations of the Jomed Group as a whole. For the purpose of this agreement, the banks reopened their respective credit lines at the previously frozen level of 3 February 2003 and agreed with Jomed NV that they would not make use of their contractual rights to a set-off until 31 March 2003, both at the level of Jomed NV, and at the level of its subsidiaries. Consequently, the Jomed Group now has the disposal of incoming funds again, in any event until the aforementioned date. Edwards obtained, in return, security rights on certain patent rights and an option on the acquisition of the same patent rights. On 14 February 2003 Edwards exercised this option, which resulted in the sale of these patent rights on 17 February 2003. With the yield of US\$ 20 million, the debt of US \$5 million owed to Edwards was set off.

After the effectuation of the interim financing, the Administrators, (a delegation of) the management board and the supervisory board of Jomed NV have been looking into the possibilities of (1) a restructuring of the debts and (2) the sale of a part of the assets of Jomed NV or the entire Jomed Group. A lot of parties have since expressed their interest in playing a part in these possibilities. The Administrators and (a delegation of) the management board and the supervisory board of Jomed NV decided, however, that they wanted to have (more) clarity regarding the annual accounts 2002 and other financial information such as a liquidity and cash flow forecast, and to sort out the financial organisation before starting talks with these parties about the restructuring of the debts or the sale of (part of) the assets of Jomed NV because this information will be vital in (serious) talks with the interested parties. The sale of a number of non-core assets of Jomed NV is currently being examined.

These activities were– and still are – hampered by several factors:

- i. the most recent (consolidated) annual accounts of Jomed NV are those of the financial year 2001 and contains inaccuracies;
- ii. the senior managing directors of Jomed N.V., Tor Peters (CEO) and Anti Ristinmaa (CFO), were forced to stand down as managing directors of Jomed NV and all subsidiaries as a result of the irregularities occurring in 2001 and 2002 for which they were responsible; they were *de facto* succeeded by Jörgen Peterson, managing director of Jomed NV and currently ‘acting CEO’, and Lars-

- Johan Cederbrant as 'acting CFO' who, of course, do not yet have the overall view and insight required under the present circumstances;
- iii. the auditor of Jomed NV, Deloitte & Touche ("D&T"), also withdraw because he considered the continuation of his activities to be incompatible with the fact that the supervisory board had asked KPMG to include the position of D&T as the company's auditor in its investigation into the irregularities (see 2.1) . As it is essential to have the correct financial information, everything has been done in order to appoint a new auditor. PricewaterhouseCoopers ("PwC") has since, as of February 2003, declared its willingness to act as new auditor. At the time of this report, no results are available of the activities started by PwC. The appointment of PwC will still have to be confirmed in the next general meeting of shareholders. Requests from several parties to discuss matters with D&T in order to increase the insight in the irregularities, have so far been turned down flatly and without stating any reasons by D&T.
 - iv. the internal 'financial capability', in particular where the acting CFO must deal with many non-specific financial matters under the present circumstances, is insufficient. For this reason an external financial expert has been called in to assist the acting CFO and Jomed NV's 'financial department' in these matters.

On 27 January 2003 the Administrators met with representatives of the creditors who claimed repayment of their convertible loans. Subsequently, on 21 February 2003, a meeting was held between the Administrators, Jomed NV's legal counsel and representatives of three of the aforementioned creditors. At these meetings these creditors insisted to be given confidential information. The Administrators replied that they did not have complete and correct information and that, moreover, they were not prepared to share information exclusively with these creditors at this stage.

As stated above (in 1.5), the creditors concerned claimed the total amount of the loan before the commencement of the suspension of payments, including interest and increased by a penalty of 20%. After the date of the suspension of payments, the creditors increased the amount of their claims by making unilateral use of acceleration conditions in the loan agreement. These creditors take the position in this respect that their claims have therefore increased up to an amount of € 60 million in total. The Administrators are at present investigating (the legal basis of) these claims and take the position, for the time being, that the increase by the creditors of their claims on the basis of the contractual conditions and general principles of Dutch law of obligations, as well as on the basis of Dutch bankruptcy law aspects, is not possible, or at least not up to the aforementioned amount.

2. FINANCES

2.1 Accounts

The accounts of Jomed NV are partly in Ulestraten and partly at the group finance department in Helsingborg, Sweden.

The consolidated annual accounts of Jomed NV for the years 1999, 2000 and 2001 are provided with an unqualified audit opinion of Arthur Andersen. The annual accounts of Jomed NV for 2002 have not been prepared yet and will, because of the withdrawal of D&T, not be provided with an unqualified audit opinion. The supervisory board of Jomed NV has asked KPMG Forensic Auditors ("KPMG") in Sweden to investigate which irregularities had occurred, to quantify the (financial) consequences thereof and to investigate which persons played an active part in this. KPMG has since completed its activities and set down its findings in a confidential report which was received by the administrators on 6 March 2003. As a result of the first findings of KPMG, a press release was issued on 29 January 2003. A copy of this press release has been attached as **annex 7**.

As appears from the trade register the consolidated annual accounts of Jomed NV for 1999 were filed with the Chamber of Commerce on 11 May 2001. The consolidated annual accounts for the years 2000 and 2001 were filed on 27 January 2003.

2.2 Major assets at the end of February 2003

Patent	€ 11.2 million	
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Jomed NV owns a patent right. This patent right was valued at approximately € 11.2 million.

Investments in subsidiaries/participations	€ 316.6 million	
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Jomed NV has investments in subsidiaries, valued at cost, of € 316.6 million, whereof the major investment, IVUS and Functional Measurement product lines, makes up more than €200 million.

Debts owed by subsidiaries	€ 112.3 million	
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According to information provided to the Administrators (at the end of February 2003) Jomed NV is owed by its subsidiaries by virtue of loan agreements an amount of € 112.3 million in total.

Debts owed by third parties	€ 1.6 million	
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According to information provided to the Administrators (at the end of February 2003) Jomed NV is owed by third parties by virtue of loans it provided an amount of € 1.6 million (CA\$ 2,5 million) in total.

Prepaid insurance premiums	€ 0.2 million	
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Jomed NV has prepaid insurance premiums for the period until 31 December 2003 to the amount of € 230,616.

Cash	€ 15.0 million	
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This amount only contains the balances that are directly available to the Administrators.

2.3 Major liabilities

Convertible loans	€ 37.3 million	
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In February 2000 Jomed NV took out a convertible loan with a party for an amount of € 12 million. In addition, Jomed NV took out convertible loans in July 2002 with the creditors mentioned under 1.7 for an amount of € 25 million in total. As stated above, these creditors take the position that their claims currently amount to approximately € 61 million. Jomed NV paid the interest on the principal sums until 31 December 2002.

Banks	€ 17 million	
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Five banks made credit lines available to Jomed NV and/or to its subsidiaries. Jomed NV has guaranteed the liabilities of the subsidiaries concerned to the benefit of the banks. The information made available to the Administrators (at the end of February 2003) shows that one bank has bank accounts in the name of Jomed NV with on balance € 1.2 million at the end of February 2003. This balance, however, is attached to credit lines provided to Jomed NV and to some of its subsidiaries.

In total these banks have claims of approximately € 17 million on the subsidiaries concerned and/or Jomed NV at the end of February 2003.

Lease companies	PM	
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Jomed NV has entered into lease agreements for the benefit of Jomed Inc. in the United States with respect to IVUS equipment. The IVUS equipment is placed and used in hospitals in the United States and Jomed Inc is paying a management fee to Jomed NV, which is the 'lessee' paying the leasing fees. In this respect Jomed NV had a letter of credit issued for the benefit of the 'lessors' under the lease agreements by Nordea Bank Finland Plc. It concerns an amount of not more than US \$ 6 million.

Trade creditors	€ 4.1 million	
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The item trade creditors amounts to approximately € 4,123,577 on the suspension of payments date.

3. MISCELLANEOUS

3.1 Final granting of the suspension of payments

The court decided that a creditors meeting be held on 2 April 2003, at 10.00 hours. At this meeting Jomed NV and the creditors will be heard and a vote will be taken about the final granting of the suspension of payments. The Administrators will inform the creditors about this vote, accompanied by (amongst others) this report, not later than three weeks before this meeting, i.e. on 12 March 2003.

3.2 Provision of information to creditors

The parties having an interest in Jomed NV have been informed through several press releases. These press releases are available on Jomed NV's website (www.jomed.com).

The public reports of the Administrators can be consulted at: www.houthoff.com/jomed. The next public report will appear on 9 June 2003. If there is any reason for the publication of interim announcements, the Administrators will do so on the aforementioned website. The creditors submitting their e-mail address to Mr Peter L. Coomans (pcoomans@houthoff.com) will be informed by e-mail when interim announcements of the Administrators are published.

This is an English translation of the official Dutch public report. In the event of any difference between the Dutch report and the English translation, the Dutch text will prevail. The public report is available for inspection at the District Court in Amsterdam. The court does not provide free copies.

Amsterdam, 10 March 2003.

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