

THE HIGH COURT

2023 Record No. 99 COS

IN THE MATTER OF INTESA SANPAOLO LIFE DESIGNATED ACTIVITY COMPANY

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

SCHEME

This Scheme Records that:

1. 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.
2. 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.
3. 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.

4. 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).
5. 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).
6. 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).
7. 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.
8. The Transferor has notified the Central Bank of the terms of the Scheme in accordance with Regulation 41 of the 2015 Regulations.
9. 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.

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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 Transferee. 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
1st 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.

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SCHEME

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