

Crypto Spring – Will the Recognition of the Administrative Convenience Class in *Zipmex* Pave the Way for Crypto Restructurings in Singapore?

The approval of the creation of an administrative convenience class (**Administrative Convenience Class**) comprising low value creditors to reduce the administrative burden on restructuring entities by the General Division of the Singapore High Court (**High Court**) in *Re Zipmex Pte Ltd and other matters* [2023] SGHC 88 (**Re Zipmex**) is a positive step in promoting Singapore as a preferred restructuring destination, particularly for crypto restructurings.

Background

The Zipmex Group comprises Zipmex Asia Pte Ltd (the group holding company incorporated in Singapore) (**Zipmex Asia**), Zipmex Pte Ltd (a Singapore subsidiary) (**Zipmex Singapore**), and Zipmex Australia Pty Ltd (**Zipmex Australia**). The Zipmex Group operates a cryptocurrency platform where cryptocurrencies are traded through an application known as the “Zipmex App”.

The Zipmex Group brought applications for the High Court’s sanction of “pre-packaged” schemes of arrangement under section 71 of the Insolvency, Restructuring and Dissolution Act 2018.

A pre-packaged scheme of arrangement is an expedited procedure for implementing a scheme of arrangement, which avoids the need for convening a creditors’ meeting to vote on the proposed scheme. One of the key requirements for obtaining the court’s sanction of a pre-packaged scheme is that the court must be satisfied that the requisite scheme approval thresholds (75% in value and a majority in number of each class of creditors) would have been satisfied if a meeting of the creditors had been summoned.

The difficulty faced by the Zipmex Group was that a significant portion of their creditor base comprised customers with relatively small claims. They had approximately 67,000 customers whose withheld assets were below US\$5,000 in value. Though the supermajority in value of debt was held by a relatively small number of creditors, the headcount requirement (i.e., a majority in number of creditors) would have been entirely determined by Zipmex’s customer creditors.

Practically, this meant that Zipmex had to either obtain the approval of a majority of the 67,000 customers through lock-ups or signed commitments to push through the pre-packaged scheme, or avoid the pre-packaged scheme altogether and convene a conventional scheme meeting. Either approach would have been administratively burdensome and disproportionately costly, and might have diminished execution certainty.

Zipmex Group’s solution was to propose the creation of an Administrative Convenience Class comprising the 67,000 creditors who would, in exchange for receiving the same benefits under the schemes as other customer creditors, i.e., full access to their withheld assets after a liquidity injection into Zipmex Asia by a white-knight investor, be excluded from the voting exercise unless they opted in. The scheme creditors of Zipmex Asia voted in one class and the scheme creditors of Zipmex Singapore and Zipmex Australia voted in two classes – the “Vendor Creditors” and the “Customer Creditors” classes. The Administrative Convenience Class was created as a separate class under the “Customer Creditors” class.

The High Court's Reasoning

To support their creation of an Administrative Convenience Class, the applicants referred to jurisprudence concerning the US Bankruptcy Code which allows the creation of a separate class “*as reasonable and necessary for administrative convenience*” for unsecured claims lower than a specific amount. Relying on this jurisprudence, the applicants argued that section 1112(b) of the US Bankruptcy Code codified the practice in pre-Bankruptcy Code case law of having a separate class for small claims which can be paid in full and consequently relieving the restructuring company of the administrative burden of dealing with these smaller creditors. The applicants also argued that the practice of creating such an administrative convenience class is consistent with the practice in schemes of arrangements where debtor companies may choose to exclude smaller creditors by paying them in full.

The High Court was of the view that the reasoning in the pre-Bankruptcy Code US case law would not be of much use in the Singapore context. However, the US jurisprudence did illustrate that the compromise of strict rights and equitableness may sometimes be required to ensure efficacy and feasibility. In this regard, the High Court noted that conducting a poll or voting exercise of all 70,000 creditors would not be feasible, at least in a reasonable amount of time and at reasonable cost.

The High Court also emphasised the need to ensure that there be no undue prejudice. This could generally be dealt with by some *quid pro quo* for the deemed consent of the Administrative Convenience Class, such as full payment. The High Court also took into account that the applicants allowed those in the Administrative Convenience Class to vote if they wanted to, which further ensured that there was no prejudice.

Beyond the issue of prejudice, the High Court had to find a statutory basis to approve the creation of the Administrative Convenience Class. The High Court relied on section 210(3AB) of the Companies Act 1967, which stipulates that a majority in number of creditors must approve a scheme “*unless the Court orders otherwise*”. The phrase “*unless the Court orders otherwise*” enabled the High Court to dispense with the headcount requirement. As such, it was not necessary for the Zipmex Group to demonstrate that a majority in number of the Administrative Convenience Class creditors would have voted for the scheme, and hence the pre-packaged scheme could be approved even in the absence of these creditors’ affirmative approval of the scheme.

Commentary

This decision is a positive step in promoting Singapore as a preferred restructuring destination for debtors. The recognition of an administrative convenience class is another tool that debtors can rely on when dealing with a very large number of smaller creditors. This would be especially relevant in the crypto winter, as such debtors would likely have a very large number of users / account holders across multiple jurisdictions who hold assets below a certain value. Having to liaise and deal with all of such users / account holders could inevitably slow down the restructuring process, and also incur additional costs.

In the circumstances of the case, there is no denying that the High Court got it right. If the High Court had insisted that the applicants conduct the voting exercise with the 67,000 customers, it would have delayed the inevitable outcome of the voting exercise. Debtors may not have that luxury of time as investors may have very time-sensitive requirements and want things done within a specified period, especially in a volatile market such as cryptocurrency.

However, debtors should not look at *Re Zipmex* and presume that the administrative convenience class will be approved as of right. It remains to be seen whether administrative convenience classes will be allowed in less clear-cut cases, e.g., where the creditors range in the hundreds rather than the thousands, or where the creditors are small retail holders of listed debt securities. The salient points to take note of in *Re Zipmex* is that the applicants allowed those in the Administrative Convenience Class to vote if they wanted to, and also ensured that their benefit under the scheme was the same as the Customer Creditors who voted.

Overall, the decision illustrates the flexibility and ingenuity of the Singapore regime in serving the commercial, administrative, and practical needs of complex debt restructuring scenarios.

If you would like information and/or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or the following:

**Daniel LIU**

Partner – Restructuring & Insolvency

d: +65 6416 2470

e: [zhaoxiang.liu](mailto:zhaoxiang.liu@wongpartnership.com)@wongpartnership.comClick [here](#) to view Daniel's CV.**Adnaan NOOR**

Counsel – Restructuring & Insolvency

d: +65 6416 2477

e: [adnaan.noor](mailto:adnaan.noor@wongpartnership.com)@wongpartnership.comClick [here](#) to view Adnaan's CV.

Connect with WongPartnership.

WPG MEMBERS AND OFFICES

- contactus@wongpartnership.com

SINGAPORE

-

WongPartnership LLP
12 Marina Boulevard Level 28
Marina Bay Financial Centre Tower 3
Singapore 018982
t +65 6416 8000
f +65 6532 5711/5722

CHINA

-

WongPartnership LLP
Shanghai Representative Office
Unit 1015 Link Square 1
222 Hubin Road
Shanghai 200021, PRC
t +86 21 6340 3131
f +86 21 6340 3315

MYANMAR

-

WongPartnership Myanmar Ltd.
Junction City Tower, #09-03
Bogyoke Aung San Road
Pabedan Township, Yangon
Myanmar
t +95 1 925 3737
f +95 1 925 3742

INDONESIA

-

Makes & Partners Law Firm
Menara Batavia, 7th Floor
Jl. KH. Mas Mansyur Kav. 126
Jakarta 10220, Indonesia
t +62 21 574 7181
f +62 21 574 7180
w makeslaw.com

MALAYSIA

-

Foong & Partners
Advocates & Solicitors
13-1, Menara 1MK, Kompleks 1 Mont' Kiara
No 1 Jalan Kiara, Mont' Kiara
50480 Kuala Lumpur, Malaysia
t +60 3 6419 0822
f +60 3 6419 0823
w foongpartners.com

MIDDLE EAST

-

Al Aidarous Advocates and Legal Consultants
Abdullah Al Mulla Building, Mezzanine Suite 02
39 Hameem Street (side street of Al Murroor Street)
Al Nahyan Camp Area
P.O. Box No. 71284
Abu Dhabi, UAE
t +971 2 6439 222
f +971 2 6349 229
w aidarous.com

-

Al Aidarous Advocates and Legal Consultants
Oberoi Centre, 13th Floor, Marasi Drive, Business Bay
P.O. Box No. 33299
Dubai, UAE
t +971 4 2828 000
f +971 4 2828 011

PHILIPPINES

-

ZGLaw
27/F 88 Corporate Center
141 Sedeño Street, Salcedo Village
Makati City 1227, Philippines
t +63 2 889 6060
f +63 2 889 6066
w zglaw.com/~zglaw

wongpartnership.com