
Update Note: Malaysian Airline System Berhad's Moratorium extended for a further year

1 message

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Dear Friends and Colleagues

Re: Update Note on Malaysian Airline System Berhad's Moratorium extension

As you may be aware, on 25th May 2015, Khazanah Nasional Berhad ("Khazanah") had, pursuant to the provisions of the Malaysian Airline System Berhad (Administration) Act 2015, appointed Datuk Mohammad Faiz Azmi ("the Administrator") as the administrator of Malaysian Airline System Berhad ("MAS").

With the appointment of the Administrator, a moratorium comes into effect, which prohibits, inter alia, any proceedings or legal process to be commenced or continued with, against MAS, except with the Administrator's consent. The moratorium lasts for a period of a year from the Administrator's appointment, ie until the 24th May 2016.

Over the past year since the Administrator's appointment, certain of MAS' assets and liabilities have been transferred to Malaysia Airlines Berhad ("MAB"), the new company that was set up to carry on the business of Malaysia's national carrier. In addition, various contracts have been re-negotiated and then novated, and in some instances, existing contracts were terminated. MAB has also entered into fresh contracts involving new additions to the MAB fleet.

As the initial term for the moratorium was drawing to a close, industry members eagerly waited to see what would happen upon its expiry. However, on 25th May 2016, the Administrator advised that he had sought for and had received approval from MAS' stakeholders, for an extension of the current moratorium. We understand that the extension of the moratorium, which is now extended until May 24th 2017, was sought in order to enable the Administrator to complete certain remaining tasks.

Although on the face of it, the extension of the moratorium means that any new legal actions cannot be commenced against MAS, and that any existing matters cannot be continued, it is important to note that the High Court has, on April 7th 2016, granted leave to the Malaysian Airline System Employees' Union Peninsular Malaysia (MASEU), to commence judicial review proceedings against the Administrator who had, in August 2015, denied consent for MASEU to commence an Industrial Relations proceeding against MAS. Specifically, MASEU is challenging the Administrator's immunity against losses or damage as a result of his performance of his duties under the Act. As a favourable decision on this point of law has much wider ramifications than just the outcome of the MASEU claim, we believe various other Creditors will be looking forward to a speedy resolution of this matter as well.

If you should need any further information, do let us know.

Best regards
Shelina

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