

**Swissair Swiss Air Transport Company  
Ltd in debt restructuring liquidation**

**Circular No. 15**

**[www.liquidator-swissair.ch](http://www.liquidator-swissair.ch)**

**Hotline Swissair Swiss Air Transport Company Ltd  
in debt restructuring liquidation**

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

**Français: +41-43-222-38-40**

**English: +41-43-222-38-50**

**Unofficial Translation  
of German Original**

To the creditors of Swissair Swiss Air  
Transport Company Ltd. in debt  
restructuring liquidation

Küsnacht, April 2010 WuK/fee

DR. WERNER WENGER 1)  
DR. JÜRIG PLATTNER  
DR. PETER MOSIMANN  
STEPHAN CUENI 1)  
PROF. DR. GERHARD SCHMID  
DR. DIETER GRÄNICHNER 1)  
KARL WÜTHRICH  
YVES MEILI  
FILIPPO TH. BECK, M.C.J.  
DR. FRITZ ROTHENBÜHLER  
DR. BERNHARD HEUSLER  
DR. ALEXANDER GUTMANS, LL.M. 1)  
PETER SAHLI 2) 10)  
DR. THOMAS WETZEL 5)  
DR. MARC RUSSENBERGER  
DR. MARC NATER, LL.M.  
ALAIN LACHAPPELLE 7) 10)  
BRIGITTE UMBACH-SPAHN, LL.M.  
ROLAND MATHYS, LL.M.  
MARTIN SOHM 5)  
DR. CHRISTOPH ZIMMERLI, LL.M.  
DR. PHILIPPE NORDMANN, LL.M.  
PD DR. PETER REETZ 5)  
SUZANNE ECKERT  
RETO ASCHENBERGER, LL.M.  
DR. DAVID DUSSY  
AYESHA CURMALLY 1) 4)  
CORNELIA WEISSKOPF-GANZ  
DR. REGULA HINDERLING 6)  
DR. STEPHAN KESSELBACH  
MADLAINA GAMMETER WIESLI  
DR. MAURICE COURVOISIER, LL.M.  
DR. RETO VONZUN, LL.M.  
CRISTINA SOLO DE ZALDÍVAR  
DANIEL TOBLER 2) 10)  
DR. ROLAND BURKHALTER  
PETER ENDERLI 9) 10)  
DR. BLAISE CARRON, LL.M.  
DR. OLIVER KÜNZLER  
ANDREA SPÄTH  
THOMAS SCHÄR, LL.M.  
DR. GAUDENZ SCHWITTER  
KARIN GRAF, LL.M.  
NICOLÁS ARIAS 7) 8) 10)  
VIVIANE BURKHARDT  
LUDWIG FURGER 8) 10)  
MILENA MÜNST BURGER, LL.M.  
PLACIDUS PLATTNER  
ROBERT FRHR. VON ROSEN 3)  
CORINNE TAUFER-LAFFER  
YVES CRON  
STEFAN BOSSART  
DR. PHILIPP HÄSLER  
MARCO KAMBER  
ANDRÉ EQUÉY  
FRANZISKA RHINER  
MARTIN BERCHTOLD  
VANESSA SCHMIDT, LL.M.  
ANNETTE DALCHER  
DOMINIK LEIMGRUBER  
CHRISTOPH PREG  
JÖRG HÜCHTING 10)  
EVA SENN  
MANUEL MOHLER  
STEFAN FINK  
KONSULENTEN  
PROF. DR. FELIX UHLMANN, LL.M.  
ANDREAS MAESCHI  
PROF. DR. MARC-ANDRÉ RENOLD  
DR. JÜRIG RIEBEN  
STEPHAN WERTHMÜLLER 7) 10)

**Swissair Swiss Air Transport Company Ltd. in debt restructuring  
liquidation; Circular no. 15**

Dear Sir or Madam,

This Circular provides information on the progress of the Swissair Swiss Air Transport Company Ltd. ("Swissair") debt restructuring liquidation proceedings since April 2009, as well as on the next steps planned in these proceedings over the coming months.

**I. REPORT ON ACTIVITIES AS OF 31 DECEMBER 2009**

Having been acknowledged and approved by the Creditors' Committee on 23 March 2010, the seventh of the Liquidator's reports on activities for 2009 has been submitted to the debt restructuring judge at the District Court of Bülach. The report on activities will be available for inspection by creditors at the Liquidator's offices at Wenger Plattner, Seestrasse 39, Goldbach Center, 8700 Küsnacht, until 7 May 2010. Appointments should be made in advance with Christian Rysler (phone +41 43 222 38 00).

**II. OVERVIEW OF THE LIQUIDATION PROCESS**

**1. Activities of the Liquidator**

The activities of the Liquidator and Deputy Liquidator in 2009 concentrated on pursuing the schedule of claims proceedings (see section VI. below), as well as pursuing the avoidance claims that had been instigated (see section V below). Investigations on responsibility pressed ahead with. A decision on whether or not to file suit has still not been made. At the end of March 2009, a statement of the loans dated 5 and 25 October 2001 in the amount of CHF 1.45 billion (see section III.3 below) was submitted to the Swiss Federal Government. A number of assets were also realised (see section IV below).

**2. Activities of the Creditors' Committee**

The Creditors' Committee held two meetings and one telephone conference in the course of 2009. The Committee discussed the various proposals submitted by the Liquidator or the Deputy Liquidator and passed resolutions accordingly. It also passed circular resolutions on five proposals submitted by the Liquidator.

**III. ASSET STATUS OF SWISSAIR AS OF 31 DECEMBER 2009**

**1. Introductory remark**

Enclosed is a report on the liquidation status of Swissair as of 31 December 2009, containing a statement of the assets of Swissair as of that date, according to present information.

**2. Assets**

As-yet unrealised assets: This item still consists primarily of bank deposits abroad which are frozen, outstanding accounts receivable arising from flight operations, claims against former Swissair Group companies, shareholdings held by Swissair, and real estate abroad (insofar as it is owned by Swissair). Furthermore, any responsibility and avoidance claims are carried pro memoria.

**3. Debts incurred in the course of the liquidation process**

Accounts payable: The accounts payable reported as of 31 December 2009 relate to costs incurred during the debt restructuring liquidation.

Provision for open statements: In spring of 2009, Swissair submitted a statement to the Swiss Federal Audit Office ("SFAO") in respect of federal government loans (see Circular No. 14 from April 2009, section VI.2). The SFAO then requested that further documentation for the individual items be provided. At present, Swissair is compiling the required documentation. This work is very time consuming. Documentation has already been passed to the SFAO for some sub-areas. It is planned that all documentation should be compiled by mid 2010 and will then be submitted to the SFAO. In negotiations with Swisscargo AG in debt restructuring liquidation an agreement was reached on the settlement of reciprocal claims, subject to approval from the Creditors' Committee. This agreement will also be affected by the statement on the federal government loans, though. As long as the statement on federal government loans in respect of the cooperation between Swissair and Swisscargo in the period from 5 October 2001 to 30 March 2002 is open, there is no basis for the Creditors' Committee to approve the agreement. The Swissair liquidation status report as of 31 December 2009 continues to show provisions for open statements of CHF 83.12 million.

Provision for first interim payment: The liquidation status of Swissair as of 31 December 2009 includes the sum of CHF 63,689,424 as provision for the first interim payment. Of this amount, CHF 1,483,113 is reserved for payments in respect of which creditors have not yet issued payment instructions to the Liquidator, or for payments that could not be effected for other reasons. An amount of CHF 5,845,918 is for interim payments on conditional claims for which the condition concerned has not yet been met. Another CHF 9,544,969 concerns interim payments on claims for which an action to contest the schedule of claims is pending. The remainder of the provision – CHF 46,815,422 – is for claims that are still suspended at present. The provision that has been made guarantees the maximum amount of the first interim payment for all claims that have not yet been settled.

**4. Creditors' claims**

The enclosed overview of the schedule of claims proceedings shows the total of claims that have been registered in the respective classes, those claims which have been recognised, those which have been definitively rejected, those which are in dispute (actions to contest the schedule of claims, see section VI. below) and those for which the schedule of claims entries are still suspended. The claim amounts in all classes are still subject to change as efforts to settle the schedule of claims proceed.

**5. Estimated dividend**

The disposable assets reported in the liquidation status as of 31 December 2009 give a maximum dividend of 14.4% for third-class claims, providing all of the still pending actions to contest the schedule of claims are pursued successfully. This calculation factors in 60% of the third-class claims that have been suspended or included pro memoria in the schedule of claims. Should all of the actions be admitted and the suspended claims have to be recognised in full, however, the minimum dividend would be 11.4%. Of this, 2% has already been paid out in the first interim payment. The future dividend that may be expected, therefore, is between 9.4% and 12.4%.

**IV. REALISATION OF ASSETS**

**1. General comments**

The Liquidator continued to collect accounts receivable both in Switzerland and abroad during 2009. In 2009, Swissair received payments totalling around CHF 55 million. In particular, proceedings concerning the repatriation of assets located in England were successfully concluded. Swissair also received dividend payments from insolvency proceedings concerning SAirGroup Finance (NL) B.V. on the basis of its definitively recognised claim (see Circular No. 14 from April 2009, section IV.4).

**2. Apportionment of proceeds from the sale of furnishings, IT-hardware and in-flight material**

*2.1 Background*

Upon grant of the debt restructuring moratorium to the various Swissair companies, offices situated at Balsberg, Kloten and Hirschengraben, Zurich were fully equipped with office furniture and IT-hardware. Furthermore, in-flight material and various other flight-specific effects were held both in Switzerland and at various other locations. Title to the majority of office furnishings, IT -hardware and in-flight material could no longer be definitively determined. It was unclear whether title to the respective objects was held by SAirGroup, Swissair or the bankruptcy estate of Swissair Sabena Airline Management Partnership, London, Kloten branch ("AMP"). The three parties agreed to sell the objects and pay the proceeds into joint bank accounts. Upon sale, the following proceeds were generated:

Proceeds from the sale of office furniture	CHF 927,359.05
Proceeds from the sale of IT-hardware	CHF 1,018,101.55
Proceeds from the sale of in-flight material and other flight-specific effects	CHF 4,999,003.75
<b>Total</b>	<b>CHF 6,944,464.35</b>

In order to clarify the situation, SAirGroup, Swissair and AMP came to an agreement on the apportionment of proceeds from the sales. This agreement was approved by the Creditors' Committee and has now been implemented.

*2.2 Apportionment of proceeds from the sale of office furnishings*

With respect to the proceeds of the sale of office furnishings in the amount of CHF 927,359.05, Flightlease AG was first paid CHF 23,195.55 in respect of property which it demonstrably owned. The remaining sum of CHF 904,163.50 was shared between SAirGroup,

Swissair and AMP on a 1:1:2 basis. The rationale behind the apportionment was based on the rental area used by the companies in accordance with the rental index compiled by Avireal AG from 28 February 2002 (SAirGroup: 8,267.27 m<sup>2</sup>; Swissair: 7,298.27 m<sup>2</sup>; AMP: 19,789.29 m<sup>2</sup>). Swissair's share from the proceeds from the sale of office furnishings therefore stood at CHF 226,040.90. CHF 78,918.80 from the sale of office furnishings was transferred directly to a bank account held by Swissair and not to the joint bank account of SAirGroup, Swissair and AMP. Swissair had to accept deduction of this amount in later payments. Of the remainder, it therefore received only CHF 147,122.10 from the joint bank account.

### *2.3 Apportionment of proceeds from the sale of IT-hardware*

The proceeds from the sale of IT-hardware stood at CHF 1,018,101.55. Apportionment criteria were based on the location of the respective device in combination with property management plans compiled by Avireal AG and – where available – the marking of devices as the property of AMP. The apportionment resulted in a share of CHF 480,136.60 for Swissair. Some IT-hardware was sold directly to Swiss International Air Lines AG ("Swiss") for a price of CHF 499,960. The price was settled between Swissair and Swiss under the set-off of all mutual liabilities and was not paid into the joint bank account. Swissair therefore had to accept deduction of this sum and pay CHF 19,823.40 into the joint bank account.

### *2.4 Apportionment of proceeds from the sale of in-flight material and further flight-specific effects*

Proceeds from the sale of in-flight material and further flight-specific effects stood at CHF 4,999,003.75. These proceeds were shared between Swissair and AMP. SAirGroup did not hold title to these objects. The basis for the agreement between Swissair and AMP were accounting statements on the purchase of materials. Swissair received CHF 4,233,223.20.



2.5 *Retention right of office space landlord*

As landlord of offices occupied by Swissair at Balsberg in Kloten, Avireal AG is included in the schedule of claims with a secured claim of CHF 993,569.35. The claim was secured by a retention right on office furnishings and IT-hardware. In connection with the apportionment of proceeds from the sale of office furnishings and IT-hardware, agreement was also reached with Avireal AG on the value of the objects to which the retention right applied. Proceeds of sale in respect of the objects subject to the retention right were set at CHF 487,922.55. Disbursement of this sum to Avireal AG and the calculation of Avireal AG's shortfall are still outstanding.

**V. PURSUIT OF AVOIDANCE CLAIMS**

**1. Idemitsu Kosan Co. Ltd.**

Idemitsu Kosan Co. Ltd. supplied Swissair with fuel at Narita and Kansai airports in Japan. On 4 October 2001, Swissair made a payment of USD 2,452,926.92 and on 5 October 2001 a payment of JPY 37,798,736 to Idemitsu Kosan Co. Ltd in settlement of invoices for fuel already supplied.

On 24 March 2006, Swissair lodged an avoidance action before the District Court of Zurich in respect of payments to Idemitsu Kosan Co. Ltd. for USD 2,452,926.92 and JPY 37,798,736 plus interest of 5% calculated from 23 May 2005.

The settlement conference conducted on 12 July 2007 did not result in agreement. After conclusion of the main proceedings, settlement negotiations began again in spring of 2009. In July 2009, the parties ultimately reached the following agreement regarding the settlement of the Swissair claim:

- Swissair is to reduce its claim from USD 2,452,926.92 and JPY 37,798,736 to USD 1,962,342.51 and JPY 30,238,989.

- Idemitsu Kosan Co. Ltd. is to recognise the claim to this extent and undertakes to pay USD 1,962,341.54 and JPY 30,238,989 to Swissair.
- Idemitsu Kosan Co. Ltd. is to waive its claim for the payment of USD 1,962,341.54 and JPY 30,238,989, which would be revived under Art. 291 (2) of the Swiss Federal Debt Enforcement and Bankruptcy Law (DEBL).
- The parties shall each pay half of the court costs. Neither party shall seek a court award on the reimbursement of legal fees.
- Once the agreement is fulfilled, the parties shall declare all reciprocal claims to have been settled.

The settlement was approved by the Creditors' Committee. Idemitsu Kosan Co. Ltd. paid USD 1,962,341.54 and JPY 30,238,989 to Swissair in August 2009.

## **2. Shell (Switzerland)**

Shell (Switzerland) supplied Swissair with fuel at Zurich Airport and other airports outside Switzerland. On 2 October 2001, Swissair made a payment of USD 5,500,000 and on 4 October another of USD 8,104,000 to Shell (Switzerland) in settlement of invoices for fuel already supplied.

On 23 May 2005, Swissair lodged an avoidance action before the Cantonal Court in Zug in respect of these payments to Shell (Switzerland) in the amount of CHF 9,604,000 plus interest at 5% since 23 May 2005.

The settlement conference conducted on 15 July 2008 did not result in agreement. In summer 2009, settlement negotiations began again. In November 2009, the parties ultimately reached the following agreement regarding the settlement of the Swissair claim:

- Swissair is to reduce the avoidance claims it had lodged from USD 9,604,000 to USD 4,000,000.

- Shell (Switzerland) is to recognise the claim for this amount and undertakes to pay the sum of USD 4,000,000 to Swissair.
- Shell (Switzerland) is to waive its claim for the payment of USD 4,000,000, which would be revived in accordance with Article 291 (2) of the Swiss Federal Debt Enforcement and Bankruptcy Law (DEBL).
- The parties shall each pay half of the court costs. Neither party shall seek a court award on the reimbursement of legal fees.
- Once the agreement is fulfilled, the parties shall declare all reciprocal claims to have been settled.

The settlement was approved by the Creditors' Committee. Shell (Switzerland) paid USD 4,000,000 to Swissair in December 2009.

**3. Dor Alon Energy in Israel (1988) Ltd.**

On 7 April 2006, Swiss lodged an avoidance action before the Commercial Court in Zurich for USD 339,796.83 plus interest of 5% calculated from 24 May 2005 in respect of a payment to Dor Alon Energy in Israel (1988) Ltd. ("Dor Alon"). This payment was made by Swissair to Dor Alon on 4 October 2001. The Commercial Court in Zurich upheld the claim for USD 339,796.83 in a decision dated 26 July 2009. The defendant lodged an appeal against that decision with the Swiss Federal Supreme Court. The judgment of the Federal Supreme Court is still awaited.

**4. Additional comments**

Apart from the claim against Dor Alon, no other avoidance claims are pending.

To date, avoidance claims have yielded (net, after deduction of costs) approximately CHF 37 million plus approximately USD 22.5 million.

**VI. SETTLEMENT OF LIABILITIES / SCHEDULE OF CLAIMS PROCEEDINGS**

First-class claims: Of the 49 actions worth a total of CHF 13,037,013.59 pending before the District Court of Bülach at the beginning of 2009, by the end of that year, 26 claims were resolved by means of a settlement or declared inadmissible by the court. In a judgment delivered on 4 January 2010, the single judge dismissed the action to contest the schedule of claims brought by 23 pilots in expedited proceedings before the District Court of Bülach. Following this decision, the pending but stayed actions to contest the schedule of claims brought by four creditors were resolved by means of settlement. The claimant lodged an appeal before the High Court of the Canton of Zurich in respect of the decision of the single judge in expedited proceedings at the District Court of Bülach. At present, 19 actions are still pending worth a total of CHF 9,544,970. Of the claims originally lodged totalling CHF 708,062,460, only CHF 3,334,214 needed to be recognised up to now.

Third-class claims: At the beginning of 2009, only one claim worth CHF 1,392,569.16 was still pending before the District Court of Bülach. This claim was resolved by settlement in 2009. With this, excluding suspended claims, all third-class claims have been settled in the schedule of claims. Of the filed claims totalling CHF 8,316,079,404, only CHF 50,783,617 so far needed to be recognised as definitive claims and CHF 35,861,138 as conditional claims.

**VII. PLANNED NEXT STEPS IN THE PROCESS**

The next phase of proceedings will involve finalisation of the schedule of claims and liquidation of the remaining assets, particularly real estate abroad.

The liquidation bodies will conclude their investigations into responsibility claims and institute further legal action as necessary. The pending avoidance claim concerning the Dor Alon proceedings is being pursued. It is also important to resolve the matter of the statement on

the federal government loans. It is not possible at present to estimate how long it will take before these issues are settled.

Creditors will continue to receive information about important developments in the form of circulars, depending on how things proceed. A report on the progress of the liquidation process in the current year will be issued by no later than spring 2011.

Yours faithfully

Swissair Swiss Air Transport Company Ltd. in debt restructuring liquidation  
The Liquidator

Karl Wüthrich

Enclosures:

1. Liquidation status as of 31 December 2009 of Swissair Swiss Air Transport Company Ltd. in debt restructuring liquidation
2. Overview of the schedule of claims proceedings

## LIQUIDATION STATUS AS OF 31 DECEMBER 2009

	31.12.2009 CHF	31.12.2008 CHF	Change CHF
<b>ASSETS</b>			
<b>Liquid funds</b>			
UBS ZRH CHF	100'257	214'672	-114'415
UBS ZRH USD 1)	96'810	1'038'392	-941'582
ZKB CHF	459'704'685	187'268'789	272'435'896
ZKB EUR	186'933	70'039	116'894
ZKB USD	87'910	48'854	39'056
ZKB-Fixed-term deposits	0	192'000'000	-192'000'000
<b>Total liquid funds</b>	<b>460'176'595</b>	<b>380'640'746</b>	<b>79'535'849</b>
<b>Liquidation positions</b>			
Banks/cash abroad	23'144	1'061'788	-1'038'644
Accounts receivable by the estate	182'945	1'103'376	-920'431
Receivables from third parties	109'153'775	124'319'949	-15'166'174
Prepaid court expenses	5'850	0	5'850
Deposits/Guarantees	991'865	991'865	0
Claims from proceeds of sale of operating equipment	2	3'033'004	-3'033'002
Real estate	1	p.m.	1
Participations	1'000'000	2'000'000	-1'000'000
Responsibility claims	p.m.	p.m.	
Pauliana claims	0	9'601'200	-9'601'200
<b>Total liquidation positions</b>	<b>111'357'582</b>	<b>142'111'182</b>	<b>-30'753'600</b>
<b>TOTAL ASSETS</b>	<b>571'534'177</b>	<b>522'751'928</b>	<b>48'782'249</b>
<b>LIABILITIES</b>			
<b>Debts of the estate</b>			
Accounts payable to the estate	477'806	659'670	-181'864
Provision, 1st interim payment	63'689'424	67'535'101	-3'845'678
Provisions for liquidation costs	2'355'261	2'355'261	0
Provisions for outstanding statements	83'120'000	83'120'000	0
<b>Total debts of the estate</b>	<b>149'642'491</b>	<b>153'670'032</b>	<b>-4'027'542</b>
<b>TOTAL DISPOSABLE ASSETS</b>	<b>421'891'686</b>	<b>369'081'896</b>	<b>52'809'790</b>

<sup>1)</sup> USD 50'000.00 is assigned as collateral for contingent liabilities at UBS AG

## Summary of schedule of claims status

Category	Registered	Schedule of claims				Dividend				
	Amount in CHF	Recognized Amount in CHF	Appeal lodged Amount in CHF	Decision suspended Amount in CHF	Rejected Amount in CHF	1st interim payment	Future dividend minimal	Future dividend maximal	Total minimal	Total maximal
Secured by right of lien	4'758'963.80	1'074'339.35	-	-	3'684'624.45	-	-	-	-	-
First Class	902'655'767.50	17'740'148.70	9'544'969.95	5'190'363.60	870'180'285.25	100%	-	-	100%	100%
Second Class	934'534.80	619'804.51	-	-	314'730.29	100%	-	-	100%	100%
Third Class <sup>1)</sup>	27'054'685'526.55	2'393'019'405.10	-	2'081'252'937.69	22'580'413'183.76	2.0%	9.4%	12.4%	11.4%	14.4%
<b>Total</b>	<b>27'963'034'792.65</b>	<b>2'412'453'697.66</b>	<b>9'544'969.95</b>	<b>2'086'443'301.29</b>	<b>23'454'592'823.75</b>					

<sup>1)</sup> The third-class claims for which decisions have been suspended are factored into this calculation at 60%.

**[www.liquidator-swissair.ch](http://www.liquidator-swissair.ch)**

**Hotline Swissair Swiss Air Transport Company Ltd  
in debt restructuring liquidation**

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

**Français: +41-43-222-38-40**

**English: +41-43-222-38-50**