L'Insolvency, Restructuring and Dissolution Act 2018

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La loi, en vigueur depuis le 30 juillet 2020, a codifié le droit singapourien de l'insolvabilité des sociétés et des personnes physiques. Elle a intégré les réformes de la restructuration de 2017, conçues pour faire de Singapour un centre régional de restructuration.[1] Cinq ensembles de dispositions sont importants pour les plateformes crypto. Le moratoire lié au scheme of arrangement (concordat) selon la section 64 accorde à une société qui propose ou envisage de proposer un arrangement avec ses créanciers une suspension automatique de trente jours dès la demande, puis une prolongation ordonnée par le tribunal. La section 65 étend le moratoire aux sociétés liées qui jouent un rôle nécessaire et essentiel dans la restructuration.[2] La section 67 permet au tribunal d'accorder une super-priorité au financement de sauvetage (rescue financing). Le judicial management selon la Part 7 place la société sous l'autorité d'un administrateur judiciaire chargé de la redresser ou d'obtenir une meilleure réalisation des actifs qu'en liquidation. Un interim judicial manager peut être désigné en urgence.[3] La liquidation (winding up) relève de la Part 8, la section 125 en fixant les motifs, dont l'incapacité de payer ses dettes. Les sociétés étrangères ne peuvent être liquidées ou placées sous moratoire que si elles présentent un lien substantiel avec Singapour au sens de la section 246. La loi

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type de la CNUDCI sur l'insolvabilité internationale, transposée dans la Third Schedule, permet aux représentants d'une procédure d'insolvabilité étrangère d'obtenir reconnaissance et mesures de soutien.[4]

Notes

1. Insolvency, Restructuring and Dissolution Act 2018, entré en vigueur le 30 juillet 2020. La section 1 confirme le titre abrégé. ↩
2. Insolvency, Restructuring and Dissolution Act 2018, sections 64 (moratoire) et 65 (moratoire des sociétés liées). ↩
3. Insolvency, Restructuring and Dissolution Act 2018, sections 67 (financement de sauvetage), 91 (judicial management order) et 94 (interim judicial manager). ↩
4. Insolvency, Restructuring and Dissolution Act 2018, sections 125, 246 et 252 et Third Schedule (UNCITRAL Model Law on Cross-Border Insolvency). ↩

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