

THE HIGH COURT

2020 Record No. 2020/271 COS

IN THE MATTER OF INORA LIFE DESIGNATED ACTIVITY COMPANY

AND IN THE MATTER OF MONUMENT LIFE INSURANCE DESIGNATED ACTIVITY  
COMPANY

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

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PETITION

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TO THE HIGH COURT

The Humble Petition of the directors of Inora Life Designated Activity Company ("**Inora**") (whose respective names and addresses are set out in the **First Schedule** here to) shows as follows:

**Section 1: Inora**

1. Inora is a life assurance company under registered number 329745, having its registered office at Two Park Place, Ground Floor, Hatch Street Upper, Dublin 2. Inora was incorporated in the State on 4 July 2000 under the laws of Ireland a private limited company.
2. Inora was initially registered as Lyxor Life Limited. On 4 January 2001, it changed its name to Inora Life Limited. On 15 March 2016, it converted to a designated activity company under part 16 of the Companies Act 2014.
3. The constitution of Inora provides that the objects for which Inora is established are, *inter alia*,:

A.

*(1) to carry on in any part of the world the business of an insurance company transacting ordinary life insurance business, meaning business of any of the following kinds, namely:-*

- (a) *effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life, but excluding (in each case) contracts within (c) below;*
- (b) *effecting and carrying out contracts of insurance to provide a sum on marriage or on the birth of a child, being contracts expressed to be in effect for a period of more than one year;*
- (c) *effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life where the benefits are wholly or partly determined by reference to the value of, or the income from, property of any description (whether or not specified in the contracts) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified in the contracts);*
- (d) *effecting and carrying out contracts of insurance against personal injury including incapacity of employment, insurance against death resulting from an accident and insurance against disability resulting from an accident or sickness, where these various kinds of insurance are underwritten in addition to life assurance;*
- (e) *effecting and carrying out contracts of insurance providing specified benefits against risks of persons becoming incapacitated in consequences of sustaining injury as a result of an accident or of an accident of a specified class of sickness or infirmity;*
- (f) *effecting and carrying out tontines;*
- (g) *effecting and carrying out capital redemption contracts;*
- (h) *effecting and carrying out contracts to manage the investments of pension funds or such contracts that are combined with contracts of insurance covering either conservation of capital or payment of a minimum interest.*

(2) *to re-insure or counter-insure any of the risks undertaken by the Company.*

...

(27) *to do all such other things as are incidental or conducive to the attainment of the above objects or any of them.*

4. Inora is empowered by Article 3 (19) of its memorandum of association to *“sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures or securities of any other company whether or not having objects altogether or in part similar to those of this Company.”*
5. Inora is authorised by the Central Bank of Ireland (the **“Central Bank”**) to carry on life insurance business under Class III (*Contracts linked to investment funds with connected Class I*) and Class VI (*Capital redemption operations with connected Class I*) as set out in Schedule 2 of the European Union (Insurance and Reinsurance) Regulations 2015 (the **“2015 Regulations”**). Although authorised under Class VI, Inora does not have any Class VI business.
6. As of 27 March 2020, the sole shareholder of Inora is MLIDAC (the Transferee) (as defined below at Section 3).

## **Section 2: Background**

7. Inora, an Irish registered insurer which is regulated by the Central Bank, has agreed to sell its Transferring Business (the **“Transferring Business”**, as defined in the scheme of transfer scheduled to this Petition (the **“Scheme”**)) to Monument Life Insurance Designated Activity Company (**“MLIDAC”**), which is an Irish life assurance undertaking.
8. Inora and MLIDAC are part of the MonumentRe group of companies (the **“Monument Group”**) and are both indirect subsidiaries of Monument Re Limited, a company registered under the laws of Bermuda and having its registered office at Crown House, 4 Par-la-ville Road, Hamilton HM08, Bermuda. The Monument Group is currently undertaking a consolidation project of its Irish entities and as a result of this consolidation, Monument Trinity B DAC (formerly known as Monument Assurance DAC) (MLIDAC’s current direct shareholder) and Monument Trinity A DAC (formerly known as Monument Insurance DAC) (the current direct shareholder of Monument Trinity B DAC) will be wound up by way of members’ voluntary liquidation which will result in Monument Re Limited becoming the direct shareholder of MLIDAC. It is expected that this will happen in advance of the Scheme Effective Date (as defined in the Scheme).

9. The terms of the transfer of the Transferring Business (which includes the Transferring Policies, the Transferring Contracts, the Transferring Assets and the Transferring Liabilities) are set out in the Scheme.
10. It is intended that the legal interest in the Transferring Business will transfer to MLIDAC with effect from the 23:59 on 31 December 2020 (the “**Scheme Effective Date**”).

### **Section 3: The Transferee**

11. MLIDAC is a life assurance company under registered number 325795. It has its registered office and principal place of business at Two Park Place, Hatch Street Upper, Dublin 2. MLIDAC was incorporated in the State on 8 April 2000 under the laws of Ireland as a private limited company.
12. MLIDAC was initially registered as Pumry Limited. On 4 April 2011, it changed its name to Laguna Life Limited. On 2 June 2016, it converted to a designated activity company under part 16 of the Companies Act 2014. On 2 April 2020, it changed its name to Monument Life Insurance Designated Activity Company.
13. The objects for which MLIDAC is established are detailed in Article 2 of its Memorandum of Association as, *inter alia*,:

*3.1 to carry on the business of life assurance and non-life assurance in all or any of the class(es) as authorised by the Central Bank of Ireland as the same are defined in the European Union (Insurance and Reinsurance) Regulations 2015 (as the same may at any time be amended, modified and / or supplemented by statute, regulation or otherwise.)*

*3.2 to effect and carry out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby, in return for one or more premiums paid to the insurer, a sum or a series of sums may become payable to the insured in the future;*

*3.3 to undertake, accept and enter into contracts, agreements and treaties of reinsurance and counter-insurance of life assurances risks and liabilities of any kind granted or accepted by other persons or bodies (with full power to retrocede all and any reinsurance or counter-insurance business);*

*3.4 to counter-insure or reinsure any insurance risks or liabilities undertaken by the Company;*

*3.5 to carry on all or any kind of indemnity or guarantee business whether of a kind now known or hereafter devised;*

*3.13 to carry on such further or other businesses as may be consistent with the objects set out above.”*

14. MLIDAC is authorised by the Central Bank under the 2015 Regulations to carry on life insurance business under Class I (*Life assurance and contracts to pay annuities on human life, but excluding Classes II and III*), Class III (*Contracts linked to investment funds*), and Class IV (*Permanent health insurance contracts*) as set out in Schedule 2 of the 2015 Regulations.
15. MLIDAC is also authorised to carry on non-life insurance Classes I, II and XVI (such authorisation extending to cover the closed books of business which MLIDAC acquired from Monument Trinity B DAC and Monument Trinity A DAC pursuant to a scheme of transfer which became effective on 30 June 2020).
16. MLIDAC has also applied to the Central Bank to extend its authorisation to include Class VI (*Capital redemption operations*) life insurance business, as such class is defined in Schedule 2 of the 2015 Regulations (although this class is not relevant to the Transferring Business).
17. MLIDAC proposes to accept a transfer of the Transferring Business from Inora under the Scheme and is empowered to do so by clause 3.13 of its Memorandum of Association which permits it “*to acquire and undertake the whole or any part of the business, property, goodwill and assets of any person firm or company carrying on or proposing to carry on any of the businesses which the company is authorised to carry on, or which can be conveniently carried on in connection with the same, or may seem calculated directly or indirectly to benefit the company.*”.
18. The sole shareholder of MLIDAC is Monument Trinity B DAC being a company incorporated under the laws of Ireland with registered number 265960 and having its registered office and principal place of business at Two Park Place, Upper Hatch Street, Dublin 2. It is proposed that Monument Trinity B DAC and Monument Trinity A DAC (the current direct shareholder of Monument Trinity B DAC) will be wound up by way of member’s voluntary liquidation shortly and as part of the liquidation process, the shares in MLIDAC will be transferred to Monument Re Limited so that Monument Re Limited (a company registered under the laws of Bermuda and having its registered office at Crown House, 4 Par-la-ville Road, Hamilton, HM08, Bermuda) will become the sole shareholder of MLIDAC. Monument Re is a Bermuda incorporated reinsurer and acquirer of asset-intensive European insurers, often in run-off. Monument Re is backed by shareholders including Hannover Re, the world’s third

largest reinsurer; NASDAQ-listed Enstar, a leading P&C run-off consolidator, and E-L Financial, the parent company of Canadian life insurer, Empire Life.

#### **Section 4: The Proposed Transfer**

19. It has been resolved by the board of directors of Inora on 24 March 2020 and by written resolution of the board of directors of MLIDAC on 19 August 2020 that, subject to the sanction of this Honourable Court, the Transferring Business will be transferred from Inora to MLIDAC with effect from the Scheme Effective Date.
20. The primary commercial purposes of the Scheme are to make provision for the transfer of the Transferring Business from Inora, as legal and beneficial owner, to MLIDAC and the consequent assumption of, *inter alia*, the Transferring Assets, and the Transferring Liabilities (which terms are defined in the Scheme) by Inora such that MLIDAC shall succeed to the rights and obligations of Inora under the Transferring Policies and Transferring Contracts with effect from the Scheme Effective Date. The transfer permits MLIDAC to complement its existing book of business and will enable Inora to cease carrying on insurance business and surrender its authorisation to the Central Bank. It is intended that the contracts relating to the Transferring Business (as defined in the Scheme) will transfer from Inora to MLIDAC subject to the Scheme being sanctioned by this Honourable Court. Inora will liaise with third party service providers in this regard, as required.
21. As the proposed Scheme is intra-group, a business transfer agreement has not been deemed necessary by Inora or MLIDAC.
22. The Transferring Business comprises the life insurance business falling within Class III (*Contracts linked to investment funds with connected Class I*) as set out in Schedule 2 of the 2015 Regulations.
23. The Transferring Policies (as defined in the Scheme) to be transferred pursuant to the Scheme means any policy or policies issued by Inora which are, or may be deemed to have been, in existence on or before the Scheme Effective Date but excluding Residual Policies (as defined in the Scheme). All of the Transferring Policies are covered by Inora's Class III authorisation. Inora does not have any Class VI business.
24. The Member States of the EEA in which Transferring Policies were concluded for the purposes of the 2015 Regulations were Belgium, France, Germany and Italy.

25. Notwithstanding the above, a small number of Transferring Policyholders subsequently relocated to Austria, Denmark, Luxembourg, The Netherlands, Poland and the United Kingdom (being the Member States where the risks are situated in this instance for the purposes of Regulation 41(5)(b) of the 2015 Regulations) (the **“Member States of the Commitment”**) and also to a number of third countries (being Canada, China, the Ivory Coast, Japan, Morocco, Switzerland, Australia and the USA).
26. The proposed transfer of the Transferring Business to MLIDAC will not cause prejudice to any of the Policyholders nor will it cause prejudice to any other third parties.

#### **Section 5: Report of Independent Actuary**

27. Pursuant to section 13(3)(b) of the 1909 Act, Brian Morrissey of KPMG an independent actuary (the **“Independent Actuary”**) has prepared a report dated 11 August 2020 (the **“Report”**). The Independent Actuary has also prepared a summary of the Report of even date (the **“IA Summary Report”**) and notes in the Report that the summary version of the Report covers the material points and issues raised in the Report and notes that the IA Summary Report will be provided to the Transferring Policyholders.
28. The Report sets out the Independent Actuary’s opinion of the likely effects of the Scheme on Inora and MLIDAC (referred to collectively in the Report as the **“Scheme Companies”**) and which includes (i) transferring Inora policyholders and (ii) the existing MLIDAC policyholders.
29. A conclusion of the key findings of the Independent Actuary are set out at section 2.1.5 of the Report.
30. In completing the Report, the Independent Actuary examined the consequences and potential consequences of the Scheme. The Independent Actuary identified the groups of policyholders effected and considered (i) the effect of the Scheme on the assets, liabilities and regulatory capital of the Scheme Companies, (ii) the impact of the Scheme on the security of each group of policyholders, (iii) the impact of the Scheme on the benefit expectations of each group of policyholders, and (iv) other aspects of the impact of the Scheme for example, the policyholder service and any changes in administration or other arrangements.

31. Having considered the impact of the Scheme on both the transferring Inora policyholders and existing MLIDAC policyholders, the Independent Actuary noted that in his opinion; (i) the Scheme will not have a material adverse effect on the reasonable benefit expectations of any of the Policyholders (as defined in the Scheme meaning both the transferring Inora policyholders and existing MLIDAC policyholders) involved; and (ii) the risk to policyholder security is remote. Therefore, I note it is the Independent Actuary's view that Policyholders will not be materially adversely affected by the proposed Scheme.

### Assessment of the Scheme on the Financial Security of Policies (Section 8)

32. At section 8 of the Report, the Independent Actuary assesses whether the Scheme will impact on the financial security of policies. At section 8.2, the Independent Actuary considers the relative capital strength of the Scheme Companies prior to and post the Scheme in respect of all groups of policyholders. These figures are current projections and may be updated in any supplementary report.
33. The projected capital and solvency position of MLIDAC pre- and post-transfer is set out in Table A below. This is based on pro-forma results as at 31 March 2020 and for comparison purposes, the solvency position of Inora is provided:

Table A: Inora and MLIDAC Illustrative Solvency Position (€m)					
	Inora - Pre-Transfer	MLIDAC - Pre-Transfer	MLIDAC – Pre-Transfer but post various Schemes*	MLIDAC – Post Transfer (Gross)**	MLIDAC – Post Transfer (Net)**
Own Funds	13.1	27.9	30.7	29.7	30.0
Solvency Capital Requirement	3.1	8.8	16.6	18.4	15.9
Capital required	3.7	8.8	16.6	18.4	15.9
Excess of Own Funds over Solvency Capital Requirement	9.4	19.1	14.1	11.3	14.0
<b>Solvency Coverage Ratio</b>	<b>353%</b>	<b>317%</b>	<b>185%</b>	<b>161%</b>	<b>188%</b>

34. The Independent Actuary notes that MLIDAC has an internal capital management target of 140% of Solvency Capital Ratio (“**SCR**”) plus an intragroup reinsurance capital buffer. The Independent Actuary notes that pre-transfer, it is proposed that there will be a dividend payment of €5 million from Inora to MLIDAC that serves to ensure that MLIDAC is capitalised to meet its internal capital management target and to reduce MLIDAC's solvency capital requirements at the Scheme Effective Date. The Independent Actuary notes this is a key capital management action and an



assumption in his assessment. An update will be provided in this regard in any supplemental report.

35. Post-transfer, MLIDAC's level of Own Funds decreases from €30.7m to €29.7m due to a reduction of €1m from portfolio transfer costs. MLIDAC's SCR is expected to increase from €16.6m to €18.4m and the level of excess Own Funds will fall from €14.1 million to €11.3 million. MLIDAC's solvency coverage ratio will continue to meet its internal target capital level at 161%.
36. After the intragroup reinsurance arrangement is implemented and the dividend is paid, *"the regulatory capital coverage increases from 161% to 188%. The level of Own Funds increases to a small extent from €29.7m to €30.0m and the SCR decreases from €18.4m to €15.9M."* This is useful to note from the perspective of existing MLIDAC policyholders, as the planned reinsurance is similar in nature to the existing reinsurance structures that are already in place. According to the Independent Actuary *"the combined impact of the reinsurance and capital management action mean that the solvency coverage which existing MLIDAC policyholders enjoy has remained broadly stable as a result of the Scheme, i.e. it still remains well in excess of the regulatory minimum levels and continues to meet its internal capital targets."*
37. Pre-transfer, Inora has a solvency capital requirement of €3.1m, which is floored at the MCR level of €3.7m. In addition, Inora has Own Funds of €13.1m, excess of available Own Funds above the regulatory requirements of €9.4m and an SCR of 353%. According to the Independent Actuary, *"[a] key management action which was agreed at Board level and assumed within the calculation of the technical provisions is that the business will transfer to MLIDAC as at 30 September 2020. The strong regulatory capital position reflects this management action and is a key consideration.....Without the management action, Inora would be impacted with diseconomies of scale and its solvency would be threatened."*
38. Post-transfer, the Inora policyholders will move to MLIDAC, a larger life insurance company that specialises in the service and administration of closed books of insurance business such as the Inora book. Post-transfer of Inora and various other Schemes, MLIDAC is anticipated to have a regulatory capital requirement of €18.4m, available Own Funds of €29.7m, and excess available Own Funds above the regulatory requirement of €11.3m, with an SCR of 161%. According to the Independent Actuary, *"the portfolio transfer of the Inora business means that the*

*solvency coverage which transferring Inora policyholders currently enjoy has decreased.”*

39. The Independent Actuary notes that “[w]hile the regulatory capital coverage has reduced for transferring Inora policyholders, they are now part of a larger entity with a higher level of own funds and a more diversified risk profile.” In addition, the Independent Actuary notes *“the current level of regulatory capital coverage that Inora policyholders currently enjoy reflects the transfer being executed, as without it the solvency position of Inora as a stand-alone entity would be threatened.”*
40. For Inora policyholders, after the implementation of the intragroup reinsurance cover, the regulatory capital coverage is still lower than the position before the portfolio transfer. However, according to the Independent Actuary, *“this reflects the transfer being executed, as without it the solvency position of Inora as a stand-alone entity would be threatened.”*
41. The Independent Actuary concludes, in relation to the solvency coverage that:
- i. The Scheme will not have a material adverse effect on the financial security of the transferring Inora policyholders and existing MLIDAC policyholders; and
  - ii. The level of Own Funds and solvency coverage in MLIDAC post-transfer is well in excess of the regulatory minimum and is above the internal target levels set by MLIDAC.

#### **Conclusion on the Impact of the Scheme on the Security of Policies (Section 8.4 of the Report)**

42. The Independent Actuary considered the following key elements when assessing the security of the transferring Inora policyholders and existing MLIDAC policyholders: (i) regulatory regime requirements; (ii) capital resources available; (iii) risk profile; (iv) capital profile; and (v) risk and capital mitigation plans. The Independent Actuary noted that based on his consideration of these key elements, the risk of Policyholders’ benefits being adversely affected in terms of financial security is remote and accordingly the transferring Inora policyholders and existing MLIDAC policyholders will not be materially adversely affected by the Scheme.

#### **Fair Treatment of Policyholders (Section 9 of the Report)**

43. The Independent Actuary also considered the effects of the Scheme on the fair treatment of transferring Inora policyholders and existing MLIDAC policyholders, focusing on the following aspects:
- (a) Security of benefits – having considered the financial strength and ongoing compliance with the Solvency II regulatory requirements, the implementation of the Scheme is not expected to have a material adverse effect on the security of the transferring Inora policyholders or existing MLIDAC policyholders.
  - (b) Fund range – all funds which are available to Inora policyholders will still be available after the Scheme completes. It is MLIDAC's intention to maintain the breadth of offering currently provided by Inora under consideration of applicable local regulatory requirements. According to the Independent Actuary, the implementation of the Scheme will not have an adverse effect on the fair treatment of Policyholders in this regard.
  - (c) Entitlement to benefits – existing practices in respect of surrender, maturity, transfer, or death will remain in place post-transfer. Claims which are settled as part of the normal course of business will be dealt with in the same way post-transfer. The implementation of the Scheme will not have an adverse effect on the fair treatment of policyholders in this regard.
  - (d) Policy terms and conditions – there will be no change to policy terms and conditions of the Transferring Policies or to the existing MLIDAC policies.
  - (e) Servicing of policies – Inora intends to migrate the finance, policy administration and fund administration services from the existing service provider, DST, effective 31 August 2020. Policy administration services will migrate to Equiniti and this will take effect from 10 August 2020. Fund administration and finance services will migrate to MISL and will take effect from 31 August 2020. The Independent Actuary notes no issues as this is expected to be completed prior to the Scheme.
  - (f) Expenses and charges – these will remain unchanged as a consequence of the Scheme for all Policyholders and there are no issues to note.

- (g) Costs of the Scheme – all costs associated with the Scheme will be borne by the shareholders of Inora and MLIDAC or by Inora and MLIDAC directly. No costs will be borne by Policyholders and there are no issues to note.
  - (h) Discretion – with regard to the management of the Inora policies, the levels of discretion available to management are limited, relating to the charges levied, the funds offered and the approach to unit-pricing. There are some minor areas of discretion where Inora has the right to vary charges on some policies sold in Belgium however, Inora has never exercised these discretionary powers and expects that this practice will not change.
  - (i) Complaints and redress – the complaints handling procedures adopted by the Scheme Companies at present are well aligned. Both the transferring Inora policyholders and existing MLIDAC policyholders currently escalate claims to the Financial Services and Pensions Ombudsman. There will be no changes as a result of the Scheme for the Policyholders and there are no issues to note.
  - (j) Taxation – the Report notes that the transferring Inora policyholders will be unaffected by the Scheme in respect of taxation.
  - (k) Policyholder Communications – The Independent Actuary notes that he was provided with a copy of the communications circular and notes that he has no issue with it. In particular he notes that the IA Summary Report covers the material points and issues raised in the Report. He further notes that overall he is comfortable with the communication approach and comfortable that the existing MLIDAC policyholders will not be disadvantaged in any way by not being issued with a copy of either the IA Report or the IA Summary Report.
44. The Independent Actuary notes that overall, he is comfortable that Policyholders will be treated fairly post-transfer and their reasonable expectations will not be adversely affected due to the transfer.

## **Section 6: Regulatory Matters**

- 45. For the purposes of Article 41 of the 2015 Regulations, Inora notified the Central Bank of the proposed Scheme on 27 July 2020.
- 46. By virtue of the fact that the Central Bank is the competent authority of the Transferee (ie, MLIDAC) as well as Inora, there is no requirement that the Central Bank notify

any other EEA competent authority for the purpose of Regulation 41 (3)(a) of the 2015 Regulations.

47. Pursuant to Regulation 41 (3)(b) of the 2015 Regulations, the proposed Scheme cannot be effected without also obtaining the agreement of the competent authority of each EEA Member State where the contracts “*were concluded, either under the right of establishment or the freedom to provide services.*” The Transferring Policies were concluded in Belgium, France, Germany and Italy. Notwithstanding this, some EU regulators expect to be notified of the transfer in circumstances where there are policyholders resident in their jurisdiction notwithstanding that the contracts were not concluded there. This was the practice before Solvency II became law and while it is not strictly required under Solvency II, it may be prudent to adopt this approach in order to avoid any regulator raising the issue. Accordingly, Inora has requested that the Central Bank notify the regulators in the Member States of the EEA where the Transferring Policyholders are now resident as set out in Schedule 3.
48. If the regulators do not respond to the Central Bank within 3 months, the Central Bank shall be entitled to deem the regulators to have consented to the proposed Scheme.
49. Under Italian law, there is an obligation for the transferor (Inora) to notify the Italian regulator directly about a proposed transfer. Accordingly, counsel on behalf of Inora directly notified the Italian regulator (IVASS) about the transfer on 14 August 2020.

#### **Section 7: Local Counsel Advice**

50. In circumstances where the Transferring Policyholders are resident in Belgium, France, Austria, Denmark, Luxembourg, The Netherlands, Poland, the United Kingdom and Germany in addition to Italy, advice was sought from local counsel in each of these jurisdictions to ensure that Inora complies with its advertising / notification requirements in each of those jurisdictions.

#### **Section 8: Notification / Advertisements**

51. A detailed communications plan has been prepared to ensure that all interested parties are made aware of the proposed Scheme.
52. As of 17 July 2020, Inora had approximately 1,910 policies in issue which will transfer to MLIDAC pursuant to the terms of the Scheme. In circumstances where the Transferring Business comprises life assurance business, there is a requirement

under section 13 of the 1909 Act to transmit the documents specified by section 13(3)(b) of the 1909 Act to the individual policyholders of Inora and MLIDAC.

53. For the purposes of section 13 of the 1909 Act, Inora has prepared a letter (the **"Policyholder Circular"**) in the form of a circular which sets out the material facts relating to the Scheme and will explain the nature of the Scheme and, subject to the approval of this Honourable Court, will include a précis (rather than the entire) of the Report (ie, the IA Summary Report), approved by the Independent Actuary. The IA Summary Report has been approved by the Independent Actuary and he is satisfied that a précis of the Report should be furnished to the Policyholders rather than the full text of the Report as set out in Section 9.2.11 of the Report. A copy of the Policyholder Circular (in English) will be sent to the last known address of the holders of the Transferring Policies and will be issued in the same language used in the policy documentation provided to that policyholder by Inora.
54. In accordance with section 13(3)(b) of the 1909 Act, the Policyholder Circular is to be transmitted to each policyholder of Inora and MLIDAC at their last known address unless this Honourable Court gives a direction to the contrary. In the present case and in circumstances where the Independent Actuary has confirmed in his Report that the Scheme will have no material adverse effect on the Transferee Policyholders, it is proposed that the Policyholder Circular should not be transmitted to the existing policyholders of MLIDAC. It is instead proposed that the Policyholder Circular should be transmitted only to the Transferring Policyholders. The Independent Actuary has confirmed in his Report that he is satisfied that it is appropriate to proceed in this way. It is therefore proposed, subject to the directions of this Honourable Court, that the Policyholder Circular should only be transmitted to the Transferring Policyholders. Additional reasons why it is considered that this proposal is appropriate are set out below:
  - (a) that given the number of the total number of Policyholders involved, the additional cost and expense of sending the Policyholder Circular to the existing Transferee Policyholders would be circa €285,000 and as such, it would be disproportionate to any benefit that might be obtained by the Transferee Policyholders in having the documentation transmitted to them;
  - (b) the transmission of such documentation to the Transferee Policyholders may cause unnecessary concern and confusion on their part – namely that their

rights and entitlements under their policy might in some way be undermined by the proposed Scheme, when in fact this is not the case;

- (c) no further action is required by the Transferee Policyholders;
- (d) it is clear from the Report of the Independent Actuary that the risk profile of MLIDAC *“does not change as Inora was consolidated onto the MLIDAC balance sheet as at 31 December 2019”* (section 8.2.6) and therefore, the transfer does not expose the existing MLIDAC policyholders to any new kinds of risks;
- (e) the Independent Actuary concludes that *“the risk of MLIDAC policyholders’ benefits being adversely affected in terms of financial security is remote. Therefore, in my view, MLIDAC policyholders will not be materially adversely affected by the proposed Scheme”* (section 8.4.2); and
- (f) that the Court can draw comfort from the fact that, in accordance with the other direction sought from the Court, the proposed Scheme and hearing of the Petition will be advertised in a number of publications as well as on the website of both Inora and MLIDAC and further any Policyholder who is concerned that they might be affected by the proposed Scheme will be entitled to avail of the applicable and relevant helplines which will be operated by both Inora and MLIDAC.

55. In compliance with Section 13(3)(a) of the 1909 Act and subject to the directions of this Honourable Court, a notice of intention to make this application together with the hearing date (the **“Pre-Transfer Notice”**) shall be published in (i) Iris Oifigiúil (ii) the Irish Independent (iii) the Irish Examiner and (iv) The Financial Times (International) Edition.

56. Furthermore, in accordance with the requirements of section 13(3)(c) of the 1909 Act, the Report together with the Petition and the Scheme (the **“Transfer Documents”**) will be available for inspection, Monday to Friday (public holidays excepted) between the hours of 9:00 a.m. to 5:00 p.m. at (i) the offices of Inora and MLIDAC at Two Park Place, Hatch Street Upper, Dublin 2; and (ii) the offices of the Petitioner’s solicitors, Matheson, 70 Sir John Rogerson’s Quay, Dublin 2 for not less than 15 clear working days between the date of the advertisement of the Petition in Iris Oifigiúil, the Irish Examiner, the Irish Independent and the Financial Times (International Edition) and the date fixed for the hearing of the Petition. In addition, the Transfer Documents will

be available online at <http://www.inoralife.com> and <https://www.monumentregroup.com>. Given the current situation with COVID-19, any requests by Policyholders to review the documents must make an appointment in order to do so.

57. Copies of this Petition and its schedules will be served on the Central Bank following the Directions Hearing.
58. In accordance with Regulation 41(5)(b) of the 2015 Regulations, a notice of the proposed Scheme (being in the same form as the Pre-Transfer Notice) will be published in the Member States listed in Schedule 3 (being the Member States of the Commitments in this instance) in accordance with and to the extent required by the laws of those Member States.

### **Section 9: Costs & Expenses**

59. Except as otherwise agreed in writing, all costs and expenses relating to the preparation of the Scheme and application for the sanction of the Scheme, including the costs of the Independent Actuary and complying with the Order shall be borne jointly by Inora and MLIDAC. No costs or expenses shall be borne by the Policyholders.

### **YOUR PETITIONER THEREFORE HUMBLY PRAYS AS FOLLOWS:**

- (1) An Order pursuant to the provisions of Section 13 of the 1909 Act (as amended), the 2015 Regulations and Section 36 of the Insurance Act 1989 (as amended) sanctioning the Scheme (annexed hereto);
- (2) An Order pursuant to Section 36 of the Insurance Act 1989 making the following ancillary provisions for implementing the Scheme with each such provision to take effect from the Scheme Effective Date unless otherwise stated herein: -
  - (i) the Transferring Business (which includes the Transferring Policies, the Transferring Assets, the Transferring Liabilities and rights of Inora in the Transferring Contracts (each as defined in the Scheme)) will be transferred to MLIDAC;
  - (ii) that all rights, benefits and powers conferred on or vested in Inora and the liabilities imposed on Inora by or under the Transferring Contracts shall be transferred to MLIDAC;



- (iii) that all premiums or amounts attributable or referable to the Transferring Policies shall be payable to MLIDAC;
- (iv) that MLIDAC shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of any of the Transferring Contracts which would have been available to Inora;
- (v) all references in any of the Transferring Contracts to Inora, the board of directors of Inora, or any other officers or agents of Inora shall be read as references to MLIDAC, the board of directors of MLIDAC, or any other officers, employees or agents of MLIDAC or, where appropriate, agents of MLIDAC to which the administration carried on by MLIDAC 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 Inora, the board of directors of Inora, or any other officers or agents of Inora in relation to any of the Transferring Policies shall, from and after the Scheme Effective Date be exercisable or required to be performed by MLIDAC, the board of directors of MLIDAC or any other officers, employees or agents of MLIDAC;
- (vi) that for the Transferring Liabilities, liabilities shall be transferred to and shall become the liabilities of MLIDAC and shall cease to be liabilities of Inora;
- (vii) that 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 or 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 MLIDAC;
- (viii) that any mandate or other instruction in force on the Scheme Effective Date 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 Inora 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 MLIDAC;
- (ix) that 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 Inora in connection with the Transferring Business shall be continued by or against MLIDAC and MLIDAC shall be

entitled to all defences, claims, counterclaims and rights of set-off that would have been available to Inora in relation to any such proceedings;

- (x) on and with effect from each Subsequent Transfer Date, all actual and potential proceedings by or against Inora 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 MLIDAC, and MLIDAC shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to Inora in relation to such Residual Assets and Residual Liabilities;
- (xi) Inora is given liberty to transfer to MLIDAC all data (including personal data) held by or on behalf of the Inora in relation to the Transferring Business (as defined in the Scheme);
- (xii) the Records (as defined in the Scheme), which may include Transferring Policyholder Data (as defined in the Scheme) protected under the Data Protection Laws (as defined in the Scheme), shall be transferred to MLIDAC (such that MLIDAC shall be deemed to be the Data Controller of the Policyholder Data), and may be used by MLIDAC for, and disclosed by Inora to, and used by, any agent or contractor of MLIDAC to the same extent that they were used by Inora 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;
- (xiii) to the extent that an authority has been given to Inora in connection with a Transferring Policy or a Transferring Contract, by a Transferring Policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Laws or otherwise, such authority shall be deemed to have been given to MLIDAC;
- (xiv) that on or from the Scheme Effective Date any document evidencing or constituting a policy contained within the Transferring Policies issued by Inora or the right of any person to participate in benefits secured by the Transferring Policies or references to Inora or any short form or abbreviation thereof and/or to rights, powers, duties and/or obligations imposed on Inora shall to the extent necessary to give full effect to the Scheme be read, construed and treated as references to MLIDAC and/or to the rights, powers, duties and/or obligations imposed on MLIDAC subject to and in accordance with the Scheme.

- (3) An Order directing that notice of said transfer be published once in each of Iris Oifigiúil, The Irish Independent, The Irish Examiner, the Financial Times (International Edition) and be further published as required in accordance with the laws of the Member States where the risks are situated and in accordance with the directions of the regulators in the Member States in which the contracts are concluded.
- (4) Such further or other Order as to this Honourable Court shall appear proper.

**NOTE**

It is intended to serve a copy of this Petition (together with the Schedules) on such parties as this Honourable Court may direct.

Presented this       day of       , 2020 in the Central Office by Matheson, Solicitors for the Petitioner, of 70 Sir John Rogerson's Quay, Dublin 2.

## **SCHEDULE 1**

### **NAMES AND ADDRESSES OF THE DIRECTORS OF INORA LIFE DESIGNATED ACTIVITY COMPANY**

- (1) Aidan Holton, 5 Temple Wood, Carton Demesne, Maynooth, County Kildare.
- (2) Jonathan Yates, The Wheelhouse, Shotatton, Ruyton-Xi-Towns Shrewsbury, United Kingdom
- (3) Kieran Hayes, Kilcoran, Rathdowney, County Laois.
- (4) Ian Britchfield, Shinawil, Ballynerrin, Upper Wicklow Town, County Wicklow.
- (5) Sheelagh Malin, 1 Vernon Grove, Rathgar, Dublin 6.
- (6) Alex Brogden, 28 Grape Bay Drive, Paget, Pg06, Bermuda.
- (7) Manfred Maske, 30 Jennings Road, Southampton, Sb04, Bermuda.
- (8) Peter Madden, 116 Newcourt Road, Bray, County Wicklow.

## **SCHEDULE 2**

### **Scheme**

### **SCHEDULE 3**

#### **EEA Member States of Risk**

1. Belgium
2. France
3. Austria
4. Denmark
5. Luxembourg
6. The Netherlands
7. Poland
8. The United Kingdom
9. Germany
10. Italy

**THE HIGH COURT**

**2020 Record No. 2020/271 COS**

**IN THE MATTER OF INORA LIFE DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF MONUMENT LIFE INSURANCE DESIGNATED ACTIVITY  
COMPANY**

**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**

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**PETITION**

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**Matheson**

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