

Pesaka bond suit a wake-up call for industry

KUALA LUMPUR: Pesaka Astana (M) Sdn Bhd's legal battle with various financial institutions on its bond default, presents a wake-up call to the bond industry participants on the importance of diligent implementation of their duties and roles, Bondweb Malaysia Sdn Bhd's chief operating officer Meor Amri Meor Ayob said.

Pesaka along with Mayban Trustees Bhd and KAF Discounts Bhd were sued in 2005 for RM157 million by bondholders consisting of Malaysia's 10 various financial institutions and discount houses.

The suit arises from a default of a 2 1/2 years RM140 million Al Bai Bithaman Ajil (ABBA) Islamic bonds that was issued in April 2004.

The 10 financial institutions are Malaysia Discounts Bhd, Bumiputra-Commerce Bank Bhd (BCB), Abrar Discounts Bhd, Avenue Invest Bhd, Bank Muamalat Malaysia Bhd, Commerce Life Assurance Bhd, Malaysian Assurance Alliance Bhd, Southern Investment Bank Bhd, Universal Trustee (Malaysia) Bhd and BHLB Trustee Bhd.

Pesaka, a company that supplies fire-fighting and military vehicles to the defence ministry, was the bond issuer while KAF Discounts was the lead arranger to assist Pesaka in raising its financial requirements in the Islamic capital market and Mayban

Trustees Bhd was the trustee for the bondholders.

Meor said before the Pesaka case, bondholders would generally not bother to take the trouble of taking the issuer and related parties to court. "They would make some initial noise and negotiate a settlement with the issuer and no post mortem was done when there was a bond default," he told *Bernama*.

To ensure the sanctity of the bond market in the future, Meor said that everyone from the issuer, bond arranger, financial advisers, trustees, and rating agencies need to diligently implement their duties.

For example, rating agencies doing the credit report and bond pricing agencies should consider adopting a mark-to-market valuations and trustee must ensure all terms and conditions of a bonds trustee deed are complied with.

"It all boils down to implementation of these responsibilities and duties of the parties involved and bondholders should be knowledgeable on bonds so as to effectively exercise their rights as these are sophisticated financial instruments," he said.

Industry observers said as Malaysia was still a developing market, there was still much work needed to be done by both the government and private sectors to boost the local bond market ef-



Meor. Photo by Suhaimi Yusuf

ficiencies and investors sophistication for fixed income instruments.

"The local bond market is relatively new compared to the developed markets," said a bond trader.

He added there were many assumptions made on the cause of a bond default — from negligence to mismanagement of funds right up to fraud. Traders like him believe one of the likely causes is the failure of the bonds structure such as ring fencing on assets of the bonds.

As for Pesaka's bond default and consent order granted by the court on

July 7 between the company and the bondholders, which saw the 10 financial institutions amending the suit and Pesaka agreeing to pay RM149 million, industry experts said the consent order had helped to clear some misconception of Pesaka's bond default and provided some relief to bondholders.

Industry experts said the Pesaka case was a good example on the importance of having good bond structure in place to protect not only the bondholders but also the issuer from the possibility of a default in the future.

— *Bernama*