IN THE COURT OF FIRST INSTANCE

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

25 June 2025

CASE No: AIFC-C/CFI/2025/0016

LUFT LIMITED

Claimant

v

(1) BORDAI LIMITED

(2) ARABA LIMITED

Defendants

JUDGMENT AND ORDER

Justice of the Court:
Justice Tom Montagu-Smith KC

ORDER

UPON the Claimant's claim for an order sanctioning a proposed arrangement ("the Arrangement") for the reconstruction of the Claimant and the Defendants by their merger pursuant to a merger agreement dated 18 March 2025 ("the Agreement").

IT IS ORDERED AND DECLARED THAT:

1. The Arrangement is sanctioned by the Court pursuant to section 124 of the AIFC Companies Regulations.
2. Pursuant to section 126 of the AIFC Companies Regulations, the Claimant and the Defendants shall be amalgamated on the terms set out in the Agreement.
3. Araba Limited is the legal successor to the assets, liabilities, rights and obligations of Luft Limited and Bordai Limited.
4. Bordai Limited and Luft Limited shall be dissolved.

JUDGMENT

1. By this claim, the Claimant seeks orders and declarations:

    1) Sanctioning and ordering the amalgamation of the Claimant and the Defendants;
    2) Declaring that the Second Defendant ("*Araba*") is the legal successor to the assets, liabilities, rights and obligations of the Claimant ("*Luft*") and the First Defendant ("*Bordai*"); and
    3) Ordering that Luft and Bordai be dissolved.

2. The parties are all companies incorporated under AIFC law.

3. On 19 March 2025, the parties entered into an agreement ("*the Agreement*") for the merger of the parties into Araba. The Agreement provided for the transfer of all of the assets, liabilities, rights and obligations of Luft and Bordai to Araba. The merger was subject to a number of conditions, including the approval by the Court of the liquidation of Bordai and Luft.

4. On 19 March 2025, the shareholders of the three companies resolved to approve the merger set out in the Agreement.

5. I have been provided with copies of emails which have been sent to parties who are said to be the counterparties of each of the companies, informing them of the proposed merger. I have also seen statements from the directors of the companies, declaring them to be solvent. In addition, I have seen copies of notices published in a newspaper, advertising the proposed merger. According to the Claimant, all creditors have been informed and no objections have been received.

6. Article 124 of the Companies Regulations applies where an arrangement is proposed between a company and its shareholders. Pursuant to Article 124(3), the Court may sanction a compromise or arrangement if a majority representing three quarters of all of its shareholders agree. That condition is satisfied in this case.

7. By Article 124(2), the Court may order a meeting of shareholders. In this case, there is no need for such a meeting because the sole shareholder of each company has already issued a resolution.

8. By the same provision, the Court may also order a meeting of creditors, with notice being given under Article 125 explaining the proposed arrangement and how it would affect the creditors' rights. In the present case, this also appears to me to be unnecessary as all of the creditors have had notice of the arrangement and none has registered any objection. It does not appear to me that their rights would be prejudiced as all of Luft and Bordai's assets and liabilities will be transferred to Araba and all of the companies are, it appears, solvent.

9. In the circumstances set out above, the proposed arrangement appears to me to be appropriate and I sanction it.

10. By Article 126 of the Companies Regulations, the Court may make orders to facilitate the proposed arrangement. The Claimant seeks an order for the amalgamation of the parties, which I so order.

11. The Claimant further seeks a declaration as to the effect of the merger. I am content to make that declaration.

12. The Claimant seeks an order that Luft and Bordai be dissolved. This is a condition precedent to the Agreement, pursuant to its clause 6.1(d). In my view, this falls within the Court's powers under Article 126 of the AIFC Companies Regulations. In the circumstances, I will make the Order. There is no reason to believe that any third party will be adversely affected by this. If they are, they would be entitled to apply to restore the companies to the Register, in accordance with Article 168 of the AIFC Companies Regulations.

13. In addition to the relief referred to above, the claim form seeks an order authorizing Araba to "*proceed with all necessary regulatory filings*". It does not seem to me that Araba needs the Court's authorization for that. I make no separate order in that respect. However, I make clear that Araba is already so authorized.

By Order of the Court,

Justice Tom Montagu-Smith KC,
Justice, AIFC Court

Representation:

The Claimant was represented by Mr Roman Kuat Dulatovich, Associate, Inlaw Inc. Ltd., Astana, Republic of Kazakhstan.