

FRIDAY THE 7TH DAY OF JULY 2023

BEFORE MR JUSTICE McDONALD

IN THE MATTER OF AETNA HEALTH INSURANCE COMPANY OF
EUROPE DAC

AND IN THE MATTER OF AWP HEALTH & LIFE SA

AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909 (AS
AMENDED), THE INSURANCE ACT 1989 (AS AMENDED) AND THE
EUROPEAN UNION (INSURANCE AND REINSURANCE) REGULATIONS
2015 (AS AMENDED)

Upon Application of Counsel for the directors of Aetna Health
Insurance Company of Europe DAC (“AHICE”), the Petitioners herein, pursuant to
Liberty to Apply granted by the Court under Order dated the 3rd day of July 2023

Whereupon and on reading the Third Affidavit of Brian O'Rourke
sworn the 6th day of July 2023 and the exhibit to the said Third Affidavit

And upon hearing said Counsel

IT IS ORDERED that

1. the Petitioners do have liberty to file an amended Petition in the form of the draft exhibited at 3BOR1 to the Third Affidavit of Brian O'Rourke a copy of which is annexed hereto
2. Paragraph 2 of the Order of the 3rd of July be amended by substituting the reference to the Times (International Edition) with the **Financial Times (UK, Europe, Asia, Middle East and US editions)**

THE HIGH COURT

**ALAN MORRISON
REGISTRAR
Perfected: 12th July 2023**

A&L Goodbody LLP
Solicitors for Aetna Health Insurance Company of Europe DAC

A COPY WHICH I ATTEST

FOR REGISTRAR

ANNEX

THE HIGH COURT

2023 No. 117 COS
(2023 No. 51 COM)

IN THE MATTER OF AETNA HEALTH INSURANCE COMPANY OF EUROPE DAC

AND IN THE MATTER OF AWP HEALTH & LIFE SA

AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909 (AS AMENDED), THE INSURANCE ACT 1989 (AS AMENDED) AND THE EUROPEAN UNION (INSURANCE AND REINSURANCE) REGULATIONS 2015 (AS AMENDED)

To: The High Court

The Humble Petition of the directors of Aetna Health Insurance Company of Europe DAC (**AHICE**) and the directors of AWP Health & Life SA (**AWP**), whose respective names and residential addresses are set out in the **First Schedule** hereto (together, the **Petitioners**), shows as follows:

OBJECT OF PETITION

1. This Petition seeks the sanction of this Honourable Court, in accordance with the provisions of Section 13 of the Assurance Companies Act 1909 (as amended) (the **1909 Act**), Section 36 of the Insurance Act 1989 (as amended) (the **1989 Act**) and Regulation 41 of the European Union (Insurance and Reinsurance) Regulations 2015 (as amended) (the **2015 Regulations**), for the transfer of the non-life insurance business of AHICE to AWP and to be operated through its Irish branch pursuant to the scheme set out in the **Second Schedule** hereto (the **Scheme**).

INTERPRETATION

2. In this Petition, words and expressions shall have the meanings as set out in Appendix I to the Scheme unless otherwise defined herein.

CONSTITUTION AND BUSINESS OF AHICE

3. The particulars, pertinent powers and principal objects of AHICE are as follows:

- 3.1. AHICE is a non-life insurance company that was incorporated in Ireland as a private limited company on 8 November 2007 under company number 448763. Incorporated as Aetna Health Insurance Company of Europe Limited, its name was changed to Aetna Health Insurance Company of Europe Designated Activity Company and it was converted to a designated activity company on 20 September 2016.
- 3.2. AHICE is a wholly owned direct subsidiary of Aetna International LLC, the parent company of the Aetna International group of companies (**Aetna International**). Aetna International is ultimately owned by NYSE-listed CVS Health Corporation, a company incorporated in Delaware, USA.
- 3.3. AHICE's registered office is at Alexandra House, 3 Ballsbridge Park, Ballsbridge, Dublin, D04 C7H2. Its authorised share capital is €10,000,000 divided into 10,000,000 Ordinary Shares of €1.00 each. AHICE's total issued share capital is €635,000 divided into 635,000 fully paid Ordinary Shares of €1.00 each. According to its most recent audited financial statements, as at 31 December 2022, AHICE had net assets of approximately €14.6 million, with total gross written premium for the year ended 31 December 2022 of approximately €19.5 million.
- 3.4. AHICE's principal object as set out in its Constitution is "*Subject to holding the appropriate authorisation from the Irish Financial Services Regulatory Authority or other competent authority, to undertake and to carry out the business of insurance against non-life risks of all kinds and, in particular, risks in the classes set out in annex 1 to the European Communities (Non- Life Insurance) Framework Regulations, 1994 (as same may be amended, modified, replaced or re-enacted) from time to time*".
- 3.5. On 14 November 2007, AHICE was authorised by the Central Bank of Ireland (the **CBI**) to undertake the business of non-life insurance, Class 1 (Accident), Class 2 (Sickness) and Class 18 (Assistance) as such classes are currently set out and described in Schedule 1 of the 2015 Regulations. AHICE is part of the Aetna International Group, which provided International Private Medical Insurance (IPMI) policies to individuals and employer sponsored groups in multiple locations around the world. The Policies were normally provided to corporate groups whose employees, and potentially their dependants, are the beneficiaries of the medical insurance. Prior to the UK's decision to leave the European Union, AI took a strategic decision to offer IPMI to residents in the EEA through its UK authorised undertaking, Aetna Insurance Company Limited (AICL) and AHICE was placed into run-off in 2015.
- 3.6. After a period in run-off between 2015 and 2019, AHICE received approval from the CBI to continue to undertake non-life insurance in Classes 1, 2, and 18 on 5 February 2019. AHICE recommenced writing business on 1 October 2020 upon the migration of EU policies from AICL, in order to address issues arising out of Brexit. This initial migration was completed as planned on 30 September 2021. The Members who benefit from the

IPMI cover provided by AHICE are resident across 42 jurisdictions as at 31 March 2023 with 97% of members being resident in EEA jurisdictions. The Policies were sold directly or through brokers with circa 78% of the policies introduced by brokers. There is no specific concentration of business with a single broker. The top 10 brokers contributed 75% of the broker introduced business in 2021. The Policies are governed by Irish law and the business has been administered by a separate Aetna service company. On and from the Scheme Date will be administered by AWP (operating through its Irish branch) and/or its duly appointed agent or service provider.

- 3.7. Pursuant to an exclusive introduction agreement (the **Asset Purchase Agreement**) between Aetna Global Benefits (UK) Limited (**AGB UK**) and AWP, AHICE formally ceased writing new business with effect from 31 October 2022. The final Policies will therefore expire on 30 October 2023 and the contractual window for notifying claims under the Policies will expire on 29 April 2024. In practice claims have sometimes been notified and accepted outside of the contractual window.
- 3.8. The portfolio of policies, assets and liabilities (the **Transferring Business**) intended to transfer under the Scheme includes all rights relating to the Transferring Policies which are comprised of any Policy, including any endorsements or amendments thereto, ever underwritten by AHICE and forming part of the Transferring Business under which any liability or contingent liability remains unsatisfied or outstanding at the Scheme Date. The Transferring Policies are IPMI business which involves networks of brokers and healthcare providers. IPMI policies are normally provided to corporate groups whose employees and potentially their dependants are the beneficiaries of the medical insurance. A global network of healthcare providers is maintained to enable members to access healthcare in a convenient location whilst having their associated claims costs billed directly to AHICE.
- 3.9. As at 31 March 2023 AHICE had 441 IPMI policies on risk. IPMI policies are typically short tail in nature. AHICE has conducted an analysis of claims notifications which has found that, as at 31 December 2022, (i) within six months following treatment, 76.1% of claims were notified, (ii) within 12 months following treatment, 94.9% of claims were notified, (iii) within 18 months following treatment, 98.6% of claims were notified, and (iv) within 24 months following treatment, 99.6% of claims were notified. Consequently, the vast majority of the business is expected to run off by the end of 2025.
- 3.10. AHICE proposes to transfer the Transferring Policies to AWP pursuant to the Scheme and is empowered to do so by its Constitution which permits it to "*sell, improve, manage, develop, exchange, lease, mortgage, enfranchise, dispose of, turn to account or otherwise deal with all or any part of the property, undertaking, rights or assets of the Company, and for such consideration as the Company might think fit*".

CONSTITUTION AND BUSINESS OF AWP

4. The particulars, pertinent powers and principal objects of AWP are as follows:
- 4.1. AWP is an insurance company incorporated in France as a public limited company under the registered number 401154679, with a registered office at 7 Rue Dora Maar, 93400 Saint-Ouen Sur Seine, France. AWP's Irish branch is registered under number 907619 and has its registered office at 15 Joyce Way, Park West Business Park, Nangor Road, Dublin 12, Ireland. AWP was incorporated as SOC Investissement Bancaire Immobilier SA in May 1995. On 21 November 2013, it changed its name to Allianz Worldwide Care SA and subsequently on 29 February 2016 it changed its name to AWP Health & Life SA. AWP is a wholly owned subsidiary of Allianz Partners SAS, which in turn is wholly owned subsidiary of Allianz SE. AWP is headquartered in France, with branches in Ireland, Qatar and Canada. AWP operates elsewhere in the EU on a Freedom of Services basis. AWP is regulated by the French Prudential Supervisory Authority (Autorité de Contrôle Prudentiel et de Résolution) (the **ACPR**).
- 4.2. AWP's authorised share capital is €72,104,026.00. AWP's total issued share capital is €72,104,026.00 divided into 36,052,013 shares of €2. According to its most recent audited financial statements, as at 31 December 2022, AWP had net assets of approximately €427,446,000, with total gross written premium for the year ended 31 December 2022 of approximately €2,196,000,000.
- 4.3. AWP's objects as set out in its Memorandum and Articles of Association, include:
- “- any insurance and reinsurance transactions involving commitments the execution of which depends on human lifetime, and any accidental bodily injury or medical insurance and reinsurance transactions, including cover of their supplementary risks,*
- any transactions that the companies whose objects include the aforementioned transactions are or will be permitted to carry out,*
- and any financial transactions and transactions in movable and immovable property, contributions, subscriptions, purchases of securities or partnership shares, incorporation of companies and where applicable any other business or industrial transactions directly or indirectly related to the above objects or liable to facilitate their fulfilment and development. The Company can also acquire equity interests in other companies.”*
- 4.4. In December 2013, AWP was authorised by the ACPR to undertake the business of life assurance and non-life insurance, Class 1 (Accident), Class 2 (Sickness) and Class 20 (Life and annuity), as such classes are currently set out and described in Schedule 1 of the 2015 Regulations. AWP carries on insurance business in the aforementioned insurance classes throughout the European Union on a freedom of services basis and has branches registered in Ireland, Canada, and Qatar. AWP specializes in providing corporate and individual

international health insurance plans and corporate life insurance plans. A large proportion of the company's business comprises corporate schemes where the policyholder wishes to obtain cover for its employees and their dependents, who could be located all over the world on an expatriate basis.

- 4.5. AWP proposes to accept a transfer of the Transferring Policies from AHICE under the Scheme and is empowered to do so by its Memorandum and Articles of Association in accordance with the objects set out at 4.3 above.
- 4.6. AWP will possess the necessary eligible own funds to cover the Solvency Capital Requirement referred to in Article 100 of Directive 2009/138/EC, as transposed into law in France, which is the equivalent provision as a matter of French law to Regulation 113 of the 2015 Regulations after taking the transfer of the Transferring Policies into account.

BACKGROUND TO THE SCHEME

5. The background to the proposed transfer of the Transferring Policies is as follows:
 - 5.1. On 23 March 2022, AGB UK and AWP entered into the Asset Purchase Agreement, pursuant to which it was agreed that AHICE would cease to write new business. In parallel with the Asset Purchase Agreement, it was agreed, pursuant to a framework agreement also dated 23 March 2022, that various companies in the Aetna International group would transfer their insurance business in Hong Kong, Ireland, Singapore and the United Kingdom to various companies in the AWP group (the **Framework Agreement**). Pursuant to the Framework Agreement, it was agreed that AHICE would transfer the Transferring Policies, including rights and obligations under or relating to the Transferring Policies, to AWP, with the effect that any remaining outstanding claims or other liabilities under or relating to the Transferring Policies would transfer to AWP. Pursuant to the Framework Agreement, it is also intended that a Reinsurance Agreement will be entered into, pursuant to which the Transferring Policies and any claims, liability and obligations of AWP with respect to the Excluded Policies will be 100% reinsured by ALIC or an alternative Aetna International group entity.
 - 5.2. The purpose of the Asset Purchase Agreement and the Framework Agreement, insofar as AHICE is concerned, was to facilitate the exit of the Aetna International group from the international private medical insurance market outside of the US. Completion of the Framework Agreement in respect of AHICE's business is conditional upon the sanction of the Scheme by the Court. Local portfolio transfer approval processes are also being carried out in Hong Kong, Singapore and the United Kingdom in accordance with the Framework Agreement.

THE HIGH COURT

- 5.3. At a meeting of the board of directors of AHICE (the **AHICE Board**) on 14 March 2022, the AHICE Board approved entry into the Framework Agreement pursuant to which the Irish Portfolio Transfer would take place subject to the sanction of this Honourable Court and any necessary regulatory or other approvals. By written resolution dated 26 June 2023 the AHICE Board resolved to effect the legal transfer of the Transferring Policies and delegated authority to any director to enter into any documents necessary to effect the Scheme.
- 5.4. At a meeting of the board of directors of AWP (the **AWP Board**) on 22 March 2022, the AWP Board approved entry into the Framework Agreement resolved to accept the legal transfer of the Transferring Policies from AHICE pursuant to and in accordance with the Framework Agreement subject to the requirements of applicable local law.
- 5.5. The Central Bank has been advised of the proposed Transfer.

PRINCIPAL FEATURES OF THE SCHEME

6. The Scheme has the following principal features:
 - 6.1. On and with effect from the Scheme Date, the Transferring Policies (defined in the Scheme as including the Policies other than certain Excluded Policies) shall be transferred to and vested in AWP and AWP shall succeed to and become responsible for, and entitled to, all the rights, benefits and powers of AHICE whatsoever subsisting on the Scheme Date under or by virtue of the Transferring Policies.
 - 6.2. On and with effect from the Scheme Date, the Transferring Liabilities (defined in the Scheme as including, inter alia, all debts, obligations and liabilities whatsoever of AHICE at the Scheme Date arising from, allocated or attributable to the Transferring Policies) shall be transferred to and vested in AWP, with the effect that AHICE shall be wholly released from, and AWP shall succeed to, the Transferring Liabilities.
 - 6.3. Every holder of a Transferring Policy shall, with effect from the Scheme Date, become entitled, in substitution for and to the exclusion of any right against AHICE thereunder (from which AHICE shall be entirely released), to the same rights against AWP as were available against AHICE under such Transferring Policy prior to the Scheme Date. In addition, every holder of a Transferring Policy shall, with effect from the Scheme Date, in substitution for any liability or obligation owed thereunder to AHICE, be under the same liability or obligation to AWP.
 - 6.4. The Scheme also provides for Excluded Policies, which are any Transferring Policies which do not transfer to AWP on the Scheme Date in certain circumstances specified in

the Scheme. The Excluded Policies shall not be transferred to AWP on the Scheme Date but shall remain vested in AHICE pending their transfer to AWP in accordance with the terms of this Scheme.

- 6.5. Any Proceedings (as defined in the Scheme) pending in any court by or against AHICE on the Scheme Date in connection with the Transferring Policies shall be continued by or against AWP with effect from the Scheme Date and AWP will be entitled to any and all defences, claims, counterclaims and rights of set-off that would have been available to AHICE in relation to any such Proceedings.

ACTUARIAL REPORT

7. Irish law does not require an independent actuarial report to be procured as a pre-requisite to seeking or obtaining the sanction of this Honourable Court for the transfer of a portfolio of non-life insurance business. However, AHICE and AWP have procured an independent actuarial report from Brian Morrissey of KPMG (the **Independent Actuary**).
8. Brian Morrissey is a Fellow of the Institute and Faculty of Actuaries and a Fellow of the Society of Actuaries in Ireland. He has no direct or indirect interest in the proposed Scheme or any financial interest in AHICE, AWP or the respective groups to which they belong.
9. The Independent Actuary has reviewed the proposed Scheme and has considered its potential impact on (a) the holders of the Policies proposed to transfer to AWP under the Scheme (the **Transferring Policyholders**) and (b) AWP's existing policyholders.
10. The Independent Actuary has prepared an independent actuarial report (the **Actuarial Report**) in which he has concluded that he does not expect the Scheme to materially adversely affect the Transferring Policyholders or AWP's existing policyholders. In particular, the Independent Actuary does not expect any material adverse impact on the service provided to any of such group of policyholders nor any material adverse impact on the security provided to them. As a result, the Independent Actuary is of the view that there is no reason from his perspective why the Scheme should not proceed.
11. The Independent Actuary intends to prepare a supplementary report in advance of the hearing of this Petition (the **Supplementary Report**). The Supplementary Report will cover any relevant matters which may have arisen since the date of the Actuarial Report, including any such matters which may impact on the Independent Actuary's conclusions therein.

PUBLICITY

12. As required by the 1909 Act and the 2015 Regulations, the Petitioners shall publish notice of their intention to make this application (the **Notice**) in Iris Oifigiúil and in two daily

newspapers published in the State, namely, the Irish Times and the Irish Independent, and otherwise as the Court may direct. Whilst not a legal requirement, the Petitioners also intend to publish the Notice in the Times (International Edition).

13. Section 13(c) of the 1909 Act provides that the Petitioners must make certain documents available for the inspection of policyholders. This Petition, the Scheme, the Notice and the Actuarial Report shall each be made available in English for inspection by the policyholders and shareholders of AHICE and AWP at their registered offices in Ireland (the **Irish Offices**) and at the registered office of AWP in Paris, France (the **French Office**) for a period of at least fifteen days following the publication of the Notice in Iris Oifigiúil. When available, the Supplementary Report shall also be made available in English for inspection by the policyholders and shareholders of AHICE and AWP at the Irish Offices and the French Office.
14. Whilst not a legal requirement, a webpage dedicated to the Transfer will also be hosted on the Aetna International website (the **Webpage**), a link to which will be included on AWP's website. The Webpage will contain all documents listed at paragraph 13, and those contained within the Communication Pack which will be sent to Policyholders. It will also include the Actuarial Report which will be available for download free of charge. The Supplementary Report will be added when available. The Webpage will also include a dedicated email address and free-phone number for policyholders to contact AHICE with any questions.
15. Regulation 41 (5) (b) of the 2015 Regulations also requires notice of the proposed transfer to be published in each Member State in which risks under the Policies are situated in accordance with the law of that Member State. The risks under the Policies are situated in the following EEA jurisdictions Austria; Belgium; Bulgaria; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Greece; Hungary; Iceland; Ireland; Italy; Liechtenstein; Lithuania; Luxembourg; Malta; Netherlands; Norway; Poland; Portugal; Romania; Slovakia; Spain; Sweden; **Latvia and Slovenia**. The Petitioners have sought legal advice in relation to the local law requirements for each of the relevant EEA jurisdictions and intend to publish details of the Transfer in each of those EEA jurisdictions in which the risks under the Policies are situated, where so required by the laws of that jurisdiction.
16. 97% of AHICE's members are resident in the EEA, with some members resident in non-EEA jurisdictions. On the basis that Transferring Policyholders and Active Brokers will be contacted directly by AHICE to notify them of the Transfer, AHICE does not intend to advertise in any other specific non-EEA jurisdictions but will place an advert in the Times (International Edition).
17. Whilst not a requirement of Irish law (because the Transferring Policies do not comprise life assurance, endowment, sinking or bond investment business), AHICE also intends to

communicate with the Transferring Policyholders directly. The Transferring Policies comprise individual policies or group policies. Where they are individual policies, those policies may have further beneficiaries in addition to the individual in whose name the policy is held. Where they are group policies, there will be beneficiaries under the group policy and those beneficiaries may have dependants who are also beneficiaries under the policy. For the purposes of communicating with policyholders, the following distinctions are made:

- 17.1. The Named Policyholder is the person in whose name the individual or group policy is held, which may be a company or an individual;
- 17.2. The Primary Member is (i) in respect of a group policy, a primary member of such group policy, for example an employee of a Named Policyholder and (ii) in respect of an individual policy, the primary member of such individual policy, who is likely to be the same person as the Named Policyholder); and
- 17.3. Dependant Members are any individuals entitled to claim under the individual or group policy other than the Named Policyholder and the Primary Member, including the additional dependants of a Named Policyholder or a Primary Member.
- 17.4. The available data for the Transferring Policies (apart from those Transferring Policies that are Recently Expired Policies, addressed at clause 17.6 below) shows the following as at 31 March 2023:
 - 17.4.1. there are 305 Transferring Policies which will be within the contractual window for notifying claims, assuming treatment on the last day of the policy term, as at the proposed Scheme Date of the Transfer (the **Live Transferring Policies**). This cohort comprises 293 individual named policyholders and 12 group named policyholders, under which (collectively) there are 1082 Primary and Dependant Members, and includes Transferring Policies which will have expired six months or less prior to the proposed Scheme Date;
 - 17.4.2. there will be a very small number of Transferring Policies (likely to be in the single digits) in respect of which there is an active claim which will include
 - (1) claims which have been submitted for pre-authorisation, but where the treatment date has not yet passed, and

- (2) claims which have been reported and loaded on AHICE's systems, but not yet paid. (the **Active Claims Policies**).

- 17.5. To the extent there are any Transferring Policies with an active claim prior to the date of the directions hearing (subject to this Honourable Court granting the within Petition entry into the Commercial List) (the Directions Hearing), they will be notified as part of the process set out in paragraph 18.2 if they have not otherwise been notified. If any active claims are notified between the Directions Hearing and the proposed effective date of the Transfer, then such policyholder will be notified of the proposed Transfer as part of the claims process.
- 17.6. As at 31 March 2023, there are 1,175 policies which will have expired, and which will no longer be within the contractual window for notifying claims at the Scheme Date, assuming treatment on the last day of the policy term, but which were written between 1 December 2020 and 1 June 2022 and which will therefore have expired between 30 November 2021 and 31 May 2023 (the **Recently Expired Policies**). Although there is no contractual obligation on AHICE to pay claims under the Recently Expired Policies, the Parties are of the view that these policyholders are potentially impacted by the Transfer on the basis that claims have historically sometimes been made and paid after the expiry of the contractually permitted period for bringing a claim.
18. AHICE intends to send a communications pack via email to:
- 18.1. Named Policyholders, Primary Members and/or Dependant Members, as applicable of the Live Transferring Policies and Recently Expired Policies, where available;
- 18.2. Named Policyholders, Primary Members and/or Dependant Members, as applicable, of the Active Claims Policies; and
- 18.3. all known brokers with whom AHICE (or its affiliates) has had correspondence in relation to the Live Transferring Policies and who remain in contact with AHICE (or its affiliates) on behalf of policyholders with respect to such business (the Active Brokers).
19. In order to communicate with as many Named Policyholders, Primary Members and Dependent Members as possible:
- 19.1. AHICE will provide copies of the communication packs to the Named Policyholders. In respect of individual policies, AHICE will request that the Named Policyholder send a Communication Pack to any additional Dependant Members. In respect of group policies,

AHICE will request that the Named Policyholders send a Communication Pack to each of the Primary Members covered by the relevant Live Transferring Policy for whom it holds contact details, and requests that those Primary Members pass on the Communication Packs to any additional Dependant Members;

- 19.2. AHICE will reimburse the relevant Named Policyholder, where requested, for their reasonable costs of sending the Communication Packs to such Primary Members;
- 19.3. AHICE will separately send a Communication Pack to each Primary Member in respect of whom AHICE holds contact details, and request that those Primary Members pass on the Communication Packs to any additional Dependant Members. Primary Members may receive correspondence both directly and through the relevant Named Policyholder; and
- 19.4. AHICE will provide copies of the Communication Pack to all Active Brokers and request that the Active Brokers send a communication Pack to each of the Named Policyholders and Primary Members covered by the relevant Live Transferring Policy for whom it holds contact details. AHICE will reimburse the relevant Active Broker, where requested, for their reasonable costs of sending the Communication Packs to such Named Policyholders and Primary Members.
20. AHICE will also send the communication pack directly to the relevant Named Policyholder, Primary Member or Dependant Member to which any active claims relate, which will include (i) claims which have been submitted for pre-authorisation, but where the treatment date has not yet passed, and (ii) claims which have been reported and loaded on AHICE's systems but not yet paid.
21. Each communication pack will be accompanied by a covering letter (**AHICE Letter**).
22. AHICE's preferred method of sending the Communication Pack is by email. AHICE expects to have electronic contact details for close to 100% of Named Policyholders within the proposed notification population either held by itself or has the electronic contact details of the Active Brokers through whom the remaining Named Policyholders have contact with AHICE. Communications with the Transferring Policyholders are customarily conducted in electronic form.
23. Additionally, AHICE carried out a sample exercise during January 2023 to call for claims from Primary Members, which provided it with an opportunity to verify and validate the electronic contact details it holds for Primary Members. Any incorrect email addresses were traced and replaced following direct contact with those Primary Members.

24. 88% of emails sent were successfully delivered and work is ongoing to identify up to date contact details for the remaining Primary Members. While email addresses may not be verified for every Primary Member in advance of the communications being issued, the proposed strategy outlined in paragraph 18 and the additional step of contacting Active Brokers will provide the best opportunity for all Primary Members to be contacted as each Named Policyholder will be contacted and asked to transmit the relevant Communication Pack to any Primary Members. As an extra step, AHICE will also ask Active Brokers to follow the same process for any Named Policyholders and Primary Members, for which they hold details. These steps should minimise the risk of any Named Policyholder or Primary Member not being contacted. Finally, it should be noted that a small email verification gap will always exist as there may be scenarios where AHICE has not been updated as to Primary Member no longer being an active Member e.g. individuals who are listed as Primary Members but will have ceased to be employees of the Named Policyholder.

IMPACT OF THE TRANSFER ON EMPLOYEES

25. Employees of AHICE will automatically transfer to AWP on the Scheme Date pursuant to the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (TUPE), unless a relevant employee objects to transferring and/or AHICE accepts a relevant employee's wish to take voluntary redundancy via a settlement agreement with AHICE and AWP which prevents their transfer to AWP and provides for their employment to end on the Scheme Date, or on such later date as agreed with the relevant employee.
26. It is anticipated that AHICE will have up to 7 employees at the Scheme Date. AHICE employees will be consulted in relation to the transfer closer to the Scheme Date.
27. AHICE and AWP will ensure that all relevant steps to effect the transfer of AHICE employees, pursuant to TUPE, are fulfilled in advance of the Scheme Date, subject to any applicable agreed voluntary redundancy.
28. The impact of the Scheme on non-AHICE, non-Irish resident employees who administer the Transferring Policies, is expected to be minor. Such employees will go through consultation processes under local laws arising from the changes to the Aetna International business as a result of other Portfolio transfers and changes arising as a result of the Framework Agreement.

EFFECT ON CREDITORS

29. As outlined above, the net assets of AHICE at 31 December 2022 were approximately €14.6 million, with total gross written premium for the year ended 31 December 2022 of approximately €19.5 million. The liabilities of AHICE to creditors (other than in respect of policies of assurance) at 31 December 2022 amounted to approximately €2.7 million. The net assets of AWP at 31 December 2022 were approximately €427,446,000, with total

gross written premium for the year ended 31 December 2022 of approximately €2,196,000,000. The liabilities of AWP to creditors (other than in respect of policies of assurance) at 31 December 2022 amounted to approximately €376,039,000. There has, since then, been no material change in the level of such creditors and the creditors of neither AHICE nor AWP will be prejudiced by the Scheme.

COSTS

30. The costs and expenses in relation to and incidental to, the preparation and negotiation of the Scheme, its presentation to the Court and its implementation, shall be borne by AHICE.

REGULATORY CONSULTATION

31. For the purposes of Regulation 41 of the 2015 Regulations, AHICE has consulted with the Central Bank in relation to the Scheme. The Petitioners understand that the Central Bank has notified ACPR of the proposed Transfer pursuant to, and in connection with, Regulation 41(3)(a) and regulators in each Member State in which the contracts were concluded in connection with Regulation 41(3)(b) and Regulation 41(4) of the 2015 Regulations.

APPLICATION TO COURT

32. Your Petitioners do not believe that there is or could be any objection, or any sufficient basis for an objection, to be made in relation to the Scheme and the Petitioners respectfully submit that, in the circumstances, it is just and equitable that the Scheme be sanctioned by this Honourable Court.
33. The Petitioners therefore pray as follows:
- 33.1. an Order pursuant to the provisions of Section 13 of the 1909 Act sanctioning the Scheme;
- 33.2. An Order pursuant to Section 36 of the Insurance Act 1989 for the purposes of effecting the Scheme that on and from the Scheme Date:
- 33.2.1. all the rights and powers of AHICE relative to the Transferring Business (including the Transferring Policies) shall be transferred to AWP (to be operated through its Irish branch) to the intent and effect that the same shall by virtue of the Scheme vest in and form part of the assets of AWP;
- 33.2.2. all Transferring Liabilities shall be assumed by and become liabilities of AWP;
- 33.3. such Order(s) pursuant to the provisions of the 1909 Act, Section 36 of the 1989 Act and Regulation 41 of the 2015 Regulations, as may be appropriate, to transfer the Policies to AWP as and to the extent intended by the terms of the Scheme;

FIRST SCHEDULE

NAMES AND ADDRESSES OF THE PETITIONERS

AHICE

1. David Gleeson, Saint Nessans, 14 Westfield Road, Harold's Cross, Dublin, Dublin 6w, Ireland
2. John Hickey, The Paddocks, Rathattin, Dalkey, Dublin, A96 XT38, Ireland
3. Brian Neilan, 18 Callary Road, Mount Merrion, Co Dublin, Ireland
4. Brian Paul O'Rourke, 16 Lissadel Crescent, Malahide, Dublin, Ireland
5. John Wardrop, The Barn Home Farm, Main Street Ashley, Market Harborough, LE16 8HF United Kingdom.

AWP

1. Tomas Kunzmann, Heimgartenstrasse 6, 81539, Munich, Germany
2. Lidia Luka, 68 Route de Croissy 78110, Le Vesinet, France
3. Bea Corti Stuber, Crer. Vallirana 76, Barcelona, Spain

SECOND SCHEDULE

THE SCHEME

THE HIGH COURT

2023 No.
COS

2023 No.
COM

IN THE MATTER OF **AETNA HEALTH INSURANCE COMPANY OF EUROPE DAC**

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THE INSURANCE ACT 1989 (AS AMENDED) AND THE EUROPEAN UNION
(INSURANCE AND REINSURANCE) REGULATIONS 2015 (AS AMENDED)**

SCHEME

Pursuant to Section 13 of the Assurance Companies Act 1909 (as amended), Section 36 of the Insurance Act 1989 (as amended) and Regulation 41 of the European Union (Insurance and Reinsurance) Regulations 2015 (as amended) for the transfer to AWP Health & Life SA (to be operated through its Irish branch) of the non-life insurance business of Aetna Health Insurance Company of Europe DAC.

1 INTRODUCTION

- 1.1. Aetna Health Insurance Company of Europe DAC (**AHICE**) is a non-life insurance company that was incorporated in Ireland as a private limited company on 8 November 2007 under company number 448763. Incorporated as Aetna Health Insurance Company of Europe Limited, its name was changed to Aetna Health Insurance Company of Europe Designated Activity Company on 20 November 2016.
- 1.2. AHICE is a non-life insurance undertaking authorised by the Central Bank under the 2015 Regulations.
- 1.3. AHICE carries on the Transferring Business through its registered office in Ireland at Alexandra House, 3 Ballsbridge Park, Ballsbridge, Dublin, D04 C7H2.

- 1.4. AWP Health & Life SA (**AWP**) is an insurance company incorporated in France as a public limited company under registered number 401154679, with a registered office at Rue Dora Maar, 93400 Saint-Ouen Sur Seine, France. AWP's Irish branch is registered under number 907619 and has its registered office at 15 Joyce Way, Park West Business Park, Nangor Road, Dublin 12, Ireland. AWP was incorporated as SOC Investissement Bancaire Immobilier SA in May 1995. On 21 November 2013 it changed its name to Allianz Worldwide Care SA and subsequently on 29 February 2016 it changed its name to AWP Health & Life SA.
- 1.5. AWP is regulated by the French Prudential Supervision and Resolution Authority (Autorité de Contrôle Prudentiel et de Résolution) (the **ACPR**).
- 1.6. AHICE and AWP hereby agree that, subject to the Court having sanctioned the Scheme, AHICE will transfer the Transferring Business to AWP (to be operated through AWP's Irish branch) in accordance with the terms of this Scheme.
- 1.7. AHICE and AWP 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 any documents) which may be necessary or expedient to give effect to the Scheme.

2. INTERPRETATION

- 2.1. In this Scheme (including any schedules and appendices hereto) words and expressions shall, save where the context otherwise requires, have the meanings set out in Appendix I hereto.
- 2.2. In this Scheme, 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).
- 2.3. Any reference to this Scheme shall include any schedules and appendices to it and, except as the context may otherwise require references to paragraphs, clauses, schedules or appendices are to paragraphs, schedules or appendices to this Scheme.
- 2.4. The headings in this Scheme are for convenience only and shall not affect its interpretation.
- 2.5. The word "including" is to be construed as not importing any limitation.
- 2.6. Any references in this Scheme to legislation shall be to Irish legislation (unless otherwise stated) and include a reference to any legislation subordinate to such legislation and, save where the context otherwise requires, words and expressions used in the Acts and any regulations made under any of the foregoing shall have the same meanings in this Scheme.
- 2.7. 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.

- 2.8. Any words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.
- 2.9. 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.
- 2.10. Any reference to a Party or to the Parties shall mean a party or the parties to this Scheme.

3. TRANSFER OF THE TRANSFERRING POLICIES AND THE TRANSFERRING ASSETS

- 3.1. In accordance with this Scheme and by virtue of the Order, on and with effect from the Scheme Date, the Transferring Policies and the Transferring Assets shall, without any further act or instrument (but subject to the terms of the Order), be transferred to and vested in AWP and AWP shall succeed to and become responsible for, and entitled to, all the rights, benefits and powers of AHICE whatsoever subsisting on the Scheme Date under or by virtue of the Transferring Policies and the Transferring Assets and AWP shall be entitled to any and all defences, claims, counterclaims and rights of set-off against or under the Transferring Policies and the Transferring Assets which would have been available to AHICE.
- 3.2. AHICE and AWP shall, as and when necessary or appropriate, execute and deliver all documents and perform all such other acts and take any such steps as may reasonably be required to effect or perfect the transfer to, and vesting in, AWP of the Transferring Policies and the Transferring Assets.
- 3.3. In the event of any payment being made to, or property being received by, or right, benefit of power being conferred upon, AHICE after the Scheme Date in respect of the Transferring Policies or the Transferring Assets, which payment accrued after the Scheme Date, AHICE shall, as soon as is reasonably practicable after its receipt, pay over the amount of such payment to AWP or, to the extent that it is reasonably able to do so, transfer such property, right, benefit or power to, or in accordance with the directions of, AWP.
- 3.4. Every holder of a Transferring Policy and every person who has a right under or in respect of a Transferring Policy shall, with effect from the Scheme Date, become entitled, in substitution for and to the exclusion of any right against AHICE thereunder (from which AHICE shall be entirely released), to the same rights against AWP as were available against AHICE under such Transferring Policy.

3.5. Every holder of a Transferring Policy and every person who has a liability or obligation under a Transferring Policy shall, with effect from the Scheme Date, in substitution for any liability or obligation owed thereunder to AHICE, be under the same liability or obligation to AWP.

3.6. Except where the context otherwise requires, all references to AHICE (or any predecessor of AHICE) in any Transferring Policy or in any contract or other document or instrument to the extent evidencing title to, or the benefit or burden of, any Transferring Policy, Transferring Asset or Transferring Liability, shall, from and after the Scheme Date, be read as references to AWP.

4. TRANSFER OF THE TRANSFERRING LIABILITIES

4.1. In accordance with this Scheme and by virtue of the Order, on and with effect from the Scheme Date, the Transferring Liabilities shall, without any further act or instrument (but subject to the terms of the Order), be transferred to and vested in AWP, with the effect that AHICE shall be wholly released from, and AWP shall succeed to, the Transferring Liabilities.

4.2. AHICE and AWP shall, as and when necessary or appropriate, execute and deliver all documents and perform all such other acts and take any such steps as may reasonably be required to effect or perfect the transfer to, and vesting in, AWP of the Transferring Liabilities.

5. EXCLUDED POLICIES

5.1. The Excluded Policies shall not be transferred to AWP under this Scheme on the Scheme Date and, subject to paragraphs 5.2 and 5.4, the liabilities under the Excluded Policies shall remain liabilities of AHICE pending their transfer.

5.2. On and from the Scheme Date, AWP shall indemnify AHICE against all liabilities of AHICE under or referable to the Excluded Policies, until the date (if any) on which there are no longer any Excluded Policies in existence, in consideration for which AHICE shall pay to AWP all monies received on or after the Scheme Date in respect of, and all assets representing reserves held by AHICE in connection with, the Excluded Policies and AWP shall pay to AHICE or discharge on AHICE's behalf all of AHICE's liabilities under or referable to the Excluded Policies.

5.3. On and from the Scheme Date,

5.3.1. AWP shall, at its own cost, be responsible for all aspects of the administration of the Excluded Policies; and

5.3.2. the parties shall work together in good faith, and AHICE shall take all steps necessary, to facilitate the administration by AWP of the Excluded Policies.

- 5.4. If, in relation to an Excluded Policy, on or after the Scheme Date:
- (a) a Member State (as defined in the 2015 Regulations) where the contract was concluded, either under the right of establishment or the freedom to provide services, consents to its transfer pursuant to Regulation 41(3)(b) of the 2015 Regulations or is deemed to have so consented pursuant to Regulation 41(4) of the 2015 Regulations; or
 - (b) such further steps as are referred to in the definition of Excluded Policy shall have been taken in relation to the Excluded Policy

the Excluded Policy shall thereupon transfer to AWP and the Excluded Policy shall thereupon be treated as a Transferring Policy in all respects and the provisions of the Scheme applicable to Transferring Policies shall apply mutatis mutandis to such a policy.

6. **CONTINUITY OF PROCEEDINGS**

If any Proceedings shall be pending by or against AHICE on the Scheme Date in connection with the Transferring Policies, the Transferring Assets or the Transferring Liabilities, the same shall, in accordance with this Scheme and by and subject to the Order be continued by or against AWP with effect from the Scheme Date. On and from the Scheme Date, AWP shall be entitled to any and all defences, claims, counterclaims and rights of set-off that would have been available to AHICE in relation to any Proceedings.

7. **DATA PROTECTION AND OTHER AUTHORITY**

7.1. On and with effect from the Scheme Date, in accordance with this Scheme and by virtue of the Order, the Records, which may include personal data protected under Data Protection Laws, may be used by AWP and disclosed by AWP to, and used by, any agent or contractor of AWP to the same extent that they were used by AHICE and its agents or contractors prior to the Transfer for all purposes including in particular, but without limitation, the administration of the Transferring Policies and all matters relevant or incidental thereto, and no consent from the individual holders of such Transferring Policies in respect of such disclosure, transfer or use shall be required.

7.2. To the extent that an authority has been given to AHICE in connection with a Transferring Policy by the holder thereof, whether pursuant to Data Protection Legislation or otherwise, such authority shall, on and after the Scheme Date be deemed to have been given to AWP (where relevant, operating through its Irish branch).

8. **COSTS AND EXPENSES**

The costs and expenses in relation to, or incidental to, the preparation and negotiation of this Scheme, its presentation to the Court and its implementation, shall be borne by AHICE.

9. **SCHEME DATE**

This Scheme shall take effect on the Scheme Date or such other time and date as may be specified in an Order sanctioning this Scheme under Section 13 of the 1909 Act, Section 36 of the 1989 Act and Regulation 41 of the 2015 Regulations, and unless this Scheme shall take effect on or before 30 June 2024 or such later date as the Court may allow upon the application of AHICE and AWP, it shall lapse.

10. **AMENDMENTS, MODIFICATIONS OR ADDITIONS**

On or before the Scheme Date, subject to the sanction of the Court, any amendments, modifications and additions (including any further condition or provision that the Court may approve or impose) may be made to this Scheme on the prior agreement of each of AHICE and AWP provided that the Central Bank shall have been notified of any proposal to make such an amendment, modification or addition and may appear and be heard before the Court.

11. **GOVERNING LAW**

This Scheme shall be governed by and construed in accordance with the laws of Ireland.

12. **EVIDENCE OF TRANSFER**

The production of a copy of the Order, with any modifications, amendments and/or additions made pursuant to paragraph 10 above, shall for all purposes, be evidence of the transfer to and vesting in AWP of the Transferring Business.

APPENDIX I

DEFINITIONS

1909 Act	means the Assurance Companies Act 1909;
1936 Act	means the Insurance Act 1936;
1989 Act	means the Insurance Act 1989;
2015 Regulations	means the European Union (Insurance and Reinsurance) Regulations 2015;
Acts	means the Insurance Acts 1909-2011 and all regulations made under those Acts and all regulations relating to insurance made under the European Communities Act 1972 including but not limited to the 2015 Regulations;
ACPR	means the French Prudential Supervision and Resolution Authority (Autorité de Contrôle Prudentiel et de Résolution)
Aetna Parent Reinsurance Agreement	means the reinsurance agreement entered into between Aetna Life Insurance Company and AHICE in relation to the Transferring Business, effective 1 January 2023;
ALIC	means Aetna Life Insurance Company, a company with its registered address at 151 Farmington Avenue, Hartford, CT 06156, United States of America;
Assets	means any assets, property, rights or powers of any kind or description, wherever located, whether tangible or intangible, present or future, actual or contingent, that are owned, leased or licensed including all rights, benefits and powers under any contract and all rights, claims and powers against any third party
Central Bank	means the Central Bank of Ireland;
Court	means the High Court of Ireland;
Data Protection Laws	means the General Data Protection Regulation (Regulation (EU) 2016/679) (GDPR), the Data Protection Act 2018, any applicable consequential national data protection legislation in an EU Member State and all other applicable laws and regulations (in any relevant jurisdiction) from time to time relating to the processing of personal data and privacy, including (where applicable): (1) the European Communities (Electronic Communications Networks and Services (Privacy and Electronic Communications) Regulations 2011; and

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	(2) binding guidance and codes of practice or conduct issued by the Data Protection Commission or other relevant supervisory authority, including without limitation the European Data Protection Board.
Excluded Assets	means all assets of AHICE other than the Transferring Assets;
Excluded Policy	<p>means any Policy which does not transfer to AWP on the Scheme Date because:</p> <ul style="list-style-type: none"> (a) a Member State (as defined in the 2015 Regulations) where the contract was concluded, either under the right of establishment or the freedom to provide services, has not consented to its transfer pursuant to Regulation 41(3)(b) of the 2015 Regulations and is not deemed to have so consented pursuant to Regulation 41(4) of the 2015 Regulations; (b) further steps additional to the Order are required to secure its transfer to AWP under the law of any relevant jurisdiction that is not a Member State (as defined in the 2015 Regulations); (c) the Court has determined for any reason not to transfer it or only to transfer it if further steps are taken; (d) AHICE and AWP agree prior to the Scheme Date that its transfer is to be delayed until after the Scheme Date; or (e) which cannot be transferred to AWP pursuant to the Scheme for any other reason.
Framework Agreement	means the framework agreement dated 23 March 2022 between Aetna Insurance (Hong Kong) Limited, AHICE, Aetna Insurance Company Limited, Aetna Insurance Company Ltd (Singapore Branch), Aetna Life Insurance Company and AWP;
Ireland	means Ireland excluding Northern Ireland;
Liabilities	means any claim, debt, liability, losses, damages, costs (including legal costs and experts' fees and the cost of remediation), payment, redress, agreed settlement, buyback, commutation, compromise, duty or obligation of any kind or description (whether direct or indirect, absolute or contingent, accrued or unaccrued, liquidated or unliquidated or due or to become due);
Order	means any order(s) made, or to be made, as the case may be, by the Court sanctioning this Scheme pursuant to Section 13 of the 1909 Act and Regulation 41 of the 2015 Regulations and such further order(s) as the Parties shall seek and as the Court shall deem appropriate to grant pursuant to Section 36 of the 1989 Act;
Policies	means AHICE's entire portfolio of non-life insurance policies that comprises Class 1 (Accident) and Class 2 (Sickness), including any endorsements, extensions or amendments thereto;

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Proceedings	means any court, tribunal or arbitration proceedings excluding any proceedings (disciplinary or otherwise), investigation or enquiry by any Regulatory Authority or dispute referred to any ombudsman;
Recently Expired Policy	means any policy which will have expired, and which will no longer be within the contractual window for notifying claims at the Scheme Date, assuming treatment on the last day of the policy term, but which were written between 1 December 2020 and 1 June 2022 and which will therefore have expired between 30 November 2021 and 31 May 2023.
Records	means the documents, files and other records, whether in physical or electronic form, relating to the Transferring Policies, the Transferring Assets and the Transferring Liabilities which are in the possession of, or under the control of AHICE or its third party service providers as agreed between AHICE and AWP and all rights, benefits, authorities and powers of AHICE under or by virtue of the Records;
Regulatory Authority	means each body or person having regulatory or supervisory authority over all or any part of the business of AHICE or AWP or having statutory authority in respect of insurance business transfers in any Ireland or France;
Reinsurance Agreement	means the reinsurance agreement between AWP and ALIC (or an appropriate alternative member of the Transferor Group, having regard to the solvency coverage, credit rating and financial standing of ALIC as the parties may agree in accordance with the Framework Agreement) to be entered into in accordance with the Framework Agreement.
Scheme	means this Scheme in its original form or with or subject to any modification, addition or condition which may be approved or imposed by the Court;
Scheme Date	means 00:01 a.m. on 1 December 2023 or such other date as AHICE and AWP may agree and to which the Court consents, upon which the Order takes effect;
Subsequent Transfer Date	means in relation to an Excluded Policy, the date on which the Excluded Policy is to be treated as a Transferring Policy as outlined in clause 5.4;
Transfer	means the transfer of the Transferring Business pursuant to this Scheme;
Transferring Assets	<p>means all of the following assets as at the Scheme Date:</p> <ul style="list-style-type: none"> (f) the rights, benefits, authorities and powers (whether actual or contingent) of AHICE whatsoever under or by virtue of the Transferring Policies; and (g) the Records including, without limitation, all rights, title and interest of AHICE in the Records;

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	<p>(h) the assets or cash deposits comprising the insurance provisions and reserves associated with the Transferring Policies</p> <p>but excluding the Excluded Assets;</p>
Transferring Business	<p>means the Transferring Policies, the Transferring Assets and the Transferring Liabilities and for the avoidance of doubt, excluding any rights or liabilities of AHICE under or relating to the Excluded Policies or the Aetna Parent Reinsurance Agreement or any other Assets or Liabilities of AHICE;</p>
Transferring Liabilities	<p>means all liabilities of AHICE of every kind and description (whether present or future, actual or contingent, lapsed, expired or reinstated) comprised in or attributable to the Transferring Policies and/or the Transferring Assets, including liabilities in respect of any claim for mis-selling by any current or former Policyholder who holds a Transferring Policy or has held a Transferring Policy prior to the Scheme date;</p>
Transferring Policies	<p>means any Policy (that is not a Excluded Policy), including any endorsements or amendments thereto, ever underwritten by AHICE and forming part of the Transferring Business under which any liability or contingent liability remains unsatisfied or outstanding at the Scheme Date, including for the avoidance of doubt, any Recently Expired Policy.</p>

