COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Commercial Division

2026/COM/com/00018

IN THE MATTER of Part VIIA of the Companies Act, Ch. 308

AND IN THE MATTER OF (1) BANCO MASTER S.A. (2) BANCO LETSBANK S.A (3) BANCO MASTER DE INVESTIMENTO S.A (4) MASTER S/A CORRETORA DE CAMBIO, TITULOS E VALORES MOBILIARIOS (5) BANCO MASTER MULTIPLO S.A.

AND IN THE MATTER OF THE FOREIGN PROCEEDINGS (INTERNATIONAL CO-OPERATION) LIQIUIDATION RULES, 2012

RULING

Before: The Honorable Mr. Acting Justice Raynard S Rigby KC

Appearances: Mrs. Sophia Rolle-Kapousouzoglou along with Miss Vonisha Rolle of Lennox Paton for the Petitioner, EFB Regimes Especias de Empresas Ltda.

Hearing Date: 13 May 2026

Recognition of a Foreign Representative – Section 254 of the Companies Act - Rule 4 of the Foreign Proceedings (International Co-operation) Rules, 2012 – Schedule (Rule 3) of the Foreign Proceedings (International Co-operation) (Relevant Foreign Countries) Liquidation Rules, 2016 – Brazil designated 'relevant' country' – Meaning of "foreign proceeding" in section 253 of the Companies Act – Meaning of "subject to control or supervision by a foreign court"

By a Petition filed on 4 May 2026 the Petitioner, EFB Regimes Especias de Empresas Ltda., made an application to the Court pursuant to section 254 of the Companies Act to be recognized as a Foreign Representative in The Bahamas with the right to act on behalf or in the name of five entities: (1) Banco Master S.A., (2) Banco Letsbank S.A(3) Banco Master De Investimento S.A, (4) Master S/A Corretora De Cambio, Titulos E Valores Mobiliarios, and (5) Banco Master Multiplo S.A.

The application is supported by the following evidence: (1) Verifying Affidavit of Eduardo Felix Bianchini filed on 5 May 2026, (2) the Affidavit of Foreign Law of Henrique Rodriques

Forssell filed on 5 May 2026 as well as his Second Affidavit filed on 15 May 2026; and (3) the Affidavit of Keath Smith filed on 8 May 2026.

HELD: Granting the application by the Petitioner to be recognized as a Foreign Representative pursuant to Section 254(1)(a) of the Companies Act.

Introduction

1. This is a ruling on an application before the Court for the Petitioner, EFB Regimes Especias de Empresas Ltda., to be recognized as a Foreign Representative in The Bahamas with the right to act on behalf or in the name of five entities: (1) Banco Master S.A., (2) Banco Letsbank S.A(3) Banco Master De Investimento S.A, (4) Master S/A Corretora De Cambio, Titulos E Valores Mobiliarios, and (5) Banco Master Multiplo S.A. ("**the Banco Master Entities**").

2. The application is supported by the Verifying Affidavit of Eduardo Felix Bianchini and the Affidavit of Foreign Law of Henrique Rodriques Forssell both filed on 5 May 2026. The Affidavit of Keath Smith filed on 8 May 2026 also aids the application.

3. On 13 May 2026, the matter came before the Court and the Court directed that a further or supplemental affidavit of law be filed. The Second Affidavit of Henrique Rodriques Forssell was filed on 15 May 2026.

4. For the reasons which will be outlined below, I hereby grant the application for EFB Regimes Especias de Empresas Ltda. to be recognized as a Foreign Representative pursuant to section 254(1)(a) of the Companies Act ("**Act**").

Factual Background

5. On 18 November 2025 the Central Bank of Brazil ("**CBB**") placed Banco Master S.A into liquidation and appointed EFB Regimes Especias de Empresas Ltda. ("**EFB**") as Liquidator. On the same date, three (3) additional entities: (1) Banco Master De Investimento S.A, (2) Banco Letsbank S.A and (3) Master S/A Corretora De Cambio, Titulos E Valores Mobiliarios were declared to be placed in "*extrajudicial liquidation*" by the CBB. The other company, Banco Master Multiplo S.A., was placed in extrajudicial liquidation on 17 March 2026.

6. Banco Master S.A. began operations in Brazil in 1974 under the name Maxima Corretora De Titulos e Valores Mobiliarios. In 1990 it obtained permission from the CBB to operate as a financial institution under the name of Banco Maxima. The entity experienced financial challenges around the 2000s and arising from the disqualification of its founders and administrators due to serious violations of

banking and financial regulations, the ownership of the entity was transferred to Daniel Bueno Vorcaro. It appears that Mr. Vorcario had some success but around 2025 matters emerged that led to an investigation by CBB and questions were raised as to the use of the capital contributions by investors and depositors of the Banco Master Entities.

7. As may be gleaned from the evidence filed in these proceedings, Banco Master S.A. ran into financial challenges and its majority shareholder, Daniel Bueno Vorcaro is suspected of having misapplied the assets of the Banco Master entities. I highlight paragraphs 6 to 11 of the Affidavit of Eduardo Feliz Bianchini:

> **6. Due to the findings of fact arising from the Central Bank's Investigation, Banco Maxima's founders, controllers, and administrators were disqualified as a result of serious violations of pertinent banking and financial regulations. In 2018, these disqualified controllers transferred control and ownership of a majority of the shares of Banco Maxima to Mr. Daniel Bueno Vocaro ("Mr Vocaro") who sought to restructure and revitalize the financial institution. Mr. Vocaro served as the President of Banco Master and is its majority shareholder.**
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> **7. After the Central Bank authorized Mr. Vocaro's assumption of control of the bank, Mr. Vocaro began to put his restructuring plan into place. First, Mr Vocaro changed Banco Maxima's operational focus and its corporate name to Banco Master, S.A. Second, Mr. Vocaro sought to capitalize Banco Master by engaging in a fundraising process whereby investors contributed capital in exchange for bank deposit certificates (the "Bank Deposit Certificates") with above-market, inflated returns. Mr Vocaro's restructuring plan appeared to be quite successful, so much so that throughout 2023 and 2024, Banco Master registered record financial results.**
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> **8. This apparent success evaporated in 2025, after a series of attempts to buy and sell control of Banco Master revealed irregularities in the destination of the investors' and depositors' contributed funds. The Central Bank of Brazil initiated a series of investigations which raised**

serious questions relating to the application and use of the contributions of capital made by investors and depositors of Banco Master and its affiliates. These investigations reportedly conclude that at least part of the capital contributed by investors and depositors of the bank had been illicitly dissipated from Banco Master.

9. The Central Bank's investigations caused an avalanche of news stories in various national and foreign media outlets, which began to link Mr Vocaro's life of luxury and extravagances, including the acquisition of properties and assets in foreign jurisdictions, with potential frauds committed to the detriment of Banco Master's depositors and investors in its Bank Deposit Certificates.

10. Based on the Liquidator's preliminary investigation into the causes of the failure of Banco Master completed to date, it is tolerably clear that Mr. Vocaro and others have misappropriated at least US$1 billion of assets from Banco Master by means of (a) the purchase by Banco Master of financial assets at falsely inflated prices from non-arm's length sellers, and (b) the making of loans by Banco Master on the basis of falsely inflated collateral to non-arm's length borrowers.

11. On 18 November 2025, Mr Vocaro was arrested by officers of the Federal Police of Brazil at Guarulhos International Airport in Sao Paulo while reportedly on his way to board a private jet headed to Dubai, UAE. This arrest was based on allegations of, in part, the sale by Banco Master S.A. of fraudulently over-valued securities to BRB Banco de Brasilia S.A. ("BRB Banco") in exchange for R$12 billion. Mr. Vocaro was bailed on 28 November 2025 subject to certain conditions. On 4 March 2026, he was re-arrested based on, in part, allegations of fraud on Banco Master S.A., bribery, money laundering and threatening violence to certain witnesses and a journalist. Mr. Vocaro remains in custody during the pendency of the criminal case that has been brought against him.

8. I also note the terms of the several Notices issued by the CBB which consequently froze assets of several controlling shareholders and the former administrators of the Banco Master Entities, inclusive of Daniel Bueno Vorcaro.

9. The Affidavit of Eduardo Feliz Bianchini also sets out the interests held by the Banco Master Entities in The Bahamas, which includes interest in Liquidity Strategies Fund Ltd., Phoenix Multimarket Fund Ltd., Faex Fund Ltd., PMLS Ltd., Octa Investments Ltd., Sunshine Company Ltd., Golden Star Investment Fund Ltd., Artress Ltd and Mosaic Financial Ltd.

Recognition of a Foreign Representative

10. Sections 253 to 255 of the Companies Act set out the material provisions governing the recognition of a foreign representative in The Bahamas. The sections note as follows:

> **"253. In this Part –**
> **"debtor" means a foreign corporation or other foreign legal entity subject to a foreign proceeding in the country in which it is incorporated or established;**
> **"foreign proceeding" means a judicial or administrative proceeding in a relevant foreign country, including an interim proceeding, pursuant to a law relating to liquidation or insolvency in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation, rehabilitation, liquidation or bankruptcy of an insolvent debtor;**
> **"foreign representative" means a trustee, liquidator or other official appointed in respect of a debtor for the purposes of a foreign proceeding;**
> **"relevant foreign country" means a country, territory, or jurisdiction designated as a relevant foreign country in rules made under section 252 by the Liquidation Rules Committee for the purposes of this Part.**
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> **254. (1) Upon the application of a foreign representative the court may make orders ancillary to a foreign proceeding for the purposes of -**

(a) recognising the right of a foreign representative to act in The Bahamas on behalf of or in the name of a debtor and, in the court's discretion, to do so jointly with a qualified insolvency practitioner;
(b) enjoining the commencement or staying the continuation of legal proceedings against a debtor;
(c) staying the enforcement of any judgment against a debtor;
(d) requiring a person in possession of information relating to the business or affairs of a debtor to be examined by and produce documents to its foreign representative;
(e) ordering the turnover to a foreign representative of any property belonging to a debtor; and
(f) granting such other relief as it considers appropriate.

(2) An ancillary order may only be made under subsection (l)(d) against-
(a) the debtor itself; or
(b) a person who was or is a relevant person as defined in section 198(1).

(3) An ancillary order shall not affect the right of a secured creditor to take possession of and realize or otherwise deal with property of the debtor over which the creditor has a security interest.
(4) The court shall not make an ancillary order that is contrary to the public policy of The Bahamas.

255. (1) In determining whether to make an ancillary order under section 254, the court shall be guided by matters which will best assure an economic and expeditious administration of the debtor's estate, consistent with

(a) the just treatment of all holders of claims against or interests in a debtor's estate wherever they may be domiciled;
(b) the protection of claim holders in The Bahamas against prejudice and inconvenience in the processing of claims in the foreign proceeding;

(c) the prevention of preferential or fraudulent dispositions of property comprised in the debtor's estate;
(d) the distribution of the debtor's estate amongst creditors substantially in accordance with the order prescribed by Part VII;
(e) the recognition and enforcement of security interests created by the debtor;
(f) the non-enforcement of foreign taxes, fines and penalties; and
(g) comity.
(2) In the case of a debtor which is registered under section 174, the court shall not make an ancillary order under section 254 without also considering whether it should make a winding up order under Part VII in respect of its local branch."

11. The procedure for making an application pursuant to section 254(1)(a) of the Act is set out in Rule 4 of the Foreign Proceedings (International Co-operation) Rules 2012 ("**FPICR**") which provides as follows:

"4. Application for declaratory order.
(1) An application by a foreign representative made under section 254(1Xa) of the Act for a declaratory order recognizing his right to act on behalf of a debtor shall be made by petition in accordance with RSC Order 9.
(2) A petition presented under this rule is required to be served only on such persons as the Court may direct.
(3) A petition under this rule shall state -
(a) particulars of the debtor's incorporation;
(b) the nature and place of the debtor's business;
(c) the court or other authority by which the foreign representative was appointed;
(d) the powers and duties of the foreign representative under the law of the place of his appointment; and (e) the reasons for seeking a declaratory order.
(4) A petition under this rule shall be verified by an affidavit sworn by the foreign representative.
(5) A certified copy of the order of the court or other authority by which the foreign representative was appointed shall be exhibited to the verifying affidavit.

(6) A petition under this rule shall be supported by an affidavit of foreign law which explains the powers and duties of the foreign representative under the law of the place of his appointment.
(7) A declaratory order granted under this rule shall be in Form 1 and shall be gazette".

12. I understand that I must decide whether these proceedings, the subject of the present application, fulfills the criteria for recognition under the Companies Act and the relevant Rules. It is a question of Bahamian law, the forum of the present application. There are elements of foreign law that must be considered on the present application. Under our jurisprudence, questions of foreign law are questions of fact to be decided on the evidence before the Court. In this regard I have the good fortune of the affidavits of foreign law filed in these proceedings.

13. Additionally, I note that Part VIIA of the Companies Act is a product of an international convention.

14. I am satisfied that the present Petition and the filed Affidavits comply with section 4 of the FPICR.

15. I note further that Brazil is listed in the Schedule of Designated Relevant Foreign Countries of the Foreign Proceedings (International Co-operation) (Relevant Foreign Countries) Liquidation Rules 2016.

16. I had to consider whether the proceedings in Brazil satisfied the definition of "**foreign proceedings**" under section 253 of the Act. The definition requires "... **the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation, rehabilitation, liquidation or bankruptcy of an insolvent debtor"**. This issue arose based on the statements set out at paragraphs 8, 9, 10, 11, 12, 13 and 14 of the Affidavit of Henrique Forssell. I set out those paragraphs below:

> 8. Article 34 of the 1974 Law provides that the provisions of the Brazilian bankruptcy law apply extra-judicial liquidations, where applicable and not inconsistent with that law, **with the liquidator performing the role of a trustee and the Central Bank of Brazil acting in the role of the bankruptcy judge**."
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> 9. The Central Bank may extend the declared extrajudicial liquidation of a financial institution to another company with "integrated activities or common interests" which the 1974

Law defines in Article 51 as "...when the legal entities mentioned in this article are debtors of the entity under intervention or extrajudicial liquidation, or when their partners or shareholders participate in its capital of more than 10% (ten percent)[.]"

10. The liquidation process is a collective insolvency proceeding in nature. It is designed to collect, assess and resolve claims against the relevant debtor(s), and to realise assets and make distributions to creditors. It is directed to the administration of an insolvent estate and the treatment of creditor claims generally, rather than the enforcement of individual claims.

11. The 1974 Law assigns the Central Bank a supervisory role over the liquidation and the liquidator's acts, including through administrative review mechanisms. Key decisions taken during the liquidation, including those affecting creditor claims, asset realization, and distribution, remain subject to the Central Bank's administrative review and control. For example, Article 30 provides (as a general rule) for administrative appeals against a liquidator's decisions to be taken to the Central Bank, without suspensive effect, within the statutory timeframe. Furthermore, Article 33 requires a liquidator to report and render accounts to the Central Bank whenever he leaves office or whenever requested.

12. This supervisory framework reflects the 1974 Law's core design: extrajudicial liquidation is an administrative proceeding under the Central Bank's authority, not a judicial insolvency case managed by a court-appointed trustee. The Central Bank's roe encompasses initiating the regime, appointing and overseeing the liquidator and supervising the execution of liquidation acts. I have been informed by our attorneys in The Bahamas, Lennox Patton, that in that jurisdiction "foreign proceeding" means a judicial or administrative proceeding in a relevant foreign country, including an interim proceeding, pursuant to a law relating to liquidation or insolvency in which the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization, rehabilitation, liquidation or bankruptcy of an insolvent debtor." I verily believe that there is sufficient control or supervision by the Brazilian court over the extrajudicial liquidation as an administrative proceeding to fall within the definition for the reasons set out below.

> 13. Firstly, a liquidator's acts are ultimately subject to judicial review under Article 5, XXXV of the Brazilian Constitution (i.e. access to the Judiciary for any injury or threat to a right). This is a general constitutional safeguard applicable to administrative acts broadly (including administrative acts by the Central Bank); it does not replace or convert the Central Bank's statutory supervision into "judicial review" nor does it shift supervision of the liquidation from the Central Bank to the state courts. Secondly, administrative acts relating to extrajudicial liquidation may fall within the jurisdiction of Brazil's state or federal courts, depending on the respondent and the relief sought.
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> 14. As a practical matter, challenges directed at the Central Bank (including those that seek to affect the liquidation decree itself or the legality of Central Bank decisions) fall under the jurisdiction of the Federal Courts pursuant to Article 109, I of the Federal Constitution (because the Central Bank is a federal autonomous entity). Also, because a liquidator acts as an agent of the Central Bank within this regime, there are judicial precedents to the effect that challenges to certain liquidator acts may also be heard by the Federal Courts when framed as actions against the Central Bank/ its agent.

17. The Second Affidavit of Mr. Henrique Forssell added further clarity to the debtor being subject to the control or supervision of the Brazilian court. I highlight the salient points which are addressed at paragraphs 8, 9, 17, 18, 19, 20 and 21 of the Second Affidavit:

> 8. My supplemental evidence set out below seeks to support the proposition that the Banco Master liquidation proceedings in Brazil fall under the "control or supervision" of (a) certain courts in Brazil regarding a designated list of activities, functions or remedial acts relevant to the administration of the Estate and/or as an appellate Court, and (b) the Central Bank of Brazil acting in a manner "equal to" or the same as a Brazilian Bankruptcy Judge regarding certain other activities, functions or remedial acts associated with the administration of the Estate. In short, I seek to set out a detailed explanation for why, a matter of Brazilian law and in respect of all aspects of the administration of the Estate, a "Court" or a "Judge" in Brazil either controls or supervises the activities of the Liquidator.

9. Under Brazilian statutory law governing the administration of the Banco Master Estate, the powers associated with the supervision or adjudication over the activities and conduct of the Liquidator or other interested parties have been separated between (a) certain traditional courts (including the Bankruptcy Court in Sao Paulo; the Federal Courts of Brazil; and State Courts); and (b) the Central Bank of Brazil operating in its capacity as the "equivalent" of a Bankruptcy Judge.

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17. Therefore, a more accurate English language translation of Article 34 of Brazilian Law 6,024/1974 would be as follows:

> "**Article 34**. The provisions of the Bankruptcy Law (Decree-Law No. 7,661 of June 21, 1945) shall apply to extrajudicial liquidations to the extent applicable and insofar as they do not conflict with the provisions of this Law, with the liquidator being treated as the equivalent of a bankruptcy trustee, and the **Central Bank of Brazil being treated as equivalent to a bankruptcy judge**. The judge who would have jurisdiction to process and adjudicate the bankruptcy of the institution under liquidation shall have jurisdiction over avoidance actions [meaning claw-back claims] provided for in Article 55 of that Decree-Law. [**Note**: The Judge who has jurisdiction to adjudicate claw-back claims is the Judge of the Bankruptcy Court assigned to a particular case like Banco Master. In the case of Banco Master this is in fact Judge Alder Batista Oliveira Nobre of the 3rd Bankruptcy and Reorganization Court of the Court of Civil Justice of the State of Sao Paulo].

18. To restate, when the relevant portion of Article 34 is translated accurately from the Portuguese into the English language, the Brazilian statutory law has explicitly conferred upon the Central Bank of Brazil the authority to act as the equivalent of a Bankruptcy Court Judge for purposes of exercising its supervisory functions and role over the activities and conduct of the liquidator.

19. Also it is important for this Court to understand that the power to supervise or control the administration of

the Banco Master Estate as embodied in the activities of the Liquidator, or to make Orders and Decisions at first instance or as an appellate court, have been separated between *(a)* traditional courts (as in the Bankruptcy Court, the Federal Court and State Courts in Brazil), and *(b)* the Central Bank – by means of a menu of powers or forms of supervisory or adjunctive authority as defined by statutory law, and as the table exhibited at pages 1-2 shows.

Examples of orders of the Bankruptcy Court in Brazil made thus far in the proceedings granting relief and/or supervising elements of the activities of the administration of the Banco Master Estate

20. **Example No. 1.** Exhibited to this Affidavit at **pages 3 to 5** is a copy of an Order in Portuguese issued at 5.31 pm on 17 March 2026 by Bankruptcy Court Judge Adler Batista Oliveira Nobre of the Third Court of Bankruptcy and Judicial Reorganization of the Central Civil Court of the State of Sao Paulo (the **"Bankruptcy Court"**). At **pages 6-10** is an official English translation of the Order. This Order was granted on the petition of the five banks or companies that make up the Banco Master Estate – the same Claimants to these proceedings. Under this Order made in the foreign main proceedings in Brazil (the **"Foreign Proceedings"**), the Bankruptcy Court in Sao Paulo authorized the Estate to register certain pre-cautionary notices over the title to assets held by Pipe Participacoes Ltda and others which are expected to be made the subject of a prospective claw-back or fraudulent transfer avoidance claim to be brought by the Estate.

21. Under Article 34 of Law No. 6,024/1974, the Bankruptcy Court is the Court that will have to adjudicate the contemplated fraudulent transfer avoidance (or claw-back) claim. In the Order exhibited to this affidavit (English translation) at **pages 6-10** the Bankruptcy Court cited to Article 34 as the jurisdictional basis for conferring the power on the Court to adjudicate such contemplated claw-back claim.

18. I note that in **Atelier Design e Planejamento de Moveis Ltda & Ors 2021/COM/com/00063** the Court recognized Fernando Celso De Aquino Chad as a foreign representative for the purposes of acting in The Bahamas on behalf of or in the name of the Millo Group of Companies. In that instance, Mr. Chad was appointed by the Brazilian Court. In the ruling, Senior Justice Indra Charles (as she then was) stated:

> **[6] As I understand it, under Brazilian law, judicial reorganization is the main rescue procedure in Brazil for a company to restructure its business and debt. It is similar in its effect to Chapter 11 bankruptcy proceedings in the United States of America.**
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> **[7] On 16 November 2017, Judge Rodrigo Gorga Campos ("Judge Campos") granted the Order for judicial reorganization of the Millo Group and appointed Mr. Chad as the judicial administrator. On 21 November 2017, Mr. Chad executed a judicial administrator's commitment agreement in acceptance of the appointment. On 21 November 2018, Judge Campos determined that the Millo Group did not comply with the judicial determinations for regular processing of the judicial reorganization and that the companies demonstrated a total absence of commercial activity. As a result, Judge Campos ruled that the judicial reorganization be converted to a full court supervised bankruptcy. Mr. Chad maintained his position as the judicial administrator.**

19. The distinction in the present application is that the Petitioner, EFB, was not appointed by the Brazilian Court but by the Central Bank of Brazil. Additionally, the liquidator is a trustee and the Central Bank of Brazil acts as a bankruptcy judge (see paragraph 16 above). I have to consider if the role of the Central Bank of Brazil as the bankruptcy judge renders the application foul of the meaning of "**foreign proceedings**" in section 253 of the Act.

20. **In the matter of Caledonian Bank Limited (in Official Liquidation under Supervision of The Grand Court of The Cayman Islands) 2015/COM/com/00034**, Acting Justice Brian Moree KC J (as he then was) refused the application for recognition in The Bahamas of the liquidators of Caledonian

Bank (in official liquidation under the supervision of the Grand Court of the Cayman Islands). His reasoning was principally set out at paragraph 23 of his decision:

> **"... the Cayman Proceedings nor the Cayman Liquidators ("the Petitioners") fall within the statutory definition of such terms in section 253. Accordingly, the statutory regime under sections 253 – 256 is not currently available to the Petitioners as the Cayman Islands has not been designated a relevant foreign country by the Liquidation Rules Committee for the purposes of Part VIIA. ... On the same reasoning, the Cayman Proceedings are not "foreign proceedings" within the definition of that term in section 253 of the Bahamian Act...."**

21. The instant application is distinguishable from the central feature in **Caledonian Bank Limited**. I am satisfied that EFB meets the requirements under the Act and the FPICR. I am also satisfied based on the evidence before me that the liquidation or bankruptcy proceedings in Brazil are rooted in the principles of collectivism; that is, EFB will realize and collect assets and make equitable distributions to creditors. It also appears evident that the statutory powers of EFB in Brazil as set out and explained in the Affidavits of Foreign Law are similar to the powers and functions of a liquidator under section 205 and the Fourth Schedule of the Bahamian Companies Act.

22. On the discreet issue, I am also satisfied that the role of the CBB as the "bankruptcy judge" will not and does not shut out debtors, creditors and others in Brazil from seeking relief from the Brazilian Court. That is, the Courts in Brazil, the Bankruptcy Courts, Federal Courts and State Courts, maintain supervisory control over the liquidator and the debtors and the proceedings relating to the liquidation process. This is fully addressed and ventilated in the Second Affidavit of foreign law of Henrique Forssell (see paragraph 17 above). The rationale of the decision in **Atelier Design e Planejamento de Moveis Ltda** also informs my finding.

23. I am fortified in this view and conclusion because the definition of "**foreign proceedings**" in section 253 does not invoke the words "**exclusive jurisdiction**" with reference to the "**control or supervision by a foreign court**". I construe the language in the section to require that the debtor must have a right of access to the foreign court for "**the purpose of reorganisation, rehabilitation, liquidation or bankruptcy of an insolvent debtor**". Given the words employed in the section, it is my view that Parliament intended that once the debtor can avail himself of various relief and remedies before the foreign court and the foreign court's function

is to control or supervise the liquidation of the insolvent debtor, the objects of the Act are satisfied. This follows from my reading of the Second Affidavit of Henrique Forssell (see paragraph 17 above).

24. Additionally, the definition also requires the collective proceedings to be ***judicial or administrative ...***". The very fact that the CBB is likely to have some administrative or quasi-judicial function, in my view, does not take it out of the definition under section 253 of the Act.

25. I was also assisted in my view by having regard to the **Model Law on Cross-Border Insolvency adopted by the United Nations Commission on International Trade Law** in 1997. I do not deem the Model Law to be either persuasive or binding, but I refer to it only to aid the likely intent of the law; primarily because the definition of "foreign proceeding"[1] is materially similar to that in the Bahamian Act. The "Digest of Case Law on the UNCITRAL Model Law on Cross-Border Insolvency" (circa February 2021) highlights the following paragraphs on the definition, which I find to be helpful.

> **12. The GEI[2] [para. 74] notes that the MLCBI specifies neither the level of control or supervision required to satisfy this aspect of the definition nor the time at which that control or supervision should arise. The GEI indicates that although it is intended that the control or supervision required under article 2, subparagraph (a), should be formal in nature, it may be potential rather than actual. The JP [paras. 84–90] also discusses this requirement.**
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> **13. Courts have indicated that control or supervision may be exercised not only directly by the court, but also indirectly by an insolvency representative where, for example, the insolvency representative itself is subject to control or supervision by the court or other regulatory authority. The GEI [para. 74] suggests that mere supervision of an insolvency representative by a licensing authority would not be sufficient.**

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[1] "Foreign proceeding" means a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

[2] Guide to Enactment and Interpretation of the UNCITRAL MLCBI, as revised and adopted by the Commission on 18 July 2013

14. Courts have indicated that the requirement for control and supervision can be met in a variety of situations in which the courts do not direct the day-to-day operations of the debtor, including where liquidators can proceed with their duties largely without court involvement; where the relevant law gives the court various control and supervisory roles with respect to liquidation proceedings; where the court may ultimately become involved because the debtor is found to be insolvent and the nature of the proceeding has to change; and where the debtor retains some measure of control over its assets, albeit under court supervision, such as a debtor in possession. Cases involving judicial management by a court on regulatory grounds, for example pursuant to insurance regulations, and judicial winding-up on just and equitable grounds, have been found to satisfy this requirement of article 2. It has also been suggested that if it could be concluded that overall a proceeding was subject to the control and supervision of the court, it was irrelevant that the Government of the originating State also had powers in relation to the proceeding. In a case concerning the insolvency of an insurance company, the recognizing court found that the body with oversight of the insurance industry was a body competent to control or supervise the assets and affairs of the debtor.

26. In **Re Agrokor DD [2018] 2 BCLC 75** the Business and Property Court of England and Wales considered the application of Ante Ramljak, to be recognized as the foreign representative of Agrokor DD, a company incorporated in Croatia, for recognition in Great Britain under the Cross-Border Insolvency Regulations 2006, SI 2006/1030 of extraordinary administration proceedings being undertaken in Croatia pursuant to an order of a Croatian court made on 10 April 2017 under the Law on Extraordinary Administration Proceeding in Companies of Systemic Importance for the Republic of Croatia passed by the Croatian Parliament on 6 April 2017. The application was opposed by Sberbank, a Russian bank which was a creditor of the company. In the course of the decision, Judge Paul Matthews made the following helpful statements on the definition of "*foreign proceedings*" and more particularly "*subject to the control or supervision of the court*":

[78] In order to qualify as a foreign proceeding under the CBIR [Cross-Border Insolvency Regulations 2006], that proceeding must be such that 'the assets and affairs of the debtor are subject to control or supervision by a foreign court'. The applicant says that the Croatian proceeding satisfies this requirement, whereas the respondent says it does not.

[79] In the Guide to Enactment, there is the following discussion of this criterion:

'The Model Law specifies neither the level of control or supervision required to satisfy this aspect of the definition nor the time at which that control or supervision should arise. Although it is intended that the control or supervision required under subparagraph (a) should be formal in nature, it may be potential rather than actual. As noted in paragraph 71, a proceeding in which the debtor retains some measure of control over its assets, albeit under court supervision, such as a debtor in possession would satisfy this requirement. Control or supervision may be exercised not only directly by the court and also by an insolvency representative where, for example, the insolvency representative is subject to control or supervision by the court. Mere supervision of an insolvency representative by a licensing authority would not be sufficient.'

From this it is clear that the control or supervision required can not only be potential rather than actual, but can also be indirect rather than direct.

[80] In the American case of *Re Ashapura Minechem Ltd (2012) 480 BR 129*, a foreign representative of an Indian company successfully petitioned for recognition of insolvency proceedings started voluntarily by the company in India as a foreign main proceeding, and the Bankruptcy Court granted a stay against an order enforcing a creditor's arbitration award against the company. The creditor appealed, but the appeal failed.

One of the points dealt with by the court was whether the company's assets and affairs were subject to the control or supervision of a foreign court.

[81] The US District Court hearing the appeal said (at p 138):

'Supervision or control of the company's affairs is not a demanding standard. The foreign court need not control the day-to-day operations of the debtor. It is sufficient, for instance, that the body monitor compliance with the repayment plan negotiated between the debtor and creditors. One court has held that the mere fact that a commission was granted authority from a Spanish court to recover a set-off from an arbitration proceeding for distribution to creditors "plainly demonstrate[d] that the [court] maintains control of [both the debtor's] assets and affairs." By contrast, the fact that actions in a foreign court related to the proceeding are typically initiated by interested parties and that liquidators proceed with most of their duties without court involvement was found "not [to] undermine the ... court['s] supervisory role".'

[82] Having considered the facts in the case, the court concluded (at p 144):

'Given the low legal standard for supervision over a debtor's affairs, I conclude that Ashapura did meet its burden of proving that the BIFR had supervision or control over Ashapura's affairs and assets.'

27. I fully agree with the "threshold" test set out in **Re Agrokor** and was guided by it in arriving at my decision on the discreet issue.

28. I have no reason to conclude that the debtors, the Banco Master Entities, or any creditors, will not have **direct access** to the Brazilian courts to seek any redress in the liquidation proceedings. The supervisory function of the Brazilian courts appears in my view to not be disturbed or diminished by the role played by the CBB in an administrative capacity. It is clear to me on the evidence that the Brazilian courts have actual control over the proceedings. The contents of the

Second Affidavit of Henrique Forssell (see paragraph 17 above) shows that the administrative role of the CBB does not override the jurisdiction of the Brazilian courts in the liquidation proceedings. The Brazilian courts can hear and determine disputes in the liquidation/bankruptcy and thereby it is a logical conclusion that the courts in Brazil have control and supervision of the proceedings for the purposes of section 254 of the Act.

29. I am also guided by section 255(1)(g) of the Act. Comity mandates that the Bahamian courts recognize and enforce the judicial acts of other jurisdictions where such jurisdictions have assumed primary jurisdiction over liquidation proceedings on a basis consistent with principles applicable under Bahamian law. Comity is important in cross-border proceedings to avoid multiple proceedings. Those principles that I highlight for this application are the right of a Bahamian liquidator to make decisions without the sanction of the Bahamian court. This right in no way undermines the control and supervision of the Bahamian court of the liquidation proceedings. I find that the role of the CBB serving as a bankruptcy judge will not limit access to the Brazilian courts.

30. I also find that there are no compelling public policy exceptions to deny the request.

Conclusion

31. For all of the reasons set out above, the Court exercises its discretion under section 254 of the Act in recognizing EFB Regimes Especias de Empresas Ltda. as a Foreign Representative in The Bahamas for the purposes of acting on behalf of or in the name of the Banco Master Entities.

DATED this 26 day of May 2026

R S Rigby J. (Actg.)

Raynard S Rigby KC
Acting Justice