

18 November 2021

## CIRCULAR TO CREDITORS

Dear Sir / Madam

### Virgin Australia Administration - Project Volar Creditors' Trust

#### Update

We set out below an update for creditors in relation to various matters that the Trustees have been addressing. The Trustees will continue to provide ongoing updates as these matters develop.

#### Willis Matter - High Court Appeal

On 4 November 2021, the *Wells Fargo Trust Company National Association (as Owner Trustee) and Willis Lease Finance Corporation (together "Willis") v VB Leaseco Pty Ltd, Virgin Australia Airlines Pty Ltd and others (including the former administrators)* proceedings (the **Willis Appeal**) was heard by the High Court of Australia. As creditors may recall, Willis appealed against the decision of the Full Federal Court (which had unanimously found in favour of the Virgin companies and their administrators) in relation to the construction of a provision of the Aircraft Protocol to the Cape Town Convention.

We now await the decision (**Judgment**) from the High Court of Australia. At present, it is unknown when Judgment will be delivered.

#### Objections to / Appeals against the Trustees' adjudications

As previously advised, of the 6,535 claims adjudicated, 20 creditors filed formal appeals (the **Adjudication Appeals**) against our adjudications in the New South Wales Supreme Court. Those appeals were brought by 17 aircraft lessors/financiers (**Aircraft Creditors**) and three (3) trade creditors. Since our last circular, one employee creditor has filed Adjudication Appeal proceedings and two of the three trade creditor Adjudication Appeal proceedings have been discontinued.

The claims from Aircraft Creditors relate broadly to the adjudication of their claims and, in a number of appeals, to the basis of priority for these claims.

In order to resolve the Adjudication Appeals as expeditiously and cost-effectively as possible (considering the interests of all of the creditors of the Trust), the Trustees proposed a number of case management initiatives (which the Court and the Aircraft Creditors have agreed to), including having the various proceedings listed together, for efficiency, and an expedited timetable for evidence, submissions, and hearings. The Trustees will continue to liaise with creditors to seek to have outstanding matters resolved.

On 28 October 2021, the Supreme Court of New South Wales ordered that the proceedings be listed for a hearing in March 2022. This is the earliest available Court date to hear the matters.

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## Timing and quantum of dividend

As advised in our previous Circular to Creditors dated 3 September 2021, until such time as the Adjudication Appeals and the Willis Appeal have been resolved, we are unable to provide an estimate of the timing or quantum of a distribution.

The majority of the Aircraft Creditors' Adjudication Appeals are seeking priority payment ranking ahead of unsecured claims, which may affect the quantum of cash available to distribute to all unsecured creditors. Therefore, we have formed the view that the Trustees will not be able to make an interim distribution until these matters are resolved.

We are working as expeditiously as possible to resolve these matters and will continue to keep creditors informed of our progress. We continue to keep under review the basis upon which an interim payment might be made, and we will keep creditors updated in this regard.

## Update on adjudication outcomes - admitted claims

We noted at section 11.2 of our Report to Creditors dated 25 August 2020 (the **Report**), that the quantum of any final return to creditors would be dependent on the actual level of claims lodged by creditors and other variables, including the matters outlined at section 11.2.7 of the Report.

The Trustees have undertaken an extensive and comprehensive adjudication of all creditor claims lodged on the Halo platform to adjudicate on those claims for dividend purposes. We have now had the opportunity to analyse the quantum of the admitted claims and to compare these amounts to the estimated claim amounts set out in our Report.

In relation to the estimated claims provided in our Report and the claims adjudicated and now admitted by the Trustees, there have been some movements in these numbers as set out below. These figures are current as at the date of this circular to creditors and the Trustees will continue to keep creditors updated of any further material changes.

Claim category	Bain DOCA (low) (AUD\$m)	Admitted amount (AUD\$m)	Variance (AUD\$m)
Bondholders	1,929.1	1,910.9	(18.2)
Employee entitlements (unsecured)	n/a	0.2	0.2
Financiers (incl. derivative counterparties)	621.1	542.5	(78.6)
Landlords	n/a	66.8	66.8
Aircraft Lessors/Financiers	1,174.8	2,921.2	1,746.4
Other Unsecured	468.9	418.3	(50.6)
<b>Total</b>	<b>4,193.9</b>	<b>5,859.9</b>	<b>1,666.0</b>

The significant variance to the admitted claims relates to the number of aircraft ultimately retained or returned by the purchaser, in accordance with its rights under the sale agreement (and the consequential claims by Aircraft Lessors/Financiers for aircraft return costs or end of lease maintenance and other costs). The number of aircraft which would ultimately be retained (or returned) was uncertain at the time of our Report.

This increase in overall admitted claims will reduce the distribution to creditors. The quantum of this change will depend on the resolution of current creditor claims before the Courts.

## Further queries

Thank you for your patience and cooperation in working with our team through this process. In the event you have any additional queries regarding the contents of this circular, or the administration in general, please contact us at [virginadmin@deloitte.com.au](mailto:virginadmin@deloitte.com.au).

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. Hughes', written in a cursive style.

**Richard Hughes**  
Trustee