The IRDA toolkit

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Scheme moratorium under section 64

A company that proposes or intends to propose a compromise or arrangement with its creditors may apply under s 64 IRDA for orders restraining winding-up resolutions, the appointment of receivers, proceedings, enforcement and the enforcement of security. Filing the application triggers an automatic moratorium of thirty days or until the court decides. The court's order may extend to acts within its jurisdiction wherever they occur. The order lasts as long as the court thinks fit and may be extended under s 64(7) on application before expiry. The company must undertake to apply for a creditors' meeting or for approval of a pre-packaged scheme under s 71, must give notice to creditors and must file supporting documents including a list of creditors.[1] Section 65 extends the protection to related companies, s 66 restrains disposals during the moratorium and s 67 permits super-priority rescue financing.

The s 64 moratorium is the instrument the crypto platforms reached for first. It is quick, it is debtor-in-possession and it stops the run on the platform while the directors look for a buyer or an investor. Its weakness emerged in the same cases: it exists only to facilitate a scheme, and once no scheme is possible the court will not extend it.

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Judicial management

Judicial management under Part 7 IRDA places the company under the control of a court-appointed judicial manager. Its purposes are the survival of the company as a going concern, the approval of a scheme or a more advantageous realisation of assets than in a winding up. The court may appoint interim judicial managers pending the hearing of the application. A moratorium on proceedings and enforcement applies during judicial management. Since 2020 a company may also enter judicial management out of court by resolution with creditor consent.[2] Judicial management displaces the directors, which is why platform founders avoid it and why creditors who distrust the founders prefer it. Hodlnaut is the example.

Winding up and the Model Law

Compulsory winding up on the ground that the company is unable to pay its debts proceeds under s 125(1)(e) IRDA. The liquidator takes control of the assets, adjudicates proofs of debt and distributes pari passu. Property held by the company on trust for others does not form part of the estate, which is where the customer-asset question becomes decisive. The UNCITRAL Model Law on Cross-Border Insolvency is enacted in the Third Schedule to the IRDA and given effect by s 252. It allows a foreign representative to obtain recognition of a foreign main or non-main proceeding and the relief that follows, including a stay and the entrustment of Singapore assets to the foreign representative.[3] Three Arrows is the example.

Notes

1. Insolvency, Restructuring and Dissolution Act 2018, s 64(1)–(2), (5), (7)–(9) and (13)–(14), Singapore Statutes Online (consulted June 2026). ↩
2. Insolvency, Restructuring and Dissolution Act 2018, Part 7, ss 89–92 and 94–96, Singapore Statutes Online. ↩
3. Insolvency, Restructuring and Dissolution Act 2018, s 125(1)(e), s 252 and Third Schedule (UNCITRAL Model Law on Cross-Border Insolvency), Singapore Statutes Online. ↩

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