



IN THE GRAND COURT OF THE CAYMAN ISLANDS

FINANCIAL SERVICES DIVISION

FSD CAUSE NO: OF 2023 ()

IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)

AND IN THE MATTER OF SPI INVESTMENT FUND SPC (IN VOLUNTARY LIQUIDATION)

PETITION

To the Grand Court

The humble petition of Andrew Morrison, David Griffin and Iain Gow of FTI Consulting (Cayman) Ltd, Suite 3212, 53 Market Street, Camana Bay, PO Box 30613, Grand Cayman KY1-1203, Cayman Islands (**Petition** and **Petitioners**) as joint voluntary liquidators (**JVLs**) of SPI Investment Fund SPC (in voluntary liquidation) (**Company**) shows that:

Background

1. The Company is an exempted company limited by shares, which was incorporated as a segregated portfolio company under the laws of the Cayman Islands on 16 March 2016 (Registration No. 309606).
2. The Company's registered office is FTI Consulting (Cayman) Ltd, Suite 3212, 53 Market Street, Camana Bay, PO Box 30613, Grand Cayman KY1-1203, Cayman Islands.

3. The Company is a "regulated mutual fund" for the purposes of the Mutual Funds Act (2021 Revision) and has been registered with the Cayman Islands Monetary Authority (**CIMA**) as a mutual fund since 21 April 2016, with reference number 1291371.
4. The Company currently has one active segregated portfolio, SPI All Yields Fund (AYF) SP (**SPI AYF**). SPI AYF was established under Section 216 of the Cayman Islands Companies Act (as amended) (**Act**) in or around 5 March 2017 and was launched, following a unanimous written resolution of the directors of the Company, on or around 24 October 2017.
5. In addition to SPI AYF, the Company has two further segregated portfolios:
 - 5.1. SPI Capital Preservation Fund SP, which the JVLs understand was terminated following written resolutions of the directors of the Company dated 20 August 2021:
and
 - 5.2. SPI Yield Enhancement Fund SP, in respect of which, on information and belief, there are currently no investors or assets.
6. The Company (and its segregated portfolios) are governed by the Amended and Restated Memorandum and Articles of Association adopted by special resolution dated 18 April 2016. Save that the Company will not trade in the Cayman Islands with any person, firm or corporation except in furtherance of the business of the Company carried on outside the Cayman Islands, the objects for which the Company is established are unrestricted, and it has full power and authority to carry out any object not prohibited by the Act or any other law of the Cayman Islands.
7. The Company has an authorised share capital of \$50,000 divided into 100 voting non-participating management shares each having a par value of \$0.01 (**Management Shares**) and 4,999,999 non-voting redeemable participating shares each having a par value of \$0.01.

8. The 100 Management Shares were held exclusively by Invescap Sarl, the Company's former investment manager, until 1 April 2022, when they were transferred to Lars Dennis Klemming. On or around 15 November 2023, the Company's Management Shares were transferred to Andreas Schindler (33 Management Shares), Alfred Neimke (33 Management Shares) and Gareth Simon Williams (34 Management Shares) (together the **Voting Shareholders**).

Voluntary Liquidation

9. On 17 November 2023 (**Commencement Date**), the Company was placed into voluntary liquidation pursuant to a unanimous written resolution passed by the Voting Shareholders, pursuant to Section 116(c) of the Act (**Appointment Resolution**). The Appointment Resolution was signed by each of the Voting Shareholders on behalf of the Company.
10. By the Appointment Resolution, Andrew Morrison, David Griffin and Iain Gow were appointed as joint voluntary liquidators of the Company.

Declaration of Solvency

11. Prior to passing the Appointment Resolution, the directors of the Company were the Voting Shareholders (**Directors**).
12. The Directors have stated that they are not in a position to confirm by declaration or affidavit, as prescribed by section 124(2) of the Act, that to the best of the Directors' knowledge and belief the Company will be able to pay its debts in full together with interest at the prescribed rate, within 12 months of the Commencement Date (**Declaration of Solvency**). The Directors subsequently confirmed by email that they would not sign a Declaration of Solvency.

Conduct of Voluntary Liquidation

13. Since the Commencement Date, in compliance with the Companies Winding Up Rules (as amended) (**CWR**), O.13. r.2 the JVLs have taken the following actions:
 - 13.1. On 23 November 2023 the JVLs filed a notice with the Registrar of Companies stating that: (i) the Company has been placed into voluntary liquidation by way of a unanimous written resolution passed by the Voting Shareholders; and (ii) Andrew Morrison, David Griffin and Iain Gow were appointed as JVLs of the Company;
 - 13.2. On 17 November 2023 the JVLs signed a voluntary liquidator's consent to act for each of the JVLs, which was filed on 23 November 2023;
 - 13.3. As the Company is carrying on regulated business, the JVLs understand that on 17 November 2023 Carey Olsen, attorneys acting on behalf of the Directors, informed CIMA of the JVLs' appointment; and
 - 13.4. On 4 December 2023, a notice of the voluntary winding up was published in the Cayman Islands Gazette.
14. In addition, the JVLs have notified the Company's banks and custodians and taken steps to change the account and signatories, collect in the books and records of the Company and retain Cayman Islands legal counsel for the purpose of this Petition.

Application for a supervision order and appointment of JVLs as JOLs

15. The JVLs have not received a Declaration of Solvency in the prescribed form signed by the Directors. Accordingly, the JVLs are required to apply pursuant to Section 124(1) of the Act, for the voluntary liquidation to be continued under the supervision of this Court.

16. Andrew Morrison, David Griffin and Iain Gow are qualified insolvency practitioners (as defined under Section 89 of the Act) and meet the requirements of a qualified insolvency practitioner pursuant to the Insolvency Practitioners' Regulations (as amended) (**IPR**). Furthermore, Andrew Morrison, David Griffin and Iain Gow consent to being appointed as joint official liquidators (**JOLs**).

Your Petitioners therefore humbly pray that:

- (1) The liquidation of the Company be continued under the supervision of the Court pursuant to Section 124(1) of the Companies Act (2023 Revision) (As Amended) (**Act**).
- (2) Andrew Morrison, David Griffin and Iain Gow of FTI Consulting (Cayman) Ltd, Suite 3212, 53 Market Street, Camana Bay, PO Box 30613, Grand Cayman KY1-1203, Cayman Islands be appointed as joint official liquidators (**JOLs**) of the Company.
- (3) The JOLs shall have the power to act jointly and severally.
- (4) The JOLs shall not be required to give security for their appointment.
- (5) The JOLs be authorised to take any action as may be necessary or appropriate to take possession, custody and control of the assets, books and records of the Company and each of its segregated portfolios as described in the Petition and the First Affidavit of David Griffin (the **Segregated Portfolios**) to the extent that such property is not already in their possession, custody or control.
- (6) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the JOLs and/or their appointment and/or powers in any other relevant

jurisdiction, including, without limitation the United States of America, and to make application to the courts of such jurisdictions for that purpose.

- (7) The JOLs be authorised as representatives of the Company to seek relief under Chapter 15 of Title 11 of the United States Bankruptcy Code, and to take such steps arising in connection therewith that the JOLs may consider appropriate.
- (8) The Court requests that all courts of competent jurisdiction outside of the Cayman Islands lend their aid and assistance to this Court and the JOLs in the efforts to achieve an orderly liquidation of the Company and its Segregated Portfolios.
- (9) In addition to their powers prescribed in Part II of the Third Schedule to the Act which are exercisable without sanction of this Court, the JOLs are authorised pursuant to section 110(2)(a) of the Act to exercise any of the following powers specified in Part I of Schedule 3 to the Act, within and outside of the Cayman Islands, without further sanction of the Court:
 - 9.1. the power to bring or defend any action or other legal proceeding in the name and on behalf of the Company of its Segregated Portfolios;
 - 9.2. the power to carry on the business of the Company so far as may be necessary for its beneficial winding up;
 - 9.3. the power to dispose of any property of the Company to a person who is or was related to the Company and its Segregated Portfolios;
 - 9.4. the power to pay any class of creditors in full;

- 9.5. the power to make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or surrounding only in damages) against the Company or its Segregated Portfolios or for which the Company or its Segregated Portfolios may be rendered liable;
- 9.6. the power to compromise on such terms as may be agreed all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting, or supposed to subsist between the Company or its Segregated Portfolios and a contributory or alleged contributory or other debtor or person apprehending liability to the Company or its Segregated Portfolios;
- 9.7. the power to deal with all questions in any way relating to or affecting assets or the winding up of the Company or its Segregated Portfolios, to take any security for the discharge of any such call, debt, liability of claim and to give a complete discharge in respect of it;
- 9.8. the power to sell any of the Company's property or any property of the Segregated Portfolios by public auction or private contract with power to transfer the whole of it to any person or to sell the same in parcels;
- 9.9. the power to engage staff (whether or not as employees of the Company) and / or agents within the Cayman Islands, the United States of America and elsewhere to assist them in the performance of their functions contemplated by this Order, which they are unable to do themselves or which can be more conveniently done by an agent; and

- 9.10. the power to engage attorneys and other professionally qualified persons, based within the Cayman Islands, United States of America and in any other jurisdiction, to assist them in the performance of their functions, or any other attorney or professionally qualified persons already engaged by the Company and its Segregated Portfolios.
- (10) No suit, action or other proceedings shall be proceeded with or commenced against the Company or its Segregated Portfolios, except with the leave of the Court pursuant to Section 97 of the Act.
- (11) No disposition of the Company's property or the segregated property of the Segregated Portfolios by or with the authority of the JOLs in carrying out their duties and functions and the exercise of their powers shall be avoided by virtue of Section 99 of the Act.
- (12) The JOLs be entitled to receive remuneration for their services by reference to the time properly given by them and their staff upon the affairs of the liquidation and the hourly rates and the amount of remuneration shall be determined in accordance with the Insolvency Practitioners' Regulations (as amended) (**IPR**).
- (13) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties out of the assets of the Company and its Segregated Portfolios, as appropriate, as expenses of the winding up.
- (14) The JOLs remuneration and expenses be paid out of the assets of the Company and the assets of the Segregated Portfolios in accordance with section 109 of the Act, the IPR and the Companies Winding Up Rules (as amended) (**CWR**).

- (15) The JOLs be at liberty to pay their agents, employees, attorneys, solicitors and whomever else they may employ or instruct, remuneration and costs, and for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company and the assets of the Segregated Portfolios, as appropriate, as expenses of the winding up.
- (16) Unless the Court otherwise directs, the JOLs are not required to take steps to establish a liquidation committee.
- (17) The JOLs shall have liberty to apply for further directions relating to the winding up of the Company and the Segregated Portfolios.
- (18) The Voluntary Liquidators' costs of and incidental to the Petition shall be paid out of the assets of the Company and its Segregated Portfolios, as appropriate, as an expense of the official liquidation.

AND your Petitioners will ever pray, etc.

Dated the 19th day of December 2023.



Collas Crill
Attorneys-at-Law for the Petitioners

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on the day of 2024, at 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 of the Cayman Islands at PO Box 495, Grand Cayman, KY1-1106. The Registrar may be contacted using the following information: +1 (345) 949-4296 or FSDRegistry@Judicial.ky.