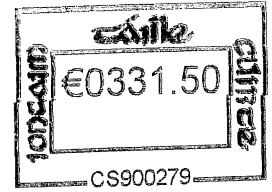
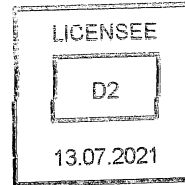


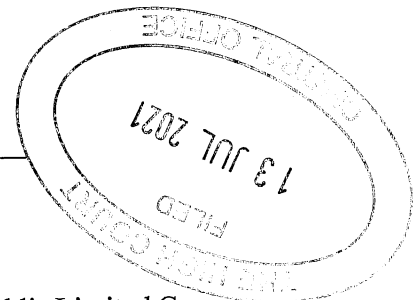
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THE HIGH COURT
2021 Record No. *166*COS

IN THE MATTER OF ATHORA IRELAND PUBLIC LIMITED 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

PETITION



TO THE HIGH COURT

THE HUMBLE PETITION of the Directors of Athora Ireland Public Limited Company (hereinafter "**Athora**") whose respective names and addresses are set out in the First Schedule hereto (together the Petitioners) show as follows:

Section 1:

Athora

1. Athora was incorporated in Ireland on 3 August 2001 as a public limited company under registration number 346275.
2. Athora was initially registered under the name Scottish Equitable International (Dublin) Public Limited Company. On 17 May 2007, it changed its name to Aegon Scottish Equitable International Public Limited Company. On 25 August

2009, it changed its name to Aegon Ireland Public Limited Company. On 29 June 2018, it changed its name to Athora Ireland plc.

3. The registered office of Athora is 2nd Floor, IFSC House, Custom House Quay, Dublin 1, D01 R2P9, Ireland.
4. The objects for which Athora is established are detailed in Clause 3 of its Memorandum of Association as, *inter alia*:

"3(1)(A)(1) To carry on all kinds of life assurance business whether of a kind now known or hereafter devised, and in particular without prejudice to the generality of the foregoing: -

- (i) to carry on all or any classes of life assurance business or any combination of the same listed in the European Union (Insurance and Reinsurance) Regulations 2015 or any statutory modification, amendment or re-enactments of the same;*
- (ii) to effect and carry out contracts of insurance on human life or contracts to pay annuities on human life; and*
- (iii) to effect and carry out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby, in relation for one or more premiums paid to the insurer, a sum or a series of sums is to become payable to the insured in the future;*

3(1)(A)(2) Subject to the provisions of Section 22(1) of the Insurance Act 1989 or any statutory modification, amendment or re-enactment of the same and any other applicable laws, rules and regulations, to undertake re-insurance and counter-insurance of life assurances and liabilities of any kind granted or accepted by other persons or bodies and for such consideration and upon such terms and conditions generally as may be thought fit;

3(1)(A)(3) To re-insure or counter-insure any insurance or liabilities undertaken by the Company;

3(1)(B)(28) To do all such other things as the Company may think incidental or conducive to the attainment of the above objects or any of them."

5. Athora is empowered by clause 3(1)(B)(12) of its Memorandum of Association to sell or dispose of all or any part of the business, property, undertaking, rights or assets of the company, for such consideration as it might think fit.
6. Athora is authorised by the Central Bank of Ireland (the "**Central Bank**") to undertake the business of life assurance in 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 VI (capital redemption operations) in accordance with the European Union (Insurance and Reinsurance) Regulations (as amended) (the "**2015 Regulations**"). Athora is also authorised to undertake life reinsurance business in the said insurance classes. Athora became authorised as a life insurance undertaking on 24 July 2002. Under Directive 2009/138/EC (the "**Solvency II Directive**"), it is entitled to carry on business in Ireland and (i) on a freedom of services basis into France, Italy, the Netherlands, Portugal and Spain and (ii) on a freedom of establishment basis into Germany. Prior to the United Kingdom's departure from the European Union, Athora was entitled under the Solvency II Directive to carry on insurance business on a freedom of services basis into the United Kingdom. Following the end of the Brexit transition period on 31 December 2020, on 1 January 2021 Athora entered the United Kingdom's Financial Services Contracts Regime ("**FSCR**"), specifically the Contractual Run-off regime ("**CRO**"). Under the CRO, Athora is permitted to wind-down its United Kingdom insurance business in an orderly manner.
7. The authorised share capital of Athora is €500,000,000 divided into 500,000,000 ordinary shares of €1 each of which 105,660,001 ordinary shares are issued and fully paid up. The entire issued share capital of €105,660,001 is held by Athora Life Re Limited, being a company incorporated under the laws of Bermuda and registered in Bermuda with the Registrar of Companies under number 52445 having its registered office at Ideation House, First Floor, 94 Pitts Bay Road, Pembroke HM08, Bermuda.

Section 2:

Monument

8. Monument Life Insurance Designated Activity Company ("**Monument**") was incorporated in Ireland on 8 April 2000 as a private company limited by shares under registration number 325795.
9. Monument was initially registered under the name Pumry Limited. On 27 July 2000, it changed its name to CitiLife Financial Limited. On 4 April 2011, it changed its name to Laguna Life Limited. On 29 April 2016, it converted to a designated activity company limited by shares under part 16 of the Companies Act 2014. On 2 April 2020, it changed its name from Laguna Life Designated Activity Company to its current name, Monument Life Insurance Designated Activity Company.
10. The registered office of Monument is at Two Park Place, Hatch Street Upper, Dublin 2, D02 NP94, Ireland.
11. The objects for which Monument is established are detailed in Clause 3 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 is to 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 reinsurance 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."

12. Monument is empowered by clause 3.27 of its Memorandum of Association 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 business 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.
13. Monument is authorised by the Central Bank to undertake the business of life insurance in 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), Class IV (permanent health insurance contracts) and Class VI (capital redemption operations). Monument is also authorised to carry on non-life insurance business under Classes 1 (accident), 2 (sickness) and 16 (miscellaneous financial loss) under the 2015 Regulations (such authorisation extending to cover the closed books of business which Monument acquired from Monument Insurance DAC and Monument Assurance DAC pursuant to a scheme of transfer which became effective on 30 June 2020). Monument became authorised as a life insurance undertaking on 31 August 2000. Under the Solvency II Directive, it is entitled to carry on business in Ireland and on a freedom of services basis into Belgium, Germany, Italy, Greece, Poland, Spain, France and Norway. Prior to the United Kingdom's departure from the European Union, Monument was entitled under the Solvency II Directive to carry on business on a freedom of services basis into the United Kingdom. Following the end of the Brexit transition period on 31 December 2020, on 1 January 2021, Monument entered the United Kingdom's Temporary Permissions Regime ("TPR"). The TPR provides European Economic Area ("EEA") head officed insurance undertakings with a temporary permission to carry on insurance business in the United Kingdom for 3 years following the end of the Brexit transition period. Monument intends to discuss its proposal regarding its continued operation in the United Kingdom with the Prudential Regulation

Authority later this year. Should Monument exit the TPR, it will enter the Supervised Run-Off (“SRO”) under the FSCR. Under the SRO, Monument will continue to be permitted to wind-down its United Kingdom insurance business, including the United Kingdom insurance and reinsurance business to be transferred to it from Athora under the Scheme, in an orderly manner within the prescribed time limit (15 years).

14. The Business (as defined in the Scheme) comprises the ULG Business (as defined in the Scheme) that is carried on by Athora. The Business falls exclusively within Class III (contracts linked to investment funds) under the 2015 Regulations. Monument’s current authorisation covers Class III. However, following consultation with the Central Bank, the Central Bank requested that Monument submit a material change in business plan prior to it acquiring and carrying on the Business that has heretofore been carried on by Athora pursuant to the 2015 Regulations. This material change in business plan was submitted by Monument to the Central Bank on 31 May 2021.
15. The authorised share capital of Monument is €30,000,000 divided into 30,000,000 of €1.00 each, of which 635,000 shares are issued and fully paid up. The entire issued share capital of €635,000 of Monument is held by Monument Re Limited (“**Monument Re**”), which in turn is in turn part of the Monument Re group. Monument Re is incorporated under the laws of Bermuda and registered in Bermuda with the Registrar of Companies under the number 51969 having its registered office at 2 Church Street, Hamilton, HM11, Bermuda. Monument Re, which is a Bermuda authorised reinsurer, is subject to group supervision by the Bermuda Monetary Authority (“**BMA**”).

Section 3:

Transfer:

16. It has been resolved by the board of directors of Athora on 25 February 2021 and by the board of directors of Monument on 20 January 2021 that subject to the sanction of this Honourable Court and subject to receiving the approval of the relevant regulatory authorities, the Business (as defined in the Scheme, a copy of which is set out in the Second Schedule to this Petition) and which includes the Transferring Policies, Business Assets, Transferring Liabilities, and the Transferring Contracts (all as defined in the Scheme) of Athora will be transferred from Athora to Monument with effect from the Effective Time (as defined in the Scheme).
17. The primary commercial purpose of the Scheme is for Monument to acquire the Business from Athora as and from the Effective Time and in accordance with the terms and conditions of the Scheme. The principal activity of Monument is the acquisition and consolidation of life assurance businesses in Europe. This transfer permits Monument to complement its existing books of business, building synergies and economies of scale. Further, the transfer enables Athora to continue to implement its long-term strategy following its acquisition by Athora Life Re Ltd, an Athora group company. This strategy involves a focus on alternative lines of business.
18. Under the terms of the Scheme and from the Effective Time, Monument will assume the Business (as defined in the Scheme), which includes the Transferring Policies, the Business Assets, the Transferring Liabilities and the Transferring Contracts (all as defined in the Scheme) and heretofore carried on by Athora. The Business is reinsured by Athora under two reinsurance contracts on a 100% (one hundred per cent) quota share basis (with the exception of residual exposure to longevity risk) to New Reinsurance Company Limited ("**New Re**"), which is a member of the Munich Re Group. Under those contracts, New Re has agreed to reimburse Athora for any guarantee payments required to be made by Athora on the Business. Those contracts are listed as Seller Contracts under the Scheme and therefore the intention is that they will transfer from Athora to Monument with effect from the Effective Time.

19. As defined in the Scheme, the Transferring Policies comprise insurance policies and reinsurance contracts underwritten by Athora up to and including the Effective Time in respect of the ULG Business (as defined in the Scheme). Regarding the transferring insurance policies, the only current Member States of the EEA where they were concluded by Athora for the purposes of the Regulation 41(3)(b) of the 2015 Regulations are Germany and the Netherlands. The United Kingdom is the only other jurisdiction where insurance policies were concluded by Athora. Those policies were concluded by Athora while the United Kingdom continued to be an EEA Member State. Regarding the transferring reinsurance contracts, the SE Inwards Reinsurance Contracts (as defined in the Scheme) were concluded by Athora with a United Kingdom head officed insurance undertaking, Scottish Equitable plc and the Terre d'Avenir reinsurance agreement (as it is referred to in the Scheme) was concluded by Athora with a French head officed insurance undertaking, La Mondiale Partenaire. All of the Transferring Policies were concluded by Athora under its EEA cross-border passporting entitlement under the Solvency II Directive.
20. Based on Athora's policyholder records, as at 31 May 2021:
- 20.1 there are Transferring Policyholders who are resident in the following EEA jurisdictions (being the Member States of the Commitment in this instance for the purposes of Regulation 41(5)(b) of the 2015 Regulations): Austria (4 Transferring Policyholders); Cyprus (5 Transferring Policyholders); Denmark (1 Policyholder); France (9 Transferring Policyholders); Germany (944 Transferring Policyholders); Ireland, (2 Transferring Policyholders), the Netherlands (14 Transferring Policyholders); Portugal (3 Transferring Policyholders); and Spain (9 Transferring Policyholders); and
- 20.2 there are Transferring Policyholders who are resident in the following non-EEA jurisdictions: Australia (2 Transferring Policyholders); Bahrain (1 Transferring Policyholder); Israel (1 Policyholder); Jersey (1 Policyholder); New Zealand (2 Transferring Policyholders); Philippines (2 Transferring Policyholders); Switzerland (1 Transferring Policyholder); Thailand (4 Transferring Policyholders); United Arab Emirates (1 Transferring Policyholder); the United Kingdom (11,388 Transferring Policyholders); and the United States (3 Transferring Policyholders).

Section 4:

Report of the Independent Actuary

21. Pursuant to section 13(3)(b) of the 1909 Act, an independent actuary, Mr Michael Culligan, a principal and consulting actuary at Milliman Limited, a Fellow of the Society of Actuaries of Ireland with more than 30 years of experience in life insurance (the "**Independent Actuary**") has prepared a report on the Scheme (the "**Report**").
22. The Report sets out the Independent Actuary's opinion of the likely effects of the Scheme on the policyholders of Athora and Monument. The key findings of the Independent Actuary are set out in the executive summary at Section 2 of the Report.
23. In completing the Report, the Independent Actuary considered the consequences of the Scheme: (i) for the Transferring Policyholders (as defined in the Scheme); and (ii) the existing policyholders of Monument ((i) and (ii) being the "**Relevant Policyholders**"). Athora has no non-transferring insurance policyholders. The Independent Actuary considered a number of factors in the Report, most notably the implications of the Scheme for the security of the Relevant Policyholders' contractual benefits, the implications for the level of benefits payable to the Relevant Policyholders and the implications for the reasonable expectations of the Relevant Policyholders. The Independent Actuary also considered the solvency position of Athora and Monument before and after the implementation of the Scheme.

Financial and Solvency Position

24. At paragraph 2.29 of the Report, the Independent Actuary has noted that the development of the future solvency position of both Athora and Monument over the coming years (on the assumption that the Scheme takes effect) is projected to be healthy, both in terms of their respective central planning scenarios as well as various adverse scenarios.

Risk Profile

25. At paragraph 4.35 of Section 4 of the Report, the Independent Actuary has noted that the range of risks to which Athora is exposed includes counterparty default risk, market risk, underwriting risk (including lapse risk), expense and longevity risks and operational risk. At the same paragraph, the Independent Actuary has noted that, as required under the 2015 Regulations, Monument has in place a risk management framework to monitor and manage risks on an ongoing basis. At paragraph 4.42 of the Report, the Independent Actuary has noted that the transfer of the Business to Monument will change the risk profile of Athora as follows: (i) a significant reduction in longevity and expense risk; (ii) a reduction in spread risk (mainly due to the reduction of bonds and fixed income assets held as investments); (iii) other market risks reduce materially (in particular, currency risk, which would be removed by completion of the Scheme); and (iv) interest rate risk is also expected to reduce as a result of the transfer of longevity risks and the associated risk margin.
26. At paragraph 5.42 of Section 5 of the Report, the Independent Actuary has noted that the range of risks to which Monument is exposed includes market/financial risk, credit risk, counterparty risk, insurance risk, business/operational risk, regulatory compliance risk and fiscal risk. At the same paragraph, the Independent Actuary has noted that, as required under the 2015 Regulations, Monument has in place a risk management framework to monitor and manage risks on an ongoing basis. At paragraph 5.45 of the Report, the Independent Actuary has noted that the transfer of the Business from Athora will bring a significant amount of longevity risk and some material market risks. However, as is more particularly described at the same paragraph, the Independent Actuary has noted that those risks will be largely off-set by Monument's reinsurance protection from the Effective Time, including the reinsurance contracts with New Re to be transferred to it under the Scheme (please refer above to paragraph 18) and a 90% (ninety per cent) quota share reinsurance contract with Monument Re in respect of the residual cash flows on the Business.

Fair Treatment & Reasonable Expectations of Relevant Policyholders

27. At Section 9 of the Report, the Independent Actuary has considered the fair treatment and reasonable benefit expectations of the Relevant Policyholders. At paragraph 9.2, he has noted that in the case of the Scheme, this involves a

consideration of: (i) contractual obligations to policyholders; (ii) any changes that would be caused to the tax treatment of policyholders' premiums and/or benefits; (iii) any areas where Athora or Monument may exercise discretion in relation to the fulfilment of their contracts with their policyholders (which may include, in respect of internal linked funds, the investment criteria, unit pricing rules and the level of charges applicable to those funds and the ability to vary the level of any non-guaranteed charges, amongst others); and (iv) the levels of customer service to policyholders.

28. At paragraph 9.23 of the Report, the Independent Actuary has opined that he is satisfied that the fair treatment and reasonable benefit expectations of the Relevant Policyholders will not be materially adversely affected by the Scheme.

Security of Relevant Policyholders' Benefits

29. At paragraph 8.3 of Section 8 of the Report, the Independent Actuary has noted that the security of policyholders' benefits is provided by the amount by which an insurance undertaking's assets exceeds its liabilities. At the same paragraph, he has noted that the regulatory regime for Irish insurance undertakings requires that the excess of assets over liabilities must in turn exceed a prescribed minimum level (which is calculated taking account of the risks to which the insurance undertaking is exposed), thus providing a minimum level of security for policyholders. At paragraph 8.4 of Section 8 of the Report, the Independent Actuary has noted that the principal issue with regard to security of benefits is whether or not the transferee insurance undertaking, Monument, will have adequate resources following completion of the Scheme and whether this is likely to remain the case over time.
30. At paragraph 8.67 of Section 8 the Report, the Independent Actuary has opined that he is satisfied that the Scheme will not result in a material adverse impact on the security of policyholders' benefits in the case of the Relevant Policyholders.

Communications with Relevant Policyholders

31. Regarding the proposal to send the Policyholder Letter (as defined below at paragraph 43) to the transferring insurance Transferring Policyholders, including

the proposal to send a précis of the Report rather than the full Report to those policyholders, at paragraph 9.17 of Section 9 of the Report, the Independent Actuary has opined that he is satisfied that the approach of communicating with those policyholders is reasonable.

32. Regarding the proposal not to send the Policyholder Letter to the Monument Policyholders, at paragraph 9.23 of Section 9 the Report, the Independent Actuary has noted that he has considered this approach and he is satisfied that it is fair and reasonable. At the same paragraph, he has noted that in forming his view, he noted that although the size of the proposed transfer (approximately €1.3 billion in assets transferring) is material to Monument's pre-transfer size (total assets of €2.2 billion as at 31 December 2020), the impact of the Scheme on Monument's solvency position and risk profile are far less material. He has further noted that the proposed approach to communicating with the Monument Policyholders will see additional advertising, in excess of what is required by law or custom in the countries in question, aimed at making those policyholders aware of the Scheme.

Conclusions

33. At Section 10 of the Report, the Independent Actuary has opined that he is satisfied that the implementation of the Scheme would not have a material adverse effect on:
- 33.1 the security of benefits of the Relevant Policyholders;
 - 33.2 the reasonable expectations of the Relevant Policyholders with respect to their benefits; and
 - 33.3 the standard of administration, service, management and governance that will apply to the Relevant Policyholders.
34. At paragraph 2.33 of the Report, the Independent Actuary has noted that he will prepare a supplementary report on the Scheme (the "**Supplementary Report**") closer to the date that is fixed by this honourable Court for the hearing of the Petition. In the Supplementary Report, the Independent Actuary will provide this Honourable Court with an update on the Report's conclusions in light of

significant events or developments that may have occurred since the date of the Report.

Section 5:

Regulatory Matters

35. On 9 June 2021, Athora notified the Central Bank pursuant to Regulation 41 of the 2015 Regulations in respect of the Scheme.
36. As the Central Bank is the supervisory authority of Monument as well as Athora, there is no requirement that the Central Bank notify any other EEA Member State supervisory authority for the purposes of Regulation 41(3)(a) of the 2015 Regulations.
37. Under Regulation 41(3)(a) of the 2015 Regulations, the Scheme cannot be effected without obtaining the certification of the Central Bank (as the EEA Member State supervisory authority of Monument) that, taking the Scheme into account, Monument possesses the necessary eligible own funds to cover its solvency capital requirement thereafter.
38. Under Regulation 41(3)(b) of the 2015 Regulations, the Scheme cannot be effected without also obtaining the consent of the supervisory authority of each EEA Member State where the contracts "*were concluded, either under the right of establishment or the freedom to provide services*". Germany and the Netherlands are the only current EEA Member States where insurance policies that come within the definition of Transferring Policies were concluded for the purposes of Regulation 41(3)(b) of the 2015 Regulations.
39. Under Regulation 41(4) of the 2015 Regulations, if a relevant EEA Member State supervisory authority does not respond to the Central Bank within 3 months of being consulted, the Central Bank shall be entitled to deem that supervisory authority to have consented to the Scheme. The outcome of the Central Bank's consultation with each of the relevant EEA Member State supervisory authorities under Regulation 41(4) of the 2015 Regulations shall be addressed in a supplemental affidavit to be filed in this Honourable Court in advance of the substantive hearing of the Petition by this Honourable Court.

40. Apart from Germany and the Netherlands, the United Kingdom is the only other jurisdiction where insurance policies that come within the definition of Transferring Policies were concluded by Athora. Those Transferring Policies were concluded by Athora while the United Kingdom continued to be an EEA Member State. Having regard for this fact and as the majority of the Transferring Policyholders are resident in the United Kingdom, while it is not strictly required under the 2015 Regulations, the Central Bank has confirmed to Athora and Monument that it will consult with the Prudential Regulation Authority and the Financial Conduct Authority (the "**UK Regulators**") in respect of the Scheme. The outcome of the Central Bank's consultation with the UK Regulators shall be addressed in a supplemental affidavit to be filed in this Honourable Court in advance of the substantive hearing of the Petition by this Honourable Court. However, as the United Kingdom is no longer an EEA Member State, the consent or non-objection of the UK Regulators to the Scheme is not required as a matter of Irish law pursuant to Regulation 41(3)(b) of the 2015 Regulations.
41. Under Bermuda law, there is a requirement for Monument to notify the BMA about the Scheme which notification was provided on 29 March 2021. Monument is not required to obtain the BMA's consent or non-objection to the Scheme.

Section 6:

Notification / Advertisements

42. A copy of the Report (and a précis thereof) will be given free of charge to anyone who requests it by telephoning Athora on 08456 000 173 (from the United Kingdom) and +353 1 673 8840 (from outside the United Kingdom) (Monday to Friday (public holidays excepted) between the hours of 9:00am and 5:00pm (GMT) and online at www.athora.com/ie/ and www.monumentregroup.com/about-monument-re/about-ie/monument-life-insurance-dac-va/. Transferring Policyholders can contact the Athora Client Relations team with queries regarding the Scheme, the Report or the court process, using the same contact details provided. Monument's policyholders can contact the dedicated Monument policyholder telephone line on +353 1 5337065

between the hours of 9:00am and 5:00pm (GMT) from Monday to Friday (public holidays excepted).

43. As at 31 May 2021, Monument had approximately 192,000 insurance policies in issue. As at 31 May 2021, Athora had approximately 12,397 insurance policies in issue (all of which come within the definition of Transferring Policies under the Scheme). For the purposes of section 13 of the 1909 Act, the Petitioners have prepared a letter (the "**Policyholder Letter**") 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, approved by the Independent Actuary.
44. In accordance with section 13(3)(b) of the 1909 Act, unless this Honourable Court directs to the contrary, the Policyholder Letter is to be transmitted to each insurance policyholder of Athora and Monument at their last known address. 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 Monument's existing policyholders (the "**Monument Policyholders**"), it is proposed that the Policyholder Letter (incorporating a précis of the Report) should not be transmitted to such policyholders. It is therefore proposed, subject to the directions of this Honourable Court, that the Policyholder Letter (incorporating a précis of the Report) should be transmitted only to the Transferring Policyholders, except for the cedants under the ULG Inwards Reinsurance Contracts (as such terms are defined in the Scheme). Not less than 15 days preceding the date fixed for the hearing of the Petition, Athora will communicate separately with the cedants about the proposed transfer of the ULG Inwards Reinsurance Contracts to Monument. Additional reasons why it is considered that this proposal not to transmit the Policyholder Letter to the Monument Policyholders is appropriate are set out below:
 - 44.1 in light of the conclusions reached by the Independent Actuary, the transmission of such documentation to the Monument Policyholders may cause unnecessary concern and confusion on their part - namely their rights and entitlements under their respective policies might in some way be undermined by the proposed Scheme, when in fact this is not the case;

- 44.2 no further action is required by the Monument Policyholders;
- 44.3 the Independent Actuary has opined that he is satisfied that the implementation of the Scheme would not have a material adverse effect on the security of benefits of the Monument Policyholders, the reasonable benefit expectations of the Monument Policyholders with respect to their benefits and the standards of administration, service, management and governance that will apply to the Monument Policyholders;
- 44.4 the Independent Actuary has considered the proposal not to send the Policyholder Letter to the Monument Policyholders and at paragraph 9.23 of the Report he has opined that he is satisfied that, having considered the proposed approach to policyholder communication set out at paragraphs 9.21 and 9.22 of the Report, it is fair and reasonable in the circumstances. At paragraph 23 of the Report, the Independent Actuary has noted that the proposed approach to communication will see additional advertising (which is referred to below at paragraph 47) in excess of what is required by law or custom, aimed at making the Monument Policyholders aware of the Scheme;
- 44.5 that given the number of policyholders involved, the additional cost and expense of sending the Policyholder Letter and other Scheme documentation to an additional 192,000 insurance policyholders (being the Monument Policyholders) would be approximately €550,000 and as such, it would be disproportionate to any benefit that might be obtained by the Monument Policyholders in having the documentation transmitted to them. Many of the Monument Policyholders would have received a welcome letter from Monument in the past 18 months and the issuance of a further letter may cause unnecessary concern and confusion on their part;
- 44.6 the Court can draw comfort from the fact that, in accordance with the other directions sought from the Court, the proposed transfer and hearing of the Petition will be advertised in a number of publications as well as on the website of both Athora and Monument and further any policyholder who is concerned that they might be affected by the proposed transfer will be entitled to avail of the helplines referred to above at paragraph 42, which will be operated by both Athora and Monument; and

- 44.7 any policyholder will of course be provided with the documentation on request or (subject to any COVID-19 related travel or workplace restrictions that may be in existence at the time) will be able to inspect the same at the relevant offices of both Athora and Monument and Pinsent Masons' offices in both Dublin and London.
45. The full Report together with the Petition and the Scheme will be available online at www.athora.com/ie and www.monumentregroup.com/about-monument-re/about-ie/monument-life-insurance-dac-va and Transferring Policyholders will be informed in the Policyholder Letter that they are so available.
46. Section 13(3)(b) of the 1909 Act requires that a statement of the nature of the amalgamation or transfer together with an abstract containing the material facts embodied in the agreement or deed, together with copies of the actuarial and other reports, should be circulated to each of the policyholders unless this Honourable Court otherwise orders. It is proposed to provide the Transferring Policyholders, except for the cedants under the ULG Inwards Reinsurance Contracts, with a copy of the Policyholder Letter (which will include a précis of the Report), as they will find that material to be more digestible than the full text of the material envisaged under Section 13(3)(b) of the 1909 Act. Should any Transferring Policyholder wish to receive the full documents, they will be available online. In addition, the Policyholder Letter will include a copy of the Notice of the hearing in the same format as the public advertisement, in compliance with Section 13(3)(a) of the 1909 Act and Regulation 41(5)(a) of the 2015 Regulations.
47. In compliance with Section 13(3)(a) of the 1909 Act and Regulation 41(5)(a) of the 2015 Regulations, subject to the direction of this Honourable Court, a Notice of Intention to make this application together with the hearing date (the "**Pre-Transfer Notice**") shall be published once in *Iris Oifigiúil*, The Irish Independent and The Irish Examiner. Subject to the directions of this Honourable Court, the parties propose to also publish the Pre-Transfer Notice in the United Kingdom, Italy, Germany, France, Spain and Belgium and in The Financial Times (International Edition).

48. The Petition and the schedules hereto (including the Scheme) and the Report (the "**Transfer Documents**") will be available for inspection at the offices of Athora at 2nd Floor, IFSC House, Custom House Quay, Dublin 1, D01 R2P9, Ireland and at the offices of Monument at Two Park Place, Hatch Street Upper, Dublin 2, D02NP94, Ireland and at the offices of Pinsent Masons (Ireland) at 1 Windmill Lane, Dublin 2, Ireland and 30 Crown Place Earl Street, London, EC2A 4ES, United Kingdom, Monday to Friday (public holidays excepted) during the hours of 9:00am to 5:00pm and online at www.athora.com/ie/ and www.monumentregroup.com/about-monument-re/about-ie/monument-life-insurance-dac-va/ for not less than 15 days between the date of the advertisement of the Petition in Iris Oifigiúil, The Irish Independent and The Irish Examiner and the date fixed for the hearing of the Petition. Additionally, the Transfer Documents will be available online at www.athora.com/ie and www.monumentregroup.com/about-monument-re/about-ie/monument-life-insurance-dac-va from the date of the advertisement of the Petition until the date that is fixed for the hearing of the Petition by this Honourable Court. Having regard for any COVID-19 related travel or workplace restrictions that may be in existence at the time, any requests by policyholders to inspect the Transfer Documents at the offices of Athora, Monument or Pinsent Masons must make an appointment in order to do so.
49. Copies of the Petition and its schedules will be served on the Central Bank following the Directions Hearing.
50. In accordance with Regulation 41(5)(b) of the 2015 Regulations, a notice of the proposed Scheme (being in the same format as the Pre-Transfer Notice) will be published in the EEA Member States listed in paragraph 20.1, in accordance with and to the extent that Athora or Monument is required to do so by the laws of those Member States.
51. At paragraph 2.32 of Section 2 of the Report, the Independent Actuary has noted that he is satisfied that the proposed approach to communicating with policyholders is reasonable.

Section 7:

Costs & Expenses

52. Except as otherwise agreed in writing, all costs and expenses relating to the preparation of Scheme and application for the sanction of Scheme, including the costs of the Independent Actuary and complying with order made by the Court arising from hearing or the substantive hearing in which the Court is petitioned to sanction the Scheme shall be borne equally by Athora and Monument, save that each of Athora and Monument shall be liable for their respective lawyers' fees. For the avoidance of doubt, no such costs or expenses will be borne directly by any policyholder of Athora or Monument.

YOUR PETITIONERS THEREFORE HUMBLY PRAY AS FOLLOWS:

- (a) An Order pursuant to the provisions of Section 13 of the Assurance Companies Act 1909 (as amended), the 2015 Regulations and Section 36 of the Insurance Act 1989 (as amended) sanctioning the Scheme (scheduled hereto).
- (b) 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 Effective Time unless otherwise stated herein:
 - (i) the Business, which includes the Transferring Policies, Business Assets, Transferring Liabilities, and the rights of Athora in respect of the Transferring Contracts (all as defined in the Scheme) will be transferred by Athora to Monument;
 - (ii) the Business Assets shall be transferred to and vested in Monument and shall cease to be assets of Athora;
 - (iii) that all rights, benefits and powers conferred on or vested in Athora and the liabilities imposed on Athora by or under the Transferring Contracts shall be transferred to Monument;

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

- (ix) that any mandate or other instruction in force on the Effective Time in respect of any of the Transferring Contracts or the Transferring Policies as to the manner of payment of any benefit or other amount by Athora shall (and in the case of a Transferring Policy (as defined in the Scheme) which constitutes a Residual Contract (as defined in the Scheme), from the respective Subsequent Transfer Date (as defined in the Scheme), continue in force as an effective authority to Monument;
- (x) 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 Athora in connection with the Business shall be continued by or against Monument and Monument shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to Athora in relation to such proceedings;
- (xi) on and with effect from such Subsequent Transfer Date, all actual and potential proceedings by or against Athora 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 Monument, and Monument shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to Athora in

relation to such Residual Assets and Residual Liabilities;

- (xii) Athora is given liberty to transfer to Monument all data (including personal data) held by or on behalf of Athora in relation to the Transferring Policies, the Business Assets and the Transferring Liabilities (as each such term is defined in the Scheme);
- (xiii) the Books and Records (being the books and records relating to the Business), which may include Policyholder Data (as defined in the Scheme), protected under the Data Protection Legislation (as defined in the Scheme), shall be transferred to Monument (such that Monument shall be deemed to be the Controller of the Policyholder Data), and may be used by Monument for, and disclosed by Athora to, and used by, any agent or contractor of Monument to the same extent that they were used by Athora and its agents or contractors prior to the Effective Time 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) to the extent that an authority has been given to Athora in connection with a Transferring Policy or a Transferring Contract by a Policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Legislation or otherwise, such authority shall be deemed to have been given to Monument; and
- (xv) any personal data relating to the Relevant Employees (as defined in the Business Sale Deed (as defined in the Scheme)) protected under the Data Protection

Legislation shall be transferred to Monument and may be used by Monument for, and disclosed by Monument to, and used by any agent or contractor of Monument to the same extent as used and disclosed by Athora prior to the transfer.

- (c) 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 and upon the Central Bank of Ireland.

SCHEDULES

1. List of Directors of Athora
2. Scheme

This Petition is filed on behalf of the Petitioners by Pinsent Masons (Ireland), Solicitors, 1 Windmill Lane, Dublin 2.

Filed this 13 day of July 2021

FIRST SCHEDULE

NAMES AND ADDRESSES OF THE DIRECTORS OF ATHORA

- (i) Dermot Browne, 12 Fairfield Park, Rathgar, Dublin 6, Ireland;
- (ii) Tadhg Clandillon, 41 Westbury Drive, Lucan, County Dublin, Ireland;
- (iii) Henrik Matsen, 270 Hills Road, Cambridge, CB2 8QE, United Kingdom;
- (iv) Matthew Salter, 26 Vesta Avenue, St. Albans, United Kingdom;
- (v) Lukas Ziewer, 62 Abbey Park, Baldoyle, Dublin 13, Ireland;
- (vi) Yves Poulet, Avenue Des Petit Bois 5, 1640 Rhode-Saint-Genese,
Belgium;
- (vii) Aisling Kennedy, 12 Beechwood Road, Ranelagh, Dublin 6, Ireland.

SECOND SCHEDULE

SCHEME

THE HIGH COURT

2021 / No.

IN THE MATTER OF

**THE ASSURANCE COMPANIES ACT 1909, THE
INSURANCE ACT 1989 AND THE EUROPEAN
UNION (INSURANCE AND REINSURANCE)
REGULATIONS 2015 (EACH AS AMENDED)**

AND IN THE MATTER OF

**A PROPOSED TRANSFER OF INSURANCE
BUSINESS FROM ATHORA IRELAND PLC TO
MONUMENT LIFE INSURANCE DESIGNATED
ACTIVITY COMPANY**

SCHEME

**for the transfer of insurance business for the purposes of the Assurance Companies
Act 1909, the Insurance Act 1989 and the European Union (Insurance and
Reinsurance) Regulations 2015, produced on 13 July 2021**

THIS SCHEME RECORDS THAT

RECITALS

- (A) Athora Ireland plc ("**Transferor**") is a life assurance company, incorporated in Ireland on 3 August 2001 with the registered number 346275. It has its registered office and principal place of business at 2nd Floor, IFSC House, Custom House Quay, Dublin 1. The sole shareholder of the Transferor is Athora Life Re Ltd (being a company incorporated under the laws of Bermuda).
- (B) The Transferor is authorised by the Central Bank of Ireland ("**Central Bank**") to undertake the business of life assurance in 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 VI (Capital Redemption) in accordance with the 2015 Regulations (as defined below). This authorisation remains in full force and effect. The Transferor is also authorised to undertake life reinsurance business in the said classes.
- (C) Monument Life Insurance Designated Activity Company ("**Transferee**") is a life assurance company incorporated in Ireland on 8 April 2000 with the registered number 325795. It has its registered office and principal place of business at Two Park Place, Hatch Street Upper, Dublin 2. The sole shareholder of the Transferee is Monument Re Limited (being a company incorporated under the laws of Bermuda).
- (D) The Transferee is authorised by the Central Bank to undertake the business of life assurance in Class I (Life assurance and contracts to pay annuities on human life, but excluding Classes II and II), Class III (contracts linked to investment funds), Class IV (permanent health insurance) and Class VI (Capital Redemption) and the business of non-life insurance in Class 1 (accident), Class 2 (sickness) and Class 16 (miscellaneous financial loss) in accordance with the 2015 Regulations. This authorisation remains in full force and effect. The Transferee is also authorised to undertake life reinsurance business in the said classes.
- (E) It has been agreed by the board of directors of the Transferor to approve the Scheme, subject to the requirements of the Central Bank, and any other Regulatory Authority and the sanction of the Court.
- (F) It is intended that the Transferee should acquire the ULG Business carried on by the Transferor (being the Transferring Business) from the Transferor with effect

as and from the Effective Time and in accordance with the terms and conditions set out in this Scheme.

- (G) The Transferor has notified the Central Bank of the terms of this Scheme in accordance with Regulation 41 of the 2015 Regulations.
- (H) The Transferor and the Transferee hereby agree to appear by Counsel on the hearing of the Petition to sanction this Scheme and have undertaken to be bound by the Scheme and to take all reasonable steps (including the execution of documents) which may be necessary or expedient to give effect to the Scheme.

THIS SCHEME THEREFORE PROVIDES AS FOLLOWS:-

1. INTERPRETATION

- 1.1 In this Scheme the following expressions bear the meanings specified opposite them:

1909 Act	The Assurance Companies Act 1909 (as amended);
1989 Act	The Insurance Act 1989 (as amended);
2015 Regulations	European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015) (as amended);
Assumed Liabilities	The Liabilities of the Transferor to be assumed by the Transferee under this Scheme and "Assumed Liability" means any one of them;
Bank Accounts	The custody and cash accounts in respect of the Business that are held by the Transferor with Citibank N.A;
Books and Records	All books, records and other information relating exclusively or primarily to the Business and all information relating to customers, suppliers, agents and distributors and other information in each case relating exclusively to the Business (including the Relevant Employees);

Business	The ULG Business carried on by the Transferor (including all activities carried on in connection with or for the purposes of such business and the Business Assets and the Assumed Liabilities) excluding for the avoidance of doubt: (i) the Excluded Assets; and (ii) the Excluded Liabilities;
Business Assets	All the property, rights and assets of the Business which for the avoidance of doubt includes the Bank Accounts;
CBI	The Central Bank of Ireland and any successor responsible for the regulation of (re)insurance companies in Ireland from time to time;
Controller	Has the meaning ascribed to it in the GDPR;
Court	The High Court of Ireland;
Data Protection Legislation	Any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the processing of personal data to which a party is subject, including but not limited to the Data Protection Acts 1988 to 2018, the European Communities (Electronic Communications Networks and Services) (Privacy And Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011), and the GDPR;
Day 1 Reinsurance Agreement	The reinsurance agreement in connection with the Business entered between the Transferor and Monument Re Limited on 26 February 2021;

EEA Regulatory Authorities	The CBI and the insurance supervisory authorities in the other EEA Member States;
Effective Time	The time and date when this Scheme shall become operative in accordance with paragraph 3.1, which shall be the last day of a calendar month;
Encumbrance	Any claim, charge, mortgage, lien, option, equitable right, power of sale, pledge, hypothecation, retention of title, right of pre-emption, right of first refusal or other third party right or security interest of any kind or an agreement, arrangement or obligation to create any of the foregoing;
Excluded Assets	All property, rights, powers and assets of the Transferor other than the Business and the Books and Records (including but not limited to any amounts paid by the Reinsurer to the Transferor pursuant to the terms of the Reinsurance Agreement);
Excluded Liabilities	Any claims, demands, actions, suits, settlements, proceedings, losses, damages, liabilities, costs, interest, penalties and expenses of the Transferor, including in respect of Taxation whether suffered or incurred directly or indirectly save for the Transferring Liabilities;
Excluded Policies	Any policy of insurance or contract of reinsurance underwritten by the Transferor which does not form part of the ULG Business;
GDPR	The General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016;

Independent Actuary	Michael Culligan of Milliman Limited, the independent actuary appointed to report on the terms of the Scheme, or any successor appointed to report on the same;
Ireland	Ireland excluding Northern Ireland;
Irish Transfer Laws	Section 13 of the 1909 Act, Section 36 of the 1989 Act and Regulation 41 of the 2015 Regulations;
Liabilities	All liabilities, duties and obligations of every description, whether deriving from contract, common law, statute or otherwise, whether present or future, actual or contingent, ascertained or unascertained or disputed and whether owned or incurred severally or jointly or as principal or surety and " Liability " means any one of them;
Losses	All losses, liabilities, damages, costs (including legal costs and experts' and consultants' fees), charges, expenses, actions, proceedings, claims and demands;
Order	An order made by the Court pursuant to Section 13 of the 1909 Act sanctioning this Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Scheme made by the Court pursuant to Section 36 of the 1989 Act;
Policyholder Data	The personal data (as defined in the Data Protection Legislation) of the Transferring Policyholders;
Regulatory Authority	The EEA Regulatory Authorities and the United Kingdom's Prudential Regulation Authority & Financial Conduct Authority where relevant;
Residual Asset	Any property or other rights falling within the definition of Business Assets:

	<p>(i)</p> <p>(a) in respect of which the Court has declined to order the transfer to the Transferee under the Irish Transfer Laws;</p> <p>(b) where the Transferor and the Transferee agree in writing that the transfer of such property should be delayed or such property should not be transferred at all;</p> <p>(c) which is outside the jurisdiction of the Court or in respect of which its transfer pursuant to an order of the Court is not recognised by the laws of the jurisdiction in which the property is situated; or</p> <p>(d) which cannot be transferred or vested in the Transferee for any other reason,</p> <p>(ii) together with any proceeds of sale or income or other accrual or return, whether or not in the form of cash, earned or received from time to time after the Effective Time, in respect of any property to in paragraphs (i)(i) to (d) of this definition;</p>
Residual Contract	Any Transferring Contract which is a Residual Asset or a Residual Liability;
Residual Liabilities	<p>Any liability whatsoever of the Transferor in respect of the Business Assets:</p> <p>(i) that is attributable to or connected with a Residual Asset and arises at any time before the Subsequent Transfer Date applicable to the Residual Asset;</p>

	<p>(ii) in respect of which the Court has declined to order the transfer to the Transferee under the Irish Transfer Laws;</p> <p>(iii) which cannot be transferred or vested in the Transferee for any other reason as the Effective Time; or</p> <p>(iv) where the Transferor and the Transferee agree in writing that the transfer of such liability should be delayed or that such liability should not be transferred;</p>
Retained Records	Any accounting and financial and other records of the Transferor relating to the Business, which the Transferor is required by law to retain, including such records as may be required pursuant to the Taxes Consolidation Act 1997 and the Value Added Tax Consolidation Act 2010;
Scheme	This Scheme in its original form or with, or subject to, any modification or addition thereto;
SE Inwards Reinsurance Contracts	<p>(i) the Secure Retirement Income reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017, as amended;</p> <p>(ii) the Investment Control reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017, as amended; and</p> <p>(iii) the Income for Life reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017, as amended;</p>
Seller Contracts	The contracts to which the Transferor is a party which relate exclusively to the Business, being those contracts that are listed in Schedule 1;

Subsequent Transfer Date	<p>In relation to any Residual Asset or Residual Liability, the date after the Effective Time on which such Residual Asset or Residual Liability is or is to be transferred to the Transferee, namely:</p> <p>(i) in respect of any Residual Asset falling within paragraph (i)(a), (i)(c) or (i)(d) of the definition of Residual Assets, and of any Residual Liability which is attributable to or connected with that Residual Asset, or which falls within paragraph (ii) or (iii) of the definition of Residual Liability, the date on which any impediment to its transfer shall have been removed or overcome; and</p> <p>(ii) in respect of any Residual Asset falling within paragraph (i)(b) or (ii) of the definition of Residual Assets, and of any Residual Liability which is attributable to or connected with that Residual Asset, and of any Residual Liability falling within paragraph (iv) of the definition of Residual Liability, the date on which the Transferor and the Transferee agree the transfer should take effect;</p>
Taxation or Tax	<p>All forms of taxation (other than deferred tax) and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions and levies, in each case in the nature of tax, whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or otherwise and shall further include payments to a Tax Authority on account of Tax, whenever and wherever imposed and whether chargeable directly or primarily against or attributable directly or primarily to the Transferor or any other person and all penalties and interest relating thereto (including interest arising as a result of late payments of taxation);</p>

Tax Authority	Any taxing or other authority competent to impose any liability in respect of Taxation or responsible for the administration and/or collection of Taxation or enforcement of any law in relation to Taxation;
TOBAs	All of the terms of business agreements and similar arrangements in respect of the ULG Business;
Transferor's Group	Athora Holdings Ltd and its subsidiaries from time to time;
Transferee's Group	Monument Re Limited and its subsidiaries from time to time;
Transferring Contracts	(i) the Seller Contracts; and (ii) the Transferring Policies;
Transferring Liabilities	The entire amount of all debts, liabilities and obligations (whether actual, future or contingent and whether known or unknown at the Effective Time) owed or to be performed by the Transferor to the Transferring Policyholders or third parties arising out of or in connection with the Transferring Policies or the Business Assets, other than the Excluded Liabilities and, until the Subsequent Transfer Date, the Residual Liabilities;
Transferring Policies	The policies of insurance and contracts of reinsurance underwritten by the Transferor up to and including the Effective Time in respect of the ULG Business but which shall not include the Excluded Policies;
Transferring Policyholders	The policyholders and cedants of the Transferring Policies;
ULG Business	(i) The insurance business underwritten by the Transferor under the product names Aegon Secure DepotRente (Germany), Aegon Secure Kapital (Germany), 5 for

	Life (UK), Aegon Secure Lifetime Income (UK), Aegon Secure Capital (UK), Aegon Secure Income (UK), Aegon Secure Trustee Investment (UK) and Aegon Variabele Lijfrente (Netherlands); and (ii) the ULG Inwards Reinsurance Contracts;
ULG Inwards Reinsurance Contracts	(i) the Terre d'Avenir reinsurance agreement between the Transferor and La Mondiale Partenaire, dated 29 January 2012; and (ii) the SE Inwards Reinsurance Contracts;

1.2 In this Scheme (including Schedules and Appendices hereto):

- 1.2.1 words and expressions shall, save where the context otherwise requires, have the meanings set out in clause 1.1;
- 1.2.2 liabilities include liabilities, duties and obligations of every description (whether present or future, actual or contingent). Rights, benefits and powers include rights, benefits and powers of every description (whether present or future, actual or contingent);
- 1.2.3 the word "including" is to be construed as not importing any limitation;
- 1.2.4 the headings used are for convenience only and shall not affect its interpretation;
- 1.2.5 any references to legislation shall:
- (a) be to Irish legislation, unless otherwise stated, and
 - (b) include a reference to any legislation subordinate to such legislation; and

- 1.2.6 references to books, records or other information means books, records or other information in any form, including paper, electronically stored data, magnetic media, film and microfilm.
- 1.3 Any reference in this Scheme to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation.
- 1.4 Any words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 1.5 Any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing. Any reference to a person includes his successors, personal representatives and permitted assigns.
- 1.6 Unless the context otherwise requires, any references in this Scheme to a clause or sub-clause shall be a reference to a clause or sub-clause of this Scheme, and any reference in a clause to a sub-clause shall be a reference to a sub-clause of that clause.
- 1.7 References to books, records or other information mean books, records or other information in any form, including paper, electronically stored data, magnetic media, film and microfilm.

2. TRANSFER OF INSURANCE BUSINESS

2.1 Transfer of Business

- 2.1.1 On and with effect from the Effective Time, the Business (including the Transferring Policies) shall by the Order and without any further act or instrument, be transferred to and be vested in the Transferee in accordance with this Scheme.

2.1.2 Subject to the provisions of this Scheme, every Transferring Policyholder shall on and from the Effective Time become entitled in substitution of any rights enforceable by or available under a Transferring Policy against the Transferor to the same right or rights against the Transferee and the obligations of every such Transferring Policyholder shall on and after the Effective Time become enforceable (so far as still subsisting) by the Transferee in place of the Transferor. The Transferee shall carry out, perform and complete all of the terms and conditions of the Transferring Policies.

2.2 Transfer of Assets

2.2.1 On and with effect from the Effective Time, the Business Assets shall, by the Order and without any further act or instrument, be transferred to and be vested in the Transferee subject to all Encumbrances (if any) affecting such Business Assets.

2.2.2 The Transferee shall accept without investigation, requisition, or objection such title as the Transferor shall have at the Effective Time to the Business Assets and the Business.

2.2.3 The Transferor and the Transferee shall, as and when appropriate, execute all documents and perform all things as may be required to effect or perfect the transfer to, and vesting in, the Transferee of any Business Asset on the Effective Time in accordance with the terms of this Scheme, including without limitation, obtaining any required consent or waiver.

2.2.4 No Residual Assets, Residual Liabilities or Excluded Assets or Excluded Liabilities shall be transferred to or vested in the Transferee under or by virtue of the terms of the Scheme.

2.3 Tax Issues Regarding Transfer of Assets

2.3.1 The liability of the Transferor to the Transferring Policyholders in respect of any Tax liabilities incurred as a result of any act or omission of the Transferor prior to the Effective Time shall remain unaffected and shall not be borne by the Transferee.

- 2.3.2 Any Tax liabilities that are incurred as a result of any act or omission of the Transferee in respect of the transfer of the Transferring Policyholders' assets, will not be borne by the Transferring Policyholders and shall instead be borne by the Transferee.
- 2.3.3 On and from the Effective Time, if any Tax liability on Transferring Policyholders' assets is incurred as a result of any act or omission of the Transferee, such liability shall be borne by the Transferee.

2.4 Transfer of Contracts

- 2.4.1 In addition to the provisions of paragraph 2.2, on and with effect from the Effective Time, the Transferee shall, by the Order and without any further act or instrument, be entitled to all the rights, benefits and powers, and be subject to all the obligations and liabilities of the Transferor whatsoever subsisting on the Effective Time under or by virtue of the Transferring Contracts and all such rights, benefits and powers shall be vested in the Transferee.
- 2.4.2 Every person who immediately prior to the Effective Time is a holder of or party to a Transferring Contract shall, from and after the Effective Time, in substitution for any liability or obligation owed thereunder to the Transferor, be under the same liability or obligation to the Transferee and shall become entitled, to the exclusion of any rights which he may have had against the Transferor under any of the Transferring Contracts, to the same rights against the Transferee as were available to him against the Transferor under such Transferring Contract.
- 2.4.3 All premiums and other amounts attributable or referable to the Transferring Contracts shall on and after the Effective Time be payable to the Transferee and shall be receivable and received by the Transferee and every person who is a holder of or party to any of the Transferring Contracts shall be liable to the Transferee for any outstanding, further or additional premiums or other sums attributable or referable to the Transferring Contracts as and when the same become due and payable.

2.4.4 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Transferring Contracts which would have been available to the Transferor.

2.4.5 The Transferee may after the Effective Date:

(a) exercise such discretions under the Transferring Policies as are available to be exercised by it under the terms and conditions of those Transferring Policies in accordance with any principles which are for the time being applied generally in the Transferee's Group in relation to such business;

(b) modify the terms and conditions applicable to any Transferring Policies or any investment fund in which such Transferring Policies are invested, in accordance with any principles which are for the time being applied generally in the Monument Group in relation to such business,

and subject in every case to the provisions of the applicable Transferring Policies conditions and the rules of any investment fund in which such Transferring Policies are invested, and where relevant, to the opinion of the Transferee's Head of Actuarial Function.

2.4.6 All references in any Transferring Contract to the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor shall from and after the Effective Time be read as references to the Transferee, the board of directors of the Transferee, or any other officers, employees or agents of the Transferee or, where appropriate, agents of the Transferee to which the administration carried on by the Transferee has been delegated. In particular, but without limitation, all rights and/or duties exercisable or expressed to be exercisable or responsibilities to be performed by the Transferor, the board of directors of the Transferor, or any other officers, employees or agents of the Transferor in relation to any of the Transferring Contracts shall, from and after the Effective Time be exercisable or required to be

performed by the Transferee, the board of directors of the Transferee or any other officers, employees or agents of the Transferee.

2.5 Unit Linked Funds

- 2.5.1 On and with effect from the Effective Time, the Transferee shall have linked funds corresponding to all of the linked funds maintained by the Transferor immediately prior to the Effective Time in respect of the unit linked funds of the Transferring Policies. Assets and liabilities that are deemed to be allocated to the linked funds maintained by Transferor immediately prior to the Effective Time shall be deemed by the Transferee to be allocated to those funds with effect from the Effective Time.
- 2.5.2 On and with effect from the Effective Time, the Transferring Policies shall be allocated units in the linked funds to be maintained by the Transferee referred to in paragraph 2.5.1 above, which units shall be of the same type and unit value as units allocated to the Transferring Policy in the corresponding Transferor linked fund immediately prior to the Effective Time. There will be no change to the underlying assets, the investment strategy, the approach to unit pricing, policy charges or to the investment criteria as a result of the transfer.
- 2.5.3 Nothing in this Scheme shall prevent the Transferee, at any time and from time to time, establishing new linked funds; closing existing linked funds; amalgamating any linked fund or any part or parts thereof with any other linked fund or part or parts thereof; changing the name or designation of any linked fund or dividing any linked funds into one or more linked funds; changing the approach to unit pricing; changing the policy charges in accordance with the conditions of the Transferring Policies or effecting any combination of the above, on such terms and recommendations as may be recommended by the Transferee Head of Actuarial Function, having regard to the reasonable expectations of policyholders, and approved by the board of directors of the Transferee.

2.6 Unit Linked Funds placed with External Managers and Custodians

2.6.1 On and with effect from the Effective Time, the Transferee shall establish records corresponding to all of the records maintained by the Transferor, on an individual policy by policy basis, prior to the Effective Time in respect of the externally managed portfolio of Transferring Policies.

2.6.2 On and with effect from the Effective Time, the Transferee shall record which externally managed portfolios are designated in favour of each Transferring Policy and shall ensure that such designations are identical to those that were held in the records of the Transferor immediately prior to the Effective Time. For the avoidance of doubt, there will be no change to the underlying assets, the investment strategy or policy charges as a result of the transfer of externally managed portfolios.

2.7 Transfer of Liabilities

On and with effect from the Effective Time, the Transferring Liabilities shall, by the Order and without any further act or instrument, be transferred to and become liabilities of the Transferee and shall cease to be liabilities of the Transferor.

2.8 Mandates and Other Instructions

2.8.1 Any mandate or other instruction in force on the Effective Time (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums payable under or in respect of any of the Transferring Policies shall, on and from the Effective Time (and in the case of a Transferring Policy which constitutes a Residual Contract, from the respective Subsequent Transfer Date), take effect as if it had provided for and authorised such payment to the Transferee.

2.8.2 Any mandate or other instruction in force on the Effective Time in respect of any of the Transferring Policies as to the manner of payment of any benefit or other amount by the Transferor shall, on and from the Effective Time (and in the case of a Transferring Policy which

constitutes a Residual Contract, from the respective Subsequent Transfer Date), continue in force as an effective authority to the Transferee.

- 2.8.3 All premiums attributable or referable to the Transferring Policies shall from the Effective Time be payable to the Transferee.

2.9 Continuity of Proceedings

- 2.9.1 On and with effect from the Effective Time, any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against the Transferor in connection with the Business shall be continued by or against the Transferee and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to any such proceedings.

- 2.9.2 On and with effect from each Subsequent Transfer Date, all actual and potential proceedings by or against the Transferor in connection with the Residual Assets or the Residual Liabilities shall be continued by or against the Transferee, and the Transferee shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to the Transferor in relation to such Residual Assets and Residual Liabilities.

3. GENERAL PROVISIONS

3.1 Effective Time

- 3.1.1 Subject to paragraph 3.1.2, this Scheme shall become operative at 23:59 on 31 December 2021 or such other time and date as may be specified in the Order and unless this Scheme shall become operative on or before 23:59 on 31 December 2021 or such later date as the Court may allow upon the application of the Transferor and the Transferee, this Scheme shall lapse.

3.1.2 Notwithstanding paragraph 3.1.1, this Scheme shall not become operative on the Effective Time unless:

- (a) prior thereto, any necessary consent and / or non-objection from the CBI has been obtained in a form acceptable to the Transferor and the Transferee;
- (b) in the event that the Court imposes a modification of or addition to this Scheme or any further conditions or provisions affecting same before the Effective Time, the Transferor and the Transferee consent to such modification, addition or condition before the Effective Time.

3.2 **Effect of the Scheme**

3.2.1 The transfer and vesting of a Business Asset or a Transferring Liability relating to any part of the Business shall not:

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

greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.

3.3 Data Protection

3.3.1 On and with effect from the Effective Time, the Books and Records (being the books and records relating to the Business), which may include Policyholder Data protected under the Data Protection Legislation, shall be transferred to the Transferee (such that the Transferee shall be deemed to be the Controller of the Policyholder Data from the Effective Time), and may, without prejudice to the Controller's obligations under Data Protection Legislation, be used by the Transferee for, and disclosed by the Transferee to, and used by, any agent or contractor of the Transferee to the same extent that they were used by the Transferor and its agents or contractors prior to the Transfer for all purposes in connection with the Transferring Contracts including, in particular, administration thereof and all matters relevant or incidental thereto.

3.3.2 To the extent that an authority has been given to the Transferor in connection with a Transferring Contract by a policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Legislation or otherwise, such authority shall, on or after the Effective Time, be deemed to have been given to the Transferee.

3.4 Publication And Notification Requirements

The Transferor and Transferee shall co-operate to publish appropriate pre-transfer and post-transfer notices in each case as may be required by the Order or subsequently required by any regulatory authority.

3.5 Costs and Expenses

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 made by the Court arising from the directions hearing or the substantive hearing

in which the Court is petitioned to sanction the Scheme shall be borne equally by the Transferor and the Transferee, save that each of the Transferor and the Transferee shall be liable for their respective lawyers' fees. For the avoidance of doubt, no such costs or expenses will be borne directly by any policyholder of the Transferor or the Transferee.

3.6 Modifications or Additions

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

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

- (a) the CBI shall be notified of and have the right to be heard at the hearing of the Court at which such application is considered; or
- (b) such application shall be accompanied by a report from an independent actuary to the effect that in his opinion the proposed amendment will not materially adversely affect the interests of the Transferring Policyholders affected by the proposed amendment; and
- (c) to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.

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

3.7 **No Third Party Rights**

Subject to the provisions of paragraph 3.5 of this Scheme, nothing in this Scheme shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Scheme.

3.8 **Successor and Assigns**

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

3.9 **Notices**

3.9.1 Any notice or other communication in connection with this Scheme (each a "Notice") shall be:

- (a) in writing in English; and
- (b) delivered by hand, email, recorded delivery or courier using an internationally recognised courier company.

3.9.2 A Notice to the Transferor shall be sent to the following address, or such other person or address as the Transferor may notify to the Transferee from time to time:

Athora Ireland plc

Address: 2nd Floor, IFSC House
Custom House Quay
Dublin 1
Ireland

Telephone: +353 (01) 673 8840

Attention: Tadhg Clandillon

Email: tadhg.clandillon@athora.com

With a copy by email helen.whelan@athora.com
to:

naoise.harnett@pinsentmasons.com

- 3.9.3 A Notice to the Transferee shall be sent to the following address, or such other person or address as the Transferee may notify to the Transferor from time to time:

Monument Life Insurance Designated Activity Company

Address: Two Park Place
Hatch Street Upper
Dublin 2
Ireland

Telephone: +353 (0)87 103 9971

Attention: Carlo Elsinghorst

Email: Carlo.Elsinghorst@monumentinsurance.com

With a copy to: Annapoorna.Jayaseelan@monumentregroup.com

With a copy by email to: Elaine.Long@matheson.com

- 3.9.4 A Notice shall be effective upon receipt and shall be deemed to have been received:

- (a) 60 hours after posting, in the case of recorded delivery;
- (b) at the time of delivery, if delivered by hand or courier; or
- (c) at the time of transmission in legible form, if delivered by fax or e-mail.

3.10 Governing Law

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

Schedule 1

Seller Contracts

Seller Contracts to be transferred to the Transferee pursuant to the Scheme:

1. Reinsurance Agreements

- 1.1 Reinsurance agreement between the Transferor and New Reinsurance Company Limited in respect of euro denominated business of the Seller, dated 3 April 2018;
- 1.2 Reinsurance agreement between the Transferor and New Reinsurance Company Limited in respect of pound sterling denominated business of the Seller, dated 3 April 2018;
- 1.3 the Secure Retirement Income reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017;
- 1.4 the Investment Control reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017 (as amended);
- 1.5 the Income for Life reinsurance agreement between the Transferor and Scottish Equitable plc, dated 26 April 2017;
- 1.6 Collateral framework agreement in respect of the SE Inwards Reinsurance Contracts between the Transferor and Scottish Equitable plc, dated 26 April 2017;
- 1.7 the Terre d'Avenir reinsurance agreement between the Transferor and La Mondiale Partenaire, dated 29 January 2012;
- 1.8 the Day 1 Reinsurance Agreement;

2. External Fund Link Agreements

- 2.1 External link fund agreement between the Transferor and Blackrock Advisors (UK) Limited, dated 8 July 2013;

2.2 External link fund agreement between the Transferor and Blackrock Channel Islands Limited, dated 8 July 2013, as amended and restated;

2.3 External fund link agreement between the Transferor and UBS Global Asset Management Funds Ltd, dated 14 February 2013;

3. **Investment Management Agreements**

3.1 Investment management and administration agreement between the Transferor and Kames Capital Plc, dated 19 December 2014;

4. **ULG Terms of Business**

4.1 the TOBAs

THE HIGH COURT

2021 / No. 166 COS

IN THE MATTER OF

ATHORA IRELAND PLC

AND IN THE MATTER OF

**MONUMENT LIFE INSURANCE
DESIGNATED ACTIVITY
COMPANY**

AND IN THE MATTER OF

**THE ASSURANCE COMPANIES
ACT 1909, THE INSURANCE ACT
1989 AND THE EUROPEAN UNION
(INSURANCE AND REINSURANCE)
REGULATIONS 2015 (EACH AS
AMENDED)**

SCHEME

THE HIGH COURT

2021 Record No. 166COS

**IN THE MATTER OF ATHORA
IRELAND PUBLIC LIMITED
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 THE IN MATTER OF THE
EUROPEAN UNION (INSURANCE
AND REINSURANCE)
REGULATIONS 2015**

PETITION

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