



FORM R14B

**The Insolvency Act 2003
The Insolvency Rules 2005**

**ORDINARY APPLICATION
(COMPANY)
Rule 14**

The Eastern Caribbean Supreme Court In the High Court of Justice Virgin Islands Commercial Division	
Matter No:	BVIHC (COM) 2017/0193
Applicant:	PAUL PRETLOVE AS LIQUIDATOR OF FCI MARKETS INC.
Respondent:	FCI MARKETS INC. (IN LIQUIDATION)

In the matter of:

FCI MARKETS INC. (IN LIQUIDATION)	
<i>For Court Use Only</i>	
To:	
This application will be heard by the Commercial Court Judge at Road Town, Tortola, British Virgin Islands on [17 September 2024 for ihr]	

TAKE NOTICE that Paul Pretlove of Interpath (BVI) Limited (formerly Kalo (BVI) Limited), 4th Floor, LM Business Centre, Fish Lock Road, Road Town, Tortola, British Virgin Islands, VG1110, being the liquidator of FCI Markets Inc. (respectively the “Liquidator” and the “Company”), intends to apply for orders as follows:

1. That the Court sanctions the Liquidator compromising the claim against the Company made by Exential Investments Inc (in liquidation) (“Exential”) on

the terms of a settlement agreement dated 25 June 2024 between the Company, the Liquidator, Exential, Mr. Russell Crumpler in his capacity as Joint Liquidator of Exential, and Mr. David Standish in his capacity as Joint Liquidator (respectively the “**Exential Claim**” and the “**Settlement Agreement**”).

2. Such other relief as the Court may think fit.

The grounds upon which this Application is made are set out in full in the First Affidavit of Paul Pretlove, and are summarised as follows:

1. The Exential Claim can only be compromised with the sanction of the Court under the terms of the Order of the Court dated 18 January 2018 appointing liquidators over the Company (“**Liquidation Order**”).
2. It is proper for the Court to sanction the compromise of the Exential Claim on the terms of the Settlement Agreement for the following reasons:
 - (a) It is in the best interests of creditors that the Company compromise the Exential Claim, that distributions be made promptly to admitted creditors, and that the liquidation be brought to an end.
 - (b) It is adverse to the interests of creditors that there be continued uncertainty or protracted litigation over the Exential Claim and any counter-claim that might be filed by the Company against Exential.
 - (c) Exential is a person “claiming to be a creditor” of the Company within the meaning of Schedule 2, paragraphs 1 & 2, of the Insolvency Act 2003.
 - (d) The Exential Claim, which seeks US\$205,029,317.47 in damages, vastly exceeds the value of admitted claims in the liquidation of the Company to date.

- (e) The Liquidator believes that there are likely to be sufficient assets to compromise the Exential Claim on the terms of the Settlement Agreement and pay admitted creditors in full, or nearly in full.
- (f) The Settlement Agreement does not provide any preference or security interest to Exential, nor does it disturb the ordinary application of the *pari passu* principle to distributions made to creditors and contributories.

A draft of the order sought is attached to this Application.

The Liquidator will provide notice of the Application to all known creditors, and to any other person or entity as the Court may direct. The Liquidator will also notify such persons or entities that he has asked the Court to deal with the Application on the papers.

This Application is filed by Kobre & Kim (BVI) LP, Legal Practitioners for the Applicant whose address for service is:

Commerce House, Waterfront Drive, P.O. Box 3099, PMB 50, Road Town, Tortola, VG1110, British Virgin Islands. Telephone number (284) 852 1600, fax number (284) 852 1620, email: merrick.watson@kobrekim.com and timothy.deswardt@kobrekim.com.

The estimated time for disposal of the matter on the papers including the relevant background reading is 60 minutes.

Dated: 13 August 2024

Signed:.....

Timothy de Swardt
Kobre & Kim (BVI) LLP
Legal Practitioners for the Applicant

The court office is at the High Court Registry, Road Town, Tortola, British Virgin Islands, telephone number (284) 468 5001, fax (284) 468 4951. The office is open between 8:30am and 4.30pm Monday to Friday except public holidays.

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