

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re: Chapter 15
3MotionAI Inc., Case No. 25-11864 (CTG)
Debtor in a foreign proceeding. Re: D.I. 8
-----X

**MEMORANDUM OF LAW OF FOREIGN REPRESENTATIVE
IN SUPPORT OF (I) VERIFIED CHAPTER 15 PETITION AND
(II) MOTION OF FOREIGN REPRESENTATIVE FOR ORDERS GRANTING
PROVISIONAL AND FINAL RELIEF IN AID OF FOREIGN MAIN PROCEEDING**

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TDB Restructuring Limited (“TDB Restructuring”) is the authorized foreign representative (the “Foreign Representative”) of the above-captioned debtor (“3Motion” or the “Debtor”), who has filed a Form 33 Notice of Intention to Make a Proposal, dated September 3, 2025 (the “NOI”), under section 50.4 (1) of Canada’s Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “BIA”), as confirmed by the Certificate of Filing re Estate No. 3267656 (the “Certificate”) issued by the Office of the Superintendent of Bankruptcy Canada (the “BIA Proceeding”), pending before the Ontario Superior Court of Justice (Commercial List) (the “Canadian Court”).

On October 1, 2025, the Foreign Representative commenced the above-captioned chapter 15 case by filing a verified Chapter 15 Petition, and also filed the *Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding and Certain Related Relief Pursuant to Sections 362, 364(e), 1517, 1519, 1520, 1521, and 105(a) of Bankruptcy Code* (the “Recognition and Relief Motion” and, together with the Petition, the “Petition for Recognition”),¹ seeking:

(a) entry of a provisional order (the “Provisional Order”), on an emergency basis:

- (i) recognizing and enforcing in the United States (the “U.S.”), on an interim basis, the initial order issued on October 1, 2025 by the Canadian Court (the “BIA Initial Order”)² in the BIA Proceeding with respect to the issuance of a stay as to all proceedings against the Debtor,
- (ii) applying sections 362 of title 11 of the United States Code (the “Bankruptcy Code”) in this chapter 15 case pursuant to sections 1519(a)(1) and (a)(3), 1521(a)(7), and 105(a) of the Bankruptcy Code, and
- (iii) granting such other and further relief as the Court deems just and proper; and

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Recognition and Relief Motion.

² A copy of the BIA Initial Order is attached as Exhibit D to the Declaration of Bryan A. Tannenbaum filed in support of the Motion contemporaneously herewith (the “Tannenbaum Declaration”).

(b) entry of a final order (the “Final Order”), after notice and a hearing:

- (i) granting the Petition in this chapter 15 case and recognizing the BIA Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code and related relief,
- (ii) giving full force and effect in the U.S. to the BIA Initial Order, including, without limitation, the Canadian Court’s authorization of the DIP Facility (as defined below) and (a) granting to the DIP Lender (as defined below) of a charge and certain other protections (as described in more detail below), and any and all extensions or amendments thereof authorized by the Canadian Court, and (b) authorizing the sale and investment solicitation process for the business and assets of 3Motion in the Canadian Court (the “SISP”), and (c) extending the protections of the Provisional Order to 3Motion on a final basis, and
- (iii) granting such other and further relief as the Court deems just and proper.

The Foreign Representative respectfully submits this Memorandum of Law in support of the Petition for Recognition.

PRELIMINARY STATEMENT

1. Because, as set forth herein, 3Motion’s assets and operations primarily are located in Canada, 3Motion commenced the BIA Proceeding as its main proceeding. The BIA Initial Order in the BIA Proceeding implements relief, similar to the automatic stay under the Bankruptcy Code, to prevent creditors from taking action against 3Motion and its assets (among other things). Because 3Motion has assets and creditors in the U.S., the Foreign Representative commenced this chapter 15 case to facilitate the SISP and ensure that the Debtor is protected from parties taking actions against it and its assets in the U.S..

2. The Foreign Representative is authorized by 3Motion and approved by the Canadian Court to, among other things, commence this chapter 15 case, report to the Canadian Court, and take such actions as may be necessary or appropriate in furtherance of the recognition of the 3Motion’s BIA Proceeding. Declaration of Bryan A. Tannenbaum (“Tannenbaum Decl.”),

¶ 1. Most importantly, the Foreign Representative seeks entry of a Final Order granting recognition of the BIA Proceeding as a foreign main proceeding and enforcing the BIA Initial Order and granting the DIP Lender certain protections afforded by section 364(e) of the Bankruptcy Code. *Id.* at ¶ 2. The Foreign Representative also seeks certain relief on an interim basis, pending consideration of the Final Order. *Id.*

3. As discussed in the Tannenbaum Declaration, upon commencement of the BIA Proceeding, *all of 3Motion's creditors* were stayed from taking any enforcement actions against 3Motion and its assets. *Id.* at ¶ 1. Notwithstanding the application of the stay imposed by the BIA Proceeding, there is a risk that 3Motion's creditors may attempt to take enforcement actions in the U.S. Paragraph 41 of the BIA Initial Order enhanced the BIA stay by requesting judicial assistance from U.S. courts in enforcing the stay in the U.S. The entry by this Court of a provisional order extends the protections of the stay under section 362 to 3Motion's assets and creditors located in the U.S, and the entry of the final order, among other things, recognizes the BIA Proceeding as a foreign main proceeding, reinforces the stay and permits the enforcement in the U.S. of claims and liens granted to the DIP Lender providing 3Motion with postpetition financing. *Id.* at ¶ 2. This relief is essential with respect to 3Motion's customers and key suppliers, whose continued business is essential to 3Motion's survival. *Id.* at ¶ 48. Pursuant to the Bankruptcy Code, however, such relief is not available until this Court grants a final order, after notice and a hearing. In the interim, there is no stay or other protections in the U.S. Additionally, absent access to the liquidity provided by the DIP Facility (as defined in the Tannenbaum Declaration), it is likely that 3Motion will be unable to meet its postpetition obligations as they become due, maintain the operation of its business as a going concern, or pursue restructuring efforts. *See, e.g., Id.* at ¶ 11.

4. Therefore, in addition to the Final Order, the Foreign Representative is seeking on an interim basis, an order recognizing the BIA Proceeding and applying section 362 of the Bankruptcy Code to ensure that no creditor gains control of 3Motion assets in pending litigation or attempts to bring any collection or enforcement action against 3Motion. *Id.* at ¶¶ 9, 46-48. The Foreign Representative also is seeking approval, on a final basis, of recognition of the Canadian Court's approval of the DIP Facility and related DIP Lender protections, and the granting to the DIP Lender of certain protections afforded by section 364(e) of the Bankruptcy Code. *Id.* at ¶ 46. Absent the relief requested, 3Motion will not have access to necessary liquidity, the BIA Proceeding could be undermined, 3Motion's restructuring efforts could be jeopardized, and 3Motion, its creditors, and other parties in interest could suffer irreparable harm.

5. 3Motion's goal in the BIA Proceeding (with the assistance of this chapter 15 case) is to preserve its assets -- in particular, its U.S. Patent that is the centerpiece of its software applications and which is at risk in the Chancery Court litigation -- so as to facilitate a sale of those assets in the BIA Proceeding to benefit all of its creditors. *Id.* at ¶ 53. Granting the relief sought herein will help accomplish this objective, while at the same time ensuring the fair and efficient administration of the BIA Proceeding, maximization of the value of 3Motion's business and assets for the benefit of creditors, and fair and equitable treatment of all stakeholders. *Id.* at ¶ 54. The foregoing is consistent with the principles set forth in chapter 15 of the Bankruptcy Code and U.S. public policy.

JURISDICTION AND VENUE

6. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference from the United States District Court for the District of Delaware*, dated as of February 29, 2012. This case has been properly commenced

pursuant to 11 U.S.C. § 1504 by the filing of petition for recognition of the BIA Proceeding pursuant to 11 U.S.C. § 1515 of the Bankruptcy Code. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper before this Court pursuant to 28 U.S.C. § 1410.

FACTUAL BACKGROUND

7. The Court is respectfully referred to the Petition for Recognition, the Tannenbaum Declaration and the Recognition and Relief Motion filed contemporaneously herewith and containing the facts relied on in this Memorandum of Law. The Tannenbaum Declaration is incorporated herein by reference.

ARGUMENT

I. BIA Proceeding Is Entitled to Recognition as a Foreign Main Proceeding

8. The BIA Proceeding should be recognized as a foreign main proceeding and the BIA Initial Order should be recognized and enforced because this chapter 15 case was properly commenced by a duly authorized foreign representative and the BIA Proceeding qualifies as a foreign main proceeding as it is pending in the country where 3Motion has its center of main interests.

A. This Case Is Proper Under Chapter 15

9. Chapter 15 of the Bankruptcy Code applies where a foreign representative seeks the assistance of a U.S. bankruptcy court in connection with a foreign proceeding. 11 U.S.C. § 1501(b)(1). 3Motion's case is proper under chapter 15 because (i) this case concerns a "foreign proceeding," (ii) this case was commenced by TDB Restructuring, a duly authorized "foreign representative," (iii) the Petition for Recognition, and all required supporting documentation, were properly filed, and (iv) the relief sought by the Petition for Recognition is consistent with the objectives of chapter 15. *See* 11 U.S.C. §§ 101, 1515.

1. BIA Proceeding Is a “Foreign Proceeding”

10. Section 101(23) of the Bankruptcy Code defines a “foreign proceeding” as:

a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt 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.

11 U.S.C. § 101(23). As discussed more fully in the Tannenbaum Declaration, the BIA Proceeding is a judicial proceeding brought under the BIA that is supervised by the Canadian Court. Tannenbaum Decl., ¶¶ 1, 6-9. The BIA provides for a controlled reorganization procedure designed to enable financially distressed companies to avoid foreclosure or seizure of assets while maximizing the company’s value as a going concern for the benefit of creditors and other parties in interest.

11. In connection with the BIA Proceeding, on October 1, 2025, the Canadian court entered the BIA Initial Order. The BIA Initial Order provides for certain relief, including, among other things, (i) a stay of all proceedings and actions against 3Motion, (ii) the DIP Facility from West Tech Fitness Group Inc. (“DIP Lender”) in the amount of CAD \$750,000 pursuant to the signed DIP Term Sheet annexed to the First Report, (iii) a charge over 3Motion’s assets to secure the DIP Facility, (iv) the sale and investment solicitation process for the business and assets of 3Motion (the “SISP”) pursuant to Schedule A attached to the BIA Initial Order and steps to implement same by the Proposal Trustee, (iv) a charge on 3Motion’s assets to secure payment in favor of indemnities granted to 3Motion’s directors and officers, (v) an administration charge on 3Motion’s assets to secure fees and disbursements incurred in connection with professional services rendered to 3Motion; and (vi) the appointment of the Proposal Trustee as the foreign representative of the BIA Proceeding for purposes of making an application for recognition of same under Chapter 15 of the US Bankruptcy Code and requesting the aid of assistance of U.S.

courts, including the US bankruptcy courts and the Delaware Chancery court, in enforcing the stay of proceedings which arose as a result of the BIA Proceeding and other orders that might issue in the BIA Proceeding. The Initial BIA Order is annexed to Tannenbaum Declaration as Exhibit D.

12. Courts have previously recognized that a Canadian restructuring proceeding under the BIA constitutes a “foreign proceeding,” as defined in the Bankruptcy Code. *See, e.g., In re Bench Accounting, Inc., et al.*, No. 25-10463 (LSS) (Bankr. D. Del. Mar. 18, 2025) [D.I. 20]; *In re DAVIDsTEA Inc.*, No. 20-11802 (JTD) (Bankr. D. Del. July 9, 2020) [D.I. 21]; *In re Lone Pine Res. Inc.*, No. 13-12487 (BLS) (Bankr. D. Del. Sept. 26, 2013) [D.I. 18]; *In re Xentel Inc.*, No. 13-10888 (KG) (Bankr. D. Del. Apr. 12, 2013) [D.I. 15]; *In re Cinram Int’l Inc.*, No. 12-11882 (KJC) (Bankr. D. Del. June 26, 2012) [D.I. 30]; *In re Arctic Glacier Int’l Inc.*, No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) [D.I. 28]; *In re Nortel Networks Corp.*, No. 0910164 (KG) (Bankr. D. Del. Feb. 27, 2009) [D.I. 40].

2. TDB Restructuring Is a “Foreign Representative”

13. Section 101(24) of the Bankruptcy Code provides that:

The term “foreign representative” means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor’s assets or affairs or to act as a representative of such foreign proceeding.

11 U.S.C. § 101(24). The board of directors of the Debtor appointed by resolution the Foreign Representative.³ In addition, pursuant to paragraph 41 of the BIA Initial Order, the Canadian Court

³ *See In re Vitro, S.A.B. de C. V.*, 470 B.R. 408, 412 (N.D. Tex. 2012) *aff’d sub nom. In re Vitro S.A.B. de CV*, 701 F.3d 1031 (5th Cir. 2012) *cert. dismissed*, 133 S. Ct. 1862 (2013) (recognizing that the board of directors of a corporation could authorize a person to act as the corporation’s foreign representative in a chapter 15 proceeding); *In re Compania Mexicana de Aviacion, S.A. de C.V.*, No. 10-14182 (MG) (Bankr. S.D.N.Y. Nov. 8, 2010) (same). Moreover, section 1515(b) provides that in the absence of a “certified copy of the decision commencing such foreign proceeding and appointing the foreign representative” or “a certificate from the foreign court affirming the existence of such foreign proceeding and of the appointment of the foreign representative,” a petition for recognition should be accompanied by “any other evidence acceptable to the court of the existence of such foreign proceeding and of the appointment of the foreign representative.” 11 U.S.C. § 1515(b).

appointed TDB Restructuring to act as the Foreign Representative of 3Motion and authorized TDB Restructuring to apply for recognition by commencing the chapter 15 case in the U.S.:

THIS COURT ORDERS that the Proposal Trustee is hereby appointed as foreign representative of this proceeding further to section 279 of the BIA for purposes of making an application for recognition of this proceeding under Chapter 15 of the US Bankruptcy Code.

14. Further, TDB Restructuring, as a corporation, is a “person,” as defined in section 101(41) of the Bankruptcy Code. 11 U.S.C. § 101(41).

15. Accordingly, TDB Restructuring is a “foreign representative,” as defined in the Bankruptcy Code. *Cf. In re SPhinX, Ltd.*, 351 B.R. 103, 116-17 (Bankr. S.D.N.Y. 2006) *aff’d*, 371 B.R. 10 (S.D.N.Y. 2007) (noting that the foreign representatives had submitted a “copy of the Cayman Court’s order appointing them to administer the Debtor’s winding up under the Companies Law and authorizing their commencement of chapter 15 cases, thereby satisfying Bankruptcy Code section 101(24)”).

3. TDB Restructuring Properly Filed This Case

16. This case was duly and properly commenced as required by sections 1504 and 1509(a) of the Bankruptcy Code, by the filing of the Petition for Recognition in accordance with section 1515(a) of the Bankruptcy Code, which was accompanied by all documents and information required by sections 1515(b) and (c).⁴ See *Zhejiang Topoint Photovoltaic Co. v. Zhi Chen (In re Zhejiang Topoint Photovoltaic Co.)*, 600 B.R. 312, 317 (Bankr. D.N.J. 2019) (“A case under [chapter 15] is commenced by the filing of a petition for recognition of a foreign proceeding under section 1515.”); *In re Irish Bank Resolution Corp. Ltd.*, No. 13-12159 (CSS), 2014 WL

⁴ As set forth above, in satisfaction of section 1515(b) the Foreign Representative has attached to the Tannenbaum Declaration a copy of the BIA Initial Order, which specifically contemplates (i) the commencement of this chapter 15 case, and (ii) the appointment of TDB Restructuring as the Foreign Representative. Furthermore, in satisfaction of section 1515(c), the Foreign Representative has filed, accompanying the Debtor’s petition, a *Foreign Representative’s Statement Regarding Known Foreign Proceedings*, which identifies the BIA Proceeding as the only foreign insolvency proceeding pending with respect to the Debtor.

9953792, at *17 (Bankr. D. Del. Apr. 30, 2014) (“The final requirement for recognition under § 1517 is that the petition for recognition meets the procedural requirements of [section] 1515”), *aff’d*, 538 B.R. 692 (D. Del. 2015); *In re ABC Learning Centres Ltd.*, 445 B.R. 318, 334 (Bankr. D. Del. 2010) (same), *aff’d*, 728 F.3d 301 (3d Cir. 2013); *In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd.*, 374 B.R. 122, 127 (Bankr. S.D.N.Y. 2007) (“A case under chapter 15 is commenced by a foreign representative filing a petition for recognition of a foreign proceeding under section 1515 of the Bankruptcy Code”), *aff’d*, 389 B.R. 325 (S.D.N.Y. 2008). Because the Foreign Representative has satisfied the requirements set forth in section 1515 of the Bankruptcy Code, this chapter 15 case has been properly commenced.

4. Petition for Recognition Is Consistent with Chapter 15

17. One of the stated objectives of chapter 15 is the “fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor.” 11 U.S.C. § 1501(a)(3). This case has been commenced for the purpose of obtaining the assistance of the Court to ensure the effective and economical administration of the BIA Proceeding by, among other things, restricting 3Motion’s creditors from taking certain actions in the U.S. that would undermine the unified, collective, and equitable resolution of 3Motion’s liabilities in the BIA Proceeding before the Canadian Court. As such, the Petition for Recognition is consistent with the purpose of chapter 15 and the cross-border coordination it promotes.

B. BIA Proceeding is a “Foreign Main Proceeding”

18. The Court should grant recognition of the BIA Proceeding as a “foreign main proceeding,” as defined in the Bankruptcy Code. A foreign proceeding is a “foreign main proceeding” if it is pending in the country where the debtor has the center of its main interests. 11 U.S.C. §§ 502(4), 1517(b)(1). Many factors weigh into the center of main interests (or COMI)

analysis, including “the location of the debtor's headquarters; the location of those who actually manage the debtor; the location of the debtor's primary assets; the location of the majority of the debtor's creditors or of a majority of the creditors who would be affected by the case; and/or the jurisdiction whose law would apply to most disputes.” In re Manley Toys Ltd., 580 B.R. 632, 645 (Bankr. D.N.J. 2018); *In re Irish Bank*, 2014 WL 9953792, at *16; *In re ABC Learning Centres*, 445 B.R. at 333; *In re Bear Stearns*, 374 B.R. at 128 (citing *In re SPhinX, Ltd.*, 351 B.R. at 117); *see also In re Tri-Continental Exch. Ltd.*, 349 B.R. 627, 634 (Bankr. E.D. Cal. 2006) (noting that a debtor’s center of main interests is the “place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties”). Further, courts have equated a company’s principal place of business to its center of its main interests. *See In re Manley Toys Ltd.*, 580 B.R. at 645; *see also In re Catalyst Paper Corp.*, No. 16-12419, 2017 Bankr. LEXIS 4673, at *4 (Bankr. D. Del. Jan. 20, 2017) (“British Columbia, Canada is the center of main interests for each of the Debtors, including, but not limited to, the U.S. Debtors. The Proceeding pending in the Canadian Court, in the location that is the Debtors' center of main interest, constitutes a foreign main proceeding pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code”).

19. The center of main interests for 3Motion’s enterprise is Oakville, Ontario, Canada, the location of 3Motion’s technology and artificial intelligence company and corporate headquarters. All active business operations of 3Motion are undertaken in Oakville under the direction of RH. Most of 3Motion’s creditors are located in Canada, and Canadian law applies to many of 3Motion’s contracts.

20. In these circumstances, Oakville, Ontario, Canada should be found to be the center of 3Motion's main interests. Accordingly, given that the BIA Proceeding is pending in Ontario, Canada, the BIA Proceeding should be recognized as a foreign main proceeding.

21. Furthermore, recognizing the BIA Proceeding as a Foreign Main Proceeding is consistent with the purpose of chapter 15 and public policy. Section 1506 of the Bankruptcy Code provides that nothing in chapter 15 shall prevent the court from refusing to take an action otherwise required therein if such action would be manifestly contrary to the public policy of the U.S. 11 U.S.C. § 1506. Here, the relief requested is consistent with U.S. public policy.

22. One of the fundamental goals of the Bankruptcy Code is the centralization of disputes involving the debtor. *See, e.g., Protopapas v. Brenntag AG (In re Whittaker Clark & Daniels Inc.)*, 152 F.4th 432 (3d Cir. 2025) (“... bankruptcy provides an ‘orderly and centralized’ process to restructure the debts of the honest but unfortunate debtor . . .”) (internal citations omitted); *In re Ionosphere Clubs, Inc.*, 922 F.2d 984, 989 (2d Cir. 1990) (“The Bankruptcy Code ‘provides for centralized jurisdiction and administration of the debtor, its estate and its reorganization in the Bankruptcy Court’”) (internal citations omitted). Indeed, as one court has noted, “the firm policy of American courts is the staying of actions against a corporation which is the subject of a bankruptcy proceeding in another jurisdiction.” *Cornfeld v. Investors Overseas Servs., Ltd.*, 471 F. Supp. 1255, 1259 (S.D.N.Y. 1979) (recognizing Canadian liquidation proceeding would not violate laws or public policy of New York or the U.S.).

23. The BIA is similar to chapter 11 of the Bankruptcy Code because it is a statutory regime that promotes the rehabilitation of a debtor, provides the debtor with a “breathing spell” from creditors’ collection efforts and a centralized process to assert and resolve claims against the debtor’s estate, and provides for a fair and equitable process for distribution to creditors in order

of priority. Recognizing the BIA Proceeding and enjoining certain actions or proceedings with respect to 3Motion and its assets will assist the orderly administration of 3Motion's assets in Canada and the U.S. Such orderly administration is consistent with U.S. public policy, as embodied in the Bankruptcy Code. If all creditors are not enjoined, creditors may unilaterally pursue collection or enforcement efforts, U.S. assets may be seized, and the orderly determination of claims in the foreign proceeding will be frustrated. This would cause significant delay and disruption to, and possibly imperil, 3Motion's restructuring process in the BIA Proceeding. The purpose of chapter 15 and the policies underlying the Bankruptcy Code are to prevent such harm. *See* 11 U.S.C. § 1501.

24. Further, recognition of the BIA Proceeding advances the goals of cooperation and maximizing asset value that underlie chapter 15 and the UNCITRAL Model Law on Cross Border Insolvency. Section 1501(a) of the Bankruptcy Code provides, in pertinent part, that:

The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of -

- (1) cooperation between –
- (2) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;
- (3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor; [and]
- (4) protection and maximization of the value of the debtor's assets.

11 U.S.C. § 1501(a). Recognition of the BIA Proceeding would foster cooperation between this Court and the Canadian Court. By recognizing the BIA Proceeding and enforcing the BIA Initial Order in the U.S., this Court can effectively assist the Canadian Court in the fair and orderly administration of 3Motion's assets by ensuring that 3Motion's creditors, particularly those creditors in the U.S., are enjoined from commencing or continuing actions against 3Motion and its

assets. This will help protect and maximize the value of 3Motion's assets and facilitate the SISP. Additionally, recognizing the BIA Proceeding will promote the fair and efficient administration of the BIA Proceeding, which will protect the interests of all stakeholders by centralizing the process of resolving claims against 3Motion in Canada.

C. Recognition of DIP Facility and DIP Lender's Charge Is Necessary

25. The Foreign Representative also seeks, in the Final Order, to have the Court (i) grant recognition of the DIP Facility and related liens, the DIP Lender's Charge (as defined in the BIA Initial Order) approved by the Canadian Court in the BIA Initial Order, and (ii) provide the DIP Lender certain protections provided by section 364(e) of the Bankruptcy Code. As set forth more fully in the Tannenbaum Declaration, the Debtor commenced the BIA Proceeding and the Foreign Representative commenced this chapter 15 case to, among other things, assist the Debtor in consummating a restructuring – the SISP. Tannenbaum Decl., ¶¶ 6-9, 28-31. To maintain sufficient operating liquidity and fund the administrative costs associated with the BIA Proceeding and this case, 3Motion needs debtor-in-possession financing. After an extensive search that resulted in no potential lenders but West Tech (as described in the Hanoun Affidavit, 3Motion made a good-faith business decision to enter into an agreement with West Tech, a company formed by RH, its founder, to obtain access to a postpetition credit facility (the "DIP Facility"). *See e.g.*, Tannenbaum Decl. at ¶¶ 31 and 43. The DIP Facility was approved, on an interim basis, by the Canadian Court, and the Foreign Representative seeks recognition and enforcement of this approval, and certain additional protections for the DIP Lenders, pursuant to section 364(e) of the Bankruptcy Code in the Final Order. The DIP Term Sheet attached to the Foreign Representative's First Report sets out the terms and conditions of the DIP Facility.

26. Bankruptcy courts routinely defer to the business judgment of a debtor, a trustee or a fiduciary on most business decisions, including the decision to borrow money. *See Grp. of Inst. Inv. v. Chicago Mil. St. P. & Pac. Ry.*, 318 U.S. 523, 550 (1943); *In re Nellson Nutraceutical, Inc.*, 369 B.R. 787, 790 (Bankr. D. Del. 2007) (“The discretion for a debtor in possession to act with regard to ordinary business matters . . . [is] at the heart of the powers of a debtor in possession, and courts have shown a reluctance to interfere, in the making of routine, day-to-day business decisions.”); *In re Hamilton Square Assocs.*, No. 91-14720S, 1992 WL 98294, at *1 (Bankr. E.D. Pa. May 5, 1992) (holding that a “debtor-in-possession[’s] . . . business judgments must be accepted if reasonable”). In general, a bankruptcy court should defer to a debtor in possession’s business judgment regarding both the need for and the proposed use of funds unless such decision is arbitrary and capricious. *See In re Shubh Hotels Pittsburgh, LLC*, 439 B.R. 637, 640 (Bankr. W.D. Pa. 2010) (“Courts have also held that a court should accept a debtor’s business judgment, unless there is evidence of bad faith.”); *In re Wheeling-Pittsburgh Steel Corp.*, 72 BR. 845, 849 (Bankr. W.D. Pa. 1987) (holding that “the court should not interfere with or second-guess the debtor’s sound business judgment unless and until evidence is presented that establishes that the debtor’s decision was one taken in bad faith or in gross abuse of its retained business discretion”). Courts generally will not second guess a debtor’s business decisions when those decisions involve “a business judgment made in good faith upon a reasonable basis and within the scope of authority under the Bankruptcy Code.” *In re Nellson Nutraceutical, Inc.*, 369 B.R. at 790; *In re Lynx Transport, Inc.*, No. 98-36433DAS, 1999 WL 615366., at *3 (Bankr. E.D. Pa. Aug. 11, 1999) (holding that “a debtor in possession (DIP) is authorized to make its own independent business judgments”). So, too, is the deference accorded to a trustee and a fiduciary like the Foreign Representative.

27. The Foreign Representative acknowledges that the Debtor, in the exercise of its prudent business judgment and consistent with its own fiduciary duties, has concluded that the DIP Facility is necessary and its terms and conditions are fair, reasonable, and the best available under the circumstances, and are supported by reasonably equivalent value and consideration. In the absence of financing from the DIP Lender, 3Motion could face a shuttering of operations and a corresponding devastating loss of value. Without the DIP Facility, 3Motion will not be able to fund the continued operation of its business in a manner that will permit its restructuring and avoid irreparable harm. The availability to 3Motion of sufficient working capital and liquidity through the incurrence of new indebtedness and other financial accommodations from the DIP Lender is necessary to bolster the confidence of 3Motion's vendors and suppliers of goods and services, as well as its customers and employees. Indeed, the preservation and maintenance of the going concern value of 3Motion's business is dependent on access to the DIP Facility, which was already approved on an interim basis by the Canadian Court in the BIA Proceeding. The Foreign Representative supports the Debtor's decision to enter into the DIP Facility as it is the only available financing. Tannenbaum Decl., ¶ 37.

28. Furthermore, the DIP Facility was negotiated in good faith by all the parties involved and, accordingly, any credit extended and loans made to 3Motion under the DIP Facility should be deemed to have been extended in good faith, within the meaning of section 364(e) of the Bankruptcy Code. Furthermore, proceeds to be provided under the DIP Facility will be extended in good faith, and for valid business purposes and uses, as a consequence of which the DIP Lender is entitled to the protection and benefits of section 364(e) of the Bankruptcy Code in this chapter 15 case. While the DIP Lender is a company formed by Reed Hanoun, the Debtor's founder, and funded substantially by him, the Foreign Representative submits that the DIP Facility

warrants approval even under the higher level of scrutiny required by this insider involvement since it is the only credit available to the Debtor, all terms and conditions of the DIP Loan were negotiated in good faith and the entire BIA Proceeding, including the utilization of the DIP Facility, is being conducted by the Foreign Representative qua Proposal Trustee.

29. For all of the reasons set forth herein, the Foreign Representative requests the Court, pursuant to sections 1521(a)(7) and 105(a) of the Bankruptcy Code, give full force and effect to the BIA Initial Order of the Canadian Court in the U.S., by recognizing the DIP Facility and the DIP Lender's Charge approved in the BIA Proceeding and by granting to the DIP Lender the protections of section 364(e) of the Bankruptcy Code. This relief is consistent with well-established practice under the Bankruptcy Code, and similar relief is routinely granted to trustees in domestic proceedings. While section 364(e) does not apply as of right upon the recognition of a proceeding as a foreign main proceeding, such relief is warranted in this chapter 15 case

30. Courts in this District have approved postpetition financing on a final basis in other chapter 15 cases. *See, e.g., Xebec Holding USA Inc.*, No. 22- 10934 (KBO) (Bankr. D. Del. , Nov. 22, 2022) [D.I. 48]; *In re Lone Pine Res. Inc.*, No. 13-12487 (BLS) (Bankr. D. Del. Oct., 24, 2013) [D.I. 64]; *In re Talon Sys. Inc.*, No. 13-11811 (KJC) (Bankr. D. Del. Aug. 30, 2013) [D.I. 49]; *In re Cinram Int'l Inc.*, No. 12-11882 (KJC) (Bankr. D. Del. July 25, 2012) [D.I. 97]; *In re Arctic Glacier Int'l Inc.*, No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) [D.I. 70]; *In re Crystallex Int'l Corp.*, No. 11-14074 (PJW) (Bankr. D. Del. Apr. 26, 2012) [D.I. 111]; *In re Fraser Papers Inc.*, No. 09-12123 (KJC) (Bankr. D. Del. July 14, 2009) [D.I. 61].

D. The SISP

31. The Canadian Court approved the SISP in the BIA Initial Order on October 1, 2025, and implementation of the SISP is now underway. *See* Tannenbaum Decl., ¶¶ 38-39.

32. The following is a summary of the SISP:

- (a) the SISP contemplates a dual track process, which will allow for the acceptance of bids for investments and restructuring proposals, as well as bids to acquire the business and assets of 3Motion;
- (b) the Proposal Trustee will administer the SISP;
- (c) as soon as reasonably practicable, the Proposal Trustee will prepare a list of potentially interested parties for participation in the SISP and will provide them with a ‘teaser’ to participate in the SISP;
- (d) all participants will be required to execute a non-disclosure agreement and disclose indirect and direct principals of the participant;
- (e) any party executing a non-disclosure and confidentiality agreement will be invited to review a virtual data room including the salient details of the business and assets of 3Motion and to submit non-binding expressions of interest;
- (f) all offers must disclose the participation/involvement of insiders;
- (g) the Proposal Trustee will review the expressions of interest and invite select parties to submit binding letters of intent in the form of a completed agreement of purchase and sale;
- (h) all offers must be, and all transactions will proceed, on an “as is, where is” basis and will not be conditional on diligence or financing;
- (i) whether or not the offer is for all of the assets or just one or some of the 6 technology stacks that comprise the 3Motion business, the offer must assign a separate price for each technology stack to which the bid applies so that the offers can be meaningfully compared by the Proposal Trustee;
- (j) the final bid (or bids) will be selected and executed;
- (k) the Proposal Trustee will then seek Canadian Court and US Bankruptcy Court (collectively, the “Courts”) approval of the selected transaction (or transactions); and
- (l) the transaction(s) shall close forthwith after the Courts’ approval.

33. In order to advance the SISP Process in the first 30 days of the Process, 3Motion and the Proposal Trustee/Foreign Representative have worked together to update the virtual data room available to investors, prepare a non-disclosure agreement and outline of the business for

interested parties, identify potential buyers for various business modules, and reach out to such buyers to assess their level of interest. *See* Tannenbaum Decl., ¶ 53.

34. The Proposal Trustee/Foreign Representative has certain discretion under the BIA Initial Order to further extend each of the SISP deadlines for 14 days if required. On October 17, 2025, in accordance with the SISP, the Proposal Trustee notified the service list that the deadlines had be amended. The SISP's revised timelines set October 24 as the Bid Deadline, October 28 as the selection of the Successful Bidder, November 7 as the approval by the Canadian Court of the Successful Bidder, and November 26 as the closing, unless the Proposal Trustee otherwise permits. The proposal Trustee has subsequently extended the deadline for Canadian Court approval to November 13, 2025 due to court availability constraints. *See* Tannenbaum Decl., ¶ 54.

35. In that way, the Proposal Trustee has been able to reasonably and quickly canvass the potential market for the 3Motion Assets and facilitate an expeditious sale process, consistent with 3Motion's cash flow and the SISP timelines. These steps help ensure that a strong, fair and transparent sale process can be conducted within those constraints so that value can be maximized for the stakeholders. *See* Tannenbaum Decl., ¶ 53.

36. Without the SISP, 3Motion would be unable to maximize the value of its assets – through an orderly and transparent sale process - thereby causing harm to all parties in interest. Thus, the SISP furthers two important purposes of Chapter 15: the protection and maximization of the value of the debtor's assets and the facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment. *See* 11 U.S.C. § 1501(a)(4) and (5).

II. Provisional Relief Within the Scope of Section 1519 of the Bankruptcy Code Is Necessary and Appropriate Under the Circumstances

37. Pursuant to the Recognition and Relief Motion, the Foreign Representative also seeks entry of an order pursuant to sections 1519(a)(1) and (3), 1521(a)(7), and 105(a) of the Bankruptcy Code recognizing and enforcing the BIA Initial Order, making section 362 of the Bankruptcy Code applicable in this chapter 15 case on a provisional basis pending entry of the Final Order. As noted above, application of both the automatic stay, which protections should be coextensive with the stay provided in the BIA Initial Order, is crucial to prevent irreparable injury to the value of 3Motion's assets.

38. Pursuant to section 1517, an order recognizing a foreign proceeding may only be entered after notice and a hearing. 11 U.S.C. § 1517(a). Pursuant to Bankruptcy Rule 2002(q), the notice period must be at least 21 days. Fed. R. Bankr. P. 2002(q). Upon recognition of a proceeding as a foreign main proceeding, among other things, section 362 (the automatic stay) applies. 11 U.S.C. § 1520(a)(1). Absent provisional relief, there is no stay applicable in the U.S. during the period between filing the chapter 15 Petition and entry of the recognition order. Therefore, interim relief is necessary to protect 3Motion and its assets from diminution in value caused by collection or enforcement efforts of creditors, including Velocity, prior to the disposition of the Petition for Recognition. This includes staying the commencement, continuation or enforcement of actions against 3Motion and its assets under section 362. Accordingly, certain provisional relief is necessary.

A. Provisional and Final Relief Are Available Under Sections 1519(a)(1) and (3), 1521(a)(7), and 105(a) of the Bankruptcy Code

39. Section 1519(a)(1) of the Bankruptcy Code provides for a stay of execution against the debtor's assets upon the filing of a petition for recognition. 1519(a)(3) of the Bankruptcy Code authorizes the Court to grant, on a provisional basis, any relief available pursuant to section

1521(a)(7). 11 U.S.C. § 1519(a)(3). As noted above, section 1521(a)(7) provides that the Court may grant a foreign representative any relief available to a trustee, subject to certain exceptions not relevant here. 11 U.S.C. § 1521(a)(7). The automatic stay of section 362 is an essential feature of the Bankruptcy Code that clearly falls within these provisions. The same is true with respect to final relief under sections 364(e). Moreover, the relief authorized by the BIA Initial Order is substantially similar to the relief available to a trustee under the Bankruptcy Code. In addition, section 105(a) of the Bankruptcy Code further allows the Court to “issue any order . . . necessary or appropriate to carry out the provisions of [title 11].” 11 U.S.C. § 105(a).

40. Courts within this jurisdiction frequently grant provisional and final relief similar to that which is sought herein, including recognition and enforcement of an order entered in the foreign proceeding and application of sections 362 and 364 (e) of the Bankruptcy Code. *See, e.g., In re Bench Accounting, Inc., et al.*, No. 25-10463 (LSS) (Bankr. D. Del. Mar. 18, 2025) [D.I. 20]; *In re DAVIDsTEA Inc.*, No. 20-11802 (JTD) (Bankr. D. Del. July 9, 2020) [D.I. 21]; *In re Lone Pine Res. Inc.*, No. 13-12487 (BLS) (Bankr. D. Del. Oct., 24, 2013) [D.I. 64] (order granting provisional relief, including recognition and enforcement of the initial order entered in the Canadian proceeding, and application of section 362); *In re Catalyst Paper Corp.*, No. 1210221 (PJW) (Bankr. D. Del. Jan. 19, 2012) [D.I. 22] (order granting provisional relief, including application of sections 362 and 364(e)); *In re Arctic Glacier Int’l Inc.*, No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) [D.I. 28] (order granting provisional relief, including recognition and enforcement of the initial order entered in the Canadian proceeding, and application of section 362 and 364(e)); *In re Elpida Memory, Inc.*, No. 12-10947 (CSS) (Bankr. D. Del. Mar. 21, 2012) [D.I. 25] (order granting provisional relief, including application of section 362).

41. This Court and courts in other districts in chapter 15 cases, in addition to the provisional relief cited above, have also recognized DIP financing and related liens and charges approved by foreign courts and granted DIP lenders protections afforded by section 364(e) of the Bankruptcy Code. *See, e.g., In re Nuverra Envtl. Sols., Inc.*, No. 17-10949 (KJC), 2017 Bankr. LEXIS 4547, at *50 (Bankr. D. Del. June 6, 2017) (“in express reliance upon the protections offered by Bankruptcy Code section 364(e), and each of the DIP Facilities, the DIP Liens and the DIP Superpriority Claims shall be entitled to the full protection of Bankruptcy Code section 364(e) . . .”); *In re Arctic Glacier Int’l Inc.*, No. 12-10605 (KG) (Bankr. D. Del. Feb. 23, 2012) [D.I. 28] (order entered authorizing Debtor to obtain credit under a DIP facility and grant DIP lenders a charge); *In re Fraser Papers Inc.*, No. 09-12123 (Bankr. D. Del. July 14, 2009) [D.I. 61]; *In re W.C. Wood Corp., Ltd.*, No. 09-11893 (Bankr. D. Del. June 10, 2009) [D.I. 26]; *In re Destinator Techs. Inc.*, No. 08-11003 (Bankr. D. Del. May 23, 2008) [D.I. 35].

B. Provisional and Final Relief Are Necessary to Prevent Irreparable Harm and Is Consistent with Public Interest

42. Relief pursuant to section 1519 of the Bankruptcy Code is available where the foreign representative can satisfy the standard for injunctive relief. 11 U.S.C. § 1519(e); *In re Innua Canada Ltd.*, No. 09-16362, 2009 WL 1025088, at *3 (Bankr. D.N.J. Mar. 25, 2009). In the Third Circuit, the factors considered for injunctive relief include “(1) whether the movant has shown a reasonable probability of success on the merits; (2) whether the movant will be irreparably injured by denial of the relief; (3) whether granting preliminary relief will result in even greater harm to the nonmoving party; and (4) whether granting the preliminary relief will be in the public interest.” *United States v. Bell*, 414 F.3d 474, 478 n.4 (3d Cir. 2005) (citing *ACLU of N.J. v. Black Horse Pike Reg’l Bd. of Educ.*, 84 F.3d 1471, 1477 n. 2 (3d Cir. 1996)); *see also Rogers v. Corbett*,

468 F.3d 188, 192 (3d Cir. 2006) (citations omitted); *Kos Pharm., Inc. v. Andrx Corp.*, 369 F.3d 700, 708 (3d Cir. 2004) (citations omitted).

43. In the absence of the DIP Loan, 3Motion would not be able to conduct the SISP and will be forced to shut down the business and commence a liquidation of its assets, resulting in the loss of value, which would be detrimental to all of 3Motion's creditors and stakeholders.

44. The Foreign Representative submits that this standard is satisfied here and, therefore, it is entitled to the requested provisional and final relief pursuant to sections 1519 and 1521 of the Bankruptcy Code, including entry of the Provisional Order at the hearing on the Motion.

1. There Is a Substantial Likelihood of Recognition of the BIA Proceeding As a Foreign Main Proceeding and Application of the Requested Additional Bankruptcy Provisions

45. The Foreign Representative is likely to succeed in its request for recognition of the BIA Proceeding and application of section 362, pursuant to the Final Order. As set forth above, recognition of the BIA Proceeding as a foreign main proceeding is appropriate because (i) the BIA Proceeding is a foreign main proceeding within the meanings of sections 101(23) and 1502(4) of the Bankruptcy Code, (ii) TDB Restructuring is an authorized foreign representative within the meaning of section 101(24) of the Bankruptcy Code, and (iii) the verified chapter 15 petition was properly filed in accordance with section 1515 of the Bankruptcy Code, accompanied by all fees, documents, and information required by the Bankruptcy Code and the Bankruptcy Rules. Upon recognition of the BIA Proceeding, section 362 of the Bankruptcy Code will automatically apply in this chapter 15 case pursuant to section 1520(a)(1) of the Bankruptcy Code. 11 U.S.C. § 1520(a)(1).

2. 3Motion Will Suffer Irreparable Harm Absent Provisional Relief

46. Application of provisional and final relief in this case is critical to the prevention of irreparable damage to 3Motion’s business and reorganization proceeding in Canada. *See* Tannenbaum Declaration, §§ 1.C., D., K., L., and M. This chapter 15 case were commenced for the purpose of obtaining the assistance of the Court in respect of the BIA Proceeding and to give effect in the U.S. to the BIA Initial Order of the Canadian Court and other protections necessary to preserve the value of 3Motion’s assets. The collective protections afforded by these orders will allow the SISP to proceed in orderly fashion while maximizing value for creditors.

47. A number of courts have recognized the need to provide provisional relief in a chapter 15 case pending final recognition of a foreign proceeding in order to ensure the orderly distribution of a debtor’s assets in a single proceeding and avoid the irreparable harm resulting from piecemeal enforcement across multiple jurisdictions. *See, e.g., In re Metinvest B.V.*, 2016 Bankr. LEXIS 4692, at *3 (Bankr. D. Del. Jan. 29, 2016, No. 16-10105 (LSS)) (granting provisional relief where the “Foreign Representative has demonstrated that without enforcement of the Scheme on a provisional basis, there is a material risk that the Debtor will suffer irreparable harm to the Debtor's overall restructuring efforts, the value of its business, assets, and property from the potential enforcement efforts by holders of the Notes pending the disposition of the Petition” and “. . . no injury will result to any party that is greater than the harm to the Debtor's restructuring efforts, business, assets and property in the absence of the requested relief, and that the interests of the public will be served by this Court's granting of the relief requested by the Foreign Representative”); *Victrix S.S. Co., S.A. v. Salen Dry Cargo, A.B.*, 825 F.2d 709, 713-14 (2d Cir. 1987) (harm to an estate exists where orderly determination of claims and fair distribution of assets are disrupted).

48. Unless the Provisional Order is granted and all creditors are enjoined, 3Motion faces the risk that creditors may take collection and enforcement actions or attempt to recover against its U.S. assets. Such actions would diminish the value of 3Motion's assets and cause significant delay and disruption to 3Motion's restructuring/sale process. The relief requested herein is necessary to protect against these risks. The purpose of chapter 15 is to provide such protection by, among other things, ensuring that *all* of a debtor's creditors are subject to a stay, thereby preventing some creditors from obtaining an unfair advantage over others. *See* 11 U.S.C. § 1501.

3. Provisional Relief Will Benefit Creditors

49. In contrast to the hardships described above, preservation of the *status quo* through imposition of the automatic stay will not prejudice creditors. Indeed, creditors as a whole will benefit from such relief. The relief requested in the Recognition and Relief Motion is intended to be temporary, extending only through the disposition of the Petition for Recognition. If recognition of the BIA Proceeding is granted, much of the same relief being requested on a provisional basis will come into effect automatically. Moreover, the Provisional Order specifically provides that any creditor that believes it has been harmed by the provisional relief granted therein may file a motion with the Court seeking relief therefrom. Granting the request for provisional relief actually will benefit 3Motion's creditors because it will ensure the value of 3Motion's assets is preserved and maximized for the benefit of and fair distribution to all creditors. *See e.g.*, Tannenbaum Decl., ¶¶ 43, 52-53.

4. Public Interest Favors Granting Provisional Relief

50. Granting the provisional relief requested in the Recognition and Relief Motion will help advance the purpose and objectives of chapter 15 "to provide effective mechanisms for

dealing with cases of cross-border insolvency,” promote cooperation between U.S. and foreign courts, provide greater legal certainty for trade and investment, ensure the fair and efficient administration of cross-border insolvencies in a manner that protects the interests of the debtor and all creditors and other interested entities, protect and maximize the value of the debtor’s assets, and facilitate the rescue of financially troubled businesses. 11 U.S.C. § 1501(a)(1)-(5); *see also In re Crédito Real, S.A.B. de C.V., SOFOM, E.N.R.*, 670 B.R. 150, 155 (Bankr. D. Del. 2025) (“When it enacted chapter 15, Congress sought to facilitate cooperation between the courts of the United States and the courts of foreign countries in cross-border insolvency cases and to empower a court exercising bankruptcy jurisdiction to render assistance to the foreign court.”); *In re SPhinX, Ltd.*, 351 B.R. at 112; *In re Bear Stearns*, 374 B.R. at 126. Accordingly, the provisional relief requested is consistent with the public policy embodied in chapter 15 of the Bankruptcy Code and will promote the fair and efficient administration of this cross-border insolvency proceeding.

51. Further, as noted above, recognition of the DIP Facility and related liens and charges will provide 3Motion with access to the necessary liquidity to pursue its restructuring efforts in the BIA Proceeding and this chapter 15 case, thus promoting the fair and efficient administration of a cross-border reorganization procedure that protects the interests of all stakeholders. Accordingly, it is likely that 3Motion will receive final approval of all of the relief requested on an interim basis.

52. For the reasons set forth herein, the Foreign Representative respectfully requests that, pending the hearing on the Final Order, the Provisional Order be approved in all respects and that the terms and provisions of the Provisional Order be implemented and that, after the Final Hearing, the Final Order be approved in all respects and the terms and provision of the Final Order be implemented.

WHEREFORE, the Foreign Representative respectfully requests that this Court grant the relief requested in the Petition for Recognition and this Motion, and such other and further relief as may be just and proper.

Dated: October 24, 2025
Wilmington, Delaware

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