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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	)	Chapter 15
Virgin Australia Holdings Ltd. (ACN 100 686 226) <sup>1</sup> , <i>et al.</i> ,	)	Case No. 20-11024 (SHL)
	)	
	)	
Debtor in a Foreign Proceeding. <sup>2</sup>	)	(Jointly Administered)

<sup>1</sup> An Australian Company Number (“ACN”) is a unique nine-digit number issued by the Australian Securities and Investments Commission (“ASIC”) to every company registered under the Commonwealth Corporations Act 2001 as an identifier.

<sup>2</sup> The Debtors in these cases, along with the last three digits of each Debtor’s ACN number, are: Virgin Australia Holdings Ltd (226); Virgin Australia International Operations Pty Ltd (608); Virgin Australia International Holdings Pty Ltd (021); Virgin Australia International Airlines Pty Ltd (823); Virgin Australia Airlines (SE Asia) Pty Ltd (389); Virgin Australia Airlines Holdings Pty Ltd (675); VAH Newco No. 1 Pty Ltd (345); Tiger Airways Australia Pty Limited (008); Virgin Australia Airlines Pty Ltd (965); VA Borrower 2019 No. 1 Pty Ltd (059); VA Borrower 2019 No. 2 Pty Ltd (343); Virgin Tech Pty Ltd (879); Short Haul 2018 No. 1 Pty Ltd (831); Short Haul 2017 No. 1 (390); Short Haul 2017 No. 2 Pty Ltd (443); Short Haul 2017 No. 3 Pty Ltd (813); VBNC5 Pty Ltd (502); A.C.N. 098 904 262 Pty Ltd (262); Virgin Australia Regional Airlines Pty Ltd (662); Virgin Australia Holidays Pty Ltd (159); VB Ventures Pty Ltd (004); Virgin Australia Cargo Pty Ltd (838); VB Leaseco Pty Ltd (741); VA Hold Co Pty Ltd (157); VA Lease Co Pty Ltd (291); Virgin Australia 2013-1 Issuer Co Pty Ltd (326); 737 2012 No. 1 Pty. Ltd (859); 737 2012 No. 2 Pty Ltd (064); Short Haul 2016 No. 1 Pty Ltd (328); Short Haul 2016 No. 2 Pty Ltd (077); Short Haul 2014 No. 1 Pty Ltd (612); Short Haul 2014 No. 2 Pty Ltd (199); VA Regional Leaseco Pty Ltd (605); VB 800 2009 Pty Ltd (934); VB Leaseco No. 2 Pty Ltd (319); VB LH 2008 No. 1 (354); VB LH 2008 No. 2 Pty Ltd (805); VB PDP 2010-11 Pty Ltd (266); Tiger International Number 1 Pty Ltd (944); VB Investco Pty Ltd (095); VAH Newco No. 2 Pty Ltd. (354) (all Subject to Deed of Company Arrangement). The service address for each of the above Debtors is Deloitte Brisbane, Riverside Centre, 123 Eagle St, Brisbane QLD 4000, Australia.

**DECLARATION OF FOREIGN REPRESENTATIVE  
IN SUPPORT OF MOTION FOR RECOGNITION AND ENFORCEMENT OF (I) THE  
DEEDS OF COMPANY ARRANGEMENT, (II) THE AUSTRALIAN COURT’S 444GA  
ORDER, AND (III) RELATED RELIEF UNDER  
BANKRUPTCY CODE §§ 105(A), 1507, 1509(B)(2)-(3), 1521(A), AND 1525(A)**

I, Richard Hughes, to the best of my information and belief, state as follows:

1. I am over the age of 18 and, if called upon, could testify to all matters set forth in this declaration based upon my own personal knowledge except for those portions specified as being otherwise.

2. I am one of the four joint and several administrators of the deeds of company arrangement (the “Deed Administrators”) of the above-captioned foreign debtors (the “Foreign Debtors”). The other Deed Administrators are my colleagues Vaughan Strawbridge, Salvatore Algieri, and John Greig. Prior to our appointment as Deed Administrators (as a result of execution of the Bain DOCAs), each of the Deed Administrators was appointed as a joint and several voluntary administrator of the Foreign Debtors (the “Voluntary Administrators”). Following the execution of the Bain DOCAs, the Foreign Debtors are “Subject to Deed of Company Arrangement” which is a form of external administration under Australia’s *Corporations Act 2001* (Cth) (the “Corporations Act”). I refer to myself and the other Deed Administrators herein, collectively as, the “Administrators” or the “Foreign Representatives” to include both our roles as “Voluntary Administrators” and “Deed Administrators” as applicable.

3. I submit this declaration in support of the Motion for Recognition of (I) the Deeds of Company Arrangement, (II) the Australian Court’s 444GA Order, and (III) Related Relief under Bankruptcy Code §§ 105(a), 1507, 1509(b)(2)-(3), 1521(a) and 1525(a) (the “Recognition”).

Motion”). Defined terms used herein and not otherwise defined have the meanings ascribed to them in the Recognition Motion.

4. I make this declaration based upon information that my colleagues and I have obtained during my role as one of the Administrators of the Foreign Debtors.

5. In advance of the September 4, 2020 second meeting of creditors (the “Second Creditors Meeting”), on August 25, 2020 the Administrators delivered a Report to Creditors as required by Section 75-225 of the Insolvency Practice Rules (Corporations) 2016 (the “75-225 Report”) together with the Notice of the Second Creditors Meeting convened pursuant to Section 439A of the Corporations Act. A copy of the 75-225 Report is attached hereto as Exhibit A. Similar to the distribution of prior creditor circulars, the 75-225 Report was posted to the Administrators’ website maintained specifically for the Virgin Australia Administration (the “Website”).<sup>3</sup> Notices regarding the expected posting date of the 75-225 Report were distributed prior to August 25, 2020 and the 75-225 Report was made available to creditors in compliance with the required statutory time frame under Insolvency Practice Rules (Corporations) 2016. Following the release of the 75-225 Report, the Administrators also conducted a specific conference call for holders of the U.S. notes during the U.S. day to provide a summary of the 75-225 Report as well as an explanation of key dates and mechanics for voting on the proposed resolutions.

6. As outlined in the 75-225 Report, the Administrators exercised a statutory power of sale under Section 437A(1)(c) of the Corporations Act in June 2020 and signed binding transaction documents in the form of a sale and implementation deed and other ancillary

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<sup>3</sup> <https://www2.deloitte.com/au/virgin>.

documents (collectively, the “Sale Deed”) for the sale of the business to BC Hart Aggregator, LP (“Bain”). Under the Sale Deed, the sale would be completed as an asset sale unless (1) the creditors of the Foreign Debtors voted in favor of the Bain DOCAs, and (2) the Australian Court approved a compulsory transfer of the VAH Shares to Bain (or its nominee). In the event the Bain DOCAs were not approved or if any of the conditions to effectiveness of the Bain DOCAs are not satisfied or waived, the sale will be consummated by way of an asset sale. We anticipate that completing the sale via the Bain DOCAs will result in increased recoveries by unsecured creditors. The Bain DOCAs include one “Primary DOCA,” one “International Group DOCA,” and eight separate “Subsidiary DOCAs.” 75-225 Report § 9.2. The Foreign Debtors were each included in a specific Bain DOCA based on, among other things, their lines of business, identity of assets and liabilities, and commonality of certain liabilities. Attached hereto as Exhibit B is a corporate organization chart showing which Foreign Debtors are subject to the various Bain DOCAs.

7. The Second Meeting of Creditors was held on Friday, September 4, 2020 at 10:00 a.m. Australian Eastern Standard Time. The Second Meeting of Creditors was held virtually, in light of logistical challenges and restrictions resulting from the ongoing COVID-19 pandemic, and the Administrators reported on the company’s affairs and presented their recommendations to the Creditors.

8. In connection with the Second Meeting of Creditors all creditors had the opportunity to vote on the Bain DOCAs to implement the transaction entered into with Bain. Creditors of a company (or companies if the relevant company was party to a DOCG) subject to a particular DOCA vote as one class. In order for the DOCA to be approved for any company, a

majority in number and majority in value of the creditors of that company (or companies if the relevant company was party to a DOCG) must vote in favor of the particular DOCA.

9. In light of the logistical challenges and restrictions resulting from the ongoing COVID-19 pandemic, an online voting platform was used to tally all votes on the Bain DOCAs. Specifically, creditors of the relevant Foreign Debtors had the opportunity to vote for one of the following options for the future of the Foreign Debtors:

- (a) that the companies under administration execute the relevant Bain DOCA;
- (b) that the administration end with control of the relevant company or companies reverting back to the companies' directors; or
- (c) that the relevant company or companies be wound up (and ultimately liquidated).

10. Prior to and during the Second Creditors Meeting, votes in respect of the proposed resolutions were entered into and tallied through the online voting platform established by Deloitte and referred to as "Halo".<sup>4</sup> A number of claims were entitled to vote on more than one Bain DOCA. Specifically, across the Bain DOCAs, creditors submitted 7,302 votes representing 6,787 votes in favor of executing the Bain DOCAs, 74 votes against and 441 abstentions. The 7,302 votes represented a total of A\$9,229,508,689 claims with A\$8,277,602,994 in favor of executing the Bain DOCAs, A\$254,801,615 against and A\$254,801,615 abstentions. The official report of the votes in connection with the Second Meeting of Creditors as prepared by or caused to be prepared by the Administrators is

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<sup>4</sup> Proofs of Debt for voting purposes were admitted by the Administrators in connection with the Second Meeting of Creditors. Creditors will have further opportunity (but are not obliged) to file a Proof of Debt for claims distribution purposes, which will be adjudicated and resolved by the Administrators in accordance with the Corporations Act and the Bain DOCAs. 75-225 Report §1.9, Q. 22.

attached hereto as Exhibit C and shows that each of the Bain DOCAs were approved either unanimously or by overwhelming majorities of both number and value of claims.

11. Following creditor approval, the Administrators, on behalf of the Foreign Debtors, and Bain executed the Bain DOCAs on September 25, 2020. *See* Exhibits D-M attached hereto. The two main conditions to Completion or effectiveness of the Bain DOCAs are (i) the transfer of the VAH Shares to Bain as provided for in the 444GA Application, and (ii) recognition by this Court of the Bain DOCAs, including the release of claims provided therein. The Administrators filed the 444GA Application with the Australian Court on October 20, 2020 and a hearing on the 444GA Application has been set for November 10, 2020. An explanatory statement along with a copy of an independent expert report (which independent expert was engaged by the Administrators) will be served on the relevant parties prior to the 444GA Hearing. The independent expert report confirms that the value of the VAH Shares is nil. Following the 444GA Hearing, the Administrators will make a further supplemental declaration in support of the Recognition Motion attaching the 444GA Order. Other than the 444GA Order, no further court order is required from the Australian courts to implement the Bain DOCAs.

12. As set forth above, upon execution of the Bain DOCAs the Administrators became Deed Administrators of each of the Bain DOCAs and continue to operate the Foreign Debtors' business to allow for the satisfaction of certain conditions precedent to completion of the Bain DOCAs.

13. Upon completion of the Bain DOCAs, a creditors' trust (the "Creditors' Trust") will be established that is comprised of a pool of funds, to which the creditors of the separate Bain DOCAs will have recourse based on their existing claims. The Administrators will serve

as the Trustee of the Creditors' Trust, will call for proofs of debt, and will adjudicate such claims on terms which are consistent with the procedures set out in the Corporations Act and the regulations regarding the determination of such claims. Further proofs of debt can be lodged by the creditors, but a creditor can rely on the proof it lodged for voting purposes at the Second Creditors Meeting. The Creditors' Trust and the pool of funds available thereunder are discussed in more detail in section 10.2.1 of the 75-225 Report.

14. Also upon Completion of the Bain DOCAs, all claims held by creditors of the Foreign Debtors (other than identified excluded claims) will be released and creditors with eligible claims will become beneficiaries of the Creditors' Trust and paid a dividend from the relevant pool. 75-225 Report § 9.3.2 & 9.3.3. Each excluded claim identified in the Bain DOCAs will not be released, and will continue to be a liability of the applicable Foreign Debtor post- completion of the sale. *Id.* § 9.5.

15. The Administrators retained Akin Gump Strauss Hauer & Feld LLP to serve as special liaison to U.S. noteholders and creditors, in part, to ensure U.S. creditors could access information, and participate in the Australian Proceedings without undue inconvenience. The Australian Proceedings do not differentiate creditors based on nationality or jurisdiction; all creditors are entitled to participate in the Australian Proceedings and are classified together based on a similarity of their legal rights against the Foreign Debtors rather than their Country of origin.

16. Attached hereto as Exhibit A is a true and correct copy of the 75-225 Report.

17. Attached hereto as Exhibit B is a true and correct copy of the Virgin Australia Group organization chart, showing the classification of the relevant Virgin Australia Group entities by Bain DOCA.

18. Attached hereto as Exhibit C is true and correct copy of the Record of Vote from the Second Meeting of Creditors.

19. Attached hereto as Exhibit D is a true and correct copy of the executed Deed of Company Arrangement for Virgin Australia Holdings Ltd (Subject to Deed of Company Arrangement) ACN 100 686 226 and each other company listed in Schedule 1 thereto (the “Primary DOCA”).

20. Attached hereto as Exhibit E is a true and correct copy of the executed Deed of Company Arrangement for Virgin Australia International Holdings Pty Ltd (Subject to Deed of Company Arrangement) ACN 155 860 021 and each other company listed in Schedule 1 thereto (the “IG DOCA”).

21. Attached hereto as Exhibit F is a true and correct copy of the executed Deed of Company Arrangement for Short Haul 2014 No. 1 Pty Ltd (Subject to Deed of Company Arrangement) ACN 600 809 612 Short Haul 2014 No. 2 Pty Ltd (Subject to Deed of Company Arrangement) ACN 600 878 199.

22. Attached hereto as Exhibit G is a true and correct copy of the executed Deed of Company Arrangement for Short Haul 2017 No. 2 Pty Ltd (Subject to Deed of Company Arrangement) ACN 617 644 443.

23. Attached hereto as Exhibit H is a true and correct copy of the executed Deed of Company Arrangement for Short Haul 2017 No. 3 Pty Ltd (Subject to Deed of Company Arrangement) ACN 622 014 813.

24. Attached hereto as Exhibit I is a true and correct copy of the executed Deed of Company Arrangement for Short Haul 2018 No. 1 Pty Ltd (Subject to Deed of Company Arrangement) ACN 622 014 831.



25. Attached hereto as Exhibit J is a true and correct copy of the executed Deed of Company Arrangement for VA Borrower 2019 No. 1 Pty Ltd (Subject to Deed of Company Arrangement) ACN 633 241 059.

26. Attached hereto as Exhibit K is a true and correct copy of the executed Deed of Company Arrangement for VA Borrower 2019 No. 2 Pty Ltd (Subject to Deed of Company Arrangement) ACN 637 371 343.

27. Attached hereto as Exhibit L is a true and correct copy of the executed Deed of Company Arrangement for VB 800 2009 Pty Ltd (Subject to Deed of Company Arrangement) ACN 135 488 934.

28. Attached hereto as Exhibit M is a true and correct copy of the executed Deed of Company Arrangement for VB Leaseco No 2 Pty Ltd (Subject to Deed of Company Arrangement) ACN 142 533 319.

29. Attached hereto as Exhibit N is a true and correct copy of the 444GA Application filed on October 20, 2020.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct to the best of my information and belief.

Dated: October 22, 2020

/s/ Richard Hughes

Richard Hughes

in his capacity as Joint and Several Deed  
Administrator of the Foreign Debtors