

HONG KONG / JUDGMENT

## RE CHINA ECOTOURISM GROUP LTD

[2025] HKCFI 5914

COURT

Court of First Instance

DECIDED

4 December 2025

CASE / FILE NUMBER

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HCMP 802/2025

[2025] HKCFI 5914

IN THE HIGH COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

COURT OF FIRST INSTANCE

MISCELLANEOUS PROCEEDINGS NO 802 OF 2025

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IN THE MATTER OF CHINA ECOTOURISM GROUP LIMITED

and

IN THE MATTER OF Sections 670, 671, 673 and 674 of the Companies Ordinance, Chapter 622 of  
the Laws of Hong Kong Special Administrative Region

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Before: Hon Harris J in Court

Date of Hearing: 15 October 2025

Date of Decision: 15 October 2025

Date of Reasons for Decision: 4 December 2025

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REASONS FOR DECISION

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## Introduction

By a petition presented on 6 October 2025, China Ecotourism Group Limited (“Company”) seeks the Court’s sanction under section 673 of the Companies Ordinance (Cap. 622) (“Ordinance”) of a scheme of arrangement (“Scheme”) between the Company and the Scheme Creditors.

The Scheme was approved by a substantial majority of the Scheme Creditors present and voting, in person or by proxy, at the Scheme Meeting held on 25 September 2025. Specifically, the Scheme was approved by 93.75% of Scheme Creditors in number, representing 81.57% by value.

At the hearing, I sanctioned the Scheme. These are the reasons for my decision. In this case, the Scheme Meeting had been adjourned for a day due to the impending Super Typhoon Ragasa which skirted Hong Kong on 24 September 2025. Thus, there is a novel issue, but not a controversial one, as to whether a scheme meeting adjourned in light of adverse weather conditions interferes in a material way, with the validity of the resolution passed at the adjourned hearing.

## Background

The Company was incorporated in Bermuda in the name of WorldMetal Holdings Limited on 13 September 2000. Later, the Company was renamed as China LotSynergy Holdings Limited on 11 October 2005 and, again, as China Ecotourism Group Limited on 18 February 2021.

On 4 January 2001, the Company was registered in Hong Kong as a non-Hong Kong company. Since 6 October 2013, the Company has been listed on the Main Board of the Stock Exchange (Stock Code: 1371).

The Company is an investment holding company with operating subsidiaries in the Mainland, Hong Kong and the British Virgin Islands. The Group operates three main business segments: (1) lottery technology services, (2) health food sector and (3) ecotourism projects. The lottery technology services segment has been the largest revenue contributor in recent years.

Since 2015, the Group’s financial position has deteriorated severely. This was triggered by the expiry of a key lottery contract, leading to persistent net losses. The Company’s indebtedness, totalling approximately HK\$487 million as at the Latest Practicable Date, arises primarily from bonds, borrowings, guarantees for subsidiaries, and outstanding salaries and/or professional fees.

With a view to averting liquidation and maximising stakeholder value, the Company retained Acclime Corporate Advisory (Hong Kong) Limited as its Restructuring Advisor in November 2023 to negotiate viable terms with the Scheme Creditors. Since 2023, the Company has been pursuing a debt restructuring plan, which comprises of (1) Capital Reorganisation involving Share Consolidation, Capital Reduction, Share Sub-Division, and an increase in authorised share capital to facilitate issuance of Scheme Shares, (2) Share Premium Cancellation to eliminate

accumulated losses, and (3) the Scheme to compromise essentially all general unsecured liabilities.

The Group and the Company are heavily balance-sheet and cashflow insolvent. Moreover, the Company is subject to a pending winding-up petition and multiple statutory demands. The winding-up petition hearing has been adjourned to 1 December 2025.

The Scheme

### **Purpose and Scope of the Scheme**

The Scheme seeks to return the Company to a solvent going concern. Under the Scheme, the estimated recovery rate for the Scheme Creditors ranges from approximately 3.15% to 133% subject to the elections made and the valuation methodology adopted. Absent the Scheme, the Company will inevitably enter into liquidation and it is estimated that the Scheme Creditors will recover nothing.

The Scheme will compromise all Scheme Claims which are general unsecured liabilities of the Company whilst avoiding overly intricate provisions such as fee arrangements tailored to satisfy certain stakeholders, or third-party releases designed to benefit directors.

The Scheme Creditors will have two choices (Clause 5.4 of the Scheme):

**Equity Option:** Scheme Creditors will receive their allotment of Scheme Shares, which will allow them to participate in the potential future growth of the Company.

**Cash Option:**

(a)

Scheme Creditors will have their allocated Scheme Shares sold by a special purpose vehicle; the proceeds of which will be distributed to them.

(b)

This option is supported by a Price Protection mechanism backed by Trinity Eagle through the Trinity Eagle Undertaking of HK\$9,750,000, guaranteeing a minimum price of HK\$0.15 per Scheme Share.

(c)

In the absence of an election, the Scheme Creditors will be deemed to have opted for the Cash Option. But this option is subject to a cap of 65,000,000 Scheme Shares, representing approximately 19.9% of the total Scheme Shares. If the total Scheme Shares elected for the Cash Option exceed this cap, allocations will be reduced pro rata among participating Scheme Creditors by reference to their respective entitlements. Any remaining entitlement after applying the pro-rata reduction will be deemed to have elected for the Equity Option, and the relevant Scheme Shares will be allotted directly to those Scheme Creditors (Clauses 5.4–5.5 of the Scheme).

## Liabilities Outside the Scheme

The following liabilities are excluded from the Scheme, which will be separately settled in full (Clause 3.1 of the Scheme):

Preferential Claims;

Operational Debts;

Restructuring Costs;

Secured Claims (if any);

Petition Costs; and

Specific facilities.

The Ancillary Claims—namely, the Scheme Creditors' Claims against the Company's three principal operating subsidiaries ("Principal Debtors") pursuant to the loans borrowed by the Principal Debtors and guaranteed by the Company, totalling approximately HK\$258 million—will be discharged by the Scheme (Clause 3.1 of the Scheme).

In consideration of this discharge, the Scheme Creditors will receive new shares in the restructured Company, i.e., Scheme Shares, on a pro-rata basis, representing approximately 95.5% of the enlarged share capital following the Capital Reorganisation (Clause 5.3 of the Scheme).

## Valuation of Scheme Shares – Equity Option

Assuming the total Admitted Claims is not more than HK\$490 million, all the Admitted Claims will be repaid in full by the Scheme Shares which, according to the terms of the Scheme, will yield a notional recovery rate of approximately 100%.

That said, the actual price of the Scheme Shares is highly dependent on the actual market price of the Company's Shares. Recognising the inherent uncertainty of future share prices and to provide the Scheme Creditors with at least a theoretical valuation reference. Section 5.1 of the Explanatory Statement presents estimates derived from three different valuation methodologies. Depending on the valuation methodology adopted, the estimated recovery rate for the Scheme Creditors ranges from approximately 3.15% to 133%.

Firstly, a valuation has been conducted pursuant to the methodology prescribed by Rule 7.27B of the Listing Rules to provide theoretical estimates of the potential recovery under the Equity Option. Briefly:

The trading price analysis shows that the Company's Shares closed at HK\$0.50 per Share on 30 June 2025, which translates to HK\$5.00 per New Share post-consolidation.

The six-month average trading price was HK\$0.241 per Share, which translates to HK\$2.41 per New Share post-consolidation.

By applying the theoretical diluted price formula prescribed by Rule 7.27B of the Listing Rules, the recovery rate is estimated to be 111% (i.e., a theoretical diluted price of HK\$1.66 per Scheme Share) based on the spot price or 103% (i.e., a theoretical diluted price of HK\$1.54 per Scheme Share) based on the six-month average trading price.

Secondly, a valuation has been conducted pursuant to a price-to-earnings ratio (“P/E Ratio”) analysis, which compares the restructured Company to its industry peers. By applying the average P/E Ratio of comparable companies (44.8x to 46.5x) to the Company’s estimated pro forma profit for the year ended 30 June 2025, the value per Scheme Share is estimated to be between HK\$1.90 and HK\$2.00, which represents a recovery range of 127% to 133%.

Thirdly, a valuation has been conducted pursuant to a pro forma net asset value (“NAV”) analysis. This analysis assumes that the Restructuring was completed on 31 December 2024 and refers to the Group’s pro forma balance sheet. Accordingly, a pro forma NAV of HK\$0.07 per Scheme Share is estimated, which represents a recovery rate of approximately 4.7%.

### **Valuation of Scheme Shares – Cash Option**

As mentioned, the Price Protection mechanism guarantees a minimum recovery of HK\$0.15 per Scheme Share for Scheme Creditors electing the Cash Option. In the worst-case scenario, whereby all Scheme Creditors elect the Cash Option and the cap of 65,000,000 Scheme Shares is exceeded, the minimum recovery will be 3.15%.

Despite the low minimum rate of recovery, a successful restructuring through a scheme of arrangement will not, for this reason, be precluded. This is especially so when the Scheme Creditors are estimated to recover nothing in the stark alternative of a liquidation.

### **Legal Principles**

In considering whether to sanction a scheme of arrangement, the relevant principles are those restated in *Re CIFI Holdings (Group) Co Ltd*. The Court will consider, in particular, the following factors:

Whether the scheme is for a permissible purpose;

Whether creditors who were called on to vote as a single class had sufficiently similar legal rights such that they could consult together with a view to their common interest at a single meeting;

Whether the meeting was duly convened in accordance with the Court’s directions;

Whether the necessary statutory majorities have been obtained;

Whether creditors have been given sufficient information about the scheme to enable them to make an informed decision on whether to support it;

Whether the Court is satisfied in the exercise of its discretion that an intelligent and honest man acting in accordance with his interests as a member of the class within which he voted might reasonably approve the scheme; and

In an international case, whether there is sufficient connection between the scheme and Hong Kong, and whether the scheme is effective in other relevant jurisdictions.

I am satisfied that all of the above factors have been met in this Scheme.

### Permissible Purpose

This Scheme represents a legitimate effort at debt restructuring by a financially distressed company. The Scheme seeks to discharge unsecured liabilities totalling approximately HK\$487 million, restore the Company to solvency and maintain the Company's Main Board listing. This is a permissible purpose (e.g. Re CIFI Holdings (Group) Co Ltd).

### Class Composition

In considering whether creditors are properly classified, the relevant principles are summarised in Re Sunac Holdings Ltd.

"20.

...

(1)

The overarching question is whether the pre- and post-scheme rights of those proposed to be included in a single class are so dissimilar as to make it impossible for them to consult with a view to their common interest. If that is the case, separate meetings must be summoned.

(2)

The second principle is that it is the rights of creditors, not their separate commercial or other interests, which determine whether they form a single class or separate classes. Conflicting interests will normally only ever arise at the sanction stage as a question for consideration.

(3)

The third principle is that the court should take a broad approach to the composition of classes, so as to avoid giving unjustified veto rights to a minority group of creditors, such that the test for classes becomes an instrument of oppression by a minority. The court should be careful to avoid unnecessary proliferation of classes because by ordering separate meetings the court might give a veto to a minority group.

(4)

The fourth principle is that the court has to consider, on the one hand, the rights of the creditors in the absence of the scheme and, on the other hand, any new rights to which the creditors become entitled under the scheme. If, having carried out that exercise, there is a material difference between the rights of the different groups of creditors, they may, but not necessarily will, constitute different classes. Whether they do so depends on a judgment as to whether such a difference makes it impossible for the different groups to consult together with a view to their common interest.

(5)

In applying the above test, the starting point is to identify the appropriate comparator: that is, what would be the alternative if the scheme does not proceed.

See *Re China Oil Gangran Energy Group Holdings Ltd* [5]; *Re Nasmyth Group Ltd* [6].

21.

As regards the identification of the appropriate comparator, the established practice is as follows:

‘In the context of a scheme of arrangement the Court must identify the comparator so that it can properly consider both class composition and also whether it produces a result for all scheme creditors which is better than or, at least no worse than, the result which would be achieved in the absence of the scheme’ (*Re Lamo Holdin BV* [2023] EWHC 1558 (Ch) at [76] (Leech J)).

‘In identifying the relevant alternative, the directors of the Company, being advised by their professional advisers, are normally in the best position to identify what will happen if a Scheme or Plan fails’ (*Re Fitness First Clubs Ltd* [2023] EWHC 1699 (Ch) at [63] (Michael Green J)).

22.

In brief, in assessing the Scheme Creditors’ rights, the Court considers what are often referred to as ‘rights in’ and ‘rights out’:

‘[T]he court needs to consider: (i) The rights of the Plan Creditors in the absence of the Plan, sometimes called the rights in; and (ii) Any new rights to which the Plan Creditors become entitled under the Plan or rights out.

If there is a material difference between the rights of the different groups under (i) or (ii), they may, but not necessarily will, constitute different classes’ (*Re Yunneng Wind Power Co Ltd* [2023] EWHC 2111 (Ch) at [40] (Michael Green J)).”

Applying the above principles, the Scheme justifiably puts the Scheme Creditors into a single class for the following reasons:

The appropriate comparator is the Company’s liquidation because the Company is likely to go into liquidation should the Scheme fail.

In case of the Company's liquidation, the Scheme Creditors would have identical "rights in" because all Scheme Creditors' Claims against the Company are unsecured and would, therefore, rank pari passu (e.g. Re Hong Kong Airlines Ltd; Re Petropavlovsk Plc).

The Scheme Creditors have identical "rights out" because they all have the right to receive Scheme Shares in proportion to their respective Scheme Claims and are, therefore, treated equally under the Scheme.

The inclusion of third-party releases for Ancillary Claims against the Principal Debtors within the Scheme does not fracture this creditor classification (e.g. Re Unity Group Holdings International Ltd). I accept that there is a rational basis for releasing the Ancillary Claims.

(a)

The Principal Debtors are integral to the Group's operations. Champ Technology Limited is the Group's intermediate holding company and holds several key PRC operating subsidiaries involved in the core lottery technology services business; China LotSynergy Limited is the Group's cost centre and holds substantial inter-company loan receivables owed by other subsidiaries within the Group; and Goldwide Limited similarly holds significant inter-company loan receivables owed by other subsidiaries within the Group.

(b)

Should the Scheme Creditors retain their claims against the Principal Debtors, they could initiate liquidation proceedings against the Principal Debtors, which would precipitate (i) the loss of a substantial portion of the Group's core lottery technology services business operated through Champ Technology Limited's Mainland subsidiaries, (ii) material enforcement risks concerning the substantial inter-company loans held by China LotSynergy Limited and Goldwide Limited, thereby potentially triggering a cascade of defaults throughout the Group, and (iii) the mere redistribution (rather than resolution) of liabilities and enforcement risks within the Group, thereby rendering the entire Restructuring exercise futile. In view of the above, the Restructuring would fail to achieve its fundamental objective of returning the Company to commercial viability unless the Ancillary Claims are discharged.

(c)

A directly applicable authority is Re Add Hero Holdings Ltd where I have recently remarked that "it is established that a guarantor may introduce a scheme of arrangement, which compromises not only the company's liabilities but also the debts owed by the principal obligors, who are members of the same business group. Commonly the principal obligor will be a subsidiary of the guarantor, which has provided a parent/holding company guarantee. The release of the principal obligor is necessary to avoid creditors undermining the restructuring of the holding company's liabilities".

(d)

Similar sentiments were expressed by Richard Smith J in *Re Madagascar Oil Ltd* that “even if there were no ricochet claims, I would still be satisfied as to its necessity by analogy with *Re Fitness First* [2023] EWHC 1699 (Ch) (at [115]–[117]) in which the court sanctioned the release of a parent company guarantee on the basis that enforcement against the plan company’s parent would ‘seriously destabilise the Group’. The same instability would also arise here from enforcement against the Group’s operating company”.

### Compliance with the Convening Order

The Convening Order has been complied with. The 2nd Affidavit of Wong Yin Ming dated 6 October 2025 confirms the circulation and publication of the Notice of the Scheme Meeting, Explanatory Statement and Scheme to the Scheme Creditors at least 21 days before the Scheme Meeting.

The English and Chinese advertisement of the Notice of the Scheme Meeting was duly placed in *The Standard* and *Sing Tao Daily* on 2 September 2025.

Originally, the Scheme Meeting was scheduled for 24 September 2025. However, it was announced by the Hong Kong Observatory that a Super Typhoon Ragasa, which is the strongest tropical storm of the year, would be striking Hong Kong on 24 September 2025. Hence, there was a real risk that the weather conditions could deteriorate at the time the meeting was to take place.

Sensibly, the Company informed the Scheme Creditors on 19 September 2025 by courier that, among other things, if Typhoon Signal No. 8 (or above), Black Rainstorm Warning Signal or Extreme Conditions remained in effect after 8:00 a.m. on 24 September 2025, the Scheme Meeting would be adjourned to the following business day at the same time and place (“Bad Weather Arrangement”). On 22 September 2025, the Company published an announcement on its website and the website of the Stock Exchange regarding the Bad Weather Arrangement. On 24 September 2025, since Typhoon Signal No. 8 (or above) was neither lowered nor cancelled at or before 8:00 a.m., the Scheme Meeting was adjourned to 10:00 a.m. on 25 September 2025 in accordance with the Bad Weather Arrangement.

It is trite that scheme meetings may be adjourned on short notice for legitimate reasons. There is no restriction as to the sort of situation which would warrant an adjournment. For instance:

In *Re Peninsula and Oriental Steam Navigation Company*, Warren J explained the reasons for the adjournment of the scheme meeting and remarked that:

“33.

These proposals were to be considered at a series of five meetings of stockholders as follows: a meeting of holders of deferred scheme stock convened by the order of court on 16th December 2005; a meeting of holders of concessionary stock also convened by order of the court on 16th December 2005; a class meeting of the holders of deferred stock; a class meetings [sic] of the holders of concessionary stock; and an extraordinary general meeting of all stockholders. These meetings were all convened and proposed to be held on 20th January 2006.

34.

On 10th January P&O announced that it had received an approach which might have led to an offer by PSA for the deferred stock at £4.70 and a similar offer for the concessionary stock and the preferred stock as that made by the offeror. The board of P&O determined that a short period should be allowed to enable PSA to put forward an offer and accordingly the chairman, Sir John Parker, announced that the January meetings would be adjourned to a time and place of which not less than 14 clear days' notice would be given ...

54.

... Nor do I have the slightest doubt it this [sic] was competent for the chairman to adjourn the court meeting in the way that he did, although by doing so without a court sanction, he ran the risk that the court might subsequently refuse to sanction the scheme because of some unfairness arising from the adjournment or the manner of reconvening the meeting.

55.

There is clearly no factor present in this case which begins to suggest that the adjournment should lead to a refusal to sanction ...”

Miles J was similarly satisfied in *Re PGS ASA* that the scheme meeting, although adjourned, was properly held for reasons explained in [9] to [12] of his judgment.

I am satisfied that the chairman of the meeting had the power to adjourn the Scheme Meeting and that safety concerns was a legitimate reason to exercise that power. While virtual attendance at the Scheme Meeting could have been arranged in accordance with the procedures set out in the Explanatory Statement, I take the view that it was for the chairman to decide whether or not in the circumstances the better course was to adjourn the meeting, as long as he had proper reasons for doing so, which in the present case he clearly did.

The one-day postponement caused no prejudice to the Scheme Creditors. First, the Scheme Creditors were informed in advance of the Bad Weather Arrangement such that there was sufficient time for them to adjust their plans, if necessary. Secondly, there was no change in the terms of the Scheme. Thirdly, the subsequent approval of the Scheme confirms that no disadvantage resulted from the short delay. The value of the Scheme Claims voted at the Scheme Meeting represented almost the entirety of the Scheme Claims subject to the Scheme.

## Statutory Majorities

During the Scheme Meeting held on 25 September 2025, a substantial majority of the Scheme Creditors—namely, 93.75% of Scheme Creditors in number, representing 81.57% by value—voted in favour of the Scheme, thereby satisfying the requirements under section 674(1)(b) of the Ordinance.

## Sufficient Information Provided to the Creditors

To satisfy the requirements under section 671(3) of the Ordinance, an explanatory statement must be sufficiently informative. As has been reiterated in *Re CA Cultural Technology Group Ltd*:

*“A company is under a duty to include in the explanatory statement all the information necessary to enable the creditors to form a reasonable judgment on whether the scheme is in their best interests or not, and hence how to vote. The extent of the information required to be provided will, of course, depend on the facts of the particular case. Necessarily, the duty extends to the company providing up to date information, or an adequate explanation of why it has not done so, that will allow a creditor to contrast what is to be anticipated if the scheme is approved, and the outcome if it is not. A company is required to provide specific financial information to support its predicted outcomes, and I would normally expect it to have its views independently verified by an insolvency practitioner or other suitable professionals” (Re Century Sun International Ltd [2021] HKCFI 2928; [2021] HKCLC 1477 at [23] (footnotes omitted)).*

The Explanatory Statement satisfies the requirements under section 671(3) of the Ordinance for the following reasons:

It presents the Scheme as an alternative to the liquidation of the Company, and outlines the strategic considerations behind the Scheme.

It provides detailed estimates of the likely returns for the Scheme Creditors in a liquidation and under the Scheme, thereby providing a basis for informed decision-making.

It explains the events leading to the Scheme, including changes in the Company’s financial positions, and offers a detailed analysis of the feasibility of the Scheme. Specifically, it sets out the potential advantages and disadvantages of implementing the Scheme, the effects of the Scheme on the shareholding structure of the Company, the potential risks relating to Price Protection and Scheme Shares prices, and the implications if the Scheme does not proceed.

In passing, I note that an announcement was made by the Company in relation to its results for the year ended 30 June 2025 (“Announcement”) following the circulation and publication of the Explanatory Statement. It appears from the Announcement that the Group’s financial position had further deteriorated. Between 31 December 2024 and 30 June 2025, the Group’s net liabilities had increased from HK\$480 million to HK\$491.4 million whilst the Group’s total liabilities had increased from HK\$597 million to HK\$649 million.

*“Intelligent and Honest Man” Test*

The relevant principles have been recently restated in *Re Add Hero Holdings Ltd*:

“85.

The Court is normally slow to differ from the majority of creditors’ views, as it normally acts on the basis that businessmen are much better judges of what is in their commercial interest than the Court. Whether a compromise of the sort contained in the Holdings’ Scheme is financially preferable to a compulsory winding up is a matter of commercial judgment. Opinions may differ on which course is likely to be most beneficial, but as the language in which the ‘intelligent and honest man’ test is framed indicates the Court will only override the views of the majority if their view seems sufficiently odd that it suggests it was arrived at as a consequence of either a failure properly to assess the terms of the compromise or considerations other than its merits. It is rare for the Court to interfere on this ground and I am only aware of one case in Hong Kong in which a judge considered this to be a ground (although only one amongst others) for declining to sanction a scheme; a privatisation for which the judge considered the offer price was too low. The company’s share price in subsequent years illustrates the danger of the Court straying into the area of commercial judgment.”

In the absence of opposition, the Court is unlikely to scrutinise the merits of a scheme in any great detail, given that the scheme has already been approved by the requisite majority and the Court normally acts on the principle that businessmen are much better judges of what is to their commercial advantage than the Court could be (e.g. *Re Allied Properties (HK) Ltd*).

The primary purpose of the Scheme is to return the Company to a solvent going concern. At the same time, Scheme Claims will be restructured such that Scheme Creditors whose claims are admitted will receive Scheme Shares based on their respective Admitted Claims in full and final settlement of their Scheme Claims against the Company. Whereas the estimated recovery rate for the Scheme Creditors ranges from approximately 3.15% to 133% under the Scheme, it is estimated that the Scheme Creditors will receive nothing in case of the Company’s liquidation.

The substantial support for the Scheme attests to the Scheme’s commercial advantage, which indicates that a reasonable creditor is likely to approve it. As such, I am satisfied that the Scheme is one that an intelligent and honest man, as a member of the class concerned and acting in respect of his interest, might reasonably approve.

## International Dimension

The Scheme is international in scope. There are two aspects to the issue of international dimension. The first concerns the Court’s jurisdiction over a scheme promoted by a foreign company. Where a foreign company promotes a scheme, it is well established that the Court has to consider whether there is sufficient connection between the scheme and Hong Kong (e.g. *Re Sunac China Holdings Ltd* and *Re China Oil Gangran Energy Group Holdings Ltd*).

In this case, there is sufficient connection between the Scheme and Hong Kong. The present case is almost identical to *Re China Oil Gangran Energy Group Holdings Ltd*:

*“The Scheme clearly has strong and sufficient connection with Hong Kong, in particular, because the Company is listed in Hong Kong and a principal purpose of the Scheme is to protect that listing, it is a registered non-Hong Kong company, and managed from Hong Kong. Further, essentially all of the Scheme Claims are governed by Hong Kong law.”*

Secondly, in an international case, the Court would consider whether the scheme is effective in other foreign jurisdictions of practical importance. This is because it would not be a proper exercise of the court’s discretion to sanction a scheme that serves no purpose. In practice, whether a jurisdiction is of practical importance to the efficacy of a scheme sanctioned in Hong Kong will commonly be determined by the following considerations (e.g. *Re CIFI Holdings (Group) Co Ltd*):

Is a material amount of the debt to be compromised by the scheme governed by the law of a jurisdiction other than Hong Kong?

Even if there is some doubt as to whether a scheme will compromise a proportion of the debt, is there any reason to think that the creditors will take action in a jurisdiction, which will not recognise a scheme as compromising the debt?

The amount of the debt involved. If, for example, the amount of the debt that is not governed by Hong Kong law is less than the cost of introducing a parallel scheme, it makes more sense to exclude that debt from the scheme and settle it separately if it is ever pursued.

In this case, the Scheme Claims and the Ancillary Claims are all governed by Hong Kong law. Thus, the conventional approach is to treat the Scheme as internationally effective (e.g. *Re Unity Group Holdings International Ltd*).

### **No “Blot” or Roadblocks**

Lastly, the Court will conduct a final cross-check and evaluate whether there is any defect in the scheme which may hinder its operational effectiveness (e.g. *Re China Bozza Development Holdings Ltd*).

It is a recognised practice in complex restructurings that schemes sanctioned by the Court typically take effect following a series of post-sanction steps. This Scheme is similar because the Effective Date is conditional on a series of post-sanction steps to implement the Scheme. The Company has addressed enquiries from the Stock Exchange and the Securities and Futures Commission regarding Capital Reorganisation and the issuance of Scheme Shares, but there is no evidence before this Court of any impediment to the Company’s satisfying these post-sanction steps. Thus, the Court would not be acting in vain in sanctioning the Scheme.

There is no blot on the Scheme, and I am satisfied that the Scheme is one that the Court can and should sanction in the exercise of its discretion.

## Conclusion

The Scheme is a legitimate debt restructuring scheme which has complied with all the statutory requirements and has received the requisite Scheme Creditors' support after exercising their independent commercial judgment. I, therefore, sanctioned the Scheme and granted an order in terms of the draft produced to this Court.

(Jonathan Harris)

Judge of the Court of First Instance

High Court

Mr Look Chan Ho, instructed by CLKW Lawyers LLP, for the Company

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