

Appleby (Guernsey) LLP
Advocate R A Field
21 September 2022

IN THE ROYAL COURT OF GUERNSEY

UTMOST LIMITED
whose registered office is at **Royalty House, Walpole Avenue, Douglas, Isle of Man, IM1 2SL**

("Utmost")

- and -

QUILTER INTERNATIONAL ISLE OF MAN LIMITED
whose registered office is at **King Edward Bay House, King Edward Road, Onchan, Isle of Man, IM99 1NU**

("Quilter")

APPLICATION FOR ORDER SANCTIONING SCHEME

In this application (the "**Application**"), the Insurance Business (Bailiwick of Guernsey) Law, 2002 is referred to as the "**Insurance Business Law**" and the expression "**Long-Term Insurance Business**" means long-term insurance business as defined in Schedule 1 to the Insurance Business Law. This Application relates to the proposed transfer of Long-Term Insurance Business from Utmost to Quilter pursuant to a scheme under section 44 of the Insurance Business Law (the "**Guernsey Scheme**"). Unless otherwise defined in this Application, a term defined in the Guernsey Scheme has the same meaning when used in this Application.

UTMOST AND QUILTER (together the "Applicants")

Apply

FOR AN ORDER under section 44 of the Insurance Business Law (the "**Order**") sanctioning the Guernsey Scheme

UPON THE GROUNDS

INTRODUCTION

1. Utmost was incorporated on 25 November 1991 in the Isle of Man as a private company limited by shares with company number 056473C.

Utmost has its registered office at Royalty House, Walpole Avenue, Douglas, Isle of Man, IM1 2SL.

2. Utmost is authorised by the Isle of Man Financial Services Authority (the **IoM Authority**) under section 8 of the Isle of Man Insurance Act 2008 (the **Isle of Man Act**) to carry on class 1 (linked long-term) and class 2 (long-term) insurance business in or from the Isle of Man (the **Authorisation**). Utmost also holds a category A permit to conduct long-term insurance business in Jersey pursuant to the terms of Insurance Business (Jersey) Law 1996.
3. The Memorandum and Articles of Association of Utmost contains no restrictions on the exercise of the rights, powers and privileges of Utmost. The authorised share capital of Utmost is £23,380,000.00 divided into 23,380,000 ordinary shares of £1.00 each all of which are issued and fully paid or credited as fully paid.
4. The registered shareholder of Utmost is Utmost Holdings Isle of Man Limited (**Utmost Holdings**), which is registered as the shareholder in respect of the entire issued share capital of Utmost.
5. Quilter was incorporated on 18 September 1984 in the Isle of Man as a private company with company number 024916C. Quilter has its registered office at King Edward Bay House, King Edward Road, Onchan, Isle of Man, IM99 1NU.
6. Quilter is authorised by the IoM Authority under section 8 of the Act to carry on class 1 (linked long-term), class 2 (long-term) and class 10 (reinsurance of contracts within classes 1 and 2) insurance business in or from the Isle of Man. Quilter also holds a category A permit to conduct long-term insurance business in Jersey pursuant to the terms of Insurance Business (Jersey) Law 1996.
7. The authorised share capital of Quilter is £65,000,000 divided into 50,000,000 ordinary shares of £1.00 each and 15,000,000 redeemable preference shares of £1.00 each.
8. The sole registered shareholder of Quilter is Utmost Holdings, which is registered as the shareholder in respect of 8,600,000 ordinary shares of £1.00 each.

THE SCHEME

9. The main purpose of the Guernsey Scheme is to transfer the Long-Term Insurance Business to Quilter.
10. Applications will also be made to:

- i. the Royal Court of Jersey seeking an order sanctioning a scheme for the transfer of the Jersey Policies from Utmost to Quilter pursuant to Article 27 of and the Second Schedule to the Jersey Insurance Business Law (the **Jersey Scheme**). It has been advised that under the laws of Jersey, due to the fact that certain Relevant Policies were carried on by Utmost in or from within Jersey (as such expression is defined in the Jersey Insurance Business Law), this scheme is necessary and;
 - ii. the High Court of Justice of the Isle of Man seeking an order sanctioning a scheme for the transfer of the Business (as defined in the Isle of Man Scheme) from Utmost to Quilter pursuant to section 21 of, and Schedule 2 to, the Isle of Man Act (the **Isle of Man Scheme**).
11. Due to the fact that at least one of Utmost's policyholders was resident in the Bailiwick of Guernsey when the Relevant Policies were issued, the Applicants have been advised that a scheme approved by the Royal Court under the Insurance Business Law is necessary. A person with the benefit of a **Guernsey Policy** (as defined in the Guernsey Scheme document) is hereafter referred to as a **Guernsey Policyholder**.
12. If the Royal Court of Jersey and the High Court of Justice of the Isle of Man are satisfied that the relevant legal requirements for making such an order are met, the transfer of the Relevant Policies will be effected under the laws of Jersey and Isle of Man subject to the terms of the Jersey Scheme and the IoM Scheme. It is intended that transfers under the Guernsey Scheme be effected at the same time.
13. It is to be noted that the vast majority of the holders of Relevant Policies (approximately 90%) are resident in the United Kingdom. Utmost's English Counsel has advised that no further scheme is necessary or possible in the UK in order to effect the transfer of these policies.
14. The Guernsey Scheme, Jersey Scheme and Isle of Man Scheme are together referred to as the **Schemes**.
15. The Guernsey Scheme is intended to become operative at close of business on 30 November 2022 or such other date subsequent to the date of the Order to be determined by Quilter, such date to be within three months of the date of the Isle of Man Order.
16. The Relevant Policies are governed by Isle of Man Law and comprise approximately 29,000 long-term business policies (as at 31 December 2021).

LICENCE REQUIREMENTS OF QUILTER

17. The sanction of the Court under section 44(1) of the Insurance Business Law depends upon the Court being satisfied either:

- a. that the transferee is licensed under the Insurance Business Law (section 46(a)(i) of the Insurance Business Law); or
- b. that the transferee is licensed to carry on the relevant insurance business in the country outside the Bailiwick where the transferee is to undertake its obligations (section 46(a)(ii) of the Insurance Business Law).

18. Quilter is an Isle of Man insurance company authorised by the IoM Authority under the Isle of Man Act in respect of long-term insurance business of the class or classes to be transferred under the Guernsey Scheme.

ACTUARIAL REPORT

19. An independent actuary, Philip Simpson of Milliman LLP, who is a Fellow of the Institute and Faculty of Actuaries, has been appointed as the independent actuary (the **Independent Actuary**) pursuant to Section 45(2)(a) of the Insurance Business Law and paragraph 2(a) of Schedule 2 to the Isle of Man Act and has prepared a report dated 24 August 2022 (the **Independent Actuary Report**) on the terms of the Guernsey Scheme in which he indicates his opinion as the Independent Actuary of the likely effects of the Guernsey Scheme on the long-term policyholders of each of Utmost and Quilter. A copy of the Independent Actuary Report is annexed to the Application as Appendix 2.

20. The Independent Actuary has concluded in part 10 of the Independent Actuary Report that:

- a. The implementation of the proposed Scheme will not have a material adverse effect on:
 - i. the security of benefits under the Transferring Policies and the Existing Policies;
 - ii. the profile of risks to which the Transferring Policies and the Existing Policies are exposed;
 - iii. the protection offered by the regulatory and legal regimes that apply to the Transferring Policyholders; or
 - iv. the reasonable expectations of the Transferring Policyholders and the Existing Policyholders in respect of

their benefits, including the level and standards of administration and service that would apply to the Transferring Policies and the Existing Policies; and

- b. The Scheme is equitable to all classes of Utmost and Quilter policyholders.

21. Capitalised terms within paragraph 20 bear the meaning given to them in the Independent Actuary Report.

STATEMENT TO POLICYHOLDERS AND NOTICES

22. Section 45(3)(b) of the Insurance Business Law requires that (except where the Guernsey Financial Services Commission (the "GFSC") has given consent), a statement:

- a. setting out the terms of the Guernsey Scheme;
- b. containing a summary of the Independent Actuary Report; and
- c. stating that copies of that report are available at an address in Guernsey,

must be sent to:

1. each of the long-term policyholders of the Applicants; and
2. every member of the Applicants.

23. The GFSC has been asked to grant its consent pursuant to section 45(3)(b) of the Insurance Business Law to the dispensation of the requirement contained in section 45(3)(b) that the statement described above be sent to the members of the Applicants and to each of the long-term policyholders of the Applicants and instead has been asked to direct that a short form policyholder communication be sent to each of the Guernsey Policyholders in respect of whom Utmost has a name and current address on its database (save also for dispensations concerning Goneaway and Deceased Policyholders) (the "**Policyholder Communication**").

24. **Goneaway Policyholders** are those Guernsey Policyholders for whom current contact details are not known following the search carried out by Utmost of its electronic database on or around 7 September 2022. **Deceased Policyholders** are those Guernsey Policyholders where Utmost has received notification of the death of a policyholder but has not received notification of the appointment of a personal representative.

25. In accordance with the requirements of section 45(3)(a) of the Insurance Business Law, a notice of the presentation of the application under section

44 of the Insurance Business Law and containing the prescribed information was published in *La Gazette Officielle* on two occasions.

26. In addition to the statutory requirements, a notice of the presentation of the application under section 44 of the Insurance Business Law was published in the Financial Times, International Edition (a UK national daily newspaper with worldwide circulation).
27. In accordance with the requirements of section 45(3)(c) of the Insurance Business Law, a copy of this Application, the Independent Actuary's report, and the Policyholder Communication sent out to the Guernsey Policyholders will be served on the GFSC.
28. In accordance with the requirements of section 45(3)(e) of the Insurance Business Law, copies of this Application and the Independent Actuary's report have been made available for inspection (and in the case of the Independent Actuary's report, for collection) and will be available for inspection for at least the statutory prescribed period at Hirzel Court, Hirzel Street, St. Peter Port, Guernsey, GY1 3BN.

GFSC CONSENT

29. The GFSC will be asked to confirm that:
- a. Quilter is licensed to carry on insurance business of the descriptions concerned in the country outside the Bailiwick where Quilter is to undertake its obligations under the policies to be transferred to it;
 - b. the IoM Authority (being the relevant supervisory authority in the country concerned) has been notified of the Guernsey Scheme and has either consented to it and/or has not refused consent; and
 - c. the GFSC does not object to the Application and does not wish to exercise their right to be heard before the Court.

Dated this 21st day of September 2022


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Advocate R A Field