

**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

**NOTICE OF COMMENCEMENT OF REHABILITATION PROCEEDINGS IN
RESPECT OF DEBTORS' NONDEBTOR AFFILIATE, SCOTTISH RE (U.S.), INC.**

PLEASE TAKE NOTICE OF THE FOLLOWING:

On March 1, 2019, The Honorable Trinidad Navarro, in his capacity as the Insurance Commissioner of the State of Delaware (the "Commissioner"), filed his *Verified Petition for Entry of Rehabilitation and Injunction Order* (the "Petition") in the Court of Chancery of the State of Delaware (the "Court of Chancery") seeking to commence rehabilitation proceedings (the "Rehabilitation Proceedings") with respect to Scottish Re (U.S.), Inc. ("SRUS"). SRUS is a direct subsidiary of debtor Scottish Holdings, Inc. ("SHI"), and an indirect subsidiary of debtor Scottish Annuity & Life Insurance Company (Cayman) Ltd. ("SALIC," and with SHI, the "Debtors"). The Rehabilitation Proceedings are pending before The Honorable Andre G. Bouchard, Chancellor, under the following case caption and case number: *State of Delaware ex rel. The Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware v. Scottish Re (U.S.), Inc.*, C.A. No. 2019-0175-AGB.

On March 6, 2019, the Court of Chancery entered its *Rehabilitation and Injunction Order* granting the Petition, including, among other relief, declaring SRUS is impaired and in unsound condition, appointing the Commissioner as receiver (the "Receiver") of SRUS, directing the Receiver to take possession of the property and assets of SRUS, and directing the Receiver to rehabilitate SRUS pursuant to the provisions of 18 *Del. C.* ch. 59 and to take such steps as may be expedient toward the removal of the causes and conditions that made the Petition necessary. The *Rehabilitation and Injunction Order* also grants certain injunctive relief.

A copy of the *Rehabilitation and Injunction Order* is attached to this notice. Copies of other documents in the Rehabilitation Proceedings may be accessed on the Court of Chancery's docket for the Rehabilitation Proceedings.

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 11006 Rushmore Drive, Suite 125, Charlotte, NC 28277

Dated: March 7, 2019
Wilmington, Delaware

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Matthew B. Harvey

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Exhibit

Rehabilitation and Injunction Order



GRANTED WITH MODIFICATIONS

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Case No. 2019-0175-AGB

THE COURT OF CHANCERY OF THE STATE OF DELAWARE

STATE OF DELAWARE ex rel.)	
THE HONORABLE TRINIDAD)	
NAVARRO, Insurance Commissioner)	
of the State of Delaware,)	
)	
Petitioner,)	
)	
v.)	C.A. No. 2019-0175-AGB
)	
SCOTTISH RE (U.S.), INC.)	
a Delaware Domestic Life and Health)	
Insurance Company,)	
)	
Respondent.)	

REHABILITATION AND INJUNCTION ORDER

WHEREAS, the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware (the "Commissioner"), has filed a petition (the "Petition") seeking the entry of a Rehabilitation and Injunction Order concerning Scottish Re (U.S.), Inc. ("SRUS"), pursuant to 18 *Del. C.* §5901, *et seq.*;

WHEREAS, the Receiver has provided the Court with evidence sufficient to support the conclusion that SRUS is impaired and in unsound condition, and has consented to the entry of a Rehabilitation and Injunction Order through a majority of the directors of the corporation;

WHEREAS, this Court finds that sufficient cause exists for the

rehabilitation of the respondent, SRUS, pursuant to 18 *Del. C.* §5905 and for the entry of a Rehabilitation and Injunction Order concerning SRUS; and

WHEREAS, a formal hearing on the Commissioner's Petition is not necessary due to SRUS's consent to the relief requested by the Commissioner and SRUS's waiver of formal service of process and a formal hearing on the Petition;

NOW, THEREFORE, THE COURT FINDS AND ORDERS AS FOLLOWS:

1. The Commissioner has attached to the Rehabilitation Petition evidence sufficient to support the conclusion that SRUS is impaired and in unsound condition. Because SRUS has not contested the Rehabilitation Petition and has consented to its entry, the allegations of the Rehabilitation Petition are deemed admitted as against SRUS for purposes of this proceeding.

2. As a separate and independent basis for entry of the Rehabilitation and Injunction Order, evidence that a majority of the directors of SRUS have consented to the entry of the Rehabilitation and Injunction Order has been attached to the Rehabilitation Petition.

3. Given the determination set forth above, a formal hearing on the Commissioner's Rehabilitation Petition is not necessary.

4. Consequently, SRUS is hereby declared impaired and in unsound condition, and sufficient cause exists for the rehabilitation of SRUS pursuant to 18 *Del. C.* §5905 and 18 *Del. C. ch.* 59 and for the entry of a Rehabilitation and Injunction Order concerning SRUS.

5. Pursuant to 18 *Del. C.* §5910(a), the Commissioner and his successors in office are hereby appointed as the receiver (hereinafter the “Receiver”) of SRUS.

6. Pursuant to 18 *Del. C.* §5910(a), the Receiver shall forthwith conduct and continue the business of SRUS pursuant to the terms of this Order and immediately take exclusive possession and control of and be vested with all right, title, and interest in, of, and to the property of SRUS including, without limitation, all of SRUS’s assets, contracts, rights of action, books, records, bank accounts, certificates of deposits, collateral securing obligations to, or for the benefit of, SRUS or any trustee, bailee, or any agent acting for or on behalf of SRUS (collectively, the “Trustees”), securities or other funds, and all real or personal property of any nature of SRUS including, without limitation, furniture, equipment, fixtures, and office supplies, wherever located, and including such property of SRUS or collateral securing obligations to, or for the benefit of, SRUS or any Trustee thereof that may be

discovered hereafter, and all proceeds of or accessions to any of the foregoing, wherever located, in the possession, custody, or control of SRUS or any Trustee therefore (collectively, the “Assets”).

7. The Receiver may, at his election, change to his own name as Receiver, the name of any of SRUS’s accounts, funds, or other Assets held with any bank, savings and loan association, or other financial institution, and may withdraw such funds, accounts, and other Assets from such institutions or take any other action necessary for the proper conduct of this rehabilitation.

8. The Receiver is hereby directed to continue in his examination of the Assets, business, and affairs of SRUS and to take such steps to remove the causes of SRUS’s impairment, unsound condition, or hazardous condition pursuant to the provisions of 18 *Del. C.* ch. 59 as he deems necessary. The Receiver is further authorized to take such actions as the nature of this cause and interests of the cedents, creditors, and stockholder of SRUS and the public may require, subject to Court approval as required by 18 *Del. C.* ch. 59.

9. The Receiver’s right, title, and interest in and to the Assets shall continue until further order of the Court and he is hereby authorized to deal with the Assets, business, and affairs of SRUS including, without limitation, the right to sue, defend, and continue to prosecute suits or actions already

commenced by or for SRUS, or for the benefit of SRUS's cedents, creditors, and stockholder in the courts, tribunals, agencies, or arbitration panels for this State and other states and jurisdictions in his name as the Insurance Commissioner of the State of Delaware, or in the name of SRUS.

10. The Receiver is hereby vested with the right, title, and interest in and to all funds recoverable under treaties and agreements of reinsurance heretofore entered into by SRUS as the ceding insurer or as the assuming insurer. The amounts recoverable by the Receiver from any reinsurer of SRUS shall not be reduced or diminished as a result of this receivership proceeding or by reason of any partial payment or distribution by SRUS on a reinsured policy, contract, or claim, and each such reinsurer of SRUS is hereby enjoined and restrained from terminating, canceling, failing to extend or renew, or reducing or changing coverage under any reinsurance policy, reinsurance contract, or letter of credit. The Receiver may terminate or rescind any ceded or assumed reinsurance agreement or contract that is contrary to the best interests of the receivership.

11. All persons or entities (other than the Receiver or persons acting on behalf of SRUS with the consent of the Receiver) that have in their possession or control Assets or possible Assets and/or have notice of these

proceedings or of this Order are hereby enjoined and restrained from transacting any business of, or on behalf of, SRUS or selling, transferring, destroying, wasting, encumbering, or disposing of any of the Assets, without the prior written permission of the Commissioner or until further Order of this Court. This prohibition includes, without limitation, Assets or possible Assets pertaining to any business transaction between SRUS and any of said parties. No actions concerning, involving, or relating to such Assets or possible Assets may be taken by any of the aforesaid persons or entities enumerated herein, without the express written consent of the Receiver, or until further Order of this Court.

12. All persons or entities, including but not limited to reinsurers and cedents, having notice of these proceedings or of the Rehabilitation and Injunction Order are hereby enjoined and restrained from exercising or relying upon any contractual right which would permit such third party or parties from withholding, failing to pay, setting-off, netting, or taking similar action with respect to any obligations owed to SRUS.

13. All persons or entities, including but not limited to reinsurers and cedents, having notice of these proceedings or of the Rehabilitation and Injunction Order are hereby enjoined and restrained from commutating,

terminating, accelerating or modifying any agreement of reinsurance, or asserting a default or event of default or otherwise exercising, asserting or relying upon any other right or remedy, based upon: (1) the filing of the Verified Petition for Entry of Rehabilitation and Injunction Order, (2) the entry of this Rehabilitation and Injunction Order, (3) the impairment or insolvency of SRUS, or (4) the facts and circumstances set forth in the Verified Petition for Entry of Rehabilitation and Injunction Order, without the prior written permission of the Receiver or until further Order of this Court.

14. Except as otherwise indicated elsewhere in this Order or except as excluded by express written notice provided by the Receiver, all persons or entities holding Assets or possible Assets of, or on behalf of, SRUS shall file with the Receiver within ten (10) calendar days of the entry of this Order an accounting of those Assets and possible Assets, regardless of whether such persons or entities dispute the Receiver's entitlement to such Assets.

15. Except as otherwise indicated elsewhere in this Order or except as excluded by express written notice provided by the Receiver, all persons or entities holding Assets or possible Assets of, or on behalf of, SRUS, shall within ten (10) calendar days of the entry of this Order turn those Assets or possible Assets over to the Receiver, regardless of whether such persons or

entities dispute the Receiver's entitlement to such Assets or possible Assets.

16. All persons and entities that have notice of these proceedings or of this Order are hereby prohibited from instituting or further prosecuting any action at law or in equity or in other proceedings against SRUS, the Receiver, the Deputy Receiver(s), or the Designees in connection with their duties as such, or from obtaining preferences, judgments, attachments, or other like liens or encumbrances, or foreclosing upon or making any levy against SRUS or the Assets, or exercising any right adverse to the right of SRUS to or in the Assets, or in any way interfering with the Receiver, the Deputy Receiver(s), or the Designees either in their possession and control of the Assets or in the discharge of their duties hereunder.

17. All persons or entities that have notice of these proceedings or of this Order are hereby enjoined and restrained from asserting claims for refunds of premium resulting from the cancellation of policies of insurance or agreements of reinsurance issued by SRUS except as provided for in a Plan of Rehabilitation approved by this Court.

18. All persons and entities are hereby enjoined and restrained from asserting any claim against the Commissioner as Receiver of SRUS, the Deputy Receiver(s), or the Designees in connection with their duties as such,

or against the Assets, except insofar as such claims are brought in the rehabilitation proceedings of SRUS and in a manner otherwise compliant with this Order.

19. The filing or recording of this Order or a certified copy hereof with the Register in Chancery and with the recorder of deeds of the jurisdiction in which SRUS's corporate and administrative offices are located or, in the case of real estate or other recorded property interests, with the recorder of deeds of the jurisdictions where the property is located, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded with that recorder of deeds. Without limiting the foregoing, the filing of this Order with the Register in Chancery also constitutes notice to all sureties and fidelity bondholders of SRUS of all potential claims against SRUS under such policies and shall constitute the perfection of a lien in favor of SRUS under the Uniform Commercial Code or any like Federal or state law, regulation, or order dealing with the priority of claims.

20. The Receiver is hereby authorized to transfer some or all of SRUS's Assets and liabilities to a separate affiliate or subsidiary for the overall benefit of SRUS's cedents, creditors, and stockholder, subject to approval by

this Court.

21. The Receiver may, in his discretion, reject any executory contract to which SRUS is a party.

22. The Receiver may, in his discretion, appoint one or more consultants or other persons to serve as Deputy Receiver to assist the Receiver in accomplishing the directives of this Order. The Deputy Receiver(s) shall serve at the pleasure of the Receiver and, subject to the approval of the Receiver, shall be entitled to exercise all of the powers and authorities vested in the Receiver pursuant to this Order and applicable law.

23. The Receiver may employ or continue to employ and fix the compensation of such deputies, counsel, clerks, employees, accountants, actuaries, consultants, assistants and other personnel (collectively, the “Designees”) as considered necessary, and all compensation and expenses of the Receiver, the Deputy Receiver(s) and the Designees and of taking possession of SRUS and conducting this proceeding shall be paid out of the funds and assets of SRUS as administrative expenses under 18 *Del. C.* § 5913(f). The Receiver may also retain those of SRUS’s current management personnel and other employees as Designees as he in his discretion determines would facilitate the rehabilitation of SRUS. All such Designees shall be

deemed to have agreed to submit disputes concerning their rights, obligations and compensation in their capacity as Designees to this Court.

24. The Receiver, the Deputy Receiver(s), and the Designees (collectively, the “Indemnitees”) shall have no personal liability for their acts or omissions in connection with their duties, provided that such acts or omissions are or were undertaken in good faith and without willful misconduct, gross negligence, or criminal intent. All expenses, costs, and attorneys’ fees incurred by the Indemnitees in connection with any lawsuit brought against them in their representative capacities shall be subject to the approval of the Receiver, except that in the event that the Receiver is the Indemnitee this Court’s approval shall be required, and such expenses, costs, and attorneys’ fees shall be exclusively paid out of the funds and assets of SRUS. The Indemnitees in their capacities as such shall not be deemed to be employees of the State of Delaware.

25. At such time as the Receiver determines that a claim against the SRUS estate is ripe for adjudication in the rehabilitation proceedings of SRUS, the Receiver shall give notice by mail to any and all persons interested in such claim of the Receiver's proposed report and recommendation to the Court regarding the allowance or denial (in whole or in part) of such claim.

26. Within sixty (60) days of the mailing of the proposed report and recommendation, the interested person being given notice of such proposed report and recommendation may file a written objection thereto with this Court at 500 North King Street, Wilmington, Delaware, 19801, and the Receiver.

27. No hearing will be held regarding the proposed report and recommendation in the absence of a written objection thereto by a person interested therein.

28. Hereafter the caption of this cause and all pleadings in this matter shall read as:

"IN THE MATTER OF THE REHABILITATION
OF SCOTTISH RE (U.S.), INC."

29. This Court shall retain jurisdiction in this cause for the purpose of granting such other and further relief as this cause, the interests of the cedents, reinsurers, creditors, stockholders of SRUS, and the public may require. The Receiver, or any interested party upon notice to the Receiver, may at any time make application for such other and further relief as either sees fit.

SO ORDERED this _____ day of _____, 2019.

WORDS: 2485

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery Civil Action

Judge: Andre G Bouchard

File & Serve

Transaction ID: 63021984

Current Date: Mar 06, 2019

Case Number: 2019-0175-AGB

Case Name: State of Delaware ex rel. The Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware vs Scottish Re (U.S.), Inc., A Delaware Domestic Life and Health Insurance Company

Court Authorizer

Comments:

The court has reviewed the Petition and the letters filed with the court on March 4 and 5. Given the exigent circumstances underlying the Petition, and given the consent of SRUS to entry of the Rehabilitation and Injunction Order, a hearing on the Petition is not necessary and the Rehabilitation and Injunction Order is hereby entered. See *Cohen v. State ex. rel. Stewart*, 89 A.3d 65, 95 (Del. 2014). Any third party concerns, including those expressed in Mr. Hunter's March 4 letter, can be addressed in due course in the context of the court's consideration of a plan of rehabilitation or for relief from the order entered today. The hearing scheduled for tomorrow in this action is hereby canceled.

/s/ **Judge Bouchard, Andre G**