

ENGLAND AND WALES / JUDGMENT

Fossil (UK) Global Services Ltd, Re

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Neutral Citation Number: [2025] EWHC 3058 (Ch) Claim No: CR-2025-007011 IN THE HIGH COURT OF JUSTICE BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES INSOLVENCY AND COMPANIES LIST (ChD) IN THE MATTER OF FOSSIL (UK) GLOBAL SERVICES LTD AND IN THE MATTER OF THE COMPANIES ACT 2006 The Rolls Building 7 Rolls Buildings Fetter Lane London, EC4A 1NL Monday, 10th November 2025 Before: MR JUSTICE RICHARDS

- ----- IN THE MATTER OF FOSSIL (UK) GLOBAL SERVICES LTD
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- ----- MR DANIEL BAYFIELD KC and MR MATTHEW ABRAHAM (instructed by Weil, Gotshal & Manges (London) LLP) appeared on behalf of the Claimant MR WILLIAM DAY (instructed by McCarthy Denning) for the Retail Advocate, Mr Jon Yorke
- ----- Approved Judgment Transcript of the Stenograph Notes of Marten Walsh Cherer Ltd., 2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP. Telephone No: 020 7067 2900. DX 410 LDE Email: info@martenwalshcherer.com Web: www.martenwalshcherer.com Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 MR JUSTICE RICHARDS : 1. On 15 October 2025, Cawson J convened a meeting of a single class of creditors of Fossil (UK) Global Services Limited (the “Plan Company”) to consider a plan under Part 26A of the Companies Act 2006 (the “Plan”). I am today asked to sanction the Plan which was passed by the statutory majority at that meeting.

Background

2. 3. 4. 5. Cawson J gave a full judgment at the convening stage that was reported at [2025] EWHC 2741 (Ch) (the “Convening Judgment”). I am grateful to him for doing so because it has made my task considerably easier. I will use the defined terms set out in the Convening Judgment and will tend to use the expression “Plan Creditors” and “Noteholders” interchangeably since they are one and the same. No-one suggests that I need to address any matters of background that were not set out in the Convening Judgment to decide whether to sanction the Plan. In those circumstances, I propose not to summarise the relevant background in any great detail, but simply to take the Convening Judgment as read and effectively to incorporate it into this judgment. It is, however, relevant to emphasise that some 25% by value of the single class of Plan Creditors consist of retail Noteholders. The Plan Company has therefore very sensibly appointed Mr Yorke to be the Retail Advocate to

look out for the interests of retail Plan Creditors and he, through his counsel, Mr Day, has made submissions today. Mr Yorke has confirmed in his report that he is independent and has had access to the necessary information from the Plan Company. He has confirmed that, in his opinion, retail Plan Creditors understood the choices that they could make in relation to the Plan. Against that background, the meeting that Cawson J ordered (the “Plan Meeting”) was held on 6 November 2025. At that meeting the Plan was approved by 99.99% by value of those Plan Creditors present and voting and it now comes back for today's sanction hearing. In fact, at the Plan Meeting only a single creditor voted against the Plan. The matters that I must consider 6. As I have said, Plan Creditors voted as a single class following Cawson J's convening order and I am not asked today to impose any “cross-class cram-down”. Since this is a Part 26A plan that involves no cross-class cram-down, I should follow the approach set out at [116] and [117] of the judgment of Snowden LJ in *Re AGPS Bondco Plc*

[2024] EWCA Civ 24 (“Adler”) and consider the familiar four questions that apply in the context of Part 26 schemes namely: i) ii) whether there has been compliance with the statutory requirements; whether the single class was fairly represented and whether the majority was acting in a bona fide manner and for proper purposes when voting at the class meeting; iii) whether the Plan is a fair plan which a creditor might reasonably approve; and Mr Justice Richards Approved Judgment *Re: Fossil (UK) Global Services Ltd* 10.11.25 7. 8. 9. iv) whether there is any “blot” or defect in the Plan that would, for example, make it unlawful or in any way inoperable. As to the third issue, whether the Plan is a fair one, the approach of courts in cases such as this is to tend to respect the commercial judgment of those voting in favour. That is why Snowden LJ, at [122] of his judgment in *Adler*, described the third issue as involving a “limited rationality test” that derives much comfort from the fact that the scheme or plan has been approved at meetings of creditors voting as appropriate classes. In this Plan we have a single class of Plan Creditors. However, without doubting the proposition that this is a single class, it is possible to view it as containing two separate constituencies: one consisting of wholesale Plan Creditors and one consisting of retail Plan Creditors. I will explain later how that affects the assessment of the rationality test and the conclusions that I should draw from it. Another point that I make in relation to overall approach is derived from paragraph 102 of the judgment of Miles J (as he then was) in *Re All Scheme Ltd* [2021] EWHC

1401. There are no special rules for schemes or plans that involve retail investors. Therefore, even though a good proportion of Plan Creditors are retail investors, I should still consider the same four considerations I have outlined above. However, the court's willingness to apply a “limited rationality test” in relation to the third issue described in paragraph 6.iii) above is predicated on Plan Creditors having been given sufficient information, in an accessible way, so that they are equipped to make rational voting decisions. That issue resonates given the presence of retail Plan Creditors since the material involved is complex and must be presented in a clear way, with alternative possible analyses also presented fairly, for retail Plan Creditors to make an informed decision. 10. Finally in terms of overall

approach, when considering whether there is a blot or defect in the Plan, I will consider as a discretionary issue whether I should sanction it on the basis that it is sufficiently likely to have substantial effect in the US, recognising that in large measure this Plan seeks to adjust the terms of debt issued by Fossil Group Inc. ("FGI"), a US corporation. Update on matters that occurred since the Convening Judgment 11. 12. The Consent Solicitation has been approved and therefore the Notes are now governed by English law (rather than New York law), with disputes in relation to the Notes being within the sole jurisdiction of the courts of England and Wales (rather than the courts of New York). In his expert report, Judge Peck confirms that, in his opinion, these changes would be regarded as effective under New York law. As mentioned in the Convening Judgment and the evidence, there has been a concerted attempt by FGI and its wider group to seek to effect exchanges of Notes consensually by means of the Exchange Offer. If 90% by value of Noteholders had accepted the Exchange Offer, FGI might have been prepared to tolerate the continued presence of a small rump of investors holding "old" Notes and concluded that there was no need for the Plan. However, in the event, the Exchange Offer has to date achieved only 82.67% take-up which FGI has concluded was insufficient commercially to preclude the need for the Plan. Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 13. The final, and most significant, update since the Convening Judgment is that the Plan Meeting has been held with Plan Creditors voting overwhelmingly in favour of the Plan. Whether there has been compliance with statutory requirements 14. Under this heading, I consider the following matters: i) ii) iii) iv) whether the terms of Cawson J's convening order were met; whether other statutory provisions were satisfied: for example whether the jurisdictional threshold in s901A of CA 2006 is present and whether applicable statutory requirements relating to the Explanatory Memorandum have been satisfied; whether the statutory majority was indeed achieved; and whether the single class that voted at the Plan Meeting was properly constituted. The third witness statement of Mr Greben and the second witness statement of Mr Arena between them satisfy me that the terms of the convening order were indeed met. I note that some quite strenuous requirements were imposed on the Plan Company to send documents to retail Plan Creditors. The section 901A preconditions were considered at the convening stage and I respectfully agree with Cawson J's conclusion that they are met. Cawson J also considered the Explanatory Statement at the convening stage. He considered that it was appropriately explained and suitable for the exercise in hand. I also note that the Retail Advocate also considered it was appropriately accessible and clear for the constituency of retail Noteholders. The Explanatory Statement contains the requisite statement of the interests of directors in the outcome of the Plan. I see that there were some amendments to the Explanatory Statement from the version that was before Cawson J. However, none of those amendments affected the substance of the Explanatory Statement and therefore were entirely within the scope of paragraph 7 of Cawson J's convening order. There was indeed a valid Plan Meeting at which more than two individuals were present. The statutory majority was amply achieved. Some 364 Plan Creditors attended either in person or by proxy, representing some 82.88% by value of the Notes. 363 of those creditors, representing some 99.99% by value of the Notes represented

at the Plan Meeting, voted in favour of the Plan. That is obviously greater than the 75% majority required. Indeed, even if all of those Plan Creditors who did not attend the Plan Meeting had attended and voted against the Plan, the Plan would still have received the necessary majority. 15. 16. 17. 18. 19.

20. Matters of class composition were considered in detail at [95] to [112] of the Convening Judgment. Those paragraphs considered expressly the position of one Noteholder who was opposed to the Plan to the effect that it was not right to have a single class when some creditors would be putting in New Money and so, in the Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 words of that opposing Noteholder, getting “special treatment” so that they would “agree with the restructuring plan”. The Convening Judgment considered that issue and concluded that this difference in interests did not fracture the class. I respectfully agree with that conclusion. 21. Today I considered a slightly different formulation of the argument in my discussions with Mr Bayfield KC, namely whether it might be said that in reality, although all members of the class had the right to put in New Money, that right is somehow less available to retail Noteholders than it would be to wholesale Noteholders. I do not consider that this consideration should fracture the class either. The test remains a test of rights and not interests. As Mr Bayfield KC quite rightly pointed out, retail Noteholders have already shown themselves willing to invest in publicly-traded debt. While some might indeed not be willing (or able) to put in New Money, I am not satisfied that they, as a cohort, would be unable to invest New Money or would be unable to evaluate the benefits or risks of doing so. 22. I am quite satisfied that there was no problem with class composition at the Plan Meeting. 23. Overall, I conclude that the statutory requirements have indeed been met. Fair representation at the Plan Meeting 24. 25. 26. I am reassured to see from the report of the chair of the Plan Meeting that, although the meeting took place online, there were no technological glitches or similar that prevented it from taking effect as a proper meeting. There was a high turnout at the Plan Meeting: as I have noted, some 83% by value of the Notes were represented. It is right to look critically at that number, especially given the points that I have made about the presence of retail Noteholders in the class. I have, therefore considered whether, although there was a single class, in reality the Plan Creditors attending and voting were not representative. For example, I have considered whether the Plan Meeting might have been disproportionately attended by Supporting Holders who might be benefiting from the Backstop arrangements and payment of their legal advisers’ fees and who might, therefore, have a different outlook on the Plan from retail Noteholders. However, even acknowledging that possibility, it remains the case that at least 350 votes in favour of the Plan came from persons other than Supporting Holders. In fact, there was just a single vote against the Plan. That suggests that the Plan attracted broad and representative support at the Plan Meeting, with the support extending beyond Supporting Holders who were obtaining benefits from the Backstop arrangement and payment of their legal expenses.

27. Moreover, I am reassured to see that, taking matters at their absolute lowest, at least one quarter of retail Noteholders have voted in favour of the Plan. Mr Yorke, with all of his experience in this area, considers that to be a good level of engagement from a retail Noteholder constituency. 28. Finally, I have considered whether the votes in favour of the Plan might have been unduly skewed towards those providing the New Money. However, that is not the Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 case. The report of the chair of the Plan Meeting shows that some 88 votes at the meeting were from creditors who were not providing any of the New Money and 87 of those voted in favour. 29. 30. Overall, I consider that this is a Plan that has been approved both by retail and by non- retail Noteholders, by Noteholders giving New Money and Noteholders not doing so, at a meeting with a very high turnout rate. There is no suggestion that the majority were oppressing a minority, and I am quite satisfied that there has indeed been fair representation at the single class meeting. Whether Plan Creditors could reasonably approve the Plan 31. 32. 33. 34. I return to the points I prefaced at the beginning of this judgment. This question does, in the ordinary course, involve a “limited rationality check”. In his written and oral submissions, Mr Bayfield KC referred me to [125] to [127] of Snowden LJ’s judgment in Adler. One can debate whether at [125] Snowden LJ was suggesting that one should in all cases look behind an ostensibly single class and seek to dissect out whether there are separate commercial “interests” within that class, as distinct from interests based on difference of rights that might fracture a class. It is quite possible, in my view, to read [125] as simply saying that the existence of a single class, comprising persons with similar rights, provides some reassurance that a “limited rationality test” is appropriate. However, whatever view one takes of [125] read in isolation, it is clear that in [125] to [127] of Adler, Snowden LJ is making the point that there are some preconditions to the appropriateness of a “limited rationality test”. It is appropriate that I consider whether those preconditions are met when considering what weight to give to the positive vote at the Plan Meeting. I have therefore considered whether the interests of those providing New Money might be different from those not doing so in such a way as to undermine the significance of the strong positive vote at the Plan Meeting. I have considered whether there has been clear communication of the issues to retail Noteholders in particular. I have also considered whether there might be a sense in which some constituency of the single class might be voting to support an extraneous interest that they have beyond their membership of the class. It is quite clear that this is a Plan that a rational creditor could approve. It is certainly complicated. However, it gives a clear prospect of a better recovery than the relevant alternative affords. That obviously is a very important consideration under this heading.
35. When looking at communication and the ability of retail Noteholders to participate in the process, I note that Mr Yorke received some 42 emails from retail Noteholders. They were almost all asking for information on how to navigate the processes and there was just one objection. As Mr Yorke explains in his report, the degree of engagement from the retail Noteholders has been greater than or higher than he would expect in similar kinds of plans or schemes of arrangement. 36. I am greatly reassured by Mr Yorke's conclusion that retail

Noteholders received satisfactory guidance. They also had access to him to help them navigate the process. Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 37. 38. 39. 40. 41. I am also reassured by his conclusion that the information was presented in a way that enabled retail Noteholders to understand the choices they were being asked to make. This is not a case like Re All Scheme Ltd in which the retail creditors were customers of a pay-day lender who might be expected to be in a financially vulnerable state. As I have explained, the retail Noteholders in this case have, in the round, some degree of financial sophistication as they have already chosen to invest in publicly traded debt securities. It would be wrong for me to downplay that level of sophistication and form the view that the retail Noteholders have limited ability to understand the choices they needed to make. The New Money aspect also deserves consideration when considering what weight to give to the positive vote of the single class. There have been cases where, in Part 26A plans, the provision of new money has resulted in significant benefits to those providing it. In many cases, that is justified. The new money might well be desperately needed to enable the company in question to carry on in business. So giving benefits to creditors providing that new money, whether in the terms of higher ranking or an attractive coupon, might well make good sense. However, there might be more scrutiny in cases where the provision of new money enhances, for example, the seniority of existing debt. Put very shortly, conceptually new money can be used as a device to provide benefits to certain classes, or constituencies of creditors over and above a normal commercial return on that money. If that were the position with this Plan, it might undermine the force of the positive vote at the Plan Meeting since Noteholders providing New Money might be voting for an extraneous interest of the kind referred to at [126] of Adler. In this case, some comfort can be derived from the general proposition that the opportunity to provide New Money was open to everyone. However, if this were a cross-class cram-down situation, that would not be a complete answer. In Re Petrofac Ltd [2025] EWCA Civ 821, the Court of Appeal refused to sanction a Part 26A plan that involved a cross-class cram-down because of concern about the fairness of the terms on which new money was being provided even though the right to provide new money was ostensibly open to everyone. This is not a case where there is a cross-class cram-down. However, it is still right, in my judgment, to consider whether the Plan might only make sense for Noteholders providing New Money. In that context, it is relevant to consider whether the New Money is some way of providing value to a separate constituency of the single class beyond the ordinary return that could be expected from the provisions of badly- needed liquidity to a borrower in some financial distress. The first point to make in that regard is that the Plan is still modelled to produce an outcome in the relevant alternative that is better for all Plan Creditors whether or not they provide New Money (see [62] to [66] of the Convening Judgment). No Noteholder has challenged the Plan Company's analysis of the relevant alternative or returns that could be expected in that alternative. I see no reason, therefore, to doubt the Plan Company's analysis which counts for a lot when considering this issue.

42. Mr Bayfield KC also referred me to the significant market-testing exercises that took place in relation to FGI's debt as explained in the witness evidence of Roopesh Shah. There has been a rigorous attempt to ensure that the New Money represents a good Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 deal. That can be seen in FGI's considerable efforts to secure good pricing for the ABL Facility and the refinancing of the Notes. Moreover, this was not mere window-dressing. When, having put in lots of work on the market-testing exercise, FGI thought that its financial situation had improved, it took the opportunity to consider afresh whether the pricing it was being offered remained attractive even in the light of what looked like better market conditions. These, in my judgment are not the actions of a company that is seeking to do a "sweetheart deal" which operates to the benefit of the constituency of investors providing New Money. In my judgment, FGI has undertaken a genuine and rigorous exercise to price the New Money and is not seeking to provide disproportionate value to a particular constituency of Plan Creditors. 43. Further reassurance on this matter comes from the fact that the Backstop Providers are content only to backstop the New Money: if its terms really were disproportionately beneficial, they might have been expected to try to take it all up themselves. 44. Overall, I accept Mr Bayfield KC's four key points in relation to the New Money: i) ii) iii) iv) While this is not a "fairness" issue, as it would be with a Plan involving a cross-class cram-down, it is appropriate to consider the terms of the New Money when deciding how much weight to give to the positive vote at the Plan Meeting. There is some force in the point that everyone can participate in the provision of New Money and no barriers are placed in the way of particular Noteholders exercising their right to do so. However, that point may not be determinative on its own. The Plan still provides a better outcome than the relevant alternative even for those who do not choose to provide the New Money. Following rigorous evaluation, it is realistic to consider that FGI has obtained the best terms that it could for the New Money. Overall, I consider that the pre-conditions referred to in [125] to [127] of Adler are satisfied in this case, such that it is appropriate to perform a "limited rationality check" when deciding whether Noteholders could reasonably approve the Plan. Applying that test, the positive vote at the Plan Meeting should be given real weight. In my judgment this is indeed a Plan that could rationally be approved. Some potential blots were mentioned by Mr Bayfield KC in discharge of the Plan Company's duty to give full disclosure. I see no problem with the fact that the Plan is proposed only with Noteholders and not with the Plan Company's creditors generally. There is clear precedent for that approach and a clear justification. Some of the creditors excluded from the Plan are those whose working capital and indulgence is necessary for FGI to continue in business. The Plan Company is entitled to decide, in those circumstances, that it does 45. Blots 46. 47. Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 48. 49. not seek to compromise liabilities owed to trade creditors and similar. I am reassured to see that this approach was recently endorsed in the Adler case. The Plan contains no release of directors' liabilities by the Plan Company. However, it does provide for Noteholders to release directors from personal liability to them to the extent such liability would otherwise arise in connection with the Plan. Cawson J considered this issue at [123] of the Convening

Judgment and concluded that there was a good reason for this limited release. I respectfully agree with Cawson J's analysis. The release is intended to prevent Noteholders undermining the Plan by suing directors and advisers involved in proposing or implementing it. It is a common feature of plans such as this. I do not regard it as a blot. I have noted that the Plan seeks to restructure the debt of FGI, a US corporation, albeit that the debt in question is, following the Consent Solicitation, governed by English law. The restructuring of that debt could conceivably have been done consensually if the Exchange Offer had been successful. However, given that the Exchange Offer has not been accepted to the extent that FGI wished, it is fair to say that the Plan achieves a result that could not straightforwardly have been achieved under a Chapter 11 process in the United States.

50. Moreover, the result is achieved by a route that could, at a high level, be described as “artificial”. The Plan Company has been formed expressly for the purpose of accessing the UK's restructuring regime in Part 26A of CA 2006. The Plan Company has executed the deed of contribution expressly to enable the “established technique” described at [124] to [128] of the Convening Judgment to be used to enable debt issued by FGI to be restructured by means of a Part 26A plan. It is right, therefore, that this court should be vigilant since the process adopted has the potential to amount to an abuse. Judge Peck notes that the bankruptcy court of the Southern District of New York has made similar observations in the case of Mega Newco Limited (Case No. 24-1203-MEW (Bankr. S. D. N. Y. Feb. 24, 2025; 2025 WL 601463)). 51. 52. It is in my judgment important that the plan does not violate any public policy considerations that underpin US bankruptcy law. Judge Peck's very clear, readable and scholarly opinion expresses the strong view that not only does the Plan not violate any public policy considerations but that it would be likely to be considered favourably by a US court asked to recognise it. Judge Peck's opinion addresses head- on potential contrary arguments, for example, the notes of caution sounded in the Mega Newco case, and it is all the more impactful for doing so. Overall, Judge Peck reaches the clear conclusion, speaking as a judge of many years' experience in this specialist area, that a US bankruptcy court would be likely to recognise and give effect to any order that the English court makes. That indeed is what happened in the Mega Newco case, which unlike this one involved a cross-class cram-down. Judge Peck reaches his conclusion because he considers this Plan would be seen as producing a good and favourable outcome for creditors generally and would therefore be going with the grain of US bankruptcy legislation rather than violating any public policy considerations that underpin it. Ultimately I need only be satisfied that there is a reasonable prospect of recognition. Judge Peck's opinion, engaging as it does with the contrary issues, gives me clear comfort on that point. Mr Justice Richards Approved Judgment Re: Fossil (UK) Global Services Ltd 10.11.25 53. 54. That in turn allays concerns about the “artificiality” of the deed of contribution arrangement and the possibility that it could be regarded as forum shopping. Judge Peck considers that a US bankruptcy court would be likely to look favourably on the Plan on the basis that it achieves a beneficial outcome for Plan Creditors generally. That is also my view on the Plan and indeed no-one has attended the sanction hearing to articulate a different view. The final issue on potential

blots is that I should be slow to sanction the Plan if I thought the court would be acting in vain by doing so. Here there are some conditions outstanding to the Plan taking effect. However, having seen the explanation of what those conditions are in the third witness statement of Mr Greben, I am quite satisfied the court would not be acting in vain by sanctioning this Plan. 55. I will therefore sanction the Plan.

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