Neutral Citation Number: [2026] CIGC (FSD) 74

IN THE GRAND COURT OF THE CAYMAN ISLANDS
FINANCIAL SERVICES DIVISION

CAUSE NO. FSD 161 OF 2018 (NSJ)

IN THE MATTER OF THE COMPANIES ACT (2026 REVISION) AND IN THE MATTER OF CHINA SHANSHUI CEMENT GROUP LIMITED

BETWEEN:

TIANRUI (INTERNATIONAL) HOLDING COMPANY LIMITED

PETITIONER

AND:

CHINA SHANSHUI CEMENT GROUP LIMITED

FIRST RESPONDENT

ASIA CEMENT CORPORATION

SECOND RESPONDENT

CHINA NATIONAL BUILDING MATERIAL CO. LTD

THIRD RESPONDENT

FSD0161/2018 2026-09-03

Before:	**The Hon. Justice Segal**
Appearances:	**Tom Lowe KC instructed by Gemma Bellfield, Corey Byrne and Holly Johnston of Ogier (Cayman) LLP for the Petitioner**
	Mr Vernon Flynn KC instructed by Jasmin Davies of Carey Olsen for the Company
	David Allison KC and Stefanie Wilkins instructed by Laure-Astrid Wigglesworth and Alexandra Stasiuk of Walkers (Cayman) LLP for the Second Respondent
	Alex Potts KC instructed by Clare Bradin and Anna-Rose Davies of Conyers Dill and Pearman LLP for the Third Respondent
Heard:	**8 July 2026**
Corrected evidence and further submissions filed:	**31 July and 3 August 2026**
Judgment circulated:	**19 August 2026**
Judgment handed down:	**3 September 2026**

JUDGMENT ON THE PETITIONER'S SPECIFIC DISCOVERY SUMMONS

Introduction

1. I refer to my judgment dated 14 August 2026 (the ***August Judgment***) which deals with various other applications made by the Petitioner at the hearing on 8 July 2026 and sets out the relevant background. I use the same definitions in this judgment as are set out in the August Judgment.

2. As I explained in the August Judgment, the Petitioner has issued a summons dated 15 May 2026 (the ***Specific Discovery and Amendment Summons***) in which the Petitioner seeks orders (the ***Specific Discovery Orders***) against the Company and separately against the Second and Third Respondents requiring them to give discovery by way of list and inspection (and the provision of copies) of certain documents.

3. I heard the parties' submissions in respect of the Petitioner's application for the Specific Discovery Orders (the ***Specific Discovery Application***) at the 8 July 2026 hearing but, as I noted in the August Judgment, on 21 July 2026 Walkers (the Cayman attorneys to the Second Respondent) sent an email to the Court in which they stated that the Second Respondent had discovered that some of the evidence which it had filed and relied on when opposing the Specific Discovery Application required correction. The Second Respondent requested that the Court defer giving a decision on the Specific Discovery Application until it had had an opportunity to file further evidence correcting the errors in its earlier evidence and the other parties had had an opportunity to respond, if appropriate. On 23 July 2026, my PA sent an email to the parties to confirm that I would, as requested, await the filing of the further evidence relating to the Specific Discovery Application before giving judgment on it.

4. On 29 July 2026 the Second Respondent filed and served the Third Affidavit of Ms Sit (sworn on that day) with its exhibit together with the First Affirmation of Mr Kao Chien Feng (***Kao 1***), which was provided in its approved but unsworn form. Mr Kao is a junior manager in the Information Technology Department of the Second Respondent and between 2014 and 2022 he was an engineer in its Information Technology Department and

he said he was thus familiar with the Second Respondent's Information Technology system including the data retention period on its server.

5. On receiving this corrective evidence, the Petitioner wrote to the Court and said that the evidence had given rise to issues to which the Petitioner wished to respond by way of short supplemental submissions which it said it would file by no later than close of business on 31 July 2026.

6. On 31 July 2026 the Petitioner filed its supplemental submissions (the ***Supplemental Submissions***) together with (a) an amended version of the Specific Discovery and Amendment Summons which added an additional category of discovery (category 11), (b) the Second Affidavit of Ms Holly Victoria Johnston (which exhibited at HVJ-2 certain documents discovered in these proceedings but otherwise did not provide any further substantive evidence) and (c) a short authorities bundle.

7. On 3 August 2026 (a) Walkers filed the Second Respondent's further written submissions (the ***Further Submissions***) in response to the Supplemental Submissions and (b) Ogier, on behalf of the Petitioner, wrote to the Court to respond to the Further Submissions. On 4 August 2026, Carey Olsen on behalf of the Company, wrote to the Court to respond in particular to the filing by the Petitioner of the amended Specific Discovery and Amendment Summons without also filing an application for leave to amend supported by relevant evidence.

8. I set out below the relief sought by the Petitioner, the submissions made by the parties and my decisions of each of the applications made by the Petitioner. Those decisions are set out and briefly explained from [76] onwards.

The Specific Discovery applications

9. In the Specific Discovery and Amendment Summons the Petitioner sought orders (a) that the Company provide discovery by list of the documents listed in Schedule A of that

summons; (b) that the Second and Third Respondents provide discovery by list of the documents listed in Schedule B of that summons and (c) that the Petitioner, the Second Respondent, and the Third Respondent shall pay the Company's costs of compliance with the Specific Discovery Orders.

Schedule A

10. Schedule A identifies five categories of documents by reference to subject matter:

(a). negotiations between the Company's board and the New Shareholders (divided into three sub-categories).

(b). documents evidencing the underlying beneficial owners of the New Shareholders (divided into three sub-categories).

(c). information proving payments of the subscription amounts.

(d). correspondence with the Hong Kong Stock Exchange (***HKSE***).

(e). documents relating to subsequent transfers of shares (divided into two sub-categories).

11. Sub-category 1 of (a) [item 1 in Schedule 1] is in the following terms (my underlining) (this is now not in dispute):

> *<u>All communications and correspondence between 1 July 2018 to 31 October 2018 between custodians of the Company listed in Schedule 2 of the Discovery Protocol</u> dated 23 December 2024 (the Discovery Protocol) <u>and the below email addresses being the email addresses belonging to representatives of subscribers to convertible bond agreements (the Bondholders) which were entered into between the Company on 6 and 30 August 2018</u> (the **Subscription Agreements**) who subsequently converted their bonds into shares in the Company on 31 October 2018 (the **New Share Issue**) [then lists 12 email addresses]*

12. This sub-category comprises communications and correspondence between the custodians of the Company previously listed in Schedule 2 of the Discovery Protocol plus further email addresses which the Petitioner has identified from an email produced by the Company in discovery, belonging to representatives of subscribers to the convertible bond agreements entered into with the Company on 6 and 30 August 2018 (the ***Subscription Agreements***). These seven additional email addresses were not included in the searches defined as "*CB Searches*" in the Discovery Protocol, but belong to persons from the same companies which have already been included in the CB Searches.

13. Sub-category 2 of (a) [item 2 in Schedule A] is in the following terms (my underlining) (this is also now not in dispute):

> *All communications and correspondence between 1 July 2018 to 31 October 2018 between custodians of the Company listed in Schedule 2 of the Discovery Protocol and the two subscribers who entered into subscription agreements with the Company on or around 6 October 2018 being JL Capital Global Investment SPC – JL Global Income and Growth Investment SP2 (JL Capital) and Jinan Industrial and Economic Investment Limited Partnership (Jinan Industrial) (together, the **October Subscribers**) including, but not limited to, communications between the Company and: (a) Xingfeng Huang from JL Capital; and (b) Cathy Cao and Ma Haichun from Jinan Industrial*

14. Sub-category 3 of (a) [item 3 in Schedule A] is in the following terms (my underlining):

> *All non-disclosure agreements entered into between 1 July 2018 and 31 October 2018 between the Bondholders and the October Subscribers (the New Shareholders) and correspondence between the Company and the New Shareholders relating to those agreements*

15. Sub-category 1 of (b) [item 4 in Schedule A] is in the following terms (my underlining):

> *All correspondence, records, materials or documents (in whatever form held) relating to, concerning or evidencing any 'know-your-customer', customer due diligence, enhanced due diligence, onboarding, compliance, regulatory or risk assessment processes carried out in respect of the New Shareholders between July and October 2018 by or on behalf of the Company, including by its directors, officers, employees, agents, advisers or representatives, and including (without limitation) all information held or obtained regarding the identity, ownership, control and underlying beneficial ownership of the New Shareholders.*

16. Sub-category 2 of (b) [item 5 in Schedule A] is in the following terms (my underlining):

> *To the extent not disclosed under paragraph 4 above, <u>all correspondence, records, materials or documents held by the Company which identifies the underlying beneficial owners of the New Shareholders</u> including, but not limited to: (a) the holders of shares in CMB Chung Wai Greater China Alpha Strategy SP as at 31 October 2018; (b) the limited partner(s) of Greater Bay both as at 31 October 2018 and as at today's date (c) the holders of shares in TFI EON Global Benefit Investment Fund SP2 as at 31 October 2018; (d) the holders of shares in JL Capital Income and Growth Investment SP2 both as at 31 October 2018 and as at today's date;*

17. Sub-category 3 of (b) [item 6 in Schedule A] is in the following terms (my underlining):

> *To the extent not disclosed in paragraphs 4 and 5 above, <u>all correspondence, records, materials or documents establishing the proposition, understanding or assertion that the bonds issued to Cithara on 8 August 2018 were held for the benefit of Guotai Junan International Holdings Limited (**Guotai**)</u>.*

18. Category (c) [item 7 in Schedule A] is as follows (my underlining):

> *All correspondence, records, materials and documents (in whatever form held) <u>relating to or evidencing how and when Cithara (in respect of the 30 August 2018 issuance) and Greater Bay paid for the convertible bonds</u> pursuant to the Subscription Agreements including but not limited to payment requisitions, bank statements and wire records.*

19. Category (d) [item 8 in Schedule A] is as follows (the Petitioner withdrew this request at the hearing following confirmation from the Company that there were no further responsive documents to be disclosed and I do not therefore consider this category further):

> *All correspondence and communications between representatives for the Company, including, but not limited to, Doris Wu and Chang Zhangli and representatives of the Hong Kong Stock Exchange between 17 September 2018 and 6 October 2018.*

20. Sub-category 1 of (e) [item 9 in Schedule A] is "*A current copy of the Company's register of members*" (this is now not in dispute).

21. Sub-category 2 of (e) [item 10 in Schedule A] is as follows (my underlining):

> *All documents, correspondence, records and materials relating to, concerning or evidencing the sale, transfer or other disposal of the Company's shares by the below New Shareholders (the Selling Shareholders) on or about the below dates including (without limitation) any transaction records, sale or purchase agreements, transfer instruments, confirmations, settlement records, instructions, and related communications:*
>
> | *Selling Shareholder* | *Sale dates* |
> |---|---|
> | *Wong Ham Chi* | *30 November 2018* |
> | *TFI* | *22 July 2020* |
> | *Wonderful Sky* | *4 October 2021* |
> | *Luk Ching Sanna* | *4 October 2021* |
> | *Cithara* | *17 January 2022* |

Schedule B

22. There are two categories of documents that the Petitioner requires the Second and Third Respondents to discover. First, documents relating to communications between Ms Wu of the Second Respondent and Mr Chang of the Third Respondent with the representatives of the Bondholders/New Shareholders between July and October 2018. Second, *all* the court documents filed in proceedings before the Hong Kong Court of First Instance in HCA 2880/2015 including affirmations, submissions, skeleton arguments, summonses, expert reports, transcripts and correspondence bundles for the hearing.

23. The first category is formulated as follows (my underlining):

> *All communications and correspondence between 1 July 2018 to 31 October 2018 evidencing negotiations between Doris Wu (in the case of ACC) and Chang Zhangli (in the case of CNBM) with the New Shareholders and their representatives (to the extent not already disclosed) for the Subscription Agreements and the New Share Issue other than those that were conducted using the email addresses listed in Schedule 2 to the Discovery Protocol. For the avoidance of doubt:*
>
> *(a) This shall include communications via text message or instant messaging applications used by Ms Wu and Mr Chang including WeChat and WhatsApp; and*
>
> *(b) The New Shareholders and their representatives shall include, but not be limited to, those listed in paragraph 1 of Schedule B and also include those email*

> *addresses listed as "CB Search 3" in the Discovery Protocol being: [a list of 6 email addresses is set out].*

The Petitioner's evidence and submissions

Category (a) (1) and (2) – negotiations with the New Shareholders and documents evidencing the underlying beneficial owners [items 1 and 2 in Schedule A]

24. The Petitioner said that for the reasons set out in [20] of Li 13 it had cause to believe that the discovery of documents produced by the other parties regarding the negotiations between the Company and the New Shareholders was incomplete. Ms Li said as follows (my underlining):

> *20. Petitioner has cause to believe that the discovery of documents by the parties as to the negotiations between the Company (represented by Ms Doris Wu and Mr Chang Zhangli) and the Bondholders are incomplete. In that regard, based on a review of the documents produced by the parties conducted by the Petitioner and its attorneys, I note the following:*
>
> *20.1 It appears that all of the Bondholders were introduced to the Company and its advisors by Ms Wu, who is and was at the relevant time, both the Executive Vice President of ACC and an executive director of the Company. However, the Petitioner has not identified among the disclosed documents any material correspondence which shows how these subscribers were identified by Ms Wu prior to their introduction ……. The absence of documents evidencing arm's length negotiations between the Company and the Bondholders is inconsistent with previous representations by the Company that such negotiations took place.*
>
> *20.2 There does not appear to be any evidence that there were any substantive negotiations between the Company and the Bondholders in respect of those Subscription Agreements entered into on or around 31 August 2018 including negotiations over the material terms of those agreements(which were all largely identical). This is also inconsistent with previous representations by the Company that such negotiations took place.*
>
> *20.3 In the announcement to the Hong Kong Stock Exchange (HKEX) dated 7 October 2018, … the Company stated that:"[[t]he price for the New Shares was arrived at after arm's length negotiations between the Company and the Subscribers with reference to, among others, the fair market price of the Shares."(emphasis added)…… However, the Company has not disclosed any correspondence evidencing any substantive*

negotiations between the Company and any of the Bondholders between 30 August 2018 and 6 October 2018 .....

20.4 The Company has produced an email dated 18 September 2018 in which Philip Li of Freshfields emails a number of individuals from Moelis and Ms Wu and asks: "Have we got NDAs in place to cover our discussion with the CB holders and potential placees?" Ivy Wong from Moelis replies and says: "NDAs from the last CB process should still apply. Doris will ensure NDAs are signed for any share place." There are two points from this email which suggest that the parties' production of Bondholder negotiations are incomplete. Firstly, it is unclear what "discussion" Mr Li is referring to as the parties have not produced any emails between the Bondholders and the Company and its representatives revealing substantive exchanges of communications after the Subscription Agreements were executed. Secondly, the parties have not produced any of the purported non-disclosure agreements entered into between the Company and the Bondholders nor any communications regarding these NDA.

…………

22. The Company has produced an email from Latham & Watkins to Freshfields (copy Ms Wu) dated 20 September 2018 which lists the contact details of all of the relevant individuals working at the Bondholders who were involved in the negotiations for the Subscription Agreements……This email lists an additional seven email addresses which were not otherwise included in CB Search 3, being: [email addresses listed]

23. Ms Wu then followed up this email and clarified an additional contact person for Wonderful Sky and Luk Ching Sanna as Mr Victor Liu at victorliut@wsfg.hk....

24. I also note:

24.1 It appears that a number of emails were exchanged between an individual known as Elvie Lu of Cithara at elvie.lu@citharacapital.com who is not listed on the 20 September 2018 email. …

24.2 An individual named Bonnie Huang from TFI at bonniehuang@tfisec.com was sending emails to the Company and its advisors on TFI's behalf. .....

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24.3 There are various emails between other individuals at Wonderful Sky and the Company and its advisors including Samuel Wangg (samuelwangg@wsfg.hk) and Tony (tony@wsfg.hk) (it is not clear what Tony's last name is). …

25. As noted in paragraph 15 above, in Ogier's letter dated 23 March 2026, in light of the seemingly missing correspondence, the Petitioner requested that ACC and CNBM confirm:

" 1. Whether Ms Wu and Mr Chang conducted negotiations with the Bondholders via text messages or instant messaging applications such as WeChat or WhatsApp; and

2. If so, whether these messages have been retained and whether the device on which they are retained is the property of the Company, ACC and/or CNBM.

26. Neither Conyers nor Walkers confirmed this in their responses on 2 April 2026 and 10 April 2026 (respectively) although Walkers confirmed that: (a) no communications with the New Shareholders(as defined below) were conducted by Ms Wu using her ACC email address(doris.wu@acc.com.tw); and (b) Ms Wu did not negotiate with the New Shareholders in her capacity as a representative of ACC.

25. The Petitioner argued that in light of the apparent gaps in the correspondence between the Bondholders and the Company outlined in [20]-[24] of Li 13 (and in circumstances where relevant documents ought to have been captured by the CB Searches), it was necessary that the other parties conduct further searches and disclose all communications between 1 July 2018 to 31 October 2018 (a) as regards the Company, all communications and correspondence between the individuals listed in [22]-[24] and the custodians listed in Schedule 2 of the Discovery Protocol between 1 July 2018 and 31 October 2018; and (b) as regards the Second and Third Respondents, all communications and correspondence between Ms Wu and Mr Chang and the New Shareholders which are held by them either via email (other than those email addresses listed in Schedule 2 to the Discovery Protocol), text message or other instant messaging applications such as WeChat and WhatsApp including communications with all of those individuals listed in [1] and [1(b)] of Schedule A.

26. The Petitioner said that the Company's discovery had identified for the first time that the additional subscribers who entered into subscription agreements on or about 6 October 2018, as announced on 7 October 2018, were JL Capital and Jinan Industrial (the ***October Subscribers*** – with the Bondholders, the ***New Shareholders***). Accordingly, the Petitioner argued, it was necessary for the Company to conduct further searches between 1 July 2018 to 31 October 2018 using key search terms relating to these newly identified entities.

Category (a) (3) – non disclosure agreements [item 3 in Schedule A]

27. Ms Li said that it appeared that negotiations with the Bondholders may have been conducted with the Company requiring non-disclosure agreements to be in place. However, the parties had not produced any such agreements nor any communications regarding these agreements. Freshfields and Moelis had referred to such non-disclosure agreements in their email dated 18 September 2018, which showed that there were such agreements. These agreements, the Petitioner argued, were clearly relevant to the relationship between the Company and the Bondholders and should have already been identified based on the terms of the CB Searches.

Category (b) (1), (2) and (3) – correspondence relating to any know-your-customer or other, customer due diligence carried out in respect of the New Shareholders between July and October 2018 by or on behalf of the Company and which identified the beneficial owners of the New Shareholders [items 4, 5 and 6 in Schedule A]

28. The Petitioner also said that in the evidence given in support of the Company's application to strike out the Petition filed on 11 September 2018, Ms Wu on behalf of the Company had stated that Cithara holds the bonds issued on 8 August 2018 on behalf of Guotai and the Company had "*completed a KYC exercise on each of the [Bondholders]*." However, none of the documents produced by any of the parties to date clarified who the beneficial owners of the New Shareholders are, nor do any documents disclosed confirm that any bonds are held for and on behalf of Guotai or outline the arrangement between Cithara, Guotai and the Company.

29. The Petitioner's knowledge of the identity of the beneficial owners of the New Shareholders remained very limited. It was aware that three of the seven subscribers were Cayman segregated portfolio companies (Cithara, TFI and JL Capital) and that one was a Cayman exempted limited partnership (Greater Bay). However, in respect of all four of these entities, no publicly accessible information was available and the Company had never provided any information as to the shareholders in the relevant segregated portfolios and/or the limited partners of the partnership (or their underlying beneficial owners). The Petitioner was also aware that Wonderful Sky and Luk Ching Sanna were connected parties of the Third Respondent through Liu Tianni who is Ms Luk's husband and both Wonderful Sky's chairman and an underlying beneficial owner. At all relevant times, Mr Liu was also a director of a subsidiary of the Third Respondent (Luoyang Glass Company Limited). The Petitioner did not know who Wong Ham Chi or Chiang Ching Feng were or how they discovered the opportunity to enter into the Subscription Agreements although it was notable that Mr Chiang (a small investor) is a resident of Taiwan where the Second Respondent is based, when nobody else had any connection with Taiwan.

30. The Petitioner said that as an outsider to the Company's management at the time, it was and is not aware of how the Company's know-your-customer, customer due diligence, onboarding, compliance, regulatory or risk assessment processes were carried out nor who carried them out and where this information was retained or held within the Company's records. Ms Wu had confirmed that these categories of documents existed and, the Petitioner submitted, such records were clearly relevant and indeed essential to the resolution of the Amended Petition. Accordingly, the Petitioner considered that these categories of documents ought to be produced by the Company (and ought to have already been produced pursuant to the CB Searches).

Category (c) [item 7 in Schedule A]

31. Ms Li said that the Company had produced some records which suggested that the Bondholders had paid for the bonds. However, it appeared that both TFI and Mr Feng had paid for their bonds on 31 August 2018, being the date that the Subscription Agreements

were executed but before completion and therefore before any payment obligation arose. Ms Li said that these early payments were inconsistent with the Company's case that these transactions were at arms' length. However, no records had been produced which established that Cithara (in respect of the 30 August 2018 issuance) or Greater Bay had paid for the convertible bonds pursuant to the Subscription Agreements and argued that these records should be produced.

Category (d) - correspondence with HKEX [item 8 in Schedule A]

32. Ms Li (at [40]-[44] of Li 13) said that it appeared that relevant and important correspondence with the HKEX between 17 September 2018 and 1 October 2018 had not been disclosed. The documents discovered showed that there had been a meeting with the HKEX on 17 September 2018 at which it appeared that the Company had proposed to restore the Public Float via two alternative proposals (a proposal that all shareholders sell down their shares on a pro rata basis or alternatively that new shares be issued – the latter being described as "Proposal B"). However, the next material correspondence discovered dated from 1 October 2018 (in which Freshfields, the Company's lawyers, had provided draft circulars and other documents in respect of the "Share Resumption Plan" which was ultimately announced on 7 October 2018).

33. Ms Li said that in her view it was unusual that there was no material correspondence in the period after the meeting on 17 September 2018, at which point the Company had been making proposals for dealing with the Company's listing issues to the HKEX and 1 October 2018, by which time it appeared that the Company had the HKEX's buy-in to its proposal for the New Share Issue. In particular, there was no correspondence in which the Company provided the identities of the underlying beneficial owners of the New Shareholders. These documents ought to have been identified via the CB Searches and disclosed and in the absence of such documents having been discovered or a reasonable explanation as to why such documents did not exist, the Company should be required to produce all correspondence between any of its employees, representatives and agents and the HKEX between 17 September 2018 and 1 October 2018.

Category (e) – documents relating to the subsequent transfers [items 9 and 10 in Schedule A]

34. The Petitioner's request for an order that it receive a copy of the Company's register of members was not pursued because the Company had agreed to provide the Petitioner with satisfactory evidence of the list of registered members.

35. Since, as is explained in the August Judgment, I dismissed the Petitioner's application for permission to make the Subsequent Transfers Amendment, it follows that the Petitioner's application for specific discovery of documents relevant to this amendment (item 10 in Schedule A) must also be dismissed. I therefore do not consider this category of documents further.

Schedule B

36. As regards [1(a)] of Schedule B, the Petitioner said that there had been a failure by the Second Respondent to discover documents which disclosed Ms Wu's communications (or communications from others at the Second Respondent) with the New Shareholders (the Petitioner's approach to this issue was developed in response to the corrective evidence filed by the Second Respondent, and is discussed further below) and Mr Chang's communications (or communications from others at the Third Respondent) with the New Shareholders. In view of the gaps in the discovery on this important issue, the Respondents should be required to undertake fresh searches including text messages and instant messaging sent by and to Ms Wu and Mr Chang. In addition, (see [1(b)] of Schedule B), the Petitioner listed six individuals and their email addresses which it said the Respondents should include in their further searches. Ms Li in her evidence in Li 13 set out the basis on which the names and email addresses referred to in [1] of Schedule A had been identified but did not deal with the six names included in [1(b)].

37. As regards [2] of Schedule B, Ms Li in Li 13 said that the Petitioner anticipated that the Respondents will seek at trial to rely on the findings and conclusions of the Hong Kong

Court in the 2880 Proceedings (the evidence adduced by the Respondents for trial supported this view) and that it will be necessary and important for the Petitioner to have access to all relevant documents to enable it to assess and make submissions as to what was before the Hong Kong Court and the basis on which the Hong Kong Judge reached his decisions (Ms Li also noted that it was likely that there would be a dispute as to what the Hong Kong Court found and the Respondents' entitlement to rely on that Court's findings and conclusions). Ms Li stated that in these circumstances it would be inequitable for the Respondents not to disclose *all* of the relevant documents from the 2880 Proceedings to the Petitioner which documents it has to date not seen and to which it does not have access.

The Company's evidence and submissions

The Company's evidence

38. The Company filed the Fourth Affirmation of Chang Ming Cheng (***Chang 4***) dated 12 June 2026 in support of its opposition to the Specific Discovery Application.

The relevant background

39. The Company noted that:

(a). by an order made on 7 February 2022 (the ***February 2022 Order***) and a further order made on 27 June 2022, the Court directed the parties to put forward proposals in respect of discovery and to agree a discovery protocol, with a further case management conference on these matters to be listed on 22 November 2022 (the ***June 2022 Order***).

(b). on 22 November 2022, the case management conference had taken place pursuant to the June 2022 Order.

(c). between the February 2022 Order and 23 December 2024, the Petitioner and the Respondents had negotiated the Discovery Protocol in the Petition Proceedings and save in relation to the case management hearing in November 2022, the Company's role in these negotiations was limited, e.g. it provided limited input on the Discovery Protocol consistent with its role as the subject matter of the proceedings. The degree and nature of the Company's input was very different to what it might have been if the Company were an active party. When it did intervene, the Company's focus was to avoid duplication of discovery, achieve cost efficiencies in the discovery process, and the recovery of its costs, and its comments to the competing draft protocols were limited accordingly.

(d). on or about 22 May 2024, the Company engaged Control Risks Pacific Limited (***Control Risks***) as its e-discovery service provider. Control Risks completed its data collection by around 10 September 2024.

(e). on 23 December 2024, the parties had reached agreement on the Discovery Protocol. The final 44-page iteration of the Discovery Protocol set out the keyword search terms, date ranges and custodians for which each party to the Petition Proceedings was required to conduct searches.

(f). on 16 January 2025, Control Risks completed processing the data on the e-discovery platform, Relativity, and running of the agreed keyword searches, which resulted in 4,827 documents collected and stored in the PRC (the ***PRC Data***) and 81,295 documents collected in Hong Kong and stored in Singapore (the ***Singapore Data***).

(g). the Company had then engaged Zhong Lun Law Firm (***Zhong Lun***) as its PRC counsel to review and redact documents in accordance with Section I of the Petition Proceedings Discovery Protocol. After Zhong Lun's review completed on 14 March 2025, the PRC Data was uploaded onto the Singapore database, with any information sensitive to PRC law redacted.

(h). the PRC Data (post Zhong Lun's review and redaction) and the Singapore Data was reviewed by the Company's legal representatives for the purpose of identifying documents which were subject to privilege and/or confidentiality by the Company in accordance with section H of the Discovery Protocol.

(i). due to the significant volume of documents, which comprised over 85,000 documents captured by the keyword searches, on 21 March 2025, Carey Olsen wrote to the parties and asked for an extension of two months until 27 May 2025 for completing the Company's discovery.

(j). in line with the neutral role the Company has played in the Petition Proceedings since 2021, the Company's legal representatives had not reviewed the documents disclosed by the Respondents and the Petitioner, save that the Company had been asked by the Third Respondent to review 2,230 documents disclosed by the Third Respondent for privilege and confidentiality only, nor had the Company's attorneys reviewed any documents with any active defence of the Petition Proceedings or the Writ Proceedings in mind.

The Company's submissions in outline

40. The Company noted that the Specific Discovery Application was made pursuant to CWR O.3, r.12(1) and that the Court's jurisdiction to order discovery in winding up proceedings was exercised in accordance with established principles governing discovery, adapted to the winding up context (see *In the matter of Thalassa Investment Ltd* [2026] CIGC (FSD) 32 at [15]). Discovery was directed to documents which are relevant to the matters in issue, and which are necessary for the fair disposal of the proceedings or for saving costs. The test of relevance was not unlimited. It was informed by proportionality and the Court was required to guard against discovery which was unnecessarily wide, burdensome, or which would expand the proceedings into collateral or historical matters (*Thalassa* at [16]). In this jurisdiction the principles commonly traced to *The Compagnie Financiere et Commerciale Du Pacifique v The Peruvian Guano Company* (1882) 11 QBD 55 continued to apply, but were tempered by considerations of necessity and proportionality, particularly in interlocutory applications for specific discovery. The burden was on the applicant to

demonstrate that the documents sought are required for the fair determination of the issues raised by the pleadings (*Thalassa* at [17]).

41. Mr Chang's evidence in Chang 4 (see [6(a)]) was that the Company had fully complied with the Discovery Protocol and the 9 April Order, and had therefore discharged its discovery obligations in these proceedings.

42. The Company submitted that many of the requests in the Specific Discovery Application, as currently framed, were wide, insufficiently specific and not limited by the existing custodians listed in Schedule 2 of the Discovery Protocol. On their face, they would require the Company to collect, process and search without limitation an unspecified universe of data repositories of the Company beyond the existing set which the Company had collected and searched pursuant to Schedule 2 of the Discovery Protocol. The Company submitted that if such a process was warranted, it was disproportionate in terms of both time and costs and would cause a real risk that the exercise would not be able to be completed before the current trial dates. Assuming that the Petitioner could satisfy the Court that the requests were necessary for the fair disposal of the issues in the Petition Proceedings, in order to be workable within a realistic time-scale, the requests (if they were to be ordered), needed to be restricted to the custodians previously ordered for the Company in Schedule 2 of the Discovery Protocol. The Company said that it would assist and facilitate the timely production of further documents if the Petitioner were to propose keyword searches so that the Company could produce any further discovery on the same basis it did before – producing all documents caught by the keyword searches without any relevance review (subject only to any privilege claims).

Category (a) (1)

43. The Company noted that the Petitioner sought further correspondence between the Company and email addresses which the Petitioner had identified from an email produced by the Company in discovery. These were:

(a). Elvie Lu from Cithara Multi-Strategy SPC – CMB Chung Wai Greater China Alpha Strategy SP (Cithara) at elvie.lu@citharacapital.com.

(b). Zhou Yuting, Zhou Yi and Wen Jiajia from Greater Bay Investment Fund L.P. (Greater Bay) at wendyzhou@290.com.hk, zhouyi@290.com.hk and wenjj@290.com.hk.

(c). Nina Yang, Ryan Zhou, Jewel Ye and Bonnie Huang from TFI Investment Fund SPC – TFI Eon Global Benefit (TFI) at ninayang@tfisec.com, ryanzhou@tfisec.com, jewelye@tfisec.com and bonniehuang@tfisec.com.

(d). Tanya Zhu, Victor Liu, Samuel Wangg and Tony from Wonderful Sky Financial Group Holdings Ltd (Wonderful Sky) at tanyazhu@wsfg.hk, victorliut@wsfg.hk,samuelwangg@wsfg.hk and tony@wsfg.hk.

44. The Company argued that this request was duplicative of CB Search 3 and therefore unnecessary or not proportionate for the fair disposal of the proceedings. CB Search 3 already included the search terms "*Chung OR Wai OR Cithara OR SPC OR CMB OR Alpha*", "*Greater Bay OR GBIF*", "*TFI**" and "*Wonderful Sky OR WSFG**".

45. However, the Company's position was that if the Court was nonetheless minded to grant this specific discovery request, the exercise that the Company was ordered to carry out in respect of category (a) should be limited as follows: the scope is limited to the custodian data sources ordered in Schedule 2 of the Discovery Protocol, so that there was no need for the Company to collect additional data beyond that already collected pursuant to Schedule 2 of the Discovery Protocol; specific keyword searches were agreed by the Company and the Petitioner, so that the Company could produce any documents on the same basis as under the Discovery Protocol – without any relevance review (subject only to any privilege or confidentiality issues); and the breadth of the exercise must be reasonably capable of being completed in advance of the trial.

Category (a)(2)

46. The Company's position was that if the Court was satisfied that the Petitioner had discharged its burden of proving that this request was necessary for the fair disposal of the issues in the Petition Proceedings, the exercise that the Company be required to carry out in respect of category (a)(2) should be subject to the same limitations as for category (a)(1), namely that: the scope was limited to the custodian data sources ordered in Schedule 2 of the Discovery Protocol so that there is no need for the Company to collect additional data beyond that already collected pursuant to Schedule 2 of the Discovery Protocol; specific keyword searches were agreed by the Company and the Petitioner, so that the Company can produce any documents on the same basis as under the Discovery Protocol and the breadth of the exercise must be reasonably capable of being completed in advance of the trial.

Category (a)(3)

47. The Company's position was the same as for category (a)(1).

Category (b)(1)-(3)

48. The Company submitted that the Petitioner's requests for documents evidencing the underlying beneficial owners of the New Shareholders was highly open-ended (for example, the Petitioner had requested "*all correspondence, records, materials or documents held by the Company which identifies the underlying beneficial owners of the New Shareholders*").

49. Mr Chang had given evidence at Chang 4 [32]-[37] that:

(a). the board of the Company did not have knowledge in respect of the underlying beneficial owners of the New Shareholders.

(b). it would be onerous for it to undertake a search of the documents sought, especially where these categories, as drafted, are not limited by custodians previously prescribed by Schedule 2 of the Discovery Protocol, and on their face would require the Company to collect, process and search without limitation all data repositories of the Company beyond the existing set.

(c). given the oppressively wide and insufficiently specific nature of these requests, the Company was unable at this stage to assess the scope of work and time required for compliance (if so ordered by the Court). The Company would not practically be able to complete this part of the specific discovery exercise as currently framed within the 28 days proposed by the Petitioner, and, depending on the scope ultimately ordered, may not be able to complete it even before the start of the trial.

(d). the specific discovery sought by the Petitioner would give rise to substantial further costs for the Company, over and above the already significant costs incurred in the discovery exercise to date, without any corresponding demonstrable necessity. The Company was concerned that such an exercise might be wholly disproportionate and fall well outside what is required for the fair disposal of the proceedings.

50. The Company submitted that if however the Court was minded to order discovery under this head, the same conditions be applied as the Company had proposed in respect of category (a)(1).

Category (c)

51. The Company argued that the question of how and when Cithara and Greater Bay paid for the convertible bonds was not a pleaded issue in the Petition Proceedings and could not be relied on as the basis of a specific discovery request.

52. The Company said that Ms Li in Li 13 had not explained how such documents were relevant, but instead had grounded this request on "*no records [having] been produced in discovery which establish that Cithara (in respect of the 30 August 2018 issuance) or Greater Bay paid for the convertible bonds pursuant to the Subscription Agreements.*

These records should be produced." As the Petitioner has not made any allegation regarding payment by Cithara and Greater Bay in the Amended Petition, it was not entitled to this category of documents.

Category (d)

53. The Company submitted that if the Court was satisfied that the Petitioner had discharged its burden of proving that this request was necessary for the fair disposal of the issues in the Petition Proceedings, the exercise that the Company be required to carry out in respect of category (d) should be subject to the same limitations as for category (a)(1).

The Second Respondent's position and submissions

54. At the hearing, the Second Respondent relied on the evidence of Ms Sit in Sit 2.

55. The Second Respondent said that as confirmed in the evidence of Ms Sit, it had fully complied with its obligations under the Discovery Protocol. That document had been extensively negotiated between the parties, and – in respect of some of the issues for disclosure – a lengthy hearing had been necessary in order to resolve the parties' differences as to the appropriate boundaries to be placed on the scope of the discovery obligations of the parties. The proper scope of the parties' discovery obligations had, therefore, already been exhaustively considered and litigated.

56. As regards the second category of documents in Schedule B (all the Court documents filed in HCA 2880/2015), the Second Respondent's position was that to the extent that such documents were responsive to the Discovery Protocol and relevant, and to the extent that the Second Respondent was entitled to disclose them, they had already been disclosed by the Second Respondent. The breadth of the documents sought by the Petitioner was such that the request was oppressive and would clearly yield a substantial volume of documents which were entirely irrelevant to the Petition (see Sit 2 at [34]). However, in a spirit of cooperation,

the Second Respondent had offered to produce its substantive evidence, written submissions, and transcripts of trial that took place in open court.

57. In Sit 2, Ms Sit summarised the Second Respondent's position as follows (my underlining):

> *34. It is ACC's primary position that the full suite of documents requested by the Petitioner under this category is, for the most part, irrelevant to the issues in dispute in these proceedings and is framed in terms that are excessively broad, such that compliance would result in unnecessarily voluminous discovery. The breadth of the request is striking: it encompasses not only substantive court filings but also administrative correspondence between the parties' legal advisors - documents which are likely to concern purely procedural matters which plainly have no bearing on the issues to be determined by this Honourable Court and which span the course of 5 years' worth of litigation. It is similarly unclear how ACC could properly disclose documents filed by other parties to the 2880 Proceedings without ACC (or more appropriately, the Petitioner) first obtaining their consent to the release of the collateral undertaking in respect of their respective documents. ACC is also particularly concerned that the Petitioner may seek to use this extensive disclosure request as a pretext to further delay the trial. This concern is all the more acute in circumstances where, as outlined above, the Petitioner has sought discovery of an extraordinarily broad category of documents at a very late stage, without any adequate justification for either the relevance or the breadth of the discovery sought.*
>
> *35. At paragraphs 52 to 56 of the Li Affirmation, the Petitioner states that its justification for seeking this category of documents is that it would be "inequitable" for ACC and CNBM not to disclose the documents so that the Petitioner has "the same visibility" over what happened in the 2880 Proceedings as the Respondents. Notably, the Petitioner does not contend that these documents are relevant to any issue in dispute in these proceedings but, rather, the sole justification advanced is one of parity of access in circumstances where the Respondents may seek to rely upon the findings of the Hong Kong Court of First Instance in the 2880 Proceedings, dated 12 May 2025 (the* **"Hong Kong Judgment").** *That justification is perplexing. If the Petitioner's position is that the 2880 Proceedings are not relevant to these proceedings (as Ogier stated in its letter dated 23 September 2025 (pages 528 to 529 of Exhibit LX-13), then the Petitioner has no proper basis to seek disclosure of those documents at all. However, in the spirit of cooperation, and despite the fact that ACC has provided the required discovery in compliance with the*

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> *<u>Discovery Protocol, ACC is prepared to agree to the production of all its substantive evidence (i.e. witness statements made on behalf of ACC as filed in the 2880 Proceedings), ACC's written submissions at trial and transcripts of the 2880 trial covering ACC's oral evidence (such transcripts having been taken from dialogue in open court and, therefore, not running afoul of the collateral undertaking)</u>.*

58. Accordingly, as Ms Sit confirmed, the Second Respondent has offered to produce its substantive evidence, written submissions, and transcripts of trial that took place in open court. It says that adopting this approach is appropriate as each of these documents is (a) a document which is within the Second Respondent's power to disclose, and/or (b) a document in respect of which there would be no breach of the collateral use undertaking if the Second Respondent were to provide it (see Sit 2 at [35]).

59. As regards the first category of documents in Schedule B (documents relating to communications between Ms Wu of the Second Respondent and Mr Chang of the Third Respondent with the representatives of the Bondholders/New Shareholders between July and October 2018), in Sit 2 Ms Sit stated as follows (my underlining):

> *29. The Petitioner's specific discovery request at Category 1 of Schedule B seeks all communications and correspondence between 1 July 2018 and 31 October 2018 evidencing negotiations between Ms Doris Wu (in the case of ACC) and Chang Zhangli (in the case of CNBM) with the New Shareholders and their representatives, to the extent not already disclosed, other than those conducted using email addresses listed in Schedule 2 to the Discovery Protocol.*
>
> *30. As set out in the Walkers Letter, <u>ACC has already provided all documents within its possession, custody or power on these issues</u>. <u>Accordingly, there is no further discovery available to be given by ACC in respect of this category of documents. To the extent that the Petitioner seeks further documents relating to negotiations with the New Shareholders, such requests must necessarily be directed to the Company, which was the counterparty to the Subscription Agreements and the entity on whose behalf any such negotiations were conducted</u>.*
>
> *31. Furthermore, <u>as was explained in the Walkers Letter, the Petitioner's reliance on Ms Wu's dual roles as executive director of the Company</u>*

and executive vice president of ACC as a means to extract further discovery from ACC is misconceived:

- *First, it is incorrect to state (as the Petitioner does) that all of the Bondholders were "introduced" to the Company by Ms Wu. As is evident from emails disclosed in these proceedings, Moelis & Company ("Moelis"), the financial advisor to the Company, asked the Company for a complete list of investors it had approached so that Moelis could conduct follow-up conversations with those investors. Upon that request, Ms Wu compiled the list of investors for Moelis so as to facilitate those connections.*

- *Second, when Ms Wu was re-appointed as a director of the Company in 2018, an ethical wall was put in place and a new email account was created for Ms Wu (doriswu.ss@hotmail.com) to deal exclusively with communications on behalf of the Company. During the course of her directorship, there was only one email from Latham & Watkins which was meant to be sent to Ms Wu solely at her Company email address but which was mistakenly copied to her ACC email. That email has been disclosed by the Company. Accordingly, ACC can confirm that, other than that email, there are no documents within its possession, custody or power which relate to this category of documents.*

32. Accordingly, and without waiving privilege (and as stated in Walkers' letter of 10 April 2026) I am instructed that: (i) no communications with the New Shareholders were conducted by Ms Wu using her ACC email address (doris.wu@acccom.tw); and (ii) Ms Wu did not negotiate with the New Shareholders in her capacity as a representative of ACC.

60. However, in Sit 3, Ms Sit confirmed that she needed to correct parts of her evidence. She stated as follows:

11. After the case management hearing on 8 July 2026 (at which the Specific Discovery and Amendment Summons was heard by this Honourable Court), on 13 July 2026, Ogier wrote to Walkers noting that the Petitioner had identified seven additional documents bearing Ms Wu's ACC email address (doris.wu@acc.com.tw) within the Company's discovery and invited ACC to, inter alia, file a further affirmation addressing certain statements in Sit 2. By way of this affidavit, I do so.

12. In light of the foregoing, the following statements in Sit 2 stand to be corrected as follows:

> (a). *Paragraph 31(b) should be corrected in that there was more than one email from Latham & Watkins copying Ms Wu's ACC email address; and*
>
> (b). *Paragraph 32(i) should be removed as there are communications involving the New Shareholder(s) and Ms Wu bearing her ACC email address. For the avoidance of doubt, I can confirm that paragraph 32(ii) of Sit 2 remains true to the best of ACC's knowledge and belief.*
>
> 13. *Paragraph 25 of Sit 2 adopted and repeated the contents of Walkers' letter dated 11 February 2026. Without waiving privilege, the said letter was drafted on instructions from myself on behalf of ACC based on our understanding of the emails cited by Ogier in their 2 February 2026 letter. To the extent that Walkers' letter also made the same points as outlined at paragraphs 31(b) and 32(i) of Sit 2, paragraph 25 of Sit 2 also stands to be corrected in the manner set out above as does Walkers' letter.*
>
> 14. *Critically, as explained at paragraph 4 above, these corrections have no bearing on the outcome of the Specific Discovery and Amendment Summons. In particular, paragraph 1 of Schedule B of the Specific Discovery and Amendment Summons expressly excludes communications conducted using the email addresses listed in Schedule 2 of the Discovery Protocol, which includes Ms Wu's ACC email address (doris.wu@acc.com.tw) such that the documents identified by the Petitioner in Ogier's letter of 13 July 2026 fall outside the scope of the specific discovery request.*
>
> 15. *Notwithstanding the above, and without waiving privilege, I am instructed that ACC will file an affirmation verifying that documents referred to at paragraph 1 of Schedule B of the Specific Discovery and Amendment Summons are not within its possession, custody or power within 7 days of the date of the filing of this affidavit.*
>
> 16. *Finally, I wish to apologise to this Honourable Court for any inconvenience or delay in the handing down of the judgment on the Specific Discovery and Amendment Summons arising from the filing of my corrective affidavit in these Proceedings.*

61. In Kao 1, Mr Kao confirmed that the Second Respondent has a server retention policy under which the server deletes data outside of the retention period, which is now thirty days but was previously fourteen days. Therefore, to the extent that the relevant email user at the Second Respondent did not specifically download and save correspondence, all emails would be removed automatically under this server retention policy. Mr Kao said that the Second Respondent did not produce certain emails from Ms Wu's ACC email address

because those emails would have been deleted in accordance with the server retention policy before the Second Respondent was joined as a party to these proceedings. Further, he said that the Second Respondent did not issue mobile phones to its employees and had never issued a mobile phone to Ms Wu. So that it did not have possession, custody or power over any communications via text message or instant messaging applications used by Ms Wu.

62. The Second Respondent also said it appeared that if any substantial additional discovery were to be ordered, then the trial date will be jeopardised, because (a) time will be required to provide that discovery, (b) it was likely that further evidence would then be required, or even that the Petitioner would seek to amend the Petition yet further, and (c) even if no further procedural steps were necessitated by the further discovery, it would still be necessary for the parties to have adequate time to consider the additional documents in their preparations for trial.

63. In its Further Submissions, the Second Respondent argued that the Petitioner should not be permitted to make further amendments to the Specific Discovery and Amendment Summons at this late stage and certainly not without filing an application and evidence in support and the Second Respondent being given an opportunity to respond.

64. The Second Respondent said that the amendments that the Petitioner wished to make on their face sought additional relief from the Company, and not from the Second Respondent (because the amendments had been made to Schedule A). However, it appeared from the Supplemental Submissions that the Petitioner was also seeking to expand the relief sought against the Second Respondent because, for example, in the Supplemental Submissions (at [26(b)]) the Petitioner had said that it sought an order that the Second Respondent "*compel Ms Wu... to disclose any WeChat messages between her and the New Shareholders... that are retained on her personal devices.*"

65. The Second Respondent submitted that it was not appropriate for the Petitioner to take the course that it had, which was to seek to shoe-horn an application for fresh relief into an existing application (made on 15 May 2026), on which there has already been evidence, and a hearing, and on which judgment was reserved (a decision having already been made by the

Court, and communicated to the parties, in respect of the balance of the Petitioner's applications). Further, any amendment to the existing Specific Discovery and Amendment Summons would require the leave of the Court, which had not been sought (citing GCR 20, r.8(1) as applied to winding up proceedings by CWR O.1, r.4(3A)). The Second Respondent said that the procedurally appropriate course for the Court to adopt was only to rule on the Specific Discovery Application as formulated in the Petitioner's summons dated 15 May 2026.

The Third Respondent's position and submissions

66. The Third Respondent's position, as set out in Du 3, was that (a) it had applied the agreed and comprehensive search parameters under the Discovery Protocol and its disclosure was now complete and (b) the Petitioner had not established that the documents sought actually exist or are in the possession, custody or power of the Third Respondent. The Third Respondent opposed any and all further discovery orders against it.

67. However, without prejudice to that primary position, the Third Respondent's alternative position, as set out in Du 3, was as follows:

(a). with regard to the requests for the Third Respondent to search Mr Chang's WeChat and WhatsApp pursuant to [1(a)] of Schedule B, and for documents responding to the email addresses and names specified in paragraph 1 of Schedule A (pursuant to paragraph 1(b) of Schedule B), Ms Du's evidence in Du 3 was that Mr Chang had never used WhatsApp at any time. As regards Mr Chang's WeChat history, Ms Du said that his 2018 WeChat records were no longer retrievable. Moreover, he did not communicate directly with any New Shareholders, and the Petitioner has identified no evidence that such communications exist. Accordingly, the Third Respondent submitted that this discovery request should be dismissed.

(b). on the assumption that the reference in [(1)(b)] of Schedule B to "*those listed in paragraph 1 of Schedule B*" was a typographical error and should read "*Schedule A*", the effect of [1] of Schedule B was to add a new category of search keywords, being the email addresses set out in paragraph 1 of Schedule A. The Petitioner had produced an email from Latham & Watkins listing contact details of individuals working at the Bondholders who were involved in the negotiations for the Subscription Agreements. This email listed the email addresses set out in [1] of Schedule A, which were not already included in the Discovery Protocol. Ms Du confirmed (at [33(b)] of Du 3) that the Third Respondent had conducted a further internal search of the names and email addresses specified in [1] of Schedule B, and that no further communications (including emails and messaging records) with the identified New Shareholders existed. Accordingly, the Third Respondent argued, this application should now be withdrawn insofar as it relates to the Third Respondent.

(c). with regard to [1(b)] of Schedule B, the Third Respondent did not consider that any additional searches were needed in relation to the email addresses and names set out in this sub-paragraph since they had already been the subject of searches in CB Search 3.

68. As regards the documents sought pursuant to [2] of Schedule B, the Third Respondent said that it understood that the scope of this request did not include discovered documents or exhibits to affirmations. The Third Respondent's primary position was that the Petitioner was not entitled to this further discovery. However, in the interests of narrowing the issues between the parties, the Third Respondent had indicated in Du 3 that it would be prepared to disclose witness statements filed by the Third Respondent, written submissions filed by the Third Respondent, and transcript extracts covering the Third Respondent's factual witness evidence.

The Petitioner's response to the Second Respondent's post-hearing corrective/further evidence

69. In the Supplemental Submissions, the Petitioner argued that Ms Sit had, in Sit 3, unconvincingly explained her earlier evidence in Sit 2 by saying that her reference to only one communication with Latham & Watkins was based on the fact that this was the only email referenced by Ogier in its letter dated 2 February 2026 in which an email had been

sent to Ms Wu's ACC email address. Ms Sit had said that the source of her incorrect statement was Ogier's letter. However, the Petitioner submitted that it was unacceptable for Ms Sit to have made sweeping assertions in sworn evidence about the use of the Ms Wu's ACC email address based solely on emails that Ogier had identified and provided by correspondence. The Petitioner said that there is and was no basis for the assertion in Sit 3 that "*those instructing me and I understood that the document referenced (i.e. Document CSCG-00077477) was the only such document.*". The Petitioner said that the Second Respondent would have been well aware that there were many communications in which Ms Wu used her ACC email address and that such use was not limited to the seven examples provided in Ogier's 13 July 2026 letter. In these circumstances, the Petitioner invited the Court to infer that the Second Respondent had misled both the Petitioner and the Court by reason of the statements made in Sit 2.

70. The Petitioner also asserted that Sit 3 was "*notable for its tortured avoidance of making any reference identifying the individual from whom Ms Sit is taking instructions.*" Leaving aside the fact that evidence which was not known to the deponent and was based on third party sources who had not been identified was inadmissible, Ms Sit had been seeking to avoid implicating Ms Wu in this misleading of the Court and the Petitioner.

71. The Petitioner noted that Mr Kao had exhibited an email from Ms Wu in which she had explained her practice for dealing with emails when acting in her capacity as a director of the Company. Ms Wu had said that given the server retention policy, her practice was to keep copies of emails sent from and to her ACC email account for record-keeping. However, she said that this practice did not extend to copies of emails using her ACC email address for business of the Company. Instead, as regards such emails, she said that she would "*sort those emails involving my ACC email account back to my Gmail account or Hotmail account.*" The Petitioner said that it was not clear what this meant or how Ms Wu "*sorts*" emails from one email account to another. It was also not clear why those emails had not been disclosed by the Second Respondent.

72. The Petitioner submitted that the Second Respondent's evidence seeking to excuse the failure to provide any documents from Ms Wu's ACC email address as outlined in Kao 1 and Ms Wu's exhibited email was manifestly unsatisfactory. The server retention policy allegedly maintained by the Second Respondent was unusually short for a listed company and it had not disclosed any documents evidencing the server retention policy and until it did so the Petitioner did not accept that the Second Respondent had truthfully explained its failure to provide relevant emails from Ms Wu's ACC email address and to comply with its discovery obligations. The Petitioner said that it was to be inferred that the Second Respondent had failed to comply with its discovery obligations. The Petition had been served on 31 August 2018, a time at which Ms Wu continually used her ACC email address for communications in respect of the bond issue and other relevant Company business. The Petitioner considered that it was "*astonishing*" that the Second Respondent had failed to preserve Ms Wu's emails whatever its document destruction policy had been given the likelihood that the emails from her ACC email address would be needed in these and other proceedings and that the Company had also failed to do so. The Petitioner noted that Mr Kao had said that the Second Respondent had not disclosed any emails post-May 2018 (being the month that Ms Wu was reappointed as a director) because of the server retention policy and because Ms Wu did not save these emails on her computer; however, the Second Respondent had disclosed hundreds of emails from Ms Wu's ACC email address relating to the business of the Company for the short period that Ms Wu was initially a director (being between October and December 2015).

73. The Petitioner submitted that in the circumstances, the Court should order that Ms Wu provide sworn evidence (a) confirming whether any additional communications with the New Shareholders took place other than from her Company email address; (b) advising whether the Company conducted KYC and due diligence on the New Shareholders given the conflicting evidence on this point that has been provided by the Company; (c) advising the basis upon which she had stated that the bonds held by Cithara were held on behalf of Guotai Junan International Holdings and (d) explaining why the Second Respondent had produced significant amounts of documents from her ACC email address in 2015 but no documents

from 2018 and after. The Petitioner sought to amend Schedule A to the Specific Discovery and Amendment Summons by adding a new paragraph 11 as follows:

> *All communications and correspondence via text message or instant messaging applications used by Doris Wu including WeChat and WhatsApp between 1 July 2018 to 31 October 2018 and including on her personal devices evidencing negotiations between Ms Wu and the New Shareholders and their representatives for the Subscription Agreements and the New Share Issue. For the avoidance of doubt, the New Shareholders and their representatives shall include, but not be limited to, those listed in paragraph 1 of Schedule A and listed in "CB Search 3" in the Discovery Protocol being:*
>
> *Justin Zhang from Cithara*
>
> *Jacob Dong from Greater Bay*
>
> *Xiaoning Meng from TFI*
>
> *Luk Ching Sanna from Wonderful Sky*
>
> *Wong Ham Chi; and*
>
> *Chiang Ching Feng*

74. The Petitioner argued that the Court had jurisdiction to make such orders. As I had held in *Abraaj Holdings (in Official Liquidation) v GHF Group Ltd* (Unreported, 19 July 2022) following the English Court of Appeal decision in *Phones 4U Ltd (in administration) v EE Ltd* [2021] EWCA Civ 116, the Court could make an order requiring parties to request access to senior executives' personal devices for disclosure purposes. Given that Ms Wu remained employed at the Company and the Second Respondent one or both of them could compel her to provide access to her WeChat messages on her personal phone to the extent that they relate to business of the Company and/or the Second Respondent.

75. In Ogier's letter to the Court dated 3 August 2026, Ogier said that the Petitioner was prepared to file a summons for the purpose of making its application to amend the Specific Discovery and Amendment Summons, if the Court so required. However, Ogier argued that a formal application was not necessary or justified, and nor was a further affidavit in support of such an application. The parties were now only some two months away from the start of the trial

of the Petition and the Petitioner should not be put to the time and expense of preparing a more formal leave application by summons to be heard by the Court at a later undetermined date. The amendment application has arisen as a direct response to [12] of Kao 1 where, for the first time the Second Respondent had given evidence about the use of WeChat by Ms Wu. None of the Petitioner's witnesses could give any evidence regarding the documents exhibited to Johnston 2 as these documents were disclosed by the Company and the Second Respondent and the Petitioner have no first-hand knowledge of them. The Petitioner has instead properly dealt with those documents in the Supplemental Submissions.

My decisions – with brief reasons

My general approach

76. I note and follow the decision of Justice Kawaley in *Re Global Cord Blood Corporation* [2023 (2) CILR 298] regarding the nature and scope of the jurisdiction to order discovery in the context of a contributory's petition. To use his phrasing, the rules and practice regulating discovery under GCR O.24 are analogous and highly persuasive as to the approach which should be adopted in the winding-up context.

77. GCR O.24 r.8 remains important: discovery will only be ordered where necessary for disposing fairly of the cause or matter or for saving costs.

78. It is obviously of great significance in this case that the trial is due to start on 12 October. That would not be determinative if a gap of enormous significance had been found in the Company's disclosure which had to be filled in order to allow there to be a fair trial. But where the gaps are only of less significance or the Petitioner is protected because it will have the opportunity to raise the alleged gaps and omissions in the discovery during the cross-examination of witnesses at the trial, and where requiring extensive further discovery will put the trial date at risk, ordering such further discovery is very unlikely to be justified.

79. In the present case the Respondents’ approach to the witnesses who will give evidence and be available for cross-examination at the trial is relevant. It appears that the Petitioner will not have an opportunity to cross-examine the Respondents' key witnesses:

(a). on 26 May 2026, the Respondents filed (i) the witness statement of Wang Chao-Yu (***Wang 1***) on behalf of the Second Respondent; (ii) a hearsay notice seeking to rely on the witness statement of Ms Doris Wu dated 18 January 2018 filed in the 2880 Proceeding (the ***Wu 2880 Statement***) (which claims that she would not give evidence at the trial of the Petition because she is "*beyond the seas*") (iii) the witness statement of Ms Du Guangyuan (***Du 1***) on behalf of the Third Respondent; and (iv) a hearsay notice seeking to rely on the witness statement of Mr Chang dated 24 January 2018 also filed in the 2880 Proceeding (the ***Chang 2880 Statement***) (which also claims that he would not give evidence at the trial of the Petition because he was "*beyond the seas*").

(b). on 26 June 2026, the Second Respondent filed two further hearsay notices being (i) the transcript of oral evidence given by Lee Kuan-Chun in the 2880 Proceeding (the ***Lee 2880 Transcript***) and (ii) the transcript of oral evidence given by Ms Wu in the 2880 Proceeding (the ***Wu 2880 Transcript***). Both of these hearsay notices also rely on Mr Lee and Ms Wu being "*beyond the seas*" within the meaning of GCR O. 38, r.25.

(c). accordingly, the trial evidence of the Respondents comprises Wang 1, Du 1 and the four hearsay notices relying on evidence given in the 2880 Proceeding, namely the Wu 2880 Statement, the Chang 2880 Statement, the Lee 2880 Transcript and the Wu 2880 Transcript.

(d). the Petitioner argued that the Respondents were not calling their principal protagonists who were their nominees to the board of the Company, Ms Wu and Mr Chang, who it claims are the only individuals at the Respondents who had first-hand knowledge of the bond issue, the share conversion and share issuance. The Petitioner says that neither

Mr Wang nor Ms Du have any relevant firsthand knowledge of the bond issue, nor any of the other events relevant to the Petition.

80. It is also relevant and significant that, as the Company and the Respondents pointed out, the proper scope of the parties' discovery obligations has already been defined in detail in the Discovery Protocol (which was intended comprehensively to define and direct the search for relevant documents and to identify the keywords to be deployed). It is one thing to require further searches for newly identified search terms unexpectedly revealed by the discovery process to date, which may be permissible; it is another thing to require further searches where nothing new has been discovered. Further, it is relevant that the Company and the Respondents' evidence is that they have undertaken their discovery exercises in accordance with the requirements of the Discovery Protocol and that there is nothing further to be discovered.

81. Against this, it is necessary to recognise that the Second Respondent has had to correct its evidence and admitted to failing to identify all relevant documents, and there are gaps in the documentary record as discovered to date for which, in some cases, there has been no adequate explanation. As the Petitioner stated, Ms Sit's explanation in Sit 3 of the failure to discover the missing emails from Ms Wu's ACC email address, which suggested reliance on communications from Ogier rather than independent review by the Second Respondent's advisers, was not entirely reassuring, and as I comment below, I agree that Ms Sit should have, and should be required, to identify who gave her the instructions to which she refers. However, the Petitioner has made a number of very serious allegations against the Second Respondent (and Ms Wu) and asserted that there has been (and that the Court should infer at this stage) a deliberate breach of the Second Respondent's obligations to the Court with respect to disclosure. I am not in a position, and decline at this stage, to make findings on these allegations. If the Petitioner wishes to raise these allegations again, if its legal advisers consider that there is adequate material to justify doing so, they will need to do so at the trial and the Second Respondent will need to have the opportunity to respond, if it wishes to do so.

82. In the circumstances, it seems to me that the Company's suggestion that if the Court considers that the Petitioner has made its case that further searches are necessary and justified, those searches should be applied to the Company's custodians identified in the Discovery Protocol and to data and documents already collected from them. This is not ideal but in view of the very short period between now and the start of the trial seems to me to be a fair and proportionate general approach, with exceptions to it requiring a strong justification.

Schedule A - category (a) (1) and (2) – negotiations with the New Shareholders and documents evidencing the underlying beneficial owners [items 1 and 2 in Schedule A]

83. Much of what Ms Li says at [20]-[27] of Li 13 constitutes submissions to be made at trial regarding the inadequacies in the evidence adduced by the Company. However, as she states at [22]-[24], various additional email addresses have been identified. The email from Latham & Watkins dated 20 September 2018 produced by the Company identifies seven email addresses, an email from Ms Wu was sent to Mr Lu and further email addresses are identified at [24].

84. It seems to me that, in view of the importance in this case of the discussions and negotiations with the parties to whom shares were issued in October 2018, and of ascertaining their reasons for subscribing for shares and their connections (or agreements) with the Company and the Respondents, and in view of the absence from the discovery to date of documents related to this issue (and the Company's evidence that it does not know the identity of the beneficial owners of the New Shareholders), the discovery of further relevant documents is sufficiently significant to justify further targeted discovery. The number of additional email addresses/names is not large.

85. As regards the twelve email addresses identified in [1(a)]-[1(d)] of Schedule A, the Company argued that a further search of the Company's custodians listed in the Discovery Protocol by reference to these new email addresses would be duplicative of CB Search 3 because that search had included the following search terms "*Chung OR Wai OR Cithara OR SPC OR CMB OR Alpha*", "*Greater Bay OR GBIF*", "*TFI**" and "*Wonderful Sky OR WSFG*". I can

see that this is right in respect of the email addresses identified at [1(d)] which have *wsfg* as a separate term in their addresses. But it is not clear to me that the email addresses in [1(a)]-[1(c)] were definitely covered in the earlier search. [1(a)] has an email address that includes "*Cithara*" but the relevant term is "*citharacapital*." If using the search term "Cithara" would have picked up the emails with "*citharacapital*" in the address then I accept that a further search is not required. Further, [1(b)] has email addresses which include 290.com and [1(c)] has email addresses using the term "*tfisec*." But once again, if using the search term "*TFI**" would have picked up the emails with "*tfisec*" in the address, then I accept that no further search is needed.

86. Submissions were made at the hearing noting that the Petitioner and the Company had reached agreement on categories (a)(1) and (2). As a result, the Company will run searches of its custodians listed in the Discovery Protocol for the email addresses in [1(a)-(d)] of Schedule A and the email addresses identified in paragraph [30] of Li 13 and produce all emails between 1 July 2018 and 31 October 2018 subject to conducting a privilege and confidentiality review as provided under the Discovery Protocol. The terms of these agreed searches shall be recorded in the order.

Schedule A - category (a) (3) – [item 3 in Schedule A]

87. It seems to me that the request to search again for copies of and correspondence relating to the non-disclosure agreements is justified, where it appears that such agreements were to be used (as confirmed in the email from Mr Li of Freshfields) and no convincing explanation has been given as to why copies cannot be located.

88. I accept the Company's suggested conditions (that only the Company's custodians identified in the Discovery Protocol and that search terms be rapidly agreed) should be applied to ensure that the further searches are targeted and proportionate.

Schedule A - category (b) (1) – (3) [item 4,5 and 6 in Schedule A]

89. It seems to me that it is too late to order the Company to undertake the wide ranging searches that the Petitioner has sought under this head. The Company's evidence, as I have noted, is that it would be onerous for it to undertake a search of the documents sought and that it had been unable to assess the scope of work and time required for compliance so that it was unclear whether and probably unlikely that the Company would practically be able to complete this part of the specific discovery exercise within the 28 days proposed by the Petitioner or before the start of the trial.

90. I have granted the Petitioner's application for Non-Party Discovery which appeared to me, in the face of Mr Chang's evidence that the board of the Company has no knowledge of the underlying beneficial owners of the New Shareholders, to be likely to produce relevant and helpful documents.

Schedule A - category (c) – [item 7 in Schedule A]

91. The information concerning how and when Cithara and Greater Bay paid for the convertible bonds pursuant to the Subscription Agreements does seem to me to be highly material to the issues in dispute (even if this issue is not specifically pleaded) and in circumstances where the information ought in principle to be easy to obtain and should not be voluminous and where no convincing explanation has been given as to why copies cannot be located, I consider that ordering further targeted searches is justified. Once again, the new searches should be confined to the Company's existing custodians listed in the Discovery Protocol although if relevant bank records have not been included in the documents searched to date it seems to me that they should also be searched for the relevant dates and if necessary produced (I cannot see that this will be a substantial or time consuming exercise).

Schedule A – the proposed new item 11

92. I have decided that it is not justifiable at this late stage of the proceedings and in view of the evidence adduced regarding the discovery process to date to order that further searches be undertaken of text message or instant messaging applications used by Ms Wu evidencing

negotiations between Ms Wu and the New Shareholders and their representatives for the Subscription Agreements and the New Share Issue. I discuss my reasons below in relation to the Petitioner's applications against the Respondents. While I have considered whether to grant the further relief sought by the Petitioner by way of the new category 11 proposed in its amended Specific Discovery and Amendment Summons, having decided that it would not be justifiable to grant it, the significance of the issue of whether leave to amend was required and if required should be granted falls away. I shall grant permission to amend to the extent required, but decline to grant the additional relief sought.

Schedule B - category (a) – [item 1(a) and (b) in Schedule B]

93. As regards 1(a), while I understand the Petitioner's concerns regarding the absence of documents evidencing negotiations with the New Shareholders and relating to the process leading up to the subscription for the bonds and the New Shares, it is too late now (for the reasons explained above) to order that the Respondents embark on a wide ranging search of new documents relating to and evidencing negotiations between Ms Wu and Mr Chang with the New Shareholders.

94. Further, as regards the Third Respondent, it has clearly set out in its evidence (Du 3) that Mr Chang had never used WhatsApp at any time, that his 2018 WeChat records were no longer retrievable and that he did not communicate directly with any New Shareholders. It seems to me that this evidence, at least for the purpose of this application, is to be accepted and undermines the Petitioner's case that further searches for and of Mr Chang's WhatsApp or WeChat messages are necessary or justified.

95. As regards the Second Respondent, Mr Kao in Kao 1 has provided an explanation as to why the Second Respondent had not produced certain emails from Ms Wu's ACC email address (because those emails would have been deleted in accordance with the server retention policy before the Second Respondent was joined as a party to these proceedings). Mr Kao also explained why ACC had not retained copies of those emails (and referred to and exhibited an email dated 27 July 2026 from Ms Wu to Mr Wang Chao-yu, the Second Respondent's

in-house Counsel and Assistant Vice President, in which Ms Wu explained her practice regarding sending/receiving and the storage and retention of emails when acting as a director of the Company and when acting on behalf of the Second Respondent). While I agree with the Petitioner that this evidence is not entirely satisfactory – Ms Wu has not given evidence herself on this issue and her email explanation as to what she had done was in some respects unclear (she had said that she would "*sort those emails involving my ACC email account back to my Gmail account or Hotmail account*") – I do not consider that these issues and concerns justify making the orders sought. The Petitioner will be able at trial to make submissions as to the reliability and weight to be given to these explanations and the inferences to be drawn in the circumstances, including from Ms Wu's failure to give evidence herself, from the lack of detail and the lack of clarity in her email explanation and from the terms of the Second Respondent's server retention policy. As I have noted above, I am not in a position to make findings on the serious allegations made by the Petitioner of improper conduct by the Second Respondent in discharge of its discovery obligations.

96. I do however agree with the Petitioner that Ms Sit should identify the source of her instructions on important aspects of her evidence on these issues, on which she gives evidence in Sit 2 and Sit 3:

(a). at [32] of Sit 2 Ms Sit said as follows:

> *Accordingly, and without waiving privilege (and as stated in Walkers' letter of 10 April 2026) I am instructed that: (i) no communications with the New Shareholders were conducted by Ms Wu using her ACC email address (doris.wu@accom.tw); and (ii) Ms Wu did not negotiate with the New Shareholders in her capacity as a representative of ACC.*

(b). at [10] of Sit 3, Ms Sit stated that "*Given the terms of Ogier's letter of 2 February 2026, those instructing me and I understood that the document referenced ... was the only such document. ..... Those instructing me and I erroneously proceeded on that assumption – which I now understand was incorrect*."

97. If the Second Respondent wishes to rely on these statements and evidence, Ms Sit must identify the source of her knowledge of the matters on which she gives evidence (see GCR O.41, r.5(2) and (3)).

98. As regards [1(b)], like the Third Respondent, I have struggled to find the basis for the inclusion of the listed names. As I have noted above, Ms Li in Li 13 did not deal with them (at least so far as I can see). The clue however was to be found in [75] – [77] of the Petitioner's skeleton argument in the section dealing with [9] and [10] of Schedule A. In [77], the Petitioner set out the amended searches that it wanted the Company to undertake and includes the email addresses of a number of the individuals listed in [1(b)] of Schedule B, including Mr Justin Zhang, Wong Ham Chi and Xiaoning Meng and Luk Ching Sanna. The Petitioner explained that these names and the related documents sought would identify whether the Company and the Respondents' appointees to the Company (Ms Wu and Mr Chang) had any contemporaneous knowledge of the Subsequent Transfers. It therefore appears that this part of the application relates to and is dependent on the granting of the Petitioner's application for permission to make the Subsequent Transfers Amendment. Since that application was dismissed, the application in [1(b)] of Schedule B also falls to be dismissed (if I have got this wrong and there is another basis for the application in [1(b)] of Schedule B, the Petitioner must take the consequences of having failed clearly to set it out in its evidence and submissions).

Schedule B – second category [item 2 in Schedule B]

99. I understand the Petitioner's concerns on this issue. It is important that it is provided with sufficient documents from which to be able to assess the basis on which Mr Justice Coleman made his findings and decisions and that it is not put at a serious disadvantage as compared with the Respondents.

100. However, it seems to me that the proposals made by the Respondents are, subject to one qualification, reasonable and proportionate and remove or substantially reduce the risk of the Petitioner being unable to make such submissions as it wishes to make regarding Mr

Justice Coleman's judgment and of it being at a serious disadvantage because of a material difference in the knowledge of the Respondents and the Petitioner regarding the HCA 2880/2015 proceedings.

101. Accordingly, the Respondents should disclose all their witness statements and written submissions filed in these proceedings together with extracts from the transcripts that record the factual witness evidence of their witnesses.

102. My one qualification is that I can see that it would also assist the Petitioner to see the submissions filed and evidence adduced by the other parties to the HCA 2880/2015 proceedings and it seems to me that the Respondents should seek the permission of the other parties to produce copies of these materials to the Petitioner.

The Hon. Justice Segal
Judge of the Grand Court, Cayman Islands
3 September 2026

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