

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

SCOTTISH HOLDINGS, INC., et al.,

Debtors.¹

Chapter 11

Case No. 18-10160 (LSS)

Jointly Administered

Re: D.I. 8, 20, 86

THIRD INTERIM ORDER GRANTING DEBTORS' MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (A) AUTHORIZING THE DEBTORS TO (I) CONTINUE THEIR CASH MANAGEMENT SYSTEM, (II) HONOR CERTAIN RELATED PREPETITION OBLIGATIONS, (III) MAINTAIN EXISTING BUSINESS FORMS, AND (IV) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (B) AUTHORIZING AND DIRECTING THE DEBTORS' BANKS TO HONOR ALL RELATED PAYMENT REQUESTS, (C) GRANTING INTERIM AND FINAL WAIVERS OF THE DEBTORS' COMPLIANCE WITH SECTION 345(B) OF THE BANKRUPTCY CODE, (D) SCHEDULING A FINAL HEARING, AND (E) GRANTING RELATED RELIEF

Upon the motion (D.I. 8) (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of interim and final orders, (a) authorizing the Debtors to (i) continue their Cash Management System, (ii) honor certain related prepetition obligations, (iii) maintain existing business forms in the ordinary course of business, and (iv) continue to perform the Intercompany Transactions consistent with transfer pricing agreements and historical practice, (b) authorizing and directing the Debtors' banks to honor all related payment requests, (c) waiving the Debtors' compliance with investment guidelines set forth in section 345(b) of the Bankruptcy Code, (d) scheduling a final hearing (the "Final Hearing") to consider entry of the proposed final order granting the Motion and (e) granting

¹ The Debtors, along with the last four digits of their federal tax identification numbers, are as follows: Scottish Holdings, Inc. (4408) and Scottish Annuity & Life Insurance Company (Cayman) Ltd. (3285). The Debtors' mailing address for purposes of these Chapter 11 Cases is 14120 Ballantyne Corporate Place, Suite 300, Charlotte, NC 28277.

² Capitalized terms not defined in this Order are defined in the Motion.

related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and the Court having previously entered an interim order granting the relief requested in the Motion on an interim basis (D.I. 20) (the "Interim Order") and a second interim order extending the relief requested in the Motion on an interim basis (D.I. 86) (the "Second Interim Order") and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Final Hearing, if required, on the Motion will be held on March 28, 2018 at 10:00 a.m. (prevailing Eastern time).

3. The Debtors are authorized, but not directed, to: (a) continue operating the Cash Management System, as described in the Motion; (b) honor their prepetition obligations related thereto; (c) maintain existing business forms; and (d) continue to perform Intercompany Transactions consistent with the transfer pricing agreements and historical practice, in each case subject to the limitations described in the Motion and this Order.

4. The Debtors are further authorized, in their sole discretion, to: (a) continue to use, with the same account numbers, the Bank Accounts in existence as of the Petition Date, including those accounts identified on **Exhibit C** attached to the Motion; (b) use, in their present form, all correspondence and business forms (including letterhead, purchase orders, and invoices), as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date and thereafter, without reference to the Debtors' status as debtors in possession; (c) treat the Debtors' existing Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (d) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire transfers, and other debits; (e) pay the prepetition Bank Fees; and (f) pay any ordinary course bank fees incurred in connection with the Debtors' existing Bank Accounts, and to otherwise perform their obligations under the documents governing the Debtors' existing Bank Accounts.

5. Each of the Banks is authorized to debit the Debtors' accounts in the ordinary course of business without need for further order of this Court for: (a) all checks, items, and other payment orders drawn on the Debtors' accounts which are cashed at such Bank's counters or exchanged for cashier's checks by the payees thereof prior to the Bank's receipt of notice of filing of these Chapter 11 Cases; (b) all checks, automated clearing house entries, and other items deposited or credited to one of the Debtors' accounts with such Bank prior to the

commencement of these Chapter 11 Cases which have been dishonored, reversed, or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the individual Debtor was responsible for such items prior to commencement of these Chapter 11 Cases; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Bank as service charges for the maintenance of the Cash Management System.

6. All Banks at which the Debtors' existing Bank Accounts are maintained are authorized to continue to maintain, service, and administer the Debtors' existing Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, and ACH transfers issued and drawn on the Debtors' existing Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be.

7. All Banks provided with notice of this Order maintaining any of the Debtors' existing Bank Accounts shall not honor or pay any bank payments drawn on the listed Bank Accounts or otherwise issued before the Petition Date for which the Debtors specifically issue stop payment orders in accordance with the documents governing such Bank Accounts.

8. In the course of providing cash management services to the Debtors, each of the Banks is authorized, without further order of this Court, to deduct the applicable fees from the appropriate accounts of the Debtors, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

9. Subject to the terms set forth herein, any of the Debtors' Banks may rely on the representations of the Debtors with respect to whether any check, item, or other payment order drawn or issued by the Debtors prior to filing of the Petition should be honored pursuant to this or any other order of this Court, and such Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

10. Any Banks are further authorized to (a) honor the Debtors' directions with respect to the opening and closing of any Bank Account and (b) accept and hold, or invest, the Debtors' funds in accordance with the Debtors' instructions; provided, however, that the Debtors' Banks shall not have any liability to any party for relying on such representations to the extent such reliance otherwise complies with applicable law.

11. The Debtors are authorized to open any new Bank Accounts or close any existing Bank Accounts as they may deem necessary and appropriate in their sole discretion; provided, however, that the Debtors give notice within fifteen (15) days to the Office of the United States Trustee for the District of Delaware and any statutory committees appointed in these Chapter 11 Cases; provided, further, however that the Debtors shall open any such new Bank Accounts at banks that have executed a Uniform Depository Agreement with the Office of the United States Trustee for the District of Delaware, or at such banks that are willing to immediately execute such an agreement.

12. The Debtors' time to comply with section 345(b) of the Bankruptcy Code with respect to any uncovered financial institutions is hereby further extended on an interim basis through and including March 31, 2018 (the "Extension Period"), provided that such extension is without prejudice to the Debtors' right to request a further extension of the Extension Period or

the waiver of the requirements of section 345(b) of the Chapter 11 Cases, including at the Final Hearing.

13. The Debtors are authorized to use, in their present form, all correspondence and business forms (including letterhead, purchase orders, and invoices), as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date and thereafter, without reference to the Debtors' status as debtors in possession, provided that once the Debtors' preprinted correspondence, business forms (including letterhead) and existing checks have been used, the Debtors shall have begun printing the "Debtor in Possession" legend and the bankruptcy case number on such items within ten (10) days of the date of entry of the Interim Order.

14. Notwithstanding anything to the contrary set forth herein, the Debtors are authorized to continue Intercompany Transactions arising from or related to the operation of their business in the ordinary course. In connection with the Intercompany Transactions, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all Intercompany Transactions may be readily ascertained, traced, and properly recorded on intercompany accounts; provided, that such records shall distinguish between prepetition and postpetition transactions. The Debtors are authorized to continue engaging in Intercompany Transactions in connection with the Cash Management System in the ordinary course of business; provided, however, that there shall be no intercompany loans from the Debtors to any non-debtors, absent further order of the Court; and provided further that absent further order of the Court, transfers from the Debtors to non-debtor affiliates shall not exceed \$100,000.

15. Notwithstanding the relief granted in this Order and any actions taken pursuant to such relief, nothing in this Order shall be deemed: (a) an admission as to the validity

of any prepetition claim against a Debtor entity; (b) a waiver of the Debtors' right to dispute any prepetition claim on any grounds; (c) a promise or requirement to pay any prepetition claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Order or the Motion; (e) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (f) a waiver of the Debtors' rights under the Bankruptcy Code or any other applicable law.

16. At the request of SALIC, Comerica Bank ("Comerica") issued a letter of credit dated December 11, 2006 (No. 625008-01) in favor of the Internal Revenue Service in an amount up to \$75,000 (as amended, the "Letter of Credit"). The current expiration date of the Letter of Credit is December 10, 2018. The Letter of Credit automatically renews on an annual basis unless Comerica sends written notice that the Letter of Credit will not be renewed at least 90 days prior to the expiration date.

17. SALIC executed a Standby Letter of Credit Application and Agreement dated December 5, 2006 under which it agreed to reimburse Comerica for any draw under the Letter of Credit. SALIC's reimbursement obligation is secured by a certain custodial account maintained at Comerica with an account number ending in 3478 (the "Comerica Account"). As of February 8, 2018, the balance in the Comerica Account is \$76,744.52.

18. The funds in the Comerica Account constitute Comerica's cash collateral. Debtors shall not withdraw or use the funds in the Comerica Account without prior written consent of Comerica. In addition, Comerica is not required to extend the Letter of Credit. Comerica is authorized at any time, in its sole discretion, to issue a notice of nonrenewal to the beneficiary of the Letter of Credit. The automatic stay does not prohibit Comerica from sending any such notice of nonrenewal.

19. As adequate protection, the automatic stay is lifted with respect to Comerica's interest in the Comerica Account so that Comerica may (i) reimburse itself from funds in the Comerica Account with respect to any draws on the Letter of Credit, and (ii) pay or reimburse itself from funds in the Comerica Account any of its fees and expenses relating to the Letter of Credit, including letter of credit or trust fees and legal fees and expenses.

20. Nothing in this Order is intended to affect or enlarge the parties' rights or obligations with respect to the Letter of Credit, including any rights or obligations with respect to nonrenewal of the Letter or Credit or to recover fees, expenses or other amounts with respect to the Letter of Credit. In the event that the Letter of Credit expires (with or without a draw) or is returned by the beneficiary to Comerica undrawn with instructions to cancel the Letter of Credit, all amounts in the Comerica Account (less any amounts owing with respect to draws or reimbursement of expenses) shall be immediately returned to SALIC or, if the effective date of a chapter 11 plan of reorganization has occurred, as directed by the entity that has acquired SALIC under such plan.

21. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

22. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

23. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

24. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

25. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

26. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

March 19, 2018
Wilmington, Delaware



THE HONORABLE LAURIE SELBER SILVERSTEIN
UNITED STATES BANKRUPTCY JUDGE