

DECHERT LLP  
1095 Avenue of the Americas  
New York, New York 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
Michael J. Sage  
Brian E. Greer  
Nicole B. Herther-Spiro

*Attorneys for Standard Chartered Bank*

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

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In re:	:	Chapter 11
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ARCAPITA BANK B.S.C.(C.), <i>et al.</i> ,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
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**STANDARD CHARTERED BANK’S RESERVATION OF RIGHTS  
WITH RESPECT TO THE DEBTORS’ MOTION FOR AN ORDER  
APPROVING EXPENSE REIMBURSEMENT IN CONNECTION  
WITH PROSPECTIVE POST-PETITION FINANCING**

Standard Chartered Bank (“**Standard Chartered**”), through its undersigned counsel, hereby asserts this reservation of rights (this “**Reservation of Rights**”) with respect to the *Motion for an Order Approving Expense Reimbursement in Connection with Prospective Post-Petition Financing* [Docket No. 448], dated August 29, 2012 (the “**Motion**”), filed by the above-captioned debtors and debtors in possession (the “**Debtors**”) and respectfully represents and states as follows:<sup>1</sup>

<sup>1</sup> By filing this Objection, Standard Chartered is not acknowledging the propriety of these chapter 11 cases or that the Court should continue to exercise jurisdiction over each of the Debtors. Standard Chartered reserves the right to request that the Court dismiss, or abstain from, these chapter 11 cases.

In the Motion,<sup>2</sup> the Debtors seek the Court's pre-approval of the Debtors' reimbursement of \$500,000 in actual and reasonable expenses of a post-petition Selected Lender that, to Standard Chartered's knowledge, has yet to be selected, in connection with the negotiation and documentation of prospective post-petition financing, the terms of which are unknown. Standard Chartered does not object to the Court authorizing the Expense Reimbursement, which it understands would only be allowed as a claim against Arcapita Bank B.S.C. (c) ("**Arcapita Bank**"), and not against any of the other Debtors. However, Standard Chartered reserves all of its rights with respect to the Expense Reimbursement and with respect to any post-petition financing, specifically its right to object to any proposed financing and any expenses incurred in connection with any proposed financing that would seek to prime the secured claims of Standard Chartered.

#### **BACKGROUND**

1. Arcapita Bank is the ultimate parent of all of the entities in the Arcapita group. Arcapita Investment Holdings Limited ("**AIHL**") is its wholly-owned subsidiary. AIHL's wholly-owned subsidiary, Arcapita LT Holdings Limited ("**Arcapita LT**"), has a 100% interest in a matrix of Cayman Islands holding companies that own substantially all of Arcapita's minority equity interests in long-term investments. AEID II Holdings Limited ("**AEID II**"), WindTurbine Holdings Limited ("**WindTurbine**"), and RailInvest Holdings Limited ("**RailInvest**", together with AEID II Holdings, WindTurbine, and Arcapita LT, the "**SCB Subsidiaries**"), are each wholly-owned subsidiaries of Arcapita LT.

2. Standard Chartered has extended two \$50,000,000 murabaha facilities (the "**SCB Secured Facilities**") to the Debtors. Under the SCB Secured Facilities, Standard Chartered is a

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<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

creditor of each of the Debtors and is the sole creditor of each of the SCB Subsidiaries. Standard Chartered's claims are secured by equitable mortgages over the equity of each of the SCB Subsidiaries, and Standard Chartered is the sole beneficiary of express trusts with respect to all dividends or other distributions on account of the shares of the SCB Subsidiaries and any thereof.<sup>3</sup>

3. In the Motion, the Debtors seek approval of the proposed \$500,000 Expense Reimbursement, which they ask to be allowed as an administrative claim only against the estate of Arcapita Bank. The Expense Reimbursement would be for the reimbursement of the Selected Lender's actual and reasonable costs and expenses in connection with proposed Shari'ah-compliant debtor-in-possession financing.

#### **RESERVATION OF RIGHTS**

4. Standard Chartered has not been advised of the actual terms of any proposed debtor-in-possession financing to which the Expense Reimbursement may be tied, but has been advised that the Debtors will not seek to prime Standard Chartered's secured claims. Standard Chartered objects to any attempt to prime its secured claims and reserves all of its rights with respect to any such debtor-in-possession financing. Standard Chartered likewise reserves all rights to object to the proposed Expense Reimbursement at the hearing in the event that it is provided to a Selected Lender in connection with financing that seeks to prime Standard Chartered's secured claims.

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<sup>3</sup> The agreements giving rise to Standard Chartered's claims against the Debtors are more fully described in prior pleadings filed by Standard Chartered in the above-captioned cases.

5. Subject to the foregoing reservation of rights, Standard Chartered does not object to the Expense Reimbursement being allowed as an administrative claim against Arcapita Bank.

Dated: New York, New York  
September 12, 2012

DECHERT LLP

By: /s/ Brian E. Greer  
Michael J. Sage  
Brian E. Greer  
Nicole B. Herther-Spiro  
1095 Avenue of the Americas  
New York, New York 10036-6797  
Telephone: (212) 698-3500  
Facsimile: (212) 698-3599  
michael.sage@dechert.com  
brian.greer@dechert.com  
nicole.herther-spiro@dechert.com

*Attorneys for Standard Chartered Bank*