

**GRAND COURT OF THE CAYMAN ISLANDS****FINANCIAL SERVICES DIVISION****CAUSE NO: FSD OF 2023 (^{IKJ})****IN THE MATTER OF THE COMPANIES ACT****AND IN THE MATTER OF HOLT FUND SPC****FOR AND ON BEHALF OF HOLT FUND INCOME SEGREGATED PORTFOLIO 02****FOR AND ON BEHALF OF HOLT TROPHY CRE SEGREGATED PORTFOLIO 03**

PETITION FOR APPOINTMENT OF RESTRUCTURING OFFICERS

To the Grand Court

The humble petition of HOLT FUND SPC (**Company**) for and on behalf of Holt Fund Income Segregated Portfolio 02 (**SP02**) and Holt Trophy CRE Segregated Portfolio 03 (**SP03**) shows that:

The Company

- 1 The Company was incorporated as an exempted segregated portfolio company with limited liability on 8 May 2016 under the laws of the Cayman Islands with registered number 350948. With effect from 11 August 2023, the Company's former registered office resigned.

- 2 The Company is in the process of taking steps to appoint Collas Crill Corporate Services at Floor 2, Willow House, Cricket Square, George Town, Grand Cayman KY1-1107 as its registered office.

The Company's business

- 3 The Company operates a business as an investment fund, regulated by the Cayman Islands Monetary Authority (**CIMA**), through four segregated portfolios.
- 4 This Petition is brought for and on behalf of two of those segregated portfolios, namely SP02 and SP03, referred to collectively as the **Portfolios**.
- 5 SP02 was established in the jurisdiction on 30 March 2021. The principal investments of SP02 comprise collateralised debt obligations, relating to mortgages issued in respect of US real estate.
- 6 SP02 also holds shares in a special purpose vehicle which, in turn, has invested in SP03. The assets of SP03 comprise of a mixed-use real estate portfolio in Boca Raton, Florida.
- 7 As a result of the structural connection between SP02 and SP03, the value of SP02 is informed by the value of the real estate portfolio held in SP03. However, the investors of SP02 have no direct recourse against SP03 and are confined in that respect to the assets attributed to SP02.

Summary of basis for the appointment of restructuring officers

- 8 Pursuant to section 91B(1) of the Act the Company presents this restructuring petition for the appointment of restructuring officers with authority to act only in respect of each of the Portfolios, on the grounds that:

- (a) SP02 is or is likely to become unable to pay its debts within the meaning of section 93 of the Act;
 - (b) SP03 is or is likely to become unable to pay its debts within the meaning of section 93 of the Act; and
 - (c) the Company, for and on behalf of each of the Portfolios, intends to present a compromise or arrangement to the creditors of the Portfolios (or classes thereof) either pursuant to section 86 and/or section 911 of the Act, the laws of a foreign country or by way of a consensual restructuring.
- 9 It is contemplated that the Company will propose a compromise or arrangement which will involve (i) the forbearance on the part of stakeholders in SP02 who it is anticipated will otherwise make redemption requests against SP02; and (ii) an investment payment schedule which will be applied to the repayment of investments made by the stakeholders of SP02, to be derived from the income expected to be received from the real estate portfolio held in SP03 (**Proposal**).
- 10 The Directors of the Company are of the view that it is in the best interests of the stakeholders of SP02 that restructuring officers be appointed in order to avoid liquidation or other potential enforcement action, which would likely prevent assets being realised on an orderly basis and result in losses based on current values. The Directors of the Company are further of the considered view that the financial obligations of the Portfolios can be successfully restructured in order to manage the current liquidity issues of the Portfolios, and that in time the real estate portfolio of SP03 will result in significant returns to SP03 and thereafter its investors, which indirectly extends to SP02.

- 11 For and on behalf of the Portfolios, the Company has engaged experienced professional advisors, including, Collas Crill (as Cayman Islands counsel) and is in the course of engaging FTI Consulting (Cayman) Limited (**FTI Consulting**) as the company's restructuring advisors. The Company is currently working with such professional advisors to formulate the terms of the Proposal, to be presented to the creditors of SP02 and SP03, to be implemented in accordance with section 91A(1)(b) of the Act.

Nominated restructuring officers

- 12 In the premises the Company seeks the appointment of Messrs. David Griffin and Iain Gow, both of FTI Consulting, Suite 3212, 53, Market Street, Camana Bay PO Box 30613, Grand Cayman KY1-1203, Cayman Islands, being insolvency practitioners qualified in the Cayman Islands, to act as restructuring officers of the Company, pursuant to Section 91B of the Act (**Restructuring Officers**). The Restructuring Officers shall *inter alia* assist the Company, for an on behalf of the Portfolios:
- (a) in developing and presenting the Proposal to the stakeholders of the Portfolios (or a class thereof); and
 - (b) further, assist the Company, for and on behalf of the Portfolios to implement the Proposal, as agreed with those stakeholders, be that under a scheme of arrangement under sections 86 or 91I of the Act, under a foreign law or consensually.

Your petitioner therefore humbly prays that:

- 1 Messrs. David Griffin and Iain Gow of FTI Consulting, be appointed to act as Restructuring Officers of the Company, with authority to act for and on behalf of SP02 and SP03 only, pursuant to Section 91B of the Act.

- 2 The powers of the Restructuring Officers appointed pursuant to paragraph 1 above shall be limited to doing all things necessary and incidental to assist the board of directors (**Board**) of the Company in developing, proposing and implementing a restructuring of the Portfolios' indebtedness, with a view to making arrangements with the creditors (or any class thereof) of SP02 and SP03, including (without limitation) by way of: consensual arrangements; compromises or arrangements by way of a scheme of arrangement pursuant to sections 86 or 91I of the Companies Act; or any other law of a foreign country.
- 3 The Restructuring Officers shall not be required to give security for their appointment.
- 4 For the purposes set out in paragraph 3 above and without prejudice to the powers retained by the Board pursuant to paragraphs 12 and 14 below, until further Order, the Restructuring Officers are authorised to exercise jointly and severally, within and outside of the Cayman Islands, and without further sanction of the Court, the following powers:
 - 4.1 if so advised, to seek recognition of these proceedings and their appointment as Restructuring Officers in any other jurisdiction, including, without limitation: The United States of America and the Bahamas, together with such other relief as the Restructuring Officer may consider necessary for the proper exercise of their functions within those jurisdictions, and to take steps arising in connection therewith that the Restructuring Officers may consider appropriate;
 - 4.2 seek out financiers to provide funding in relation to the Proposal and, to the extent required, the costs of the restructuring process, on terms which are acceptable to the Board and the Restructuring Officers;
 - 4.3 to do all things necessary to implement the Proposal in consultation with the Board, and under the supervision of this Honourable Court;

- 4.4 review the financial position of the Portfolios with a view to assessing the viability of the Proposal;
- 4.5 to engage with creditors and contributories of the Portfolios to determine the continued viability of the Proposal;
- 4.6 to deal with all questions in any way relating to or affecting the assets of the Portfolios or the Proposal;
- 4.7 to monitor, oversee and supervise the Board, including attending any Board meetings as an observer, with a view to the continuation of the business of the Portfolios under the control of the Board of the Company, pending the implementation of the Proposal;
- 4.8 to request and receive from third parties documents and information concerning the promotion, formation, business dealings, accounts, assets, liabilities or affairs of each of the Portfolios and the Company insofar as they pertain to the Portfolios;
- 4.9 to act in the name and on behalf of the Company (for an on behalf of the Portfolios), and execute all agreements, deeds, receipts and other documents in furtherance of the Proposal;
- 4.10 to retain attorneys and professional advisors, in the Cayman Islands and elsewhere, as the Restructuring Officers may consider necessary to advise and assist them in the performance of their duties and to remunerate them for their reasonable fees and expenses out of the assets of the Portfolios (or either of them) as an expense properly incurred during the term of the Restructuring Officers;

- 4.11 to liaise with the Company's legal and financial advisors, so far as required to deal with the affairs of the Portfolios, and to remunerate them for their reasonable fees and expenses out of the assets of the Company as an expense properly incurred during the term of the Restructuring Officers;
- 4.12 to open bank accounts on behalf of each of the Portfolios for the purpose of paying the costs and expenses of the Proposal, should the Restructuring Officers consider it necessary and appropriate to receive funds for the purpose of paying the costs and expenses of the Proposals;
- 4.13 to communicate with regulatory bodies, and review, approve and carry out any necessary filings therewith as appropriate, including, without limitation, the Cayman Islands Registrar of Companies in the name and on behalf of the Company, for an on behalf of the Portfolios;
- 4.14 to approve payments to creditors which may have the effect of preferring such trade creditors, in order to minimise the interruption to the day-to-day activities of the Portfolios;
- 4.15 to engage staff (whether or not as employees of the Company (for and on behalf of the Portfolios) and whether located in the Cayman Islands or elsewhere) to assist them in the performance of their duties for the purpose of the proceedings herein and to remunerate them out of the assets of the Portfolios, as an expense of the restructuring process;
- 4.16 to authorise the Board to exercise such of the above powers relating to the Company, for and on behalf of the Portfolios, on such terms as the Restructuring Officers consider fit; and

- 4.17 to do all other things necessary and incidental to the exercise of the powers set out above.
- 5 The Restructuring Officers are directed:
- 5.1 to the extent practicable in the circumstances, discuss and consult with the Board (or any relevant sub-committee thereof) any exercise of the powers conferred on them pursuant to this Order in relation to any decision made by them with respect to material matters concerning the Proposal;
- 5.2 to notify all known creditors and shareholders of the Company of their appointment in such manner as the Restructuring Officers consider appropriate;
- 5.3 subject to paragraph 5.4 below, within 28 days of their appointment and at least every three months thereafter (or as otherwise directed by this Court) to file with this Court and then send to every creditor and contributory of the Company a report on the conduct of the restructuring process (**RO Report**) in accordance with Companies Winding Up Rules (2023 as amended) O1A r.8;
- 5.4 not to disclose in the RO Report any confidential information of the Company, the Portfolios or other person (natural or non-natural), nor make any disclosure that would place the Company or Portfolios in breach of any obligation of confidentiality; nor disclose information that would otherwise be damaging to the Portfolios or the Company;
- 5.5 Subject to paragraph 5.4 (above), the RO Report shall include details of:
- (a) The steps taken in developing and /or implementing the Proposal and the further steps intended to be taken in connection with the Proposal generally;

- (b) The financial position of the Portfolios at the latest practicable date;
- (c) The work done by or on behalf of the Restructuring Officers and the remuneration claimed in connection with that work; and
- (d) Such other information as is required in the discretion of the Restructuring Officers to provide the contributories and creditors with a proper understanding of the affairs, financial position and Proposal as they pertain to each of the Portfolios.

6 For the avoidance of doubt:

6.1 for so long as the Restructuring Officers are appointed to the Company, in respect of the Portfolios, pursuant to Section 91G of the Companies Act, no suit, action or other proceeding, save for criminal proceedings, shall be proceeded with or commenced against the Company in respect of those Portfolios in any jurisdiction except with the leave of the Court and subject to such terms as the Court may impose; and

6.2 no payment or other disposition of the Company's property held for and on behalf of the Portfolios made or effected by or with the authority or approval of the Restructuring Officers in carrying out their duties and functions and in the exercise of their powers under this Order shall be avoided by virtue of the provisions of section 99 of the Act

7 Notwithstanding section 99 of the Act the Company shall be permitted to continue to operate bank accounts in its name for and on behalf of the Portfolios, and the Company shall be permitted to register the transfer of fully paid up shares of each of the Portfolios

and the shares of each of the Portfolios may continue to be traded in the same manner as they were traded immediately before the making of this Order.

8 Notwithstanding any provisions of the Company's Memorandum and Articles of Association, and for so long as the Restructuring Officers are appointed:

8.1 any change of the members of the Board and the members of the Board's sub-committees, other than by resignation, shall be approved by the Restructuring Officers before such change becomes effective, provided that the Restructuring Officers shall not unreasonably withhold approval; and

8.2 No new shares shall be issued nor shall any rights attaching to any shares be altered without the prior approval of the Restructuring Officers.

9 In the event that a winding-up order is made against the Company, any fees and expenses of the Restructuring Officers, including all costs, charges and expenses of any attorneys and all other agents, managers, accountants and other persons that they may employ, which are payable in accordance with the terms of the orders which may be made by this Court, and which are outstanding at the date of the winding-up order, shall be treated as fees and expenses properly incurred in preserving, realising or getting in the assets of the Company for the purposes of Order 20 of the Companies Winding Up Rules (2018, as amended), subject to any further order that the Court might make.

10 Save as specifically set out herein and until further order, the Board shall retain all powers of management conferred upon it by the Company immediately prior to the date of this Order, subject to the Restructuring Officer's oversight and monitoring of the exercise of such powers in relation to matters related to the Portfolios in the ordinary course of

- business, and in relation to matters outside of the ordinary course of business of the Portfolios (acting by the Company), granting prior approval of the exercise of such powers.
- 11 In the event that the Restructuring Officers and the Board cannot agree upon a proposed course of action outside the ordinary course of the Portfolios' business, the Restructuring Officers and the Board shall each have liberty to apply to the Court for directions.
- 12 Specifically, and without limitation to the foregoing, the Board shall continue to retain the following powers:
- 12.1 to continue to conduct the ordinary, day-to-day, business of the Company and the Portfolios, and any direct and indirect subsidiaries, including for the avoidance of doubt the hiring and firing of employees;
 - 12.2 to continue to operate bank accounts of the Company and the Portfolios in the ordinary course of the Company's business; and
 - 12.3 subject to the approval and consent of the Restructuring Officers, to open and close bank accounts on behalf of the Company, save to the extent that those accounts pertain to the assets of the Portfolios.
- 13 The Board shall be directed to:
- 13.1 assist the Restructuring Officers in the discharge of their functions and shall within 3 business days of a request made by or on behalf of the Restructuring Officers, provide the Restructuring Officers (including their employees and agents) with such information as the Restructuring Officers may reasonably require in order to properly discharge their powers and functions as Restructuring Officers and as officers of this Court; and

- 13.2 provide the Restructuring Officers with advance notice (being at least 24 hours) of and all relevant and necessary materials for all meetings of the Board, and any sub-committees of the Board as the Restructuring Officers may reasonably require and / or request in advance of such meetings.
- 14 The remuneration and expenses of the Restructuring Officers, including the expenses associated with the exercise of their powers, shall be paid out of the assets of the Portfolios subject to approval of the Court on the application of the Restructuring Officers which may be made *ex parte*.
- 15 The Restructuring Officers do have liberty to apply.
- 16 A case management conference be scheduled for the purpose of this Honourable Court being appraised of the progress made with respect to the formulation of the Proposal.
- 17 The costs of this application shall be paid out of the assets of the Portfolios.

AND your petitioner will ever pray etc.

Dated this 18 day of October 2023



COLLAS CRILL

Attorneys-at-Law for the Company

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on 22 November 2023 at 10:00 am/pm.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1- 1106, telephone 345 949 4296.