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UK Court Approved A  
Restructuring Plan  
Despite Shareholders  
Retaining Majority  
Shares Under The  
Plan - *Re Sino-Ocean  
Group Holding Ltd*  
[2025] EWHC 205  
(Ch)

26 February 2025

**LEGAL  
UPDATE**

# In this Update

The English High Court in *Re Sino-Ocean Group Holding Ltd* approved a restructuring plan despite it allowing the shareholders to retain a majority shareholding in the company and thus disproportionately benefiting the shareholders. Among the reasons for its decision, the court noted the economic benefits of such retention, reflecting the court's commercial approach towards the restructuring.

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UK DECISION: RESTRUCTURING PLAN APPROVED DESPITE SHAREHOLDERS RETAINING MAJORITY SHARES UNDER THE PLAN

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## **UK DECISION: RESTRUCTURING PLAN APPROVED DESPITE SHAREHOLDERS RETAINING MAJORITY SHARES UNDER THE PLAN**

In *Re Sino-Ocean Group Holding Ltd*, a company proposed a restructuring plan to compromise its existing debt in exchange for new debt issuance. The plan allowed existing shareholders to retain a majority of shares in the company (53.8%) despite shareholder dilution from the new debt issuance. Notably, these shareholders would provide no new money and would alternatively receive nothing in the company's insolvent liquidation.

The company sought the English court's sanction of the plan on the basis of the English cram down provisions, because voting thresholds were not met in respect of two out of four classes of its creditors. Despite a creditor's objection, the court exercised its discretion to sanction the plan after finding that the statutory conditions for a cram down had been met.

The creditor's objection was on the basis that the plan would disproportionately benefit shareholders at the creditors' expense. The creditor argued that a fairer plan should give creditors a greater share of the company's equity and further dilute the existing shareholders' equity. This was especially since the two classes of creditors being crammed down were "in-the-money" creditors.

However, in exercising its discretion to sanction the plan, the court found that the company was justified in disproportionately benefiting shareholders and allowing existing shareholders to retain a majority stake.

First, the company would benefit if its two existing state-owned shareholders retained at least 15% stake each. By doing so, the company could continue to be regarded as state-owned, resulting in a market perception of being lower risk than a privately-owned entity and lower financing costs from lower interest rates. Second, the company lacked ways to further dilute other existing shareholders whose shares would be retained under the plan, without affecting the abovementioned shareholders.

## **CRAM DOWN PROVISIONS IN SINGAPORE**

A Singapore court may similarly sanction a scheme of arrangement even where the voting thresholds have not been met in respect of some classes of creditors. To do so, the court must be satisfied, among others, that the scheme does not discriminate unfairly between classes, and that

the scheme is fair and equitable to each dissenting class (Insolvency, Restructuring and Dissolution Act 2018 (“IRDA”), section 70).

Notably, under these Singapore cram down provisions, a scheme could be fair and equitable even where shareholders retain equity. This position was reached after the cram down provisions in the Singapore’s Companies Act were ported over into the IRDA with amendments to clarify that a scheme was not fair and equitable only if junior creditors or shareholders retained “property of the company” (emphasis in underline).

This English decision similarly recognises the necessity to allow shareholder equity retention in appropriate scenarios. In contrast, the “absolute priority” rule in a Chapter 11 cram down in the United States requires creditors to be paid fully before shareholders can receive any recovery. This could potentially curtail structures which require shareholder buy-in or where retention of shareholding is important to the company.

## **KEY TAKEAWAYS**

*Re Sino-Ocean Group Holding Ltd* provides useful guidance on a court’s considerations when determining whether to sanction a cram down. As this case illustrates, there are various nuances to the process of getting a scheme approved and advice from experienced restructuring specialist counsel could assist with that process.

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