



SOUTH AFRICAN AIRWAYS

South African Airways
Airways Park, Jones Road
OR Tambo International Airport
Johannesburg, South Africa.

Private Bag X13
OR Tambo International Airport,
1627

South African Airways (SOC) Limited (in business rescue)

Registration number 1997/022444/30

(“SAA”, “The Company”)

February 2021

Report to the Companies and Intellectual Property Commission

and to all Affected Persons

In terms of section 132(3)(a) of the Companies Act 71 of 2008 (“Act”)

Prepared by:

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Joint Business Rescue Practitioners (“BRPs”)

Directors

MG Qhena* (Interim Chairperson), JB Crawford* NO Fadugba¹ EL Van Harte* MP Tshisevhe * MMB Zwane*

*Interim Non-Executive Director

¹ British Citizen

Company Secretary – RN Kibuuka

South African Airways SOC Ltd

Reg. No. 1997/022444/30

A STAR ALLIANCE MEMBER 



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1. Introduction

1.1. In terms of section 132(3) of the Companies Act 71 of 2008 (“Act”), if a company’s business rescue proceedings have not ended within three (3) months after the start of those proceedings, or such longer time as the court, on application by the practitioner, may allow, the practitioner must –

1.1.1. prepare a report on the progress of the business rescue proceedings, and update it at the end of each subsequent month until the end of those proceedings; and

1.1.2. deliver the report and each update in the prescribed manner to each affected person, and to the:

1.1.2.1. Court, if the proceedings have been the subject of a court order; or

1.1.2.2. Commission, in any other case.

1.2. Therefore, as required, this **Twelfth Update Report** is being tabled in terms of section 132 (3) (a) of the Act.

2. Since the Eleventh Update Report of January 2021

2.1. Business Rescue Plan:

2.1.1. The 3rd tranche of funding, amounting to R5 billion, was made available by the Department of Public Enterprises (“DPE”) in respect of the restructuring of the Company, on 12 February 2021. This brings the total funding received to R7.8 billion. The funding was to be utilized in respect of the following:

2.1.1.1. Payment of the shortfall of voluntary severance packages (“VSPs”) for non-management staff; and

2.1.1.2. Payment to pilot’s and management’s VSPs.

2.1.2. The BRPs continue to engage the DPE on the utilization of these funds so to ensure that utilization is in accordance with the Business Rescue Plan.



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2.2. Employees

2.2.1. The settlement of unpaid salaries has been taken up by and paid to over 80% of the eligible current and former employees.

2.2.2. As has been articulated previously, a notice of lockout was issued to the South African Pilots Association (“SAAPA”) with effect from midday on 18 December 2020 (“the Lockout”).

2.2.3. Further attempts at negotiating a settlement with SAAPA took place during the month of February 2021, however these discussions have not progressed significantly.

2.2.4. The Lockout remains in force for all pilots, other than those where the Company has deemed it necessary for the Lockout to be lifted.

2.2.5. The VSP programme included 3246 employees’ acceptances across all categories and closed at the end of August 2020. Employees who signed the VSPs effectively concluded their employment with the Company and exited their employment at that time.

2.2.5.1. In order to expedite the payment of some monies to the applicable employees, a decision was taken to split the payments of amounts due to employees.

2.2.5.2. Part 1 comprised:

2.2.5.2.1. One month’s notice payment in lieu of notice;

2.2.5.2.2. Payment of the full entitlement of accrued leave as at termination dates that was signed in their VSP;

2.2.5.2.3. Pro rata 13th cheque if applicable; and

2.2.5.2.4. 2019 salary increase of 5.9% backpay to VSP applicants if applicable.

2.2.5.3. Part 2 comprised:



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- 2.2.5.3.1. One week's remuneration for each completed year of service;
 - 2.2.5.3.2. VSP top up if applicable; and/or
 - 2.2.5.3.3. VSP incentive if applicable.
 - 2.2.5.4. The amounts paid in Part 2 were subject to the receipt of SARS tax directives for each employee. The application for over 3 200 tax directives was a time-consuming process and required the additional time for processing.
 - 2.2.6. Cabin Crew and Ground Staff who elected to take VSPs in August 2020 received the Part 1 payment on 12 February 2021 with Management, Specialists and Pilots received the Part 1 payment on 17 February 2021.
 - 2.2.7. All eligible employees received their Part 2 payment on 29 February 2021.
 - 2.2.8. A handful of VSP payments remain outstanding due to various reasons with the payroll team working hard to resolve the issues.
 - 2.2.9. Following the exit of employees who elected to take VSPs, 1 346 employees remain employed by the company. These employees are subject to the s189A process which is nearing completion. A total of 687 employees have been placed into the new structures on revised terms and conditions. A total of 659 employees have not been placed, which includes 383 pilots. Employees who were not placed could elect to be placed in a Training Lay Off Scheme, be retrenched or were invited to apply for positions within the structure which have not yet been filled. The finalization of the s189 process continues through the population of the organization structures.
- 2.3. Operations:
- 2.3.1. No commercial operations have been undertaken since the suspension of operations at the end of September 2020.



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2.4. Litigation:

2.4.1. Legal Proceedings – National Union of Metalworkers of South Africa (NUMSA) and South African Cabin Crew Association (SACCA)

2.4.1.1. The application was detailed in the Eleventh Update Report and hearing on 28 January 2021.

2.4.1.2. Judgment was handed down on 8 February 2021 in terms of which the application was dismissed with costs.

3. **Proof of Claims**

3.1. Many claims have been lodged with the BRPs for proof but there remain a large number of claims outstanding and creditors who have yet to submit their claims are encouraged to do so as soon as possible.

3.2. Claims can be submitted via the online form, which can be found on www.matusonassociates.co.za/saa. A claim form has been provided ([Manual Claim Form](#)) for those unable to complete the online form.

3.3. A mechanism for the resolution of disputed claims has been provided in the Plan in the event that any dispute cannot be resolved between the BRPs and the creditor.