

**IN THE SUPREME COURT OF BERMUDA
COMMERCIAL COURT
COMPANIES (WINDING UP)
Case No. 307 of 2021**

**IN THE MATTER OF MARKEL CATCO REINSURANCE FUND LTD.
(PROVISIONAL LIQUIDATORS APPOINTED FOR RESTRUCTURING PURPOSES)
AND IN THE MATTER OF SECTION 99 OF THE COMPANIES ACT 1981
AND IN THE MATTER OF THE SEGREGATED ACCOUNTS COMPANIES ACT 2000**

ORDER

UPON the Petition presented by Markel CATCo Reinsurance Fund Ltd. (the “**Company**”) dated 9 March 2022 seeking the sanction of the scheme of arrangement set out in the Schedule to this Order (the “**Scheme**”) pursuant to Section 99 of the Companies Act 1981

AND UPON HEARING Leading Counsel for the Company and Counsel for the Joint Provisional Liquidators of the Company

AND UPON READING the Order dated 16 February 2022 (pursuant to which the Company convened the Scheme Meetings), the Scheme, the report of the Chairman of the Scheme Meetings, the evidence filed in support of the Petition, and the Petition

AND UPON adopting in this Order, for ease of reference only, the defined terms contained in the Scheme

AND UPON each of SOAFC I, Inc., SOAFC II, Inc., SOAFC III, Ltd (the Funding Cos) and SPC, Ltd. (the Purchaser) having given an **UNDERTAKING** to (a) take all such actions as are required to implement and give effect to the terms of each of the Schemes as sanctioned by the Bermuda Court pursuant to Section 99 of the Companies Act, in accordance with and subject to its terms and (b) execute and, with effect from the Closing Date, be bound by the Transaction Documents to which it is a party, and any other documents which are required to implement and give effect to the Scheme and the Buy-Out Transaction

IT IS ORDERED THAT:

1. The Court hereby sanctions the Scheme set out in the Schedule to this Order.
2. The Company or its attorneys shall, as soon as reasonably practicable, deliver a copy of this order to the Registrar of Companies for registration.

DATED the 11th day of March 2022.



JUSTICE MUSSENDEN

SCHEDULE



March 4, 2022

IN THE SUPREME COURT OF BERMUDA

CIVIL JURISDICTION

(COMMERCIAL COURT)

Case 2021: No. 307

IN THE MATTER OF MARKEL CATCO REINSURANCE FUND LTD.

AND IN THE MATTER OF THE COMPANIES ACT 1981

SCHEME OF ARRANGEMENT

UNDER SECTION 99 OF THE COMPANIES ACT 1981

BETWEEN

MARKEL CATCO REINSURANCE FUND LTD.

– AND THE –

SCHEME CREDITORS (AS DEFINED HEREIN)

1. Definitions and Interpretation

1.1 Definitions

In this Scheme, the following expressions shall, unless the context otherwise requires, have the following meanings:

“Acquired Shares” means the shares in the segregated accounts of the Reinsurer to be acquired by the Purchaser from the Private Fund in exchange for the Buy-Out Amounts in accordance with the terms of the Relationship and Economic Rights Agreement.

“Additional Consideration” means an amount to be allocated to all Scheme Creditors equal to each Scheme Creditor’s *pro rata* entitlement (based on the proportion that the Closing NAV of each Scheme Creditor’s shareholding in the Private Fund comprises in relation to the aggregate Closing NAV of all Private Fund shareholders including the Excluded Creditors) to \$44 million.

“Administrative Expenses” means the Transaction Costs, the Ordinary Course Fees and the Reserve.

“Administrative Expenses Contribution” means an aggregate cash amount equal to the greater of: (i) \$20 million, and (ii) Transaction Costs, less any amount of Transaction Costs which has been paid by the Private Fund and allocated against the NAV of the Settling Shares, which amount will be contributed by Markel Corporation or one of its Affiliates to the Private Fund and attributed to Retro Funds Shares and Aquilo Fund Shares *pro-rata* in proportion to the Current NAV of such shares.

“Adverse Development Cover” means adverse development cover (and/or entering into new reinsurance contracts, or amending existing reinsurance contracts) to one or more fronting reinsurers of the Aquilo Fund that will enable the release of trapped cash to the Private Fund.

“Adverse Development Cover Provider” means Markel Bermuda Limited, an Affiliate of Markel Corporation, or any other Affiliate of Markel Corporation that will provide the Adverse Development Cover.

“Advisers” means:

- (a) AlixPartners UK LLP;
- (b) ASW Law Limited;
- (c) Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates (and Counsel instructed by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates to advise on, and to appear before the Supreme Court of Bermuda in relation to, the Schemes) as legal advisers to the Scheme Companies;
- (d) Conyers Dill & Pearman Limited;
- (e) Finance and Risk Services Limited;
- (f) Simpson, Thacher & Bartlett LLP; and
- (g) the JPLs in the personal capacities,

together with the respective Related Parties of each of the foregoing.

“Affiliate” means, in respect of a company:

- (a) a company that directly or indirectly owns, controls, or holds with power to vote, 50 percent or more of the outstanding voting securities of the company, other than an entity that holds such securities:

- (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
 - (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;
- (b) a company 50 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the company, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 50 percent or more of the outstanding voting securities of the company, other than an entity that holds such securities:
 - (i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or
 - (ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;
- (c) a person whose business is operated under a lease or operating agreement by the company, or person substantially all of whose property is operated under an operating agreement with the company; or
- (d) an entity that operates the business or substantially all of the property of the company under a lease or operating agreement.

“Ancillary Transaction Documents” means the Security Documents and all scheduled, instruments, resolutions or other documentation necessary to implement and give effect to the Transaction Documents.

“Aquila Accelerated Distribution” means a cash distribution to holders of Aquilo Fund Shares as at the Scheme Record Time in an amount equal to 100% of the Closing NAV of the Aquilo Fund Shares.

“Aquila Buy-Out Amount” means the purchase price to be paid by the Purchaser to the Private Fund (pursuant to the terms of the Relationship and Economic Rights Agreement) in exchange for the Acquired Shares in respect of the Aquilo Fund.

“Aquila Fund” means the Aquilo Fund of the Private Fund.

“Aquila Fund Shares” means the shares issued by the Aquilo Fund to its shareholders.

“Aquila Scheme Distribution” means a distribution to Private Fund Scheme Creditors with interests in Shares issued by the Aquilo Fund of:

- a) each shareholders’ proportion of the Aquilo Accelerated Distribution; and
 - b) each shareholders’ proportion of the Additional Consideration,
- such distributions to be allocated to Private Fund Scheme Creditors with interests in Shares issued by the Aquilo Fund *pro rata* in proportion to their Closing NAV and to be made in accordance with the Private Fund Bye-Laws.

“Attorney” has the meaning given in Clause 3.1 of this Scheme.

“Bermuda Proceedings” means, collectively, the Provisional Liquidations and the Schemes.

“Bermuda Registrar of Companies” means the Registrar of Companies in Bermuda.

“Business Day” means a day on which commercial banks and foreign exchange markets settle payments and are open for general business (including dealings in foreign exchange and foreign currency deposits) in London, New York and Bermuda.

“Buy-Out Amounts” means the Aquilo Buy-Out Amount and the Retro Funds Buy-Out Amount.

“Buy-Out Transaction” means the transaction to be implemented by the Schemes, including (without limitation) the acquisition of the Acquired Shares by the Purchaser in consideration for the Buy-Out Amounts, the Adverse Development Cover becoming effective, the execution of the Deed of Release, and the distribution of the Scheme Consideration to Scheme Creditors.

“C Shares” means the issued and outstanding series C shares of the Public Fund and includes (save where the context so requires) the Depository Interests issued by the Depository in respect of those shares.

“Chapter 15” means Chapter 15 of the U.S. Bankruptcy Code.

“Chapter 15 Cases” means the Chapter 15 cases with respect to the Bermuda Proceedings.

“Chapter 15 Enforcement Order” means an order issued by the U.S. Bankruptcy Court recognising and enforcing the terms of this Scheme and the Buy-Out Transaction, on terms satisfactory to the Scheme Company and the Undertaking Parties.

“Claim” means a claim, potential claim, counterclaim, potential counterclaim, right of set-off, indemnity, cause of action, demand, suit, right to payment (whether or not such right is reduced to judgment), right or interest of any kind or nature whatsoever, whether in law or in equity, civil or criminal, contractual or in tort (including, but not limited to, negligence, fraud or breach of fiduciary duty), and whether direct or derivative in nature, whether known or unknown, suspected or unsuspected, contingent or actual, liquidated or unliquidated, matured or unmatured, direct or indirect, disputed or undisputed, secured or unsecured, fixed or undetermined, present or future, however and whenever arising and in whatever capacity and jurisdiction.

“Closing Date” means the date on which each of the steps set out in Clause 3.5(a), (b) and (c) has occurred.

“Closing NAV” is an amount equal to Current NAV:

- (i) *plus* the Transaction Costs Reserve Release (where applicable),
- (ii) *plus* the Administrative Expenses Contribution,
- (iii) *less* Administrative Expenses.

“Conditions Precedent” means the conditions precedent for the Schemes set out in Clause 3.2 of the Scheme and Clause 3.2 of the Public Fund Scheme.

“Court” means the Supreme Court of Bermuda.

“Current NAV” means, if the Net Asset Value attributable to the Shares that has been announced for the most recent month end prior to the Closing Date, adjusted to exclude the impact of any Transaction Costs or increased reserve on account of Transaction Costs or litigation liabilities reflected in such amount, is greater than the Net Asset Value of the Shares as of 31 August 2021, then the Net Asset Value attributable to the Shares that has been announced for the most recent month end prior to the Closing Date, or otherwise the Net Asset Value of the Shares as of 31 August 2021.

“Deed of Release” means a deed of release to be dated on or about the Closing Date between the Scheme Creditors, the Public Fund Scheme Creditors, the Scheme Company, the Public Fund, the Manager, the Reinsurer, the Funding Cos, the Purchaser, the Adverse Development Cover Provider and Markel Corporation pursuant to which the parties shall grant releases of certain claims and liabilities as contemplated by the Schemes.

“Depository” means Link Market Services Trustees (Nominees) Limited, acting in the capacity as Depository for the Public Fund.

“Depository Interests” means the dematerialised depository interests issued by the Depository in respect of the issued and outstanding Ordinary Shares and C Shares.

“Early Consent Fee Amount” means a cash fee equal to 2% of the aggregate Current NAV of Scheme Creditors who had executed support undertakings by 9 November 2021 at 11.59 p.m. (Bermuda time).

“Excluded Creditors” means the “Investor Parties” subject to and as defined in the Settlement Agreement.

“Explanatory Statement” means the explanatory statement issued by the Scheme Companies in compliance with section 99 and section 100(1)(a) of the Companies Act relating to the Schemes.

“Funding Cos” means SOAFC I, Inc., SOAFC II, Inc. and SOAFC III, Ltd as lenders pursuant to the Purchase Price Loan Agreement.

“Group Settlement Deed” means a deed to be entered in to by the Manager, the Public Fund, the Private Fund and the Reinsurer, pursuant to which, on and from the Closing Date, the Management Agreements will be terminated and all rights or claims arising therefrom including pursuant to the indemnities contained therein will be released.

“HWH” means HWH Realty Holdings LLC.

“Insurance Management Agreement” means that certain discretionary insurance management agreement dated 8 December 2015 between the Manager and the Reinsurer.

“Investor Claims” means all Claims at any time arising out of, relating to, or in connection with any investment in or exposure to the Scheme Companies (and/or any of their segregated accounts, if applicable) or the Markel CATCo Business, and/or the Scheme Creditors’ Shares, including, without limitation, any such Claims: based on any oral or written statements or omissions by any person; based in tort (including, but not limited to, negligence, fraud or breach of fiduciary duty), contract, or the laws that govern the offer and sale of securities under the law of any jurisdiction; based on breach of fiduciary or other duties or breach of any contracts or deviations from operations; based on any argument or theory of alter ego, vicarious liability, agency, or piercing the corporate veil; for breach of representation, warranty or undertaking; based on an event of default or under any indemnity given under or in connection with any such Claim; based on indemnification, whether statutory or otherwise in any jurisdiction; for damages, restitution, contribution, attorneys’ fees, costs, or other liability; or as a result of any recovery by any person of a payment on the grounds of preference or otherwise, and any Claims which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

“JPLs” means Simon Appell and John McKenna in their capacities as joint provisional liquidators of the Scheme Company, the Public Fund, the Manager and the Reinsurer.

“Loan” has the meaning given to that term under the Purchase Price Loan Agreement.

“Lodgement Date” has the meaning given in Clause 2.2 of this Scheme.

“Management Agreements” means, collectively, (a) the Private Fund Management Agreement, (b) the Public Fund Management Agreement and (c) the Insurance Management Agreement.

“Manager” means Markel CATCo Investment Management Ltd.

“Markel CATCo Business” means the retro-reinsurance and reinsurance business carried out by the Manager and the Reinsurer with respect to the assets held by the Scheme Companies and the management and solicitation of investments in respect thereof.

“Markel Corporation” means the corporation which indirectly wholly owns Markel CATCo Investment Management Ltd. and is incorporated in the Commonwealth of Virginia (USA).

“Markel Group” means Markel Corporation and its Affiliates.

“Master Fund” means the Segregated Account known as the Markel CATCo Diversified Fund.

“Master Fund SP” means side pocket shares of the Private Fund issued in respect of the Master Fund.

“Net Asset Value” or **“NAV”** has the meaning set out in the Private Fund Bye-Laws.

“Ordinary Course Fees” means the aggregate of the following amounts in respect of each SP of the Retro Funds, and the Aquilo Fund, which amounts are allocated to Retro Funds Shares or Aquilo Fund Shares *pro rata* in proportion to the Current NAV of such Shares:

	Operating expenses estimate	Reserve	Total
2016 Master Fund SP	0	\$141,653	\$141,653
2017 Master Fund SP	\$1,982,885	\$1,202,747	\$3,185,632
2018 Master Fund SP	\$3,982,732	\$1,817,844	\$5,800,575
2019 Master Fund SP	\$4,038,313	\$1,538,543	\$5,576,857
Aquilo	\$1,131,284	\$526,257	\$1,657,540

“Ordinary Shares” means the issued and outstanding ordinary shares of the Public Fund and includes (save where the context so requires) the Certificated Shares and the Depository Interests issued by the Depository in respect of those shares.

“Partners” means Partners Capital Investment Group LLP.

“Principal Transaction Documents” means the Deed of Release, the Purchase Price Loan Agreement and the Relationship and Economics Rights Agreement, each in substantially the form made available to Scheme Creditors on the Schemes Website, subject to any modification made in accordance with the terms of this Scheme.

“Private Fund” means Markel CATCo Reinsurance Fund Ltd.

“Private Fund Bye-Laws” means the bye-laws of the Private Fund.

“Private Fund Management Agreement” means that certain discretionary investment management agreement dated 8 December 2015 between the Manager and the Private Fund on behalf of each Segregated Account.

“Private Fund Sanction Order” means the office copy of the order of the Court sanctioning the Scheme.

“Private Fund Shares” means the shares issued by the Private Fund in respect of the Segregated Accounts.

“Proceeding” means any process, suit, action, legal or other proceeding, including without limitation any arbitration, mediation, alternative dispute resolution, judicial review, adjudication, demand, execution, distraint, restraint, forfeiture, re-entry, seizure, lien, enforcement of judgment or enforcement of any security.

“Provisional Liquidations” means the liquidation proceedings commenced by each of the Manager, the Private Fund, the Public Fund, and the Reinsurer under Part XIII of the Companies Act, in their present form or with or subject to any modifications, additions or conditions approved or imposed by the Court or approved in accordance with the terms of each such liquidation proceeding.

“Public Fund” means CATCo Reinsurance Opportunities Fund Ltd.

“Public Fund Management Agreement” means that certain discretionary investment management agreement dated 8 December 2015 between the Manager and the Public Fund.

“Public Fund Sanction Order” means the office copy of the order of the Court sanctioning the Public Fund Scheme.

“Public Fund Scheme” means the scheme of arrangement in respect of the Public Fund.

“Public Fund Scheme Creditors” means all persons that are beneficially interested in the Public Fund Shares as at the Scheme Record Time, in their capacity as creditors of the Public Fund in relation to their potential Investor Claims.

“Public Fund Scheme Distribution” means the distribution of the Retro Funds Scheme Distribution received by the Public Fund to Public Fund Shareholders in accordance with the terms of the Public Fund Scheme.

“Public Fund Shares” means the Ordinary Shares and/or the C Shares, as applicable.

“Purchase Price Loan Agreement” means the loan agreement, to be dated on or about the Closing Date, between *inter alios*, the Funding Cos, the Purchaser and the Reinsurer, pursuant to which the Funding Cos will advance the Loans to the Purchaser for the purchase of the Acquired Shares.

“Purchaser” means SPC, Ltd. as purchaser pursuant to the Relationship and Economic Rights Agreement.

“Reinsurer” means Markel CATCo Re Ltd.

“Relationship and Economic Rights Agreement” means that certain relationship agreement, to be dated on or about the Closing Date, between the Purchaser, the Private Fund, the Manager and the Reinsurer governing the purchase of the Acquired Shares and economic rights of the Reinsurer and the Private Fund on a go forward basis. .

“Released Parties” has the meaning given to it in the Deed of Release.

“Reserve” means a reserve of approximately \$5.2 million to cover Ordinary Course Fees.

“Retro Funds” means, collectively, the Master Fund, the Diversified Fund II, the Limited Diversified Arbitrage Fund, the Diversified Arbitrage Fund, the GTL Diversified Fund, the Markel Diversified Fund and the QIC Diversified Fund.

“Retro Funds Accelerated Distribution” means a cash distribution to holders of Retro Fund Shares in an amount equal to 100% of the Closing NAV of each Scheme Creditors’ Retro Funds Shares.

“Retro Funds Buy-Out Amount” means the purchase price to be paid by the Purchaser to the Private Fund (pursuant to the terms of the Relationship and Economic Rights Agreement) in exchange for the Acquired Shares in respect of the Retro Funds.

“Retro Funds Scheme Distribution” means a distribution to Private Fund Scheme Creditors with interests in the Retro Funds of:

- (a) each shareholders’ proportion of the Retro Funds Accelerated Distribution; and
- (b) each shareholders’ proportion of the Additional Consideration,

such distributions to be allocated to Private Fund Scheme Creditors with interests in the Retro Funds *pro rata* in proportion to their Closing NAV and to be made in accordance with the Private Fund Bye-Laws.

“Retro Funds Shares” means the Shares issued by the Retro Funds to their shareholders, other than any such shares held by another Retro Fund.

“Sanction Orders” means the Private Fund Sanction Order and the Public Fund Sanction Order.

“Scheme” means the scheme of arrangement in relation to the Private Fund under section 99 of the Companies Act in its present form or with or subject to any modifications, additions or conditions approved or imposed by the Court or approved in accordance with the terms of each such scheme of arrangement.

“Scheme Company” means the Private Fund, and together with the Public Fund, the **“Scheme Companies”**.

“Scheme Consideration” means the entitlements of Scheme Creditors and the Public Fund Scheme Creditors pursuant to the Schemes, including without limitation, the Retro Funds Scheme Distribution, Aquilo Scheme Distribution and/or the Public Fund Scheme Distribution, as applicable.

“Scheme Creditors” means all persons other than Excluded Creditors that are beneficially interested in the Private Fund Shares as at the Scheme Record Time, in their capacity as creditors of the Private Fund (and/or any of its segregated accounts) in relation to their potential Investor Claims.

“Scheme Record Time” means 1 March 2022 at 2 p.m. (Bermuda Time).

“Schemes Website” means the website providing further information related to the Schemes and the Buy-Out Transaction at <https://catcobuyout.alixpartners.com>.

“Security” means the security to be granted in favour of the Funding Cos to secure repayment of the Loans, as set out in the Purchase Price Loan Agreement.

“Security Documents” means the documents in a form reasonably satisfactory to the Funding Cos pursuant to which the Security is granted.

“Segregated Account” means each of the following funds: (a) Master Fund, (b) Diversified Fund II, (c) Limited Diversified Arbitrage Fund, (d) Diversified Arbitrage Fund, (e) GTL Diversified Fund, (f) Markel Diversified Fund, (g) QIC Diversified Fund, and (h) Aquilo Fund.

“Settlement Agreement” means the agreement dated 3 February 2022 between Markel Corporation, the Manager (on its own behalf and on behalf of the Private Fund), HWH and certain funds managed by Partners.

“Shares” means, with respect to the Private Fund, the Private Fund Shares and, with respect to the Public Fund, the Public Fund Shares.

“SP” means a side pocket, a distinct class of shares issued in respect of any particular Segregated Account, holders of which are entitled to share in a defined pool of assets.

“Transaction Costs” means the transaction costs for implementing the Schemes (including the fees and costs incurred by the JPLs, the U.S. Expert and all legal and other advisers to the Scheme Companies, including the Advisers), which shall, to the extent not already allocated, be allocated as follows:

- a) in respect of the Retro Funds, an allocation of 90% of the Transaction Costs to all Retro Funds Shares, *pro rata* in proportion to the Current NAV of such shares; and
- b) in respect of the Aquilo Funds, an allocation of 10% of the Transaction Costs to all Aquilo Fund Shares, *pro rata* in proportion to the Current NAV of such shares.

“Transaction Costs Reserve Release” means in respect of each Retro Fund SP, 75% of the amount held by the Private Fund in respect of such SP as a reserve on account of potential litigation costs related to Investor Claims.

“Transaction Documents” means the Ancillary Transaction Documents and the Principal Transaction Documents.

“U.S. Bankruptcy Court” means the U.S. Bankruptcy Court for the Southern District of New York.

“U.S. Expert” means Daniel M. Glosband, in respect to a legal opinion prepared on behalf of the Manager in support of the Schemes.

“Undertaking Parties” means the Manager, the Reinsurer, the Funding Cos and the Purchaser.

“Work Fee” means a cash fee equal to 2% of the Current NAV of funds managed by PKA A/S and Almitas Capital.

1.2 *Interpretation*

In this Scheme, unless the context otherwise requires or otherwise expressly provides for:

- (a) references to “Clauses” are references to the Clauses of this Scheme;
- (b) references to a “person” include references to an individual, firm, partnership, company, corporation, unincorporated body of persons or any state or state agency;
- (c) references to a statute or statutory provision include the same as subsequently modified, amended or re-enacted from time to time;
- (d) references to an agreement, deed or document shall be deemed to also refer to such agreement, deed or document as amended, supplemented, restated, varied, replaced and/or novated (in whole or in part) from time to time and to any agreement, deed or document executed pursuant thereto;
- (e) references to time shall be to prevailing Bermuda time;
- (f) the singular includes the plural and *vice versa* and words importing one gender shall include all genders;
- (g) the term “including” means “including without limitation;” and
- (h) headings are for ease of reference only and shall not affect the interpretation of this Scheme.

2. **Application and Effectiveness of the Scheme**

2.1 The compromise and arrangement effected by the Scheme shall bind:

- (a) all Scheme Creditors;
- (b) the Scheme Company; and

- (c) each of Undertaking Parties in accordance with the terms of their undertaking to be so bound.
- 2.2 Unless otherwise stated, the provisions of the Scheme shall take effect on and from the time that both of the following conditions are satisfied:
 - (a) the Public Fund Scheme has been sanctioned by the Court; and
 - (b) copies of the Sanction Orders are delivered to the Bermuda Registrar of Companies for registration (the “**Lodgement Date**”).
- 2.3 As soon as reasonably practicable following the Lodgement Date, the Scheme Company shall notify the Scheme Creditors in accordance with Clause 6.9 (*Notice*) (including through the Schemes Website) that the Scheme has become effective.
- 3. **Implementation of the Buy-Out Transaction**
- 3.1 On and from the Lodgement Date, each Scheme Creditor hereby irrevocably authorises, instructs, empowers and appoints the Scheme Company (acting by any authorised signatory (being any director of the Scheme Company or attorney of the Scheme Company appointed pursuant to a duly executed power of attorney)) as the true and lawful agent and attorney of that Scheme Creditor (the “**Attorney**”), so that the Attorney may:
 - (a) sign, execute and deliver the Deed of Release for and on behalf of that Scheme Creditor, such that each Scheme Creditor will become a party to and be bound by the Deed of Release;
 - (b) take any such other action as may be reasonably necessary, or desirable, to give effect to the terms of the Scheme, the Deed of Release or any other Transaction Document;
 - (c) agree on its behalf any amendments to the Scheme, Deed of Release or any other Transaction Document, which the Scheme Company and (if applicable) the other person(s) party to the Scheme, the Deed of Release or such other Transaction Document (acting reasonably and in good faith) consider(s) necessary, or desirable, in order to ensure that, without limitation:
 - (i) the information and categories of information contained, or referred to, in any formula, schedule, annex or similar, signature blocks, parties’ provisions, notice details or blank in any Transaction Document reflect the relevant information and categories of information as of the applicable date;
 - (ii) any Transaction Document may be duly executed and delivered; and/or
 - (iii) the Deed of Release and any other Transaction Document is legal, valid, binding and enforceable upon the parties to them in accordance with the Scheme.
- 3.2 The Closing Date shall occur as soon as reasonably practicable following the occurrence of each of the following (together, the “**Conditions Precedent**”):
 - (a) the Manager, the Public Fund, the Private Fund and the Reinsurer have entered into the Group Settlement Deed;
 - (b) the U.S. Bankruptcy Court has issued the Chapter 15 Enforcement Order; and
 - (c) each of the conditions precedent set out in the Purchase Price Loan Agreement have been satisfied.
- 3.3 The Scheme Company shall take all steps and execute all documents as are reasonably required to satisfy the Conditions Precedent as soon as possible following the Lodgement Date.

- 3.4 On or before the Closing Date the following shall occur:
- (a) the Scheme Company and the Undertaking Parties (as applicable) shall enter into and implement the Purchase Price Loan Agreement and the Relationship and Economic Rights Agreement;
 - (b) the Reinsurer and the Purchaser shall grant the Security;
 - (c) the Funding Cos shall provide the Loans to the Purchaser pursuant to the terms of the Purchase Price Loan Agreement;
 - (d) the Purchaser shall acquire the Acquired Shares pursuant to the Relationship and Economic Rights Agreement;
 - (e) relevant steps will be taken by the Private Fund so that the Adverse Development Cover becomes effective; and
 - (f) the Purchaser or one of its Affiliates (as applicable) will pay to the Private Fund and/or the Public Fund, as relevant, the Additional Consideration, the Administrative Expenses Contribution, and the Early Consent Fee Amount; and
 - (g) the Work Fee will be paid to those parties entitled to it as agreed between the Scheme Companies and those parties.
- 3.5 On the Closing Date the following shall occur:
- (a) the Deed of Release will be executed by the Scheme Company on its own behalf (in respect of its general account and each of the Retro Funds and the Aquilo Fund) and on behalf of the Scheme Creditors and by all other parties thereto and shall become effective in accordance with its terms;
 - (b) the Group Settlement Deed shall become effective; and
 - (c) the Scheme Company shall initiate the Retro Funds Scheme Distribution and the Aquilo Scheme Distribution in accordance with the Private Fund Bye-Laws; and
 - (d) the Scheme Company shall initiate the payment of the Early Consent Fee to eligible Private Fund Scheme Creditors.
- 3.6 The Scheme Company shall take all steps and execute all documents as are reasonably required to cause the Closing Date to occur as soon as reasonably practicable following satisfaction of the Conditions Precedent.
- 3.7 If the Closing Date does not occur on or before the date which is 15 Business Days after the Lodgement Date (or such other date not later than 45 Business Days after the Lodgement Date as the Scheme Company may determine and of which notice is given to all Scheme Creditors), the terms of and the obligations on the parties under or pursuant to clauses 3 of the Scheme shall lapse and all the compromises and arrangements provided by the Scheme (including the execution of the Deed of Release on behalf of any or all of the Scheme Creditors) shall be of no effect.
- 3.8 The authority granted under Clause 3.1 above shall be treated for all purposes whatsoever and without limitation as having been granted by deed under the laws of Bermuda.
- 4. Action Contrary to the Scheme**
- 4.1 Prior to the Closing Date (or, if earlier, the date on which the Scheme lapses in accordance with Clause 3.8), the Scheme Creditors shall not take any actions which would be inconsistent with the Schemes, including exercising any rights, remedies, powers or discretions in respect of any Investor Claim (or instructing any other person to do the same).

5. General

Modification

- 5.1 The Scheme Creditors hereby agree that the Scheme Company may, at any Court hearing to sanction this Scheme, consent on behalf of itself and all Scheme Creditors to any modification of, or addition to, this Scheme, the Deed of Release and/or any of the other Transaction Documents or any terms or conditions which, in each case, the Court may think fit to approve or impose, provided that such modification, addition, term or condition does not have an adverse effect on the rights of the Scheme Creditors, or any of them.

Assignments or Transfers

- 5.2 The Scheme Company shall not be under any obligation to recognise any assignment or transfer of Shares that occurs in the period after the Scheme Record Time up to the Closing Date, provided that, where the Scheme Company has received from the relevant parties written notice of such assignment or transfer, the Scheme Company may in its absolute discretion and subject to such evidence as it may reasonably require, agree to recognise such assignment or transfer, subject to the assignee or transferee agreeing to be bound by the terms of this Scheme and to be treated as a Scheme Creditor for the purposes of this Scheme.

Exercise of Discretion

- 5.3 Where, under or pursuant to any provision of this Scheme, a matter is to be determined by the Scheme Company, it shall be determined by the board of directors of the Scheme Company, in their discretion in such manner as they may consider fair and reasonable. If any difficulty shall arise in determining any such matter either generally or in any particular case or in ensuring the result described above, it shall be resolved by the board of directors of the Scheme Company in such manner as it shall consider to be fair and reasonable and its decision shall, insofar as permitted by law, be final and binding on all concerned.

Performance of Obligations on Dates Other than a Business Day

- 5.4 If any obligation is to be performed under the terms of this Scheme on a date other than a Business Day and is not capable of being performed on such date, the relevant obligation shall be performed on the next Business Day.

Further Assurance

- 5.5 On and from the Lodgement Date, each Scheme Creditor undertakes to the Scheme Company, and the Scheme Company undertakes to each Scheme Creditor, to provide such further assistance (at the cost of the Scheme Company) as may be reasonably required to implement the Scheme.

Severability

- 5.6 If at any time any provision of the Scheme is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of that provision under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision of the Scheme under the law of that jurisdiction shall in any way be affected or impaired thereby.

Notice

- 5.7 Any notice or other written communication to be given under or in relation to this Scheme shall be given in the English language in writing and shall be deemed to have been duly given if it is posted to the Scheme Website.

Governing Law and Jurisdiction

- 5.8 The operative terms of this Scheme and any non-contractual obligations arising out of or in connection with this Scheme shall be governed by and construed in accordance with the laws of Bermuda. The Scheme Creditors and the Scheme Company hereby agree that the Court shall have exclusive jurisdiction to hear and determine any suit, action or Proceeding and to settle any dispute which arises out of or in connection with the terms of this Scheme or its implementation or out of any action taken or omitted to be taken under this Scheme or in connection with the administration of this Scheme and for such purposes the Scheme Creditors and the Scheme Company irrevocably submit to the jurisdiction of the Court.

Dated this 4th day of March 2022

**IN THE SUPREME COURT OF BERMUDA
COMMERCIAL COURT
COMPANIES (WINDING UP)
Case No. 307 of 2021**

**IN THE MATTER OF MARKEL CATCO REINSURANCE
FUND LTD. (PROVISIONAL LIQUIDATORS APPOINTED
FOR RESTRUCTURING PURPOSES)
AND IN THE MATTER OF SECTION 99 OF THE
COMPANIES ACT 1981
AND IN THE MATTER OF THE SEGREGATED
ACCOUNTS COMPANIES ACT 2000**

ORDER



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SUPREME COURT BERMUDA

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SUPREME COURT BERMUDA
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