

22 February 2023

NOTICE TO CREDITORS AND CUSTOMERS REGARDING CUSTOMER MONIES HELD ON TRUST AND THE COURT APPLICATION

Dear Sir/Madam

STA Travel Pty Limited (In Liquidation)
ACN 004 801 512
(the Company or STA Travel)

1. Preliminaries

I refer to the appointment of Timothy Norman and myself as Joint & Several Administrators of the Company on 21 August 2020, and to our subsequent appointment as Joint & Several Liquidators on 25 September 2020.

This update should be read in conjunction with the previous notice sent to creditors and customers in relation to the Court Application dated 23 September 2022 (**Notice dated 23 September 2022**) which (along with all previous notices) can be found on the STA Travel liquidation webpage: www.deloitte.com/au/STATravelAU.

The purpose of this notice (**Notice dated 22 February 2023**) is to provide an update to creditors and customers of STA Travel on the Liquidators' application in the Supreme Court of New South Wales (Supreme Court of NSW proceedings no. 2022/00172325) (**Court**) in relation to, among other things:

- (i) The Liquidators' proposed distribution of customer monies held on trust, being refunds recovered by them from various travel providers (**Customer Refunds**);
- (ii) The Commonwealth Bank of Australia's (**CBA**) right to set-off any STA Travel chargeback liabilities and bank guarantee backed landlord liabilities against STA Travel's funds held with CBA (**CBA right of set-off**); and
- (iii) The Liquidators' remuneration, costs and expenses (including legal fees) associated with recovery, preservation, administration, and proposed distribution of the Customer Refunds to be paid from the Customer Refunds before any distribution to customers.

(Court Application).

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2. Orders made by the Supreme Court of New South Wales

As outlined in our Notice dated 23 September 2022, the Liquidators' Amended Originating process filed on 8 September 2022 (**Amended Originating Process**) was listed for hearing by the Court on 27 October 2022.

Subsequently, on 11 November 2022 the Court provided judgement and made orders (entered on 14 December 2022) with respect to the Liquidators' Court Application (**Final Court judgement and orders**), summarised as follows:

- (i) (**Orders 4 and 6**) The Liquidators would be justified in distributing the Customer Refunds and any further Customer Refunds recovered in the following manner:
 - (a) First, in payment of the Liquidators' costs and expenses in connection with the Court Application insofar as they are referable to the relief granted in relation to the Customer Refunds (in accordance with Order 9);
 - (b) Second, in payment of the Liquidators' costs, expenses and remuneration with respect to the recovery, preservation, administration and proposed distribution of the Customer Refunds; and
 - (c) Third, after deduction of any offsets applied by various airlines with respect to the processing of the Customer Refunds, to the customers identified [by booking number] in Schedule 1, 2 and 3 to the Final Court judgement and orders and also set out in the Liquidators' Originating Process filed on 14 June 2022 [and the Liquidators' previous Notice to Creditors and Customers dated 16 June 2022].
- (ii) (**Order 2**) The remuneration of the Liquidators with respect to the recovery, preservation, administration and proposed distribution of the Customer Refunds is approved and fixed in the sum of \$301,735.50 (exclusive of GST), as approved by creditors.
- (iii) (**Order 3**) Internal disbursements of the Liquidators related to the proposed distribution of the Customer Refunds are approved up to an amount of \$15,000 (exclusive of GST).
- (iv) (**Order 9**) The Liquidators' costs of and incidental to the Court Application:
 - (a) related to the Customer Refunds, be payable out of the Customer Refunds; and
 - (b) related to any other matter, be costs in the winding up of STA Travel.
- (v) (**Order 5**) Where customers have had a chargeback claim honoured by CBA and received a refund from their credit or debit card provider the Liquidators would be justified in:
 - (a) Not treating those customers as being entitled to a distribution from the Customer Refunds for the amount of any chargeback claim honoured, and
 - (b) Instead, paying the amount that would otherwise be payable to those customers from the Customer Refunds to STA Travel as an asset of the company to be distributed in the winding up in accordance with the priority provided by the *Corporations Act 2001* (Cth) (**Corporations Act**)
- (vi) (**Order 7**) Any Customer Refunds that the Liquidators are unable to distribute because of an inability to locate the relevant customers within 6 months of the Final Court judgement and orders, or that remain unclaimed within 6 months of the Liquidators' distribution, are to be paid to the NSW Trustee pursuant to section 47 of the *Trustee Act 1925 (NSW)*; and
- (vii) (**Order 8**) The Liquidators are justified in permitting the CBA right of set-off.

A full copy of the Final Court judgement and orders is available on the STA Travel liquidation webpage at www.deloitte.com/au/STATravelAU.

3. Distribution of Customer Refunds

The Liquidators will shortly commence the process of distributing the Customer Refunds to the customers identified (by booking number) in Schedule 1, 2 and 3 (**Schedules**) to the Final Court judgement and orders (and also set out in the Liquidators' Originating Process filed 14 June 2022 and the Liquidators' previous Notice to Creditors and Customers dated 16 June 2022) (**eligible customers**).

The next steps in the Customer Refund distribution process will be:

- (i) A **chargeback notice** will be issued to eligible customers who have had a chargeback claim honoured by CBA and received a refund from their credit or debit card provider. The chargeback notice will provide:
 - (a) The amount of Customer Refunds held by the Liquidators with respect to the specific eligible customer's STA booking (as identified in the Schedules); and
 - (b) The amount equal to the chargeback claim honoured by CBA with respect to the specific eligible customer's STA booking that will not be double paid to the eligible customer through the Customer Refund distribution, but instead paid to STA Travel as an asset of the company to be distributed in the winding up in accordance with the priority provided by the Corporations Act.

Eligible customers who receive the chargeback notice will have 14 days from the date of the chargeback notice to dispute the amount of chargeback claim that CBA has confirmed to the Liquidators was honoured.

- (ii) A **registration notice** will be issued to eligible customers providing them with information to:
 - (a) Register a claim to receive their distribution of the Customer Refunds; and
 - (b) Confirm the final amount of the Customer Refunds to be distributed to them net of any chargeback claim honoured by CBA, the Liquidators' remuneration, costs and expenses (including legal fees) and any offsets applied by the travel providers with respect to the processing of the Customer Refunds in accordance with the Final Court judgement and orders.

Eligible customers will be required to register their claim within 21 days of the registration notice to receive their distribution of the Customer Refunds. The registration process will allow eligible customers to provide information to support their claim and to provide their bank account details to receive their distribution of the Customer Refunds.

Customers who are not an 'eligible customer' and who have suffered a loss will rank as an unsecured creditor of the Company. As indicated in our previous notices a distribution to unsecured creditors is very unlikely.

4. Queries

Should you have any queries regarding the above, contact us via email to STATravel@deloitte.com.au.

Yours faithfully



Jason Tracy
Joint and Several Liquidator