



COMMONWEALTH OF THE BAHAMAS

REME COURT

Division

2024

COM/com/

**IN THE MATTER of the International Business Companies Act.**

**AND**

**IN THE MATTER OF an Application under the Securities Industry Act, 2024**

**AND**

**IN THE MATTER OF LCG CAPITAL MARKETS LIMITED (A Registered Firm)**

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**WINDING UP PETITION**

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**TO: The Supreme Court of The Bahamas**

**The Humble Petition of THE SECURITIES COMMISSION OF THE BAHAMAS** (hereafter, “the Commission”), a statutory corporation continued pursuant to the Securities Industry Act, 2024 (hereafter, “the Act”), pursuant to section 155 of the Act, shows that:

1. LCG Capital Markets Limited (formerly London Capital Group Bahamas Limited) (“LCG” or “the Company”), was incorporated in the Commonwealth of The Bahamas pursuant to the provisions of the International Business Companies Act on the 15 November 2017. The registered office of the Company is GTC Corporate Services Limited, located at Sassoon House, Shirley Street and Victoria Avenue, Nassau, Bahamas.
2. The Company was registered with the Securities Commission of The Bahamas (“the Commission”) as a Firm, Dealing in Securities as Agent or Principal and Arranging Deals effective 19 June 2018, pursuant to the Securities Industry Act, 2011 (the “SIA 2011”), which was repealed 26 July 2024. LCG’s registration continued under the Securities Industry Act, 2024 (“the Act”). The Company is also authorized as a Firm Carrying on Business in Contracts for Differences, effective 13 September 2021, pursuant to the Securities Industry (CFD) Rules, 2020 (“the CFD Rules”).

3. LCG is wholly owned by the Swiss-based bank FlowBank SA (“FlowBank” or “the Bank”), which has provided crucial services to LCG via outsourcing agreements, including Client Funds Reconciliation, KYC and AML Services, Information Technology Services, Customer Support and Finance & Accounting Services.
4. Since October 2021, the Swiss financial regulator, Financial Market Supervisory Authority (“FINMA”) has taken enforcement actions against FlowBank for breaches related to capital requirements, organization and risk management. Despite these actions however, FlowBank’s financial state continued to deteriorate so that from the end of 2023 up to April 2024, FINMA determined that there was no prospect of restructuring the Bank, necessitating their immediate intervention to protect depositors.
5. Accordingly, on 13 June 2024, FINMA initiated Bankruptcy proceedings against FlowBank due to insufficient capital and concerns of over-indebtedness. In doing so, FINMA appointed as liquidators the law firm Walder Wyss AG (“the Liquidator”).
6. LCG is financially reliant on FlowBank and therefore unable to meet its debts and operational demands without the Bank’s support. FlowBank assisted LCG financially in the form of subordinated loans, but this approach was changed to providing assistance to LCG in the form of bank overdrafts. This only added to LCG’s debt issues because the overdrafts also accrue interest.
7. As FlowBank’s operations were halted, LCG clients were no longer able to freely trade or make withdrawals. This resulted in LCG being unable to provide information to their clients concerning their CFD trading and withdrawals. On 25 Jun 2024, LCG advised the Commission that it was unable to continue without the financial and operational support of FlowBank and sought the Commission’s intervention with initiating a Supervisory Liquidation of the Company.
8. The Commission has been made aware that LCG is projected to be insolvent in the amount of **\$10,827,149.27**, noting that adjustments made by FlowBank leave the Company with insufficient funds to pay its clients.
9. Several regulatory matters relative to LCG’s operations have also given rise to concerns about their governance issues. Some of the more pertinent financial and governance issues are more specifically outlined in paragraphs 10 to 21 herein.

**Finances and Regulatory Capital**

10. The Company's Audited Financial Statements have, year over year, evidenced accumulated deficits, with the Company's projected deficit as at December 2021 being the amount of -\$18,206,132.00.
11. Through correspondence dated 1 February 2024, the Commission approved the Company's request on 25 January 2024, to extend the time for submitting the 2023 Audited Financial statements, to 31 July 2024. Via correspondence dated 24 April 2024, PricewaterhouseCoopers (the "Auditor") noted that the following items were pending to complete LCG's 2022 Audited Financial Statements:
  - a. Updates to the financial statements, following the internal review;
  - b. Management Representation letter;
  - c. Subsequent events procedures; and
  - d. Completion of any remaining procedure once the open items are received.
12. LCG has faced a significant regulatory capital deficiency since Q3 2019, which has worsened due to unhedged client positions and capital shortfalls. Despite repeated requests from the Commission for a detailed Capital Management Plan and financial support from FlowBank, LCG failed to address its insufficient capitalization.
13. To date, LCG has not provided its Audited Financial Statements as at 31 December 2022 and 31 December 2023. LCG's financial insolvency and lack of funds for voluntary liquidation are in direct contravention of regulatory capital requirements, necessitating regulatory intervention.

**Corporate Governance**

14. LCG's regulatory challenges are compounded by governance issues and noncompliance with corporate obligations. A review by the Commission of the 2021 Annual Information Update Form of LCG showed that Mathieu Charles Jean Bruneau and Sergio Verdial Arango were appointed as Directors by Resolution. However, the 2022 and 2023 Annual Information Update Form's evidenced Mr. Sean Munnings as the sole Director without any indication of incumbent Directors.
15. Via correspondence dated 22 January 2024, the Commission requested an updated register of Directors of the Company and confirmation as to when the Commission could expect the appointment of at least one additional Director to the Board of Directors. The Company's CEO and sole Director, Mr. Sean Munnings, advised the Commission that

LCG would commence the process of selecting an additional Director and update the Commission once a person was chosen via a formal application and filing of the required documents. On 20 March 2024, the CEO notified the Commission of the Company's intention to appoint incoming Board Member Mr. Novica Todorovic as Director. To date, the Company has not presented the Commission with an application for an additional Director of LCG.

### **Current Status of LCG**

16. The current CEO of LCG submitted his resignation as CEO and Director to the Commission on the 13 September 2024. The Commission accepted the CEO's resignation as CEO and Director 14 November 2024.
17. Additionally, the Liquidator of FlowBank, via letter dated 8 July 2024, advised LCG of the termination of the Intercompany services agreement and white-label license agreements between FlowBank and LCG. The Liquidator further advised LCG that any claim and supporting evidence should be submitted to the Liquidator by 15 July 2024, at the latest.
18. As a part of the Liquidator's Exit Management Plan, LCG was advised that they would be provided with reasonable assistance to facilitate the migration of their clients to another designated service provider and, most importantly, to proceed with the splitting of all data pertaining to LCG versus FlowBank. However, the deadlines the liquidator gave for this to take place have since passed and it is uncertain whether LCG has secured all or any of their data, to date.
19. While, via its CEO, LCG remains in contact with the Liquidator for the time being, the Company has ceased to operate. Given the mentioned regulatory issues coupled with the ongoing supervisory winding up of FlowBank, LCG's circumstances are anticipated to only worsen.
20. By letter dated 31 October 2024, the Commission advised LCG that its registration was suspended with immediate effect for 30 days. The Commission also advised LCG in this letter that the decision was made to wind up the Company and requested LCG's response to the Commission's intended course of action. By letter in response dated 1 November 2024, LCG advised the Commission of the Company's agreement with the suspension and intended winding-up of LCG.
21. The Commission is of the view that LCG's circumstances warrant the Commission initiating a supervisory winding up. LCG is in agreement with the Commission's decision to initiate a supervisory winding up for the following reasons:

- a. LCG, being insolvent in the amount of **\$10,827,149.27**, is unable to meet its debts and operational demands, and adjustments made by FlowBank leave the Company with insufficient funds to pay its clients;
  - b. Parent Company, FlowBank, on whom LCG relies financially, is being wound up, and without this financial support LCG cannot continue operating; and
  - c. The Company's Memorandum and Articles of Association ("MAA") do not outrightly state how the Company should be wound up, but it is apparent that two (2) Directors are needed, and the Company has only one Director. In the circumstances, LCG is unable to commence a voluntary winding up, and cannot seek approval from the Commission for same.
22. The Commission is concerned about LCG's financial state of affairs, and to abate further decline, seeks to commence court-supervised winding up proceedings.
23. It is proposed that James B. Gomez, Managing Partner, and Noreen R. Taylor-Campbell, Partner, both with Ecovis Bahamas having its place of business at Serenity House, East Bay Street, Nassau, N. P., The Bahamas, be appointed as the Joint Official Liquidators for the Company.
24. For the reasons set out above the Petitioner makes this application under section 155 of the Securities Industry Act, 2024 in conjunction with the International Business Companies Act, for the Company to be wound up on the following grounds:
- I. That the Company:**
    - a. Is projected to be insolvent in the amount of at least \$10,827,149.27 dollars;**
    - b. Is currently non-operational;**
    - c. Sought to wind up voluntarily but failed to meet the conditions necessary for this to occur.**
  - II. That it is in the public interest and in the interest of clients and/or investors that the Company be wound up.**
  - III. That it is just and equitable that the Company be wound up.**

**Your Petitioner therefore humbly prays that:-**

- 1) The Company be wound up by this Honourable Court pursuant to the International Business Companies (Winding Up Amendment) Act, 2011;
- 2) James B. Gomez and Noreen R. Taylor-Campbell of the firm Ecovis Bahamas, be appointed as the Joint Official Liquidators, forthwith;
- 3) The Court confirm the commencement date of this liquidation;
- 4) All costs incurred by James B. Gomez and Noreen R. Taylor-Campbell and their advisors to date, if any, shall be costs in the winding-up; and
- 5) That such other Order may be made in the premises as is deemed just.

AND your petitioner will ever pray, etc.

Dated the 3<sup>rd</sup> day of December, A.D., 2024

*Securities Commission of The Bahamas*  
**Securities Commission of The Bahamas**  
**Poinciana House**  
**North Building, 2<sup>nd</sup> Floor**  
**31A East Bay Street**  
**Nassau, The Bahamas**

**Attorney for the Petitioner/Applicant**

**NOTE:** This petition is intended to be served on the Company and Mr. Sean Munnings, Nassau, The Bahamas.

This Petition was presented by the Securities Commission of The Bahamas, whose address for service is 2<sup>nd</sup> Floor Poinciana House, North Building, 31A East Bay Street, Nassau, The Bahamas.

**NOTICE OF HEARING**

TAKE NOTICE that this Petition will be heard before a Judge of the Supreme Court at the Supreme Court Building in the city of Nassau on the Island of New Providence on the      day of December A.D., 2024 at              o'clock in the              noon.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Commercial Division of the Supreme Court at Nassau.

**REGISTRAR**

**COMMONWEALTH OF THE BAHAMAS**

**IN THE SUPREME COURT**

**Commercial Division**

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Nassau, Bahamas.**

**Attorney for the Petitioner**