

New Fortress Energy — SDNY Recognizes UK Restructuring Plans of U.S. Group's English Affiliates: A Green Light for the Transatlantic Route, With Published Guardrails

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At a Glance

Chief Judge Martin Glenn of the U.S. Bankruptcy Court for the Southern District of New York has issued his [opinion](#), dated July 14, 2026, explaining his recognition and enforcement under Chapter 15 of the English Part 26A restructuring plans (UKRPs) of two UK-incorporated affiliates of Nasdaq-listed New Fortress Energy Inc. (NFE) — including one plan company incorporated only weeks before the English proceedings began — giving full effect to the plans' non-debtor releases. The relief was granted without objection, but the court used the occasion to publish, for the first time in a fully reasoned opinion, the analytical framework it will apply when U.S.-based groups establish English affiliates to restructure New York law-governed debt through the UK courts.

As the court observed, UK-approved plans “often include releases of non-debtor affiliate guarantees of the original debt, as well as broad exculpation protection” that “push the boundaries of available relief in a chapter 11 case.” Judge Glenn granted every element of the requested relief, yet wrote 57 pages to explain why and to set out the “cautionary principles” a Chapter 15 court should consider before doing so again. In doing so, the court has effectively set out what the next transatlantic restructuring will need to show.

For any board, sponsor or creditor group weighing UK schemes of arrangement or UKRPs against U.S. Chapter 11, this opinion is now the leading guidance on how U.S.

recognition of the transaction will be scrutinized – and on how to structure the transaction to withstand that scrutiny. In short: the “Transatlantic route” is open, but the facts and circumstances in each instance will govern its availability and effectiveness.

Why This Matters

Several U.S. groups have recently restructured through UK schemes of arrangement or UKRPs under the UK Companies Act 2006, followed by Chapter 15 recognition in the U.S. Following high-profile examples such as *McDermott*, in the past eight months three Nasdaq-listed issuers – Fossil, Argo Blockchain and NFE – restructured through UKRPs rather than Chapter 11, in each case preserving the U.S. listing (with Fossil and NFE obtaining Chapter 15 recognition, whereas Argo, an existing English plc, managed without a Chapter 15 filing). Each took a different route to London: an English Newco guarantor coupled with a change of the notes’ governing law to English law (*Fossil*); an existing English plc (*Argo*); and English-incorporated plan companies, one newly formed for the purpose, with no change to the New York governing law of the debt (*NFE*).

The attractions of the UKRP are by now familiar: no statutory absolute priority rule; surgical scope confined to financial debt; a 75%-by-value voting threshold with no numerosity requirement (which can be particularly useful where dispersed retail “no” votes could otherwise cause a class to reject the plan); a typically faster and cheaper process; and – of particular significance since the U.S. Supreme Court’s decision in *Purdue* curtailed non-consensual third-party releases in Chapter 11 – the ability of a UKRP to release non-debtor affiliates while the listed parent stays out of any proceeding.

Background

NFE, a Delaware corporation headquartered in New York with stock listed on Nasdaq, is an integrated energy infrastructure group. Facing liquidity pressure from project delays, an unfavorable liquefied natural gas pricing environment and other headwinds, the group negotiated a restructuring with holders of roughly \$5.7 billion of guaranteed external funded debt, governed by New York law.

The restructuring was implemented through two UKRPs proposed by two English companies: NFE Global Holdings Limited, incorporated in 2021, and NFE Brazil Newco

Limited, incorporated in April 2026 and formed specifically to promote the restructuring of the group's Brazilian business, which it did by acceding as guarantor of the relevant notes just one day before its English proceedings commenced. The plans reduce external funded debt from \$5.7 billion to less than \$1 billion, exchange existing debt for new debt and preferred and common equity, and separate the group into two independent companies: BrazilCo, owned by certain creditors, and CoreCo, 65% owned by creditors with existing shareholders retaining 35% (pre-dilution) – an outcome generally unavailable in Chapter 11 under the absolute priority rule.

The English court (Cawson J) sanctioned the UKRPs on June 18, 2026, following near-unanimous approval. Critically, no creditor objected to the UKRP convening hearing or sanction hearing, nor in the Chapter 15 cases. A relevant alternative report showed every class recovering more under the UKRP than under the counterfactual.

The Recognition Decision

The recognition holdings themselves are conventional and were resolved efficiently. Eligibility was satisfied by the debtors' interest in a retainer held in a New York client trust account and, independently, by their obligations on New York law-governed debt containing New York forum selection clauses; the English proceedings qualified as collective "foreign proceedings"; the registered-office presumption – that each debtor's center of main interests (COMI) was in England – was un rebutted. The court accordingly recognized the English proceedings as foreign main proceedings and found no basis to invoke the public policy exception under Chapter 15, noting the fundamentally fair process, extensive notice and overwhelming support.

Notably, the fact that NFE Brazil Newco was incorporated shortly before filing did not itself defeat the COMI presumption.

"COMI Tourism": The Court's Framework

The New York court framed the central question directly: is "COMI tourism" – where a foreign debtor affiliated with a U.S.-based (or other non-UK-based) group is "established specifically for the purpose of pursuing a foreign restructuring solution followed by a chapter 15 case" – a basis to deny recognition under Chapter 15? Its answer: nothing in the text of Chapter 15 precludes recognition, but courts should apply real scrutiny. The particular risk the court identified is that a debtor may use a

newly established UK affiliate “to circumvent the requirements of the U.S. Bankruptcy Code to disadvantage some creditors.”

Several features of the discussion warrant close attention:

Eligibility: Eligibility for a scheme of arrangement or UKRP rests on the plan company’s “sufficient connection” with England – a test the English courts have themselves described, since *Codere*, as capable of being satisfied by “good forum shopping” – while Chapter 15 recognition rests on COMI (or establishment). As Judge Glenn put it, the two “are not the same standards.” The court noted that in *Fossil*, the sufficient connection test was satisfied by changing the governing law of the debt from New York law to English law and observed that the Houston bankruptcy court’s recognition order in that case “does not analyze the issue of COMI” at all. While the court expressly noted it did not disagree with the outcomes in the previous cases of *Fossil*, *Mega Newco* and *Codere*, the signal is unmistakable: the New York court is “particularly sensitive to ‘bankruptcy tourism’ and concerned by the opportunity for its abuse via COMI manipulation.”

Manipulation: The New York court quoted Judge Wiles’ warning in *Mega Newco* that, taken to its logical end, the structure would let any debtor restructure anywhere by forming a new subsidiary to assume the parent’s obligations, such that “the ordinary predicate for chapter 15 relief could be stripped of meaning.” Evidence of “[i]nsider exploitation, untoward manipulation, and overt thwarting of third-party expectations may result in a refusal to recognize” the foreign plan for bad-faith COMI manipulation.

Creditor acquiescence: The New York court reiterated that COMI determinations should not be made mechanically and that creditors are generally best placed to judge whether their own expectations are being thwarted – so a lack of objections and overwhelming support weigh heavily in favor of recognition. Conversely, a contested case will be tested against these markers that can, and should, be addressed before any petition is filed.

“Sufficient protection” guardrail: The New York court identified the “sufficiently protected” requirement of Section 1522(a) of Chapter 15 – which requires just treatment of all claimholders, the protection of U.S. claimants against prejudice and inconvenience in the processing of claims, and distribution substantially in accordance with U.S. priorities¹ – as “a helpful guardrail to protect creditor interests.” A Chapter 15 court, the opinion states, “must carefully scrutinize the plan” for provisions that conflict with U.S. or state law. On the facts, NFE cleared the framework comfortably.

Releases, Exculpations and *Purdue*

The releases under NFE's UKRP extended well beyond the two plan companies, covering group members, plan creditors, advisers and related parties – subject to carve-outs including fraud, gross negligence or willful misconduct. The court enforced them in full, positioning the result within the established line of authority that Chapter 15 courts may enforce foreign plan releases “even if those provisions could not be entered in a plenary chapter 11 case.” The opinion acknowledged the commercial logic for such provisions: releases of affiliate guarantees are commonplace in UK schemes and UKRPs because, if “ricochet” claims against affiliate guarantors remained possible, the scheme or UKRP would fail. (Similarly, the English [sanction judgment](#) acknowledged there was “an element of artificiality about creating a risk of ricochet effect in order to justify the inclusion of a third party release” in a UKRP, while noting previous cases approving such structures and finding there was no “blot” on the facts of NFE's case.)

On third-party releases post-*Purdue*: the New York court accepted the analysis in the expert report filed in the English proceedings, namely that *Purdue* was limited to statutory interpretation under Chapter 11, and the U.S. Supreme Court expressly acknowledged that Congress may authorize such releases; accordingly, enforcement of NFE's UKRPs, including the releases, was not “manifestly contrary” to U.S. public policy. The New York court thus joined *Crédito Real*, *Odebrecht* and *Fossil* in declining to import *Purdue* into Chapter 15 – though no contested challenge on the point has yet reached a circuit court. Enforcement of exculpation provisions likewise followed Chapter 11 principles: the releases in NFE's UKRPs carved out fraud, gross negligence and willful misconduct, as noted.

Key Takeaways

1. *The route is confirmed* – in a detailed published opinion from SDNY's chief bankruptcy judge: A U.S. group may establish an English affiliate, restructure New York law-governed debt through a UKRP and enforce the result, including non-debtor releases, through Chapter 15. Even a plan company incorporated weeks before filing was recognized here, and recognition followed the English sanction within days – as it did in *Fossil*.
2. *But expect genuine scrutiny*: That scrutiny is genuine, but its focus is known – COMI substance, creditor treatment and consistency with U.S. and state law.

Each element can be anticipated and evidenced from the outset of a transaction.

3. *Consensus is the best protection; the English Newco structure remains untested against live opposition:* Near-unanimous support and the lack of objections significantly weighed in favor of recognition of NFE's UKRPs. A contested recognition will require consideration of whether (and how far) the objector can succeed in establishing exploitation, untoward manipulation or thwarting of third parties' legitimate expectations (*Codere/Mega Newco*). In such a case, the outcome will turn on the strength of the record.
4. *Evidence sufficient protection:* A relevant alternative (or scheme comparator) analysis showing every affected class recovers more and "just," non-discriminatory treatment of affected stakeholders should be treated as a core focus. (In *NFE*, the relevant alternative analysis showed a roughly \$1.44 billion uplift for creditors versus the counterfactual.) The deal – and the evidentiary record – must be engineered to clear both the English and U.S. benches.
5. *Post-Purdue, UKRP releases remain enforceable through Chapter 15 – if fairly obtained:* Releases should be carefully tailored and subject to appropriate carve-outs (for fraud, gross negligence and willful misconduct). Both the English and U.S. benches will scrutinize the releases.

1. *In re Odebrecht Engenharia e Construcao S.A. – Em Recuperacao Jud.*, 669 B.R. 457, 474 (Bankr. S.D.N.Y. 2025) [↩](#)

Authors

Kate Stephenson

Partner / London

Chad J. Husnick, P.C.

Partner / Chicago

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