

The debtors in these chapter 11 cases are China Fishery Group Limited (Cayman), Pacific Andes International Holdings Limited (Bermuda), N.S. Hong Investment (BVI) Limited, South Pacific Shipping Agency Limited (BVI), China Fisheries International Limited (Samoa), CFGL (Singapore) Private Limited, Chanery Investment Inc. (BVI), Champion Maritime Limited (BVI), Growing Management Limited (BVI), Target Shipping Limited (HK), Fortress Agents Limited (BVI), Ocean Expert International Limited (BVI), Protein Trading Limited (Samoa), CFG Peru Investments Pte. Ltd. (Singapore), Smart Group Limited (Cayman), Super Investment Limited (Cayman), Pacific Andes Resources Development Limited (Bermuda), Nouvelle Foods International Ltd., Golden Target Pacific Limited, Pacific Andes International Holdings (BVI) Limited, Zhonggang Fisheries Limited, Admired Agents Limited, Chiksano Management Limited, Clamford Holding Limited, Excel Concept Limited, Gain Star Management Limited, Grand Success Investment (Singapore) Private Limited, Hill Cosmos International Limited, Loyal Mark Holdings Limited, Metro Island International Limited, Mission Excel International Limited, Natprop Investments Limited, Pioneer Logistics Limited, Sea Capital International Limited, Shine Bright Management Limited, Superb Choice International Limited, and Toyama Holdings Limited (BVI).

CFG PERU INVESTMENTS PTE. LIMITED)	
(SINGAPORE))	Chapter 11
)	
Debtor.)	(Jointly Administered)
)	

**CREDITOR PLAN PROPONENTS’ MOTION FOR ENTRY
OF AN ORDER (I) CLARIFYING CERTAIN ASPECTS OF THE
CREDITOR PLAN PROPONENTS’ CHAPTER 11 PLAN FOR CFG PERU
INVESTMENT PTE. LTD. (SINGAPORE) AND (II) GRANTING RELATED RELIEF**

The Creditor Plan Proponents (as defined in the *Creditor Plan Proponents’ Chapter 11 Plan for CFG Peru Investments Pte. Ltd. (Singapore)* [Docket No. 2564] (as amended, supplemented, or modified from time to time, the “Plan”)) respectfully state as follows in support of this motion:²

Jurisdiction and Venue

1. The United States Bankruptcy Court for the Southern District of New York (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the Southern District of New York*, dated January 31, 2012. The Creditor Plan Proponents confirm their consent, pursuant to rule 7008 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), to the entry of a final order by the Court in connection with this motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

² Capitalized terms used in this motion but not otherwise defined in this motion shall have the meanings ascribed to such terms in the Plan or the Restructuring Support Agreement [Docket No. 2564-1], as applicable.

Relief Requested

3. On April 16, 2018, the Court entered the *Order Authorizing the Sales of Non-Debtor Vessels in Accordance with Non-Debtor Asset Order* [Docket No. 1087] (the “SFR Order”) authorizing distributions to be made by Sustainable Fishing Resources S.A.C. (the “SFR Distributions”).

4. On January 30, 2020, the Court entered an order approving an interim distribution [Docket No. 1939] (the “Interim Distribution Order”) authorizing interim distributions (the “Interim Distributions”).

5. At the Confirmation Hearing on June 10, 2021, the Court entered an order confirming the Plan [Docket No. 2569] (the “Confirmation Order”).

6. The Interim Distributions were not effectuated prior to the Confirmation Hearing and, accordingly, the Plan provides for the Interim Distributions to be effectuated to Holders of Senior Notes and Club Facility Lenders in an amount not less than \$75 million before the Effective Date. Article VI.G (*Allocations*) of the Plan further provides that distributions shall be made first to principal on account of Allowed Claims.³ Article IV.H (*Interim Distributions*) of the Plan provides that Interim Distributions shall be applied in accordance with the Senior Notes Indenture and the Club Facility Agreement, respectively. Likewise, Article IV.I (*SFR Distributions*) of the Plan

³ Per the Plan, “Allowed” means, with respect to any Claim or Interest, except as otherwise provided herein: (a) a Claim or Interest in a liquidated amount as to which no objection has been Filed within the applicable period of time, if any, fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, and that is evidenced by a Proof of Claim or Interest, as applicable, timely Filed by the Bar Date (or for which Claim or Interest under the Plan, the Bankruptcy Code, or a Final Order of the Bankruptcy Court a Proof of Claim or Interest is not or shall not be required to be Filed); (b) a Claim or Interest that is scheduled by or on behalf of CFG Peru as neither contingent, unliquidated, nor Disputed, and for which no Proof of Claim or Interest, as applicable, has been timely Filed; or (c) a Claim or Interest that is upheld or otherwise allowed (i) pursuant to the Plan; (ii) in any stipulation that is approved by the Bankruptcy Court; (iii) pursuant to any contract, instrument, indenture, or other agreement entered into or assumed in connection herewith; or (iv) by a Final Order of the Bankruptcy Court.

provides for the SFR Distributions to be made prior to the Effective Date and to be applied in accordance with the Senior Notes Indenture.

7. CFG Peru—the sole Debtor subject to the Plan—is not an obligor with respect to the Club Facility. While the obligations under the Club Facility are not Claims against CFG Peru for purposes of the Plan, the Plan does compel CFG Peru and the Plan Administrator to effectuate the Interim Distributions with respect to both the Club Facility and the Senior Notes Claims.⁴ Under the Restructuring Support Agreement, the commercial expectation of the parties to the Restructuring Support Agreement and under the Plan was that the Interim Distributions would be made to Holders of Senior Notes Claims and to the Club Facility Agent for distribution to the lenders under the Club Facility Agreement in the same manner, i.e., first to principal, and then to interest. However, because the Club Facility obligations are not being restructured pursuant to the Plan—Club Facility obligations, like Senior Notes Claims, will be restructured through the UK Proceeding and the Singapore Scheme, as described in the Plan—the Plan lacks certain details regarding how the Plan Administrator is to effectuate the Interim Distributions with respect to Club Facility. The possibility of inconsistent treatment of the Senior Notes Claims and the Club Facility obligations for purposes of the Interim Distributions and SFR Distributions would unsettle the commercial expectations of the parties to the Restructuring Support Agreement. Furthermore, the possibility that Interim Distributions and SFR Distribution payments to the lenders under the Club Facility may be applied first to interest, rather than to principal, may create significant adverse tax effects for CFG Peru and the Peruvian OpCos.

⁴ For the avoidance of doubt, Article IV.H of the Plan provides the Plan administrator with discretion to reduce the amount of the Interim Distributions, stating that “the Plan Administrator may reduce the Interim Distribution Aggregate Amount.”

8. Accordingly, the Creditor Plan Proponents request entry of an order providing that, consistent with the original intent of Article VI.G (*Allocations*) of the Plan, and notwithstanding anything to the contrary in any other provision of the Plan or any other document or agreement (including the terms of the Senior Notes Indenture), distributions in respect of Allowed Claims and any distributions in respect of the Senior Notes Indenture (including, for the avoidance of doubt, any Interim Distributions in respect of the Senior Notes Indenture and any of the SFR Distributions) shall be allocated first to the principal amount of such Claims or the principal amounts owed in respect of the Senior Notes Indenture (in each case, as determined for any applicable tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims or amounts owed in respect of the Senior Notes Indenture, as applicable, for accrued but unpaid interest as Allowed in the Plan. For the avoidance of doubt, all Persons, including the Other Debtors, the Plan Administrator, the Senior Notes Trustee, and any applicable agent with respect to the Senior Notes, shall act consistently with the allocation set forth in this paragraph.

9. With respect to the Club Facility Agreement, Clause 28.5(a) of the Club Facility Agreement provides that:

If the Agent receives a payment that is insufficient to discharge all the amounts then due and payable by an Obligor under the Finance Documents, the Agent shall apply that payment towards the obligations of that Obligor under the Finance Documents in the following order:

- (i) first, in or towards payment pro rata of any unpaid fees, costs and expenses of any Administrative Party under the Finance Documents;
- (ii) secondly, in or towards payment pro rata of any accrued interest, fee (other than as provided in (i) above) or commission due but unpaid under this Agreement;
- (iii) thirdly, in or towards payment pro rata of any principal due but unpaid under this Agreement; and

- (iv) fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

10. Consistent with the commercial expectations discussed above in paragraph 7, the Creditor Plan Proponents will cause a direction letter in form and substance reasonably satisfactory to the Club Facility Agent to be sent by the Majority Lenders (as defined in the Club Facility Agreement) to the Club Facility Agent directing that any Interim Distributions in respect of the Club Facility Agreement shall be allocated as follows (the “Direction Letter”):

- (a) First, in or towards payment pro rata of any unpaid fees, costs and expenses of any Administrative Party under the Finance Documents (each as defined in the Club Facility Agreement);
- (b) Secondly, in or towards payment pro rata of any principal due but unpaid under the Club Facility Agreement;
- (c) Thirdly, in or towards payment pro rata of any accrued interest, fees (other than as provided in clause (a) above), or commission due but unpaid under the Club Facility Agreement; and
- (d) Fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

11. For the avoidance of doubt, all persons, including the Other Debtors, the Plan Administrator, and the Club Facility Agent, shall act consistently with the revised allocation as set forth in the Direction Letter.

Basis for Relief

12. The basis for the relief requested herein is section 105(a) of the Bankruptcy Code and the Confirmation Order.

Reservation of Rights

13. The rights of the Creditor Plan Proponents and the Ad Hoc Group regarding the Plan and any transactions or matters related thereto are fully reserved and preserved in all respects.

Motion Practice

14. This motion includes citations to the applicable rules and statutory authorities upon which the relief requested herein is predicated and a discussion of their application to this motion. Accordingly, the Creditor Plan Proponents submit that this motion satisfies Local Rule 9013-1(a).

Notice

15. The Creditor Plan Proponents will provide notice of this motion to: (a) the U.S. Trustee; (b) the Plan Administrator; (c) Holders of Senior Notes; (d) Club Facility Lenders; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Creditor Plan Proponents submit that, in light of the nature of the relief requested, no other or further notice need be given.

No Prior Request

16. No prior request for the relief sought in this motion has been made to this or any other court.

[Remainder of page intentionally left blank]

WHEREFORE, the Creditor Plan Proponents respectfully request entry of an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: September 15, 2021
New York, New York

/s/ Patrick J. Nash, Jr.

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EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)	
)	Case No. 16-11895 (JLG)
)	
CHINA FISHERY GROUP LIMITED)	Chapter 11
(CAYMAN), <i>et al.</i> , ¹)	
)	
Debtors.)	(Jointly Administered)

In re:)	
)	Case No. 16-11914 (JLG)
)	
CFG PERU INVESTMENTS PTE. LIMITED)	Chapter 11
(SINGAPORE),)	
)	
Debtor.)	(Jointly Administered)

**ORDER (I) CLARIFYING CERTAIN ASPECTS OF THE
CREDITOR PLAN PROPONENTS' CHAPTER 11 PLAN FOR CFG PERU
INVESTMENT PTE. LTD. (SINGAPORE) AND (II) GRANTING RELATED RELIEF**

Upon the motion (the "Motion")² of the Creditor Plan Proponents to clarify certain aspects of the *Creditor Plan Proponents' Chapter 11 Plan for CFG Peru Investments Pte. Ltd. (Singapore)* [Docket No. 2654] (as amended, supplemented, or modified from time to time, the "Plan"); and

¹ The debtors in these chapter 11 cases are China Fishery Group Limited (Cayman), Pacific Andes International Holdings Limited (Bermuda), N.S. Hong Investment (BVI) Limited, South Pacific Shipping Agency Limited (BVI), China Fisheries International Limited (Samoa), CFGL (Singapore) Private Limited, Chanery Investment Inc. (BVI), Champion Maritime Limited (BVI), Growing Management Limited (BVI), Target Shipping Limited (HK), Fortress Agents Limited (BVI), Ocean Expert International Limited (BVI), Protein Trading Limited (Samoa), CFG Peru Investments Pte. Ltd. (Singapore), Smart Group Limited (Cayman), Super Investment Limited (Cayman), Pacific Andes Resources Development Limited (Bermuda), Nouvelle Foods International Ltd., Golden Target Pacific Limited, Pacific Andes International Holdings (BVI) Limited, Zhonggang Fisheries Limited, Admired Agents Limited, Chiksano Management Limited, Clamford Holding Limited, Excel Concept Limited, Gain Star Management Limited, Grand Success Investment (Singapore) Private Limited, Hill Cosmos International Limited, Loyal Mark Holdings Limited, Metro Island International Limited, Mission Excel International Limited, Natprop Investments Limited, Pioneer Logistics Limited, Sea Capital International Limited, Shine Bright Management Limited, Superb Choice International Limited, and Toyama Holdings Limited (BVI).

² Capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of CFG Peru, its estate, its creditors, and other parties in interest; and this Court having found that the Creditor Plan Proponents' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted, as set forth herein.
2. Consistent with the original intent of Article VI.G (*Allocations*) of the Plan, and notwithstanding anything to the contrary in any other provision of the Plan or any other document or agreement (including the terms of the Senior Notes Indenture), distributions in respect of Allowed Claims and any distributions in respect of the Senior Notes Indenture (including, for the avoidance of doubt, any Interim Distributions in respect of the Senior Notes Indenture and any of the SFR Distributions) shall be allocated first to the principal amount of such Claims or the principal amounts owed in respect of the Senior Notes Indenture (in each case, as determined for any applicable tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims or amounts owed in respect of the Senior Notes Indenture, as applicable, for accrued but unpaid interest as Allowed in the Plan. For the avoidance of doubt, all Persons, including the Other Debtors, the Plan Administrator, the Senior Notes

Trustee, and any applicable agent with respect to the Senior Notes, shall act consistently with the allocation set forth in this paragraph.

3. All persons, including the Other Debtors, the Plan Administrator, and, subject to receipt of the Direction Letter, the Club Facility Agent, shall act consistently with the allocation set forth in the Direction Letter.

4. For the avoidance of any doubt, no further Court approval is required to effectuate the relief granted herein.

5. The Creditor Plan Proponents, the Plan Administrator, CFG Peru, NewCo, and the Peruvian OpCos are authorized to take all actions necessary to effectuate the relief granted in this Order.

6. Notwithstanding any provision in the Bankruptcy Rules to the contrary, this Order shall be immediately effective and enforceable upon its entry.

7. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

8. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order, as well as any controversy or claim arising from or related to the Plan.

New York, New York
Dated: _____, 2021

THE HONORABLE JAMES L. GARRITY, JR.
UNITED STATES BANKRUPTCY JUDGE