Avaliação e conversão de créditos em cripto

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O crédito de um credor em uma liquidação em Singapura é avaliado na data de início da liquidação e expresso em dólares de Singapura para fins de habilitação e rateio.[1] Para créditos em cripto, essa regra gera o problema da "dolarização", conhecido do processo da FTX nos Estados Unidos. Um cliente a quem se devia um bitcoin quando o preço era de US$ 20.000 no início do processo recebe rateio sobre um crédito de US$ 20.000, mesmo que o preço seja de US$ 60.000 quando o rateio for pago. O cliente suporta o risco de mercado a partir da data da insolvência. Os schemes of arrangement podem evitar isso prevendo distribuições in natura, como fez o da Zipmex quanto aos ativos das carteiras de negociação. Os liquidantes têm discricionariedade para realizar os criptoativos no momento que escolherem e ficam expostos a críticas qualquer que seja a evolução posterior do mercado. Um liquidante que vende em um mercado em queda para fixar o valor da massa age dentro do dever ordinário de realizar os ativos. Aquele que mantém os ativos na esperança de recuperação está especulando com o dinheiro dos credores. No caso *Hodlnaut*, o tribunal aceitou que a avaliação é questão de prova e deixou o método para ser definido na liquidação.[2]

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Notas

1. Insolvency, Restructuring and Dissolution Act 2018, normas sobre habilitação de créditos e conversão de créditos em moeda estrangeira, em combinação com as Insolvency, Restructuring and Dissolution (Corporate Insolvency and Restructuring) Rules 2020. ↩
2. *Loh Cheng Lee Aaron v Hodlnaut* [2023] SGHC 323, parágrafo [11]. ↩

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