

IN THE ROYAL COURT OF GUERNSEY
ORDINARY DIVISION

IN THE MATTER OF ZURICH ASSURANCE LTD
and
IN THE MATTER OF SCOTTISH WIDOWS LIMITED
and
IN THE MATTER OF
THE INSURANCE BUSINESS (BAILIWICK OF GUERNSEY) LAW, 2002

GUERNSEY SCHEME

Pursuant to section 44(1)(c) of The Insurance Business (Bailiwick of Guernsey) Law, 2002



SCHEME

This scheme is pursuant to section 44(1)(c) of The Insurance Business (Bailiwick of Guernsey) Law, 2002 for the transfer to Scottish Widows Limited of certain long term business of Zurich Assurance Ltd in respect of policies in that business issued to persons resident in the Bailiwick of Guernsey.

PART A – DEFINITIONS AND INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 In this Guernsey Scheme, unless the subject or context requires otherwise, the following expressions bear the meanings respectively set opposite them:

"Commission" means the Guernsey Financial Services Commission;

"Excluded Guernsey Liabilities" means:

- (a) any Misselling and Misadministration Liabilities in respect of the Transferred Guernsey Business to the extent accrued or referable to the period up to and including the Guernsey Effective Date;
- (b) all obligations, liabilities and Losses of the Transferor Group (except for the Transferred Guernsey Liabilities), whether derived from contract law, regulation or otherwise, that relate to the Transferred Guernsey Business to the extent accrued or referable to the period up to and including the Guernsey Effective Date;
- (c) any liabilities of the Transferor relating to the Excluded Guernsey Policies;
- (d) any liabilities in respect of any Tax attributable to any member of the Transferor Group in respect of the Transferred Guernsey Business to the extent accrued or referable to the period up to and including the Guernsey Effective Date; and
- (e) any liabilities which the Transferor and the Transferee have agreed in writing prior to the Guernsey Effective Date should not be transferred pursuant to this Guernsey Scheme;

"Excluded Guernsey Policies" means any Excluded Policies which are also Guernsey Policies;

"Guernsey" means the Bailiwick of Guernsey which comprises the islands of Guernsey, Alderney, Sark, Herm, Jethou, Brecqhou and Lihou;

"Guernsey Business Contract" means any Business Contracts to the extent they relate to the Transferred Guernsey Business;

"Guernsey Court" means the Royal Court of Guernsey;

"Guernsey Court Order" means an order of the Guernsey Court sanctioning this Guernsey Scheme;

"Guernsey Effective Date" means the time and date on which this Guernsey Scheme will become effective in accordance with paragraph 4 of this Guernsey Scheme;

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

"Guernsey Investment Assets" means all assets comprising the workplace insured funds held by or for the benefit of the Transferor, to the extent relating to the Transferred Guernsey Business;

"Guernsey Long-Term Insurance Business" means the business of effecting or carrying out insurance contracts which comprise long term business and which was carried on in or from within Guernsey or in respect of policies written under Guernsey law or issued to a resident of Guernsey;

"Guernsey Policy" means any policy of the Transferor comprised within the Data under which any liability remains unsatisfied or outstanding at the Guernsey Effective Date, which comprises long term business issued to a person resident in Guernsey and the transfer of which to the Transferee

requires the sanction of the Guernsey Court pursuant to section 44(1)(c) of the Guernsey Insurance Business Law;

"Guernsey Policyholders" means holders of the Guernsey Policies;

"Guernsey Records" means all Records to the extent they relate to the Transferred Guernsey Business;

"Guernsey Scheme" means this scheme in its original form, subject to any modification, addition or condition which may be approved or imposed in accordance with paragraph 5 below;

"long term business" shall have the meaning given to such term in the Guernsey Insurance Business Law;

"Regulatory Requirements" means any requirements of the Commission relating to the transfer of long term business as set out in the Guernsey Insurance Business Law and any applicable regulations, instructions, rules, codes or guidance notes issued by the Commission in respect thereof;

"Relevant Date" means the Guernsey Effective Date except in the case of any Residual Guernsey Asset or Residual Guernsey Liability in which case it means the applicable Subsequent Guernsey Transfer Date;

'Residual Guernsey Asset' means:

- (a) any asset comprised in or relating to the Transferred Guernsey Business, the transfer of which pursuant to this Guernsey Scheme:
 - (i) is agreed by the Transferor and the Transferee, or is proved by any third party to be subject to the law of any country or territory other than Guernsey and in relation to which further steps, in addition to the Guernsey Order, are required to secure that its transfer to the Transferee is fully effective under the law of that country or territory;
 - (ii) requires, at the Guernsey Effective Date, (1) the consent of any third party; or (2) the waiver by any third party of any right to acquire, or be offered the right to, or offer to, acquire or procure the acquisition by some other person of, all or any part of such asset, being a right which directly or indirectly arises or is exercisable as a consequence of such transfer being proposed or taking effect; or
 - (iii) would result in a third party having a right to terminate an agreement with the Transferor or to claim compensation in damages or otherwise,

and which the Guernsey Court either does not have jurisdiction to transfer pursuant to section 44(1) of the Guernsey Insurance Business Law without such steps being taken as are referred to in paragraph (a)(i) of this definition or in relation to which the Guernsey Court has determined not to disapply any entitlement referred to in paragraphs (a)(ii) or (a)(iii) of this definition, but in any case to the extent only of that part of the interest of the Transferor in any such asset the transfer of which requires such steps and/or consent and/or waiver;

- (b) any property of the Transferor that would be comprised in the Transferred Guernsey Business (including any right, benefit or power of the Transferor under any Transferred Guernsey Policy) but the transfer of which the Transferor and the Transferee agree in writing prior to the Guernsey Effective Date is to be delayed until after the Guernsey Effective Date;

- (c) any property of the Transferor that would be comprised in the Transferred Guernsey Business but which cannot be transferred to or vested in the Transferee on the Guernsey Effective Date for any other reason; or
- (d) any proceeds of sale or income or other accrual or return whatsoever, whether or not in any case in the form of Cash, or any other property or rights earned or received from time to time after the Guernsey Effective Date but prior to any Subsequent Guernsey Transfer Date in respect of any such property referred to in paragraphs (a) to (c) of this definition.

"Residual Guernsey Liability" means any liability of the Transferor:

- (a) any liability comprised in or relating to the Transferred Guernsey Business, the transfer of which:
 - (i) is agreed by the Transferor, or is proved by any third party, to be subject to the law of any country or territory other than Guernsey and in relation to which further steps, in addition to the Guernsey Order, are required to secure that its transfer to the Transferee is fully effective under the law of that country or territory; or
 - (ii) would result in a third party having a right to terminate an agreement with the Transferor or to claim compensation in damages or otherwise,

and which the Guernsey Court either does not have jurisdiction to transfer pursuant to section 44(1) of the Guernsey Insurance Business Law without the necessary steps being taken or the termination and/or compensation rights being waived or which the Guernsey Court determines not to transfer by virtue of the Guernsey Order, but in any case to the extent only of that part of the liability the transfer of which requires such steps and/or waiver or which the Guernsey Court determines not to transfer;

- (b) that would be comprised in the Transferred Guernsey Liabilities but the transfer of which the Transferor and the Transferee agree in writing prior to the Guernsey Effective Date is to be delayed until after the Guernsey Effective Date;
- (c) that would be comprised in the Transferred Guernsey Liabilities but which cannot be transferred to or vested in the Transferee on the Guernsey Effective Date for any other reason; or
- (d) that is attributable to or connected with a Residual Guernsey Asset or a Residual Guernsey Liability referred to in paragraphs (a) to (c) above that arises at any time after the Guernsey Effective Date but before the Subsequent Guernsey Transfer Date applicable to that Residual Guernsey Asset or Residual Guernsey Liability;

"Residual Guernsey Policies" means any Guernsey Policy under which any liability remains unsatisfied or outstanding at the Guernsey Effective Date to the extent that and for so long only as this Guernsey Scheme has not yet received the sanction of the Guernsey Court and become effective in accordance with the terms of this Guernsey Scheme;

"Residual Policies Reinsurance Arrangement" means a reinsurance arrangement implemented in respect of the Residual Policies pursuant to and in accordance with paragraph 6.1 of the UK Scheme;

"Subsequent Guernsey Transfer Date" means in relation to any Residual Guernsey Asset, Residual Guernsey Liability or Residual Guernsey Policy the date (and each date) after the Guernsey Effective Date on which such Residual Guernsey Asset, Residual Guernsey Liability or Residual Guernsey Policy is or is to be transferred to the Transferee, namely:

- (a) in respect of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (a) of the respective definitions thereof, and of any other Residual Guernsey

Liability which is attributable to or connected with any such Residual Guernsey Asset, the date on which any impediment to its transfer shall have been removed or overcome;

- (b) in respect of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (b) of the respective definitions thereof, and of any other Residual Guernsey Liability which is attributable to or connected with any such Residual Guernsey Asset, the date agreed in writing by the Transferor and the Transferee;
- (c) in respect of any Residual Guernsey Asset or Residual Guernsey Liability falling within paragraph (c) of the respective definitions thereof, the date on which such Residual Guernsey Asset is received or earned by the Transferor or, in the case of a Residual Guernsey Liability, the date on which such liability is incurred by the Transferor; and
- (d) in respect of any Residual Guernsey Policy, the date on which sanction of the Guernsey Court is obtained in respect of the relevant Guernsey Policy;

"Transferee" means Scottish Widows Limited, a company incorporated in England and Wales with registered number 03196171;

"Transferor" means Zurich Assurance Ltd, a company incorporated in England and Wales with registered number 02456671;

"Transferred Guernsey Assets" means:

- (a) all rights, benefits and powers of the Transferor under or by virtue of the Transferred Guernsey Policies;
- (b) the Guernsey Investment Assets;
- (c) all rights, benefits and powers of the Transferor under or by virtue of the Guernsey Business Contracts;
- (d) the Guernsey Records; and
- (e) all other property, rights and assets of the Transferor which are used exclusively in, or exclusively for the purposes of, the Transferred Guernsey Business,

but excluding:

- (i) prior to each Subsequent Guernsey Transfer Date, the relevant Residual Guernsey Assets;
- (ii) all assets allocated immediately prior to the Guernsey Effective Date to the Transferor Shareholder Fund; and
- (iii) prior to each Subsequent Guernsey Transfer Date, any rights, benefits and powers under or relating to the Residual Guernsey Policies or the Residual Policies Reinsurance Arrangement;

"Transferred Guernsey Business" means all or any of the Transferred Business to the extent that the same comprises Guernsey Long-Term Insurance Business as at the Guernsey Effective Date, including:

- (a) the Transferred Guernsey Policies;
- (b) the Transferred Guernsey Assets; and
- (c) the Transferred Guernsey Liabilities,

and following each Subsequent Guernsey Transfer Date, the relevant Residual Guernsey Policy, Residual Guernsey Asset or Residual Guernsey Liability, but does not include the Excluded Guernsey Policies and the Excluded Guernsey Liabilities.

"Transferred Guernsey Liabilities" means:

- (a) all obligations of the Transferor under each Guernsey Business Contract and Transferred Guernsey Policy to the extent they are to be performed on or after the Guernsey Effective Date; and
- (b) all obligations, liabilities and Losses of the Transferor, whether derived from contract, law, regulation or otherwise, that relate to the ownership of a Transferred Guernsey Asset or the operation of the Transferred Guernsey Business by any member of the Transferee Group on or after the Guernsey Effective Date,

but excluding:

- (i) the Excluded Guernsey Liabilities;
- (ii) the Excluded Guernsey Policies;
- (iii) prior to each Subsequent Guernsey Transfer Date, the relevant Residual Guernsey Liabilities;
- (iv) prior to each Subsequent Guernsey Transfer Date, any liabilities under or relating to the relevant Residual Guernsey Policies or the Residual Policies Reinsurance Arrangement; and
- (v) any liabilities allocated to the Transferor Shareholder Fund;

"Transferred Guernsey Policies" means every Guernsey Policy under which any liability remains unsatisfied or outstanding at the Guernsey Effective Date, together with:

- (a) Guernsey Policies written by the Transferor which have lapsed (or which have been treated by the Transferor as having lapsed) on or before the Guernsey Effective Date and which are reinstated by the Transferee on or after the Guernsey Effective Date; and
- (b) all proposals, offers, plans, schemes and frameworks for insurance in place or received by or on behalf of the Transferor before the Guernsey Effective Date which would have become Guernsey Policies if the Transferor had determined to accept them,

but excluding Excluded Guernsey Policies; and

"UK Scheme" means the insurance business transfer scheme pursuant to Part VII of, and Schedule 12 to, FSMA for, amongst other things, the transfer of certain long term insurance business of the Transferor to the Transferee, a copy of which is contained in the Schedule to this Guernsey Scheme, subject to any modification, addition or condition which may be approved or imposed in accordance with its terms.

- 1.2 Words and expressions not defined above but used as defined terms shall bear the meanings given to them in the UK Scheme.
- 1.3 Subject to paragraph 1.2 above and except where the context requires otherwise, words and expressions used in the Guernsey Insurance Business Law or in any regulations made under it shall have the same meanings in this Guernsey Scheme.
- 1.4 Unless the contrary intention is expressed, the principles of interpretation set out in paragraph 1.2 of the UK Scheme shall be incorporated by reference into and shall form part of this Guernsey Scheme as if reproduced herein, *mutatis mutandis*.

1.5 In this Guernsey Scheme:

- (a) **"property"** or **"assets"** includes (without limitation) property (including real property and charges registered at the Land Registry within England and Wales and at the Registers of Scotland in Scotland and elsewhere and unregistered real property and charges), assets, Cash, Encumbrances, causes of action, rights (including contingent rights as to the repayment of Tax to the extent that Tax relates to the Transferred Guernsey Business) and powers of every description (whether present or future, actual or contingent) and includes property held on trust and securities, benefits, income or interest accrued but unpaid, powers of any description and any interest whatsoever in any of the foregoing; and
- (b) any reference to any rules or regulations issued by the Commission shall be deemed to include a reference to such rules or regulations as amended or replaced from time to time.

PART B – INTRODUCTION

2. INTRODUCTION

- 2.1 The Transferor is a company incorporated in England and Wales with registered number 02456671. The registered office of the Transferor is at The Grange, Bishops Cleeve, Cheltenham, Gloucestershire, GL52 8XX.
- 2.2 The Transferee is a company incorporated in England and Wales with registered number 03196171. The registered office of Transferee is at 25 Gresham Street, London, EC2V 7HN.
- 2.3 Each of the Transferor and the Transferee has a permission under Part 4A of FSMA to carry on Long-Term Business in the United Kingdom in classes I (Life and annuity), II (Marriage and birth), III (Linked long-term), IV (Permanent health), VI (Capital redemption contracts) and VII (Pension fund management) set out in Part II of Schedule 1 to the RAO.
- 2.4 The Commission maintains and publishes a list of "recognised insurers" in Guernsey. All insurers authorised by the relevant supervisory authority authorised (in respect of the classes of insurance business for which relevant authorisation is held) in the countries or territories listed on the Commission's list of recognised insurers (which includes the United Kingdom) are "recognised insurers" for the purposes of the Guernsey Insurance Business Law. As both the Transferor and the Transferee are regulated (in respect of Long-Term Business) by the FCA and PRA in the United Kingdom, both the Transferor and the Transferee are "recognised insurers" for the purposes of the Guernsey Insurance Business Law.
- 2.5 It is proposed that the whole of the Transferred Business, all of which is carried on in the United Kingdom, other than the Excluded Policies, shall, in accordance with the UK Scheme, be transferred to the Transferee.
- 2.6 The Transferred Guernsey Business forms part of the Transferred Business. It is proposed that the whole of the Transferred Guernsey Business, other than the Excluded Guernsey Policies, shall, in accordance with this Guernsey Scheme, be transferred to the Transferee on the Guernsey Effective Date by a Guernsey Court Order in accordance with section 44(1)(c) of the Guernsey Insurance Business Law.
- 2.7 Each of the Transferor and the Transferee have agreed to appear by counsel at the hearing of the application to sanction this Guernsey Scheme and undertakes to be bound thereby and to execute all such documents and to do all such acts and things as may be necessary or expedient to be executed or done by it for the purposes of giving effect to this Guernsey Scheme.

PART C – INCORPORATION OF UK SCHEME

3. INCORPORATION OF UK SCHEME

3.1 Subject to paragraphs 3.2 to 3.6 below and save as otherwise set out in this Guernsey Scheme, the terms of:

- (a) paragraph 3 (*Transfer of Business*);
- (b) paragraph 4 (*Continuity of Proceedings*);
- (c) paragraph 5 (*Rights and Obligations under Transferred Policies and Business Contracts*);
- (d) paragraph 6 (*Residual Policies*);
- (e) paragraph 7 (*Premiums, Mandates and Other Payments*);
- (f) paragraph 8 (*Declaration of Trust by Transferor*);
- (g) paragraph 9 (*Indemnities in favour of Transferor*);
- (h) paragraph 12 (*Taxation*);
- (i) paragraph 13 (*Trading Suspension Period*);
- (j) paragraph 16 (*Effect of Transfer*);
- (k) paragraph 18 (*Evidence of Transfer*); and
- (l) paragraph 19 (*Successors and Assigns*),

of the UK Scheme shall be deemed to be part of this Guernsey Scheme as if reproduced herein *mutatis mutandis*. For this purpose, the following definitions used in the UK Scheme shall be read and construed as follows:

- (i) "Business Contracts" shall be read as Guernsey Business Contracts;
- (ii) "Effective Date" shall be read as Guernsey Effective Date;
- (iii) "Excluded Assets" shall be read as Excluded Guernsey Assets;
- (iv) "Excluded Liabilities" shall be read as Excluded Guernsey Liabilities;
- (v) "Excluded Policies" shall be read as Excluded Guernsey Policies;
- (vi) "Order" shall be read as Guernsey Order;
- (vii) "Policy" shall be read as Guernsey Policy;
- (viii) "Policyholders" shall be read as Guernsey Policyholders;
- (ix) "Relevant Date" shall be read as Relevant Guernsey Date;
- (x) "Residual Asset" shall be read as Residual Guernsey Asset;
- (xi) "Residual Liability" shall be read as Residual Guernsey Liability;
- (xii) "Residual Policies" shall be read as Residual Guernsey Policies;

- (xiii) "Scheme" shall be read as Guernsey Scheme;
- (xiv) "Subsequent Transfer Date" shall be read as Subsequent Guernsey Transfer Date;
- (xv) "Transferred Asset" shall be read as Transferred Guernsey Asset;
- (xvi) "Transferred Business" shall be read as Transferred Guernsey Business;
- (xvii) "Transferred Liability" shall be read as Transferred Guernsey Liability;
- (xviii) "Transferred Policy" shall be read as Transferred Guernsey Policy; and
- (xix) all references to the Data Protection Laws shall be read as references to the equivalent provisions of The Data Protection (Bailiwick of Guernsey) Law, 2017.

- 3.2 For the purpose of paragraph 3.1 above, sub-paragraph 6.4 of the UK Scheme shall not apply.
- 3.3 For the purpose of paragraph 3.1 above, sub-paragraph 9.1 of the UK Scheme shall be amended by deleting the words "*or by a vesting order pursuant to section 112(1) of FSMA (whether made before, on or after the Effective Date)*".
- 3.4 For the purpose of paragraph 3.1 above, sub-paragraph 13.3 of the UK Scheme shall be amended by deleting the words "*the Transferee shall notify the FCA and the PRA as soon as reasonably practicable after it becomes aware of the same and shall keep the FCA and the PRA reasonably informed about all steps which the Transferee is taking to complete the Trading Proving Processes and end the Trading Suspension Period*" and replacing them with the following words "*the Transferee shall notify the Commission as soon as reasonably practicable after it becomes aware of the same and shall keep the Commission reasonably informed about all steps which the Transferee is taking to complete the Trading Proving Processes and end the Trading Suspension Period*".
- 3.5 For the purpose of paragraph 3.1 above, sub-paragraph 16.1(b) of the UK Scheme shall be amended by deleting the words "*, but for section 112A of FSMA,*".
- 3.6 This Guernsey Scheme is ancillary to the UK Scheme and is intended to transfer the Guernsey Policies that would not otherwise be transferred under the UK Scheme. Nothing in this Guernsey Scheme shall operate so as to prevent or conflict with any transfer provided for by the UK Scheme.

PART D – MISCELLANEOUS PROVISIONS

4. GUERNSEY EFFECTIVE DATE

4.1 This Guernsey Scheme shall become effective and the Guernsey Effective Date shall occur simultaneously with the time and date at which the last of the following two conditions is met, namely:

- (a) the Guernsey Court Order sanctioning the Guernsey Scheme being made; and
- (b) the UK Scheme in relation to the Transferred Business becoming effective in accordance with its terms.

4.2 Unless this Guernsey Scheme has become effective in its entirety on the date determined in accordance with paragraph 4.1 above, this Guernsey Scheme shall lapse.

5. MODIFICATIONS, AMENDMENTS OR ADDITIONS

5.1 The Transferor and the Transferee may consent to any modification of or addition to this Guernsey Scheme or to any further condition or provision affecting the same which, prior to its sanction of this Guernsey Scheme, the Guernsey Court may approve or impose.

5.2 Subject to paragraphs 5.3 and 5.4 the Transferee shall at any time after the sanction of this Guernsey Scheme be at liberty to apply to the Guernsey Court for consent to amend its terms, provided that in any such case:

- (a) the Commission shall be notified of, and have the right to be heard at, any hearing of the Guernsey Court at which such application is considered; and
- (b) such application shall be accompanied by a certificate from an independent actuary to the effect that in his opinion the proposed amendment will not materially adversely affect the security or reasonable expectations of the holders of Transferred Guernsey Policies or Residual Guernsey Policies or other Guernsey Policies of the Transferee, in each case as they stood before the implementation of the proposed amendment.

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

5.3 The consent of the Guernsey Court shall not be required in relation to:

- (a) minor and/or technical amendments to the provisions of this Guernsey Scheme (including amendments to correct manifest errors), provided that the Commission has been notified of the same by the Transferee and has indicated that it does not object thereto within 30 days of such notification and the Transferee Board has taken appropriate actuarial and/or legal advice, as relevant, in relation to the amendments;
- (b) amendments to the provisions of this Guernsey Scheme which are reasonably considered by the Transferee Board to be necessary to ensure the provisions of this Guernsey Scheme operate in the intended manner in circumstances where the provision to which the proposed variation applies will be materially affected by a variation of Regulatory Requirements (in this paragraph a "**Regulatory Change**"), provided that:
 - (i) the Commission has been notified of the proposed amendments by the Transferee and has not objected thereto within 60 days of such notification; and
 - (ii) an independent actuary has provided the Transferee with a certificate to the effect that in his opinion the implementation of the proposed amendments will not materially adversely affect the security or reasonable expectations of relevant

SCHEDULE 1

UK SCHEME