

**THE HIGH COURT**

**2023 Record No. 99 COS**

**IN THE MATTER OF INTESA SANPAOLO LIFE DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF INTESA SANPAOLO VITA S.P.A.**

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

**AND IN THE MATTER OF THE INSURANCE ACT 1989**

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

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**PETITION**

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**TO THE HIGH COURT**

The Humble Petition of the directors of Intesa Sanpaolo Life designated activity company (the “**Transferor**”) / (the “**Petitioner**”) (whose names and addresses are set out in Schedule 1 hereto) shows as follows:

**Section 1: The Transferor**

1. The Transferor is a designated activity company incorporated in Ireland under company registration number 284248 and has its registered office at 1st Floor International House, 3 Harbourmaster Place, Dublin 1, Dublin, D01K8F1, Ireland.
2. The Transferor was initially incorporated under the name Sanpaolo Life Limited. On 20 November 2006, Sanpaolo Life Limited changed its name to Eurizonlife Limited. On 17 February 2011, Eurizonlife Limited changed its name to Intesa Sanpaolo Life Limited. On 13 July 2016, Intesa Sanpaolo Life Limited converted to a designated activity company (Intesa Sanpaolo Life designated activity company), under Part 16 of the Companies Act 2014.
3. As set out in clause 3 of its Constitution, the object for which the Transferor was established *"is to carry on in any part of the world the business of an insurance company transacting ordinary life insurance business."*

4. The Transferor is empowered to transfer insurance business by clause 19 of its Constitution as follows: *to sell or otherwise dispose of or transfer the business, property, rights and assets of the Company or any branch or part thereof, for such consideration payable in cash or in the shares, stocks, debentures or securities of any other company, or partly in each of such modes of payments, or for such other consideration as may be deemed proper subject to and in accordance with law.*
5. The Transferor is authorised by the Central Bank of Ireland (the “**Central Bank**”) under the European Union (Insurance and Reinsurance) Regulations 2015 (the “**2015 Regulations**”) to carry on life insurance business in Ireland in Classes in classes I, III and IV. The Transferor is authorised to passport into the following EU / EEA Member States on a freedom of services basis – Italy, Spain, France, Hungary, Luxemburg, Portugal, Slovakia and Slovenia.
6. The authorised share capital of the Transferor is €5,000,000 divided into 3,750,000 ordinary shares of nominal value EUR1.00 each and 1,250,000 non-cumulative preference shares of nominal value EUR1.00 each. Intesa has an issued share capital of EUR 625,000 divided into 468,750 Ordinary Shares of nominal value EUR1.00 each and 156,250 Non -Cumulative Preference Shares of nominal value EUR1.00 each. The entire issued share capital of the Transferor is held by Intesa Sanpaolo Vita S.p.A. (the “**Transferee**”), which in turn is the majority-owned subsidiary of Intesa Sanpaolo S.p.A.

## **Section 2: The Transferee**

7. The Transferee is a public company limited by shares incorporated under the laws of Italy under company registration number 02505650370 with the Turin Companies Register and having its registered office at Corso Inghilterra 3, 10138 Turin, Italy.
8. The Transferee was initially incorporated on 23 December 1986 under the name Compagnia Assicuratrice PREV.I.A.A.C S.p.A. On 20 January 1992, Compagnia Assicuratrice PREV.I.A.A.C S.p.A. changed its name to Noricum Vita S.p.A. On 30 June 2004, Noricum Vita S.p.A. changed its name to Assicurazioni Internazionali di Previdenza S.p.A. (also known as A.I.P. S.p.A.). On 1 December 2004, Fideuram Vita Compagnia di Assicurazioni e Riassicurazioni S.p.A. and Sanpaolo Vita S.p.A. merged (by way of merger by absorption) into Assicurazioni Internazionali di Previdenza S.p.A. (also known as A.I.P. S.p.A.). On 1 July 2006, Assicurazioni Internazionali di Previdenza S.p.A. (also known as A.I.P. S.p.A.) changed its name to

EurizonVita S.p.A. On 31 December 2011, Intesa Sanpaolo Vita S.p.A., Sud Polo Vita S.p.A. and Centrovita Assicurazioni S.p.A. merged (by way of merger by absorption) into EurizonVita S.p.A. and the surviving entity was named Intesa Sanpaolo Vita S.p.A. On 31 December 2021, Assicurazioni Vita S.p.A., BancAssurance Popolari S.p.A. and Lombarda Vita S.p.A. merged (by way of merger by absorption) into the Transferee.

9. The Transferee has as its object the exercise of insurance and reinsurance activities in the life sectors and non-life, accident and health insurance sectors, as referred to in paragraphs 1 and 3, respectively, of Article 2 of Legislative Decree 209 of 7 September 2005 ("**Private Insurance Code**"), and activities relating to the establishment and management of healthcare and pension schemes, within the limits and conditions established by law.
10. In accordance with Article 4 of the Articles of Association of ISV, it may perform, in compliance with legal provisions, financial, equity and real estate transactions related or instrumental to achieving the company object, including the acquisition of equity investments, also majority investments, in other companies in Italy and abroad, with particular reference to insurance and reinsurance and financial companies.
11. The Transferee is licensed by Istituto per la Vigilanza sulle Assicurazioni ("**IVASS**"), in classes I, II, III, IV, V and VI (Classes of Life Insurance as set out in Annex II of the Solvency II Directive) and in classes I and II (Classes of Non-Life Insurances as set out in Annex I of the Solvency II Directive).
12. The Transferee has an issued share capital of EUR 320,422,508 divided into 655,157,496 ordinary shares with no par value. 99,985% of the issued share capital of ISV is held by Intesa Sanpaolo S.p.A which is incorporated in Italy under company number 00799960158 with its registered address at Piazza San Carlo 156, 10121 Turin, Italy which is in turn part of the Intesa Group of companies ("**Intesa Group**").

### **Section 3: The Proposed Transfer**

13. The Transferor and the Transferee are part of the Intesa Sanpaolo Insurance Group (the "**Group**"). A strategic decision was made (which is subject to regulatory approval and the approval of this Honourable Court and the relevant authorities in Italy) to merge the Transferor with the Transferee by way of cross-border merger by absorption in accordance with Directive (EU) 2017/1132 of the European Parliament

and of the Council of 14 June 2017 on certain aspects of company law, pursuant to Articles 2501 – 2505 of the Italian Civil Code, Italian Legislative Decree No. 108 of 30 May 2008 as well as the European Communities (Cross-Border Mergers) Regulations 2008 (the "**Merger**"). The objective of the Merger is to: (i) streamline the corporate organisation of the Group; (ii) channel all resources functional to serving the distribution channels of the Banca dei Territori Division of Intesa Sanpaolo S.p.A. and Intesa Sanpaolo Private Banking S.p.A. towards a single product factory; (iii) achieve a greater operating efficiency, through the standardisation of processes and systems, as well as synergies relating to risk management and internal control systems; and (iv) achieve an industrial benefit in terms of derisking related to high staff turnover.

14. Pursuant to section 13 of the Assurance Companies Act 1909 (the "**1909 Act**") the approval of this Honourable Court is required in order to effect a transfer of a portfolio of insurance contracts. For the purposes of this Petition, the Merger and the proposed portfolio transfer (the "**Portfolio Transfer**") as referred to together as the "**Proposed Transaction**").
15. As part of the Proposed Transaction, the Transferee will establish a branch in Ireland (the "**Irish Branch**") which, with effect from the Merger, will be allocated the assets and liabilities of the Transferor, and shall from the Scheme Effective Date, carry on through the Irish Branch the business activity in Ireland which was conducted by the Transferor prior to the Scheme Effective Date.
16. The Proposed Transaction was approved by board of directors of the Transferor on 4 April 2023, and by the board of directors of the Transferee on 5 April 2023. The scheme of transfer annexed to this Petition (the "**Scheme**") sets out the terms upon which the Transferor will transfer the Intesa Policies (as defined in the Scheme) to the Transferee with effect from the Scheme Effective Date (as defined in the Scheme). It is proposed that all other assets and liabilities of the Transferor will transfer to the Transferee on the Scheme Effective Date (and will immediately be allocated to the Irish Branch) pursuant to the terms and conditions set out in the common draft terms of merger and the Transferor will be dissolved without going into liquidation. A separate application will be made to this Honourable Court in respect of the Merger.
17. The Intesa Policies are made up of unit linked and index linked life assurance products. As of 31 December 2022, the Transferor had approximately 638,617 policies in force.

#### Section 4: Regulatory Matters

18. On 12 April 2023, the Transferor notified the Central Bank pursuant to Regulation 41(1) of the 2015 Regulations of the proposed transfer under the Scheme.
19. Pursuant to Regulation 41(3)(a) of the 2015 Regulations, the Scheme cannot be effected without obtaining the certification of IVASS (as the EEA Member State supervisory authority of Italy) that, taking the proposed transfer into account, the Transferee will possess the necessary eligible own funds to cover its Solvency Capital Requirement (“**SCR**”). A copy of the certificate of solvency of the type referred to in Regulation 41(3)(a) of the 2015 Regulations (or such other evidence) as may be provided by IVASS shall be exhibited to this Honourable Court as part of affidavits to be filed in this Honourable Court in advance of the substantive hearing of the Petition.
20. 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 EEA Member States in which Intesa Policies were concluded are Spain and Italy.
21. There are current holders of Intesa Policies resident in the following Member States of the EU / EEA (being the Member States of the commitment in this instance for the purposes of Regulation 41(5)(b) of the 2015 Regulations):  
  
Italy, Spain, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Luxembourg, Malta, The Netherlands, Portugal, Slovenia and Sweden.
22. There are also circa 174 current holders of Intesa Policies resident outside of the EEA in the following third countries:-  
  
Albania, Argentina, Azerbaijan ,Brazil, Canada, Chile, China, Dominican Republic, Ethiopia, Georgia, Hong Kong, Malaysia, Mexico, Morocco, New Caledonia, Monaco, Qatar, South Africa, Russia, San Marino, Sierra Leone, Singapore, Switzerland, Tanzania, Thailand, Tunisia, Turkey, the United Arab Emirates, the United Kingdom, Uruguay, the United States of America, Venezuela and Vietnam.

## Section 5: Communications

23. Section 13(3)(b) of the Assurance Companies Act 1909 (the "**1909 Act**") provides that a statement of the nature of the amalgamation or transfer together with an abstract containing the material facts embodied in the agreement or deed, together with copies of the actuarial and other reports, shall, unless this Honourable Court otherwise orders, be circulated to each of the Policyholders.
24. For the purposes of Section 13 of the 1909 Act, the Petitioner has prepared a policyholder circular (the "**Circular**"). The Circular contains the following documentation:
- a) Letter which sets out the material facts relating to the Scheme and explains the nature of the Scheme;
  - b) Frequently Asked Questions ("**FAQ**")
  - c) Summary of the Scheme of Transfer;
  - d) Summary Independent Actuary's Report;
  - e) Draft legal notice; and
  - f) Privacy Notice of ISV.
25. It is proposed that the language used in the Circular shall be the same language as used in the policy documentation provided to policyholders by the Petitioner to date which is Italian or Spanish. If a request is made for the translation of any notification letter, this will be arranged by the Petitioner and provided to the relevant party as soon as practicable. It is proposed that a copy of the summary of the Independent Actuary's Report will be provided to policyholders as opposed to a copy of the full Independent Actuary's Report. The full Independent Actuary's Report will be available for viewing online and in person as set out below in paragraph 31.
26. In order to comply with Spanish law requirements, it is proposed that a slightly different letter and FAQ will be included in the Circular being issues to the Spanish resident policyholders. The rationale for this is to inform Spanish resident policyholders of the Transferor of their right to terminate their policies which is required under Spanish law.

*Approach to Intesa Policyholders*

27. It is proposed (subject to this Honourable Court) that approximately 75% of the Circulars will be issued to Intesa policyholders in electronic format through the relevant policyholder's internet banking portal. This is the usual method of communicating with these policyholders and it ensures a prompt and secure delivery. For those policyholders who do not use the internet banking portal, it is proposed that the Circular will be issued by ordinary pre-paid post.
28. The Petitioner has arranged for its outsource provider Optimo to track and record details of any Circulars that have failed to be delivered. Where this occurs, efforts will be made to trace the policyholder's current address to which (if discovered) a further copy of the Circular shall be issued in advanced of the Sanctions Hearing.

*Approach to ISV Policyholders*

29. In accordance with section 13(3)(b) of the 1909 Act, the Circular is to be transmitted to each of the Intesa and ISV policyholders at their last known address unless this Honourable Court gives a direction to the contrary. In circumstances where the Independent Actuary has confirmed in his Report that the Scheme will have no material adverse effect on the existing ISV policyholders, it is proposed that the Circular should not be transmitted to the existing ISV policyholders but to the Intesa policyholders only. It is therefore proposed, subject to the directions of this Honourable Court, that the Circular should only be transmitted to the Intesa policyholders. In this context:
  - (a) the Portfolio Transfer will not materially impact on the ISV policyholders, their overall financial position pre and post-transfer will remain well in excess of regulatory capital limits;
  - (b) there will be no changes to the terms and conditions of the existing ISV policies as a result of the Portfolio Transfer;
  - (c) the existing ISV policyholders will continue to be administered in the same way following the Portfolio Transfer;
  - (d) the existing ISV policyholders will be made aware of the Portfolio Transfer through website updates and press advertisements and will be able to contact the ISV for further information if required; and

- (e) There is a concern that the existing ISV policyholders would be confused by receipt of the Circular,

The Independent Actuary is aware of the proposed approach and has confirmed in his Report that he is satisfied that it is appropriate to proceed in this way.

- 30. 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 (the “**Pre-Transfer Notice**”) shall be published in (i) *Iris Oifigiúil* (ii) the Irish Independent (iii) the Irish Examiner and (iv) The Financial Times (International) Edition.
- 31. Furthermore, in accordance with the requirements of section 13(3)(c) of the 1909 Act, the Petition and the schedules annexed thereto (including the Scheme) and the full Independent Actuary's report will be available for inspection at the offices of (i) Intesa at 1st Floor International House, 3 Harbourmaster Place, Dublin 1, Dublin, D01K8F1, Ireland, (ii) the offices of ISV at Corso Inghilterra 3, 10138 Turin, Italy and Viale Stelvio 55/57, Milan, Italy and (iii) Matheson at 70 Sir John Rogerson's Quay, Dublin 2, Ireland from Monday to Friday (public holidays excepted) during the hours of 9:00 a.m. to 5:00 p.m. and online at [www.intesasanpaololife.ie](http://www.intesasanpaololife.ie) and [www.intesasanpaolovita.it](http://www.intesasanpaolovita.it) for not less than 15 clear working days between the date of the advertisement of the Petition in *Iris Oifigiúil* and the said newspapers and the date fixed for the hearing of the Petition. Additionally, the Transfer Documents will be available online at [www.intesasanpaololife.ie](http://www.intesasanpaololife.ie) and [www.intesasanpaolovita.it](http://www.intesasanpaolovita.it) from the date of the advertisement of the Petition until the date fixed for the hearing of the Petition.
- 32. In accordance with Regulation 41(5)(b) of the 2015 Regulations, a notice of the proposed Scheme shall also be published in the Member States listed in paragraph 21 (being the Member States of the commitment in this instance) to the extent required by the laws of those Member States.

## **Section 6: Report of Independent Actuary**

- 33. Pursuant to section 13(3)(b) of the 1909 Act, an independent actuary, Brian Morrissey (the “**Independent Actuary**”), at KPMG, has prepared a report dated 31 May 2023 (the “**Report**”) on the terms of the Scheme and his opinion on the likely effects of the Scheme on the policyholders of (i) Intesa and (ii) ISV (together the “**Policyholders**”).



34. The Report is for the benefit of the Central Bank, this Honourable Court and the Policyholders and sets out the Independent Actuary's opinion of the likely effects of the Scheme on the policyholders of the Transferor and Transferee. The key findings of the Independent Actuary are set out at paragraph 2.1.5 of Section 2 of the Report.

*Solvency Capital Position*

35. The Independent Actuary provides an overview of the solvency capital position of both the Transferor and the Transferee in the Report.
36. In respect of the Transferor's policyholders, the Independent Actuary notes that as at year-end 2022, the Transferor had an SCR of €511.9m, with available Own Funds of €1,530.8m, excess of available Own Funds above the regulatory requirement of €1,018.9m with a solvency coverage ratio of 299.0% and notes that this level of solvency coverage is in excess of the Transferor's risk appetite target.
37. The Independent Actuary notes that following the Portfolio Transfer, the Transferor's policyholders will move to the Transferee being the head of IS Vita Group. The pro forma post transfer solvency coverage ratio at 198.8% is greater than the risk appetite for the Transferee of 150.0%.
38. The Independent Actuary notes the solvency coverage ratio is higher in the Transferor compared to the Transferee but flags that it is important to note that both entities maintain solvency coverage in line with their risk appetite levels. The Report further notes that regulatory capital in excess of those levels would be dividend back to the parent by the Transferor. Accordingly, the Independent Actuary notes that he does not consider it reasonable to simply compare 299.0% with 198.8% in the analysis and does not consider that the Transferor's policyholders are materially impacted by this.
39. The Report notes that the level of surplus Own Funds in the Transferor is €1,018.9m; post transfer the level of surplus Own Funds in the Transferee is 3,994.9m on a pro forma basis – so the Transferor's policyholders become part of an entity with materially higher levels of surplus Own Funds and financial resources available to them.
40. The Independent Actuary notes that currently the Transferor underwrites unit linked business and products with death guarantees. He notes that following the Portfolio Transfer, they will become part of the Transferee entity which has a more diverse

balance sheet – with-profits business so a wider range of market risks in particular, but also investments in a number of life and non-life insurance entities. As a result of the Scheme, the transferring policyholders will be exposed to a change in risk profile as the transferring policyholders will become more exposed to the risks associated with writing with-profits business – both the guarantees and the nature of the supporting assets. However, whilst additional exposure is introduced, the Transferee does have expertise in managing these risks. The Independent Actuary notes that he is comfortable that this does not materially impact the financial security of the transferring policyholders. He further notes that, the Transferor is indirectly exposed to these risks as they are a 100.0% subsidiary of the Transferee.

41. The Report notes that the Independent Actuary has considered the strength of the Transferee balance sheet under stress and scenario testing which is also covered as part of the ORSA process. He notes that management actions are in place to deal with a number of eventualities and there are management actions underway to deal with some of the specific risks such as adopting new strategies based on target returns, updated asset allocation and cash-flow matching. The Report notes that the Independent Actuary considers the risk exposure to be understood and managed and does not consider the risk exposures to materially disadvantage transferring policyholders.
42. In respect of Transferee policyholders, the Report notes that there is a strong regulatory capital position pre- and post-transfer, with risk appetite levels continuing to be met. It notes that the Transferee's level of Own Funds are expected to increase from €7,851.6m to €8,036.8m as a result of the Portfolio Transfer but its SCR is expected to increase from €3,564.1m to €4,041.9m.
43. Pre-transfer, the Report notes that the Transferee policyholders have a solvency coverage ratio of 220.0%. Post the Portfolio Transfer, solvency coverage ratio is expected to be 198.8%, a reduction of 21.2%.
44. The Independent Actuary notes that the Transferee already underwrites unit linked business in Italy. Furthermore the Report notes that the Transferee has an exposure to the Transferor via its 100% investment as it is a subsidiary. Therefore, the Independent Actuary notes that no new risks are being introduced on the Transferee's balance sheet as a result of the Scheme and hence the existing Transferee policyholders are not disadvantaged as a result of the Scheme.

### *Fair Expectations*

45. In the Report, the Independent Actuary notes that he has considered the effects of the Scheme on the fair expectations of each of the transferring policyholders focusing on the following aspects: (i) reasonable expectations; (ii) service standards; (iii) compensation schemes; (iv) fund range; (v) entitlement to benefits, (vi) policy terms and conditions; (vii) charges; (viii) costs of the Scheme; (ix) discretion; and (x) complaints and redress. The Independent Actuary notes that the Scheme does not impact on the fair expectations of all groups of policyholders.

### *Policyholder Communications*

46. The Independent Actuary notes that he is comfortable with the proposed communications approach.

### *Conclusions of the Independent Actuary*

47. The Independent Actuary sets out his conclusions at section 2.2 of the Report. He notes that having considered the impact of the Scheme on both the policyholders of the Transferor and the Transferee that in his opinion: (i) the Scheme will not have a material adverse effect on the reasonable benefit expectations of any of the policyholders involved; and (ii) the risk to policyholder security is remote and therefore in the Independent Actuary's view, policyholders will not be materially adversely affected by the proposed Scheme.

### **YOUR PETITIONER THEREFORE HUMBLY PRAY AS FOLLOWS:**

- (1) An order pursuant to the provisions of Section 13 of the 1909 Act, the 2015 Regulations sanctioning the Scheme (annexed hereto).
- (2) Such further or other order as to this Honourable Court shall appear proper.

### **NOTE**

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

## **SCHEDULES**

1. List of Directors of Intesa
2. Scheme

Signed: \_\_\_\_\_

Matheson LLP  
Solicitors for the Petitioner  
70 Sir John Rogerson's Quay  
Dublin 2

**This Petition is filed on behalf of the Petitioners by Matheson LLP, Solicitors, 70 Sir John Rogerson's Quay, Dublin 2.**

**Filed this                      June 2023**

## SCHEDULE 1

### **Names and Addresses of the Directors of Intesa**

1. Mark Duffy of 10 Sydney Avenue, Blackrock, County Dublin, Ireland.
2. Antonio Granito of Via Plinio 18, 20129 Milan, Italy.
3. Brid Quigley of 36 South Hill, Dartry, Dublin 6, Ireland.
4. Giuseppe Loforese of Apartment 13, Embassy Court, Prince of Wales Terrace, Dublin 4, Ireland.
5. Luigi Megaro of Via Curzola 8, 20159, Milan, Italy.
6. Ciaran Gearoid Long of 163A Castle Avenue Clontarf, Dublin 3, Ireland.
7. Maria Luisa Gota of Via Vittoria Colonna 19, Milan 20149, Italy.

## **SCHEDULE 2**

### **THE HIGH COURT**

**2023 Record No. 99 COS**

**IN THE MATTER OF INTESA SANPAOLO LIFE DESIGNATED ACTIVITY COMPANY**

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**AND THE INSURANCE ACT 1989**

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

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### **SCHEME**

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**This Scheme Records that:**

8. Intesa Sanpaolo Life Designated Activity Company (the “**Transferor**”) is a life insurance company, incorporated in Ireland on 20 April 1998, under registration number 284248. It has its registered office at 1st Floor International House, 3 Harbourmaster Place, Dublin 1, Dublin, D01K8F1, Ireland.
9. The sole shareholder of the Transferor is Intesa Sanpaolo Vita S.p.A. (the “**Transferee**”), a life insurance company incorporated in Italy on 23 December 1986 under Italian company registration number 02505650370. It has its registered office at Corso Inghilterra, 3 10138 Torino, Italy. The majority shareholder of the Transferee is Intesa Sanpaolo S.p.A., a company incorporated under the laws of Italy, having its registered office at Piazza San Carlo 156, 10121 Torino, Italy, under Italian company registration number 00799960158.
10. The Transferor is authorised by the Central Bank of Ireland (the “**Central Bank**”) to conduct life insurance business in Ireland in classes 1, 3, 4 as set out in Schedule 2 of the 2015 Regulations (as defined herein). This authorisation remains in full force and effect. The Transferor has passported into the following EU / EEA Member States on a freedom of services basis – Italy, Spain, France, Hungary, Luxemburg, Portugal, Slovakia and Slovenia.

11. The Transferee is licensed by Istituto per la Vigilanza sulle Assicurazioni ("**IVASS**"), in classes I, II, III, IV, V and VI (Classes of Life Insurance as set out in Annex II of the Solvency II Directive) and in classes I and II (Classes of Non-Life Insurances as set out in Annex I of the Solvency II Directive).
12. It has been agreed by the board of directors of the Transferor and by the board of directors of the Transferee in accordance with their respective internal governance requirements, to approve a cross-border merger between the Transferor and the Transferee and the draft Scheme of Transfer (the "**Scheme**"), subject to the Independent Actuary being satisfied that the Scheme will not have any material adverse effect on the Transferring Policyholders and subject to the requirements of the Central Bank and the sanction of the Court (as defined herein).
13. It is intended that, the Scheme will occur simultaneously with a cross-border merger between the Transferor and the Transferee, and the Transferor will merge with the Transferee in accordance with the procedures provided in Ireland and Italy in accordance with the Directive (as defined herein) and the Irish Regulations (as defined herein). As a result of and simultaneous with the Merger, it is intended that the Transferee should acquire the entirety of the Insurance Business (as defined herein), with effect from the Scheme Effective Date (as defined herein) and in accordance with the terms and conditions set out in the Scheme subject to and in accordance with all Applicable Laws (as defined herein).
14. As part of the overall transaction, the Transferee will establish a branch in Ireland (the "**Irish Branch**") which, with effect from the Merger will be allocated the assets and liabilities of the Transferor, and shall from the Scheme Effective Date, carry on through the Irish Branch the business activity in Ireland (which includes the Insurance Business) which was conducted by the Transferor prior to the Scheme Effective Date.
15. The Transferor has notified the Central Bank of the terms of the Scheme in accordance with Regulation 41 of the 2015 Regulations.
16. The Transferor and the Transferee hereby agree to appear by Counsel on the hearing of the Petition to sanction this Scheme and have undertaken to be bound by the Scheme and to take all reasonable steps (including the execution of documents) which may be necessary or expedient to give effect to the Scheme.

## CONTENTS

	<b>Page No</b>
1	Defined Terms ..... 17
2	Interpretation Generally..... 20
3	Transfer ..... 22
4	Scheme Effective Date..... 23
5	Effect of the Scheme..... 23
6	Further Assurances..... 24
7	Books and Records..... 24
8	Data Protection ..... 24
9	Mandates and Other Instructions ..... 25
10	Costs and Expenses ..... 25
11	Continuity of Proceedings ..... 25
12	Publication and Notification Requirements ..... 25
13	Notices..... 26
14	Modifications or Additions ..... 27
15	Governing Law..... 27
16	No Third Party Rights..... 27
17	Successor and Assigns..... 28
18	Evidence of Transfer..... 28



## 1 **Defined Terms**

1.1 In this Scheme the following expressions bear the meanings respectively set opposite them:

“**1909 Act**” means the Assurance Companies Act 1909;

“**1989 Act**” means the Insurance Act 1989;

“**2015 Regulations**” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. 485 of 2015);

“**Applicable Laws**” means the 2015 Regulations, the Insurance Acts and any other legally binding applicable laws, regulations, rules, codes of practice, guidance or orders which relate to the Insurance Business and / or the proposed transfers of such business from time to time;

“**Business Day**” means a day on which banks generally are open for business in Ireland and Italy;

“**Central Bank**” means the Central Bank of Ireland or any replacement substitute or successor body;

“**Court**” means the High Court of Ireland;

“**Data Controller**” has the meaning ascribed to it in the Data Protection Laws;

“**Data Protection Laws**” means all applicable laws and regulatory requirements in relation to data protection and privacy i.e. protecting the fundamental rights and freedoms of individuals and, in particular, their right to privacy with respect to the processing of personal data, or similar laws that apply in relation to the processing of personal data, including all laws implementing the EU Data Protection Directive and EU Data Privacy Regulations;

“**Directive**” means Directive (EU) 2005/56/EC, as repealed and codified by Directive (EU) 2017/1132 relating to certain aspects of company law (codification), Title II, Chapter II of which relates to cross-border mergers of limited liability companies;

**"EU Data Privacy Regulations"** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing the EU Data Protection Directive (General Data Protection Regulation);

**"EU Data Protection Directive"** means directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

**"Independent Actuary"** means Brian Morrissey of KPMG the independent actuary appointed to report on the terms of the Scheme, or any successor appointed to report on the Scheme;

**"Insurance Acts"** means the Insurance Acts 1909 to 2022, regulations relating to insurance business made under those acts and regulations made under the European Communities Act 1972;

**"Insurance Business"** means the insurance business as carried on by the Transferor on the Scheme Effective Date;

**"Intesa Policies"** means any policy or policies issued by the Transferor in relation to the Insurance Business which are, or may be deemed to have been, in existence on or prior to the Scheme Effective Date;

**"Irish Regulations"** means the European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008);

**"Merger"** means the proposed Cross-Border Merger, by absorption of a wholly-owned subsidiary, of the Transferor into the successor company (the Transferee), under the terms and conditions set forth in Common Draft Terms, by which the assets and liabilities shall transfer to the successor company (and will immediately be allocated to the Irish Branch on the Merger) and the Transferor will be dissolved without going into liquidation;

**"Notary Deed"** means the deed executed by the notary public in Italy pursuant to which the Merger becomes effective;

**“Order”** means an order made by the Court pursuant to section 13 of the 1909 Act sanctioning this Scheme and any order (including any subsequent order, which is ancillary thereto) in relation to this Scheme made by the Court pursuant to section 36 of the 1989 Act;

**“Policy Data”** means the personal data (as defined in the Data Protection Laws) relating to the Intesa Policies (if any);

**“Policyholders”** means the policyholders of the Intesa Policies and **“Policyholder”** means any one of them;

**“Records”** means all books and records (including underwriting records, data, documents, books of account, files, memoranda and other papers) of the Transferor relating to the Intesa Policies;

**“Regulatory Authorities”** means the Central Bank and any other person, body, authority, government, local government, regulatory agency with regulatory enforcement, administrative and/or criminal powers in any jurisdiction, the IVASS, and any other governmental authority that regulates the Transferor, the Transferee, the Insurance Business other than a Tax Authority and **“Regulatory Authority”** means any one of them;

**“Scheme”** means this scheme of transfer to be submitted to and approved by the Central Bank and the Court in relation to the transfer of the Intesa Policies;

**“Scheme Effective Date”** means the time and date when this Scheme shall become operative in accordance with clause 4.1;

**“Solvency II Directive”** means directive 2009/138 EC;

**“Tax”** means all forms of taxation, rates, fines, duties, imposts, charges, contributions, withholdings and levies whether arising under the laws of Ireland or those of any other jurisdiction or territory and whether incurred as principal, agent, trustee, indemnitor, warrantor or otherwise, and regardless of whether such taxes, rates, fines, duties, imposts, charges, contributions, withholdings or levies are directly or primarily chargeable against or attributable to the Transferor or any other person, firm or company and whether or not the Transferee is or may be entitled to claim reimbursement thereof from any other person or persons and **“Taxable”** shall be construed accordingly;

**“Tax Authority”** means any taxing or other authority competent to impose any liability in respect of taxation or responsible for the administration and / or collection of Taxation or enforcement of any law in relation to taxation; and

## **2 Interpretation Generally**

### **2.1 In this Scheme:**

- 2.1.1 words and expressions shall, save where the context otherwise requires, have the meanings set out in clause 1 (Defined Terms);
- 2.1.2 all references to statutory provisions of any country, state or territory shall be construed as including references to:
- (a) any statutory modification or re-enactment thereof (whether before, on or after the date hereof) for the time being in force; and
  - (b) all statutory instruments or orders from time to time made pursuant thereto.
- 2.1.3 reference to an enactment, a statutory provision or any subordinate legislation shall be deemed to include a reference to that enactment, statutory provision or subordinate legislation as amended, replaced or re-enacted from time to time and to any instrument or order made from time to time under such enactment, statutory provision or subordinate legislation.
- 2.1.4 words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 2.1.5 the headings in this Scheme are for ease of reference only and shall not affect its interpretation;
- 2.1.6 words such as “hereunder”, “hereto”, “hereof” and “herein” and other words commencing with “here” shall unless the context clearly indicates to the contrary refer to the whole of this Scheme and not to any particular section, clause or paragraph hereof;
- 2.1.7 in construing this Scheme general words introduced by the word “other” shall not be given a restrictive meaning by reason of the fact that they are preceded by words indicating a particular class of acts, matters or things and general words shall not be given a restrictive meaning by reason of the fact that they

are followed by particular examples intended to be embraced by the general words and any reference to the word “include” or “including” is to be construed without limitation;

- 2.1.8 any reference to “Scheme” or to any other document or to any specified provision of this Scheme or of any other document is to this Scheme, that document or that provision as in force for the time being and as amended from time to time in accordance with the terms of this Scheme or that document;
- 2.1.9 any reference to a person shall be construed as a reference to any individual, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing;
- 2.1.10 any reference to a person includes his successors, personal representatives and permitted assigns;
- 2.1.11 the term “writing” or any similar expression includes transmission by email;
- 2.1.12 if any action or duty to be taken or performed under any of the provisions of this Scheme would fall to be taken or performed on a day which is not a Business Day such action or duty shall be taken or performed on the Business Day next following such day;
- 2.1.13 unless otherwise stated, all references to time are references to Irish local time;
- 2.1.14 for the avoidance of doubt, any reference to Ireland does not include Northern Ireland;
- 2.1.15 and unless provided otherwise in the Scheme, “indemnify” and “indemnifying” any person against any circumstance include indemnifying and keeping him harmless from all actions, claims, demands, awards, penalties, fines and proceedings (including any liability to Tax) from time to time made against him and all loss or damage and all payments, costs or expenses (including legal and other professional costs) made or incurred by that person as a consequence of or which would not have arisen but for that circumstance;
- 2.1.16 any reference to a “Party/Parties” shall mean the parties to this Scheme;

2.1.17 for the avoidance of doubt, references to the "Transferee" shall, where relevant, include the Transferee's Irish branch; and

2.1.18 references to books, records or other information means books, records or other information in any form, including paper, electronically stored data, magnetic media, film and microfilm.

### **3 Transfer**

3.1 In order to give effect to the terms of the Merger, on and with effect from the Scheme Effective Date, the Intesa Policies shall by the Order and without any further act or instrument, be transferred to and be vested in the Transferee in accordance with this Scheme.

3.2 Subject to the provisions of this Scheme, every Policyholder shall on and from the Scheme Effective Date become entitled in substitution of any rights enforceable by or available under an Intesa Policy against the Transferor to the same right or rights against the Transferee and the obligations of every such Policyholder shall on and after the Scheme Effective Date become enforceable (so far as still subsisting) by the Transferee in place of the Transferor.

3.3 The Transferee (through its Irish Branch) shall on and from the Scheme Effective Date carry out, perform and complete all of the terms and conditions of the Intesa Policies.

3.4 All premiums and other amounts attributable or referable to the Intesa Policies shall on and after the Scheme Effective Date be payable to the Transferee and shall be receivable and received by the Transferee and every person who is a holder of or party to any of the Intesa Policies shall be liable to the Transferee for any outstanding, further or additional premiums or other sums attributable or referable to the Intesa Policies as and when the same become due and payable.

3.5 The Transferee shall be entitled to any and all defences, claims, counterclaims and rights of set-off under or in respect of the Intesa Policies which would have been available to the Transferor.

## **4 Scheme Effective Date**

- 4.1 Subject to clause 4.2, this Scheme shall become operative at 00:00:01 Italian Standard Time (UTC +1) on 1 December 2023 or at such other time as the Merger shall become effective (as set out in the Notary Deed) or such other time and date as may be specified in the Order. Unless this Scheme shall become operative on or before 00:00:01 Italian Standard Time (UTC +1) on 1 December 2023 or at such other time as specified in the Notary Deed, or such later date as the Court may allow upon the application of the Transferor and the Transferee, then this Scheme shall lapse.
- 4.2 Notwithstanding clause 4.1, this Scheme shall not become operative on the Scheme Effective Date unless:
- 4.2.1 the Merger becomes also effective on the Scheme Effective Date;
  - 4.2.2 the Court has approved the Scheme pursuant to the 1909 Act, the 1989 Act and the 2015 Regulations;
  - 4.2.3 the Central Bank has given its consent or indicated that it has no objection to the Scheme; and
  - 4.2.4 any other required regulatory approvals having been obtained from any other Regulatory Authority.

## **5 Effect of the Scheme**

- 5.1 The transfer of the Intesa Policies shall not:
- 5.1.1 invalidate or discharge any contract, security or other thing;
  - 5.1.2 require further registration in respect of any security or charge;
  - 5.1.3 constitute a breach of, or default under, or require any obligation to be performed sooner or later than would otherwise be the case under any instrument or contract or arrangement to which the Transferor is a party or is bound;
  - 5.1.4 entitle any party to a contract or arrangement to which the Transferor is a party to terminate such contract or arrangement when, in the absence of this

transfer, that party would not otherwise be entitled to terminate it (other than any legislative entitlement which confers on Policyholders an entitlement to terminate their Intesa Policies as a result of the Scheme); and

5.1.5 save as provided elsewhere in this Scheme, confer any greater or lesser rights or benefits, or impose any greater or lesser obligations, under a contract on any party to such contract to which the Transferor is a party where such greater or lesser rights, benefits or obligations would not otherwise have been conferred or imposed.

## **6 Further Assurances**

The Parties to this Scheme shall take all reasonable steps, do such further acts and execute such documents as may be necessary to effect the transfer and the vesting of the Intesa Policies in the Transferee, in accordance with the terms of this Scheme.

## **7 Books and Records**

On and with effect from the Scheme Effective Date, the Transferor shall hand over and / or make available to the Transferee all Records which are not otherwise in the Transferee's possession.

## **8 Data Protection**

8.1 On and with effect from the Scheme Effective Date and by virtue of the Order, the Records, which may include Policy Data protected under the Data Protection Laws, shall be transferred to the Transferee (such that the Transferee shall be deemed to be the Data Controller of the Policy Data from the Scheme Effective Date), and may be used by the Transferee for, and disclosed by the Transferee to, and used by, any agent or contractor of the Transferee to the same extent that they were used by the Transferor and its agents or contractors prior to the Transfer for all purposes in connection with the Intesa Policies including, in particular, administration thereof and all matters relevant or incidental thereto.

8.2 To the extent that an authority has been given to the Transferor in connection with the Intesa Policies (or any of them) by the Policyholders (or any of them) or counterparty thereto or by any other relevant person, whether pursuant to Data Protection Laws or otherwise, such authority shall, on or after the Scheme Effective Date, be deemed to have been given to the Transferee.



8.3 Nothing in this clause 8 shall be effective to the extent it would be unlawful under, or inconsistent with, Data Protection Laws.

## **9 Mandates and Other Instructions**

9.1 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 or in respect of any of the Intesa Policies shall, on and from the Scheme Effective Date, take effect as if it had provided for and authorised such payment to the Transferee.

9.2 Any mandate or other instruction in force on the Scheme Effective Date in respect of any of the Intesa Policies as to the manner of payment of any benefit or other amount by the Transferor shall, on and from the Scheme Effective Date, continue in force as an effective authority to the Transferee.

## **10 Costs and Expenses**

Except as otherwise agreed in writing, all costs and expenses associated with the Scheme shall be borne by the Transferor and the Transferor. No costs or expenses shall be borne by the Policyholders.

## **11 Continuity of Proceedings**

On and with effect from the Scheme Effective Date, any judicial, quasi-judicial or arbitration proceedings or any complaint or claim to any ombudsman or other proceedings for the resolution of a dispute or claim (whether current or future) by or against the Transferor on the Scheme Effective Date in connection with the Intesa Policies shall be continued by or against the Transferee.

## **12 Publication and Notification Requirements**

12.1 The Transferor and the Transferee shall co-operate to publish appropriate pre-transfer notices as required by any Applicable Law, the Order or by any Regulatory Authority.

## 13 Notices

- 13.1 Any notice required to be given by either Party to the other Party under this Scheme shall be in writing and in English and may be delivered by hand or sent by pre-paid first class post to the address of the addressee as set out below or to such other address as the addressee may have notified for the purposes of this clause.
- 13.2 A Notice to the Transferor shall be sent to the following addresses, or such other persons or addresses as the Transferor may notify to the Transferee from time to time:

### **For Transferor:**

Address: Intesa Sanpaolo Life Designated Activity Company  
1<sup>st</sup> Floor International House  
3 Harbourmaster Place  
Dublin 1  
D01K8F1  
Ireland

Telephone: +353 1 6617707

Attention: Giuseppe Loforese (CEO)

Email: legal@intesasanpaololife.ie

### **For Transferee:**

Address: Intesa Sanpaolo Vita S.p.A  
Viale Stelvio 55/57  
20159 Milano  
Italy

Telephone: +39 02 3051 1

Attention: Nicola Maria Fioravanti (CEO)

Email: comunicazioni@pec.intesasanpaolovita.it

## 14 **Modifications or Additions**

14.1 The Transferor and the Transferee may consent for and on behalf of themselves and may consent on behalf of all other persons concerned (other than the Regulatory Authorities) to any amendment, modification of or addition to this Scheme or to any other further condition or provision effecting the same which the Court may approve or impose prior to the sanction of this Scheme.

14.2 After the Scheme Effective Date, the Transferee may vary the terms of this Scheme with the consent of the Court, including, without limitation, if at any time, the provisions of this Scheme, in the opinion of the board of directors of the Transferee, prove to be impossible, impracticable or inequitable to implement, provided that in any such case:

14.2.1 the Central Bank shall be notified of and have the right to be heard at the hearing of the Court at which such application is considered; or

14.2.2 such application shall be accompanied by a report from an independent actuary to the effect that in his opinion the proposed amendment will not materially adversely affect the interests of the Policyholders affected by the proposed amendment; and

14.2.3 to the extent any such variation affects any right, obligation or interest of the Transferor, the Transferor has consented thereto.

14.3 If the consent of the Court is granted in accordance with clause 14.2, the Transferee may amend the terms of this Scheme in accordance with the terms of the Court.

## 15 **Governing Law**

15.1 This Scheme shall be governed by and construed in accordance with the laws of Ireland and the Parties agree to submit to the exclusive jurisdiction of the Irish courts.

## 16 **No Third Party Rights**

16.1 Subject to the provisions of clause 14 (Modifications or Additions) of this Scheme, nothing in this Scheme shall confer or purport to confer on any third party any benefit or the right to enforce any term of this Scheme.

17     **Successor and Assigns**

17.1    This Scheme will bind and enure to the benefit of the successors and assigns of each of the Transferor and the Transferee.

18     **Evidence of Transfer**

18.1    The production of a copy of the Order, with any modifications, amendments and/or additions made pursuant to clause 14 (Modifications or Additions) shall, for all purposes, be evidence of the transfer to and vesting in the Transferee of the Insurance Business.

**THE HIGH COURT**

**2023 Record No. 99 COS**

**IN THE MATTER OF INTESA  
SANPAOLO LIFE DESIGNATED  
ACTIVITY COMPANY**

**AND**

**IN THE MATTER OF INTESA  
SANPAOLO VITA S.p.A.**

**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**

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**SCHEME**

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**MATHESON**

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**THE HIGH COURT**

2023 Record No. 99

COS

**IN THE MATTER OF INTESA SANPAOLO LIFE  
DESIGNATED ACTIVITY COMPANY**

**AND IN THE MATTER OF INTESA SANPAOLO  
VITA S.P.A.**

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

**AND IN THE MATTER OF THE INSURANCE ACT  
1989**

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

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**PETITION**

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EL/HV 671508/1