

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC 150

Originating Application No 501 of 2026

In the matter of section 210(4) of the Companies Act 1967 (2020 Rev Ed)

And

In the matter of Ficus Asia Investment Pte. Ltd.

Between

Ficus Asia Investment Pte. Ltd.

... Applicant

And

- (1) Redefine Capital Fund
- (2) Mizuho Asean Investment LP
- (3) WG SVN Limited
- (4) Beacon Venture Capital
Company Ltd

... Non-parties

GROUND OF DECISION

[Companies — Schemes of arrangement]

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Re Ficus Asia Investment Pte Ltd (Redefine Capital Fund and others, non-parties)

[2026] SGHC 150

General Division of the High Court — Originating Application No 501 of 2026

Wong Li Kok, Alex J

29 May 2026

17 July 2026

Wong Li Kok, Alex J:

Introduction

1 In this application, Ficus Asia Investment Pte. Ltd. (“Applicant”) sought sanction of a scheme of arrangement (“Scheme”) which had been voted on by creditors (“Scheme Creditors”) at the scheme meeting (“Scheme Meeting”). One of the Scheme Creditors, Mizuho Asean Investment LP (“MAI”), voted in favour of the Scheme but wished to make submissions to invoke the court’s discretion under s 210(4) of the Companies Act 1967 (2020 Rev Ed) (“Section 210(4)”). This section provides that “[t]he Court may grant its approval to a compromise or arrangement subject to such alterations or conditions as it thinks just”.

2 I had decided to sanction the Scheme without exercising my discretion to alter under Section 210(4) as sought by MAI. As there appeared to be limited

local case law providing guidance on how this discretion should be exercised, I will elaborate on my reasoning in these grounds of decision.

Facts

3 On 17 December 2025, the Applicant applied to convene a creditors’ meeting to consider and approve the proposed Scheme.¹ For the purposes of these grounds of decision, the details of the Scheme are not material except to the extent stated, so I will not go through them in the interests of brevity. On 27 April 2026, the Scheme Meeting was held and the Scheme was approved by a majority in number of the Scheme Creditors representing 89.5% in value present and voting.² MAI voted in favour of the Scheme but reserved “its rights to make submissions” on the terms of the Scheme at the sanction hearing.³

4 There was no dispute that the Scheme was passed by the requisite statutory majority at the Scheme Meeting, which was convened in accordance with the court order.⁴ In the final stage of the process, where the Applicant sought the court’s sanction of the Scheme, MAI took the position that the Scheme should be sanctioned by the court, subject to two proposed alterations (“Proposed Alterations”).⁵

5 Firstly, MAI sought to delete part of Clause 3.17 of the Scheme (“Clause 3.17”) which, it argued, would reduce its reserved matters under the Scheme

¹ Applicant’s Written Submissions (“AWS”) at para 1; Duong Truong Hai’s first affidavit dated 11 May 2026 (“DTH-1”) at para 5(a).

² AWS at paras 3–4; DTH-1 at para 5(c).

³ AWS at para 4; Dinh Anh Huan’s first affidavit dated 4 May 2026 at para 29.

⁴ AWS at para 5.

⁵ AWS at paras 6–7; DTH-1 at para 6.

from 30 under the Applicant’s shareholders’ agreement (“SHA”) to merely ten under the proposed Annex 5 of the Scheme (“Reserved Matters Alteration”).⁶ I set out Clause 3.17 below and the strikethrough represented the Reserved Matters Alteration:

3.17 On the Scheme Completion Date, upon the Company completing the distributions in accordance with Clause 3.9 and Clause 3.10, all the Preference Shares held by the Scheme Creditors shall be immediately cancelled and each of them shall forthwith cease to be a shareholder in the Company. ~~Prior to the Scheme Completion Date, Ficus undertakes that the matters set out in Annex 5 (which supersede and replace all the Reserved Matters set out in Schedule 2 of Ficus’ SHA) require the unanimous approval of eWTP and MAI.~~

According to MAI, the Applicant had not shown why it was necessary for the implementation of the Scheme to take away its rights.⁷ Clause 3.17 without the Reserved Matters Alteration would result in an unnecessary restriction of MAI’s rights and cause it permanent and irrevocable damage should the Scheme not succeed.⁸

6 Secondly, MAI also sought an alteration to Clause 3.10 of the Scheme (“Clause 3.10”) such that the Applicant shall complete certain obligations within seven days of the “Scheme Effective Date” rather than the 45-day period under the Scheme (“Timeline Alteration”).⁹ I reproduce Clause 3.10 and the proposed Timeline Alteration below:

3.10 The Company shall complete the Cash Settlement, the Scommerce Share Transfers and Share Buyback on the same date within 7 45 days from the Scheme Effective Date, and in

⁶ DTH-1 at para 32.

⁷ DTH at paras 25–30.

⁸ DTH-1 at para 33.

⁹ DTH-1 at para 35.

any case, by 31 July ~~30 September~~ 2026 (“**Scheme Completion Date**”) in the following manner: ...

[emphasis in original]

7 Clause 1.6 of the Scheme defined the Scheme Effective Date as:

The date on which the Scheme is to be implemented following the fulfilment of the conditions precedent listed in the Scheme. The date on which the last condition precedent is completed will be the Scheme Effective Date.

MAI took the position that, as the Applicant would have completed various conditions precedent by the Scheme Effective Date, it should not take long for the Applicant to complete the remaining obligations under Clause 3.10.¹⁰

8 The Applicant objected. It argued that MAI’s position was tantamount to using the court’s power under Section 210(4) as a backdoor mechanism to renegotiate commercial terms which MAI had agreed to under the Scheme.¹¹ On the Reserved Matters Alteration, the Applicant argued that there was nothing unfair about MAI agreeing to a modification of its rights under the SHA. MAI had voted in favour of the Scheme and agreed to compromise these rights in exchange for consideration under the Scheme.¹² Moreover, the Reserved Matters Alteration would effectively revert the Scheme back to an earlier version, to which the other Scheme Creditor whose rights were protected under the SHA, Redefine Capital Fund (*ie*, eWTP), objected.¹³ On the Timeline Alteration, the Applicant submitted that the timeline proposed by MAI was

¹⁰ DTH-1 at paras 37–38.

¹¹ AWS at para 34.

¹² AWS at paras 46–47.

¹³ AWS at para 49.

wholly unrealistic and would put the Applicant at risk of breaching Clause 3.10 if its obligations were not completed within the timeline.¹⁴

9 The question before me was thus whether the Scheme should be sanctioned with the Proposed Alterations.

The law

10 In *The Royal Bank of Scotland NV v TT International Ltd* [2012] 2 SLR 213 (“*TT International*”), the creditors who voted against the scheme appealed against its sanction. The Court of Appeal set aside the sanction and ordered further meetings to be called for the scheme to be put to a re-vote. Following the further meetings, the Court of Appeal invoked its power under Section 210(4) to sanction the scheme subject to certain alterations. The court observed that there were various concerns about the unfairness of the scheme:

(a) There was a lack of clarity in the milestones to be met in the implementation of the scheme and the methodology to be employed for assessing its ongoing viability (Annexure II at [6]).

(b) The monitoring committee under the scheme which was tasked with overseeing its implementation had unduly limited powers and oversight, as well as some issue with its composition (Annexure II at [7]).

The court then made a detailed list of alterations to address these shortcomings in the scheme and other concerns (Annexure at [8]).

¹⁴ AWS at paras 53–60.

11 The Court of Appeal in *TT International*, however, did not opine on the factors that should be considered in exercising the discretion under Section 210(4). As there was a dearth of local case law on this issue and no *pari materia* provision in the UK, it was appropriate to look to Australian jurisprudence, where courts have an equivalent power under s 411(6) of the Corporations Act 2001 (Australia) to make appropriate alterations to a scheme.

12 In *Re Ovato Print Pty Ltd* [2020] NSWSC 1882 (“*Ovato*”), Ovato Print Pty Ltd signed a facility agreement with Scottish Pacific Business Finance Pty Ltd to obtain a loan of A\$17 million. The facility agreement was subject to several conditions precedent, some of which were not yet fulfilled at the time of the scheme hearing. The Supreme Court of New South Wales granted an order proposed by the plaintiffs to include a condition subsequent that the orders in respect of the creditors’ scheme, among others, would not take effect if certain steps did not occur on or before a certain date (at [29]). The court opined that this condition subsequent would address the risk of the creditors’ scheme taking irrevocable effect but the conditions not being satisfied. The condition subsequent would “plainly give effect to the intent of creditors in approving the [c]reditors’ [s]cheme” (at [44]).

13 I derived significant guidance from the Supreme Court of New South Wales’s decision in *Re Boart Longyear Limited (No 2)* (2017) 323 FLR 241 (“*Longyear*”), which conducted an extensive survey of Australian cases where the issue of alterations to schemes of arrangement was engaged.

14 The court started by observing that s 411(6) of the Corporations Act 2001 (Australia) granted the court “a discretion to be exercised judicially, having regard to its statutory purpose in the light of the whole of the circumstances

surrounding the matter, but unconfined by any particular statutory criteria as to its exercise” (*Longyear* at [92]).

15 It was clear that Australian courts had approved alterations to schemes which were “of a minor and technical kind” or to overcome “a technicality arising from the drafting of the scheme” (*Re Permanent Trustee Co Ltd* (2002) 43 ACSR 601 (“*Permanent Trustee*”) at [21]; *Re Investorinfo Ltd* (2005) 24 ACLC 44 (“*Investorinfo*”) at [8]). However, the court in *Longyear* took the view that its exercise of the discretion should not be confined by such cases (at [92], [97] and [98]).

16 As the court in *Longyear* noted, Australian courts had on various occasions approved alterations of a substantive nature. In *Re V & M Diagnostic Services Pty Ltd* (1985) 9 ACLR 663, the court made a substantive alteration which omitted the Payroll Tax Commissioner (“Commissioner”) from the definition of “creditor”, so as to preserve his priority status in a winding up. The scheme had been approved at a creditors’ meeting both in its original form which excluded such priority and in an alternative form which would give the Commissioner priority over other unsecured creditors. The court in *Longyear* remarked that substantive alterations could more easily be made where creditors had indicated their assent to them (at [99]).

17 Further, in *Zenyth Therapeutics v Smith* (2006) 60 ACSR 548 (“*Zenyth*”), the Supreme Court of Victoria approved a scheme with an alteration to provide that the consideration payable to each of the option holders was the greater of the valuations of their options determined by the company or an independent expert. In *Re Australian Co-operative Foods Ltd* [2008] NSWSC 1221 (“*Australian Co-operative Foods*”), the Supreme Court of New South Wales approved an alteration which changed the record date for a special

dividend to be paid under the scheme. In these cases, the Australian courts considered the advantage to the relevant parties (eg, option holders in *Zenyth*) or the absence of prejudice or disadvantage to them (*Zenyth* at footnote 29; *Australian Co-operative Foods* at [48]; *Longyear* at [102]).

18 The court in *Longyear* further cited in approval the following remarks (at [103]–[105]):

(a) The court should not approve alterations “unless it is satisfied that the scheme as proposed to be altered would still have been agreed to by the requisite statutory majorities” (*Re Independent Practitioner Network Ltd (No 2)* (2008) 26 ACLC 1249 (“*Independent Practitioner Network*”) at [17]).

(b) The court should have regard to “whether the proposed variation was so novel or substantial as to take the varied scheme beyond the reasonable contemplation of shareholders at the time they agreed to it” (*Re Matine Ltd* (1998) 28 ACSR 268 (“*Matine*”) at 284; *Re Kalgoorlie Lake View Pty Ltd* (2005) 56 ACSR 144 (“*Kalgoorlie Lake*”) at [7]–[8]).

(c) The court should ensure that (*Primacon Holding GmbH v Credit Agricole* [2013] BCC 201 (“*Primacon*”) at [35]):

... [first,] the scheme was not so different from the scheme which was before the scheme creditors at the class meetings that their votes would really not be on that scheme at all. Second, the court would be against modification if it would alter the class compositions; and, thirdly, the court would be against modification if, thereby, the explanatory statement would be falsified or proven irrelevant.

19 On the facts of *Longyear*, the court held that all voting secured creditors and all voting senior unsecured notes indenture holders (with one exception),

including those who had previously opposed the scheme in its original form, had now indicated their assent to the proposed alterations (at [99]). Further, like in *Zenyth*, the alterations were of advantage to creditors because they afforded creditors more favourable terms for their participation in the scheme. Similar to *Australian Co-operative Foods*, the court could also be satisfied of the absence of prejudice and disadvantage to creditors by reason of their support for the proposed alterations. The court then applied the three factors in *Primacon* and held that the proposed alterations would not change the essential features of the scheme, alter class composition or falsify the explanatory statements (at [106]).

20 The court further considered the following factors (at [108]):

... It seems to me that the Court could, in principle, think it “fit” to approve the schemes in this case with material alterations where the schemes and those alterations provide a proper mechanism to implement a complex compromise or arrangement; substantial costs and resources have plainly been devoted to developing them; the Plaintiffs are insolvent or near insolvency and would likely not have the luxury of restarting their restructuring again from the beginning; the Plaintiffs and all voting secured creditors and substantially all voting unsecured creditors affected by the alterations support them; and there would be no utility in ordering further creditors’ meetings where it is already clear that an overwhelming majority of the voting secured creditors and voting unsecured creditors support the alterations. ...

21 Having considered the abovementioned authorities, I concluded that in exercising the court’s discretion under Section 210(4), the following non-exhaustive considerations should be taken into account:

(a) Alterations to schemes which are “of a minor and technical kind” or to overcome “a technicality arising from the drafting of the scheme” will be more readily approved (*Permanent Trustee* at [21]; *Investorinfo* at [8]). The court’s discretion, however, is not limited to approving minor and technical alterations (*Longyear* at [92], [97] and [98]).

(b) The court will have regard to whether the party seeking alterations to the scheme voted in favour of the scheme. The court has to be alive to the reasons why there is a change of heart. Alterations to a scheme proposed by a creditor where that same creditor has already voted in favour of the scheme should only be granted in exceptional cases.

(c) The court should consider if the alterations are so novel or substantial so as to take an altered scheme beyond what was initially contemplated (*Matine* at 284; *Kalgoorlie Lake* at [7]–[8]; *Longyear* at [100] and [104]). The court should not approve alterations which render a scheme so different from that before the scheme creditors at the scheme meeting that their votes are not really on the scheme at all, which alter the class compositions or which falsify the explanatory statement (*Independent Practitioner Network* at [17]; *Primacon* at [35]). Conversely, alterations which give effect to the intent of the creditors are more likely to be approved (*Ovato* at [44]).

(d) Alterations sought must address specific concerns or defects in a scheme to achieve the practical purpose of allowing the scheme to be implemented (*TT International* at [6]–[8]; *Ovato* at [44]; *Longyear* at [108]). Alterations sought must be practical and specific, and should not leave the company and scheme creditors in doubt as to the consequences of the alterations and how they are to be implemented. Parties should not approach the court to request alterations that are too broad or nebulous. Annexure II of *TT International* at [8] demonstrates the level of detail required to achieve this.

(e) The court should consider whether there is support from scheme creditors for the alterations such that there is no utility in calling further scheme meetings to address the alterations (*Longyear* at [108]). Any advantage or lack of prejudice to the creditors would be relevant (*Zenyth* at footnote 29; *Australian Co-operative Foods* at [48]; *Longyear* at [102]).

The Scheme should be sanctioned without the Proposed Alterations

22 Applying the principles set out at [21], I sanctioned the Scheme without granting the Proposed Alterations.

23 To begin with, MAI had voted in favour of the Scheme. As the Applicant's counsel noted, MAI should not have its cake and eat it.¹⁵ If MAI had felt so strongly about the Proposed Alterations, it should have either voted against the Scheme or negotiated with the Applicant until it was comfortable with the position on which it would exercise its positive vote. MAI should not vote in favour of the Scheme and then expect the court to, effectively, undertake negotiations that MAI should have undertaken itself. That would not be a valid use of the court's discretion under Section 210(4).

24 With respect to the Reserved Matters Alteration, if MAI wanted to preserve its rights under the SHA, this would be a commercial issue on which it should have negotiated under the Scheme. If there were specific concerns arising from the Reserved Matters Alteration which formed an exceptional reason why the court should exercise its discretion under Section 210(4), then this must be identified and addressed in detail by MAI. As I noted at [21(d)]

¹⁵ Minute Sheet dated 29 May 2026 at page 14.

above, MAI could not simply point to a list of 30 rights under the SHA and argue that these were rights deserving of general protection, for the court to exercise its discretion in MAI's favour. Instead, MAI must detail which specific right was the concern, what specific alteration should be made to the Scheme to address that right, how it would impact the Scheme and how the Scheme could nonetheless proceed with the alteration or if a new scheme meeting should be convened. MAI had not provided any such detail, so I saw no reason why the court should exercise its discretion to allow the Reserved Matters Alteration.

25 MAI's position on the Timeline Alteration suffered from a similar lack of detail. In the absence of convincing evidence to the contrary, the court would not make alterations to the timeline for the Scheme, as this would interfere with a timeline that had been approved at the Scheme Meeting and that had many moving parts. The Scheme envisaged, among other things, a transfer of the Applicant's shares in its Vietnamese subsidiary, Scommerce, to the Scheme Creditors. This would require seeking approvals from shareholders of Scommerce, who were not parties to the Scheme, as well as other transactional and regulatory approvals for Scommerce in Vietnam. MAI, as the one seeking the specific alteration, had the burden of demonstrating how its altered timeline could work. It had, however, not provided evidence as to how its proposed seven-day timeline could be achieved with reference to the various closing conditions and requirements, bearing in mind all the transactional and regulatory approvals required for completion of the Scheme. That being the case, I also saw no reason why the court should exercise its discretion to allow the Timeline Alteration.

26 Lastly, I was of the view that the Proposed Alterations would take the Scheme beyond what was initially contemplated or the Scheme as voted on (*Matine* at 284; *Kalgoorlie Lake* at [7]–[8]; *Primacon* at [35]; *Longyear* at [100],

[104] and [105]). As the Applicant pointed out, the Reserved Matters Alteration would revert the scheme to an earlier version which another Scheme Creditor, whose rights were similarly affected by Clause 3.17 as MAI, actually objected to.¹⁶ It was also clear that the Timeline Alteration, which would require the Applicant to complete the stipulated obligations within seven days rather than the previously agreed 45 days, would be very different from what the Scheme Creditors initially contemplated when they voted on the Scheme at the Scheme Meeting.

¹⁶ AWS at para 49.

Conclusion

27 As all conditions for sanctioning the Scheme had been met, I therefore sanctioned the Scheme as voted on by the Scheme Creditors at the Scheme Meeting without the Proposed Alterations.

Wong Li Kok, Alex
Judge of the High Court

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