PUBLIC

Proposed acquisition of:

Hexagon Insurance PCC Limited

by Artex Risk Solutions (Holdings) Limited

Case M1207G

Decision

Document No: CICRA 16/17 **March 2016**

Guernsey Competition and Regulatory Authority

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Summary

1. Artex Risk Solutions (Holdings) Limited (the "Purchaser") intends to acquire 100% of the issued share capital of Hexagon Insurance PCC Limited (the "Target") from Robus Group Limited (75%) and Justin Wallen (25%) (the "Sellers"). As a result, Hexagon Insurance PCC Limited and its wholly owned subsidiaries Axe Insurance PCC Limited, Septagon Insurance PCC Limited and Hexagon ICC Limited will become wholly owned subsidiaries of Artex Risk Solutions (Holdings) Limited. The transaction has been notified to the Guernsey Competition and Regulatory Authority (the "GCRA") for approval pursuant to section 13 of the Competition (Guernsey) Ordinance 2012 (the "Ordinance") and Regulation 5 of the Competition (Prescribed Mergers and Acquisitions) (Guernsey) Regulations 2012 (the "Regulations").

2. The GCRA has determined that the proposed acquisition will not lead to a substantial lessening of competition in any relevant market and hereby approves the acquisition.

The Notified Transaction

3. On 10 March 2016, pursuant to Regulation 5 of the Regulations, the GCRA received an application for approval of the purchase of 100% of the issued share capital of Hexagon Insurance PCC Limited and its subsidiary ICC and PCC cores[1] by Artex Risk Solutions (Holdings) Limited.

4. The GCRA registered its receipt of the application by posting a notification on its website on 10 March 2016. It invited comments by 5pm on 23 March 2016. No submissions were received.

The Parties

5. The Purchaser is a limited company, incorporated and registered in Guernsey (No 57369). It is the local holding company for a number of trading companies, and is part of

[1] Under Guernsey law (the Companies (Guernsey) Law 2008), a protected cell company is a single legal entity, comprised of a "core" and any number of "cells". The shares in the "core" of the PCC (generally) are ordinary (voting) shares. The shares in each cell are non-voting redeemable shares.

the wider Artex Risk Solutions group. Its ultimate parent is Arthur J. Gallagher & Co, a Delaware incorporated company listed on the New York Stock Exchange.

6. The Seller and the Target are both limited companies, incorporated and registered in Guernsey; Robus Group Limited (No 53861) and Hexagon Insurance PCC Limited (No 53843).

7. Both the Purchaser and the Target are active in the Guernsey based insurance management industry. They provide insurance management services to their clients, who, with one exception, are based outside of Guernsey[2].

8. The insurance management industry in Guernsey makes use of protected cell companies ("PCCs") to provide insurance solutions to clients in a variety of different ways. Where a 'facility company' PCC type arrangement is used, the insurance manager owns the voting shares in the core of the PCC. The non-voting shares in the various cells are owned by the insurance manager's clients, who carry out licensed insurance activities in the 'cell'. The economic benefit of the activity carried on in any particular cell accrues to the client renting the cell. Nevertheless, the voting rights in respect of the PCC (which includes the cells) are held by the insurance manager.

9. An incorporated cell company ("ICC") is based on the same principles as a PCC, however unlike a PCC, the cells of an ICC are separately registered legal entities with their own memorandum and articles of association, company registration number and board of directors (although the composition of the board of each cell must be identical to the board of the ICC). This can be regarded as a way to strengthen the segregation of assets and liabilities.

10. The proposed transaction is for the purchase of the whole of the issued share capital of the core of Hexagon Insurance PCC Limited. As set out above, Hexagon Insurance PCC

[2] The Purchaser's trading subsidiary, Artex Risk Solutions (Guernsey) Limited, has one licensed insurance company client which is locally owned. The turnover received by Artex Risk Solutions (Guernsey) Limited in respect of the services it provides to this client is approximately £✂.

has a number of wholly owned subsidiaries, one of which is Hexagon ICC Limited. Hexagon ICC Limited is not yet a licensed insurer but has been created as a platform for clients which might prefer an incorporated to a protected cell company solution. It has not yet created any incorporated cells.

11. The Purchaser is also involved in the provision of PCC facility companies as described above providing insurance management services to international clients.

Requirement for GCRA Approval

12. Under Regulation 2(a) and (b) of the Regulations, an undertaking is involved in a merger or acquisition if it is acquiring, or being acquired by, another undertaking.

13. On completion of the notified transaction, the Purchaser will acquire 100% of the shares in the Target. Both the Purchaser and the Target are therefore involved in a merger for the purposes of the Regulations.

14. Under section 13(1) of the Ordinance, certain mergers must be notified to, and approved by, the GCRA before they can be put into effect. Regulation 1 of the Regulations provides that mergers must be notified to the GCRA for clearance if:
    - The combined Channel Islands turnover of the undertakings involved in the merger exceeds £5 million; and5
    - Two or more of the undertakings involved in the merger have Guernsey turnover exceeding £2 million.

15. Since Hexagon Insurance PCC Limited is a single corporate entity and any clients renting cells of Hexagon PCC Limited have no voting rights in respect of that entity, the Target holds 100% of the voting rights in respect of the whole of Hexagon PCC Limited (core and cells) and so the turnover of Hexagon PCC Limited includes the Guernsey turnover of both the core and of the cells of Hexagon PCC Limited.

16. The turnover of an undertaking is generally deemed to arise in the place where its customers are located. However, in the case of an insurance undertaking[3], turnover is deemed to arise in the place where it receives the gross premiums[4].

17. The cells of Hexagon PCC Limited are insurance undertakings as defined by Guernsey law. Hexagon PCC Limited is a Guernsey registered company and so the value of the gross written premiums received by its cells constitute Guernsey turnover, notwithstanding the fact that the risks insured through those cells are not based in Guernsey.

18. According to the information submitted by the notifying parties:

- The Channel Islands turnover of the Purchaser's corporate group in the business year ended 31 December 2015 was £✂ (2014, £✂). This turnover was generated entirely by the Purchaser and entirely in Guernsey. The Purchaser's turnover therefore exceeds £5 million in the Channel Islands and £2 million in Guernsey; and
- The Channel Islands turnover of the Target in the business year ended 31 December 2014, excluding the cells of the Hexagon PCC, was £✂. This turnover was generated entirely by the Target and entirely in Guernsey. The audited annual accounts for 2014 show that the cells of Hexagon PCC generated a turnover of £✂million in Guernsey. The parties have therefore submitted, and the GCRA accepts, that the Target's turnover exceeds £5 million in the Channel Islands and £2 million in Guernsey.

19. On the basis of these facts, pursuant to the Regulations and section 13(1) of the Ordinance, the GCRA's approval is required before the acquisition is executed.

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3 An "insurance undertaking" means an insurance business as defined in the Insurance Business (Bailiwick of Guernsey) Law, 2002 (Regulation 8(1), Turnover Regulations), which defines "insurance business" as the business of accepting risks by effecting or carrying out contracts of insurance, whether directly or through an agent (Insurance Business (Bailiwick of Guernsey) Law 2002, Schedule 5).

4 Regulation 1(2)(a), (c) of the Regulations.

Previous Merger Approvals in the Channel Islands

20. The ultimate parent of the Purchaser received approval for the acquisition of Giles Insurance and the Rossborough Group in October 2013 (M1008GJ). The Purchaser further received approval for the acquisition of Kane (Guernsey) Limited in March 2016 (M1205G).

Effect on Competition

21. Pursuant to section 13(2) of the Ordinance, the GCRA must not grant approval of a merger unless it is satisfied that it:
    - Would not substantially lessen competition within any market in Guernsey for goods and services; and
    - Would not be to the prejudice of consumers, the public interest and the economic development and well-being of the Bailiwick.

22. The Target provides insurance management solutions to clients, none of whom are based in Guernsey. The risks underwritten by those clients through the cells of the Hexagon PCC are also situated wholly outside of Guernsey.

23. The Purchaser also provides insurance management solutions to clients. With one exception[5], these clients and the risks they underwrite are based wholly outside of Guernsey.

[5] The Purchaser's wholly owned subsidiary, Artex Risk Solutions (Guernsey) Limited, has one licensed insurance client which is locally owned. Artex Risk Solutions (Guernsey) Limited generates annual income of approximately £✂through services provided to this client. Given (a) the relatively low level of turnover generated by this client; (b) the fact that the majority of the risks underwritten by this client are not situated in Guernsey; and (c) and the fact that the merger will not increase the market share of the Purchaser for the provision of insurance management services to clients in Guernsey (because the Target has no Guernsey based clients), the GCRA does not consider that the Guernsey activities of the Purchaser are material to the competition law analysis.

24. Given that the entire economic activity of both the Target and the Purchaser takes place entirely outside of Guernsey (with the single exception mentioned above), the GCRA is satisfied that the merger:

- Would not substantially lessen competition within any market in Guernsey for goods and services; and
- Would not be to the prejudice of consumers, the public interest and the economic development and well-being of the Bailiwick.

Third Party Views

25. No third party concerns were raised in respect of the transaction.

Conclusion

26. For the reasons set out above, the GCRA hereby approves the transaction under section 13(2) of the Ordinance.

29 March 2016 **By order of the GCRA Board**