



IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

CR-2011-013738

Before the Honourable Mr Justice Hildyard
Wednesday the 11th day of April 2018

IN THE MATTER OF MF GLOBAL UK LIMITED (IN SPECIAL ADMINISTRATION)
AND IN THE MATTER OF THE INSOLVENCY ACT 1986
AND IN THE MATTER OF THE INVESTMENT BANK SPECIAL ADMINISTRATION
REGULATIONS 2011

(1) RICHARD HEIS
(2) MICHAEL ROBERT PINK
(3) EDWARD GEORGE BOYLE

(as the joint special administrators of the above-named Company, and as the joint supervisors of the company voluntary arrangement approved on 12 December 2017)

Applicants

- and -

(1) FINANCIAL SERVICES COMPENSATION SCHEME LIMITED
(2) ATTESTOR VALUE MASTER FUND LP
(acting by its investment manager, Attestor Capital LLP)

Respondents

ORDER

UPON the Applicants' application dated 22 March 2018 for directions including any necessary declarations as to whether the company voluntary arrangement approved on 12 December 2017 (the "CVA") should be implemented or, if implemented, terminated (the "**Application**")

AND UPON hearing leading counsel for the Applicants (Daniel Bayfield QC), leading counsel for Financial Services Compensation Scheme Limited ("**the FSCS**") (Mark Arnold QC) and leading counsel for Attestor Value Master Fund LP, acting by its investment manager, Attestor Capital LLP ("**Attestor**") (David Allison QC)

AND UPON reading the evidence

AND UPON Attestor and the FSCS agreeing to act as representative respondents appointed by the terms of this Order

IT IS ORDERED THAT

Substantive Hearing and Expedition

1. A hearing (the “**Substantive Hearing**”) be fixed for 4 days (to include 1 day for pre-reading) for the Court to hear argument as to the following issues (the “**Issues**”):

(1) **Issue 1.** Should the Administrators confirm that the CVA is not precluded from becoming effective in accordance with the condition precedent at clause 3.1(e) of Section 2 of the CVA (the “**Disputed Claims CP**”) in the light of the following Disputed Claims after the Challenge Period, as each term is defined in Section 2 to the CVA:

(a) the proof of debt submitted to the Administrators by the Bundeszentralamt für Steuern (German Federal Central Tax Office) (the “**GTA**”) for a total amount of EUR52,421,290.12 which was rejected by the Administrators on 8 February 2018 and is subject to an appeal filed by the GTA on 28 February 2018 (the “**GTA Claim**”); and / or

(b) the proof of debt submitted to the Administrators by Deutsche Bank AG (“**DB**”) for a total amount of EUR126,724,993.55 which was rejected by the Administrators on 8 February 2018 and is subject to an appeal filed by DB on 1 March 2018 (the “**DB Indemnity Claim**”); and / or

(c) the proof of debt submitted to the Administrators by DB for a total amount of EUR48,178,219.87 which was rejected by the Administrators on 8 February 2018 and is subject to an appeal filed by DB on 1 March 2018 (the “**DB Mirror Claim**”),

each a “**Disputed Claim**” and together the “**Disputed Claims**”?

(2) **Issue 2.** Should the Supervisors waive the Disputed Claims CP and notify the creditors of MFGUK of the occurrence of the implementation date of the CVA pursuant to clause 3.2 of Section 2 of the CVA?

(3) **Issue 3.** Should the Supervisors determine that the Disputed Claims are a material impediment to the implementation of the CVA and terminate the CVA pursuant to clause 27.1(c) of Section 2 of the CVA?

2. The Substantive Hearing shall be expedited and shall be heard in the week commencing 14 May 2018.

3. Prior to the Substantive Hearing but as soon as possible following the exchange of position papers on 1 May 2018, there shall be a further directions hearing of one hour for the purpose, inter alia, of considering any proposed reformulation of the Issues. The further directions hearing shall, if possible, be heard by the Judge that is to hear the Substantive Hearing and shall be listed for a date and time convenient to the parties, if required, outside normal court hours (so as not to unduly disturb the normal court day).

Representation

4. Pursuant to CPR r 19.6(1)(b):
 - (1) The FSCS shall be appointed “**Representative Party A**” and shall advance arguments for an affirmative answer to Issues 1 and 2, and a negative answer to Issue 3; and
 - (2) Attestor shall be appointed “**Representative Party B**” and shall advance arguments for a negative answer to Issues 1 and 2, and an affirmative answer to Issue 3,each a “**Representative Respondent**” and together the “**Representative Respondents**”.
5. The Applicants and the Representative Respondents shall have permission to address the Court on any reformulation of the Issues and to make such other submissions as may assist the Court.
6. The Applicants shall have permission to apply to join or to appoint further or other respondents.
7. No person other than the Applicants and the Representative Respondents should address the Court in relation to the Issues without the permission of the Court. Any creditor of MFGUK bound by the CVA wishing to have an argument advanced on its behalf should notify in writing the solicitors for the appropriate Representative Respondent. Any such creditor may apply to the Court to object to representation by the relevant Representative Respondent pursuant to CPR r.19.6(2).
8. The Applicants shall make available to any creditor of MFGUK on request and upon an agreement to pay reasonable copying costs a copy of this application, the evidence in support and all other documents in the application, including any written submissions.

Directions

9. The Applicants shall provide and serve the following information and documents by 17 April 2018:
 - (1) “*the Revised Model*”, a revised version of the model contained in the Data Room established in connection with the CVA that takes into account the Disputed Claims;
 - (2) “*the Revised Financial Position of the Company*”, being revised financial information based on the Revised Model; and
 - (3) “*the CVA Mechanics Explanation*”, being an explanation as to how, if the CVA were to proceed, the existence of the Disputed Claims would affect the mechanics of the CVA,

as each category above is more particularly described in Allen & Overy's second letter to the Applicants dated 6 April 2018.

10. By 4pm on 17 April 2018, the Applicants shall provide standard disclosure to the Representative Respondents relevant to:
 - (1) the possibility of any further claims being filed, other than by the GTA, including in particular but without limitation, the claims by Deutsche Bank; and / or
 - (2) the fact that the trading undertaken by MFGUK involved or included short selling of relevant securities in Germany,(the "**Risks**"). The Applicants shall not however be required to search for or disclose trading data (not already included in the Data Room) in relation to the Risks.
11. By 4pm on 1 May 2018, the Representative Respondents shall each file and serve:
 - (1) their respective evidence in relation to the Issues; and
 - (2) a position paper stating concisely:
 - (a) their respective positions with respect to the Issues; and
 - (b) as regards any statements alleged to have been made by the Applicants and relied upon by the Representative Respondent, or a person within the class represented, the statement alleged to have been made and the particulars of its receipt and reliance.
12. By 4pm on 8 May 2018, the Applicants and the Representative Respondents shall file and serve evidence in reply (if any).
13. The parties shall comply with the following additional directions in relation to the Substantive Hearing:
 - (1) The Applicants shall circulate a draft index for the hearing bundle by 10am on 9 May 2018, which shall be agreed between the parties by 10am on 10 May 2018.
 - (2) The Applicants shall produce the hearing bundle to be lodged with the court on 11 May 2018.
 - (3) The parties shall exchange skeleton arguments by 8am on 14 May 2018.
14. The Applicants shall have liberty to apply for further or other procedural directions in relation to the Substantive Hearing, in particular, for disclosure from the Representative Respondents in relation to any statements alleged to have been made by the Applicants and relied upon by a Representative Respondent or a person within the class represented.

Costs

15. The Applicants costs, fees and expenses of, and occasioned by, this Application be paid as an expense of the MFGUK special administration.
16. The Representative Respondents' costs of and occasioned by this Application be paid as an expense of the MFGUK special administration in an amount to be agreed, failing which they shall be assessed on the indemnity basis.

Service of this order

The Court has provided a sealed copy of this order to the solicitors for the Applicants:

Weil, Gotshal & Manges (London) LLP
110 Fetter Lane
London EC4A 1AY

(Reference: Linton Bloomberg)

linton.bloomberg@weil.com
020 7903 1004 Direct
020 7903 0990 Fax