

THE HIGH COURT

2024 Record No.

COS

IN THE MATTER OF MEDICAL INSURANCE COMPANY DESIGNATED ACTIVITY
COMPANY

AND IN THE MATTER OF BOTHNIA INTERNATIONAL INSURANCE COMPANY LIMITED

AND IN THE MATTER OF THE ASSURANCE COMPANIES ACT 1909

AND THE INSURANCE ACT 1989

AND IN THE MATTER OF THE EUROPEAN UNION (INSURANCE AND REINSURANCE)
REGULATIONS 2015

PETITION

TO THE HIGH COURT

The Humble Petition of the directors of Medical Insurance Company Designated Activity Company (“**MIC**”) (whose respective names and addresses are set out in the **First Schedule** hereto) shows as follows:

Section 1: MIC

1. MIC was incorporated in the State on 11 December 2001 under the laws of Ireland as a private limited company under registered number 351120.
2. MIC was initially registered as Medical Insurance Company Limited. On 28 June 2016 MIC converted to a designated activity company and changed its name to Medical Insurance Company Designated Activity Company.
3. The registered office of MIC is at 13 Fitzwilliam Street Upper, Dublin 2.
4. The constitution of MIC provides that the objects for which MIC is established are, *inter alia*,:
 - (a) To undertake and to carry out (whether alone or by way of coinsurance or otherwise howsoever) the business of insurance against non-life risks and liabilities of all kinds and, in particular, risks in the classes set out in Part 1 of Schedule 1 to the European Union (Insurance and Reinsurance) Regulations 2015, or any amendment, modification, replacement or re-enactment of the same, including, without prejudice to the generality of the foregoing, accident, sickness, land vehicles (other than railway rolling stock), railway rolling stock,

aircraft, ships, goods in transit, fire and natural forces, other damage to property, motor vehicle liability, aircraft liability, liability for ships, general liability, credit, securityship, miscellaneous financial loss, legal expenses and assistance insurance;

- (b) To counter-insure or reinsure any insurance risks or liabilities undertaken by the Company;
 - (c) To undertake, accept and to enter into contracts, agreements, and treaties of reinsurance and counter-insurance of nonlife insurance risks and liabilities granted or accepted by other persons or bodies (with full power to retrocede all and any reinsurance or counter-insurance business);
 - (d) To carry on all or any kinds of indemnity or guarantee business whether of a kind now known or hereafter devised;
 - (e) To pay, satisfy or compromise any claims against the Company in respect of any policies or contracts granted by or dealt in or entered into or guaranteed or secured or counter-insured or reinsured by the Company that the Company may deem it expedient to pay, satisfy or compromise notwithstanding that the same may not be valid in law and to settle or compromise any claims made by the Company which the Company may deem it expedient to settle or compromise.
5. MIC is empowered by clause 3.17 of its constitution to *"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, and generally to purchase, take on lease or in exchange or otherwise acquire any real and personal property and rights or privileges"*.
6. MIC is authorised by the Central Bank of Ireland (the **"Central Bank"**) to carry on non-life insurance business under Classes 13, 16 and 17 as set forth in Schedule I to the European Union (Insurance and Reinsurance) Regulations 2015 (the **"2015 Regulations"**).
7. The authorised share capital of MIC is €100,000,000 divided into 100,000,000 ordinary shares of €1 each. The issued share capital of MIC is €99,000,000.
8. Compre Holdings Limited (being a company incorporated under the laws of England) holds the entire issued share capital of MIC. Compre Holdings Limited is a wholly owned subsidiary of Compre Group Holdings Limited, domiciled in Bermuda (registration number 56052) having its registered office at 4th Floor, Victoria Place, 31 Victoria Street Hamilton HM 10, Bermuda.

Section 2: Background

9. MIC has agreed to transfer its Med-Mal Business (as defined in the scheme of transfer, a copy of which is scheduled to this petition (the “**Scheme**”)) to Bothnia International Insurance Company Limited (“**Bothnia**”), a Finnish non-life insurance undertaking. The Med-Mal Business portfolio consists of circa 9,790 policies.
10. The terms of the transfer of the Transferring Business (which includes the Transferring Policies, the Transferring Contracts (which includes a number of reinsurance contracts), the Transferring Assets and the Transferring Liabilities) are set out in the Scheme.
11. It is intended that the transfer of the Transferring Business to Bothnia will take effect from 00:01 (Finnish time) on 30 June 2024 (the “**Scheme Effective Date**”).

Section 3: The Transferee

12. Bothnia is a limited liability company incorporated under the laws of Finland under the name Bothnia International Insurance Company Limited. Bothnia was incorporated in Finland as an insurance limited company (in Finnish: *Vakuutusosakeyhtiö*) on 22 September 1993. It is registered under registration number 0947118-3. Bothnia has its registered office at Ruoholahdenkatu 8, FI-00180 Helsinki, Finland.
13. Bothnia is licensed by the Finanssivalvonta Finansinspektionen Financial Supervisory Authority (“**FIN-FSA**”) to undertake and carry on the business of a non-life insurance undertaking transacting non-life insurance under Classes 1 – 17, as well as reinsurance business in all non-life insurance classes within the European Union and the European Economic Area (“**EEA**”) and outside of it but excluding non-life insurance business in Classes 1 and 10 to the extent such insurance is as referred to under the Finnish Motor Liability Insurance Act (460/2016, previously 279/1959), insurance falling under the non-life insurance class 13, to the extent the insurance in question is as referred to under the Finnish Patient Injuries Act (585/1986) or insurance referred to under the Finnish Nuclear Liability Act (484/1972), or insurance referred to under the Finnish Occupational Accidents, Injuries and Diseases Act (459/2015, previously 608/1948).
14. Bothnia is also authorised by the Central Bank to carry out non-life insurance business in Ireland on a freedom of services basis and is therefore subject to regulation by the Central Bank for conduct of business rules.

15. The objects for which Bothnia was incorporated are detailed in Article 2 of its Articles of Association as, *inter alia*:

"The Company [Bothnia] is engaged in insurance business in non-life insurance classes 1-17 as well as reinsurance business in all non-life insurance classes within the European Economic Area and outside of it, excluding, however, insurance business in non-life insurance classes 1 and 10 as provided for in the Finnish Third Party Motor Liability Insurance Act (279/59)."

16. Bothnia's licence from FIN-FSA is sufficiently wide to entitle it to acquire and carry on the Transferring Business that has heretofore been carried on by MIC pursuant to the 2015 Regulations.
17. Bothnia is authorised to acquire the Transferring Business pursuant to its Articles of Association dated 30 July 2015 whereby it is authorised to engage in insurance business in non-life insurance Classes 1 to 17 as well as reinsurance business in all non-life insurance classes within the European Economic Area and outside of it, excluding however, insurance business in non-life insurance classes 1 and 10 as provided for in the Finnish Third Party Motor Liability Insurance Act (279/59).
18. Bothnia's registered and paid-up share capital is EUR 3,825,006.80 divided into 2,250,004 shares of no nominal value. Compre Holdings Limited holds the 2,250,004 issued shares of Bothnia. Compre Holdings Limited is a wholly owned subsidiary of Compre Group Holdings Limited, domiciled in Bermuda (registration number 56052) having its registered office at 4th Floor, Victoria Place, 31 Victoria Street Hamilton HM 10, Bermuda.

Section 4: The Proposed Transfer

19. The primary commercial purpose of the Scheme is to make provision for the transfer of the Transferring Business (as defined in the Scheme) from MIC, as legal and beneficial owner, to Bothnia and the consequent assumption of the Transferring Assets and the Transferring Liabilities (which terms are defined in the Scheme) by Bothnia such that Bothnia shall succeed to the rights and obligations of MIC under the Transferring Policies, with effect from the Scheme Effective Date ("**Proposed Transfer**"). MIC wishes to transfer the Med-Mal Business. Bothnia is a specialist provider of run-off solutions for legacy books of business.

20. It has been resolved by the board of directors of MIC on 8 March 2024 and by Bothnia on 22 November 2023 in accordance with their respective internal governance requirements, that subject to the sanction of this Honourable Court and subject to receiving the approval of the relevant regulatory authorities, the Transferring Business will be transferred from MIC to Bothnia with effect from the Scheme Effective Date.
21. The transfer of the Transferring Business is subject to the approval of this Honourable Court.
22. Under the terms of the Scheme as and from the Scheme Effective Date, Bothnia will assume the Transferring Business carried on by MIC which includes the Transferring Policies, the Transferring Assets, the Transferring Liabilities and the Transferring Contracts.
23. The Transferring Policies to be transferred pursuant to the Scheme consist entirely of policies of non-life insurance falling within Class 13 as set forth in Schedule I to the 2015 Regulations. The Transferring Policies are all medical malpractice insurance policies issued by MIC to policyholders (the "**Policyholders**", as defined in the Scheme) in France and Spain. A number of the policyholders have subsequently relocated to other EEA jurisdictions, namely: Germany, Belgium and Luxembourg.
24. The Proposed Transfer of the Transferring Business to Bothnia will not cause prejudice to any of the Policyholders, insureds or creditors generally, nor will it cause prejudice to any other third parties.

Section 5: Report of Independent Actuary

25. In order to assist this Honourable Court, the Central Bank and the policyholders of MIC and Bothnia in their assessment of the Proposed Transfer, MIC and Bothnia have appointed an independent actuary, Stewart Mitchell of Lane Clark & Peacock LLP, with circa 30 years of experience in the general insurance industry (the "**Independent Actuary**"), to prepare a report (the "**Report**") on the terms of the Proposed Transfer and to opine on the likely effects of the Scheme on the policyholders of MIC and Bothnia. The Central Bank was notified of the Independent Actuary's appointment.
26. A summary of the conclusions of the Independent Actuary are set out at section 1.3 of the Report.

27. In order to assess the Proposed Transfer, the Independent Actuary has performed the following five steps analysing evidence provided by MIC and Bothnia to support the Proposed Transfer:
- i. assessing the appropriateness of the reserves and provisions included on MIC's and Bothnia's balance sheets and the approach to be used for the calculation of reserves and provisions for both MIC and Bothnia pre- and post-transfer;
 - ii. assessing the appropriateness of the projected capital requirements of MIC and Bothnia pre- and post-transfer;
 - iii. assessing overall policyholder security;
 - iv. assessing the appropriateness of MIC's and Bothnia's joint communication strategy to inform policyholders and other stakeholders of the Proposed Transfer; and
 - v. considering how the level of customer service provided to policyholders could change following the Proposed Transfer, along with other factors that might affect policyholders, such as ongoing expense levels and tax implications.
28. In completing the Report, the Independent Actuary considered the consequences of the Scheme from the following perspectives:
- i. "Transferring Policyholders", i.e., existing MIC policyholders who will transfer from MIC to Bothnia as a result of the Proposed Transfer;
 - ii. "Bothnia Policyholders", i.e., existing policyholders of Bothnia who will remain with Bothnia after the Proposed Transfer; and
 - iii. Any potential beneficiaries and claimants in relation to the Transferring Policies.
29. In circumstances where 100% of MIC's business will transfer to Bothnia as a result of the Proposed Transfer, there will be no policyholders remaining in MIC and accordingly, the Independent Actuary has not considered this class of policyholder in the Report.

Section 6: Regulatory Matters

30. For the purposes of Article 41 of the 2015 Regulations, MIC notified the Central Bank of the transfer of the Med-Mal Business proposed by the Scheme on 8 March 2024.

31. Pursuant to the Regulation 41(3)(a) of the 2015 Regulations, the proposed Scheme cannot be effected without obtaining the certification of FIN-FSA (as the EEA Member State supervisory authority of Bothnia) that, taking the proposed Scheme into account, Bothnia has the necessary authorisation to validly underwrite the Transferring Policies and possesses the necessary eligible own funds to cover its SCR thereafter.
32. Pursuant to Regulation 41(3)(b) of the 2015 Regulations, the proposed Scheme cannot be effected without also obtaining the agreement of the competent authority of each EEA Member State where the contracts "*were concluded, either under the right of establishment or the freedom to provide services*". The Transferring Policies "*were concluded, either under the right of establishment or the freedom to provide services*" in France and Spain. In accordance with the provisions of Regulation 41(3)(b) and (4) of the 2015 Regulations "*the absence of any response by a supervisory authority within 3 months of being consulted shall be deemed to be consent by that supervisory authority*".

Section 7: Notification / Advertisements

33. In circumstances where the Transferring Business does not comprise life assurance business, but relates to policies of non-life insurance, there is no requirement under section 13 of the 1909 Act to transmit the documents specified by section 13(3)(b) of the 1909 Act to the individual policyholders of the Transferor or the Transferee.
34. Nonetheless, MIC proposes to write to each Policyholder (as defined in the Scheme) following the presentation of this Petition to the Court and before the hearing of this Petition to inform them of the Proposed Transfer, including the material facts about the Proposed Transfer, the stages for approval and the Policyholders' opportunity to object. A copy of the proposed letter to the Policyholders is set out at Tab 14 of the Folder exhibited to the Grounding Affidavit of Michael Walker sworn 19 March 2024. It is proposed that the letter will be issued in the French and Spanish language, as appropriate, (in circumstances where French or Spanish is the language through which Policyholders are ordinarily communicated).
35. In compliance with Section 13(3)(a) of the 1909 Act and subject to the directions of this Honourable Court, a Notice of Intention to make this application together with the hearing date shall be published in Iris Oifigiúil, the Irish Independent and the Irish Examiner. Notice will also be published in the Financial Times (International Edition).

36. Copies of this Petition and its schedules will be served on the Central Bank following the directions hearing.
37. In accordance with the requirements of section 13(3)(c) of the 1909 Act, the Report together with the Petition and the Scheme (the “**Transfer Documents**”) will be available for inspection, Monday to Friday (public holidays excepted) between the hours of 9:00 a.m. to 5:00 p.m. at (i) the offices of MIC at 13 Fitzwilliam Street Upper, Dublin 2, (ii) the offices of MIC's solicitors, Matheson LLP, 70 Sir John Rogerson's Quay, Dublin 2, and (iii) the offices of Bothnia at Ruoholahdenkatu 8, FI-00180 Helsinki, Finland, for not less than 15 clear working days between the date of the advertisement of the Petition in Iris Oifigiúil, the Irish Examiner and the Irish Independent and the date fixed for the hearing of the Petition. In addition, the transfer documents will be available online at <https://compre-group.com/notices/mic-dac>. The parties have also arranged for a summary of the scheme and a summary of the Report to be prepared and these will also be available for inspection with the Transfer Documents.
38. The Petitioners have separately considered whether any notification requirements arise in any other jurisdictions where the transferring policies were concluded. In accordance with Regulation 41(5)(b) of the 2015 Regulations, a notice of the proposed Scheme will also be published in the relevant jurisdictions to the extent required by the laws of relevant Member States. The advice received from local counsel in Spain and France is exhibited at Tab 16 of the Grounding Affidavit.
39. Following the conclusion of the contracts, a number of transferring policyholders relocated to the following EU/EEA Member States: Belgium, Germany, and Luxembourg. Accordingly, in accordance with the provisions of Regulation 41(5)(b) of the 2015 Regulations, the transfer must be published in "each Member State in which the risks are situated or which is the Member State of the commitment in accordance with the law of that Member State".

Section 8: Costs & Expenses

40. Except as otherwise agreed in writing, all costs and expenses relating to the preparation of the Scheme and application for the sanction of the Scheme, including the costs of the Independent Actuary and complying with the Order shall be borne by Bothnia. No costs shall be borne by the Policyholders.

YOUR PETITIONER THEREFORE HUMBLY PRAYS AS FOLLOWS:

- (1) An Order pursuant to the provisions of Section 13 of the 1909 Act, the 2015 Regulations and Section 36 of the Insurance Act 1989 (as amended) sanctioning the Scheme (annexed hereto);
- (2) An Order pursuant to Section 36 of the Insurance Act 1989 making the following ancillary provisions for implementing the Scheme with each such provision to take effect from the Scheme Effective Date unless otherwise stated herein: -
 - (i) the Transferring Business (which includes the Transferring Policies, the Transferring Assets, the Transferring Liabilities and rights of MIC in the Transferring Contracts, all defined in the Scheme) will be transferred to Bothnia;
 - (ii) the Transferring Assets shall be transferred to and vested in Bothnia and shall cease to be assets of MIC;
 - (iii) that all rights, benefits and powers conferred on or vested in MIC and the liabilities imposed on MIC by or under the Transferring Contracts shall be transferred to Bothnia;
 - (iv) that all premiums or amounts attributable or referable to the Transferring Policies shall be payable to Bothnia;
 - (v) that Bothnia shall be entitled to any and all defences, claims, counterclaims and rights of set-off in respect of the Transferring Policies and the Transferring Contracts which would have been available to MIC;
 - (vi) all references in any Transferring Policy and Transferring Contract to MIC, the board of directors of MIC, or any other officers or agents of MIC shall be read as references to Bothnia, the board of directors of Bothnia, or any other officers, employees or agents of Bothnia or, where appropriate, agents of Bothnia to which the administration carried on by Bothnia has been delegated. In particular, but without limitation, all rights and / or duties exercisable or expressed to be exercisable or responsibilities to be performed by MIC, the board of directors of MIC, or any other officers or agents of MIC in relation to

any of the Transferring Policies shall, from and after the Scheme Effective Date be exercisable or required to be performed by Bothnia, the board of directors of Bothnia or any other officers, employees or agents of Bothnia;

- (vii) that the Transferring Liabilities shall be transferred to and shall become the liabilities of Bothnia and shall cease to be liabilities of MIC;
- (viii) that any mandate or other instruction in force on the Scheme Effective Date (including, without limitation, any instruction given to a bank by its customer in the form of a direct debit or standing order) and providing for the payment by a bank or other intermediary of premiums payable under of in respect of any of the Transferring Contracts or the Transferring Policies shall take effect as if it had provided for and authorised such payment to Bothnia;
- (ix) that any mandate or other instruction in force on the Scheme Effective Date in respect of any of the Transferring Contracts or the Transferring Policies as to the manner of payment of any benefit or other amounts by MIC shall (and in the case of the Residual Policies as defined in the Scheme) from the respective Subsequent Transfer Date (as defined in the Scheme) continue in force as an effective authority to Bothnia;
- (x) that any judicial, quasi-judicial, arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim which are pending by or against MIC in connection with the Transferring Business shall be continued by or against Bothnia and Bothnia shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to MIC in relation to any such proceedings;
- (xi) on and with effect from each Subsequent Transfer Date, all actual and potential proceedings by or against MIC in connection with the Residual Assets (as defined in the Scheme) or the Residual Liabilities (as defined in the Scheme) shall be continued by or against Bothnia, and Bothnia shall be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to MIC in relation to such Residual Assets and Residual Liabilities;

- (xii) MIC is given liberty to transfer to Bothnia all data (including personal data) held by or on behalf of MIC in relation to the Transferring Policies, the Transferring Assets, the Transferring Liabilities and the Transferring Contracts;
 - (xiii) the Records (as defined in the Scheme), which may include Policyholder Data (as defined in the Scheme) protected under the Data Protection Laws (as defined in the Scheme), shall be transferred to Bothnia, such that Bothnia shall be deemed to be the Data Controller of the Policyholder Data, and may be used by Bothnia for, and disclosed by MIC to, and used by, any agent or contractor of Bothnia to the same extent that they were used by MIC and its agents or contractors prior to the Scheme Effective Date for all purposes in connection with the Transferring Contracts or the Transferring Policies including, in particular, administration thereof and all matters relevant or incidental thereto;
 - (xiv) to the extent that an authority has been given to MIC in connection with a Transferring Policy or a Transferring Contract by a Policyholder or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Laws or otherwise, such authority shall be deemed to have been given to Bothnia;
 - (xv) that on or from the Scheme Effective Date any document evidencing or constituting a policy contained within the Transferring Policies issued by MIC or the right of any person to participate in benefits secured by the Transferring Policies effected with MIC or references to MIC or any short form or abbreviation thereof and/or to rights, powers, duties and/or obligations imposed on MIC shall to the extent necessary to give full effect to the Scheme be read, construed and treated as references to Bothnia and/or to the rights, powers, duties and/or obligations imposed on Bothnia subject to and in accordance with the Scheme.
- (3) An Order directing that notice of said transfer be published once in each of *Iris Oifigiúil*, *The Irish Independent*, *The Irish Examiner* and be further published as required in accordance with the laws of the Member States where the risks are situated.

(4) Such further or other Order as to this Honourable Court shall appear proper.

Signed: _____

NOTE

It is intended to serve a copy of this Petition (together with the Schedules) on such parties as this Honourable Court may direct.

Presented this day of , 2024 in the Central Office by Matheson LLP, Solicitors for the Petitioners, of 70 Sir John Rogerson's Quay, Dublin 2.

SCHEDULE 1

NAMES AND ADDRESSES OF THE DIRECTORS OF MEDICAL INSURANCE COMPANY DESIGNATED ACTIVITY COMPANY

1. Michael Walker, apartment 1M, The Albany, 8 Old Hall Street, Liverpool, United Kingdom
2. Ian James Patrick, 7 College Drive, Tunbridge Wells, Kent, Kent, United Kingdom
3. Simon Hawkins, 40 Grafton Road, Worcester Park, Surrey, Surrey, United Kingdom
4. Damian Everest, Highfield, Flat 5, Triq Francis Attard, In-Naxxar, Malta
5. Marialuisa Patrella, 73 Faraday House, Aurora Gardens, London, United Kingdom
6. Thomas Woulfe, 28 Fortfield Park, Terenure, Dublin 6w
7. Michael McInerney, 2 Cambridge Villas, Rathmines, Dublin 6

SCHEDULE 2

Scheme

THE HIGH COURT

2024 Record No. COS

**IN THE MATTER OF MEDICAL
INSURANCE COMPANY
DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF BOTHNIA
INTERNATIONAL INSURANCE
COMPANY LIMITED**

**AND IN THE MATTER OF THE
ASSURANCE COMPANIES ACT
1909**

AND THE INSURANCE ACT 1989

**AND IN THE MATTER OF THE
EUROPEAN UNION (INSURANCE
AND REINSURANCE)
REGULATIONS 2015**

PETITION

MATHESON LLP

70 Sir John Rogerson's Quay
Dublin 2
Ireland

ELCA/JG 667352-10
TEL + 353 1 232 2000
FAX + 353 1 232 3333