

CAYMAN ISLANDS GRAND COURT

In the matter of the Companies Law (2012 Revision), and in the matter of Royal Bank of Canada International Currencies Fund Ltd (In Voluntary Liquidation) FSD No. 71 of 2013, per Jones J (19 July 2013)

DISCLOSURE OF SHAREHOLDER REGISTER TO TRACING AGENT - DISCLOSURE OF SHAREHOLDER INFORMATION - WHETHER SHAREHOLDER INFORMATION CAUGHT BY CONFIDENTIAL RELATIONSHIPS (PRESERVATION) LAW

Here, the Joint Voluntary Liquidators petitioned the Court to ask whether the share register and other shareholder information for Royal Bank of Canada International Currencies Fund Ltd (the "Fund") constitutes "confidential information" within the meaning of the *Confidential Relationships (Preservation) Law* and, if so, whether such shareholder information can properly be disclosed to tracing agents intended to be instructed by the liquidators.

While the Fund's business, management and administration were carried on in Guernsey, it was incorporated in the Cayman Islands and consequently the Court had jurisdiction in respect of matters relating to its liquidation. In answering the question, the Court distinguished between the share register and all other documentary information in the possession of the Fund's administrator which related to the identity, whereabouts, contact details and beneficial ownership of the Registered Shareholders.

In determining whether the Fund's share register was confidential, the Court held that regard must be had for the terms of the Fund's articles of association, its offering documents, the subscription agreements and the applicable law, which in this case must include Guernsey law. As the Fund's Scheme Particulars, being the only material in evidence before the Court, allowed for inspection, the Court concluded, assuming there was no inconsistency with the Fund's articles of association that this meant the share register was not confidential information. However, in the absence of information to the contrary, the Court assumed there was an express or implied duty of confidentiality in relation to all other shareholder information in the possession

of the administrator but that it could only be confidential information for the purposes of the *Confidential Relationship (Preservation) Law* if the shareholder information arose in the Cayman Islands or was subsequently brought here. As all the other shareholder information existed only in Guernsey, it was not caught by the statute.

The Court held that the information could be disclosed. Even if the information was caught by the statute as disclosure by the liquidators to a professional agent would be a disclosure "in the ordinary course of business" (as taking reasonable steps to locate investors to whom assets should be distributed is the performance of the liquidators' statutory duty in the ordinary course of business of liquidating the company).

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