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BRIEFING

New Fortress Energy: Strategic jurisdiction selection and cross-border restructuring solutions

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The New Fortress Energy ("**NFE**") group has successfully restructured US$9.6 billion of debt utilising a Restructuring Plan under Part 26A of the Companies Act 2006 ("**RP**"), and received recognition of its RP under Chapter 15 of the U.S. Bankruptcy Code (the "**Bankruptcy Code**").

The two English plan companies, NFE Global Holdings Limited ("**NFE Global**") and NFE Brazil NewCo Limited ("**NFE Brazil NewCo**"), are part of the NFE group (the "**NFE Group**"), headed by the Nasdaq listed New Fortress Energy Inc. This decision marks the second instance where a U.S. publicly listed company has opted to restructure its debt in the UK using a Part 26A Restructuring Plan with recognition in the U.S. under Chapter 15 of the Bankruptcy Code, following Fossil Group, Inc in late 2025 (as we highlighted in *Crossing Borders: U.S. Public Company Successfully Implements UK Restructuring Plan in the U.S. Through Chapter 15 Recognition*).

The NFE restructuring used features not available under Chapter 11, underscoring the advantages available to groups from strategic forum selection, and the need for companies to consider the full menu of global rescue tools and the interplay between them in designing any restructuring.

Background

The NFE Group is a global liquefied natural gas and energy infrastructure business with operations across South and Central America. The group became highly leveraged and faced liquidity and project execution pressures after a period of rapid expansion.

The two RPs proposed by each of NFE Global (the "**CoreCo Plan**") and NFE Brazil NewCo (the "**BrazilCo Plan**") aimed to stabilise the group's capital structure. The key features were:

- relief of US$9.6 billion total debt, of which US$6.5 billion was owed to plan creditors;
- a corporate restructure of the group entities into two independent groups – a CoreCo Group and BrazilCo Group;
- provision of new equity instruments to plan creditors along with retention of equity by shareholders; and
- releases for all group obligors.

Both plans received overwhelming creditor support. The CoreCo Plan was approved by six classes of creditors, with five classes providing unanimous support, and the sixth class 99.84%. The sole class of the BrazilCo Plan voted unanimously in favour of the plan.

Restructuring Plan Sanction

The approval of the plans by each class of creditor meant that the court was not asked to exercise its cross-class cram down power. Instead, Cawson J applied the principles applicable in cases of schemes of arrangement under Part 26 of the Companies Act 2006, per *Re AGPS Bondco plc* [2024] EWCA Civ 24. Neither Hildyard J at the convening hearing nor Cawson J at the sanction hearing identified any jurisdictional issues. The overwhelming turnout satisfied the court that creditors were fairly represented.

In considering whether a creditor could reasonably approve the plans, Cawson J noted that the plans had been developed through extensive negotiations with creditors and represented a consensual agreement. Negotiations began in July 2025, culminating in a Restructuring Support Agreement being signed on 17 March 2026 by creditors representing 97% in value. The creditor engagement in this instance had no issue clearing the hurdle of a 'genuine attempt to formulate and negotiate a reasonable compromise between all stakeholders' that the Court of Appeal in *Re Petrofac* [2025] EWCA Civ 821 confirmed as the standard against which the court will assess the exercise of its discretion at sanction.

Expert evidence identified the benefits of the restructuring as substantial. Creditors receive consideration through the plans valued at US$3.32 billion, being the value post-plan of the equity instruments and reinstated debt granted to creditors. The relevant alternative for the CoreCo Group was accepted to be Chapter 11 proceedings followed by a sale of assets at a substantial discount, and for the BrazilCo Group, an accelerated going concern sale. The difference between the two outcomes of the plan and the relevant alternative, offered by the company as a measure of the benefits of the restructuring, was US$1.44 billion. The court accepted this uplift as a measure of the value created by the plans.

The benefits of the restructuring were allocated in a two-stage process, first between the collateral pools supporting the interests of the creditor groups, and second pro rata within the pools between creditors. The exceptionally high level of creditor support, together with the sizeable uplift to be achieved by the restructuring, and the absence of any opposing creditor, reassured the court of the fairness of the restructuring.

A case of "good forum shopping"

Despite the group's largely international operations and debt, the group was able to invoke the court's jurisdiction. It did so by having the plans proposed by two companies incorporated in England, relying on incorporation to establish "sufficient connection". NFE Global had been a guarantor of the CoreCo Plan debt since 2021, and NFE Brazil NewCo became a guarantor of the BrazilCo Plan debt shortly after its incorporation in 2026. The court held that the case was properly described as "an example of good forum shopping", a phrase used to distinguish "the situation where a change of forum is used for unwarranted purposes, such as by a debtor to avoid the consequences of a particular bankruptcy regime". It cited *Re Codere Finance (UK) Ltd* [2015] EWHC 3778 (Ch) and *Re Gategroup Guarantee Ltd* [2021] EWHC 304 (Ch) with approval and was not concerned with the element of artificiality, particularly of the use of the English SPV and assumption of liability for the BrazilCo Plan debt by NFE Brazil NewCo to support jurisdiction. The plan debt remained governed by New York law, but the change of governing law to English law has also previously been held to be a permissible means of creating a sufficient connection (see *Re APCOA Parking Holdings GmbH* [2014] EWHC 3849 (Ch)).

Building a bridge to the U.S.: the role of Chapter 15

To sanction the plan, the English court needed to be satisfied that there was a reasonable prospect of it having substantial effect in each relevant jurisdiction, being the U.S. and Mexico. It was so satisfied on the basis of expert reports as to international effectiveness.

Subsequently on 28 May 2026, NFE Global and NFE Brazil NewCo filed Chapter 15 petitions in the U.S. Bankruptcy Court for the Southern District of New York. On 26 June 2026, Judge Martin Glenn granted the request for recognition under Chapter 15 at an uncontested hearing and found that the centre of main interests (the "**COMI**") for the group was England, recognised the debtors' English proceedings as foreign main proceedings, and entered an order giving full force and effect to the RPs.

Judge Glenn considered the elements of the RPs available under Part 26A that are not necessarily obtainable under Chapter 11, including:

- Releases of all creditors' claims against all group obligors and guarantors, not only NFE Global and NFE Brazil NewCo. Such third party releases are permitted under Part 26A where they are "necessary in order to give effect to the arrangement proposed for the disposition of the debts and liabilities of the company to its own creditors" (*Thames Water* [2025] EWCA Civ 475), but are now limited in Chapter 11 cases after the U.S. Supreme Court's 2024 *Purdue Pharma* decision. While Judge Glenn inquired whether the third-party releases would apply to any mass tort claims, he was satisfied by counsel's confirmation that they would not and noted that the release of guarantor claims is a common feature of English schemes that "doesn't raise a problem whatsoever".
- Retention by 35% of the equity in the CoreCo Group by existing shareholders, which would otherwise violate the absolute priority rule under the Bankruptcy Code which (subject to certain exceptions) requires that all senior classes of creditors be paid in

full before junior creditors or existing shareholders may receive or retain any value under a plan of reorganization.

Judge Glenn applied careful scrutiny before granting recognition, questioning counsel on the above points, as well as on creditor outcomes, asking how legacy noteholders — projected to recover 26% on their claims — would fare under the relevant alternative. His overarching concern was that he wanted "to be sure that no class of creditors has been disadvantaged by going to the UK and then coming back in a Chapter 15." Judge Glenn accepted the argument that the relevant alternative would have been a Chapter 11 process involving asset sales under section 363 of the Bankruptcy Code yielding an estimated 13% recovery for legacy noteholders, compared with 26% under the UK plan.[1]

On 14 July 2026, Judge Glenn issued a written opinion further explaining his 26 June decision, *In re NFE Global Holdings Ltd.*, No. 26-11268 (MG), 2026 WL 2032660 (Bankr. S.D.N.Y. July 14, 2026). Having recognised that "increasingly we are seeing U.S. companies seeking to restructure in the UK," Judge Glenn's opinion is the first published decision by a U.S. bankruptcy court addressing recognition of a Part 26A restructuring plan proposed by a company with a U.S.-listed parent. The opinion expands upon several of the issues discussed at the recognition hearing, including:

- **COMI and the limits of "COMI tourism".** Perhaps most significantly, Judge Glenn addresses the use of English restructuring tools by U.S.-linked companies and the potential for what Judge Glenn described as "COMI tourism". While acknowledging that Chapter 15 does not prohibit a company from establishing a foreign affiliate to serve as a plan or scheme company, Judge Glenn emphasized that U.S. courts should closely scrutinize COMI where a Part 26 or Part 26A process is being used to restructure debt outside the UK, particularly to ensure that the process is not being used to circumvent the Bankruptcy Code or prejudice creditor interests. *Id.* at *22.

  The opinion further distinguishes between the English-law "sufficient connection" requirement and the COMI analysis required for Chapter 15 recognition, emphasizing that the two inquiries involve different legal standards. *Id.* On the facts presented, Judge Glenn concluded that the debtors' COMI was located in England, relying on, *inter alia*, the debtors' incorporation and registered offices in England, maintenance of books and records and bank accounts in the UK, use of a UK corporate secretary, and the appointment of an English-resident foreign representative who served as a director of both debtors. *Id.* at *20.

- **Third-party releases and exculpation provisions.** Judge Glenn confirmed that third-party releases of claims against group obligors and guarantors are enforceable in a Chapter 15 proceeding. *Id.* at *17. The opinion also recognises that exculpation provisions contained in RPs may be enforced through Chapter 15

[1] Judge Glenn required the relevant alternative report prepared by the groups' advisors to be filed on the docket to supplement the record on this point. The report is available at docket number 27 in [*In re NFE Global Holdings Limited, et al.*, Case No. 26-11268 (MG)].

where they are appropriately limited, including through carve-outs for fraud, gross negligence, and wilful misconduct. *Id*. at *18.

- **Section 1522(a) of the Bankruptcy Code as a safeguard for creditor interests.** Judge Glenn emphasized that section 1522(a), which requires that a Bankruptcy Court find that creditors are "sufficiently protected" before granting certain discretionary relief in a Chapter 15, serves as an important guardrail when a U.S. court is asked to recognise and enforce a foreign restructuring plan. In granting recognition, Judge Glenn concluded that creditor interests were sufficiently protected given the overwhelming creditor support for the restructuring, the absence of any objections, and evidence that creditors would receive materially better recoveries under the Part 26A plans than under the relevant alternative. *Id*. at *23–24.

Conclusion

The NFE restructuring using Part 26A and Chapter 15 recognition demonstrates that the English courts will be amenable to strategic "good" forum shopping, and that U.S. courts will recognise and give effect to restructurings that use techniques not otherwise available in the Chapter 11 toolkit, each where there is significant creditor support and a demonstrable benefit to creditors from the restructuring, compared to the relevant alternative. Companies and creditors considering and designing group restructurings should consider the cross-border menu of tools available, and understand the requirements for sanction and recognition in each applicable jurisdiction. In the UK, genuine engagement and negotiation with creditors is required for Part 26A. In the U.S., a U.S. Bankruptcy Court will scrutinise whether any class of creditors has been disadvantaged by the choice of a foreign proceeding and may also decline to grant relief that would be manifestly contrary to U.S. public policy.

The NFE restructuring adds to an emerging line of authority confirming that the Part 26A/Chapter 15 strategy offers a credible and effective cross-border restructuring route for U.S.-listed groups with international operations. At the same time, Judge Glenn's opinion serves as a caution that "forum shopping" will be respected only where it is supported by creditor consent, fair process, and a showing that creditors are not being disadvantaged by the foreign proceeding.

Clifford Chance has deep experience advising on complex cross-border restructurings, including in the UK and the U.S., and on the full spectrum of restructuring tools available.

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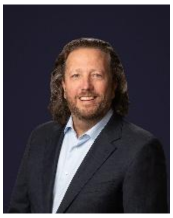

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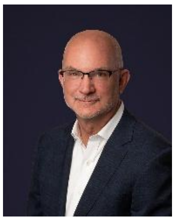

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