

SUMMARY OF THE SCHEME

1. Introduction

This section summarises the terms of the Scheme. It does not explain every aspect of the Scheme.

2. The Effective Date

The Scheme is conditional upon the Court granting an order pursuant to s.111 of the Financial Services and Markets Act 2000 sanctioning the Scheme. If this order is granted, it is currently proposed that the Scheme will take effect at 00:01 (GMT) on 4 December 2019 (the **Effective Date**).

3. The Effect of the Scheme

3.1 The Scheme is intended to transfer the Transferring Business, including the Transferring Autumn Policies and Transferring Chestnut Policies together with reinsurance agreements benefiting the Transferor relating to the Autumn Portfolio (**Autumn Outwards Reinsurance Agreements**), to the Transferee.

3.2 Certain policies and liabilities are specifically excluded from the Scheme. In particular:

3.2.1 Schedule 1, Part B of the Scheme Document contains a list of policies to be excluded from the Transferring Autumn Portfolio and retained by the Transferor (**Retained Autumn Policies**); and

3.2.2 certain insurance liabilities of the Transferor are excluded from the Transferring Chestnut Portfolio and will be retained by the Transferor (**Retained Chestnut Liabilities**).

3.3 If approved, the Scheme will have the following effect at the Effective Date:

3.3.1 the Transferee will replace the Transferor as insurer or reinsurer, as the case may be, under the Transferring Policies and will become entitled to the benefit of certain reinsurances that are currently held by the Transferor in respect of the Autumn Portfolio;

3.3.2 all rights and obligations of the Transferor arising from the Transferring Business, including in respect of existing claims and rights of policyholders to bring claims under expired policies, will automatically (by operation of law) transfer to, and become rights and obligations of, the Transferee and will no longer be rights and obligations of the Transferor;

3.3.3 each policyholder with a Transferring Policy contained in the Transferring Business shall (i) become entitled to the same rights against the Transferee, including any rights in respect of existing claims and to bring claims under expired policies, as were available to them against the Transferor in respect of that policy; and (ii) shall have the same obligations and be subject to the same terms and conditions in relation to that policy save that the Transferee will be substituted as the insurer in place of the Transferor;

3.3.4 all references in any Transferring Policy to the Transferor, Transferor Board, a Transferor Group Undertaking or any other officers, employees or agents of the Transferor shall, with effect on and from the Effective Date, be read as references to

the Transferee, the Transferee Board, a Transferee Group Undertaking or any other officers, employees or agents of the Transferee, respectively; and

3.3.5 any existing indemnity, power of attorney, authority, declaration or consent given to or by the Transferor relating to any part of the Transferring Business (including the Transferring Policies) shall have effect from the Effective Date as if given to, or as the case may be, by the Transferee.

4. Allocation of Chestnut Policies

From the Effective Date, in respect of any Chestnut Policy that in part is a Transferring Policy and in part covers any Retained Chestnut Liability, the Chestnut Policy will be split by the Scheme so that the part of the Chestnut Policy that relates to any Retained Chestnut Liability will be retained by the Transferor (the Retained Chestnut Policy) and that part of the Chestnut Policy that is a Transferring Policy will transfer to the Transferee (the Transferring Chestnut Policy). The Transferor will continue to be the insurer under the Retained Chestnut Policy and the Transferee will become the insurer under the Transferring Chestnut Policy in the manner described at paragraph 3.3, above. Under the terms of the Scheme, any limits, deductions, retentions and similar provisions contained in the Chestnut Policy before the Effective Date will, after the proposed transfer, operate in aggregate across the Retained Chestnut Policy and the Transferring Chestnut Policy as if they were a single policy in the same way as such provisions operated under the Chestnut Policy before the Effective Date (albeit with two insurers whose liability is several and not joint and several) so that the insured(s) under the Chestnut Policy have a contract with each of the Transferor and the Transferee but with respect to such provisions are no better or worse off as a result of the proposed transfer.

5. Allocation of Outwards Reinsurance

From the Effective Date, where Autumn Outwards Reinsurance Agreements include Transferring Autumn Outwards Reinsurance but also attach to Excluded Policies, Retained Autumn Policies or any other policy that is not a Transferring Policy, the effect of the Scheme is to split such Autumn Outwards Reinsurance Agreements between the Transferor and the Transferee. Any Transferring Autumn Outwards Reinsurance will vest in the Transferee, and any part of the Autumn Outwards Reinsurance Agreement that attaches to the Excluded Policies, Retained Autumn Policies or any other policy that is not a Transferring Policy shall remain with the Transferor. In such cases, the terms and conditions of the Outwards Reinsurance Agreement (including, where applicable, the deductibles, limits and any other applicable policy limitations) will continue to apply in aggregate across both the Transferor and the Transferee, so that, in effect, the reinsurer has a contract with each of the Transferor and the Transferee but is no better or worse off in respect of such contractual terms and conditions as a result of the Scheme.

6. Continuity of Proceedings

6.1 On and with effect from the Effective Date, any Proceedings (or relevant part thereof) to the extent issued, served or commenced or continued by or against the Transferor in connection with the Transferring Business, Transferring Policies, the Transferring Assets or the Transferring Liabilities shall be commenced or continued by or against the Transferee and the Transferee shall be entitled to all claims, counterclaims, defences, defences to counterclaims and rights of set-off that were or would have been available to the Transferor in relation to the Transferring Business (or relevant part thereof).

6.2 Any judgment, settlement, order or award obtained by or against the Transferor which relates to any part of the Transferring Business and which is not fully satisfied before the

Effective Date shall on that date and to the extent to which it was enforceable by or against the Transferor immediately prior to such date, become enforceable by or against the Transferee (to the exclusion of the Transferor).

- 6.3 On and with effect from the Effective Date, any Proceedings (or relevant part thereof) for the resolution of a dispute or a claim in relation to the Transferor and concerning the Transferring Business shall be commenced against the Transferee. Any such Proceedings (or relevant part thereof) commenced in error against the Transferor after the Effective Date shall be deemed to have been commenced and shall be continued against the Transferee without the need for further order, whether for substitution of parties or otherwise. In any event, the Transferee shall be entitled to all defences, claims, counterclaims, defences to counterclaims and rights of set off that would have been available to the Transferor in relation to the Transferring Business and such Proceedings (or relevant part thereof).

7. **Residual Assets and Residual Liabilities**

- 7.1 It is possible that some of the policies and/ or rights, obligations or Proceedings under them (the **Residual Assets** and **Residual Liabilities**) that would otherwise be included in the Transferring Business will not transfer on the Effective Date, for example:

7.1.1 if the Court either does not have jurisdiction to transfer such Residual Assets or Residual Liabilities or if the Court does have such jurisdiction but determines not to transfer such Residual Assets or Residual Liabilities on the Effective Date;

7.1.2 if the Transferor and the Transferee agree before the Effective Date that such Residual Assets or Residual Liabilities should not transfer at that time.

- 7.2 Any Residual Assets or Residual Liabilities will be transferred (if appropriate) once the relevant restriction to the transfer has been removed (the date of each such transfer, a **Subsequent Transfer Date**).

- 7.3 The Transferor will hold any Residual Assets on trust for the Transferee, with effect from the Effective Date.

- 7.4 The Transferee will continue to administer any Residual Assets and/or Residual Liabilities on behalf of the Transferor, and the Transferee shall have full authority to conduct any related proceedings or, where appropriate, direct the Transferor as to the conduct of such proceedings.

8. **Excluded Policies, Excluded Assets and Excluded Liabilities**

- 8.1 In certain circumstances, policies that are intended to be included in the proposed transfer may be specifically excluded from the transfer by the Court (**Excluded Policies**). Any assets relating to Excluded Policies (or assets which are otherwise not proposed to transfer under the Transfer) (**Excluded Assets**) or liabilities relating to the Excluded Policies (or liabilities which are otherwise not proposed to transfer under the Transfer) (**Excluded Liabilities**) are also excluded from the Transfer.

- 8.2 If there are any Excluded Policies, then the Transferor and the Transferee shall enter into the Excluded Policies Reinsurance Agreement pursuant to which, on and with effect from the Effective Date, all the liabilities of the Transferor attributable to the Excluded Policies, and all other amounts paid or payable by the Transferor in respect of such Excluded Policies, shall be reinsured in their entirety to the Transferee.

9. **Mandates**

Any mandates including direct debits, standing orders or other instructions or authorities payable to or from the Transferor in respect of the Transferring Business and in force at the Effective Date will after the Effective Date be payable to or from the Transferee.

10. **Data Protection**

The Transferee will succeed to all rights, liabilities and obligations of the Transferor in respect of any personal data which relates to the Transferring Business and which is subject to applicable data protection legislation, including General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016) and any national laws implementing or supplementing it.

11. **Costs and Expenses**

All costs and expenses incurred in connection with the Scheme shall be paid by the Transferor and the Transferee in accordance with the terms of the framework agreement dated 30 June 2016 between, *inter alios*, the Transferor and the Transferee as amended and restated on 29 August 2017.

12. **Modifications, amendments or additions**

12.1 Prior to the Effective Date, the Transferee and the Transferor may consent on their own behalf and on behalf of the persons bound by the Scheme and all other persons concerned (other than the PRA and the FCA) to any modification of or addition to the Scheme which the Court may approve or impose prior to the sanction of the Scheme.

12.2 At any time after the sanction of the Scheme by the Court, the Transferor and the Transferee may apply to Court for its approval of any further amendments, subject to the FCA and PRA being notified of such amendments and to the application being accompanied by a certificate from an independent actuary confirming that in his or her opinion the proposed amendment will not materially adversely affect the policyholders of the Transferor or Transferee.

12.3 Court approval will not be necessary in the event of minor and/or technical modifications to the Scheme, including modifications to correct manifest errors, provided that the FCA and the PRA have been notified in advance and have indicated that they do not object to any such modification.

13. **Governing Law**

The terms of the Scheme are governed by and construed in accordance with English law.

14. **Glossary of defined terms**

Capitalised terms used and not defined above have the meanings attributed to them in the Scheme Document.