



In The Supreme Court of Bermuda

COMPANIES (WINDING UP) JURISDICTION

2022: No. 383

IN THE MATTER OF BLOCKFI INTERNATIONAL LTD (IN LIQUIDATION)

AND

IN THE MATTER OF THE COMPANIES ACT 1981

AND

IN THE MATTER OF THE B TRUST

Ex parte application for authorisation and direction to proceed on the footing that no further claims will be made in the liquidation and to make distributions in the liquidation and in accordance with the Joint Plan approved by the Court and applying the principle in Re Benjamin

Appearances: Steven White and Luca de la Panta of Walkers (Bermuda) Limited for the Joint Liquidators of Blockfi International Ltd (in liquidation)

Date of hearing: 24 October 2025

Date of Reasons: 28 October 2025

In Chambers

MARTIN J

Reasons for Order

Introduction

1. The Court made an order on 24 October 2025 authorising and directing the Joint Liquidators (“the JLs”) of Blockfi International Ltd (In liquidation) (“the Company”) to proceed on the footing that the unclaimed and undistributed assets held in the companies omnibus wallets are to be treated as reverting to the ‘wind-down’ debtors in the concurrent Chapter 11 Bankruptcy proceedings in the District for New Jersey in the United States under the Third Amended Joint Chapter 11 Plan (“the Joint Plan”) to which the Company is subject.
2. The authorisation and direction of the Court to proceed on this footing was based upon the Court’s jurisdiction to supervise the conduct of a trustee under the principle stated in **Re Benjamin**¹. This jurisdiction enables the Court to make an order that the trustee may proceeds to distribute assets on the basis that there are no further

¹ [1902] 1 Ch 723

claimants to the unclaimed trust assets in order to permit the distribution of the Company's assets on a practical and pragmatic basis in order to conduct the administration of the liquidation of the Company efficiently and without unnecessary cost or delay.

3. Because the Court was asked to extend the application of the supervisory jurisdiction under **Re Benjamin** to the insolvency context and to adapt the application of the Court's jurisdiction to enable the JLs to consent to the reversion of the monies the JLs hold on trust for the potential claimants, the Court considered it appropriate to set out its brief reasons for authorising and directing the JLs to do so in this case. These are those reasons.

Background

4. The Company is licensed by the Bermuda Monetary Authority ("the BMA") as a Class F digital asset business pursuant to the Digital Asset Business Act 2018. The Company and its related group companies entered into Chapter 11 Bankruptcy proceedings in the U.S. Bankruptcy Court for the District of New Jersey in November 2022. The present proceedings were initiated in Bermuda on 28 November 2022 as an ancillary liquidation proceeding to achieve a distribution of the Company's assets in a manner consistent with the Chapter 11 proceedings.
5. In order to facilitate this objective a Cross-border Insolvency Protocol Agreement was entered into between the JLs and the Joint Plan Administrator appointed by the US Bankruptcy Court which was approved by Hargun CJ on 6 October 2023. The Bermuda court subsequently made a compulsory winding up order in relation to the company in November 2023 which dispensed with the usual process for the convening of meetings of creditors and contributories in order to give effect to the Joint Plan. The liquidation proceeding on the basis that the US Chapter 11 proceedings would be the primary liquidation proceeding in accordance with the role recognised approach adopted in similar cases and endorsed by Ward CJ in **Re ICO Global Communications (Holdings) Ltd**².
6. The digital assets held by the Company on behalf of its customers (referred to as "wallet holders") are held on trust by the Company for the benefit of the wallet holders because the express terms of the contractual relationship between the company and the wallet holders provide that the legal and beneficial ownership of the digital assets remain at all times with the wallet holders³.
7. Therefore, the digital assets held by the Company do not fall within assets of the insolvent estate. All wallet holders have been notified that they must withdraw the digital assets and the vast majority of wallet holders have done so. After the period for voluntary withdrawal of the digital assets by wallet holders, the remaining digital assets were converted into cash and the wallet holders were given a further opportunity to come forward to claim their entitlement to the funds that represent the digital assets they own.

The problem

8. However, after a period of about 2 years, there remains a balance of the proceeds of unclaimed assets valued at approximately USD 2.5 million. This fund represents a tiny percentage of the overall total asset value of the digital assets which were held by the Company when it went into liquidation. The funds remaining in the hands of the JLs relate to a large number of (relatively) small value claims in respect of which the relevant wallet holders have failed to claim.
9. It is necessary for the JL to find a practical solution for the distribution of these funds so that the liquidation can come to a conclusion. Because funds are trust assets belonging to third parties and do not belong to the Company

² [1999] Bda LR 69

³ This was expressly confirmed by the Order of Hargun CJ on 9 June 2023.

or its shareholders, the usual provisions under sections 257 or 262 of the Companies Act 1981 which deal with the disposal of unclaimed assets do not apply in this case.

The available practical options

10. The JLs are under a duty to get on with the administration of the estate and the orderly winding up of its affairs. The JLs cannot remain in office indefinitely until claimants come forward. The JLs are faced with two possible alternatives. The first is to set up a liquidation trust to hold the remaining funding funds until such time as claimants come forward and establish their right to funds. The second is to proceed to distribute the assets in accordance with the Joint Plan on the footing that there are no claimants who are beneficially entitled to the trust funds that remain.
11. The JL's have concluded that the liquidating trust is not a viable option because:
 - (a) despite their extensive efforts, the remaining wallet holders who could assert claims have not made any effort to do so over a period of more than two years and the JL's reasonably believe that they are almost certainly not going to come forward in the future;
 - (b) the cost of maintaining a liquidation trust and administering it over an indefinite period will almost certainly exhaust the actual recovery to almost all of the remaining wallet holders whose claims are mostly under a value of USD 500;
 - (c) the liquidation trust would in effect a perpetual trust.
12. The JLs have therefore concluded that it is not appropriate for the JLs to set up a liquidating trust and the most practical approach is to seek the court authorisation and direction to proceed on the footing that there are no claimants to the remaining funds that relate to the digital assets in the customer wallets and proceed to return funds to the company.

The Court's approach

13. The Court has jurisdiction in the exercise of its supervision rejection over trustees to give a direction to the trustee to proceed on a certain footing in order to enable trustee to distribute the trust's assets on a practical and pragmatic basis. This jurisdiction was established in the case of **Re Benjamin**.
14. This approach has been applied in the English High Court in the liquidation setting by David Richards J (as he then was) in **Re MF Global UK Ltd**⁴. In that case, as in this one, the English court was satisfied that the existence of the right to claim the assets had been widely publicised to all potential claimants over a lengthy period and that there was no realistic prospect of claimants coming forward. The English court determined that the inherent jurisdiction of the court to administer and supervise trusts and give directions was engaged where trust property was in issue in the liquidation. The English court considered that those directions could be adapted and extended to give the liquidators of an insolvent company a direction to distribute trust property on a certain footing, even if there were unknown claims to a beneficial interest in the pool of assets, provided that in so doing the court did not vary or extinguish those interests⁵.

⁴ (2013) 2 BCLC 426

⁵ See paragraphs [24] to [32]

15. The Court also considered that it did not matter if this in the circumstances did not really fit the **Re Benjamin** type cases to the extent that there are claims which have not been brought but which clearly do exist. The Court also recognised that giving such a direction an authorisation to proceed to distribute assets did not vary or extinguish the proprietary rights of potential claimants who could still come forward and pursue claims in tracing under ordinary equitable principles.
16. This Court is asked to apply the same approach in this case. The Court has acceded to the application on the basis that:
- (a) there has been extensive publicity and effort by the JLs to encourage claimants to come forward over a significant period such that it is now highly unlikely that any potential claimants will assert claims in the future;
 - (b) the alternative of setting up a liquidating trust will likely not achieve any greater chance of claimants coming forward and that the cost and complication of doing so is likely to outweigh any likely benefit to potential claimants;
 - (c) the authorisation and direction does not vary or extinguish the rights of any potential claimants who come forward in the future because they can still pursue their claims to recovery by asserting a tracing claim.
17. The Court recognises, however, that this is a highly theoretical ‘saving’ of rights because the practical difficulties of pursuing such a claim will make the prospects of any recovery very slim. It is also right to appreciate that because vast majority of potential claimants have small claims the cost of making a tracing claim within all probability far exceed any likely recovery.
18. The Court also draws attention to the fact that the JLs in this case are also asking the Court to extend and adapt the **Re Benjamin** jurisdiction in another respect. Normally in these circumstances the **Re Benjamin** Order would authorise and direct the trustee to distribute the unclaimed assets rateably to the other beneficiaries who are entitled to the funds. In this case the remaining unclaimed funds will be added to the assets of the insolvent estate and will ultimately be distributed to the subordinated creditors in the Chapter 11 Proceedings under the Joint Plan.
19. The Court had some initial hesitation extending the **Re Benjamin** jurisdiction in this way because the fundamental characteristic of trust assets is that they do not fall within the assets of an insolvent company. However, the Court was persuaded that the fact that a potential claimant would have to assert a claim against the subordinated creditors and not against other co-beneficiaries is not a meaningful distinction that would justify the Court refusing to give the JLs the authorisation and direction to proceed.
20. The Court considers that it is appropriate to extend the **Re Benjamin** jurisdiction in this respect in this case because the Company is itself bound by the US Joint Plan which makes provision for the unclaimed assets to be “swept up” pursuant to the provisions of the US Bankruptcy Code.
21. In light of the fact that the relevant funds are not within the control of the JLs or subject to the jurisdiction of this Court, the Court does not consider that the authorisation and direction to apply the funds in this way offends the jurisdiction that lies behind **Re Benjamin**. The Joint Plan has been approved by this Court and the Bermuda liquidation is ancillary to the US Chapter 11 proceeding.
22. In adopting this approach the Court is comforted by the expression of the English Court of Appeal’s view in **Lehman Brothers International (Europe) (In Administration)**⁶ that where a liquidator makes an application under the court’s inherent equitable jurisdiction in relation to beneficial rights trust property,

⁶ [2010] 1 BCLC 496

“...the court will provide effective assistance, by arriving at a practical and fair outcome while ensuring that delay and costs are kept at a minimum.”⁷”

22. The Court emphasises that the grant of the authorisation and direction under the **Re Benjamin** jurisdiction is heavily dependent on the facts of each particular case. In this case, a failure or refusal to give the JLs the relevant authorisation and direction would frustrate the implementation of the Joint Plan. Therefore, the exercise of the Court’s powers under the **Re Benjamin** jurisdiction in this case should not be taken as setting a new standard for the ordinary application of the Court’s supervisory jurisdiction under **Re Benjamin**.

28 October 2025



THE HON. MR. ANDREW MARTIN
PUISNE JUDGE

⁷ per Lord Neuberger MR as [86]