

**THE HIGH COURT**

**COMMERCIAL**

**2022 No 252 COS**

**(2022 No 112 COM)**

**TUESDAY THE 4<sup>TH</sup> DAY OF JULY 2023**

**BEFORE MR JUSTICE McDONALD**

**IN THE MATTER OF AMTRUST INTERNATIONAL UNDERWRITERS**

**DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF BOTHNIA INTERNATIONAL INSURANCE**

**COMPANY LIMITED**

**AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909**

**AND IN THE MATTER OF THE INSURANCE ACT 1989**

**AND IN THE MATTER OF THE EUROPEAN UNION (INSURANCE AND**

**REINSURANCE) REGULATIONS 2015**

The Petition seeking sanction for the scheme presented on 6 December 2022 (the “Scheme”) by the directors of AmTrust International Underwriters Designated Activity Company (hereinafter called “AIUD” or “the Petitioners”, as relevant) coming on for hearing this day pursuant to the Order herein dated 12 December 2022, with the matter being adjourned on 15 March 2023, 17 April 2023 and 24 May 2023. Defined terms used herein shall have the meanings as assigned to them in the Scheme, save where otherwise provided.

AND UPON reading the said Petition, the Notice of Motion dated 6 December 2022, the Grounding Affidavit of Ronan Conboy sworn on 1 December 2022, the Notice of Motion for Directions and entry into the Commercial List dated 6 December 2022, the Certificate of Solicitor Elaine Long of Matheson LLP Solicitors dated 6 December 2022, the Second Affidavit of Ronan Conboy sworn

on 6 December 2022, the Affidavit of Juha Nora sworn on 6 December 2022, the Affidavit of service of Elaine Long sworn on 7 March 2023, the Affidavit of Jonathan O'Brien sworn on 7 March 2023, the Affidavit of Juha Nora sworn 7 March 2023, the Affidavit of Elaine Long sworn 3 July 2023 and the documents and exhibits referred to in said Affidavits including the Scheme (which is located at Tab 2 of the Affidavit of Elaine Long sworn on 3 July 2023)

And upon hearing Counsel for the Petitioner

And there being no appearance in Court by or on behalf of any other party

And the Court noting the confirmation and undertaking of Bothnia International Insurance Company Limited ("Bothnia") and Compre Holdings Limited ("Compre"), as set out in a confirmatory e-mail from Brid Reynolds, Group Chief Risk Officer of 4 July 2023, addressing the matters raised in an email of 3 July 2023 from Fionnuala Gormley of the Central Bank of Ireland (the CBI) to Ronan Conboy of AIUD, setting out the basis of the CBI and ACPR's non-objection to the proposed Scheme

IT IS ORDERED as follows:

- (1) That the Scheme be sanctioned pursuant to the provisions of Section 13 of the Assurance Companies Act 1909 (as amended), Regulation 41 of the European Union (Insurance and Reinsurance) Regulations 2015 and Section 36 of the Insurance Act 1989 (as amended);
- (2) That notwithstanding any provision to the contrary in the Scheme, the Scheme shall take effect at 00.01 on 14 July 2023 (and for the avoidance of doubt, this date and time shall by virtue of this Order and without the need for any further act or instrument be the Scheme Effective Date for the purposes of the Scheme (and the Scheme shall be construed accordingly));

(3) That pursuant to Section 36 of the Insurance Act 1989, the following ancillary provisions for implementing the Scheme shall be sanctioned by virtue of this Order without the need for any further act or instrument:

- (i) that with effect from the Scheme Effective Date the Transferring Business, as defined in the Scheme, (which includes the Transferring Policies, the Transferring Assets, the Transferring Liabilities and rights of AIUD in the Transferring Contracts (all defined in the Scheme)) will be transferred to Bothnia International Insurance Company Limited (hereinafter “Bothnia”);
- (ii) that with effect from the Scheme Effective Date, the Transferring Assets shall be transferred to and vested in Bothnia and shall cease to be assets of AIUD;
- (iii) that with effect from the Scheme Effective Date all rights, benefits and powers conferred on or vested in AIUD and the liabilities imposed on AIUD by or under the Transferring Contracts shall be transferred to Bothnia;
- (iv) that with effect from the Scheme Effective Date all premiums or amounts attributable or referable to the Transferring Policies shall be payable to Bothnia;
- (v) that with effect from the Scheme Effective Date Bothnia shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Policies and the Transferring Contracts, which would have been available to AIUD;
- (vi) that with effect from the Scheme Effective Date all references in any Transferring Policy or Transferring Contract to AIUD, the board of directors of AIUD, or any other officers or agents of AIUD shall be read as references to Bothnia, the board of directors of Bothnia, or any other officers, employees or agents of Bothnia or, where appropriate, agents of Bothnia to which the administration carried on by Bothnia 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 AIUD, the board of directors of AIUD, or any other officers or agents of AIUD in relation to any of the Transferring Policies shall, from and after the Scheme Effective Date be exercisable or required to be performed by Bothnia, the board of directors of Bothnia or any other officers, employees or agents of Bothnia;

- (vii) that with effect from the Scheme Effective Date the Transferring Liabilities shall be transferred to and shall become the liabilities of Bothnia and shall cease to be liabilities of AIUD;
- (viii) that with effect from the Scheme Effective Date any mandate or other instruction in force on the Scheme 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 of in respect of any of the Transferring Contracts or the Transferring Policies shall take effect as if it had provided for and authorised such payment to Bothnia;
- (ix) that with effect from the Scheme Effective Date any mandate or other instruction in respect of any of the Transferring Contracts or the Transferring Policies as to the manner of payment of any benefit or other amounts by AIUD shall (and in the case of the Residual Policies (as defined in the Scheme) from the respective Subsequent Transfer Date (as defined in the Scheme) continue in force as an effective authority to Bothnia;
- (x) that with effect from the Scheme 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 pending by or against AIUD in connection with the Transferring Business shall be continued by or against Bothnia and Bothnia shall be entitled to all defences, claims, counterclaims and rights of

set-off that would have been available to AIUD in relation to any such proceedings;

- (xi) that on and with effect from each Subsequent Transfer Date, all actual and potential proceedings by or against AIUD in connection with the Residual Assets (as defined in the Scheme) or the Residual Liabilities (as defined in the Scheme) shall be continued by or against Bothnia, and Bothnia shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the AIUD in relation to such Residual Assets and Residual Liabilities;
- (xii) that with effect from the Scheme Effective Date AIUD is given liberty to transfer to Bothnia all data (including personal data) held by or on behalf of the AIUD in relation to the Transferring Policies, the Transferring Assets, the Transferring Liabilities and the Transferring Contracts (as each such term is defined in the Scheme);
- (xiii) that with effect from the Scheme Effective Date the Records (as defined in the Scheme), which may include Policyholder Data (as defined in the Scheme) protected under the Data Protection Laws (as defined in the Scheme), shall be transferred to Bothnia (such that Bothnia shall be deemed to be the Data Controller of the Policyholder Data), and may be used by Bothnia for, and disclosed by AIUD to, and used by, any agent or contractor of Bothnia to the same extent that they were used by AIUD and its agents or contractors prior to the Scheme Effective Date for all purposes in connection with the Transferring Contracts or the Transferring Policies including, in particular, administration thereof and all matters relevant or incidental thereto;
- (xiv) that with effect from the Scheme Effective Date to the extent that an authority has been given to AIUD in connection with a Transferring Policy or a Transferring Contract by a Policyholder or counterparty thereto or by any other relevant

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person, whether pursuant to Data Protection Laws or otherwise, such authority shall be deemed to have been given to Bothnia;

- (xv) that with effect from the Scheme Effective Date any document evidencing or constituting a policy contained within the Transferring Policies issued by AIUD or the right of any person to participate in benefits secured by the Transferring Policies effected with AIUD or references to AIUD or any short form or abbreviation thereof and/or to rights, powers, duties and/or obligations imposed on AIUD shall to the extent necessary to give full effect to the Scheme be read, construed and treated as references to Bothnia and/or to the rights, powers, duties and/or obligations imposed on Bothnia subject to and in accordance with the Scheme.

Liberty to apply

**REBECCA MOYNIHAN  
REGISTRAR**

**Date of Perfection: 10 July 2023**

Matheson LLP  
Solicitors for the Petitioners

**A COPY WHICH I ATTEST**

  
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**FOR REGISTRAR**