

Public Announcements

Danaharta Achieves Legal Milestone

The Pengurusan Danaharta Nasional Berhad Bill 1998 (the Bill) was tabled for its first reading by YAB Dato' Seri Anwar Ibrahim, Deputy Prime Minister and Finance Minister of Malaysia in Parliament today.

Pengurusan Danaharta Nasional Berhad (Danaharta), the national asset management company, was incorporated on 20 June 1998 as a public company limited by shares under the Companies Act 1965. Its prime objectives are to re-energise the Malaysian financial sector by purchasing non-performing loans (NPLs) from financial institutions on an arms-length, willing buyer, willing seller basis and maximise the recovery value of acquired loans. Removal of such NPLs from the financial institutions would allow them to focus on the core business of lending. A re-energised financial sector promotes confidence and assists in revitalising the real economy.

"The Bill, a critical component in enabling Danaharta to undertake its unique mission, is an important milestone as it empowers Danaharta to do its job promptly, efficiently and economically.", said Azman Yahya, Danaharta's Managing Director.

"In formulating the Bill, various inputs and precedents were considered including examples of existing legislation in the US, UK and Australia. The Bill has also taken account of the Malaysian legal and regulatory environment", Azman commented.

This is in line with the principle that Danaharta operates according to international best practice but with a unique fit to the requirements of Malaysian business environment, he added. In order for Danaharta to acquire and dispose of assets efficiently and economically, it must acquire title to the assets with certainty. Under the Bill, when purchasing NPLs, Danaharta will not require the borrowers' consent and will step into the shoes of the seller (the financial institution) via statutory vesting. The acquisition of loans or assets by Danaharta are only subject to registered interests and disclosed claims. Recourse of undisclosed claims will be to the selling institution.

It may be possible that some distressed companies whose loans have been taken over by Danaharta can no longer meet their obligations and require special administration to maximise their value. In such a case, the Bill provides for Danaharta to appoint a properly qualified Special Administrator approved by an independent Oversight Committee (comprising representatives from the Ministry of Finance, Bank Negara Malaysia and the Securities Commission) to manage and control the distressed company.

Upon appointment of the Special Administrator, the distressed company involved will be granted a 12 month moratorium against all creditors' claims, during which period the Special Administrator will prepare a workout proposal. In the meantime, Danaharta will appoint an Independent Advisor approved by the independent Oversight Committee to scrutinise the proposal put forward by the Special Administrator. The Independent Advisor will review the proposal after considering the interests of the creditors (secured and unsecured) and shareholders. The proposal would then need the approval of the secured creditors and regulatory bodies before it can be implemented.

"The involvement and approvals of the Oversight Committee, Independent Advisor, regulatory bodies and secured creditors provide safeguards to the interests of all affected parties and at the same time ensures transparency of process. Danaharta intends to conduct public briefings in due course to educate interested members of the public on the provisions of the Bill," concluded Azman.

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