

Mitteilung an alle Anteilseigner der Kingate Global Fonds:

Anbei finden Sie die Information der Fondsgesellschaft, folgende Fonds sind betroffen:

VGG5255Z1146 Kingate Global USD - in liquidation - Dis

Details können Sie der beigefügten Anlage entnehmen.

Hearing Date and Time: October 17, 2019 at 10:00 a.m.

Objection Deadline: September 26, 2019 at 5:00 p.m.

(extended by agreement to October 1, 2019 at 5:00 p.m.)

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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:	Chapter 15
Kingate Global Fund, Ltd., et. al,	Case No. 19-12853
Debtors in Foreign Proceedings.	(Jointly Administered)

**NOTICE OF (I) RESOLUTION OF DEUTSCHE BANK SECURITIES, INC.'S LIMITED
OBJECTION TO RECOGNITION OF FOREIGN MAIN PROCEEDINGS AND
(II) FILING OF REVISED AGREED FORM OF ORDER GRANTING RECOGNITION**

Petitioners Paul Pretlove and Tammy Fu, in their joint capacities as foreign representatives (the "Foreign Representatives") of the liquidation proceedings of Kingate Global Fund, Ltd. and Kingate Euro Fund, Ltd. (together, the "Kingate Funds" or the "Debtors") pending in the High Court of Justice, British Virgin Islands ("BVI"), Commercial Division (the "BVI Court"), in proceedings assigned Case Nos. BVIHCV2009/163 and BVIHCV2009/164 (the "BVI Proceedings"), through their attorneys Quinn Emanuel Urquhart & Sullivan LLP, respectfully submit this notice to inform the Court and all parties in interest that they have reached agreement with Deutsche Bank Securities, Inc. ("DBSI") regarding recognition of the Kingate Funds' BVI Proceedings, as set forth in the amended proposed order annexed hereto as Exhibit A and the

blacklined version showing changes to the original proposed order submitted to the Court, annexed hereto as Exhibit B. In summary, the amended proposed order provides for (1) the recognition of the BVI Proceedings as foreign main proceedings for the Kingate Funds, and (2) modification of the automatic stay imposed by Bankruptcy Code sections 1520(a)(1) and 362 to permit DBSI to adjudicate the validity and amount of its claims (if any) in the U.S. District Court for the Southern District of New York, *provided that* DBSI shall not take any actions in the United States with respect to the U.S. assets of the Kingate Funds without first seeking and obtaining the permission of this Court. Although the Foreign Representatives dispute many of DBSI's assertions in its limited objection, DBSI's objection is now moot, and thus there is no need for the Foreign Representatives to respond to those assertions at this time.

WHEREFORE, the Foreign Representatives respectfully request that this Court enter an Order, substantially in the form attached hereto as Exhibit A, granting foreign main recognition, granting entrustment under Bankruptcy Code section 1521(a)(5), and granting such other and further relief as is just and proper.

Dated: October 14, 2019
New York, New York

QUINN EMANUEL URQUHART & SULLIVAN LLP

/s/ Robert Loigman

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EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 15

Kingate Global Fund, Ltd., et al.

Case No. 19-12853-SMB

Debtors in Foreign Proceedings.

(Jointly Administered)

ORDER GRANTING RECOGNITION OF FOREIGN MAIN PROCEEDINGS

This matter having come before the Court upon the Verified Petitions (the "Verified Petitions"), and, together with the forms of Voluntary Petition [Doc. No. 1], the "Petitions") filed by petitioners Paul Pretlove and Tammy Fu, in their joint capacities as foreign representatives (the "Foreign Representatives" or "Petitioners") of the liquidation of Kingate Global Fund, Ltd. ("Kingate Global") and Kingate Euro Fund, Ltd. ("Kingate Euro"), and together with Kingate Global, the "Kingate Funds") pending in the Eastern Caribbean Supreme Court in the High Court of Justice of the British Virgin Islands ("BVI"), Commercial Division (the "BVI Court"), seeking entry of an order: (1) recognizing the BVI insolvency proceedings of Kingate Global and Kingate Euro (the "BVI Proceedings") as a foreign main proceeding pursuant to sections 1515 and 1517 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the "Bankruptcy Code"); (2) confirming relief pursuant to Bankruptcy Code section 1520; and (3) granting related relief pursuant to Bankruptcy Code sections 105(a), 1507(a) and 1521(a); and the Court having reviewed and considered (i) the Petitions, (ii) the Declaration of Paul Pretlove, dated September 5, 2019, (iii) the Declaration of Eleanor Morgan, an expert on BVI law, dated September 5, 2019, and (iv) the exhibits and attachments to each of the foregoing, and the arguments set forth therein; and the Foreign Representatives having given notice by first class mail; and the Court

having considered Deutsche Bank Securities Inc.'s Limited Objection to Recognition of the BVI Proceedings; and based upon the foregoing, the Court finds and concludes as follows:

1. The Foreign Representatives have demonstrated that:
 - a. the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334(a) and (b) and 11 U.S.C. § 1501;
 - b. venue is properly located in this District pursuant to 28 U.S.C. §§ 1410(a)(1) and (3);
 - c. this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P);
 - d. the Debtors are subject to foreign main proceedings within the meaning of section 1502 of the Bankruptcy Code;
 - e. Each ~~Petitioner~~ is a "person" and Foreign Representative of the Debtors within the meaning of section 101(24) of the Bankruptcy Code;
 - f. the Verified Petitions satisfy the requirements of sections 1504 and 1515 of the Bankruptcy Code; and
 - g. the Debtors have their centers of main interests and establishments in the BVI.
2. Deutsche Bank Securities Inc. ("DBSI"), the Kingate Funds, and the Foreign Representatives agree to the modification of the automatic stay as set forth in this Order so that DBSI may litigate its rights, if any, arising from the confirmation letter dated August 24, 2011 (the "Confirmation Letter") in the United States District Court for the Southern District of New York.

NOW, THEREFORE, IT IS HEREBY

ORDERED, that the BVI Proceedings are granted recognition as foreign main proceedings pursuant to section 1517(b)(1) of the Bankruptcy Code; and it is further

ORDERED that any objections to recognition of the BVI Proceedings as foreign main proceedings have been resolved by modifications contained in this Order; and it is further

ORDERED that all relief afforded to a foreign main proceeding automatically upon recognition pursuant to section 1520 of the Bankruptcy Code is granted; and it is further

ORDERED, that each Petitioner is granted recognition as a "Foreign Representative" pursuant to section 101(24) of the Bankruptcy Code in respect of the BVI Proceedings; and it is further

ORDERED, that each Petitioner is entrusted with the administration or realization of all of the debtors' assets within the territorial jurisdiction of the United States, as set forth in section 1521(a)(5) of the Bankruptcy Code; and it is further

ORDERED, that no action taken by the Petitioners in preparing, disseminating, applying for, implementing or otherwise in connection with this Order, any order entered in respect of the Verified Petitions, these chapter 15 proceedings, any further order for additional relief in these chapter 15 proceedings, or any adversary proceedings or contested matters in connection therewith, constitutes a waiver of any immunity afforded to each Petitioner as a Foreign Representative, including without limitation pursuant to section 1510 of the Bankruptcy Code; and it is further

ORDERED, that the orders issued by the BVI Court attached to the Petitions, are recognized, granted comity, and entitled to full force and effect in accordance with their terms, and that such terms shall be binding and fully enforceable; and it is further

ORDERED, that to the extent not already provided in 11 U.S.C. § 1520, all creditors and other persons, including creditors and purported creditors of the Kingate Funds are hereby enjoined from (i) disposing or otherwise taking any action against any property of the Kingate Funds located within the territorial jurisdiction of the United States; and (ii) taking or continuing any act to obtain possession of or exercise control over, such property; and it is further

ORDERED that to the extent not already provided in 11 U.S.C. § 1520, all persons are hereby enjoined from commencing any suit, action or proceeding in the territorial jurisdiction of the United States to resolve any dispute arising out of the BVI Proceedings, the Madoff Settlement or any orders issued by the BVI Court attached to the Petitions, or the BVI law relating thereto, *provided that* such relief shall not apply to the adversary proceeding captioned *Picard v. Ceretti, et al.*, Adv. Pro. No. 09-1161 (SMB); and it is further

ORDERED, notwithstanding anything set forth herein to the contrary, that any stay or injunction included in or arising out of this Order, whether pursuant to 11 U.S.C. § 1520, 11 U.S.C. § 1521, or otherwise, shall not apply to (i) any action by DBSI in the United States District Court for the Southern District of New York in connection with, arising from, or relating to the Confirmation Letter or (ii) any action taken by DBSI outside of the territorial jurisdiction of the United States or in the BVI Proceedings; provided that DBSI shall not take any actions in the United States with respect to the U.S. assets of the Kingate Funds without first seeking and obtaining the permission of this Court; and it is further

ORDERED, that this Court shall retain jurisdiction with respect to the effect, enforcement, amendment or modification of this Order; and it is further

ORDERED, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED, that the Foreign Representative shall serve notice of this Order on all known stakeholders of the Kingate Funds by posting a copy of this Order on their liquidation website and by email or United States mail, first class postage prepaid, on or before the date that is three business days after the entry of this Order, to any objecting parties, the United States Trustee, and any known persons and entities subject to this Order; and it is further

ORDERED, that service in accordance with this Order shall be deemed good and sufficient service and adequate notice for all purposes.

Dated: New York, New York
October _____, 2019

United States Bankruptcy Judge

EXHIBIT B

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Attorneys for the Foreign Representatives
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Chapter 15

Kingate Global Fund, Ltd., et al.

Case No. 19-_____, 12853-SMB

Debtor Debtors in a Foreign
Proceeding Proceedings.

(Jointly Administered)

In re:

Chapter 15

Kingate Euro Fund, Ltd.,

Case No. 19-_____

Debtor in a Foreign Proceeding.

ORDER GRANTING RECOGNITION OF FOREIGN MAIN PROCEEDINGS

This matter having come before the Court upon the Verified Petitions (the "Verified Petitions", and, together with the forms of Voluntary Petition [Doc. No. 1], the "Petitions") filed by petitioners Paul Pretlove and Tammy Fu, in their joint capacities as foreign representatives (the "Foreign Representatives" or "Petitioners") of the liquidation of Kingate Global Fund, Ltd. ("Kingate Global") and Kingate Euro Fund, Ltd. ("Kingate Euro", and together with Kingate Global, the "Kingate Funds") pending in the Eastern Caribbean Supreme Court in the High Court of Justice of the British Virgin Islands ("BVI"), Commercial Division (the "BVI Court"), seeking

entry of an order: (1) recognizing the BVI insolvency proceedings of Kingate Global and Kingate Euro (the "BVI Proceedings") as a foreign main proceeding pursuant to sections 1515 and 1517 of title 11 of the United States Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code"); (2) confirming relief pursuant to Bankruptcy Code section 1520; and (3) granting related relief pursuant to Bankruptcy Code sections 105(a), 1507(a) and 1521(a); and the Court having reviewed and considered (i) the Petitions, (ii) the Declaration of Paul Pretlove, dated September 5, 2019, (iii) the Declaration of Eleanor Morgan, an expert on BVI law, dated September 5, 2019, and (iv) the exhibits and attachments to each of the foregoing, and the arguments set forth therein; and the Foreign Representatives having given notice by first class mail; and the Court having considered the opposition to the Petitions (if any) Deutsche Bank Securities Inc.'s Limited Objection to Recognition of the BVI Proceedings; and based upon the foregoing, the Court finds and concludes as follows:

1. The Foreign Representatives have demonstrated that:
 - a. the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a) and 1334(a) and (b) and 11 U.S.C. § 1501;
 - b. venue is properly located in this District pursuant to 28 U.S.C. §§ 1410(a)(1) and (3);
 - c. this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P);
 - d. the Debtors are subject to foreign main proceedings within the meaning of section 1502 of the Bankruptcy Code;
 - e. Each Petitioner is a "person" and Foreign Representative of the Debtors within the meaning of section 101(24) of the Bankruptcy Code;

- f. ~~the above-captioned Chapter 15 cases were properly commenced pursuant to~~Verified Petitions satisfy the requirements of sections 1504 and 1515 of the Bankruptcy Code; and
- g. the Debtors have their centers of main interests and establishments in the BVI; and,
- h. ~~the Verified Petitions satisfy the requirements of section 1515 of the~~
Bankruptcy Code.

~~2. The Foreign Representatives have demonstrated that the relief requested with respect to entrustment of the debtors' assets under section 1521(a)(5) is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States and warranted pursuant to section 1521(a)(5) of the Bankruptcy Code; and~~

~~3. The interest of the public will be served by this Court's granting the relief requested by the Foreign Representatives.~~

2. Deutsche Bank Securities Inc. ("DBSI"), the Kingate Funds, and the Foreign Representatives agree to the modification of the automatic stay as set forth in this Order so that DBSI may litigate its rights, if any, arising from the confirmation letter dated August 24, 2011 (the "Confirmation Letter") in the United States District Court for the Southern District of New York.

NOW, THEREFORE, IT IS HEREBY

ORDERED, that the BVI Proceedings are granted recognition as a-foreign main proceedings pursuant to section 1517(b)(1) of the Bankruptcy Code; and it is further

ORDERED that any objections to recognition of the BVI Proceedings as foreign main proceedings ~~are hereby overruled~~ have been resolved by modifications contained in this Order; and it is further

ORDERED that all relief afforded to a foreign main proceeding automatically upon recognition pursuant to section 1520 of the Bankruptcy Code is granted; and it is further

ORDERED, that each Petitioner is granted recognition as a "Foreign Representative" pursuant to section 101(24) of the Bankruptcy Code in respect of the BVI Proceedings; and it is further

ORDERED, that each Petitioner is entrusted with the administration or realization of all of the debtors' assets within the territorial jurisdiction of the United States, as set forth in section 1521(a)(5) of the Bankruptcy Code; and it is further

ORDERED, that no action taken by the Petitioners in preparing, disseminating, applying for, implementing or otherwise in connection with this Order, any order entered in respect of the Verified Petitions, these chapter 15 proceedings, any further order for additional relief in these chapter 15 proceedings, or any adversary proceedings or contested matters in connection therewith, constitutes a waiver of any immunity afforded to each Petitioner as a Foreign Representative, including without limitation pursuant to section 1510 of the Bankruptcy Code; and it is further

ORDERED, that ~~all injunctions and~~ the orders issued by the BVI Court identified ~~in~~ attached to the Petitions, are recognized, granted comity, and entitled to full force and effect in

accordance with their terms, and that such terms shall be binding and fully enforceable; and it is further

ORDERED, that to the extent not already provided in 11 U.S.C. § 1520, all creditors and other persons, including creditors and purported creditors of the Kingate Funds are hereby enjoined from (i) disposing or otherwise taking any action against any property of the Kingate Funds located within the territorial jurisdiction of the United States; and (ii) taking or continuing any act to obtain possession of or exercise control over, such property; and it is further

ORDERED that to the extent not already provided in 11 U.S.C. § 1520, all persons are hereby enjoined from commencing any suit, action or proceeding in the territorial jurisdiction of the United States to resolve any dispute arising out of the BVI Proceedings, the Madoff Settlement or any orders issued by the BVI Court identified in attached to the Petitions, or the BVI law relating thereto, provided that such relief shall not apply to the Glawback-
Proceeding adversary proceeding captioned Picard v. Ceretti, et al., Adv. Pro. No. 09-1161 (SMB); and it is further

ORDERED, notwithstanding anything set forth herein to the contrary, that any stay or injunction included in or arising out of this Order, whether pursuant to 11 U.S.C. § 1520, 11 U.S.C. § 1521, or otherwise, shall not apply to (i) any action by DBSI in the United States District Court for the Southern District of New York in connection with, arising from, or relating to the Confirmation Letter or (ii) any action taken by DBSI outside of the territorial jurisdiction of the United States or in the BVI Proceedings; provided that DBSI shall not take any actions in the United States with respect to the U.S. assets of the Kingate Funds without first seeking and obtaining the permission of this Court; and it is further

ORDERED, that this Court shall retain jurisdiction with respect to the effect, enforcement, amendment or modification of this Order; and it is further

ORDERED, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED, that the Foreign Representative shall serve notice of this Order on all known stakeholders of the Kingate Funds by posting a copy of this Order on their liquidation website and by email or United States mail, first class postage prepaid, on or before _____, 2019, upon the date that is three business days after the entry of this Order, to any objecting parties, the United States Trustee, and any known persons and entities subject to this Order; and it is further

ORDERED, that service in accordance with this Order shall be deemed good and sufficient service and adequate notice for all purposes.

Dated: New York, New York

 October , 2019

United States Bankruptcy Judge

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