IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

NEUTRAL CITATION NUMBER: [2025] CIGC (FSD) 118

CAUSE NO. FSD 250 OF 2025 (DDJ)

IN THE MATTER OF THE COMPANIES ACT (2025 REVISION)

AND IN THE MATTER OF LFM OVERSEA INVESTMENT FUND SPC

AND IN THE MATTER OF LFM STABLE INCOME FUND SP

Before:	The Hon. Justice David Doyle
Appearances:	Spencer Vickers and Sean-Anna Thompson of Conyers Dill & Pearman LLP for the Petitioner
	Gemma Bellfield and Corey Byrne of Ogier (Cayman) LLP for the Respondent
Heard:	19 November 2025
Draft Judgment circulated:	1 December 2025
Judgment delivered:	3 December 2025

Determination of a petition seeking the appointment of receivers over a segregated portfolio pursuant to section 224 of the Companies Act (2025 Revision

JUDGMENT

Introduction

1. I have concluded that I should grant the relief sought and appoint receivers over the relevant segregated portfolio namely LFM Stable Income Fund SP (the "Fund"). My brief reasons for arriving at this conclusion are as follows.

2. This is another case where the drafting of the relevant agreement between the parties was not ideal. The Respondent (LFM Oversea Investment Fund SPC) says that Biostar Pharma, Inc (the "Petitioner") is not a creditor of the Fund as it has not validly redeemed its shares in accordance with the terms of the contractual documents. In particular, it submits that a side agreement cannot override the articles of association.

3. The Respondent also submits that the Fund is not insolvent and in any event the Court should not exercise its discretion in favour of making a receivership order. The Respondent relies on belatedly produced audited accounts dated 3 November 2025. It says that they show that the Fund is solvent and has assets that are or are likely to be sufficient to discharge the claims of creditors. It says that the Fund has assets of US$10,626,770 and liabilities of US$336,992.

4. It adds that the Fund has no substantial redeeming creditors given that neither the Petitioner nor Synbio Pharma (Hong Kong) Limited ("Synbio") have properly redeemed their shares.

5. The Respondent says that on 21 March and 24 March 2025 the Fund, as Note Holder, and Global Peace International Limited ("Global Peace") as Issuer entered into two note issuance agreements in the aggregate principal amount of up to US$5,000,000 per note issuance agreement. The final maturity date of the notes are 20 March 2026 and 23 March 2026. The Respondent says that the nature of the Notes are that of an illiquid asset and they cannot immediately and readily be liquidated to settle any redemption requests.

6. The Petitioner says that it invested US$5,000,000 in the Fund in November 2024, with an expected investment term of 1 year (i.e. to November 2025). It adds that shortly thereafter its auditors advised that they could not issue audited financial statements because of the lack of clarity regarding the Fund's underlying assets and the vagueness of its investment strategy. As the Petitioner's shares are listed on the Hong Kong Stock Exchange, this created an urgent need for the Petitioner to redeem its investment in the Fund to finalise its financial statements in order to maintain its listing status.

7. On 14 January 2025 the Petitioner made a redemption request but no payments were received. The Petitioner says that acting on representation that the Fund would make payment if further funds were provided by SynBio (the Petitioner's subsidiary which is not a listed company in Hong Kong). SynBio transferred a further US$5,000,000 to the Fund by way of two transfers on 18 February and on 20 February 2025 so that such funds could be used to repay the amounts due to the Petitioner and the Petitioner's audit could be finalised.

8. It appears that the Fund invested the US$10,000,000 in notes issued by Global Peace.

Does the Petitioner have standing?

9. In my judgment the Petitioner does have standing.

10. At the very least the Petitioner is the holder of segregated portfolio shares in respect of a relevant segregated portfolio so it has standing pursuant to section 225 (1) (d) of the Companies Act (2025 Revision) (the "Companies Act"). It also maintains that it has standing as a creditor pursuant to section 225 (1) (c) of the Companies Act. I am satisfied that it has standing.

11. Whether the Petitioner can be properly classified as a creditor is of more practical relevance to the insolvency issue which I now turn to.

Is the Fund solvent?

12. The main issue for determination is whether the Fund is solvent or to put the legal position more precisely in terms of section 224 (1) of the Companies Act whether the segregated portfolio assets "are or are likely to be insufficient to discharge the claims of creditors in respect of that segregated portfolio". In considering the statutory test I have regard to the important and useful guidance provided by the Court of Appeal in *Oakwise Value Fund SPC* 2024 (1) CILR 525.

13. In my judgment the Petitioner is a creditor of the Fund. Under the Subscription Letter dated 15 November 2024 but signed on 22 November 2024 it was provided that investors have the right to redeem in tranches and investors were required to sign and submit a redemption form to the Fund 1 month in advance. The investment term was stated to be "The expected term is 1 year, subject to the actual amount of the investment" but the investors were given the right to redeem upon giving notice "1 month in advance" of the proposed redemption. Clause IV of the Subscription Letter provided that "In the event of any inconsistency between the terms of this Subscription Letter and the terms of other documents of the Investor's subscription to the fund, the terms of this Subscription Letter shall prevail."

14. The Respondent refers to the articles of association in particular Article 5 (c) (h) (j) and (k). The Articles provide that segregated portfolio shares are redeemable in accordance with the provisions of the Articles (Article 5 (c)). The Company is entitled to redeem shares at such times and in such manner as the directors shall in their absolute discretion determine (Article 5 (h)). The amount payable to a member whose segregated portfolio shares are being redeemed shall be the latest available Net Asset Value attributable to each segregated portfolio share being redeemed (Article 5 (j)) and the Directors may make such further regulations concerning redemption as they shall from time to time deem necessary.

15. The Respondent refers to various authorities (including *Culross Global SPC Limited v Strategic Turnaround Master Partnership Limited* [2010] UKPC 33 at [8] per Lord Mance, *Pearson v Primeo Fund* [2017] UKPC 19 at [15] per Lord Mance and *Lansdowne Limited v Metador Investments Limited* 2012 (2) CILR 81 at [114] per Quin J) to support its submission that it is well established as a matter of Cayman Islands law that the process of redemption is prescribed (and constrained) by the relevant articles of association.

16. The Respondent refers to various authorities (*Lansdowne* at [121] per Quin J and *Lancelot Investors Fund, Limited* (FSD unreported judgment 12 August 2013) at [134] per Quin J and *Re Ardon Maroon Asia Master Fund* (CICA unreported judgment delivered 20 May 2020) at [17] per Martin JA) to support its submission that a side agreement cannot validly amend class rights including redemption rights, as a company's articles are not simply a two party contract but rather create collective rights and obligations between a company and its shareholders *inter se* and it is therefore essential that parties can rely on their terms.

17. Mr Vickers seeks to circumvent these legal principles by submitting in effect that there is no real inconsistency between the Petitioner's rights to redeem in accordance with the Subscription Letter and the articles in this case. The NAV will give the Petitioner and Synbio more than the $5 million they are each entitled to. Mr Vickers for good measure adds that if he is wrong in that, then the Petitioner has a good claim in misrepresentation and in effect rescission of its contract. Either way the Fund is insolvent.

18. Mr Vickers launched a powerful attack on the belated provision and content of the audited accounts for the period 8 December 2023 to 30 June 2025 and Ms Bellfield, despite her eloquence, had no satisfactory answers to the same. Furthermore, the court was provided with no meaningful evidence as to the financial standing of Global Peace and the valuation of the underlying investments. Redactions had been made to certain parts of the evidence for no apparent good reason.

19. Field JA in *Oakwise* referred to the wording in section 224 (1) (a) of the Companies Act and with the benefit afforded by the judgment of Parker J in *Obelisk Global Fund SPC* (FSD unreported judgment 21 August 2021) and the judgment of Kawaley J in *Green Asia Restructure Fund SPC* (FSD unreported judgment 6 July 2022) stated at [50] and [51]:

> "50 … these words provide for a flexible balance sheet test which, instead of contemplating a simple assessment of the relative sides of a balance sheet, involves determining on the available evidence, applying the civil standard of proof, whether the assets, taking into account the actual, contingent and prospective liabilities, are now or are likely to be insufficient in the reasonably near future to pay the claims of creditors. I agree that the legislature intended the test to be more flexible than a straight forward balance

sheet test in order to mitigate the difficulties creditors might otherwise have in accessing the necessary financial information to satisfy such a balance sheet test.

51 At the heart of the test is an assessment of the value of the postulated assets attributed to the segregated portfolio[11] and in carrying out this assessment, the court should carefully examine what the evidence reveals as to how the value of the assets has been arrived at. This is of particular importance given that the great majority of segregated portfolio companies do not engage in conventional trading but are vehicles for holding investments in the form of financial instruments which the instruments can be marked to market. Often, audited financial statements will be part of the evidence and, where the assets are financial instruments, the court should be concerned to be shown the auditors' notes thereon and those sections in the SPC's articles and private placement memorandums dealing with how the instruments are valued in the financial statements and for NAV purposes.

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11 The establishment of the creditors' claims will invariably be a straightforward matter."

It is important to note that regard must be had, in addition to actual liabilities, also to "contingent and prospective liabilities".

20. I take on board Mr Vickers' legitimate criticism of the limited financial information the Respondent has chosen to put before the court. Based on the evidence before the court I find it difficult to place much, if any, reliance on the belated audited accounts. The Petitioner and Synbio have claims of at least US$5 million each (whether actual or contingent). These claims would be crystalised claims before March 2026. There is no satisfactory evidence in respect of the financial position of Global Peace and the underlying investments.

21. In my judgment the Petitioner has satisfied the court that that the segregated portfolio assets "are or are likely to be insufficient to discharge the claims of the creditors in respect of that segregated portfolio" (section 224 (1) (a) of the Companies Act).

Would the making of a receivership order achieve the specified purposes?

22. The next main question is whether the making of a receivership order would achieve the purposes specified in section 224 (3) of the Companies Act.

23. I have no hesitation in concluding that a receivership order would achieve the orderly closing down of the business of or attributable to the segregated portfolio and the distribution of the segregated portfolio assets attributable to the segregated portfolio to those entitled to have recourse thereto.

The Order

24. I therefore make an order substantially in terms of the draft presented to the court. The blank in the recital should be filled in. In paragraph 1 "2023" should read "2025". The word "That" at the beginning of paragraph 3 should be deleted and the word "pursuant" should have a capital P. In paragraph 8 the word "this" should be deleted and the word "the" inserted. The attorneys for the Petitioner should email to my PA an updated draft order within 24 hours of the delivery of this judgment.

David Doyle

THE HON. JUSTICE DAVID DOYLE

JUDGE OF THE GRAND COURT