

*Summary Report of the Independent  
Expert on the proposed transfer of  
insurance business from AmTrust Europe  
Limited to AmTrust International  
Underwriters DAC and AmTrust  
Assicurazioni SpA in accordance with  
Part VII of the Financial Services and  
Markets Act 2000*

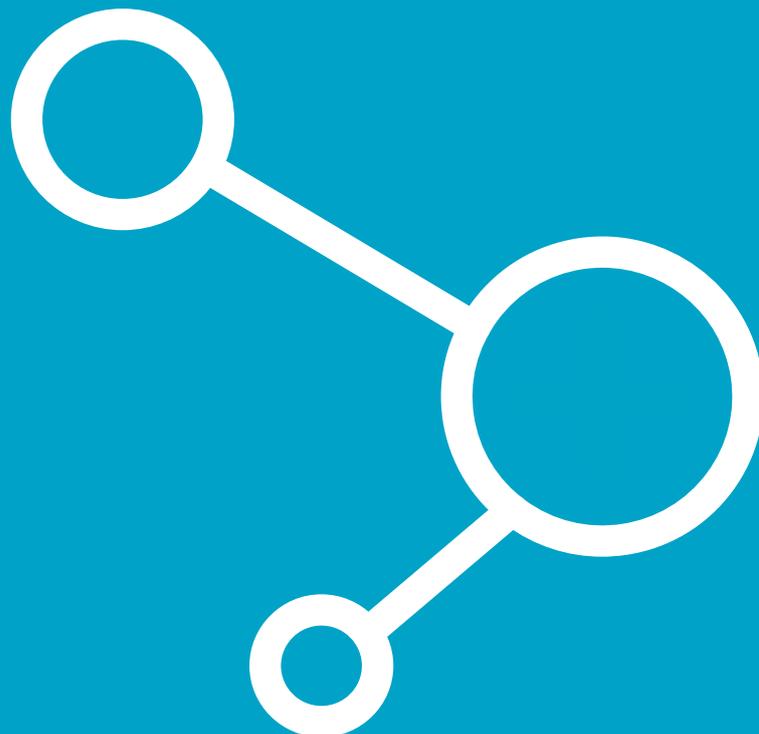
For the High Court of Justice of England and Wales

3 March 2020

Prepared by:

Stewart Mitchell FIA

LCP



# *AmTrust Europe Limited to AmTrust International Underwriters DAC and AmTrust Assicurazioni SpA*

## *Transfer of insurance business*

### *Summary of the Independent Expert's Scheme Report for the High Court of Justice of England and Wales*

#### **1. The Proposed Transfer**

AmTrust Europe Limited (AEL) currently operates across the European Economic Area (EEA) utilising the EEA's Freedom of Services (FoS) and Freedom of Establishment (FofE) arrangements.

Brexit occurred when the UK left the European Union (EU) on 31 January 2020. There is a transition period until 31 December 2020 during which the UK and EU will conduct trade negotiations. The outcome of these negotiations including any decisions about regulatory equivalence between the UK and EU remains highly uncertain. Until 31 December 2020 the current rules remain in place. The Proposed Transfer described in this report is due to complete before 31 December 2020.

In the event of a so called "Hard Brexit" at 31 December 2020 (eg as a consequence of no agreement over trade negotiations) where AEL no longer has FofS or FofE rights, AEL would not legally be able to carry on the non-UK EEA business. For example, AEL would not be able to issue new insurance policies across the EEA and might not legally be able to pay valid claims to existing non-UK EEA policyholders unless AEL obtains appropriate authorisation in all relevant EEA member states.

To provide certainty that the AmTrust Group can continue to carry on EEA business post-Brexit with minimum disruption, AEL is proposing to transfer (the Proposed Transfer) its Italian medical malpractice business to an Italian Company, AmTrust Assicurazioni SpA (AA) and the remaining non-UK EEA business to AmTrust International Underwriters DAC (AIU). AA was acquired by the AmTrust Group in 2019 and has recently started writing new business.

In addition, the aim of the AEL to AA transfer is part of a wider strategic change regarding the medical malpractice business to be written by each of AEL, AIU and AA which is intended to ensure that all Italian medical malpractice business is in one insurer, being AA, supervised by IVASS, the Italian regulator.

The Effective Date of the Proposed Transfer is 1 July 2020.

#### **Other AmTrust transfers**

In addition to the Proposed Transfer, AmTrust are preparing to make further transfers as part of their response to Brexit and other strategic changes and transactions. These are summarised below:

- The Section 13 transfer of surety business from AIU to Liberty Mutual Insurance Europe SE (LMIE), a third-party outside of the AmTrust Group, with a proposed Effective Date of 31 March 2020.
- The Section 13 transfer of AIU's Italian medical malpractice business to AA, with a proposed Effective Date of 1 July 2020.
- The Part VII transfer of all business from AMT Mortgage Insurance Ltd (AMIL) to AIU with a proposed Effective Date of 1 October 2020.

#### **2. My role as Independent Expert**

In order to proceed, the Proposed Transfer will need to be approved by the High Court of Justice of England and Wales (the Court). To assess the Proposed Transfer, the Court requires a Scheme Report to be prepared by a suitably qualified independent person, the Independent Expert (IE).

AmTrust have appointed me to act as the IE for the Proposed Transfer. The Prudential Regulation Authority (PRA), in consultation with the Financial Conduct Authority (FCA), has approved my appointment.

As IE, my overall role is to assess whether:

- The security provided to policyholders of AEL will be materially adversely affected by the implementation of the Proposed Transfer.

- The security provided to AIU and AA policyholders will be materially adversely affected by the implementation of the Proposed Transfer.
- The Proposed Transfer will have any adverse impact on service standards experienced by policyholders.
- Any reinsurer of AEL providing cover for the transferring business will be materially adversely affected.

### 3. Summary of my conclusions

To assess the effect of Proposed Transfer, I have considered it from six perspectives:

1. **“Non-transferring AEL Policyholders”, who will remain with AEL after the Proposed Transfer:** I have concluded that the security provided to Non-transferring AEL Policyholders will not be materially adversely affected by the Proposed Transfer. In addition, no material impact on service standards is expected for these policyholders following the Proposed Transfer.
2. **“Transferring AEL to AIU Policyholders”, who will transfer from AEL to AIU as a result of the Proposed Transfer:** I have concluded the security provided to Transferring AEL to AIU Policyholders will not be materially adversely affected by the Proposed Transfer. In addition, no material impact on service standards is expected for these policyholders following the Proposed Transfer.
3. **“Transferring AEL to AA Policyholders”, who will transfer from AEL to AA as a result of the Proposed Transfer:** I have concluded the security provided to Transferring AEL to AA Policyholders will not be materially adversely affected by the Proposed Transfer. In addition, no material impact on service standards is expected for these policyholders following the Proposed Transfer.
4. **“AIU Policyholders”, ie any policyholders of AIU at the time of the Proposed Transfer who will remain with AIU:** I have concluded that the security provided to AIU Policyholders will not be materially adversely affected by the Proposed Transfer. In addition, no material impact on service standards is expected for these policyholders following the Proposed Transfer.

5. **“AA Policyholders”, ie any policyholders of AA at the time of the Proposed Transfer who will remain with AA:** I have concluded that the security provided to AA Policyholders will not be materially adversely affected by the Proposed Transfer. In addition, no material impact on service standards is expected for these policyholders following the Proposed Transfer.
6. **Reinsurers whose contracts with AEL are transferring to AIU and AA as part of the Proposed Transfer:** I have concluded that reinsurers of AEL who provide cover for the transferring business will not be materially affected by the Proposed Transfer.

I have outlined the main reasons for me reaching the above conclusions later in this Summary Report.

### 4. About the Independent Expert

I am a Fellow of the Institute and Faculty of Actuaries (IFoA) and am certified to act as a Signing Actuary for Statements of Actuarial Opinions for Lloyd's.

I am a Partner in the Insurance Consulting practice at LCP and have over 30 years' experience in general insurance covering all areas of general insurance actuarial work.

### 5. The IE's Scheme Report

This is a summary of the IE's full Scheme Report, “Scheme Report of the Independent Expert on the Proposed Transfer of insurance business from AmTrust Europe Limited to AmTrust International Underwriters DAC and AmTrust Assicurazioni SpA in accordance with Part VII of the Financial Services and Markets Act 2000”.

A copy of the full Scheme Report will be available for download free of charge for policyholders and other interested parties on the AmTrust Financial website: [amtrustfinancial/amtrustinternational/legal/portfolio-transfers](http://amtrustfinancial/amtrustinternational/legal/portfolio-transfers).

I will also prepare a Supplementary Report ahead of the Sanctions Hearing for the Proposed Transfer. The purpose of the Supplementary Report is to confirm and/or update my conclusions on the Proposed Transfer, based on any new material or issues that arise.

## 6. Non-transferring AEL policyholders

**In my opinion, the security provided to Non-transferring AEL Policyholders will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- The approach and methodology used to calculate insurance provisions and the level of reserves held by AEL are supported by my own independent projections.
- Further support for the level of reserves held by AEL is provided by the results of an independent external reserve review and a further independent external regulatory review.
- AEL has confirmed that the future reserving process and governance for AEL will be materially unchanged post-transfer.
- The SCR coverage ratio for Non-transferring AEL Policyholders is expected to decrease from 178% to 150% as a result of the Proposed Transfer. I do not consider Non-transferring Policyholders to be materially adversely affected by this decrease as AEL remains well-capitalised and the coverage ratio remains above AEL's risk appetite. In addition, AEL's coverage ratio is expected to return to pre-transfer levels by June 2021 ie within a year of the Proposed Transfer.
- The level of regulatory capital held on the 1-year standard formula basis is supported by consideration of capital on a 1-year and ultimate basis using an economic capital model, and stress scenarios including reserve deterioration and reinsurer default.

**In my opinion, no material impact on service standards is expected for these policyholders following the Proposed Transfer.**

Summary rationale:

- AEL is not planning any material changes to how the non-transferring business is carried out.
- There are no plans to change how policyholders are serviced.

## 7. Transferring AEL to AIU policyholders

**In my opinion, the security provided to Transferring AEL to AIU Policyholders will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- The Transferring AEL to AIU Policyholders will remain within the AmTrust Group and AIU is subject to the same group-wide policies as AEL.
- AmTrust has confirmed that the transferring policies will continue to be reserved in the same way post-transfer as pre-transfer.
- The calculation of the transferring provisions has been performed using the same methodologies as the non-transferring provisions which I consider appropriate.
- The SCR coverage ratio for Transferring AEL to AIU Policyholders is expected to decrease from 178% to 150% as a result of the Proposed Transfer. I do not consider the security provided to these policyholders to be materially adversely affected by this decrease as AIU will be well-capitalised and the coverage ratio remains above AEL and AIU's risk appetite. In addition, AIU's coverage ratio is expected to increase to 170% by December 2021 ie within 18 months of the Proposed Transfer.
- The level of regulatory capital held on the 1-year standard formula basis is supported by consideration of capital on a 1-year and ultimate basis using an economic capital model, and through stress scenarios.
- Transferring AEL to AIU Policyholders which are currently eligible for FSCS protection will retain access to the FSCS in respect of events or circumstances before the Proposed Transfer but may lose access for events or circumstances which arise after the Proposed Transfer eg the insolvency of AIU.
- As access to the FSCS protection will only be required in the event of an insolvency of AEL which is unlikely, I consider that overall the Transferring AEL to AIU policyholders are not materially disadvantaged by the loss of access. Further, any loss of access to the FSCS should be balanced against the detriment a Transferring AEL to AIU policyholder could suffer in the event that AEL could

not pay a valid claim to such policyholder following Brexit.

**In my opinion, no material impact on service standards is expected for these policyholders following the Proposed Transfer.**

Summary rationale:

- AEL and AIU, through the AmTrust Group, are planning to minimise any changes as to how the transferring business is carried out, to avoid disruption to the operating model or its customers.
- Although some claims may be handled by AmTrust Group employees in Dublin rather than Nottingham, the AmTrust Group is not planning any material changes to how the Transferring AEL to AIU Policyholders are serviced following the Proposed Transfer.

#### 8. Transferring AEL to AA policyholders

**In my opinion, the security provided to Transferring AEL to AA Policyholders will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- The Transferring AEL to AA Policyholders will remain within the AmTrust Group and AA will be subject to the same group-wide policies as AEL.
- AmTrust has confirmed that the transferring policies will continue to be reserved in the same way post-transfer as pre-transfer.
- The calculation of the transferring provisions has been performed using the same methodologies as the non-transferring provisions which I consider appropriate.
- The SCR coverage ratio for Transferring AEL to AA Policyholders is expected to decrease from 178% to 150% as a result of the Proposed Transfer. I do not consider the security provided to these policyholders to be materially adversely affected by this decrease as AA will be well-capitalised and the coverage ratio remains above AEL and AA's risk appetite. In addition, AA's coverage ratio is expected to increase to 168% by December 2021 ie within 18 months of the Proposed Transfer.

- The level of regulatory capital held on the 1-year standard formula basis is supported by consideration of capital requirements in comparing the impact of stress scenarios, including reserve deterioration and reinsurer default, both pre- and post-transfer for these policyholders.
- The Transferring AEL to AA Policyholders will benefit from contract certainty in the light of the uncertainty caused by Brexit and the removal of cross-border supervision by alignment with supervision by IVASS, the national regulator.
- Transferring AEL to AA Policyholders which are eligible claimants may lose access to the FSCS for events or circumstances which arise after the Proposed Transfer. However, the majority of Transferring AEL to AA Policyholders are hospitals and private clinics and therefore not likely to be eligible for access to the FSCS due to the turnover threshold of £1,000,000.
- As access to the FSCS protection will only be required in the event of an insolvency of AEL which is unlikely, I consider that overall the Transferring AEL to AA policyholders are not materially disadvantaged by the loss of access. Further, any loss of access to the FSCS should be balanced against the detriment a Transferring AEL to AA policyholder could suffer in the event that AEL could not pay a valid claim to such policyholder following Brexit.

**In my opinion, no material impact on service standards is expected for these policyholders following the Proposed Transfer.**

Summary rationale:

- AEL and AA, through the AmTrust Group, are planning to minimise any changes as to how the transferring business is carried out, to avoid disruption to the operating model or its customers.
- For example, the AmTrust Group is not planning any changes to how the Transferring AEL to AA Policyholders are serviced following the Proposed Transfer.

## 9. AIU policyholders

**In my opinion, the security provided to AIU Policyholders will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- The approach and methodology used to calculate insurance provisions and the level of reserves held by AIU are supported by my own independent projections.
- Further support is provided by the results of an independent external reserve review and a further independent external regulatory review.
- AIU has no plans to change the approach for how insurance provisions are set.
- The reserving process and governance for AIU will be materially unchanged post-transfer.
- The SCR coverage ratio for AIU Policyholders is expected to decrease from 160% to 150% as a result of the Proposed Transfer. I do not consider these policyholders to be materially adversely affected by this decrease as AIU will be well-capitalised and the coverage ratio remains above AIU's risk appetite.
- AIU's coverage ratio is expected to return to pre-transfer levels by September 2021, assuming all transfers proceed as planned.
- The level of regulatory capital held on the 1-year standard formula basis is supported by consideration of capital on a 1-year and ultimate basis using an economic capital model, and through stress scenarios.

**In my opinion, no material impact on service standards is expected for these policyholders following the Proposed Transfer.**

Summary rationale:

- AIU is not planning any material changes to how the business is carried out. In particular, there are no plans to change how AIU Policyholders are serviced following the Proposed Transfer.

## 10. AA policyholders

**In my opinion, the security provided to AA Policyholders will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- AA has no plans to change the approach for how insurance provisions are set.
- The reserving process and governance for AA will be materially unchanged post-transfer.
- The SCR coverage ratio for AA Policyholders is expected to increase from 145% to 150% as a result of the Proposed Transfer. AA will be well-capitalised and the coverage ratio is above AA's risk appetite.
- The level of regulatory capital held on the 1-year standard formula basis is supported by consideration of capital requirements in comparing the impact of stress scenarios including reserve deterioration and reinsurer default.

**In my opinion, no material impact on service standards is expected for these policyholders following the Proposed Transfer.**

Summary rationale:

- AA is not planning any material changes to how the business is carried out. In particular, there are no plans to change how AA policyholders are serviced following the Proposed Transfer.

## 11. Reinsurers

**In my opinion, reinsurers whose contracts with AEL are transferring to AIU and AA as part of the Proposed Transfer will not be materially adversely affected by the Proposed Transfer.**

Summary rationale:

- Exposure to claims faced by AEL's reinsurers will not change following the Proposed Transfer and the reinsurers will continue to be required to pay out the same claim amounts in respect of the same events as before the Proposed Transfer.

## 12. Permutations of other transfers

It is AmTrust's intention that, if any of the other AmTrust transfers or part of the Proposed Transfer does not get sanctioned, AmTrust will go ahead with the sanctioned transfers, or the part of the Proposed Transfer that is sanctioned. I have considered the various permutations of transfers not proceeding as planned and set out my conclusions on this below from the perspective of the six groups of affected parties and the other three planned transfers.

### 1: Non-transferring AEL Policyholders

If only the AEL to AIU element of the transfer goes ahead, the AEL policyholders would be materially unaffected as AEL's risk profile as a multi-line insurer would remain broadly unchanged as only a relatively small part of the AEL business is transferring to AIU.

If only the AEL to AA element of the transfer goes ahead, then the AEL policyholders would not be exposed to the long tail medical malpractice business but would lose the diversification benefit from this portfolio. Overall these two elements act in different directions.

If neither transfer goes ahead, the AEL Policyholders are unaffected.

### 2: Transferring AEL to AIU Policyholders

The business transferring from AEL to AIU is similar non-UK European business to that already written by AIU. As such, the risk profile is not expected to change materially for these policyholders whether the transfer goes ahead or not. There will be exposure to Italian medical malpractice business in AIU if the AIU to AA transfer does not proceed, but AEL policyholders are already exposed to this business within AEL pre-transfer.

### 3: Transferring AEL to AA Policyholders

The business transferring from AEL to AA, and also from AIU to AA, is Italian medical malpractice business, similar to that already written in AA. If this transfer does not go ahead, the transferring policyholders would continue to benefit from diversification being part of a multi-line insurer within AEL.

### 4: AIU Policyholders

AIU Policyholders are exposed to the AEL and AMIL portfolios transferring in and the surety portfolio

transferring out to LMIE. The risk profile of AIU is not expected to change materially in the event of any combination of these transfers as the business transferring is similar to that already written by AIU. I comment further on the transfers affecting AIU Policyholders below.

### 5: AA Policyholders

AA writes a portfolio of Italian medical malpractice business ie the same business that will be transferred from both AEL and AIU. As such the risk profile of AA as a mono-line insurer is expected to be the same whether either or both the transfers are successful, although the volume of reserves would be different.

If neither transfer goes ahead, the AA Policyholders are unaffected.

### 6: Reinsurers whose contracts are transferring as part of the transfers

Exposure to claims faced by reinsurers will not change following any partial or full completion of the proposed AmTrust transfers and the reinsurers will continue to be required to pay out the same claim amounts in respect of the same events as before the transfers. Hence, the reinsurers are exposed to the same risks under any combination of the transfers.

### 7: AIU to AA transfer

This transfer is expected to complete on 1 July 2020 ie the same date as the Proposed Transfer. The successful completion or otherwise of this transfer affects the AIU and AA Policyholders as described above.

### 8: AMIL to AIU transfer

This transfer is expected to complete on 1 October 2020 ie after all the other AmTrust transfers. The business transferring is mortgage insurance which is already written by AIU and is a relatively small amount of business compared to that of AIU overall. Hence, the risk profile of AIU is not expected to change materially. This transfer will only affect AIU and not AEL or AA.

### 9: AIU to LMIE transfer

This transfer is expected to complete on 31 March 2020 ie before the other AmTrust transfers. It will not materially impact the other AmTrust Transfers whether it goes ahead or not as the transferring business is already 100% reinsured by LMIE.

### 13. Further information and next steps

Further details on my conclusions, and other supporting information, are set out in my full Scheme Report.

I will be reviewing these conclusions and preparing a Supplementary Report before the Court considers its final approval of the Proposed Transfer at the Sanctions Hearing. The purpose of the Supplementary Report is to confirm and/or update my conclusions based on any new material or issues that arise.

**Stewart Mitchell**

**Fellow of the Institute and Faculty of Actuaries**

**3 March 2020**



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This Summary Report has been prepared for the purpose of summarising the full Scheme Report accompanying the application to the Court in respect of the proposed insurance business transfer scheme described in that report, in accordance with Section 109 of the Financial Services and Markets Act 2000. The Scheme Report and this Summary Report are not suitable for any other purpose.

A copy of the both this Summary Report and the Scheme Report will be sent to the Prudential Regulation Authority and the Financial Conduct Authority, and the full Scheme Report will accompany the Scheme application to the Court.

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