

**THE HIGH COURT**

**COMMERCIAL**

**2018 No. 278 COS**

**(2018 No. 101 COM)**

**MONDAY THE 23<sup>RD</sup> DAY OF JULY 2018**

**BEFORE MR JUSTICE HAUGHTON**

**IN THE MATTER OF ATHORA IRELAND PUBLIC LIMITED COMPANY**

**AND IN THE MATTER OF UTMOST IRELAND 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**

**UPON** Application by Counsel on behalf of the directors of Athora Ireland Public Limited Company (“Athora”) (the “**Petitioners**”) by way of Notice of Motion dated 15 July 2018 seeking, inter alia, entry of the said proceedings into the Commercial List and for directions to be taken on foot of the Petition presented to the Court on 16 July 2018

**AND UPON** reading the said Petition, the Notice of Motion dated 15 July 2018 seeking entry into the Commercial List, the Notice of Motion dated 15 July 2018 for Directions, the Affidavit of Tadhg Clandillon sworn on 13 July 2018 and the documents and exhibits therein referred to, and the Certificate of Naoise Harnett, Solicitor pursuant to Order 63A Rule 4(2) of the Rules of the Superior Courts 1986 (as amended)

**AND UPON** hearing the said Counsel

**IT IS ORDERED** that the proceedings be entered into the Commercial List pursuant to Order 63A Rule 4 of the Rules of the Superior Courts 1986 (as amended), on the grounds that these proceedings constitute commercial proceedings within the meaning of Order 63A Rule 1(a)(vii) or alternatively, Rule 1(b) of the Rules

**AND IT IS ORDERED** pursuant to Order 63A Rule 4(5)(b) of the Rules of the Superior Courts 1986 (as amended) that the hearing of this motion be treated as the initial directions hearing

**AND IT IS ORDERED** that the Petition be placed in the list for hearing before this Honourable Court on Tuesday 27 November 2018 at 11 o'clock in the forenoon

**AND IT IS ORDERED** that the Petitioners shall cause notice of the hearing of the Petition in the form set out in the Schedule hereto be published once in each of the following publications (such publication to take place not later than 30 September 2018):

- (a) Iris Oifigiúil;
- (b) The Irish Independent;
- (c) The Irish Examiner; and
- (d) The Financial Times (International Edition)

**AND IT IS ORDERED** that the Petitioners shall cause the publication of a notice of the proposed hearing of the Petition if required in each Member State of the Commitment, in accordance with the requirements of the respective laws of the Member State, (such publication to take place not later than 1 November 2018).

**AND IT IS ORDERED** that, for the purposes of Section 13(3)(b) of the Assurance Companies Act 1909 (the “1909 Act”), in lieu of the documents

described in Section 13(3)(b), the Petitioners shall transmit by way of ordinary prepaid post addressed to all of the Policyholders (as defined in the Scheme) at the most recent address of which the Petitioners are aware, the following documentation (substantially in the form of the Policyholder Letter which is set out at Exhibit “R” to the Affidavit of Tadgh Clandillon sworn on Tadgh Clandillon’s verifying the Petition):

- (a) A circular containing a statement of the nature of the transfer and which sets out the material facts about the proposed transfer;
- (b) A précis of the independent actuary report; and
- (c) A copy of the Notice advertising the Petition in the form of the draft annexed hereto.

**AND IT IS ORDERED** that copies of the Petition together with the Schedules annexed thereto (including the Scheme) and the independent actuary report and the report of the Head of Actuarial Function of each of Athora and Utmost Ireland Designated Activity Company (“**Utmost**”), be made available for inspection by any policyholder at the registered office of Athora at 2<sup>nd</sup> Floor, IFSC House, Custom House Quay, Dublin 1 and at the current registered office of Utmost at Block 2, Harcourt Centre, Harcourt Street, Dublin 2, or at the new offices of Utmost at Ashford House, Tara Street, Dublin 2, D02 VX67 and at the offices of William Fry Solicitors, 2 Grand Canal Square, Dublin 2, Ireland and at 17<sup>th</sup> Floor, 110 Bishopsgate, London, UK, during the hours of 9:00 a.m. to 5:00 p.m. Monday-Friday (public holidays excepted) and online [www.athora.com](http://www.athora.com) and [www.utmostwealth.com](http://www.utmostwealth.com) for not less than 15 clear working days between the date of the publication of the said advertisements in Iris Oifigiúil and the said newspapers and the date fixed for the hearing of the Petition

**THE HIGH COURT**

**AND IT IS ORDERED** that any person who intends to appear at the hearing of the said Petition should notify the Petitioners' Solicitors, William Fry, 2 Grand Canal Square, Grand Canal Dock, Dublin 2, (quoting reference '25199.0003') in writing with their intention to do so not later than 5:00 p.m. on 20 November 2018 (or such other day as this Honourable Court shall determine) and if any such person wishes to oppose the Petition, they shall not later than 5.00 p.m. on 20 November 2018 file in court and serve on the Solicitors for the Petitioners an Affidavit setting out the grounds of their opposition to the Petition

**AND IT IS FURTHER ORDERED** that the Central Bank of Ireland be served with the Notice of Motion, the Petition (including the Scheme), the Affidavit of Tadhg Clandillon dated 13 July 2018 and the Exhibits therein referred to together with such other documents which may be relied on at the hearing of the Petition

Liberty to apply.

**NIAMH DERMODY  
REGISTRAR**

**Date of Perfection: 01 AUGUST 2018**

William Fry,  
Solicitors for the Petitioners

**A COPY WHICH I ATTEST**  
*Rachel Day*  
.....  
**FOR REGISTRAR**

**SCHEDULE**

**THE HIGH COURT  
COMMERCIAL**

**2018 Record No. 278 COS**

**IN THE MATTER OF ATHORA IRELAND PUBLIC LIMITED COMPANY  
AND IN THE MATTER OF UTMOST IRELAND 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**

**NOTICE**

**NOTICE IS HEREBY GIVEN** that Athora Ireland Public Limited Company (“**Athora**”) having its registered office in Ireland at 2<sup>nd</sup> Floor, IFSC House, Custom House Quay, Dublin 1, applied to the Central Bank of Ireland on the 20 day of June 2018 for its approval, pursuant to the Assurance Companies Act 1909, the Insurance Act, 1989 and the European Union (Insurance And Reinsurance) Regulations 2015, to transfer to Utmost Ireland Designated Activity Company (“**Utmost**”) the Transferring Business which includes the Transferring Policies, Transferring Contracts, Transferring Assets and Transferring Liabilities of Athora as defined in a Scheme dated the 13 day of July 2018.

**AND FURTHER TAKE NOTICE** that copies of the Petition and the Schedules annexed thereto (including the Scheme), the independent actuary report and the reports of the Heads of Actuarial Function of Athora and Utmost (the “**Transfer Documents**”) are all available for inspection at the offices of Athora at 2<sup>nd</sup> Floor, IFSC House, Custom House Quay, Dublin 1 and at the offices of Utmost at Ashford House, Tara Street, Dublin 2, D02 VX67 and at the offices of William Fry, 2 Grand Canal Square, Grand Canal Dock, Dublin 2, Ireland and at 17th Floor, 110 Bishopsgate, London, UK, during the hours of 9:00 a.m. to 5:00 p.m. Monday-Friday (public holidays excepted) for a period of at least fifteen days from the date of this notice. Copies of the Transfer Documents will be made available free of

## THE HIGH COURT

charge to any policyholder of Athora or Utmost or any person having sufficient interest in the transfer requesting such copies and are also available for viewing and / or download online at [www.athora.com/ie](http://www.athora.com/ie) and [www.utmostwealth.com](http://www.utmostwealth.com). The Policyholders (as defined in the Scheme) and non-transferring Athora policyholders may also contact the dedicated Athora policyholder telephone line on +44 (0) 845 6000173 from Monday to Friday (public holidays excepted) between the hours of 9:00 a.m. and 5:00 p.m. Utmost policyholders may contact the dedicated Utmost policyholder telephone line on +44 (0) 845 6029281 from Monday to Friday (public holidays excepted) between the hours of 9:00 a.m. and 5:00 p.m.

**AND FURTHER TAKE NOTICE** that the said Petition will be heard by the High Court on the 27 day of November 2018 at the Four Courts, Dublin 7, at 11:00 a.m.

Any person who wishes to be heard on the hearing of the said Petition should notify Athora's solicitors, William Fry, 2 Grand Canal Square, Grand Canal Dock, Dublin 2 quoting reference '25199.0003' (in writing) no later than the 20 day of November 2018 of their intention to appear on the said Petition and should indicate to the said solicitors whether such person or persons support or oppose the said Petition and further should, by said time and date, file in court and furnish to Athora's solicitors such evidence by way of affidavit as is proposed to be relied upon at the hearing of the Petition by such person.

William Fry, 2 Grand Canal Square, Grand Canal Dock, Dublin 2, Ireland