

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
MR JUSTICE MANN

CR-2017-001386

17th day of November 2017



IN THE MATTER OF QBE INSURANCE (EUROPE) LIMITED

and

IN THE MATTER OF MOORGATE INSURANCE COMPANY LIMITED

and

IN THE MATTER OF BOTHNIA INTERNATIONAL INSURANCE COMPANY LIMITED

and

IN THE MATTER OF PART VII OF THE FINANCIAL SERVICES AND MARKETS
ACT 2000

ORDER

UPON the Application by Claim Form dated 28 July 2017 of the above-named QBE Insurance (Europe) Limited, a company incorporated in England and Wales whose registered office is at Plantation Place, 30 Fenchurch Street, London EC3M 3BD and Moorgate Insurance Company Limited, a company incorporated in England and Wales whose registered office is at 4th Floor, St Clare House, 30-33 Minories, London EC3N 1DD (together, the **Transferors**) and Bothnia International Insurance Company Limited, a company incorporated in Finland whose head office is at Eerikinkatu 27, FI-00180 Helsinki, Finland (the **Transferee**) (together, the **Applicants**) for the sanctioning of an insurance business transfer scheme pursuant to Part VII of the Financial Services and Markets Act 2000 as set out in the Schedule hereto (the **Scheme**);

AND UPON READING the Claim Form and the evidence;

AND UPON HEARING Andrew Thornton for the Applicants;

AND UPON the Court considering that, in all the circumstances, it is appropriate to sanction the Scheme.

THE COURT HEREBY SANCTIONS the Scheme pursuant to section 111(1) of the Financial Services and Markets Act 2000.

AND IT IS ORDERED THAT pursuant to section 112(1) of the Financial Services and Markets Act 2000, using the definitions in the Scheme and by virtue of this Order and without any further act or instrument:

1. on and with effect from the Effective Date each Transferring Asset and each Transferring Liability be transferred to and vested in or become a liability of (as the case may be) the Transferee in accordance with and subject to the terms of the Scheme;
2. on and with effect from the Subsequent Transfer Date applicable to any Residual Asset, Residual Liability or Residual Policy, such Residual Asset, Residual Liability or Residual Policy, and the rights and liabilities under or relating to any Outwards Reinsurance Agreement to the extent relating to such Residual Policy, shall be transferred to and vested in or become a liability of (as the case may be) the Transferee in accordance with and subject to the terms of the Scheme;
3. on and with effect from the Effective Date and without prejudice to the generality of the other provisions of this Order, in any document evidencing or constituting a Transferring Policy or, save to the extent relating to any Residual Policies, an Outwards Reinsurance Agreement, references to any of the Transferors and/or to rights, powers, duties and/or obligations imposed upon that Transferor, its board of directors or other officers, employees or agents shall, to the extent necessary to give effect to the Scheme, be read and construed and treated as references to the Transferee and/or to rights, powers, duties and/or obligations imposed upon the Transferee, its board of directors or other officers, employers or agents of the Transferee subject to and in accordance with the terms of the Scheme so that such Transferring Policy or, save to the extent relating to any Residual Policies, Outwards Reinsurance Agreement (as the case may be) shall operate as if the Transferee were the original party to the contract in place of the Transferor;
4. on and with effect from the Subsequent Transfer Date applicable to any Residual Policy, and without prejudice to the generality of the other provisions of this Order, in any document evidencing or constituting the Residual Policy or, to the extent relating to that Residual Policy, any Outwards Reinsurance Agreement references to any of the Transferors and/or to rights, powers, duties and/or obligations imposed upon that Transferor, its board of directors or other officers, employees or agents shall, to the extent necessary to give effect to the Scheme, be read and construed and treated as references to the Transferee and/or to rights, powers, duties and/or obligations imposed upon the Transferee, its board of directors or other officers, employers or agents of the Transferee subject to and in accordance with the terms of the Scheme so that such Residual Policy or, to the extent relating to that Residual Policy, Outwards Reinsurance Agreement shall operate as if the Transferee were the original party to the contract in place of the Transferor;

5. no Excluded Policies, Excluded Assets or Excluded Liabilities shall be transferred to or vested in the Transferee under or by virtue of the terms of this Order or the Scheme;
6. on and with effect from the Effective Date, any Proceedings which have been issued, served or commenced by or against, and any future or pending Proceedings by or against, any or all Transferors in relation to the Transferring Policies, the Transferring Assets or the Transferring Liabilities at the Effective Date, shall be continued or commenced thereafter by or against the Transferee and the Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off which would have been available to such Transferors in relation to such Proceedings, including without limitation, as a result of the commutation of any Transferring Policy;
7. on and with effect from the Subsequent Transfer Date applicable to any Residual Asset, Residual Liability or Residual Policy, any Proceedings which have been issued, served or commenced by or against, and any future or pending Proceedings by or against, any or all Transferors in relation to such Residual Asset, Residual Liability or Residual Policy or, to the extent it relates to such Residual Policy, any Outwards Reinsurance Agreement, at the Subsequent Transfer Date, shall be continued or commenced thereafter by or against the Transferee and the Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off which would have been available to such Transferors in relation to such Proceedings, including, without limitation, as a result of the commutation of any Residual Policy;
8. on and with effect from the Effective Date or, in the case of the Residual Assets, the Residual Liabilities, the Residual Policies or, to the extent relating to the Residual Policies, the Outwards Reinsurance Agreements, the applicable Subsequent Transfer Date, any judgment, order or award obtained by or against any or all of the Transferors which relates to any part of the Transferring Business, whether before or after the Effective Date and which is not fully satisfied before the Effective Date or, in the case of the Residual Assets, the Residual Liabilities, the Residual Policies or, to the extent relating to the Residual Policies, the Outwards Reinsurance Agreements, the applicable Subsequent Transfer Date, shall become enforceable by or against the Transferee and not against such Transferors;
9. the production of a copy of this Order and a copy of a certificate by a director of the Transferee that the Scheme has taken effect shall for all purposes be evidence of the transfer to and vesting in the Transferee of the Transferring Business in accordance with this Order and the Scheme;
10. the Relevant Transferor and the Transferee shall, as and when appropriate, use reasonable endeavours to execute all such documents and perform such other acts and things as may be required to effect or perfect the transfer and vesting in the Transferee of each Transferring Asset, Transferring Liability, Residual Asset, Residual Liability or Outwards Reinsurance Agreement in accordance with the terms of the Scheme including, for the purposes of clarity, obtaining any consent or waiver;
11. the transfers effected by this Order shall have effect notwithstanding any provision to the contrary in any agreement or arrangement with any person and whether or not the Transferors would, apart from terms of this Order, have capacity to effect the same;

12. neither the transfer of the Transferring Business or any other matter provided for by this Order or the Scheme shall:
- 12.1 invalidate or discharge any contract, security interest or any other agreement or arrangement having similar effect; or
- 12.2 require further registration in respect of any security; or
- 12.3 constitute a breach of, or default under, or require any obligation to be performed sooner or later than would have otherwise been the case under, any agreement or instrument to which the Transferee or either Transferor is a party or is bound; or
- 12.4 allow any party to any agreement to which the Transferee or either Transferor is a party or is bound to terminate that agreement when he would not otherwise have been able to do so; or
- 12.5 entitle any party to any agreement to which the Transferee or either Transferor is a party or is bound to vary the terms of that agreement when he would not otherwise have been able to do so; or
- 12.6 confer any greater or lesser rights or benefits or cause the imposition of any greater or lesser obligation on any party to any agreement to which the Transferee or either Transferor is a party or is bound when that greater or lesser right, benefit or obligation would not otherwise have been conferred or imposed (as the case may be); or
- 12.7 other than insofar as provided for in this Order or the Scheme:
- 12.7.1 entitle any person to terminate, modify, acquire or claim any interest or right; or
- 12.7.2 entitle any person to treat any interest or right as terminated or modified;
13. each Transferor shall hold its Residual Assets and, to the extent relating to the Residual Policies, Assets under the Outwards Reinsurance Agreements as trustee and in trust for the Transferee absolutely, in accordance with the terms of the Scheme, for so long as is legally permissible (but save to the extent that giving effect to such a trust would have the effect of transferring any interest falling within the definition of Residual Assets) and shall be subject to the Transferee's direction in respect of each such Residual Asset until such Asset is transferred to or otherwise vested in the Transferee or is disposed of.

AND IT IS ORDERED THAT the Transferee shall deposit two office copies of this Order with the Prudential Regulation Authority within ten days of the date of this Order.

AND IT IS ORDERED THAT the Transferee and Transferors shall have liberty to apply to the Court for such order(s) or directions as may be expedient or necessary for the purposes set out in section 112 of the Financial Services and Markets Act 2000 or pursuant to paragraph 11.1 of the Scheme and generally.

Dated the 17th day of November 2017

**Schedule
Scheme Document**

**IN THE HIGH COURT OF JUSTICE
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CR-2017-001386

**IN THE MATTER OF
QBE INSURANCE (EUROPE) LIMITED**

and

**IN THE MATTER OF
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**IN THE MATTER OF
BOTHNIA INTERNATIONAL INSURANCE COMPANY LIMITED**

and

**IN THE MATTER OF
PART VII OF THE FINANCIAL SERVICES AND MARKETS ACT 2000**

TRANSFER DOCUMENT

**to provide for the transfer of certain reinsurance business carried on by QBE
Insurance (Europe) Limited and Moorgate Insurance Company Limited to
Bothnia International Insurance Company Limited**

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Whereas:

- (1) QBE was incorporated in England and Wales on 14 October 1983 under the name Legibus 373 Limited and changed its name to Delta International Reinsurance Company Limited on 11 April 1984 to Imperial Chemicals Reinsurance Limited on 3 February 1987, to QBE Reinsurance (London) Limited on 14 October 1988, and to QBE International Insurance Limited on 4 March 1992. It changed to its current name, QBE Insurance (Europe) Limited on 30 September 2005. The registered number of QBE is 01761561 and its registered office is situated at Plantation Place, 30 Fenchurch Street, London, EC3M 3BD.
- (2) QBE is a "UK authorised person" as defined in section 105(8) of FSMA, with permission, *inter alia*, to effect and carry out contracts of general insurance (both direct and reinsurance) in the UK under classes of business 1 to 18 set out in Part I of Schedule 1 to the Regulated Activities Order.
- (3) Moorgate was incorporated in England and Wales on 12 July 1917 under the name Moorgate Insurance Company Limited (The) and changed its name to Pohjola Insurance Company (U.K.) Limited on 31 December 1978. It changed to its current name, Moorgate Insurance Company Limited, on 7 September 1995. The registered number of Moorgate is 00147862 and its registered office is situated at 4th Floor, St Clare House, 30-33 Minories, London, EC3N 1DD.
- (4) Moorgate is a "UK authorised person" as defined in section 105(8) of FSMA, with permission to, *inter alia*, carry out contracts of general insurance (which includes reinsurance) in the UK under classes of business 1 to 18 set out in Part I of Schedule 1 to the Regulated Activities Order.
- (5) The Transferee was incorporated in Finland on 22 September 1993 as a limited liability company under its current name. The head office of the Transferee is at Eerikinkatu 27, FI-00180 Helsinki, Finland.
- (6) The Transferee is authorised by the Financial Supervisory Authority of Finland (**FIN-FSA**) to carry out contracts of general insurance (both direct and reinsurance) in Finland under classes of business 1 to 17, and in the UK under classes of business 1 to 9 and 11 to 17, set out in Part A of Annex I of Directive 2009/138/EC (Solvency II Directive), but excluding certain insurance business under classes 1 and 10 in accordance with the Finnish statutory Motor Liability Insurance Act (275/59), certain insurance business under class 13 in accordance with the Finnish statutory Patient Injuries Act (585/86) and the Finnish Nuclear Liability Act (484/72) and certain insurance business in accordance with the Finnish Occupational Accidents, Injuries and Diseases Act (459/2015).
- (7) The Transferors and the Transferee have agreed that the Transferring Business will transfer to the Transferee in accordance with this Transfer and by virtue of the Order.

1 Interpretation

- 1.1 In this Transfer, unless the subject or context otherwise requires:

Asset(s) means any assets and property of every kind and description, wherever located, whether real, personal or mixed, tangible or intangible,

whether owned, leased or licensed including without limitation all rights, benefits and powers under any contract and all rights, claims and powers against any third party;

Commuted Business means (a) any Policy comprised in the Transferring Business; and (b) any Outwards Reinsurance Agreement, in either case which has been commuted by agreement with the relevant counterparty but pursuant to which contract, as amended by such commutation, any party thereto has (x) any obligation or Liability whether or not contingent which as at the Effective Date remains unperformed or unpaid or (y) any rights that remain exercisable as at the Effective Date;

Court means the High Court of Justice in England and Wales;

EEA means the European Economic Area and **EEA State** bears the meaning given to it for the purposes of Part VII of FSMA;

Effective Date means the time and date when this Transfer shall become operative in accordance with paragraph 9;

Encumbrance means any charge, 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 Assets means any and all assets of the Transferors except for (i) an asset falling within the definition of Transferring Assets or (ii) Residual Assets, and such Excluded Assets shall include without limitation:

- (a) all rights, benefits and powers of the Transferors under or by virtue of the Excluded Policies;
- (b) all cash and other investments and Assets held as reserves against the Transferring Business other than the benefit under the Outwards Reinsurance Agreements;
- (c) the corporate books and stock records of the Transferors; and any other books and records to the extent relating to any other Excluded Asset; and
- (d) the Retained Records;

Excluded Business means the Excluded Assets, the Excluded Liabilities and the Excluded Policies;

Excluded Liabilities means:

- (a) any liabilities under or relating to the Excluded Policies or the Excluded Assets; and
- (b) any liabilities to make a payment of or in respect of or of an amount representing, equal to, equivalent to, or deemed to be, Tax (whether actual, present, future, contingent or deferred).

Excluded Policies means:

- (a) for the avoidance of doubt, all Policies of QBE other than the QBE Transferring Policies and Residual Policies; and
- (b) any Policies comprised in or relating to the Transferring Business which the Court for any reason determines not to transfer by virtue of the Order,

together with the rights, benefits, powers, Liabilities and obligations of either of the Transferors under such Policies;

FCA means the Financial Conduct Authority or its successors from time to time, or such other governmental, statutory or other authority as shall have or shall from time to time carry out such functions in relation to the Transferring Business carried on in the United Kingdom as were at the date of this Scheme allocated to the FCA under FSMA;

FSMA or the Act means the Financial Services and Markets Act 2000 (as amended);

Gothaer Retrocession Agreement means the retrocession agreement of February 1991 between Gothaer Allgemeine Versicherung AG and, *inter alios*, QBE (assumed from QBE Re (Europe) Limited) and Moorgate;

Independent Expert means Derek Newton of Milliman LLP;

Liability means any debt or liability (whether direct or indirect, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due) including, without limitation, all costs and expenses relating thereto;

Moorgate means Moorgate Insurance Company Limited, a company incorporated in England and Wales, with registered number 00147862 whose registered office is 4th Floor, St Clare House, 30-33 Minories, London, EC3N 1DD;

Moorgate Transferring Assets means, wheresoever situated as at the Effective Date, all of the Assets comprised in or relating to the Moorgate Transferring Business, including without limitation all rights, titles and interest of Moorgate in, to or under:

- (a) the Moorgate Transferring Policies;
- (b) the benefit of the Outwards Reinsurance Agreements to the extent such benefit relates to the Moorgate Transferring Policies;
- (c) all of Moorgate's causes of action against third parties relating to the Moorgate Transferring Business whatsoever and howsoever arising including but not limited to those causes of action relating to the Moorgate Transferring Assets or the Moorgate Transferring Liabilities or the Commuted Business; and
- (d) all books, records, files and papers, whether in hard copy or computer format, of the Moorgate Transferring Business, including, without limitation, reinsurance contracts, claims and underwriting files, sales and promotional literature, manuals and data, sales and purchase

correspondence and lists of present and former customers, excluding the Retained Records,

but excluding (i) any Residual Assets, (ii) the Excluded Assets, (iii) any rights, benefits and powers under any Residual Policies (iv) the benefit of the Outwards Reinsurance Agreements to the extent such benefit relates to the Residual Policies of Moorgate and (v) any assets already transferred from Moorgate to the Transferee;

Moorgate Transferring Business means the whole portfolio of reinsurance business of Moorgate effected and/ or carried out prior to the Effective Date in relation to the Moorgate Transferring Policies and Residual Policies of Moorgate and all reinsurance and retrocession of such business, including:

- (a) the Moorgate Transferring Policies and Residual Policies of Moorgate to the extent written by or on behalf of, or for which responsibility has been assumed by, Moorgate as reinsurer or retrocessionnaire prior to the Effective Date;
- (b) the Moorgate Transferring Assets and Moorgate Transferring Liabilities;
- (c) the Residual Assets and Residual Liabilities of Moorgate; and
- (d) all Outwards Reinsurance Agreements to the extent they relate to the Moorgate Transferring Policies or the Residual Policies of Moorgate,

but excluding the Excluded Assets, the Excluded Policies and the Excluded Liabilities;

Moorgate Transferring Liabilities means all Liabilities and commitments of every kind and description of Moorgate to the extent they relate to or are under or arise out of or are in connection with the Moorgate Transferring Business as such business shall exist on the Effective Date and irrespective of whether the Liabilities and commitments shall arise prior to or following the Effective Date, including, without limitation:

- (a) all Liabilities under or relating to the Moorgate Transferring Policies;
- (b) any Liabilities under or relating to the Outwards Reinsurance Agreements to the extent such Liabilities relate to the Moorgate Transferring Policies; and
- (c) all Liabilities under or relating to the Commuted Business;

but excluding (i) the Residual Liabilities (ii) any Liabilities under the Residual Policies (iii) any Liability under or relating to the Outwards Reinsurance Agreements to the extent such Liability relates to the Residual Policies of Moorgate and (iv) the Excluded Liabilities;

Moorgate Transferring Policies means any and all Policies of reinsurance or retrocession agreement ever written, issued or assumed (including by way of a Part VII transfer under FSMA) in whole or in part by Moorgate, including without limitation:

- (a) every policy of reinsurance agreement ever written, issued or assumed (including by way of a Part VII transfer under FSMA) in whole or in part

by Moorgate as a member of the RFP Pool and written through RFPUM as underwriting agent, including general reinsurance binders, policies and slips, any indemnity or other similar obligation covering or having the effect of covering insurance liability and any endorsements or amendments thereto; and

- (b) any and all retrocession agreements ever written, issued or assumed (including by way of a Part VII transfer under FSMA) in whole or in part by Moorgate in relation to any reinsurance liability of any member of the RFP Pool in relation to RFP Pool liabilities, including Moorgate's participation on the Gothaer Retrocession Agreement,

but excluding any Excluded Policy or Residual Policy;

Order means an order made by the Court pursuant to section 111 of FSMA sanctioning the Transfer and any order (including, without limitation, any subsequent order) in relation to the Transfer made by the Court pursuant to section 112 of FSMA;

Outwards Reinsurance Agreements means all agreements pursuant to which any portion of the Liabilities under the Transferring Policies or Residual Policies is or has been reinsured or retroceded, and which are in force immediately prior to the Effective Date;

Person means any natural person, general or limited partnership, corporation, limited liability company, limited liability partnership, firm, joint venture, joint stock company, trust, unincorporated organization, association or organization or other legal entity;

Policies means, in respect of a Transferor, all policies (as defined in the Financial Services and Markets Act 2000 (Meaning of "Policy" and "Policyholder") Order 2001 (S.I. 2001/2361)), treaties, facultative certificates, binders, slips and other contracts of or for insurance, reinsurance or retrocession (and including at any time any constituent part of a Policy which gives rise to any separately identifiable benefit) written by or on behalf of that Transferor as reinsurer, reinsured or retrocessionaire (where such policy, treaty, facultative certificate, binder, slip or other contract was not written solely by or on behalf of that Transferor, to the extent and only for and in respect of the proportion written by or on behalf of that Transferor) (including, without limitation, all supplements, endorsements and riders thereto and all ancillary agreements in connection therewith) prior to the Effective Date;

PRA means the Prudential Regulation Authority or its successors from time to time, or such other governmental, statutory or other authority as shall have or shall from time to time carry out such functions in relation to the Transferring Business carried on in the United Kingdom as were at the date of this Scheme allocated to the PRA under FSMA;

Proceedings means any action or other legal or administrative proceedings or step (whether direct or indirect, by way of a claim, demand, legal proceedings, execution of judgement, arbitration, complaint or otherwise howsoever) including:

- (a) arbitration;

- (b) mediation;
- (c) any other dispute resolution procedure (whether or not it involves submission to any court);
- (d) any judicial, quasi-judicial, administrative or regulatory review or process; and
- (e) any complaint or claim to any ombudsman,

in each case whether current, future, pending, threatened or otherwise;

QBE means QBE Insurance (Europe) Limited, a company incorporated in England and Wales, with registered number 01761561 whose registered office is Plantation Place, 30 Fenchurch Street, London, EC3M 3BD;

QBE Transferring Assets means, wheresoever situated as at the Effective Date, all of the Assets comprised in or relating to the QBE Transferring Business, including without limitation all rights, titles and interest of QBE in, to or under:

- (a) the QBE Transferring Policies;
- (b) the benefit of the Outwards Reinsurance Agreements to the extent such benefit relates to the QBE Transferring Policies;
- (c) all of QBE's causes of action against third parties relating to the QBE Transferring Business whatsoever and howsoever arising including but not limited to those causes of action relating to the QBE Transferring Assets or the QBE Transferring Liabilities or the Commuted Business;
- (d) all books, records, files and papers, whether in hard copy or computer format, of the QBE Transferring Business, including, without limitation, reinsurance contracts, claims and underwriting files, sales and promotional literature, manuals and data, sales and purchase correspondence and lists of present and former customers, excluding the Retained Records,

but excluding (i) the Residual Assets, (ii) the Excluded Assets, (iii) any rights, benefits and powers under the Residual Policies (iv) the benefit of the Outwards Reinsurance Agreements to the extent such benefit relates to the Residual Policies of QBE and (v) any assets already transferred from QBE to the Transferee;

QBE Transferring Business means the whole portfolio of reinsurance business of QBE effected and/ or carried out prior to the Effective Date in relation to the QBE Transferring Policies or Residual Policies of QBE and all reinsurance and retrocession of such business, including:

- (a) the QBE Transferring Policies and Residual Policies of QBE to the extent written by or on behalf of, or for which responsibility has been assumed by, QBE as reinsurer or retrocessionaire prior to the Effective Date;
- (b) the QBE Transferring Assets and the QBE Transferring Liabilities;

- (c) the Residual Assets and Residual Liabilities of QBE; and
- (d) all Outwards Reinsurance Agreements to the extent they relate to the QBE Transferring Policies or the Residual Policies of QBE,

but excluding the Excluded Policies, the Excluded Assets and the Excluded Liabilities;

QBE Transferring Liabilities means all Liabilities and commitments of every kind and description of QBE to the extent they relate to or are under or arise out of or are in connection with the QBE Transferring Business as such business shall exist on the Effective Date and irrespective of whether the Liabilities and commitments shall arise prior to or following the Effective Date, including, without limitation:

- (a) all Liabilities under or related to the QBE Transferring Policies;
- (b) any Liabilities under or related to the Outwards Reinsurance Agreements to the extent such Liabilities relate to the Transferring Policies; and
- (c) all Liabilities under or related to the Commuted Business,

but excluding (i) the Residual Liabilities (ii) any Liabilities under the Residual Policies (iii) any Liability under or relating to the Outwards Reinsurance Agreements to the extent such Liability relates to the Residual Policies of QBE and (iv) the Excluded Liabilities;

QBE Transferring Policies means:

- (a) every Policy of reinsurance agreement written through RFPUM as underwriting agent in whole or in part on behalf of QBE Re (Europe) Limited (**QBE Re**) (or any of its predecessors) as a member of the RFP Pool that was assumed by QBE from QBE Re pursuant to a Part VII transfer under FSMA approved by order of the Court on 29 March 2011, including general reinsurance binders, policies and slips, any indemnity or other similar obligation covering or having the effect of covering insurance liability and any endorsements or amendments thereto; and
- (b) any and all retrocession agreements ever written, issued or assumed (including by way of a Part VII transfer under FSMA) in whole or in part by QBE in relation to any insurance or reinsurance liability of any member of the RFP Pool in relation to RFP Pool liabilities, including QBE's participation on the Retrocession Agreements,

but excluding any Excluded Policy or Residual Policy;

Regulated Activities Order means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) (as amended);

Relevant Transferor means in respect of any:

- (a) Transferring Policy;
- (b) Transferring Asset;
- (c) Transferring Liability;

- (d) Residual Policy;
- (e) Residual Asset; or
- (f) Residual Liability,

the Transferor transferring the same under and in accordance with this Transfer.

Residual Asset means each Asset which would form part of the business transferred pursuant to the Transfer (including, without limitation, any right, benefit or power of any of the Transferors under any Transferring Policy) but for the fact that, in relation to the relevant Asset:

- (a) the Court has declined to order the transfer of such Asset to the Transferee under section 112(2) of the Act (either at all or without the consent of a person other than the Transferee or the Transferors);
- (b) the Relevant Transferor and the Transferee have agreed, prior to the Effective Date, that the transfer of such Asset to the Transferee should be delayed;
- (c) the transfer of such Asset to the Transferee is outside the jurisdiction of the Court;
- (d) such Asset is subject to the law of any country or territory outside the UK and such law provides that further steps, in addition to the Order, are required to be taken to effect the transfer of such Asset pursuant to such law; or
- (e) such Asset cannot be transferred or vested in the Transferee for any other reason,

and includes any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of cash, earned or received from time to time after the Effective Date in respect of such asset, but excluding for the avoidance of doubt, the Excluded Assets;

Residual Liability means any Liability not being an Excluded Liability that would be a Transferring Liability save that in relation to the relevant Liability:

- (a) the Court has declined to order the transfer of such Liability to the Transferee under section 112(2) of the Act (either at all or without the consent of a person other than the Transferee or the Transferors);
- (b) the Relevant Transferor and the Transferee have agreed, prior to the Effective Date, that the transfer of such Liability to the Transferee should be delayed;
- (c) the transfer of such Liability to the Transferee is outside the jurisdiction of the Court; and
- (d) such Liability cannot be transferred or vested in the Transferee for any other reason,

and any Liability that is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to that Residual Asset;

Residual Policy means any Policy which would be a Transferring Policy save that:

- (a) both:
 - (i) such Policy is governed by the law of any country or territory outside the EEA; and
 - (ii) further steps additional to the Order are required to secure that its transfer to the Transferee is fully effective under the law of that country or territory; or
- (b) the Order requires further steps be taken to make the transfer to the Transferee fully effective; or
- (c) the Transferor and the Transferee agree prior to the Effective Date that its transfer is to be delayed;

Retained Records means any accounting and financial and other records of either of the Transferors which the Transferors are required by law to retain, including VAT records;

Retrocession Agreements means:

- (a) Gothaer Retrocession Agreement;
- (b) the retrocession agreement dated 21 December 1988 (amended 26 June 1989) between Ocean Marine Insurance Company Limited (as successor to The New Zealand Reinsurance Company (UK) Limited and The New Zealand Insurance PLC) and QBE (assumed from QBE Re (Europe) Limited); and
- (c) the retrocession agreement dated 29 December 2004 between Moorgate and QBE (assumed from QBE Re (Europe) Limited).

RFP Pool means the Ridgwell, Fox & Partners Pool which underwrote inwards reinsurance business through RFPUM;

RFPUM means Ridgwell, Fox and Partners (Underwriting Management) Limited (company number 01326793);

Subsequent Transfer Date means:

- (a) in relation to any Residual Asset or Residual Liability, the date (and each date) after the Effective Date on which such Residual Asset or Residual Liability is or is to be transferred to the Transferee, namely:
 - (i) in respect of any Residual Asset falling within paragraph (a), (c), (d) or (e) of the definition of Residual Asset, and of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (a), (c) or (e) of the

definition of Residual Liability, the date on which any impediment to its transfer shall have been removed or overcome; and

- (ii) in respect of any Residual Asset falling within paragraph (b) of the definition of Residual Asset, and of any Residual Liability which is attributable to or connected with that Residual Asset or which falls within paragraph (b) of the definition of Residual Liability, the date on which the Relevant Transferor and the Transferee agree the transfer should take effect;
- (b) in relation to any Residual Policy, the date (and each date) after the Effective Date on which such Residual Policy is or is to be transferred to the Transferee, namely:
 - (i) in respect of a Residual Policy falling within paragraph (a) or (b) of the definition of Residual Policy, the first date on which the further steps required by the applicable paragraph have been satisfied; and
 - (ii) in respect of a Residual Policy falling within paragraph (c) of the definition of Residual Policy, the date on which the Relevant Transferor and the Transferee agree the transfer should take effect;

Tax means:

- (a) all forms of tax, levy, duty, charge, impost, withholding or other amount whenever created or imposed and whether of the United Kingdom or elsewhere payable to or imposed by any tax authority;
- (b) all charges, interest, penalties and fines incidental or relating to any Tax falling within (a) above or which arise as a result of the failure to pay any Tax on the due date or to comply with any obligation relating to Tax;

Transfer means this Transfer in its original form or with, or subject to, any modification or addition thereto;

Transferee means Bothnia International Insurance Company Limited, a company incorporated in Finland with Finnish Business Identification number 0947118-3 and whose head office is at Eerikinkatu 27, FI-00180 Helsinki, Finland;

Transferors means, together, QBE and Moorgate;

Transferring Assets means the QBE Transferring Assets and the Moorgate Transferring Assets together or individually as the context may indicate but excluding the Excluded Assets;

Transferring Business means the QBE Transferring Business and the Moorgate Transferring Business together or individually as the context may indicate but excluding the Excluded Business;

Transferring Liabilities means the QBE Transferring Liabilities and the Moorgate Transferring Liabilities together or individually as the context may indicate but excluding the Excluded Liabilities;

Transferring Policies means the QBE Transferring Policies and Moorgate Transferring Policies together or individually as the context may indicate, excluding any Excluded Policies and Residual Policies;

Transferring Policyholder means a reinsured, insurer, reinsurer or syndicate at Lloyd's that has ceded a risk to or reinsured a risk with the Relevant Transferor pursuant to a Transferring Policy;

UK means the United Kingdom of Great Britain and Northern Ireland; and

VAT means value added or similar turnover or sales taxes, wheresoever imposed (including any interest, surcharges or penalties in respect of the same).

1.2 In this Transfer:

- (a) **property** and **asset** includes (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 and assets held on trust, securities (quoted or unquoted), benefits (including, without limitation, tax benefits), powers of any description and any interest whatsoever in any of the foregoing;
- (b) **transfer** includes (as the context may require) **assign, assignation, assignment, dispose, disposal, novate, novation, convey and conveyance** and shall include a transfer by operation of law;
- (c) 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;
- (d) any reference to a court, tax, accounting or regulatory authority shall be deemed to include a reference to such authority's successors from time to time;
- (e) any reference 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;
- (f) expressions used which have meanings under FSMA shall bear those meanings unless stated otherwise;
- (g) any reference to this Transfer shall include the recitals to it and (unless inconsistent with the subject or context) references in this Transfer to paragraphs or parts are to paragraphs or parts of this Transfer;
- (h) the rule known as the *ejusdem generis* rule shall not apply, and accordingly words introduced by words and phrases such as "include", "including", "other" and "in particular" shall not be given a restrictive meaning or limit the generality of any preceding words or be construed

as being limited to the same class as the preceding words where a wider construction is possible;

- (i) headings are inserted for convenience only and shall not affect the construction of this Transfer;
- (j) any reference to a person shall include a reference to a body corporate, a partnership, an unincorporated association or to a person's executors or administrators;
- (k) any reference to writing shall include any mode of reproducing words in a legible and non-transitory form; and
- (l) if a period of time is specified from a given day or date or from the day or date of an act or event, it shall be calculated exclusive of that day or date.

2 Transfer of the Transferring Business, Assets and Liabilities

2.1 The Transferring Business, save to the extent that such business relates to the Excluded Policies, shall by the Order and without any further act or instrument be transferred to, and vested in, the Transferee in accordance with this Transfer, so that:

- (a) on and with effect from the Effective Date, each Transferring Asset and all of the rights, benefits, powers, obligations and interests of the Relevant Transferor in that Transferring Asset shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee subject to all Encumbrances and other concomitant obligations (if any) affecting such Transferring Asset (other than any Excluded Assets or Excluded Liabilities) and the Transferee shall succeed to each Transferring Asset as if in all respects it were the same person in law as the Relevant Transferor;
- (b) on and with effect from each Subsequent Transfer Date, each Residual Asset to which such Subsequent Transfer Date applies and all of the rights, benefits, powers, obligations and interests of the Relevant Transferor in each such Residual Asset shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee subject to all Encumbrances and other concomitant obligations (if any) affecting such Residual Asset (other than any Excluded Assets or Excluded Liabilities) and the Transferee shall succeed to each such Residual Asset as if in all respects it were the same person in law as the Relevant Transferor;
- (c) on and with effect from the Effective Date, each Transferring Liability and all the estate and interest of the Relevant Transferor in such Transferring Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of the Transferee and the Transferee shall succeed to each Transferring Liability as if in all respects it were the same person in law as the Relevant Transferor and such Transferring Liability shall cease to be a liability of the Relevant Transferor; and

- (d) on and with effect from each Subsequent Transfer Date, each Residual Liability to which such Subsequent Transfer Date applies and all the estate and interest of the Relevant Transferor in such Residual Liability shall, by the Order and without any further act or instrument, be transferred to and become a liability of the Transferee and the Transferee shall succeed to each such Residual Liability as if in all respects it were the same person in law as the Relevant Transferor and each such Residual Liability shall cease to be a liability of the Relevant Transferor.
- 2.2 The Transferee shall accept without investigation or requisition such title as each Transferor shall have at the Effective Date to the Transferring Assets and, at each Subsequent Transfer Date, to the Residual Assets then transferred.
- 2.3 The Relevant Transferor and the Transferee shall, as and when appropriate, use reasonable endeavours to execute all such documents and perform such other acts and things as may be required to effect or perfect the transfer and vesting in the Transferee of each Transferring Asset, Transferring Liability, Residual Asset, Residual Liability or Outwards Reinsurance Agreement in accordance with the terms of this Transfer including, for the purposes of clarity, obtaining any required consent or waiver.
- 2.4 The transfer of any Transferring Asset, Transferring Liability, Residual Asset, Residual Liability or Outwards Reinsurance Agreement to the Transferee shall have effect notwithstanding any provision (whether express or implied) to the contrary in any contract or arrangement with any policyholder or any other Person.
- 2.5 The transfers effected pursuant to paragraph 2.1 above shall have effect whether or not the Transferors would, other than pursuant to the terms of this Transfer, have capacity to effect the same.
- 2.6 This Transfer shall not operate to transfer or have the effect of transferring, or be construed to operate to transfer or have the effect of transferring, to the Transferee any of the Excluded Policies, Excluded Assets or Excluded Liabilities.

3 Transferring Policies and other contracts

- 3.1 In addition to the provisions of paragraph 2 and save as provided in this Transfer, 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 under the Transferring Policies and be subject to all the obligations and Transferring Liabilities of the Transferors under the Transferring Policies whatsoever subsisting on the Effective Date.
- 3.2 Save as provided in this Transfer, every Transferring Policy shall be construed and have effect on and from the Effective Date as if the Transferee had always been an original party thereto from inception instead of the Relevant Transferor (such that the Policy shall continue in force as between the Transferee and the relevant policyholder or other party thereto on the terms which applied to that Policy prior to the Effective Date, but without prejudice to any right which the Transferee may have subsequently to vary, terminate or avoid such Policy, whether under the terms thereof or at law).

- 3.3 Save as provided in this Transfer, the transfer and vesting of any Asset or Liability relating to any part of the Transferring Business by virtue of the Order and this Transfer shall not:
- (a) invalidate or discharge any contract, security interest or any other agreement or arrangement having a similar effect; or
 - (b) require further registration in respect of any security; or
 - (c) constitute a breach of, or default under, or require any obligation to be performed sooner or later than would have otherwise been the case under, any contract or instrument to which the Transferee or either Transferor is a party or is bound; or
 - (d) allow any party to a contract to which the Transferee or either Transferor is a party to terminate that contract when that party would not otherwise have been able to terminate it; or
 - (e) entitle any party to any contract to which the Transferee or either Transferor is a party to vary the terms of that contract when that party would not otherwise have been able to vary those terms or confer a right or benefit on that party which it would not otherwise have had; or
 - (f) confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, on any party to any contract to which either Transferor or the Transferee is a party when that greater or lesser obligation would not otherwise have been imposed,
- 3.4 Every Transferring Policyholder shall, on and from the Effective Date and to the exclusion of any rights the Transferring Policyholder may have against the Relevant Transferor under its Transferring Policy, be entitled to the same rights against the Transferee as were available to him against the Relevant Transferor under such Transferring Policy.
- 3.5 All premiums and other amounts attributable or referable to the Transferring Policies shall on and after the Effective Date be payable to the Transferee and shall be receivable and received by the Transferee.
- 3.6 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under each Transferring Policy that would have been available to the Relevant Transferor including, without limitation, as a result of the commutation of any Transferring Policy.
- 3.7 Every Transferring Policyholder shall, from and after the Effective Date, in substitution for any Liability or obligation owed by the Transferring Policyholder under its Transferring Policy to the Relevant Transferor, be under the same Liability or obligation to the Transferee (in relation to any Residual Policy, as agent of the Transferor but subject to paragraph 4).
- 3.8 All references in any Transferring Policy (to the extent they relate to the Relevant Transferor's participation on that Transferring Policy) to the Relevant Transferor, the board of directors of the Relevant Transferor, or any other officers, employees or agents of the Relevant Transferor shall from and after the Effective Date 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 or investment management of the business 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 Relevant Transferor, the board of directors of the Relevant Transferor, or any other officers, employees or agents of the Relevant Transferor in relation to any of the Transferring Policies shall, from and after the Effective Date 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.

3.9 The provisions of paragraph 3.1 to 3.8 shall apply, *mutatis mutandis*, to all:

3.9.1 Residual Policies; and

3.9.2 Outwards Reinsurance Agreements,

save that in the case of any (i) Residual Policy, references to the Effective Date shall be read as references to the Subsequent Transfer Date applicable to such Residual Policy and (ii) Outwards Reinsurance Agreement relating to a Residual Policy, references to the Effective Date shall be read as references to the Subsequent Transfer Date applicable to the Residual Policy to which the Outwards Reinsurance Agreement relates.

3.10 With effect from the Effective Date, the Transferee shall:

- (a) succeed to all rights, Liabilities and obligations of each of the Transferors in respect of data which relates to the Transferring Business and which is subject to the Data Protection Act 1998;
- (b) become the data controller of any data which relates to the Transferring Business and which is subject to the Data Protection Act 1998 in place of the Transferors and shall be deemed to have been the controller of all such data at all material times when data was processed; and
- (c) in respect of data which relates to the Transferring Business be under the same duty by virtue of any law as any of the Transferors were under to respect the confidentiality and privacy of any person in relation to that data and shall be bound by any specific notice given or request made by any data subject which was binding on either of the Transferors and which required the relevant Transferor not to use data for marketing purposes.

3.11 In any consent given by a data subject in respect of such data as is mentioned in paragraph 3.10, any reference to a Transferor (or to any member of its group) shall be deemed to include a reference to the Transferee (and to any member of the Transferee's group) provided however that where any data subjects referred to in paragraph 3.10 continue also to be data subjects of that Transferor after the Effective Date then any consent given by a data subject shall also continue to apply to that Transferor (or to any member of its group).

4 Residual Policies

4.1 Liabilities arising out of the Residual Policies shall pending their transfer to the Transferee (whether pursuant to this Transfer or otherwise), remain Liabilities of

the Relevant Transferor and all such Liabilities (other than any Excluded Liabilities) of the Relevant Transferor and all other amounts paid or payable by the Relevant Transferor in respect of such Residual Policies shall at all times after the Effective Date continue to be reinsured under the Outwards Reinsurance Agreements to the same extent they were reinsured immediately prior to the Effective Date.

4.2 If any person entitled to do so with respect to a Residual Policy exercises any option granted under the terms of that Policy and either:

(a) the option provides for a new, additional or replacement Policy to be issued; or

(b) it is necessary in order to comply with that option to issue a new Policy, the Transferee shall offer to enter into the new Policy with such person in its own name or in the name of another member of its group. Such person shall nevertheless be entitled to require that the obligation thereby arising shall be satisfied by the issue by the Relevant Transferor of a replacement Policy that complies with the terms of such option and such replacement Policy shall be a Residual Policy and shall be reinsured by the Transferee under any applicable Outwards Reinsurance Agreement between the Transferee and the Relevant Transferor (and the Relevant Transferor shall transfer to the Transferee any Assets receivable in respect of such replacement Policy). Without prejudice to the right of such person to have the option satisfied by the issue by the Relevant Transferor of such replacement Policy, the Transferee shall be entitled to offer to such person in lieu thereof the Policy it considers to be the nearest equivalent of such replacement Policy.

4.3 The Relevant 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 Residual Policy in accordance with the terms of this Transfer, including, for the purposes of clarity, obtaining any required consent or waiver.

4.4 On and from each Subsequent Transfer Date, each Residual Policy to which such Subsequent Transfer Date applies and all the Residual Assets, Residual Liabilities and benefit of and rights and Liabilities under the Outwards Reinsurance Agreements relating to such Residual Policy, shall to the extent not previously transferred, by the Order and without further act or instrument be transferred to, and be vested in, the Transferee, whereupon such Residual Policy shall constitute a Transferred Policy under this Transfer.

5 Declaration of Trust by the Transferor

5.1 Each Transferor shall hold its Residual Assets and, to the extent relating to the Residual Policies, Assets under the Outwards Reinsurance Agreements as trustee and in trust for the Transferee absolutely for so long as is legally permissible (but save to the extent that giving effect to such a trust would have the effect of transferring any interest falling within the definition of Residual Assets).

- 5.2 Each Transferor shall be subject to the Transferee's direction in respect of each such Residual Asset until such Asset is transferred to or otherwise vested in the Transferee or is disposed of (whereupon the relevant Transferor shall account to the Transferee for the proceeds of sale thereof). The Transferee shall have authority (with authority to sub-delegate) to act as the attorney of the relevant Transferor in respect of any such Asset for all such purposes.
- 5.3 In the event of any payment (including any reinsurance receipts) being made to, property being received by, or a right being conferred upon either Transferor in relation to any of its Transferring Asset, the Transferor in question shall as soon as is reasonably practicable notify the Transferee and pay over the full amount of such payment or (to the extent to which it is able to do so) transfer such property or right to the Transferee or otherwise in accordance with the reasonable directions of the Transferee and the Transferee shall on demand indemnify such Transferor against any reasonable costs properly incurred by it to complete such transaction.

6 Indemnities in favour of the Transferor

- 6.1 The Transferee shall discharge on behalf of each Transferor or, failing that, indemnify each Transferor from and after the Effective Date against:
- (a) all Transferring Liabilities (to the extent not reinsured to the Transferee under the Outwards Reinsurance Agreements) whether the same shall arise prior to or following the Effective Date but, where such Transferring Liabilities are the subject of a policy of indemnity insurance or a claim or right of recovery against a third party which constitutes a Residual Asset that has not yet transferred to the Transferee, the Transferee shall not discharge on behalf of or indemnify the Relevant Transferor to the extent that the Relevant Transferor has successfully claimed under such a policy or against such third party. The Transferee shall indemnify, and keep indemnified, the Relevant Transferor against any cost or Liability it may incur in taking such action; and
 - (b) save as otherwise provided in this Transfer or the agreements referred to herein, any other cost, claim, loss, damages, Liability or expense (whatsoever) incurred in connection with the Transferring Business (other than regulatory capital costs) including, without limitation, the conduct of the trust arrangements, and the conduct of claims under paragraph 8, whether the same shall arise prior to or following the Effective Date.

7 Outwards Reinsurance Agreements

- 7.1 Notwithstanding anything in paragraph 2:
- (a) any commutations entered into by either Transferor (whether globally or on any other basis) with any of its reinsurers or retrocessionaires before the Effective Date shall not in any way affect any reinsurance, retrocession or similar protection entered into by the Transferee before the Effective Date;
 - (b) any commutations entered into by the Transferee (whether globally or on any other basis) with any of its reinsurers or retrocessionaires before the Effective Date shall not in any way affect any reinsurance, retrocession

or similar protection transferred from the Transferors to the Transferee pursuant to this Transfer.

- 7.2 To the extent that the risk under any Residual Policy has been ceded to a third party under an Outwards Reinsurance Agreement (a **Third Party Outwards Reinsurance Agreement**), any payment in respect of such risk made to the Policyholder under the relevant Residual Policy by the Transferee on behalf of the Relevant Transferor or to the Transferor under an Outwards Reinsurance Agreement with the Transferee shall be deemed to be a payment by the Transferee for the purposes of the Third Party Outwards Reinsurance Agreement, and shall give rise to a claim by the Transferee thereunder as if it were the reinsured under the Third Party Outwards Reinsurance Agreement.

8 Continuity Of Proceedings

- 8.1 On and with effect from the Effective Date, any Proceedings which have been issued, served or commenced by or against, and any future or pending Proceedings by or against, any or all Transferors in connection with the Transferring Policies, the Transferring Assets or the Transferring Liabilities shall be commenced or continued by or against the Transferee (in place of such Transferors) who shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to such Transferors in relation thereto including, without limitation, as a result of the commutation of any Transferring Policy.
- 8.2 On and with effect from the Subsequent Transfer Date applicable thereto, any Proceedings which have been issued, served or commenced by or against, and any future or pending Proceedings by or against, any or all Transferors in connection with any Residual Policy, Residual Asset or Residual Liability shall be commenced or continued by or against the Transferee (in place of such Transferors) who shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to such Transferors in relation thereto including, without limitation, as a result of the commutation of any Residual Policy.
- 8.3 Any judgment, order or award obtained by or against any or all Transferors which relates to any part of the Transferring Business, the Residual Assets, the Residual Liabilities or the Residual Policies, whether before or after the Effective Date (or, in the case of the Residual Assets, Residual Liabilities or the Residual Policies, the applicable Subsequent Transfer Date) and which is not fully satisfied before the Effective Date or the Subsequent Transfer Date (as applicable) shall, on and from that date, become enforceable by or against the Transferee and not against such Transferors.
- 8.4 All documents which would before the Effective Date have been evidence in respect of any matter for or against any Transferor shall be admissible in evidence in respect of the same matter for or against the Transferee.
- 8.5 On and from the Effective Date, the Transferee shall owe to the Transferring Policyholders or to any other person the same duties of confidentiality and privacy (whether pursuant to statute or contract) as those which the Transferors owed in relation to the Transferring Business immediately prior to the Effective Date.

- 8.6 On and from the Effective Date, the Transferee shall be entitled to direct each Transferor as to the conduct of any on-going Proceedings referred to in paragraph 8.1 and commenced (in whole or in part) by or against that Transferor and the Transferee shall have full authority (with authority to sub-delegate) to act on behalf of such Transferor in respect of any such Proceedings.

9 Effective Date

- 9.1 Subject to paragraph 9.2, this Transfer shall become operative at 23:59 on 30 November 2017 (London time) or such other time and date as may be specified in the Order and unless this Transfer shall become operative on or before 23:59 on 31 December 2017 (London time) or such later date as the Court may allow upon the application of the Transferors and Transferee, this Transfer shall lapse.
- 9.2 Notwithstanding paragraph 9.1, this Transfer shall not become operative:
- (a) unless any modification of or addition to this Transfer or any further condition or provision affecting the same imposed by the Court (or recommended by the Court with a view to it being imposed) has been consented to by the Transferors and the Transferee; or
 - (b) if each of the Boards of Directors of the Transferee and the Transferors has resolved not to complete the transfer of the Transferring Business.

10 Costs and Expenses

All costs and expenses, including, without limitation, fees and disbursements of legal and financial advisers and accountants, incurred in connection with this Transfer and the transactions contemplated by this Transfer shall be paid by the Transferors and the Transferee in accordance with the terms previously agreed between them.

11 Modifications, Amendments or Additions

- 11.1 The Transferors and the Transferee may consent on their own behalf and on behalf of all other persons concerned (other than the PRA and FCA) to any modification, amendment or addition to this Transfer or to any further condition or provision affecting the same which the Court may approve or impose prior to or after the sanction of this Transfer.
- 11.2 The Transferors and the Transferee may without further sanction of the Court make minor and/ or technical amendments to this Transfer or amend this Transfer to correct a manifest error provided that:
- (a) the FCA and PRA have been notified of the proposed amendment; and
 - (b) both the PRA and FCA have indicated that they do not object thereto.

12 Gross-up

Where any Transferor is entitled to receive an amount pursuant to an indemnity in this Transfer, it shall be entitled to receive such amount as, after payment of or provision for any Liability to Tax in respect of the amount receivable, will

result in the receipt of an amount equal to the value of the Liability to be indemnified against.

13 Contracts (Rights of Third Parties) Act 1999

A person not party to this Transfer may not enforce any of its terms pursuant to the Contracts (Rights of Third Parties) Act 1999.

14 Successors and Assigns

This Transfer will bind and endure to the benefit of the successors and assigns of each of the Transferors and the Transferee.

15 Several undertakings

For the avoidance of doubt, the obligations of each of the Transferors under this Transfer are entered into on a several basis (but not jointly or jointly and severally).

16 Order of transfers

On the Effective Date, the Transfer of the QBE Transferring Business and Moorgate Transferring Business effected in accordance with this Transfer shall occur simultaneously.

17 Governing Law

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

Dated this 17th day of November 2017.

CR-2017-001386

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT**

17 November 2017

**IN THE MATTER OF QBE
INSURANCE (EUROPE) LIMITED**

and

**IN THE MATTER OF MOORGATE
INSURANCE COMPANY LIMITED**

and

**IN THE MATTER OF BOTHNIA
INTERNATIONAL INSURANCE
COMPANY LIMITED**

and

**IN THE MATTER OF PART VII OF
THE FINANCIAL SERVICES AND
MARKETS ACT 2000**

ORDER

RPC
Tower Bridge House
St Katharine's Way
London
E1W 1AA
T: 020 3060 6000

Reference: AP02/QBE4.24