



**IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION**

CAUSE NO. FSD 294 OF 2020 (NSJ)

IN THE MATTER OF SECTIONS 15 AND 86 OF THE COMPANIES ACT (2020 REVISION)

AND IN THE MATTER OF ORDER 102 OF THE GRAND COURT RULES 1995 (AS REVISED)

AND IN THE MATTER OF TONLY ELECTRONICS HOLDINGS LIMITED

ORDER FOR DIRECTIONS

UPON THE APPLICATION of Tonly Electronics Holdings Limited (the *Petitioner*) by Ex Parte Summons dated 1 December 2021

AND UPON READING the Petition, the Summons dated 7 January 2021 seeking leave to amend the Petition, the First and Second Affirmations of REN XUENONG affirmed on 1 December 2020 and 8 January 2021, the First and Second Affidavits of CHOY FUNG YEE sworn on 27 November 2020 and 8 January 2021, the First and Second Affirmations of LAW KA LEE sworn on 1 December 2020 and 11 January 2021, the First Affirmation of SO MING YAN FIONA sworn on 8 January 2021, and the exhibits thereto

AND FURTHER UPON READING the composite document incorporating, amongst other things, the Scheme of Arrangement (as defined below) and an explanatory memorandum attached as Exhibit "SMY-1" to the First Affirmation of SO MING YAN FIONA (the *Composite Document*)

AND UPON HEARING Counsel for the Petitioner

IT IS ORDERED AND DIRECTED THAT:

1. The scheme of arrangement as contained in the Composite Document (the *Scheme of Arrangement*) shall be between the Petitioner and the holders of ordinary shares of par value



HK\$1.00 each (the **Shares**) in the share capital of the Petitioner other than the Offeror (as defined in the Composite Document) (the **Scheme Shareholders**).

2. The relevant classes of Scheme Shareholders for the purposes of approving the Scheme of Arrangement are:
 - (a) the Disinterested Scheme Shareholders as defined in the Scheme of Arrangement and identified as such in the Composite Document (the **Disinterested Scheme Shareholders**);
and
 - (b) the Concert Parties as defined in the Scheme of Arrangement and identified as such in the Composite Document (the **Concert Parties**).
3. The Petitioner shall be at liberty to convene a meeting (the **Court Meeting** (which shall include any adjourned meeting thereof)) of the Disinterested Scheme Shareholders whose names appear on the register of members of the Petitioner as at the Meeting Record Date (as defined in the Composite Document) to consider, and if thought fit, approve (with or without modification) the Scheme of Arrangement under Section 86 of the Companies Act.
4. The requirement for a formal meeting of the Concert Parties to consider, and if thought fit, approve (with or without modification) the Scheme of Arrangement under Section 86 of the Companies Act, is waived on the grounds that the evidence before the Court shows that all such Concert Parties have undertaken to be bound by the terms of the Scheme of Arrangement if sanctioned.
5. For the purpose of voting at the Court Meeting, HKSCC Nominees Limited (**HKSCC Nominees**) (as the central depository or nominee in the Central Clearing and Settlement System (**CCASS**) operated by Hong Kong Securities Clearing Company Limited, a wholly owned subsidiary of Hong Kong Exchanges and Clearing Limited) shall be permitted to vote for and/or against the Scheme of Arrangement in accordance with instructions from persons admitted to participate in CCASS (each, a **CCASS Participant**) including those admitted to participate as an Investor Participant (defined below) and the number of shares so voted shall be counted for the purpose of ascertaining whether or not the requirement that seventy-five per cent in value of the Disinterested Scheme



Shareholders voting in person or by proxy approve the Scheme of Arrangement under Section 86 of the Companies Act (2020 Revision) (the “*majority in value test*”) has been satisfied.

6. For the purpose of ascertaining whether or not the requirement that a majority in number of the Disinterested Scheme Shareholders voting in person or by proxy approve the Scheme of Arrangement under Section 86 of the Companies Act (2020 Revision) (the “*majority in number test*”) has been satisfied:

- (a) HKSCC Nominees shall be treated as a representative of the CCASS Participants from whom it receives instructions (and shall not have the power to vote on its own absent instructions from the CCASS Participants notwithstanding its status as a registered member of the Petitioner) and as a “multi-headed” shareholder such that, subject to sub-paragraphs (b) and (c) below, each of the CCASS Participants from whom voting instructions are received shall be counted as a separate shareholder and the number of such CCASS Participants will determine the number of “heads” attributable to HKSCC Nominees.
- (b) Each CCASS Participant that is a financial intermediary but is not an Investor Participant (defined below) (each an *Institutional Participant*) shall inform HKSCC Nominees of the number of Shares which such Institutional Participant instructs HKSCC Nominees to vote in favour of the Scheme of Arrangement and/or the number of Shares which such Institutional Participant instructs HKSCC Nominees to vote against the Scheme of Arrangement. For the purpose of the “majority in number” test, if such Institutional Participant has instructed HKSCC Nominees to vote both in favour and against the Scheme of Arrangement, and if HKSCC Nominees votes as instructed, such Institutional Participant shall be treated as two “heads” attributable to HKSCC Nominees, with one head counted as a single shareholder voting in favour of the Scheme of Arrangement and one head counted as a single shareholder voting against the Scheme of Arrangement. If such Institutional Participant has instructed HKSCC Nominees to vote either in favour or against the Scheme of Arrangement, and if HKSCC Nominees votes as instructed, such Institutional Participant shall be treated as one “head” attributable to HKSCC Nominees, with such head counted as a single shareholder voting on the Scheme of Arrangement in



the manner indicated by the vote of HKSCC Nominees cast on the instructions of such Institutional Participant.

- (c) Each CCASS Participant that is an investor participant (as defined in the CCASS rules) and the beneficial owner of shares deposited in CCASS (whose shares are not held by or through an Institutional Participant) (each an **Investor Participant**) shall be entitled to instruct HKSCC Nominees to, in respect of all of its shares, vote in favour of the Scheme of Arrangement, or vote against the Scheme of Arrangement, or abstain from voting, but not a combination of more than one of these options. If HKSCC Nominees receives such voting instructions from an Investor Participant and votes in accordance with those instructions, such Investor Participant shall be treated as one “head” attributable to HKSCC Nominees, with such head counted as a single shareholder voting on the Scheme of Arrangement in the manner indicated by the vote of HKSCC Nominees cast on behalf of such Investor Participant.
- (d) Based on the counting methods set out above [i.e. both (b) and (c)], HKSCC Nominees shall specify to the Petitioner the following: (i) the aggregate number of “heads” that have provided voting instructions to HKSCC Nominees; (ii) the aggregate number of votes cast in favour of the Scheme of Arrangement and the number of Shares to which they relate; and (iii) the aggregate number of votes cast against the Scheme of Arrangement and the number of Shares to which they relate.
- (e) Each Institutional Participant shall also inform HKSCC Nominees of the number of proxy(ies) that such Institutional Participant instructs and requests (or has instructed and requested) HKSCC Nominees to issue and the Shares in respect of which each proxy is to be (or has been) issued. HKSCC Nominees shall specify to the Petitioner the aggregate number of proxies issued by HKSCC Nominees upon the instructions and at the request of Institutional Participants (each, an **Institutional Participant Proxy**) and the Shares to which each Institutional Participant Proxy relates. Where a vote is cast by and pursuant to an Institutional Participant Proxy, no “head” shall be attributed to HKSCC Nominees for the purpose of the “majority in number” test. (For the avoidance of doubt, where the holder of an Institutional Participant Proxy votes at the Court Meeting, for the purpose of ascertaining whether or not the majority in value test has been satisfied, the number of



shares included in and covered by an Institutional Participant Proxy shall be counted in the same manner as other registered member of the Petitioner voting in person or by proxy).

- (f) Each Investor Participant shall be entitled to instruct HKSCC Nominees to appoint not more than one proxy in respect of all the shares beneficially owned by such Investor Participant (an ***Investor Participant Proxy***). Such Investor Participant Proxy shall entitle its holder to vote in favour of the Scheme of Arrangement, or vote against the Scheme of Arrangement, or abstain from voting, but not a combination of more than one of these options. If the holder of such an Investor Participant Proxy is present and votes at the Court Meeting, so long as the holder, prior to the voting taking place at the Court Meeting, (i) brings to the attention of the Petitioner that it is a proxy holder acting under the direction of an Investor Participant; and (ii) provides to the Chairman of the Court Meeting the original or printout monthly statement issued by HKSCC Nominees/Hong Kong Securities Company Limited to the relevant Investor Participant (showing the name and participant ID of the Investor Participant and the number of Shares held by such Investor Participant via CCASS for the month in which the date of the Court Meeting falls, or if that is not available, for the month immediately preceding the date of the Court Meeting) and/or other supporting evidence reasonably satisfactory to the Chairman of the Court Meeting showing that it is duly appointed to represent such Investor Participant at the Court Meeting, it shall be treated, for the purposes of the “majority in number” test, as one “head” attributable to HKSCC Nominees with such head counted as a single shareholder voting on the Scheme of Arrangement in the manner indicated by the vote of HKSCC Nominees cast on behalf of such Investor Participant.
- (g) Each of the registered members of the Petitioner shall be permitted to vote, either in person or by proxy, in favour of the Scheme of Arrangement, or against the Scheme of Arrangement, or abstain from voting, but not a combination of more than one of these options. If such registered member is present and casts its vote in the Court Meeting, whether in person or by proxy, such member shall be treated, for the purpose of the “majority in number” test, as one “head”.



7. The Composite Document be and is hereby approved for the purpose of convening the Court Meeting.
8. At least 21 clear days before the day appointed for the Court Meeting, the Petitioner shall cause the following documents to be dispatched to the Shareholders:
 - (a) Notice of the Court Meeting substantially in the same form as that included in Exhibit "SMY-1" to the First Affirmation of SO MING YAN FIONA;
 - (b) The Composite Document substantially in the same form as that included in Exhibit "SMY-1" to the First Affirmation of SO MING YAN FIONA; and
 - (c) Proxy forms substantially in the same form as that included in Exhibit "SMY-1" to the First Affirmation of SO MING YAN FIONA;

personally, or by posting, or by couriering the documents to the Shareholders at the relevant registered business or other address appearing in the register of members of the Petitioner.

9. Pursuant to the Hong Kong Code on Takeovers and Mergers, in the event that the despatch of the Composite Document to overseas Shareholders is prohibited by any relevant law or regulation or may only be effected after compliance with conditions or requirements that the directors of the Petitioner regard as unduly onerous or burdensome (or otherwise not in the best interests of the Petitioner or the Shareholders), subject to a waiver being granted by the Executive (as defined in the Composite Document) as described below, the Composite Document will not be despatched to such overseas Shareholders.
10. For the purposes of service of the Composite Document, it shall be sufficient to demonstrate that it was placed into envelopes correctly addressed to the Shareholders at their addresses appearing on the Register of Members as at the day the Composite Document was dispatched and that the envelopes were posted to those Shareholders.
11. The accidental omission to serve any Shareholder with the Composite Document, or the non-receipt by any Shareholder of the Composite Document, shall not invalidate the proceedings at the Court Meeting.



12. The Notice of the Court Meeting substantially in the same form (excluding the notes thereto) as that included in Exhibit "SMY-1" to the First Affirmation of SO MING YAN FIONA shall be published once in the Cayman Islands Gazette, once in the South China Morning Post in English, and once in The Hong Kong Economic Journal in Chinese, at least 21 clear days before the Court Meeting.
13. That POON CHIU KWOK, an independent non-executive Director, or, failing him, any one of the Directors of the Petitioner, be appointed Chairman of the Court Meeting and be directed to report, within seven days of the Court Meeting, the results of the Court Meeting to the Court.
14. The Disinterested Scheme Shareholders shall be entitled to attend and vote, in person or by proxy, at the Court Meeting.
15. The form of proxy substantially in the form of that appearing in Exhibit "SMY-1" of the First Affirmation of SO MING YAN FIONA is hereby approved for use at the Court Meeting and the form of proxy shall be lodged in original form at the Petitioner's branch share registrar and transfer office in Hong Kong, Tricor Investor Services Limited, at Level 54, Hopewell Centre, 183 Queen's Road East, Hong Kong, not later than 48 hours before the time appointed for the Court Meeting.
16. The Chairman of the Court Meeting shall be entitled to accept the warranty on the said form of proxy as to the authority of the signatory to cast the votes thereby cast without further investigation.
17. The Chairman of the Court Meeting be at liberty to accept a form of proxy in his absolute discretion including the figure for which any Disinterested Scheme Shareholder seeks to vote, notwithstanding that the form of proxy has not been completed in accordance with the instructions contained therein or has not been submitted prior to the due date, provided that the Chairman of the Court Meeting considers that the information contained therein is sufficient to establish the right of the Disinterested Scheme Shareholder to vote.
18. Save as expressly stated in this Order, the Chairman of the Court Meeting be at liberty to conduct the proceedings of the Court Meeting in accordance with the Articles of Association of the Petitioner.

19. At the Court Meeting, measures may be taken with a view to preventing and controlling the spread of the coronavirus, COVID-19, as set out in the Composite Document.
20. The Petition shall not be required to be advertised.
21. The Petitioner have leave to amend and re-file the Petition in the form annexed to the Summons dated 7 January 2021.
22. For the purpose of the Scheme of Arrangement, the preparation of a list of creditors and an inquiry as to the debts of and claims against the Petitioner or as to any class or classes of such debts or claims be dispensed with.
23. The Petitioner's application for directions in respect of the proposed reduction of the Petitioner's capital be adjourned to a date to be fixed.
24. The Petition be set down to be heard on [2 March 2021 at 9:00am Cayman Islands time].
25. No order as to costs.
26. The Petitioner be at liberty to apply generally.

Dated this 26th day of January 2021

Filed this 26th day of January 2021



THE HONOURABLE JUSTICE SEGAL
JUDGE OF THE GRAND COURT

THIS ORDER was filed by Harney Westwood & Riegels, Attorneys-at-Law for the Petitioner, whose address for service is 3rd Floor, Harbour Place, 103 South Church Street, P.O. Box 10240, Grand Cayman KY1-1002, Cayman Islands (Ref: PYK/JNW/054702.0010.0001).