

## NOTICE OF FILING AND HEARING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 7/08/2020 10:00:21 AM AEST and has been accepted for filing under the Court's Rules. Filing and hearing details follow and important additional information about these are set out below.

### Filing and Hearing Details

Document Lodged:	Interlocutory process (Rule 2.2): Federal Court (Corporations) Rules 2000 form 3
File Number:	NSD464/2020
File Title:	APPLICATION IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
Reason for Listing:	Interlocutory Hearing
Time and date for hearing:	11/08/2020, 2:15 PM
Place:	Please check Daily Court List for details



*Sia Lagos*

Dated: 7/08/2020 10:45:33 AM AEST

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The Reason for Listing shown above is descriptive and does not limit the issues that might be dealt with, or the orders that might be made, at the hearing.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



**Form 3 Interlocutory process**

(Rules 2.2, 15A.4, 15A.8 and 15A.9)

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 464 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS**

**VAUGHAN STRAWBRIDGE, SALVATORE ALGERI, JOHN GREIG AND RICHARD HUGHES, IN THEIR CAPACITY AS JOINT AND SEVERAL VOLUNTARY ADMINISTRATORS OF EACH OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) AND THE THIRD TO FORTIETH PLAINTIFFS NAMED IN SCHEDULE 1**

First Plaintiffs

AND OTHERS NAMED IN THE SCHEDULE

Plaintiffs

**A. DETAILS OF APPLICATION**

This application is made under sections 439A(6) and 447A(1) of the *Corporations Act 2001* (Cth) (**Corporations Act**) and section 90-15 of the *Insolvency Practice Schedule (Corporations)*, being Schedule 2 to the Corporations Act (**IPSC**).

On the facts stated in the supporting affidavits of Vaughan Neil Strawbridge sworn on 7 August 2020 and David Michael Orr sworn on 6 August 2020 the Plaintiffs seek the following orders and declarations:

1. The Interlocutory Process filed on 7 August 2020 be made returnable at 2.15pm on 11 August 2020.

**VAH Newco No. 2 Pty Ltd and VB Investco Pty Ltd**

***Joinder***

2. An order pursuant to rule 9.05 of the *Federal Court Rules 2011* (Cth) that each of VAH Newco No. 2 Pty Ltd (in liquidation) (Administrators Appointed) ACN 160 881 354 (**VAH Newco 2**) and VB Investco Pty Ltd (in liquidation) (Administrators Appointed) ACN 101 961 095 (**VB Investco**) be added to this proceeding as Forty-First Plaintiff and Forty-Second Plaintiff respectively.

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Filed on behalf of (name & role of party)	The Plaintiffs		
Prepared by (name of person/lawyer)	Timothy James Sackar		
Law firm (if applicable)	Clayton Utz		
Tel	+61 2 9353 4000	Fax	+61 2 8220 6700
Email	kaadams@claytonutz.com		
<b>Address for service</b> (include state and postcode)	Level 15, 1 Bligh Street, Sydney NSW 2000		

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3. Subject to prayer 2 being made, an order that any orders made pursuant to the Interlocutory Application filed 29 July 2020 in the proceedings be deemed to apply to VAH Newco 2 and VB Investco as if they were the Forty-First and Forty-Second Plaintiffs in the proceedings at the time the Orders were made.

#### ***Conducting meetings of creditors electronically***

4. A direction pursuant to section 90-15 of the IPSC, that, to the extent not permitted specifically by sections 75-30, 75-35 and 75-75 of the *Insolvency Practice Rules (Corporations) 2016* (Cth) (**IPR**) and the *Corporations (Coronavirus Economic Response) Determination (No. 1) 2020* (Cth) (**Coronavirus Determination**), the First Plaintiffs are justified in holding meetings of creditors during the administration of each of VAH Newco 2 and VB Investco by telephone or audio-visual conference only at the place of the First Plaintiffs' offices (without creditors of VAH Newco 2 and VB Investco being able to attend physically at that place), with such details of the arrangements for using the telephone or audiovisual conference facilities to be specified in each of the notices issued to creditors.

#### ***Further Extension of Convening Period***

5. An order pursuant to section 447A(1) of the Corporations Act that Part 5.3A of the Corporations Act is to operate in relation to each of the Second to Fortieth Plaintiffs as if section 439A(6) provided that the period for convening the second meeting of creditors of each of the Second to Fortieth Plaintiffs, be extended (from 18 August 2020) to 31 August 2020.
6. An order pursuant to section 447A(1) of the Corporations Act, that Part 5.3A of the Corporations Act is to operate in relation to each of the First to Fortieth Plaintiffs and the proposed Forty First and Forty Second Plaintiffs (**Virgin Companies**) such that, notwithstanding section 439A(2) of the Corporations Act, the second meeting of the creditors of each of the Virgin Companies (**Second Meetings**) required under section 439A of the Corporations Act may be convened at any time before, or within, five (5) business days after, the end of the convening period as extended by paragraph 5 above (provided that the First Plaintiffs give notice of the meetings to eligible creditors of each of the Virgin Companies (including the persons claiming to be creditors of the Virgin Companies) at least five (5) business days before the meeting).

#### **Deadline for lodgement of Proofs of Debt and Instruments of Proxy**

##### ***Proofs of debt***

7. An order pursuant to section 90-15 of the IPSC that the First Plaintiffs in their capacity as the joint and several administrators of each of the Virgin Companies (the **Administrators**) would be justified in permitting only those persons who have lodged particulars of a debt or claim in the administration of one or more of the Virgin Companies, in accordance with prayer 4 of the Interlocutory Process filed 29 July 2020 in the proceedings (**Application**), and by no later than at 5.00pm on the fifth business



day before the Second Meetings are held (**POD Lodgement Date**), to participate and vote at the Second Meetings.

8. An order pursuant to section 90-15 of the IPSC, that, in respect of any particulars of a debt or claim submitted by a person to the Administrators in respect of the Virgin Companies:
  - a. prior to the POD Lodgement Date, the Administrators are justified in entering the information provided by the person into the Halo Platform and registering the relevant creditor's details on the Halo Platform; and
  - b. after the expiry of the POD Lodgement Date, the Administrators are justified in disregarding any such debt or claim.
9. An order pursuant to section 90-15 of the IPSC that the IPR is to operate in relation to the Virgin Companies such that persons (or their proxy or attorney) may not at any time after the POD Lodgement Date, without the express written consent of the Administrators, amend or replace any proof of debt lodged on the Halo Platform.

#### ***Instruments of Proxy***

10. An order vacating Order 5 of the orders made by the Court on 24 April 2020 and Order 7 of the orders made by the Court on 13 May 2020.
11. An order pursuant to section 90-15 of the IPSC that, to the extent not permitted specifically by section 75-35(2)(b) of the IPR and the Coronavirus Determination, the creditors of the Virgin Companies who wish to participate or vote on resolutions at the Second Meetings (other than persons not voting by proxy or attorney), must lodge with Administrators:
  - a. a specific proxy form containing the information in section 75-35(2)(b)(i)-(iii) of the IPR; and / or
  - b. an appointment of power of attorney containing the information in section 75-35(2)(b)(i)-(iii) of the IPR,

in accordance with Order 4 of the Application, and by no later than at 5.00pm on the third business day before the Second Meetings are held (**Proxy Lodgement Date**).

12. An order pursuant to section 90-15 of the IPSC that the Administrators would be justified in permitting only those persons who have lodged in the administration of one or more of the Virgin Companies a specific proxy form and / or an appointment of power of attorney, in accordance with paragraph 11 above, to participate and vote by proxy or attorney at the Second Meetings.
13. An order pursuant to section 90-15 of the IPSC that the requirements of sections 75-25 and 75-35(2) of the IPR will be satisfied in relation to the Virgin Companies by the Administrators including a link to an electronic appointment of proxy or attorney form to be completed and submitted on the Halo



Platform (as defined in the affidavit of David Michael Orr sworn 29 July 2020) in the notice to be issued to creditors pursuant to section 75-225 of the IPR.

14. An order pursuant to section 90-15 of the IPSC, that, in respect of any appointment of proxy or attorney forms submitted by a person to the Administrators in respect of the Virgin Companies:
  - a. prior to the Proxy Lodgement Date, the Administrators are justified in entering the proxy or attorney details provided by the person into the Halo Platform and registering the relevant creditor's details on the Halo Platform; and
  - b. after the expiry of the Proxy Lodgement Date, the Administrators are justified in disregarding any such proposed nomination of proxy or attorney.
15. An order pursuant to section 90-15 of the IPSC that the IPR is to operate in relation to the Virgin Companies such that persons (or their proxy or attorney) may not at any time after the Proxy Lodgement Date, without the express written consent of the Administrators, amend or replace any appointment of proxy form, power of attorney details or any vote lodged on the Halo Platform in respect of any resolution put to creditors to be voted on at the Second Meetings.

***Voting on resolutions via Halo Platform***

16. A declaration that the Halo Platform is a suitable technology for the purposes of sections 5(1)(a) and 5(1)(f) of the Coronavirus Determination.
17. An order pursuant to section 90-15 of the IPSC that the IPR is to operate in relation to the Virgin Companies such that:
  - a. to the extent not required specifically by section 5(1)(c) of the Coronavirus Determination, all resolutions put to a vote at the Second Meetings will be decided by a poll as if requested by the person presiding at the Second Meetings pursuant to section 75-110(1) of the IPR; and
  - b. for the purposes of section 75-110(5) of the IPR, each poll is to be taken by tallying votes cast on the Halo Platform.
18. An order pursuant to section 90-15 of the IPSC, that the requirements of 75-30 and 75-75 of the IPR and section 5 of the Coronavirus Determination may be satisfied, in the case of the Virgin Companies, by the creation of an "event" on the Halo Platform and the Administrators holding the Second Meetings via Microsoft Teams technology.
19. A declaration that the Administrators be justified in counting all votes lodged through the Halo Platform on any poll taken during the Second Meetings (regardless of whether it can be shown that those creditors (or their proxy or attorney) were present at the meeting).

**General**

20. An order that the Administrators take all reasonable steps to cause notice of the Court's orders to be given, within one (1) business day of the making of the orders, to:

a. creditors (including persons or entities claiming to be creditors) of the Virgin Companies, in the following manner:

- i. where the creditor is a registered user on the Halo Platform, by publishing a notice via the Halo Platform;
- ii. where the creditor is not a registered user on the Halo Platform but the Administrators have an email address for a creditor, by notifying each such creditor, via email, of the making of the orders and providing a link to a website where the creditor may download the orders and the Interlocutory Process;
- iii. where a creditor is not a registered user on the Halo Platform and the Administrators do not have an email address for a creditor but have a postal address for that creditor (or have received notification of non-delivery of a notice sent by email in accordance with paragraph (a)(ii) above), by notifying each such creditor, via post, of the making of the orders and providing a link to a website where the creditor may download the orders and the Interlocutory Process;
- iv. where a creditor is not a registered user on the Halo Platform and the Administrators do not have an email address for a creditor but have an email address for a trustee, custodian or other agent who represents or may act on behalf of that creditor, by notifying each such trustee, custodian or other agent, via email, of the making of the orders and providing a link to a website where the trustee, custodian, other agent or creditor may download the orders and the Interlocutory Process; and
- v. by placing scanned, sealed copies of the Interlocutory Process and the orders on the website maintained by the Administrators at <https://www2.deloitte.com/au/en/pages/finance/articles/virgin-australiaholdings-limited-subsidiaries.html>; and

b. the Australian Securities and Investments Commission.

21. An order that any person who can demonstrate a sufficient interest have liberty to apply to vary or discharge any orders made pursuant to paragraphs 5 to 0 above, on three (3) business day's written notice to the Plaintiffs and to the Associate to Justice Middleton.

22. An order that the Plaintiffs have liberty to apply on one (1) business day's written notice to the Court in relation to any variation or discharge of the Court's orders.



23. An order that the Plaintiffs' costs of the application be treated as costs in the administrations of each of the Virgin Companies, jointly and severally.
24. An order that the Court's orders be entered forthwith.
25. Such further or other orders or directions as the Court considers appropriate.

**The Court notes that:**

26. Orders 7 to 19 do not apply to those creditors (or the debt or claim made by or on behalf of such creditors) who are USD Noteholders (as defined in prayer 4 of the Plaintiffs' Interlocutory Process dated 29 July 2020).

Date: 7 August 2020

A handwritten signature in black ink, appearing to read "Timothy James Sackar".

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Signed by Timothy James Sackar  
Solicitor for the First Plaintiffs



**B. NOTICE TO RESPONDENT(S) (IF ANY)**

N/A

**C. FILING**

This interlocutory process is filed by Clayton Utz for the First Plaintiffs.

**E. SERVICE**

The First Plaintiffs' address for service is:

Attention: Timothy Sackar/Kassandra Adams  
C/- Clayton Utz Lawyers  
Level 15,  
1 Bligh Street  
SYDNEY NSW 2000

It is not intended to serve a copy of this interlocutory process on any person.



**SCHEDULE 1**

Federal Court of Australia  
District Registry: New South Wales  
Division: Commercial and Corporations List

No. NSD 464 of 2020

**IN THE MATTER OF VIRGIN AUSTRALIA HOLDINGS LTD (ADMINISTRATORS APPOINTED) ACN 100 686 226 & ORS****Plaintiffs**

- First Plaintiff: Vaughan Strawbridge, Salvatore Algeri, John Greig and Richard Hughes, in their capacity as joint and several voluntary administrators of the Second to Thirty-ninth Plaintiffs
- Second Plaintiff: Virgin Australia Holdings Ltd (Administrators Appointed) ACN 100 686 226
- Third Plaintiff: Virgin Australia International Operations Pty Ltd (Administrators Appointed) ACN 155 859 608
- Fourth Plaintiff: Virgin Australia International Holdings Pty Ltd (Administrators Appointed) ACN 155 860 021
- Fifth Plaintiff: Virgin Australia International Airlines Pty Ltd (Administrators Appointed) ACN 125 580 823
- Sixth Plaintiff: Virgin Australia Airlines (SE Asia) Pty Ltd (Administrators Appointed) ACN 097 892 389
- Seventh Plaintiff: Virgin Australia Airlines Holdings Pty Ltd (Administrators Appointed) ACN 093 924 675
- Eighth Plaintiff: VAH Newco No.1 Pty Ltd (Administrators Appointed) ACN 160 881 345
- Ninth Plaintiff: Tiger Airways Australia Pty Limited (Administrators Appointed) ACN 124 369 008
- Tenth Plaintiff: Virgin Australia Airlines Pty Ltd (Administrators Appointed) ACN 090 670 965
- Eleventh Plaintiff: VA Borrower 2019 No. 1 Pty Ltd (Administrators Appointed) ACN 633 241 059
- Twelfth Plaintiff: VA Borrower 2019 No. 2 Pty Ltd (Administrators Appointed) ACN 637 371 343



Thirteenth Plaintiff:	Virgin Tech Pty Ltd (Administrators Appointed) ACN 101 808 879
Fourteenth Plaintiff:	Short Haul 2018 No. 1 Pty Ltd (Administrators Appointed) ACN 622 014 831
Fifteenth Plaintiff:	Short Haul 2017 No. 1 Pty Ltd (Administrators Appointed) ACN 617 644 390
Sixteenth Plaintiff:	Short Haul 2017 No. 2 Pty Ltd (Administrators Appointed) ACN 617 644 443
Seventeenth Plaintiff:	Short Haul 2017 No. 3 Pty Ltd (Administrators Appointed) ACN 622 014 813
Eighteenth Plaintiff:	VBNC5 Pty Ltd (Administrators Appointed) ACN 119 691 502
Nineteenth Plaintiff:	A.C.N. 098 904 262 Pty Ltd (Administrators Appointed) ACN 098 904 262
Twentieth Plaintiff:	Virgin Australia Regional Airlines Pty Ltd (Administrators Appointed) ACN 008 997 662
Twenty-first Plaintiff:	Virgin Australia Holidays Pty Ltd (Administrators Appointed) ACN 118 552 159
Twenty-second Plaintiff:	VB Ventures Pty Ltd (Administrators Appointed) ACN 125 139 004
Twenty-third Plaintiff:	Virgin Australia Cargo Pty Ltd (Administrators Appointed) ACN 600 667 838
Twenty-fourth Plaintiff:	VB Leaseco Pty Ltd (Administrators Appointed) ACN 134 268 741
Twenty-fifth Plaintiff:	VA Hold Co Pty Ltd (Administrators Appointed) ACN 165 507 157
Twenty-sixth Plaintiff:	VA Lease Co Pty Ltd (Administrators Appointed) ACN 165 507 291
Twenty-seventh Plaintiff:	Virgin Australia 2013-1 Issuer Co Pty Ltd (Administrators Appointed) ACN 165 507 326
Twenty-eighth Plaintiff:	737 2012 No.1 Pty. Ltd (Administrators Appointed) ACN 154 201 859
Twenty-ninth Plaintiff:	737 2012 No. 2 Pty Ltd (Administrators Appointed) ACN 154 225 064



Thirtieth Plaintiff:	Short Haul 2016 No. 1 Pty Ltd (Administrators Appointed) ACN 612 766 328
Thirty-first Plaintiff:	Short Haul 2016 No. 2 Pty Ltd (Administrators Appointed) ACN 612 796 077
Thirty-second Plaintiff:	Short Haul 2014 No. 1 Pty Ltd (Administrators Appointed) ACN 600 809 612
Thirty-third Plaintiff:	Short Haul 2014 No. 2 Pty Ltd (Administrators Appointed) ACN 600 878 199
Thirty-fourth Plaintiff:	VA Regional Leaseco Pty Ltd (Administrators Appointed) ACN 127 491 605
Thirty-fifth Plaintiff:	VB 800 2009 Pty Ltd (Administrators Appointed) ACN 135 488 934
Thirty-sixth Plaintiff:	VB Leaseco No 2 Pty Ltd (Administrators Appointed) ACN 142 533 319
Thirty-seventh Plaintiff:	VB LH 2008 No. 1 Pty Ltd (Administrators Appointed) ACN 134 280 354
Thirty-eighth Plaintiff:	VB LH 2008 No. 2 Pty Ltd (Administrators Appointed) ACN 134 288 805
Thirty-ninth Plaintiff:	VB PDP 2010-11 Pty Ltd (Administrators Appointed) ACN 140 818 266
Fortieth Plaintiff:	Tiger International Number 1 Pty Ltd (Administrators Appointed) ACN 606 131 944