

**SAirGroup in
debt restructuring liquidation**

Circular No. 16

www.liquidator-swissair.ch

**Hotline SAirGroup
in debt restructuring liquidation**

Deutsch: +41-43-222-38-30

Français: +41-43-222-38-40

English: +41-43-222-38-30

**Unofficial Translation
of German Original**

DR. WERNER WENGER 1)
DR. JÜRGE PLATTNER
DR. PETER MOSIMANN
STEPHAN CUENI 1)
PROF. DR. GERHARD SCHMID
DR. JÜRGE RIEBEN
DR. DIETER GRÄNICHNER 1)
KARL WÜTHRICH
YVES MEILI
FILIPPO TH. BECK, M.C.J.
DR. FRITZ RÖTHENBÜHLER
DR. BERNHARD HEUSLER
DR. ALEXANDER GUTMANS, LL.M. 1)
PETER SAHLI 2) 6)
DR. THOMAS WETZEL 5)
DR. MARC RUSSENBERGER
DR. MARC NATER, LL.M.
BRIGITTE UMBACH-SPAHN, LL.M.
ROLAND MATHYS, LL.M.
MARTIN SOHM 5)
DR. CHRISTOPH ZIMMERLI, LL.M.
SUZANNE ECKERT
RETO ASCHENBERGER, LL.M.
DR. DAVID DUSSY
AYESHA CURMALLY 1) 4)
DR. PHILIPPE NORDMANN, LL.M.
CORNELIA WEISSKOPF-GANZ
DR. REGULA HINDERLING
DR. STEPHAN KESSELBACH
MADLAINE GAMMETER WIESLI
PD DR. PETER REETZ 5)
DR. MAURICE COURVOISIER, LL.M.
DR. RETO VONZUN, LL.M.
CRISTINA SOLO DE ZALDÍVAR
DANIEL TOBLER 2) 6)
MILENA MÜNST BURGER, LL.M.
DR. ALEXANDRA ZEITER 4)
DR. ROLAND BURKHALTER
PETER ENDERLI 6)
DR. BLAISE CARRON, LL.M.
VIVIANE BURKHARDT
DR. OLIVER KÜNZLER
ROBERT FRHR. VON ROSEN 3)
ANDREA SPÄTH
CORINNE TAUFER-LAFFER
PLACIDUS PLATTNER
YVES CRON
STEFAN BOSSART
DR. PHILIPP HÄSLER
THOMAS SCHÄR, LL.M.
DR. GAUDENZ SCHWITTER
MICHÈLE BAUMANN 2) 6)
MARCO KAMBER
ANDRÉ EQUEY
FRANZISKA RHINER
MARTIN BERCHTOLD
STEFANIE HEID
VANESSA SCHMIDT, LL.M.
ANNETTE DALCHER
DOMINIK LEIMGRUBER

PROF. DR. FELIX UHLMANN, LL.M.
ANDREAS MAESCHI
KONSULENTEN

Registered mail

To the creditors of SAirGroup in debt
restructuring liquidation

Küsnacht, 1 December 2009 WuK/fee

**SAirGroup in debt restructuring liquidation;
Circular no. 16**

Dear Sir or Madam

This Circular provides information on the progress of the SAirGroup debt restructuring liquidation proceedings since April 2009 and the execution of a second interim payment of 2.1% in respect of third-class claims.

I. SALE OF "SWISSAIR" TRADEMARK TO SWISS INTERNATIONAL AIR LINES LTD.

Since spring 2002, a number of disputes have arisen between SAirGroup and Swiss International Air Lines Ltd. ("Swiss") regarding the "Swissair" trademark. After protracted negotiations, the parties entered into the following agreement at the end of 2008 with the aim of ending those disputes and reaching a mutually satisfactory settlement regarding the "Swissair" trademark:

- SAirGroup will assign its rights in and to the "Swissair" trademark and other trademarks to Swiss.

- In consideration thereof, Swiss agrees to do the following:
 1. Swiss will waive its claim to CHF 30,778,000 admitted as a third-class claim under the SAirGroup schedule of claims; this waiver also extends to the first interim payment of 5.3%, or CHF 1,631,234.
 2. Swiss will assign to SAirGroup its dividend entitlement under the CHF 30,778,000 third-class claim included in the schedule of claims in the SAirLines debt restructuring proceedings, insofar as such entitlement exceeds 4.8%. Accordingly, the first interim payment to the value of 4.8%, or CHF 1,477,344, in the SAirLines debt restructuring proceedings is due to Swiss.
 3. Swiss will assign to SAirGroup its dividend entitlement under the third-class claim totalling CHF 21,788,384.30 included in the schedule of claims in the Swissair Schweizerische Luftverkehr-Aktiengesellschaft ("Swissair") debt restructuring proceedings, insofar as such entitlement exceeds 8%. Accordingly, Swiss will receive any interim payments to the value of 8%, or CHF 1,743,071 in total, made in the debt restructuring proceedings of Swissair.
- The parties agree to terminate all proceedings pending between them concerning the "Swissair" trademark. Each party waives any entitlement to damages or indemnification it may have against the other party in relation thereto.

The final SAirGroup, SAirLines and Swissair dividend payments have not yet been determined. Based on current information, it is expected that the considerations due from Swiss will amount to at least CHF 7 million. Considering the existing litigation risks for SAirGroup and the fact that, despite several attempts, it had not proved possible to find a buyer for the "Swissair" trademark prepared to pay a higher price, this result is to be considered a reasonable outcome.

The Creditors' Committee has approved this agreement. As a result, all outstanding matters between SAirGroup and Swiss are now resolved.

II. PURSUIT OF DISPUTED CLAIMS

1. Avoidance claims

1.1 Introduction

Since the last update on the avoidance claims in Circular no. 15 dated 2 April 2009 (part V) the Swiss Federal Supreme Court has delivered rulings in the following three cases:

1.2 LRP Landesbank Rheinland-Pfalz

On 23 January 2006, SAirGroup lodged an avoidance claim to the value of CHF 80,909,777.80 plus 5% interest since 13 June 2005 with the Commercial Court of the Canton of Zurich ("the Commercial Court") against Landesbank Rheinland-Pfalz ("LRP"). The purpose of this action was to contest the SAirGroup payment of CHF 80,909,777.80 to LRP on 29 August 2001. The Commercial Court dismissed the claim in a decision dated 13 May 2008. SAirGroup lodged an appeal in civil matters against the decision with the Swiss Federal Supreme Court. In its decision dated 6 April 2009, the Swiss Federal Supreme Court overturned the decision of the Commercial Court, ruling in favour of SAirGroup.

In May 2009, LRP discharged its obligations under the decision of the Swiss Federal Supreme Court. SAirGroup has received payments totalling CHF 92,272,134 in respect of principal, interest and costs, after deduction of the first interim payment of 5.3% from the claim by LRP which would be revived in accordance with Article 292, paragraph 2 of the Swiss Federal Debt Enforcement and Bankruptcy Law. This matter has thus been concluded.

1.3 Citigroup Global Markets Ltd.

On 21 November 2005, SAirGroup submitted an avoidance claim to the Commercial Court against Citigroup Global Markets Ltd. in the amount of CHF 46 million plus 5% interest since 13 June 2005. The purpose of this action was to contest the balance of mutual payments under an equity swap, amounting to CHF 46 million, made between SAirGroup and Citigroup Global Markets Ltd. over the period 11 April 2001 to 25 September 2001. The Commercial Court dismissed the claim in a decision dated 15

May 2008. SAirGroup lodged an appeal in civil matters against the decision with the Swiss Federal Supreme Court. In its decision dated 28 May 2009, the Swiss Federal Supreme Court dismissed the appeal, upholding the Commercial Court judgment. As a result of these proceedings, SAirGroup incurred total costs of CHF 838,000 (legal costs and costs awarded to the other party).

1.4 Commerzbank AG (formerly Dresdner Bank AG)

On 15 November 2005, SAirGroup submitted an avoidance claim to the Commercial Court against Dresdner Bank AG (now Commerzbank AG) in the amount of CHF 50,006,388.90, plus interest at 5% since 20 June 2005. The purpose of this action was to appeal the SAirGroup payment of CHF 50,006,388.90 to Dresdner Bank AG on 29 June 2001. The Commercial Court dismissed the claim in a decision dated 26 November 2007. SAirGroup lodged an appeal against this decision with the Zurich Civil Court of Appeal ("the Appeals Court"). The Appeals Court dismissed the appeal in a decision issued by circular dated 22 December 2008, whereupon SAirGroup filed an appeal against that decision with the Swiss Federal Supreme Court. In its decision dated 28 September 2009, the Swiss Federal Supreme Court overturned the decision of the Commercial Court, ruling in favour of SAirGroup. A decision by the Commercial Court concerning the award of costs and damages for the Commercial Court proceedings is still pending.

1.5 Additional comments

Fortis Banque S.A. lodged a concurrent nullity appeal with the Appeals Court and an appeal in civil matters with the Swiss Federal Supreme Court against the Commercial Court decision of 2 March 2009, which upheld the avoidance claim submitted by SAirGroup for a payment of CHF 39,624,618.35 plus 5% interest since 17 June 2005 to Fortis Banque S.A. on 27 September 2001. The Appeals Court decision is still pending. The Federal Supreme Court proceedings have been stayed pending the Appeals Court decision.

To date, the concluded avoidance claims have yielded approximately CHF 310 million (net, after deduction of costs).

2. Assertion of liability claims

2.1 Roscor transaction

At the end of September 2009, SAirGroup submitted its reasoning for the appeal against the Zurich District Court decision of 8 January 2009 to the Higher Court of the Canton of Zurich. The respondents will have an opportunity to respond to the appeal.

2.2 Recapitalization of Sabena in 2001

At the end of September 2008, the respondents in the proceedings concerning the recapitalization of Sabena submitted their rejoinder to the District Court of Zurich. The District Court dismissed the claim in a decision dated 23 June 2009. Contrary to the view of SAirGroup, the Court held that, having regard to the totality of the circumstances, the EUR 150 million recapitalization of Sabena at the beginning of 2001 was reasonable and, therefore, not in breach of duty. SAirGroup has appealed against this decision to the Higher Court of the Canton of Zurich.

III. SETTLEMENT OF LIABILITIES (SCHEDULE OF CLAIMS PROCEEDINGS)

The following settlements have been reached since April 2009 in relation to pending actions to contest the schedule of claims:

First-class claims: The sole pending claim is still the SAirGroup pension fund claim to the value of CHF 26,086,618.05, which concerns the prioritization of this claim as a first-class claim. This claim is pending in the appeal proceedings before the Higher Court of the Canton of Zurich. Exchange of pleadings has now been completed. The Higher Court's decision is still pending.

Third-class claims: The actions contesting the schedule of claims which were lodged by the Belgian government, companies controlled by the Belgian government and Sabena and stayed until the end of 2008, have now been resumed. In its supplemental brief, the Belgian government reduced its claim by approximately CHF 744 million. Six third-class claims contesting the schedule of claims, having a total value of CHF 3,157,383,431.54, are therefore still pending. It is not possible to estimate at this stage how long it will take for these claims to be settled.

IV. SECOND INTERIM PAYMENT

Owing to the current financial situation of SAirGroup in debt restructuring liquidation and the fact that a substantial portion of the schedule of claims has been settled, the Liquidator and the Creditors' Committee have decided to execute a second interim payment of 2.1% to creditors with recognized third-class claims under the debt restructuring proceedings. Preparations for this interim payment have now been completed. Enclosed with this Circular is the corresponding special notice, which gives more procedural details. Due to the large number of creditors the execution of these payments will take some time. Payments will be made no earlier than the end of December 2009.

Along with the report on activities in 2009, which will be issued in spring 2010, creditors will then be updated on the status of the liquidation with another Circular.

Yours sincerely

SAirGroup in debt restructuring liquidation

The Liquidator

Karl Wüthrich

Enc: Special notice concerning the second interim payment