34. CONTINGENCIES AND COMMITMENTS

Parent Company Guarantees

EOH issued parent company guarantees ("PCGs") during May 2019, as required by a client for a wholly owned subsidiary, PiA Solar SA Proprietary Limited ("PiA"). The guarantees provided are for a period of years during both construction and after handover, including an operation warranty guarantee, which by nature could (in the event of underperformance by PiA) compel EOH to either ensure physical performance or settle such underperformance in cash terms. While PiA had undergone some operational challenges as a result of several factors, including COVID-19, EOH has intervened in order to minimise the potential impact of these PCGs. The projects subject to these PCGs are now substantially complete, and PiA is engaging with the customer in respect of the handover of the last project. EOH thus believes that the risk presented by the PCGs, albeit still in existence is and will be, mitigated pursuant to the handover.

During the prior financial year, EOH also issued a PCG for another subsidiary, EOH Mthombo Proprietary Limited ("EOH Mthombo"), relating to the implementation of an ERP solution at the City of Johannesburg ("COJ") for a project which was signed during the 2017 financial year. The agreement terminated in early 2021 and subsequent to year-end, the PCG was returned to EOH in terms of the Exit Management Plan and has been cancelled.

Fine imposed by the JSE Limited

The JSE Limited imposed a fine on EOH on 29 July 2020 for prior period errors contained in EOH's previously published financial statements for the financial years ended 31 July 2017 and 31 July 2018. The fine was for R7.5 million of which R2.5 million is suspended for a period of five years on condition that EOH is not found to be in breach of material and important provisions of the JSE Listings Requirements. The R5 million was raised as liability at 31 July 2020, against which payments have been made, with the suspended amount being a contingent liability.

Litigation

EOH and its subsidiaries are involved in various litigation matters arising in the ordinary course of business, none of which are considered material on an individual basis or in aggregate. Management has no reason to believe that the disposition of these matters will have a materially adverse effect on the consolidated financial position, financial results or cash flows of EOH.

Uncertain indirect tax exposure

The Group has an ongoing tax dispute dating back to 2012 related to a PAYE dispute in one of its staff outsourcing businesses. At 31 July 2021, the Group had provided for R267 million on the PAYE liability assessed and potential future assessments, and has submitted a notice of objection to the SARS. Based on internal and external legal and technical advice obtained, the Group remains confident that it has a strong legal case to contest the remaining exposure. A total of R52 million of the R267 million provision was repaid up to 31 July 2021.

Uncertain exposure due to suspect transactions

Alleged financial misconduct by a prescribed officer of the Group and director of a subsidiary within the Group

EOH became aware of alleged fraudulent conduct that was perpetrated between certain executives of a subsidiary, Cornastone Enterprise Systems Proprietary Limited ("Cornastone"), together with executives at Cell C Limited ("Cell C"), as it related to the supply of certain equipment and software licences. EOH commissioned an investigation in collaboration with Cell C, which has culminated in criminal charges being levelled against the alleged perpetrators.

The findings of the investigation identified a preliminary financial loss to Cornastone amounting to approximately R64 million relating to the cost of sales, covering a period of eight years from 2012 to 2020. The nature of the amounts was categorised as being "irregular" which relates almost exclusively to payments from Cornastone to the fictitious suppliers.

The current EOH leadership have undertaken the following corrective measures:

- The executives of the Cornastone management alleged to have been involved in the fraudulent conduct are, within effect from 2020, no longer in the employ of the Company;
- EOH has also taken legal advice in relation to its potential reporting obligations under section 34 of the Prevention and Combating of Corrupt Activities Act, 2004 in respect of the possible theft;
- This matter coming to light is evidence of the improved controls that have been introduced by the new management of the Group;
- Cases against all alleged perpetrators were reported to the South African Police Service which had led to their subsequent arrests;
- Third-party screening and procurement onboarding processes have been centralised within the Group in order to effectively exercise the necessary controls; and
- The financial department within the Group has been restructured to enhance oversight in regard to financial controls and risk management.

EOH's external auditors, PwC, reported that a suspected irregularity had taken place as defined in the APA to the IRBA on 13 October 2021 relating to the supply of certain equipment and software licences by Cornastone.

PwC subsequently submitted a second report to the IRBA as required by the APA, advising the IRBA that, in its view, the reportable irregularity was no longer occurring as the Company had acted on this matter as set out above.

NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS CONTINUED

FOR THE YEAR ENDED 31 JULY 2021

34. CONTINGENCIES AND COMMITMENTS continued

Uncertain exposure due to suspect transactions continued

ENSafrica assessment into contracts associated with suspicious activities

An assessment was undertaken in relation to contracts flagged by ENSafrica as being associated with suspicious activities, for purposes of determining the likelihood of a claim/s being raised against EOH Mthombo in relation to the contracts in question. The total contingent exposure identified in consequence of the results of that assessment is R48 million.

The assessments which resulted in a claim being regarded as likely and where a contingent liability was identified were in relation to the following contracts:

- Amathole District Municipality ("ADM") – SAP Implementation Contracts: there are disputes raised by ADM as to deliverables and sums payable to EOH under this contract, however, EOH maintains that it has performed substantially on the contract.

  Deloitte prepared a forensic report on the instruction of National Treasury (10 October 2019). The National Treasury issued an intervention and close-out report (27 February 2020). ADM did not accept the findings of the intervention and close-out report (27 February 2020). However, no further steps have yet been taken by ADM. In the event of a successful challenge to the validity of the contract, EOH would be entitled to just and equitable relief and would never be exposed for the full value of the contract.
- USAASA – SAP Implementation: In early 2021, National Treasury investigated the procurement of the SAP implementation-services by USAASA from EOH. There is a risk that there may be a finding of impropriety in the contract. This contract came to a natural conclusion at the end of 2017, with EOH having performed and with no claims or complaints having arisen since. In the event of a successful challenge to the validity of this contract, EOH, having performed under the contract, would be entitled to motivate a just and equitable remedy. It would be unlikely and certainly contrary to the principles of just and equitable relief, that EOH would have to "refund" USAASA.

Commitments

Figures in Rand thousand	2021	2020
Expected, but not yet contracted capital expenditure	**85 635**	169 171
	85 635	169 171

35. RETIREMENT BENEFITS

The Group is a member of a corporate defined contribution plan which is governed by the Pensions Fund Act to which employees elect to make retirement contributions on an income sacrifice basis. The Group makes no additional contribution and is under no obligation to cover any other benefits. Employees are also eligible and obliged to become members of the Group risk benefit scheme, providing certain minimum death and disability benefits. Such Group risk benefit scheme is external to the Group, to which employees make contributions, and the benefits paid out are paid by the third party.

At 31 July 2021, the membership of the fund was 5 099 (2020: 6 108) employees.

At 31 July 2021, the Group's contribution to the fund was R128 million (2020: R126 million).

36. DIRECTORS AND PRESCRIBED OFFICERS' INTEREST IN ORDINARY SHARES OF THE COMPANY

	2021		2020	
Number of shares	Beneficial direct interest	Total	Beneficial direct interest	Total
Executive directors				
Stephen van Coller	**264 000**	**264 000**	264 000	264 000
Megan Pydigadu	**17 705**	**17 705**	10 000	10 000
	281 705	**281 705**	274 000	274 000

Shareholding of the prescribed officer who resigned

	2021		2020	
Number of shares	Beneficial direct interest	Total	Beneficial direct interest	Total
Lufuno Nevhutalu (resigned 31 July 2020)	–	–	170 925	170 925
	–	–	170 925	170 925

There have been no other changes in the directors' interest in shares of the Company between year end and the date of approval of the consolidated financial statements. Non-executive directors do not hold any direct interest in shares of the Company. The executive directors and prescribed officers do not hold indirect interests in shares of the Company. No shares held by the directors have been pledged as security or subject to a guarantee, collated or other encumbrance. Jabu Moleketi, who was appointed as a non-executive director in the current year, is a shareholder and director of Lebashe Investment Group, which holds 23 062 458 ordinary shares of the Company.