

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 15
:
Petition of PRO Insurance Solutions Limited, :
as foreign representative of BALOISE :
INSURANCE LTD., CITY :
INTERNATIONAL INSURANCE :
COMPANY LIMITED, DOWA INSURANCE : Case No. 10-15358 (JMP)
COMPANY (EUROPE) LIMITED, EAST :
WEST INSURANCE COMPANY LIMITED, :
FUJI INTERNATIONAL INSURANCE :
COMPANY LIMITED, HISCOX :
INSURANCE COMPANY LIMITED, KX : (Jointly Administered)
REINSURANCE COMPANY LIMITED, :
METROPOLITAN REINSURANCE :
COMPANY (U.K.) LIMITED, MOORGATE :
INSURANCE COMPANY LIMITED, :
NIPPON INSURANCE COMPANY OF :
EUROPE LIMITED, POLYGON :
INSURANCE COMPANY LIMITED, SWISS :
RE INTERNATIONAL SE, UK BRANCH, :
AND TOWER INSURANCE LIMITED :
:
Debtors in a Foreign Proceeding. :
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ORDER GRANTING RECOGNITION AND RELATED RELIEF

THIS MATTER was brought before the Court by PRO Insurance Solutions Limited (the "**Petitioner**"), the designated foreign representative of Baloise Insurance Ltd. ("**Baloise**"), City International Insurance Company Limited ("**City International**"), Dowa Insurance Company (Europe) Limited ("**Dowa**"), East West Insurance Company Limited ("**East West**"), Fuji International Insurance Company Limited ("**Fuji**"), Hiscox Insurance Company Limited ("**Hiscox**"), KX Reinsurance Company Limited ("**KX**"), Metropolitan Reinsurance Company (U.K.) Limited ("**Met Re**"), Moorgate Insurance Company Limited ("**Moorgate**"), Nippon Insurance Company of Europe Limited ("**Nippon**"), Polygon Insurance Company Limited ("**Polygon**"), Swiss Re International SE, UK Branch

("SRI"), and Tower Insurance Limited ("Tower") (together, the "**Petitioning Companies**") in schemes of arrangement (the "**Schemes**") and associated proceeding under part 26 of the English Companies Act 2006 (the "**English Proceeding**") pending before the High Court of Justice of England and Wales (the "**High Court**")¹, to consider the Verified Petitions for Recognition of Foreign Proceedings, For a Permanent Injunction, and Related Relief filed on October 14, 2010 (the "**Chapter 15 Petitions**") commencing the above-captioned chapter 15 cases (the "**Chapter 15 Cases**") pursuant to sections 1504, 1515 and 1517 of title 11 of the United States Code (as amended, the "**Bankruptcy Code**") and seeking (i) recognition of the English Proceeding as a "foreign main proceeding" or, in the alternative, as a "foreign nonmain proceeding" and (ii) granting a permanent injunction and related relief. Due and timely notice of the filing of the Chapter 15 Petitions was given in accordance with this Court's order dated October 21, 2010, approving the form of notice and manner of service thereof, which notice is deemed adequate for all purposes such that no other or further notice thereof need be given. The Court considered and reviewed the Chapter 15 Petitions and the other pleadings and exhibits submitted by the Petitioner in support of the Chapter 15 Petitions (collectively, the "**Supporting Papers**"), as well as the testimony of Toby Wooldridge, a divisional manager of the Petitioner, at a hearing held on November 23, 2010 (the "**Recognition Hearing**")². No objections were made to the Chapter 15 Petitions.

Therefore, after due deliberation and sufficient cause appearing therefore, the Court finds and concludes as follows:

FINDINGS OF FACT.

1. The Petitioning Companies are all insurance companies that participated in the London insurance market, where, pursuant to certain formal agreements among them, they engaged in

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the schemes, copies of which are annexed as Exhibit A to the Declaration of Ken Coleman. (ECF Doc. # 2)

² The transcript of the Recognition Hearing is attached hereto as Exhibit A.

a collective enterprise to underwrite risks in the aviation, marine, and non-marine areas through certain pooling arrangements (the "**Pools**").

2. The business of the Pools (the "**Pools Business**") was underwritten on a unified basis by the Petitioning Companies through the London market, in predetermined percentages and on an annual basis, until the Pools ceased writing business and entered into runoff in 1993.

3. Since 1993, the Petitioner has managed the Pools and the Pools Business, separate and apart from any other businesses, assets, and liabilities of the Petitioning Companies, out of the Petitioner's headquarters in the United Kingdom. In this role, the Petitioner has handled all day to day operations of the Pools, including the administration of assets, commutations with policyholders, claims administration, and reporting and accounting. The Petitioner continues to fill this role under the Schemes.

4. The business that is the subject of the English Proceeding is the Pools Business, rather than the business of any individual Petitioning Company. The Pools were operated as a virtual partnership when underwriting risks and have continued to do so while in runoff, although they were not legally constituted as a partnership or other distinct legal entity.

5. The Schemes and the English Proceeding that are the subject of these Chapter 15 Cases relate solely to the Pools, to the collective participation of the Petitioning Companies in the Pools, and to the Pools Business of the Petitioning Companies. The Schemes and the English Proceeding do not relate to any other businesses, assets, or liabilities of the Petitioning Companies.

CONCLUSIONS OF LAW

(A) This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and section 1501 of the Bankruptcy Code and the general order of reference in this District.

(B) This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P).

(C) Venue is proper in this District pursuant to 28 U.S.C. § 1410(3).

(D) The Petitioner is a "person" within the meaning of section 101(41) of the Bankruptcy Code and is the duly appointed "foreign representative" of the Petitioning Companies within the meaning of section 101(24) of the Bankruptcy Code.

(E) The Chapter 15 Cases were properly commenced pursuant to sections 1504 and 1515 of the Bankruptcy Code.

(F) The Chapter 15 Petitions meet the requirements of section 1515 of the Bankruptcy Code.

(G) The English Proceeding is a foreign proceeding within the meaning of section 101(23) of the Bankruptcy Code.

(H) The English Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code.

(I) Based upon the representations made on the record of the Recognition Hearing, the English Proceeding is pending in England, the location of the center of main interests of the Pools and of each of the Petitioning Companies with respect to the Pools Business, and as such

constitutes a foreign main proceeding pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

(J) The relief requested, including permanent injunctive relief, is necessary and appropriate, in the interests of the public and international comity, consistent with the public policy of the United States and warranted pursuant to section 1521 of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 7065;

(K) Permanent injunctive relief would not cause any hardships to Scheme Creditors of the Petitioning Companies or other parties-in-interest that would not be outweighed by the benefits of such relief. Unless a permanent injunction is issued, it appears to this Court that one or more persons or entities may take action that is inconsistent with or in contravention of the terms of the Petitioning Companies' Schemes, thereby interfering with, and causing harm to, the efforts of the Scheme Manager to administer the Petitioning Companies' estates, and that as a result, the Petitioning Companies, their estates, and Scheme Creditors will suffer irreparable injury for which there is no adequate remedy at law;

NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The English Proceeding is hereby recognized as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code.

2. All provisions of section 1520 of the Bankruptcy Code apply as of right in these Chapter 15 Cases, including, without limitation, the stay under section 362 and the provisions of section 363 of the Bankruptcy Code throughout the duration of these Chapter 15 Cases or until otherwise ordered by this Court.

3. The Petitioner may, in accordance with the Schemes, operate the Pools Business of the Petitioning Companies and may exercise the rights and powers of a trustee under and to the extent provided by sections 363 and 552 of the Bankruptcy Code in relation to such Pools Business.

4. The Petitioning Companies' Schemes (including any modifications or amendments to such Schemes) are hereby given full force and effect in the United States, and are hereby binding on and enforceable in the United States against any person or entity that is a Scheme Creditor of the Petitioning Companies, including, without limitation, against such person or entity in its capacity as a debtor of a Scheme Company.

5. A Valuation Statement, including all amounts (including, without limitation, Scheme Debt) determined by the Scheme Adjudicator or Scheme Actuary shall be final and binding in the United States on the Petitioning Companies subject to sanctioned and effective Schemes and on any person or entity that is a Scheme Creditor of a Petitioning Company, including, without limitation, against such person or entity in its capacity as a debtor of a Scheme Company.

6. All Scheme Creditors of any Petitioning Company are permanently enjoined from taking any action in the United States in contravention of, or inconsistent with, the sanctioned and effective Schemes.

7. In accordance with clause 2.8.4 of the Schemes, all Scheme Creditors of any Petitioning Company must abide by, and be bound by, the terms of the sanctioned and effective Schemes in the United States.

8. Except as otherwise provided herein or in the Schemes, all Scheme Creditors of any Petitioning Company are permanently enjoined from seizing, repossessing, transferring,

relinquishing or disposing of any property in the United States of any Scheme Company subject to a sanctioned and effective Scheme, or the proceeds thereof, in connection with any Scheme Claims.

9. In accordance with the Schemes, all Scheme Creditors of any Petitioning Company are permanently enjoined in the United States from: (a) commencing or continuing any Proceedings (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) in connection with any Scheme Claim, including by way of counterclaim, against a Scheme Company subject to a sanctioned and effective Scheme, or any of its property in the United States, or any proceeds thereof, and seeking discovery of any nature against such Scheme Company; (b) enforcing any judicial, quasi-judicial, administrative judgment, assessment or order, or arbitration award obtained in connection with any Scheme Claim, and commencing or continuing any Proceedings in connection with any Scheme Claim (including, without limitation, arbitration, mediation or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) or any counterclaim to create, perfect or enforce any lien, attachment, garnishment, setoff or other claim arising out of a Scheme Claim against any Scheme Company subject to a sanctioned and effective Scheme or any of its property in the United States, or any proceeds thereof, including, without limitation, rights under reinsurance or retrocession contracts; (c) invoking, enforcing or relying on the benefits of any statute, rule or requirement of federal, state, or local law or regulation requiring a Scheme Company subject to a sanctioned and effective Scheme to establish or post security in the form of a bond, letter of credit or otherwise as a condition of prosecuting or defending any Proceedings (including, without limitation, arbitration, mediation down any letter of credit established by, on behalf or at the request of, a Scheme Company subject to a sanctioned and effective Scheme, that relates to a Scheme Claim or the Pools Business in excess of amounts expressly authorized by the terms of the contract or other agreement pursuant to which such

letter of credit has been established; and (e) withdrawing from, setting off against, or otherwise applying property that is the subject of any trust or escrow agreement or similar arrangement that relates to a Scheme Claim or the Pools Business in which a Scheme Company subject to a sanctioned and effective Scheme has an interest in excess of amounts expressly authorized by the terms of the contract and any related trust or other agreement pursuant to which such letter of credit, trust, escrow, or similar arrangement has been established; provided, however, no drawing against any letter of credit shall be made in connection with any commutation unless the amount has been agreed in writing with the Petitioner or the Scheme Manager or permitted by further Order of the Court.

10. In accordance with the terms of the Schemes, all persons and entities in possession, custody or control of property of the Petitioning Companies or the proceeds thereof in the United States are required to turn over and account for such property or proceeds thereof to the Petitioning Companies or the Scheme Manager.

11. The Petitioning Companies and the Scheme Manager are authorized to transfer to the foreign proceedings subject to these Chapter 15 Cases for distribution, pursuant to the Schemes, any monies or assets of the Petitioning Companies which the Petitioning Companies or the Scheme Manager have or may hereafter recover in the United States.

12. All Scheme Creditors in the United States that are beneficiaries of letters of credit established by, on behalf or at the request of a Scheme Company subject to a sanctioned and effective Scheme or parties to any trust, escrow or similar arrangement in which a Scheme Company subject to a sanctioned and effective Scheme has an interest that relates to a Scheme Claim or the Pools Business are required to: (a) provide notice to the Petitioner's United States counsel (Allen & Overy LLP, 1221 Avenue of the Americas, New York, NY 10020, Attn: Stephen Doody, Esq.) of any

drawdown on any letter of credit established by, on behalf or at the request of, a Scheme Company subject to a sanctioned and effective Scheme, or any withdrawal from, setoff against, or other application of property that is the subject of any trust or escrow agreement or similar arrangement in which a Scheme Company subject to a sanctioned and effective Scheme has an interest, together with information sufficient to permit the Scheme Manager to assess the propriety of such drawdown, withdrawal, setoff or other application, including, without limitation, the date and amount of such drawdown, withdrawal, setoff or other application and a copy of any contract, related trust or other agreement pursuant to which any such drawdown, withdrawal, setoff, or other application was made, and provide such notice and other information contemporaneously therewith; and (b) turn over and account to the Scheme Manager for all funds resulting from such drawdown, withdrawal, setoff, or other application in excess of amounts expressly authorized by the terms of the contract, any related trust or other agreement pursuant to which such letter of credit, trust, escrow or similar arrangement has been established.

13. Every Scheme Creditor in the United States that has a claim of any nature or source arising out of a Scheme Claim or the Pools Business and that is a party to any Proceedings (including, without limitation, arbitration or any judicial, quasi-judicial, administrative action, proceeding or process whatsoever) pending in connection with any Scheme Claim or Pools Business in which a Scheme Company subject to a sanctioned and effective Scheme is or was named as a party, or as a result of which a Scheme Claim may be established, is required to place such Scheme Company and the Scheme Manager and the Petitioner's United States counsel (Allen & Overy LLP, 1221 Avenue of the Americas, New York, NY 10020, Attn: Stephen Doody, Esq.) on the master service list of any such Proceedings, and to take such other steps as may be necessary to ensure that such counsel receives: (a) copies of any and all documents served by the parties to such action or other legal

proceeding or issued by the court, arbitrator, administrator, regulator or similar official having jurisdiction over such action or legal proceeding; and (b) any and all correspondence, or other documents circulated to parties named in the master service list.

14. Pursuant to Rule 7065 of the Federal Rules of Bankruptcy Procedure, the security provisions of Rule 65(c) of the Federal Rules of Civil Procedure shall be, and the same hereby are, waived.

15. No action taken by the Petitioning Companies, the Petitioner, the Scheme Manager, their respective successors, directors, officers, agents, employees, representatives, advisers or attorneys, or any of them, in preparing, disseminating, applying for, implementing or otherwise acting in furtherance of the Schemes, the Proposed Order, any further order for additional relief in the ancillary proceedings or cases filed under chapter 15 of the Bankruptcy Code, or any adversary proceedings in connection therewith as the Bankruptcy Code may make, will be deemed to constitute a waiver of the immunity afforded to the Petitioning Companies, the Petitioner, the Scheme Adviser, the Scheme Manager, their respective successors, directors, officers, agents, employees, representatives, advisers or attorneys, pursuant to section 1510 of the Bankruptcy Code.

16. Except as otherwise provided herein or in the Schemes, all persons are permanently enjoined in the United States from commencing or continuing any Proceedings against the Scheme Companies subject to sanctioned and effective Schemes, the Scheme Manager, the Scheme Adviser, or any of their respective directors, officers, agent employees, representatives, financial advisers or attorneys (the "**Scheme Parties**"), or any of them with respect to any claim or cause of action, in law or in equity, which may arise out of the construction or interpretation of the Schemes or

out of any action taken or omitted to be taken by any of the Scheme Parties in connection with the administration of the Schemes.

17. Except as otherwise provided in the Schemes, all persons are permanently enjoined in the United States from commencing or continuing any Proceeding against the Petitioning Companies, the Scheme Manager, or any of their respective successors, directors, officers, agents, employees, representatives, advisers or attorneys (the "**Pre-Scheme Parties**"), or any of them with respect to any claim or cause of action, in law or in equity, arising out of or relating to any action taken or omitted to be taken as of the Effective Date by any of the Pre-Scheme Parties in connection with the Chapter 15 Cases or in preparing, disseminating, applying for or implementing the Schemes or this Order.

18. Except as otherwise provided herein, nothing in this Order shall in any respect prevent the commencement or continuation of proceedings against any person, entity or other insurer other than the Scheme Parties or Pre-Scheme Parties; provided, however, that if any third party shall reach a settlement with, or obtain a judgment against, any person or entity other than the Scheme Parties or Pre-Scheme Parties, such settlement or judgment shall not be binding on or enforceable in the United States against any of the Scheme Parties or Pre-Scheme Parties.

19. The High Court has exclusive jurisdiction to hear and determine any suit, action, claim or proceeding and to settle any dispute which may arise out of the construction or interpretation of the Schemes, or out of any action taken or omitted to be taken by any of the Scheme Parties in connection with the administration of the Schemes; provided, however, that in relation to the determination of Scheme Claims nothing in this Order will affect the validity of provisions determining

governing law and jurisdiction, whether contained in any contract between a Scheme Company and any of its Scheme Creditors or otherwise.

20. This Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through these Chapter 15 Cases, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

21. This Order shall be served (i) by United States mail, first class postage prepaid, upon those parties that have filed notices of appearance or objections in this case and (ii) by publication on the website of the Petitioner at www.englishandamerican.pools.com.

22. That service in accordance with this Order shall be deemed good and sufficient service and adequate notice for all purposes.

23. The Chapter 15 Petitions, the Supporting Papers, and this Order shall be available upon request at the offices of Allen & Overy LLP, 1221 Avenue of the Americas, New York, New York 10020 to the attention of Jonathan Cho, (212) 610-6300, jonathan.cho@allenoverly.com.

24. Notwithstanding Bankruptcy Rule 7062, made applicable to this Chapter 15 Case by Bankruptcy Rule 1018, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and upon its entry, this Order shall become final and appealable.

Dated: New York, New York
December 9, 2010

/s/ James M. Peck
United States Bankruptcy Judge

EXHIBIT A