

**IN THE ROYAL COURT OF JERSEY
SAMEDI DIVISION**

**IN THE MATTER OF
ATHORA IRELAND PLC
(FORMERLY AEGON IRELAND PLC)
and
IN THE MATTER OF
UTMOST IRELAND DAC**

**AND IN THE MATTER OF AN APPLICATION PURSUANT TO ARTICLE 27 OF AND
SCHEDULE 2 TO THE INSURANCE BUSINESS (JERSEY) LAW 1996**

**LONG TERM INSURANCE BUSINESS
TRANSFER SCHEME**

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PART A - DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 In this Jersey Scheme (as defined below), the following words and expressions shall have the following meanings:

"2015 Regulations" means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015);

"Excluded Jersey Assets" means all property, rights, powers and assets of the Transferor other than the Transferring Jersey Business and the Jersey Books and Records;

"Excluded Jersey Liabilities" means 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 Jersey Liabilities;

"Guernsey Scheme" means a scheme made pursuant to Section 44 of the Insurance Business Law sanctioning the transfer of the Guernsey Business, a copy of which is appended in the Second Schedule to this Jersey Scheme, with or subject to any modification, addition or change made or imposed from the time to time in accordance with its terms;

"Guernsey Insurance Business Law" means the Insurance Business (Bailiwick of Guernsey) Law, 2002;

"Guernsey Royal Court" means the Royal Court of Guernsey;

"Insurance Business Law" means the Insurance Business (Jersey) Law 1996, a Jersey statute;

"Irish Scheme" means the scheme for the transfer of insurance business for the purposes of Ireland's Assurance Companies Act 1909 and the Insurance Act 1989, and the European Union (Insurance and Reinsurance) Regulations 2015, a copy of which is appended in the First Schedule to this Jersey Scheme, with or subject to any modification, addition or change made or imposed from time to time in accordance with its terms;

"Jersey Additional External Link Arrangements" means any and all insured fund external link agreements / arrangements the terms of which are not in writing (and are therefore not included in Schedule 1 to the Irish Scheme), which are utilised by the Transferor for the purposes of facilitating the investment of assets related to (i) the Transferring Jersey Business; and / or (ii) both the Transferring Jersey Business and the ULG Business at the Jersey Effective Time, including but not limited to, the agreements between the Transferor and the respective parties detailed below:

(i) Absolute;

(ii) Investec;

(iii) Kames;

(iv) Newton;

(v) Royal London; and

(vi) Schroder;

"Jersey Books and Records" means all books, records and other information relating exclusively or primarily to the Transferring Jersey Business and all information relating to customers, suppliers, agents and distributors and other information in each case relating exclusively to the Transferring Jersey Business (including the employees in any jurisdiction who are wholly or mainly assigned to the Transferring Jersey Business immediately before the Jersey Effective Time) (other than the Jersey Retained Records);

"Jersey Common External Link Agreements" means the insured fund external link agreements utilised for the purposes of facilitating the investment of assets related to the Transferring Jersey Business and the ULG Business entered between the Transferor and the respective parties detailed below:

(i) Aberdeen Fund Managers Ltd

(ii) Artemis Fund Managers Limited;

(iii) Aviva Investors UK Fund Services Limited;

(iv) AXA Investment Managers UK Limited;

(v) Baillie Gifford & Co. Limited;

(vi) Cazenove Investment Fund Management Limited;

(vii) Fidelity;

(viii) First State Investments Limited;

(ix) GLG Partners Investment Funds Limited;

(x) Henderson Investment Funds Limited;

(xi) Invesco Fund Managers Limited;

(xii) JP Morgan Funds Limited;

(xiii) Jupiter Unit Trust Managers Limited;

(xiv) Lazard Fund Managers Limited;

(xv) M&G Securities Limited;

(xvi) Old Mutual Investment Management Limited;

(xvii) Threadneedle Investment Services Limited; and

(xviii) UBS Global Asset Management Funds Limited,

as further detailed as a Seller Contract in Schedule 1 to the Irish Scheme, together with any other contracts entered into by the Transferor with any other fund manager following the date of this Jersey Scheme which sets out the basis on which the Jersey Offshore Bond Business Unit-Linked

Assets are invested in those funds, at the Jersey Effective Time (other than the Blackrock Agreement and the Jersey Additional External Link Arrangements);

"Jersey Effective Time" means the time and date when this Jersey Scheme shall become operative in accordance with paragraph 4;

"Jersey Offshore Bond Business Unit-Linked Assets" means the unit-linked assets backing the unit-linked liabilities held in respect of the Transferring Jersey Policies;

"Jersey Order" means an order made by the Royal Court pursuant to Schedule 2 to the Insurance Business Law and/or Article 27 of the Insurance Business Law sanctioning this Jersey Scheme and any order (including any subsequent order) in relation to this Jersey Scheme made by the Royal Court pursuant to the Insurance Business Law;

"Jersey Policyholder" means a Policyholder holding a Jersey Policy;

"Jersey Retained Records" means any accounting and financial and other records of the Transferor relating to the Transferring Jersey Business, which the Transferor is required by law to retain;

"Jersey Sanctions Hearing" the hearing of the application to sanction this Jersey Scheme;

"Jersey Scheme" means this scheme made pursuant to Article 27 of and Schedule 2 to the Insurance Business Law in its original form or with or subject to any modification, addition or condition which may be approved or imposed;

"JFSC" means the Jersey Financial Services Commission (and any successor to such authority);

"Residual Jersey Asset" means any property or other rights falling within the definition of Transferring Jersey Assets:

(i)

(a) in respect of which the Royal Court has declined to sanction the transfer to the Transferee under the Insurance Business Law;

(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;

(c) which is outside the jurisdiction of the Royal Court or in respect of which its transfer pursuant to an order of the Royal Court is not recognised by the laws of the jurisdiction in which the property is situated; or

(d) which cannot be transferred or vested in the Transferee for any other reason,

(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 Jersey Effective Time, in respect of any property to in paragraphs (i)(a) to (d) of this definition;

"Residual Jersey Liabilities" means any liability whatsoever of the Transferor in respect of the Transferring Jersey Assets:

- (a) that is attributable to or connected with a Residual Jersey Asset and arises at any time before the Subsequent Jersey Transfer Date applicable to the Residual Jersey Asset;
- (b) in respect of which the Royal Court has declined to order the transfer to the Transferee under the Insurance Business Law;
- (c) which cannot be transferred or vested in the Transferee for any other reason as the Jersey Effective Time; or
- (d) 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;

"Royal Court" means the Royal Court of Jersey;

"Subsequent Jersey Transfer Date" means, in relation to any Residual Jersey Asset or Residual Jersey Liability, the date after the Jersey Effective Time on which such Residual Jersey Asset or Residual Jersey Liability is or is to be transferred to the Transferee, namely:

- (a) in respect of any Residual Jersey Asset falling within paragraph (i)(a), (i)(c) or (i)(d) of the definition of Residual Jersey Assets, and of any Residual Jersey Liability which is attributable to or connected with that Residual Jersey Asset, or which falls within paragraph (b) or (c) of the definition of Residual Jersey Liability, the date on which any impediment to its transfer shall have been removed or overcome; and
- (b) in respect of any Residual Jersey Asset falling within paragraph (i)(b) or (ii) of the definition of Residual Jersey Assets, and of any Residual Jersey Liability which is attributable to or connected with that Residual Jersey Asset, and of any Residual Jersey Liability falling within paragraph (d) of the definition of Residual Jersey Liability, the date on which the Transferor and the Transferee agree the transfer should take effect;

"Transferring Jersey Assets" means

- (i) all unit-linked assets backing the unit-linked liabilities held in respect of the Transferring Jersey Policies;
- (ii) all cash backing the unit-linked liabilities held in respect of the Transferring Jersey Policies;
- (iii) cash and cash equivalent (if any) in an amount equal to the amount of cash and cash equivalent required to be transferred to the Transferee at the Jersey Effective Time to achieve an Estimated Tangible Net Asset Value of zero as set out in the "Cash and Cash Equivalent" line item in the Pre-Closing TNAV Statement; and
- (iv) the Transferring Jersey Contracts;

"Transferring Jersey Business" means the Transferring Jersey Policies, including all rights and powers of the Transferor under or by virtue of the Transferring Jersey Policies, the Transferring Jersey Assets and the Transferring Jersey Liabilities, including the rights of the Transferor in respect of the Transferring Jersey Contracts, but excluding:

- (a) the Residual Jersey Assets and the Residual Jersey Liabilities;
- (b) the Excluded Jersey Assets and the Excluded Jersey Liabilities; and
- (c) the ULG Business;

"Transferring Jersey Contracts" means (a) the Jersey Common External Link Agreements; (b) such other contracts (other than the Jersey Common External Link Agreements) to which the Transferor is a party which relate to the Transferring Jersey Business; and (c) the Transferring Jersey Policies;

"Transferring Jersey Liabilities" means the entire amount of all debts, liabilities and obligations (whether actual, future or contingent and whether known or unknown at the Jersey Effective Time) owed or to be performed by the Transferor to the Jersey Policyholders or third parties arising out of or in connection with the Transferring Jersey Policies or the Transferring Jersey Assets, other than the Excluded Jersey Liabilities and, until the Subsequent Jersey Transfer Date, the Residual Jersey Liabilities;

"Transferring Jersey Policies" means the policies written by the Transferor up to and including the Effective Time under the product names Wealth Management Portfolio, Private Client Portfolio, Wealth Planning Account, Investment Portfolio, Money Market Portfolio, Estate Protection Plan and Flexible Investment Plan and which form part of the long term insurance business (as such expression is interpreted for the purpose of the Insurance Business Law) carried on by the Transferor at the Effective Time in or from within Jersey, including all certificates, supplemental coverages, endorsements, riders and ancillary agreements in connection therewith and all rights, interests, benefits, powers, liabilities and obligations of the Transferor therein; and

"ULG Business" means (i) the business undertaken 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 Reinsurance Business.

1.2 In this Jersey Scheme, unless the subject or context requires otherwise:

- 1.2.1 words and expressions defined in the Irish Scheme shall have the same meanings as are given to them in the Irish Scheme; and
- 1.2.2 expressions used in the Jersey Scheme which have meanings under the Insurance Business Law shall bear those meanings.

1.3 Without prejudice to the generality of paragraph 3.1 of this Jersey Scheme, the principles of interpretation set out in paragraph 1.2 of the Irish Scheme shall be incorporated by reference into and shall form part of this Jersey Scheme as if reproduced herein, *mutatis mutandis*.

2. INTRODUCTION

2.1 Athora Ireland plc (formerly Aegon Ireland plc) (the **"Transferor"**) is a life assurance company, incorporated in Ireland on 3 August 2001. 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).

- 2.2 The Transferor 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) in accordance with the 2015 Regulations. This authorisation remains in full force and effect. The Transferor is also authorised to undertake life reinsurance business in the said classes.
- 2.3 The Transferor has a Category A permit granted under Article 7 of the Insurance Business Law in respect of long term insurance business of a type falling within paragraph III (linked long term) of Part 1 of Schedule 1 to the Insurance Business Law.
- 2.4 Utmost Ireland Designated Activity Company (the "**Transferee**") is a life assurance company incorporated in Ireland on 11 March 1999 with registered number 303257. It has its registered office and principal place of business at Block 2, Harcourt Centre, Harcourt Street, Dublin 2. The sole shareholder of the Transferee is Harcourt Life Assurance Designated Activity Company (being a company incorporated under the laws of Ireland).
- 2.5 The Transferee is authorised by the Central Bank to undertake the business of life assurance in Class III (contracts linked to investment funds) and Class VI (capital redemption operations) in accordance with the 2015 Regulations. This authorisation remains in full force and effect.
- 2.6 The Transferee has a Category A permit granted under Article 7 of the Insurance Business Law in respect of long term insurance business of a type falling with the following paragraphs of Part 1 of Schedule 1 to the Insurance Business Law: III (linked long term) and VI (capital redemption).
- 2.7 It has been agreed by the board of directors of the Transferor to approve the draft Irish Scheme, the draft Guernsey Scheme and the draft Jersey Scheme, subject to the requirements of the Central Bank (in respect of the Irish Scheme), the Guernsey Financial Services Commission (in respect of the Guernsey Scheme) and the JFSC (in respect of the Jersey Scheme) and the sanction of the High Court of Ireland (in respect of the Irish Scheme), the Guernsey Royal Court (in respect of the Guernsey Scheme) and the Royal Court (in respect of the Jersey Scheme).
- 2.8 It is intended that the Transferee should acquire the Offshore Bonds 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 the Irish Scheme.
- 2.9 The Transferring Jersey Business is part of the Transferring Business and it is intended that the Transferring Jersey Business be transferred to the Transferee with effect as and from the Jersey Effective Time on substantially the same terms as the Irish Scheme. Accordingly it is proposed that a Jersey Order of the Royal Court be sought for the sanction of this Jersey Scheme.
- 2.10 The Transferor has notified the JFSC of the terms of this Jersey Scheme in accordance with the Insurance Business Law.
- 2.11 The Transferor and the Transferee hereby agree to appear by Counsel on the hearing of the application to sanction this Jersey Scheme and have undertaken to be bound by the Jersey Scheme and to take all reasonable steps (including the execution of documents) which may be necessary or expedient to give effect to this Jersey Scheme.

3. **TRANSFER OF BUSINESS BY INCORPORATION OF THE IRISH SCHEME**

- 3.1 The terms of the Irish Scheme shall apply to the Transferring Jersey Business, the Transferring Jersey Assets and the Transferring Jersey Liabilities in the same manner as they apply to the

Transferring Business, the Transferring Assets and the Transferring Liabilities, and (save to the extent inconsistent with any of the provisions of the Jersey Scheme) the terms of the Irish Scheme (subject to the excluded paragraphs of the Irish Scheme set out at paragraph 3.2 of this Jersey Scheme) shall be incorporated in to and shall form part of the Jersey Scheme as if reproduced herein, *mutatis mutandis*. For this purpose, the following definitions of the Irish Scheme shall be read and construed as follows:

- 3.1.1 Additional External Link Arrangements shall be read as Jersey Additional External Link Arrangements;
 - 3.1.2 Books and Records shall be read as Jersey Books and Records;
 - 3.1.3 Common External Link Agreements shall be read as Jersey Common External Link Agreements;
 - 3.1.4 Court shall be read as the Royal Court;
 - 3.1.5 Effective Time shall be read as Jersey Effective Time;
 - 3.1.6 Excluded Assets shall be read as Excluded Jersey Assets;
 - 3.1.7 Excluded Liabilities shall be read as Excluded Jersey Liabilities;
 - 3.1.8 Offshore Bond Business Unit-Linked Assets shall be read as Jersey Offshore Bond Business Unit-Linked Assets;
 - 3.1.9 Order shall be read as Jersey Order;
 - 3.1.10 Policyholders shall be read as Jersey Policyholders;
 - 3.1.11 Residual Asset shall be read as Residual Jersey Asset;
 - 3.1.12 Residual Liabilities shall be read as Residual Jersey Liabilities;
 - 3.1.13 Retained Records shall be read as Jersey Retained Records;
 - 3.1.14 Sanctions Hearing shall be read as Jersey Sanctions Hearing;
 - 3.1.15 Scheme shall be read as Jersey Scheme;
 - 3.1.16 Subsequent Transfer Date shall be read as Subsequent Jersey Transfer Date;
 - 3.1.17 Transferring Assets shall be read as Transferring Jersey Assets;
 - 3.1.18 Transferring Business shall be read as Transferring Jersey Business;
 - 3.1.19 Transferring Contracts shall be read as Transferring Jersey Contracts;
 - 3.1.20 Transferring Liabilities shall be read as Transferring Jersey Liabilities; and
 - 3.1.21 Transferring Policies shall be read as Transferring Jersey Policies.
- 3.2 Paragraphs 3.1 (*Effective Time*), 3.6 (*Modifications or additions*) and 3.10 (*Governing Law*) of the Irish Scheme shall not form part of and shall not be incorporated into this Jersey Scheme.

- 3.3 This Jersey Scheme is ancillary to the Irish Scheme. Nothing in this Jersey Scheme shall operate so as to prevent or conflict with any transfer provided for by the Irish Scheme or the Guernsey Scheme.

4. JERSEY EFFECTIVE TIME

- 4.1 Subject to paragraph 4.2, this Jersey Scheme shall become operative simultaneously with the Irish Scheme becoming operative or shall lapse in accordance with the terms of the Irish Scheme unless otherwise ordered by the Royal Court on the application of the Transferor and the Transferee.
- 4.2 Notwithstanding paragraph 5.1, in the event that the Royal Court imposes any modification of or addition to this Jersey Scheme or any further condition or provision affecting the same, this Jersey Scheme shall not become operative on the Jersey Effective Time unless the Transferor and the Transferee consent to such modification, addition or condition.

5. MODIFICATIONS OR ADDITIONS

- 5.1 Subject to paragraph 5.5 of this Jersey Scheme, the Transferor and the Transferee may consent for and on behalf of themselves, and may consent on behalf of all persons concerned (other than the JFSC) to any amendment, modification or addition to this Jersey 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 Jersey Scheme.
- 5.2 Subject to paragraphs 5.4 and 5.5 of this Jersey Scheme, after the Jersey Effective Time, the Transferee may vary the terms of this Scheme with the consent of the Royal Court, including, if at any time, the provisions of this Jersey 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:
- 5.2.1 the JFSC shall be notified of and be given the opportunity to be heard at the hearing of the Royal Court at which such application is considered;
- 5.2.2 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 Jersey Policyholders affected by the proposed amendment; and
- 5.2.3 to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.
- 5.3 If such approval is granted, the Transferee may amend the terms of this Scheme in accordance with such consent.
- 5.4 Subject to paragraph 5.5 of this Jersey Scheme, the consent of the Royal Court shall not be required in relation to minor and/or technical amendments to the terms of this Jersey Scheme (including amendments to correct manifest errors) that may be agreed by the Transferor and the Transferee in writing, provided that the JFSC has been notified of the same at least 28 days in advance of the amendment being made and has not objected (unless the JFSC has confirmed non-objection prior to that date).
- 5.5 Any action taken or to be taken, and any thing done or to be done, by or on behalf of the Transferor, the Transferee or any other person in connection with or in relation to the Schedule to this Jersey Scheme which would (but for this paragraph 5.5 of this Jersey Scheme) require the

consent, approval or confirmation of no objection of or by the Royal Court, the JFSC or any other person, or require any notification to be made or any certification to be given by or to any person, shall not require such consent, approval or confirmation to be given, and shall not require the making of such notification or the giving of such certification, if such action is taken or such thing is done in accordance with the terms of the Irish Scheme.

6. **GOVERNING LAW**

This Jersey Scheme and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with Jersey law.

FIRST SCHEDULE: THE IRISH SCHEME

SECOND SCHEDULE: THE GUERNSEY SCHEME