

## **Three Arrows Capital, Ltd (in Liquidation) (the "Company") Update on the Starry Night Application**

On 21 December 2022, the Joint Liquidators of the Company issued a public notice to:

- (1) all known persons considered to be '*Starry Night Portfolio*' (defined below) investors in Three Arrows Fund Ltd ("**TAF Ltd**") and Three Arrows Fund LP ("**TAF LP**") (collectively, "**Investors**"); and
- (2) other potentially interested persons,

to notify them of an application issued and filed by the Joint Liquidators on 23 November 2023 in the High Court of Justice in the British Virgin Islands (the "**BVI Court**").

The application concerns the ownership of certain non-fungible tokens known informally as the '*Starry Night Portfolio*' (the "**Starry Night Application**" or "**Application**", and the "**Assets**").<sup>1</sup> The Joint Liquidators consider based on the information available to them and for the reasons set out in the evidence in support of the Application, that the Assets are owned by the Company. The Application seeks directions and declaratory relief to this effect.

On 18 January 2023, the Joint Liquidators issued a further notice drawing attention to two hearings listed in relation to the Starry Night Application, being:

- (a) 21 March 2023 - a case management conference relating to the Application (the "**CMC**") (see below); and
- (b) 6 June 2023 - a further, one day hearing, listed for the substantive determination of the Application on its merits (the "**Substantive Hearing**").

The purpose of this further and third notice is to provide an update to Investors and other potentially interested persons on the progress of the Application and the next steps in the proceedings:

### **1. Case Management Conference**

On 21 March 2023, the CMC was heard before the BVI Court. The primary purpose of the CMC was to provide a forum for Investors and other potentially interested persons to make themselves known insofar as they wished to participate in the Substantive Hearing, and to give directions in relation to the Substantive Hearing.

The CMC was attended by the Joint Liquidators and certain other persons, including the Liquidators of TAF Limited. Having heard submissions as to the appropriate directions and timetable for further progress of the Application, the BVI Court made the following order:

- (a) Any party who wishes to participate in the Starry Night Application shall notify the Joint Liquidators that they wish to be added as a respondent and shall file and serve evidence in answer to the Starry Night Application by **4:00pm (BVI Time) on 9 May 2023**.
- (b) Upon being served in accordance with paragraph (1) above, the Liquidators shall file and serve any evidence in reply by **4:00pm (BVI Time) on 23 May 2023**.

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<sup>1</sup> It is to be noted that the list of assets in the '*Starry Night Portfolio*' was updated since the filing of the Application. For the most up to date list, refer to the Seventh Affidavit of Russell Crumpler (and the accompanying exhibit) filed in the BVI Court on 17 March 2023.

- (c) Any party to the proceedings shall have liberty to apply for directions prior to the Substantive Hearing.
- (d) That a new dedicated claim number be created for the determination of the Starry Night Application. This has been created on the court's e-litigation portal website and has been assigned Claim No.: BVIHC(COM) 2023/0058.

A copy of the BVI Court's order dated 21 March 2023 is annexed to this notice.

**2. Now that the CMC has passed, how can I formally participate in the Starry Night Application?**

The Joint Liquidators of the Company continue to invite any Investor or other potentially interested person to participate in the Starry Night Application in accordance with the above directions and timetable, particularly if they wish to oppose the relief sought in the Application or otherwise wish to assert that they have some form of direct claim to the Assets.

As provided for by the above directions, any person who wishes to participate in the Starry Night Application and be added as a party should take the following steps by **4pm (BVI Time) on 9 May 2023**:

- (a) The proposed participant must notify the Joint Liquidators of the Company in writing of their intention to participate in the Application (using the contact details below);
- (b) The proposed participant must request to be added as a party, and in particular, as a 'Respondent' to the Starry Night Application. This step requires a formal application to the BVI Court (either by the proposed participant themselves or by the Joint Liquidators). If you prefer the Joint Liquidators to make this application on your behalf, kindly make this request to the Joint Liquidators in writing as soon as possible, allowing sufficient time to comply with (c) below; and
- (c) The proposed participant must file and serve any evidence in answer to the Starry Night Application on the court's e-litigation portal under the matter BVIHC(COM) 2023/0058. Should a proposed participant want to file material but cannot access this portal, again, please contact the Joint Liquidators as soon as possible in writing, attaching the relevant evidence that they wish to file.

**Cost Consequences:** Those considering participating in the Starry Night Application should be aware that the usual costs regime applicable in the BVI applies to the Application, and there is no current provision or agreement with the Joint Liquidators that the costs of any participant will be met by the estate. As such, and for the avoidance of doubt, any participant who is joined does so at their own risk as to costs, including potentially adverse cost orders. If in due course any participant wishes to seek an order that their costs be met by the estate, the Joint Liquidators will consider whether any agreement or order to that effect is appropriate at that time. Any person who is considering being joined as a party and participating in the Application is strongly recommended to seek advice from and instruct a BVI legal practitioner, who can provide independent advice regarding the completion of the steps described above, and the merits and inherent risks of participation in the Application.

**No formal additional participation to date:** Notwithstanding a number of interested persons having appeared at the CMC, at the date of this notice no Investors or other interested persons

have currently taken the aforementioned steps to be added as a Party to the Starry Night Application or confirmed that they will do so.

**3. Can I have an informal discussion about the Starry Night Application with the Joint Liquidators?**

The Joint Liquidators remain open to receiving any communications (informal or otherwise) in relation to any matters concerning the '*Starry Night Portfolio*', including any evidence that you may consider relevant for the purpose of determining the Application. The Starry Night Application is intended to be the forum in which Investors and other potentially interested persons can engage with the Joint Liquidators and the Company, and seek to determine who is entitled to the Assets.

In this regard, the Joint Liquidators encourage any Investors or other potential interested persons to contact them and discuss any concerns or information that they have. Such informal engagement will be welcomed by the Joint Liquidators, and Investors and any interested persons should be aware such engagement can be achieved without adverse costs risks.

Further, the Joint Liquidators will put any relevant correspondence, documentation or other materials provided to them in the course of informal discussions to the BVI Court, should you so request.

In light of the timetable leading to the Substantive Hearing, please do engage with the Joint Liquidators on this basis at your earliest convenience.

**4. How can I receive a copy of the Starry Night Application?**

The Joint Liquidators intend to provide a copy of all of the Application documents (including the recent, Seventh Affidavit of Russell Crumpler (and accompanying exhibit) filed on 17 March 2023) to all the Investors and other potentially interested persons who request a copy by email at [3ACliquidation@teneo.com](mailto:3ACliquidation@teneo.com). Should you still require these documents, please lodge your request as soon as possible.

**Dated: 3 April 2023**

The address of the Liquidators is:  
3rd Floor, Banco Popular Building  
Road Town  
British Virgin Islands

**Contact for enquiries:**

Email: [3ACliquidation@teneo.com](mailto:3ACliquidation@teneo.com)  
Website: <https://3acliquidation.com>



**IN THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
VIRGIN ISLANDS  
COMMERCIAL DIVISION  
CLAIM NO. BVIHC (COM) 2023/  
(CLAIM NO. BVIHC (COM) 2022/0119)**

**Submitted Date:30/03/2023 09:54**

**Filed Date:30/03/2023 09:54**

**Fees Paid:811.84**

**IN THE MATTER OF THE INSOLVENCY ACT, 2003  
AND IN THE MATTER OF THREE ARROWS CAPITAL LTD (IN LIQUIDATION)**

**BETWEEN:**

**(1) Russell Crumpler  
(2) Christopher Farmer  
(as Joint Liquidators of Three Arrows Capital Ltd (In Liquidation))**

Applicants

**-and-**

**Three Arrows Capital Ltd (in liquidation)**

Respondent

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**Order  
Filed on 24 March 2023**

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IN THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
VIRGIN ISLANDS  
COMMERCIAL DIVISION  
CLAIM NO. BVIHC (COM) 2022/0119

Submitted Date:24/03/2023 12:01

Filed Date:24/03/2023 12:04

Fees Paid:72.59

IN THE MATTER OF THE INSOLVENCY ACT, 2003  
AND IN THE MATTER OF THREE ARROWS CAPITAL LTD (IN LIQUIDATION)

BETWEEN:

Russell Crumpler and Christopher Farmer  
(as Joint Liquidators of Three Arrows Capital Ltd (In Liquidation))

Applicants

-and-

Three Arrows Capital Limited (in Liquidation)

Respondent

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Order

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BEFORE: The Honourable Justice Mangatal [Ag.]

DATED: 21 March 2023

ENTERED: 24 March 2023

UPON the order of the Honourable Justice Jack (Ag) dated 27 June 2022 (the "Order") appointing Russell Crumpler and Christopher Farmer of Teneo (BVI) Limited (the "Liquidators") of Three Arrow Capital Ltd (the "Company")

AND UPON the application filed by the Liquidators on 23 November 2022 (the "Starry Night Application")

AND UPON the Starry Night Application being listed for a substantive hearing on 6 June 2023 (the "Substantive Hearing")



**AND UPON** reading the Affidavit of Mr Christopher Farmer filed on 30 November 2022 and the Seventh Affidavit of Russell Crumpler filed on 17 March 2023, and the exhibits thereto

**AND UPON** hearing Richard Fisher KC, Daniel Mitchell and Daniel Kessler acting behalf of the Liquidators; Scott Cruickshank acting on behalf of Three Arrows Fund Ltd; Matthew Freeman acting on behalf of Pavel Bains; and upon William Barnes attending on behalf of Tai Ping Shan Limited

**IT IS HEREBY ORDERED AND DIRECTED THAT :**

1. Any party who wishes to participate in the Starry Night Application shall notify the Liquidators that they wish to be added as a respondent and shall file and serve evidence in response to the Starry Night Application by 4:00pm on 9 May 2023.
2. Upon being served in accordance with paragraph (1) above, the Liquidators shall file and serve any evidence in reply by 4:00pm on 23 May 2023.
3. Any party to the proceedings shall have liberty to apply for directions prior to the Substantive Hearing.
4. As soon as it is practicable, the Court Office shall assign a new, unique claim number (in the High Court, commercial division) to the Starry Night Application. The new claim shall be set-up as follows:
  - a. The Applicants shall be Mr Russell Crumpler and Mr Christopher Farmer (as Joint Liquidators of Three Arrows Capital Ltd (In Liquidation));
  - b. The Respondent shall be Three Arrows Capital Ltd (In Liquidation).
5. Notwithstanding (4) above, the Starry Night Application shall proceed (and the Liquidators shall have the same standing and powers) as if it were continuing in the extant liquidation proceedings in claim number BVIHC(COM)2022/0119.
6. The Liquidators shall assist the Court Office with the steps outlined in (4) above, including (to the extent necessary) re-filing all necessary documents on the e-filing portal.
7. The costs of this hearing be costs in the Starry Night Application.

**BY ORDER OF THE COURT**



*[Handwritten signature]*  
**REGISTRAR**

**IN THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
VIRGIN ISLANDS  
COMMERCIAL DIVISION  
CLAIM NO. BVIHC (COM) 2022/0119**

**IN THE MATTER OF THE INSOLVENCY ACT, 2003  
AND IN THE MATTER OF THREE ARROWS CAPITAL  
LTD (IN LIQUIDATION)**

**Russell Crumpler and Christopher Farmer  
(as Joint Liquidators of Three Arrows Capital Ltd  
(In Liquidation))**

Applicants

and

**Three Arrows Capital Ltd (in Liquidation)**

Respondent

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*Order*

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**Ogier**

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Ref.: GRC/503276.00001

Legal Practitioners for the Liquidators