

CR-2020-001363

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
COMPANIES COURT (ChD)

IN THE MATTER OF
DOMESTIC & GENERAL INSURANCE PLC
- AND -
IN THE MATTER OF
DOMESTIC & GENERAL INSURANCE EUROPE AG
- AND -
IN THE MATTER OF PART VII OF
THE FINANCIAL SERVICES AND MARKETS ACT 2000

SCHEME

CONTENTS

Paragraph	Page
1. Introduction.....	1
1.1 Interpretation.....	1
1.2 Parties to the Scheme.....	1
1.3 Transferring Business.....	1
1.4 Court Sanction.....	1
2. Transfer of Insurance Business.....	2
2.1 Transfer of Business.....	2
2.2 Transfer of Assets.....	2
2.3 Transfer of Contracts.....	2
2.4 Declaration of Trust.....	3
2.5 Transfer of Liabilities.....	4
2.6 Retained Policies.....	4
2.7 Guarantees.....	5
2.8 Mandates and other instructions.....	5
2.9 Continuity of Proceedings.....	5
3. Miscellaneous Provisions.....	7
3.1 Effective Date.....	7
3.2 Effect of Scheme.....	7
3.3 Records and Data Protection.....	8
3.4 Modifications or Additions.....	9
3.5 Contracts (Rights of Third Parties) Act 1999.....	9
3.6 Successors and Assigns.....	9
3.7 Governing Law.....	10
Schedule 1 Interpretation.....	11

1. INTRODUCTION

1.1 Interpretation

The definitions and other provisions relating to interpretation set out in Schedule 1 apply throughout the Scheme, including the schedules.

1.2 Parties to the Scheme

1.2.1 Domestic & General Insurance Plc is a public limited company registered in England and Wales on 30 August 1950 (the "**Transferor**"). The registered number of the Transferor is 00485850. The Transferor is a "UK authorised person" as defined in section 105(8) of FSMA, with permissions, *inter alia*, to effect and to carry out contracts of general insurance in the UK under Classes of Business 1, 2, 7, 8, 9, 13, 14, 15, 16, 17, 18. The Transferor is open to new business as defined in Part 1 to Schedule 1 of the RAO.

1.2.2 Domestic & General Insurance Europe AG is a stock corporation (Aktiengesellschaft) incorporated in Germany (the "**Transferee**"). The Transferee is registered in the commercial register of the local court of Wiesbaden under HRB 30859. The Transferor acquired 100% of the shares in the Transferee with notarised share purchase agreement as of 30 May 2018. The Transferee is authorised to carry out general insurance business in Germany with permissions, *inter alia*, to effect and carry out contracts of general insurance under Class 9 (other damage to property/*sonstige Sachschäden*) and Class 16k (other financial loss/*sonstige finanzielle Verluste*) of Annex 1 to the German Insurance Supervision Act in the form of extended warranty insurance (*erweiterte Garantievericherung*).

1.2.3 The Transferor is wholly owned subsidiary of Domestic & General Group Limited and operates as part of the Galaxy Finco Limited Group. The Transferee is a wholly owned subsidiary of the Transferor.

1.3 Transferring Business

1.3.1 The Transferor provides consumer appliance general insurance products in the UK, continental Europe and, to a lesser extent, Australia. The Transferring Business comprises only part of the business of the Transferor and is currently carried on in the United Kingdom through branch operations in France, Italy, Germany and Spain. The Transferring Business also consists of insurance business conducted on a services basis in Austria, Belgium, the Republic of Ireland, the Netherlands, Poland and Portugal.

1.3.2 It is proposed that the Transferring Business be transferred to the Transferee in accordance with this Scheme and that an Order be sought for the sanction of this Scheme.

1.4 Court Sanction

Each of the Transferor and the Transferee has agreed to be represented by Counsel on the hearing of the application to sanction this Scheme.

2. TRANSFER OF INSURANCE BUSINESS

2.1 Transfer of Business

On and with effect from the Effective Date, the Transferring Business shall by the Order and without any further act or instrument be transferred to and be vested in the Transferee in accordance with this Scheme.

2.2 Transfer of Assets

2.2.1 On and with effect from the Effective Date, the Transferring Assets shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee and the Transferee shall succeed to each Transferring Asset as if it were the same person in law as the Transferor, subject to any Encumbrances affecting such Transferring Assets.

2.2.2 On and with effect from each Subsequent Transfer Date, each Residual Asset to which a Subsequent Transfer Date applies and all rights, benefits and powers, together with all obligations and liabilities relating to such Residual Asset shall, without any further act or instrument, but by virtue of this Order and to the extent not previously transferred, be transferred to, and vest in, the Transferee subject to all Encumbrances (if any) whereupon it shall constitute a Transferring Asset under this Scheme and the terms of this Scheme shall apply to such Transferring Asset as if it had been transferred under the Scheme to the Transferee on the Effective Date.

2.2.3 The Transferor and the Transferee shall, as and when necessary or appropriate, execute and deliver all documents and perform all such other acts as may be reasonably required to effect or perfect the transfer to, and vesting in, the Transferee of any Transferring Asset in accordance with the terms of this Scheme, including without limitation, obtaining any required consent or waiver.

2.2.4 The Transferee shall accept without investigation, requisition, or objection such title as the Transferor shall have at the Effective Date to the Transferring Assets and the Transferring Business and, at the Subsequent Transfer Date, to the Residual Assets then transferred.

2.2.5 No assets or liabilities of the Transferor shall be transferred to or be vested in the Transferee to the extent relating to the Excluded Business under or by virtue of the terms of this Scheme.

2.3 Transfer of Contracts

2.3.1 On and with effect from the Effective Date, the Transferee shall, by the Order and without any further act or instrument, be entitled to all the rights, benefits and powers, and be subject to all the obligations and liabilities of the Transferor whatsoever subsisting on the Effective Date under or by virtue of the Transferring Contracts and all such rights, benefits and powers shall be vested in the Transferee.

- 2.3.2 Every person who immediately prior to the Effective Date is a holder of or party to a Transferring Contract shall, from and after the Effective Date, in substitution for any liability or obligation owed thereunder to the Transferor, be under the same liability or obligation to the Transferee and shall become entitled, to the exclusion of any rights which he may have had against the Transferor under any of the Transferring Contracts, to the same rights against the Transferee as were available to him against the Transferor under such Transferring Contract.
- 2.3.3 All premiums and other amounts attributable or referable to the Transferring Contracts shall on and after the Effective Date be payable to the Transferee and shall be receivable and received by the Transferee (in relation to any Residual Asset, as agent for the Transferor) and every person who is a holder of or party to any of the Transferring Contracts shall be liable to the Transferee for any outstanding, further or additional premiums or other sums attributable or referable to the Transferring Contracts as and when the same become due and payable.
- 2.3.4 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Contracts which would have been available to the Transferor.
- 2.3.5 All references in any Transferring Contract to the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor shall from and after the Effective Date or Subsequent Transfer Date (as the case may be) be read as references to the Transferee, the board of directors of the Transferee, or any other officers, employees or agents of the Transferee or, where appropriate, agents of the Transferee to which the administration carried on by the Transferee has been delegated. In particular, but without limitation, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor in relation to any of the Transferring Contracts shall, from and after the Effective Date or Subsequent Transfer Date (as the case may be) be exercisable or required to be performed by the Transferee, the board of directors of the Transferee or any other officers, employees or agents of the Transferee.

2.4 Declaration of Trust

- 2.4.1 The Transferor shall, on and from the Effective Date, hold the Residual Assets as trustee and in trust for the Transferee absolutely for so long as is legally permissible.
- 2.4.2 The Transferor shall be subject to the Transferee's directions in respect of any Residual Asset until the relevant asset is transferred to or otherwise vested in the Transferee or is disposed of whereupon the Transferor shall account to the Transferee for the proceeds of sale thereof. The Transferee shall have the authority (with authority to sub-delegate) to act as the attorney of the Transferor in respect of such assets for all such purposes.

- 2.4.3 The Transferor shall transfer to the Transferee, or as the Transferee reasonably directs (to the extent that it is able to do so), any payment or any assets which it receives or any right which is conferred upon it on or after the Effective Date in respect of any Transferring Business, Transferring Asset or Residual Asset as soon as reasonable practicable after such receipt.

2.5 **Transfer of Liabilities**

- 2.5.1 On and with effect from the Effective Date, the Transferring Liabilities shall, by the Order and without any further act or instrument, be transferred to and become liabilities of the Transferee and shall cease to be liabilities of the Transferor.
- 2.5.2 On and from the Effective Date, until the relevant liability is transferred to or becomes a liability of the Transferee, the Transferee shall discharge on the Transferor's behalf or, failing that, indemnify the Transferor against all Transferring Liabilities and Retained Liabilities of the Transferor which are not, or are not capable of being, transferred by the Order or a vesting order pursuant to section 112(1)(a) of the Act (whether made before, on or after the Effective Date).
- 2.5.3 On and with effect from each Subsequent Transfer Date each Retained Liability to which such Subsequent Transfer Date applies shall, by the Order and without an subsequent act or instrument, be transferred to and become a liability of the Transferee and shall cease to be a liability of the Transferor.

2.6 **Retained Policies**

- 2.6.1 Subject to paragraph 2.6.4 below, the Transferee shall reinsure the Transferor from and after the Effective Date against all liabilities of the Transferor under, and all other amounts paid or payable by the Transferor in respect of, any Retained Policy which are not, or are not capable of being, transferred pursuant to the Scheme or the Order until the relevant liability is effectively transferred to or becomes the liability of the Transferee.
- 2.6.2 The premium payable by the Transferor to the Transferee in respect of the reinsurance pursuant to paragraph 2.6.1 shall be:
- (a) the aggregate amount of the technical provisions net of reinsurance relating to such Retained Policy as at the Effective Date which shall be deemed satisfied by the transfer to the Transferee of the appropriate portion of the Transferred Assets; and
 - (b) the amount of all subsequent premium or other payments received by the Transferor or received by the Transferee in respect of such Retained Policies (for so long as they are Retained Policies and not, or are not to be treated as, Transferring Policies) which shall be deemed satisfied to the extent that such subsequent premium payments are received by the Transferee.

- 2.6.3 The Transferee shall discharge its reinsurance obligation pursuant to paragraph 2.6.1 by discharging the liabilities set out in paragraph 2.6.1 on behalf of the Transferor or, failing that, by indemnifying the Transferor in respect of such liabilities.
- 2.6.4 The Transferee shall not indemnify the Transferor against and shall not be obliged to discharge any liability of the Transferor referred to in paragraph 2.6.1 above, to the extent that the Transferor is entitled to recover the same from any third party (including under any applicable contract of insurance or reinsurance), unless, and only then to the extent that, the Transferor has failed to recover, or the Transferee has instructed the Transferor in writing not to attempt to recover, any such amount.
- 2.6.5 Upon the novation of any Retained Policy to the Transferee then the assets and liabilities relating to such Policy shall, to the extent not previously transferred, be transferred to the Transferee on the Subsequent Transfer Date and such Policy shall be dealt with by the Transferor and Transferee as if it had transferred as a Transferring Policy pursuant to this Scheme.

2.7 Guarantees

All references in any guarantee, letter of credit or similar security, which covers all or part of the Transferring Business, to a Transferor defaulting in the payment of sums due and payable in respect of any Transferring Policies or any other liability of the Transferring Business, shall be read and construed as references to such a default before the Effective Date by the Transferor and after the Effective Date by the Transferee in respect of such Transferring Policies or such liability and the obligations of the respective guarantor or provider of security under such guarantee, letter of credit or security shall continue in full force and effect.

2.8 Mandates and other instructions

- 2.8.1 Any mandate or other instruction in force on the Effective Date (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums payable under or in respect of any of the Transferring Policies or Retained Policies shall, on and from the Effective Date, take effect as if it had provided for and authorised such payment to the Transferee (in relation to any Retained Policies, as agent for the Transferor).
- 2.8.2 Any mandate or other instruction in force on the Effective Date in respect of any of the Transferring Policies or Retained Policies as to the manner of payment of any benefit or other amount by the Transferor shall, on and from the Effective Date, continue in force as an effective authority to the Transferee (in relation to any Retained Policies, as agent for the Transferor).

2.9 Continuity of Proceedings

- 2.9.1 On and with effect from the Effective Date, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are:

- (a) current, pending or threatened or any other claims or complaints which may be brought in the future including those not yet in contemplation by or against the Transferor in connection with the Transferring Business; or
- (b) commenced by or against the Transferor in connection with the Transferring Business after the Effective Date,

shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to any such proceedings.

- 2.9.2 On and with effect from any Subsequent Transfer Date, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against the Transferor in connection with any Policy which is a Residual Asset or Retained Policy to which such Subsequent Transfer Date applies shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to any such proceedings.
- 2.9.3 In any event, the Transferee in its absolute discretion, may determine to discontinue after the Effective Date any such proceedings which have been brought by the Transferor.
- 2.9.4 Without prejudice to the Transferee's rights under paragraph 2.9.1, on and with effect from the Effective Date, any award, order or judgment made by any applicable court, ombudsman, arbitrator or competent authority against the Transferor in connection with the Transferring Business will be recognised and accepted by the Transferee and shall be enforceable against the Transferee without the need for any further award, order or judgment of any court or other body.
- 2.9.5 For the avoidance of doubt, nothing in paragraphs 2.9.1 or 2.9.3 shall entitle the Transferee to raise any defence, claim, counterclaim, settlement, right of set-off or any other right that would not have been available to the Transferor.
- 2.9.6 Without prejudice to the Transferee's rights under paragraph 2.9.1, on and with effect from the Effective Date, in respect of any proceedings brought in relation to the Transferring Business which are commenced but not settled before the Effective Date or commenced after the Effective Date and which relate to acts or omissions of the Transferor prior to the Effective Date, the Transferee agrees to comply promptly with:
 - (a) the relevant provisions of the Dispute Resolution rules ("**DISP**") of the FCA Handbook that would apply to the handling of any complaints brought to the United Kingdom Financial Services Ombudsman that fall under its jurisdiction as such rules apply on the Effective Date; and
 - (b) any award or direction (including any settlement which the Transferee agrees at an earlier stage of proceedings) made by the United Kingdom

Financial Services Ombudsman in relation to the Transferring Business under its jurisdiction as set out in DISP 2 of the FCA Handbook,

to the extent that such compliance is compatible with any rules, guidance or regulations issued by the German Federal Financial Supervisory Authority or other authority that are applicable to the Transferee.

2.9.7 Notwithstanding paragraph 3.5, Policyholders of Transferring Policies may enforce the provisions of paragraph 2.9.6(b) against the Transferee.

3. MISCELLANEOUS PROVISIONS

3.1 Effective Date

3.1.1 Subject to paragraph 3.1.2, this Scheme shall become operative at 22:58 GMT on 31 December 2020 or such other time and date as may be specified in the Order and unless this Scheme shall become operative on or before 22:58 GMT on 31 December 2020 or such later date as the Court may allow on the application of the Transferor and the Transferee (provided that the Transferor and Transferee shall consult with the Independent Expert, the PRA and the FCA prior to making such application), this Scheme shall lapse.

3.1.2 Notwithstanding paragraph 3.1.1, this Scheme shall not become operative on the Effective Date unless, in the event that the Court imposes any modification of or addition to this Scheme or any further condition or provision affecting the same, the Transferor and the Transferee consent to such modification, addition or condition.

3.1.3 The Transferor and the Transferee shall each provide the FCA and the PRA with sufficient prior written notice of any application to delay the Effective Date pursuant to paragraph 3.1.1.

3.1.4 In the event that the Effective Date is delayed pursuant to paragraph 3.1.1, the Transferor and the Transferee will perform the following actions before the Effective Date shall occur:

- (a) notify Policyholders by way of an advert in the European edition of the Financial Times informing them of the revised Effective Date;
- (b) update their websites to include a notification of the revised Effective Date;
- (c) send written notice to any Policyholders who have raised objections or attended the hearing of the Court to sanction this Scheme of the revised Effective Date;
- (d) if requested by the PRA and the FCA, arrange for a further supplemental report of the Independent Expert to be produced, based, to the extent applicable, on any updated relevant information available; and

- (e) make such other appropriate notifications and acknowledgements as may be requested by the PRA and/or FCA.

3.2 Effect of Scheme

3.2.1 The transfer and vesting of an asset or liability relating to any part of the Transferring Business shall not:

- (a) invalidate or discharge any contract, security or other thing; or
- (b) require further registration in respect of any security or charge; or
- (c) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would otherwise be the case under any instrument or contract or arrangement to which any of, or all of, the Transferors is a party or is bound; or
- (d) entitle any party to a contract or arrangement to which any of, or all of, the Transferors is a party to terminate such contract or arrangement when, in the absence of this transfer, that party would not otherwise be entitled to terminate it; or
- (e) save as provided elsewhere in this Scheme, confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, under a contract on any party to such contract to which any of, or all of, the Transferors is a party where such greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.

3.3 Records and Data Protection

3.3.1 On and with effect from the Effective Date:

- (a) title, possession and control to and of the records relating to the Transferring Business, including any personal data processed in connection with the Transferring Business in respect of which the Transferor is the controller, shall be transferred to the Transferee, and those personal data may be processed by and on behalf of the Transferee to the same extent that they were processed by and on behalf of the Transferor before the Effective Date for all purposes in connection with the Transferring Business, including, in particular, administration of the Transferring Contracts and all matters relevant or incidental thereto;
- (b) the Transferee shall become the controller in place of the Transferor in respect of the personal data transferred to the Transferee under paragraph 3.3.1(a);
- (c) any information or request for consent made or made available to, or consent obtained or request or other notice received from, any data subject by or on behalf of the Transferor in connection with the Transferring Business will be deemed to have been made or made available to, obtained or received by the Transferee; and

(d) the Transferee shall owe the Policyholders and other persons the same duties of confidentiality and privacy, and they shall have the same corresponding rights as against the Transferee, as those which the Transferor owed to them, and they had as against the Transferor, in connection with the Transferring Business immediately before the Effective Date.

3.3.2 No consent from the individual Policyholders or other individuals shall be required as a result of the transfer of personal data from the Transferor to the Transferee under paragraph 3.3.1(a).

3.3.3 Terms defined in EU General Data Protection Regulation 2016/679 have the same meanings when used in this paragraph 3.3.

3.4 Modifications or Additions

3.4.1 The Transferee and the Transferor may consent for and on behalf of themselves, and may consent on behalf of all other persons concerned (other than the FCA and PRA), to any amendment, modification or addition to this Scheme or to any further condition or provision affecting the Scheme which the Court may approve or impose prior to the sanction of this Scheme.

3.4.2 After the Effective Date, the Transferee may vary the terms of this Scheme with the consent of the Court, including, without limitation, if at any time, the provisions of this Scheme, in the opinion of the board of directors of the Transferee, prove to be impossible, impracticable or inequitable to implement, provided that in any such case:

(a) the FCA and PRA shall be given reasonable advance notice in writing and have the right to be heard at any hearing of the Court at which such application is considered; and

(b) such application shall be accompanied by a certificate from an independent expert to the effect that in his opinion the proposed amendment will not materially adversely affect the interests of the Policyholders affected by the proposed amendment; and

(c) to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.

If such consent is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.

3.5 Contracts (Rights of Third Parties) Act 1999

A person who is not party to the Scheme may not enforce any term of the Scheme pursuant to the Contracts (Rights of Third Parties) Act 1999.

3.6 Successors and Assigns

This Scheme will bind and enure to the benefit of the successors and assigns of each of the Transferee and the Transferor.

3.7 **Governing Law**

This Scheme shall be governed by and construed in accordance with English law.

Dated this ____ day of _____ 2020.

SCHEDULE 1 INTERPRETATION

1. In this Scheme, unless inconsistent with the subject or context, the following expressions bear the meanings respectively set opposite them:

"Court"	the High Court of Justice in England and Wales;
"Distribution Agreement"	an agreement between the Transferor and a third party distributor to the extent relating to the distribution of the Transferring Policies;
"EEA State"	has the meaning given to the term in the FCA Handbook;
"Effective Date"	the time and date when this Scheme shall become operative in accordance with paragraph 3.1.1;
"Encumbrance"	any charge, mortgage, pledge, security assignment, lien, option, restriction, right of first refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind and any other type of preferential arrangement (including, without limitation, title transfer and retention agreements) having a similar effect;
"Excluded Business"	the general insurance business effected and/or carried out by the Transferor where (i) the state of risk is the United Kingdom or Australia which includes the Retained Policies; or (ii) the Transferor is the reinsurer under any reinsurance arrangement.
"FCA"	the UK Financial Conduct Authority or such other successor UK conduct regulatory authority thereof;
"FCA Handbook"	the handbook rules or guidance published by the FCA, as updated from time to time;
"FSMA"	the Financial Services and Markets Act 2000;
"GMT"	Greenwich Mean Time;
"Independent Expert"	Tom Durkin, the independent expert appointed to report on the terms of the Scheme pursuant to section 109 of FSMA, or any successor appointed to report on the same and approved by the PRA in consultation with the FCA;
"Order"	an order made by the Court pursuant to section 111(1) of FSMA sanctioning this Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Scheme made by the Court pursuant to section 112 of FSMA;
"Policy" and	the meanings ascribed to "policy" and "policyholder" by the Financial Services and Markets Act 2000 (meaning of

"Policyholder"	"Policy" and "Policyholder") Order 2001 (S.I 2001/2361) and includes at any time any constituent part of a Policy which gives rise to any separately identifiable benefit;
"PRA"	the UK Prudential Regulation Authority or any UK prudential successor regulator of insurance companies;
"RAO"	the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544), as amended;
"Residual Asset"	shall mean: <ul style="list-style-type: none"> 1. any asset of the Transferor intended to be transferred to the Transferee pursuant to the Scheme as a Transferring Asset (including any proceeds of sale or income or other accrual or return whatsoever in respect of such asset) and any right, benefit or power of the Transferor under any agreement relating to such asset (including any right, benefit or power of the Transferor under any Transferring Contract) in respect of which: <ul style="list-style-type: none"> (a) the Court has declined to order the transfer of such asset to the Transferee under section 112 of FSMA (either at all or without the consent of a person other than the Transferee or Transferor); (b) the transfer of such asset is outside the jurisdiction of the Court; or (c) the transfer of such asset cannot occur for any reason; 2. any interest of the Transferor in any other assets which the Transferor and the Transferee agree prior to the Effective Date is more conveniently to be transferred pursuant to the Scheme in conjunction with such asset referred to in paragraph (1) of this definition; 3. any proceeds of sale or income or other accrual or return, earned on or received from time to time after the Effective Date in respect of any assets referred to in paragraphs (1) or (2) of this definition; and 4. any capital reserves which are in excess of the Transferring Business Reserve Amount;
"Retained Liabilities"	in relation to the Transferor, any Transferring Liabilities whatsoever of the Transferor:

1. that are attributable to or connected with a Residual Asset or Retained Policy; and/or
2. in respect of which the Court declined to order the transfer pursuant to section 112(2) of FSMA pending any impediment to its transfer being removed or overcome, or for any other reason;

"Retained Policies" any and all Policies under which any Liability remains unsatisfied or outstanding at the Effective Date which would otherwise be a Transferring Policy but:

1. which the Court for any reason determines not to transfer by virtue of the Order; or
2. which are not otherwise capable of being transferred pursuant to section 111 of FSMA,

in each case, together with the rights, benefits and powers and debts, liabilities and obligations of the Transferor under any such Policies and for the avoidance of doubt, all Policies or parts of a policy under which any liability remains unsatisfied or outstanding at the Effective Date effected and/or carried out where the state of risk is the United Kingdom or Australia;

"Scheme" this Scheme in its original form or with, or subject to, any modification or addition thereto;

"Subsequent Transfer Date" in relation to any Retained Policy, Residual Asset or Retained Liability the date, following the Effective Date, on which such Residual Asset or Retained Liability or Retained Policy is transferred to the Transferee, such date to be determined by:

1. in the case of any Residual Asset falling within paragraph (1) of the definition thereof, and of any Retained Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (2) of the definition of Retained Liability, the date on which the requisite consent, or where applicable, the requisite waiver or requisite steps to enable the same to be transferred to the Transferee upon the terms of the Scheme is:
 - (a) obtained; or
 - (b) no longer required; or
 - (c) dispensed with by the Court;
2. in the case of any Residual Asset falling within paragraph (2) of the definition thereof and of any

Residual Liability which is attributable to or connected with that Residual Asset, the date agreed prior to the Effective Date in writing by the Transferor and Transferee;

3. in the case of any Residual Asset falling within paragraph (3) of the definition thereof and of any Retained Liability which is attributable to or connected with that Residual Asset, the Subsequent Transfer Date applicable to the assets in conjunction with which it was determined to be a Residual Asset or Retained Liability;
4. in the case of any Residual Asset falling within paragraph (4) of the definition thereof, the date on which such Residual Asset is received or earned by the Transferor; and
5. in the case of any Retained Policy, the date on which the novation or transfer of all of the rights, benefits and powers, together with all the obligations and liabilities relating to such Policy is fully effective in the UK;

"Tax Liabilities" all liabilities to or in respect of taxation, duties and other imports which are attributable to the Transferring Business incurred prior to the Effective Date;

"Third Party Administration Agreement" an agreement between the Transferor and a third party administrator to the extent relating to the administration of the Transferring Policies;

"Transferring Assets" all assets and property comprised in or relating to the Transferring Business including (without limitation):

1. all rights, benefits and powers of the Transferor under or by virtue of the Transferring Contracts; and
2. all rights and claims (present or future, actual or contingent) against any third party in relation to the Transferring Business or arising as a result of the Transferor having carried on the Transferring Business;
3. all goodwill and any other intangible assets associated with the Transferring Business; and
4. the Transferring Business Reserve Amount,

but excluding any Residual Assets and Residual Policies;

"Transferring Business"	the general insurance business effected and/or carried out by the Transferor immediately prior to the Effective Date directly relating to Policies where the state of risk is an EEA State other than the United Kingdom, including without limitation, all rights, benefits and powers of the Transferor under or by virtue of the Transferring Policies and the Transferring Assets and all liabilities and obligations of the Transferor, under and by virtue of the Transferring Liabilities but excluding the Excluded Business;
"Transferring Business Reserve Amount"	the sum of (A) the Transferor's best estimate of net reserves in respect of the Transferring Business on a non-discounted basis as at the Effective Date and (B) associated expenses, as prepared in accordance with the Transferor's usual actuarial principles and guidelines;
"Transferring Contracts"	each Transferring Policy, Third Party Administration Agreement, Distribution Agreement and any other contract, in whole or in part, insofar as it relates to the Transferring Business;
"Transferring Liabilities"	<p>any and all debts, liabilities and obligations of the Transferor arising from or in connection with the Transferring Business, in each case whether arising from facts, events or circumstances occurring before, on or after the Effective Date, including (without limitation):</p> <ol style="list-style-type: none"> 1. any and all debts, liabilities and obligations under or in connection with the Transferring Contracts (including without limitation any policy which would have been included within the Policies but for having been expired, run-off, or lapsed) or otherwise attributable to the Transferring Business (including without limitation any and all liabilities in respect of mis-selling); 2. any and all debts, liabilities and obligations arising as a result of and in connection with the Transferor having carried on or purported to carry on the Transferring Business; and 3. all Tax Liabilities which are attributable to such Transferring Business or the transfer thereof (pursuant to the scheme or otherwise) or arising as a consequence of the provisions of the Scheme whensoever incurred; <p>but excluding:</p> <ol style="list-style-type: none"> (a) any other liabilities relating to taxation; (b) any other liabilities excluded under the terms of

the Scheme; and

(c) any liabilities relating to the Excluded Business,

but excluding any liabilities under the Retained Policies until the Subsequent Transfer Date (if any).

"Transferring Policies"	all Policies (including all constituent parts of a Policy) written by the Transferor or transferred to the Transferor prior to the Effective Date which is comprised in the Transferring Business (including without limitation any proposals and renewals for insurance received by or on behalf of the Transferor on or before the Effective Date which has not become a Policy in force by the Effective Date but which subsequently becomes a Policy) under or in connection with which any liability remains unsatisfied or outstanding at the Effective Date, but excluding any Policy (or parts thereof) directly relating to the Excluded Business;
"Transferring Policyholder"	a Policyholder who is a holder of a Transferring Policy;
"Transfer Regulations"	the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001 (S.I. 2001: 3625); and
"UK"	the United Kingdom of Great Britain and Northern Ireland.

2. In this Scheme:

2.1 **"property"** and **"asset"** include (without limitation) property, assets, rights (including, without limitation, contingent rights as to the repayment of tax) and powers of every description (whether present or future, actual or contingent) and includes property held on trust and securities, benefits, powers of any description and any interest whatsoever in any of the foregoing;

2.2 **"liabilities"** includes (without limitation) duties and obligations of every description (whether present or future, actual or contingent);

2.3 **"transfer"** includes (as the context may require) "assign", "assignment" and "assignment", "dispose", "disposal", "novate", "novation", "convey" and "conveyance";

2.4 any reference to the singular shall include a reference to the plural and vice versa and any reference to the masculine shall include a reference to the feminine;

2.5 any reference in this Scheme to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to

time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation;

- 2.6 expressions used in this Scheme which have meanings under FSMA shall bear those meanings unless otherwise expressly defined herein;
- 2.7 any reference to this Scheme shall include the Schedules to it and (unless inconsistent with the subject or context) references in this Scheme to paragraphs, parts or Schedules are to paragraphs of, parts of or the Schedules to this Scheme; and
- 2.8 any reference to writing shall include any mode of reproducing words in a legible and non-transitory form.