Alert | Restructuring

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Prezzo Part 26A Restructuring Plan Sanctioned by High Court: Key Takeaways From the Decision

Greenberg Traurig, LLP has advised the Prezzo group ("Prezzo"), the prominent casual dining chain, on its successful financial and leasehold estate restructuring, implemented by way of a restructuring plan under Part 26A of the Companies Act 2006 (the "Restructuring Plan").

Following a period of financial difficulty and the completion of a comprehensive site analysis, it was concluded that the Prezzo business could only continue to operate on a viable basis by closing certain loss-making restaurants. Prezzo Investco Limited, the parent company of Prezzo Trading Limited, launched the Restructuring Plan which compromised debts owed to the landlords of those restaurants, local authorities, HM Revenue & Customs (HMRC) and certain other secured and unsecured creditors.

Whist the Restructuring Plan was challenged by HMRC, Mr Justice Richard Smith nevertheless sanctioned the Restructuring Plan on 5 July 2023. The Prezzo decision was received less than a week after the decision of Mr Justice Michael Green sanctioning the restructuring plan proposed by Fitness First Clubs Limited which had been unsuccessfully challenged by the company's landlords.

The key takeaways from the Prezzo decision are as follows:

- There is no need to give additional consideration to wholly out-of-the-money creditors as has been the market practice in a number of other restructuring plans. By offering those creditors no restructuring plan consideration, they will nonetheless be "no worse off" than they would be under the relevant alternative.

- The creditors who were not wholly out-of-the-money (such as HMRC as a secondary preferential creditor) received the “restructuring surplus” in addition to what they would have received under the relevant alternative. This helped the Court to conclude that the plan was fair to all stakeholders.
  - In this case the “restructuring surplus” was a fair estimate of the upside Prezzo would receive by implementing the Restructuring Plan as opposed to the costs that would be incurred if the implementation was via the relevant alternative of a pre-pack administration.
- Whilst HMRC is not necessarily a ‘critical creditor’ that must be paid in full during the restructuring process, it is important for debtors proposing restructuring plans to:
  - expeditiously launch the restructuring plan once the directors have concluded that this was the only feasible implementation option; and
  - once the plan had been launched, actively engage with creditors such as HMRC on the terms of the plan and the key underlying materials such as the relevant alternative comparator and the valuation evidence.

The Greenberg Traurig, LLP team advising Prezzo included John Houghton (Shareholder), Rupert Cheetham (Shareholder), Kevin Mulligan (Senior Associate), Mollie O’Connor (Associate) and Adam Potter (Trainee Solicitor). Prezzo’s counsel team were Tom Smith KC and Georgina Peters of South Square. Prezzo’s financial adviser was the team at FRP Advisory Trading Limited led by Phil Reynolds (Partner).

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