

Supplementary Report on the transfer of business from Markel International Insurance Company Limited to Markel Insurance Societas Europaea

Introduction

1. Section 109 of the Financial Services and Markets Act 2000 as amended by the Financial Services Act 2012 (together the 'FSMA') requires that a scheme report must accompany any application to the Court to approve an insurance business transfer scheme.
2. My report (the 'Scheme Report') on the Transfer entitled 'Transfer of business from Markel International Insurance Company Limited to Markel Insurance Societas Europaea - Scheme Report of the Independent Expert under Part VII Section 109 of the Financial Services and Markets Act 2000' has been submitted in evidence to the Court. The final version of the Scheme Report dated 6 December 2018 was submitted to the Court.
3. The purpose of this document (the 'Supplementary Report') is to document for the Court any developments since the date of the Scheme Report and outline the additional information I have considered. In particular, I have considered whether any of the developments since the Scheme Report have been sufficiently different from my expectations for my conclusions as presented in the Scheme Report to change.
4. The Supplementary Report must be read in conjunction with the Scheme Report in order to be taken in its proper context. It represents an addition to the Scheme Report and does not contain the full background to the Transfer as contained within that document. Therefore, considering the Supplementary Report in isolation may be misleading. All terms used in the Supplementary Report are as defined in the Scheme Report. In combination with the Scheme Report, it complies with the actuarial guidance and standards set out in paragraphs 1.16 to 1.18 of the Scheme Report. In line with the Scheme Report (paragraph 1.26), the work documented in this Supplementary Report has been peer reviewed by a suitably qualified person (an Actuary within my own firm who has considerable experience working in capital modelling and reserving in the London Market) and so complies with Actuarial Standard of Practice X2.
5. The reliance and limitations described in Section 1 and Section 9 of the Scheme Report apply equally to the Supplementary Report. In particular, the parties that may have access to this Supplementary Report and those who may place reliance on the Supplementary Report, and the extent to which they may do so, are identical to those described in the Scheme Report.
6. The Supplementary Report is structured as follows:
 - ▶ Paragraphs 7 to 9: this sets out the updated information I have reviewed as part of my work.
 - ▶ Paragraphs 10 to 69: this sets out any developments since the date of the Scheme Report, including changes to the balance sheets, claims reserving and capital modelling analyses, and any other developments that might affect policyholders.
 - ▶ Paragraphs 70 to 72: this sets out my overall conclusion on the Transfer.

Updated information considered

7. I have based my findings in this Supplementary Report on the following information supplied by Markel, together with the information used in preparing the Scheme Report:
 - ▶ Unaudited financial statements for MIICL and MISE as at 30 September 2018 (the financial statements set out in the Scheme Report (paragraphs 4.5 and 4.13) were based on data as at 31 December 2017).
 - ▶ MIICL and MISE reserving exhibits showing claim movements between 31 December 2017 and 30 September 2018.
 - ▶ Updated schedules showing the impact of the Transfer on the claims reserves and balance sheets of MIICL and MISE as at 30 September 2018.
 - ▶ Updated Standard Formula calculations for MIICL and MISE as at 31 December 2018.
 - ▶ Updated IM SCR calculations for MIICL as at 31 December 2018.
 - ▶ An updated memo from Markel describing the tax implications of the Transfer.
 - ▶ The finalised Bermuda QS contract.
 - ▶ The results of a sampling exercise on the governing law of policies written by MIICL's UK head office and its Irish branch office.
 - ▶ The second witness statement of Andrew Davies.
8. My assessment of the information received has been supplemented by discussions with staff from Markel.

9. The table below shows a summary of the information reviewed as part of the Scheme Report and that used as part of the Supplementary Report.

Data item / modelling area	Used for Scheme Report	Used for Supplementary Report
Balance sheets for MIICL and MISE	In the Scheme Report (paragraphs 4.5 and 4.13) I set out the audited balance sheet for MIICL and the unaudited balance sheet for MISE, based on data as at 31 December 2017.	In the Supplementary Report I show the latest available financial statements. These are unaudited, and based on data as at 30 September 2018.
Claims reserving studies used as part of my review	I used the latest available claims reserving studies available at the time of writing the Scheme Report (Section 5). These were based on data as at 31 December 2017.	I am using the latest available reserving studies carried out by Markel, which are based on data as at 30 September 2018, and any additional information on any significant claims movement from 30 September 2018 to 31 December 2018.
Capital modelling work and SCR calculation for MIICL and MISE	MIICL's Internal Model and Standard Formula SCRs and MISE's Standard Formula SCR were based on data as at 31 December 2017.	The updated Solvency II SCRs for both MIICL and MISE are based on data as at 31 December 2018.

Developments since the issue of the Scheme Report

10. The analysis presented in the Scheme Report was based on various data as at 31 December 2017. Subsequent to this analysis, Markel has carried out further claims reserving and capital modelling work for MIICL and MISE based on information up to 31 December 2018. In this section I will describe the main changes from the schedules presented in the Scheme Report to the updated information described above.

Changes to balance sheets

11. The following sections show comparisons of the balance sheets of MIICL and MISE as at 31 December 2017 (as shown in the Scheme Report paragraph 4.5), and as at 30 September 2018.

Balance sheet changes to MIICL

Table 1: Movement in balance sheet of MIICL from 31 December 2017 to 30 September 2018 (figures in \$m)

	MIICL		
	31/12/2017 [A]	30/09/2018 [B]	Movement [B]-[A]
Investments	1,358	1,302*	(56)
Reinsurers' share of technical provisions	544	609	65
Deferred acquisition costs	50	61	11
Other debtors	210	341	131
Assets	2,162	2,313	151
Technical provisions	1,574	1,686	112
Other Creditors	45	106	61
Available capital	543	521*	(22)
Liabilities	2,162	2,313	151

*This figure is stated after the \$75m of dividend paid out during Q4 2018

12. The main changes to the MIICL balance sheet between 31 December 2017 and 30 September 2018 are:
- ▶ A \$47m increase in the net technical provision amount (a \$112m gross increase less an additional amount of \$65m in reinsurance recoveries). This is as I would expect, given the gradual growth in premium volume in 2018.
 - ▶ There are some changes to debtor and creditor amounts which are largely driven by seasonal effects – the balance sheets presented in the Scheme Report (paragraphs 4.5 and 4.13) were at December; those presented above are at September.
 - ▶ There was a dividend payment of \$75m made by MIICL during Q4 2018 (this dividend was acknowledged by the PRA). I have adjusted the balance sheet shown above for the payment of this dividend.
 - ▶ The amount of available capital of MIICL has reduced by \$22m between 31 December 2017 and 30 September 2018 (MIICL made a profit of \$53m in the nine-month period, less an amount of \$75m for the dividend payment).
13. Notwithstanding the changes described above, I believe that the overall strength of the MIICL balance sheet is not materially different to the position set out in the Scheme Report (paragraph 4.5). Therefore, I do not believe that any of the changes to the balance sheet of MIICL between 31 December 2017 and 30 September 2018 described above would affect my conclusion on the Transfer, as set out in the Scheme Report (paragraphs 5.16 to 5.48).

Balance sheet changes to MISE

Table 2: Movement in balance sheet of MISE from 31 December 2017 to 30 September 2018 (figures in \$m)

	MISE		
	31/12/2017	30/09/2018	Movement
	[A]	[B]	[B]-[A]
Investments	48	52	4
Reinsurers' share of technical provisions	0	0	0
Deferred acquisition costs	0	0	0
Other debtors	0	0	0
Assets	48	52	4
Technical provisions	0	0	0
Other Creditors	0	5	5
Available capital	48	47	(1)
Liabilities	48	52	4

14. Table 2 above shows that the balance sheet position of MISE remained relatively unchanged between 31 December 2017 and 30 September 2018, with only a small reduction in available capital.
15. I do not believe that there has been any material change to the balance sheet of MISE between 31 December 2017 and 30 September 2018 that would affect my conclusion on the Transfer, as set out in the Scheme Report (paragraphs 5.16 to 5.48).

Expected impact of the Transfer

16. The expected impact of the Transfer on MIICL and MISE, based on information to 30 September 2018, is shown in the tables below. This is an update to table 4a in paragraph 4.5 and table 4b in paragraph 4.13 of the Scheme Report.

Table 3: Expected impact of the Transfer on MIICL balance sheets as at 30 September 2018 (figures in \$m)

	MIICL		
	Pre Transfer	Effect of Transfer	Post Transfer
Investments	1,302	(144)	1,158
Reinsurers' share of technical provisions	609	(56)	553
Deferred acquisition costs	61	(10)	51
Other Debtors	341	(43)	298
Assets	2,313	(253)	2,060
Technical provisions	1,686	(248)	1,438
Other Creditors	106	(5)	101
Available capital	521	0	521
Liabilities	2,313	(253)	2,060

Table 4: Expected impact of the Transfer on MISE balance sheets as at 30 September 2018 (figures in \$m)

	MISE			
	Pre Transfer	Effect of Transfer	Bermuda QS	Post Transfer
Investments	52	144	(130)	66
Reinsurers' share of technical provisions	0	56	173	229
Deferred acquisition costs	0	10	(9)	1
Other Debtors	0	43	0	43
Assets	52	253	34	339
Technical provisions	0	248	0	248
Other Creditors	5	5	34	44
Available capital	47	0	0	47
Liabilities	52	253	34	339

17. The balance sheets of MIICL and MISE as at 30 September 2018 are not significantly different to the balance sheet as at 31 December 2017, as described earlier in this document. In addition, the effect of the Transfer has not changed significantly between 31 December 2017 and 30 September 2018 for MIICL and MISE. Therefore, the updated financial position of MIICL and MISE does not affect my conclusion on the Transfer, as set out in the Scheme Report (paragraphs 5.16 to 5.48).

Update on claims reserving analysis

18. As part of the work I carried out when producing the Scheme Report I received and reviewed reports prepared by Markel that described the analysis they carried out. I discussed the methodology and key assumptions with them, and also compared the reserves with my wider market benchmarks. Based on this, I concluded that the claims reserves are set on a reasonable basis.
19. I have reviewed the incurred claims development for the MIICL business as a whole, and for the Transferring Policies. This covered the period between 31 December 2017 and 30 September 2018. I believe that the change in claims reserves is in line with my expectations. This is because:
- ▶ For the 2017 and prior underwriting years, I have carried out an analysis to estimate the amount of incurred claims movement I would expect in the nine-month period since the 31 December 2017 review. This is based on the assumptions for claim development I used as part of my 31 December 2017 review. I have compared the difference between the expected and actual incurred claim movement for MIICL and the Transferring Policies during that nine-month period; there were no material differences between the actual incurred claims movement, and the expected amount based on my actuarial models.
 - ▶ For the 2018 underwriting year, I have compared the profitability assumptions made by Markel (i.e., the loss ratio on the 2018 underwriting year) against the historical performance of MIICL and against my wider market benchmarks. I believe that the assumptions adopted by MIICL are in line with these comparisons.
20. Since the overall claims experience has been broadly in line with expectations, my conclusion is that the claims reserves as at 30 September 2018 are also set on a reasonable basis.
21. I have also received and reviewed an update from Markel on the key claims activity from 30 September 2018 to 31 December 2018. There is nothing in the information I have reviewed that leads me to change my conclusions.

22. I believe that my conclusions as set out in the Scheme Report (paragraphs 5.16 to 5.48) with respect to the claims reserves are still valid because:

- ▶ The movement in the claims incurred since 31 December 2017 has been relatively small and in line with my expectations.
- ▶ There has been no material change to the reserving basis adopted by Markel.
- ▶ I believe that the benchmarks I have used, as described in paragraphs 3.13 to 3.17 of the Scheme Report, are still appropriate.

Update on capital modelling

23. Markel have carried out the IM SCR calculation on the post-Transfer basis, based on a forecast balance sheet as at 31 December 2018 (the model is described from paragraph 6.29 of the Scheme Report). The impact of the Transfer on the capital requirement for MIICL on an Internal Model basis is shown in the table below. The columns show the MIICL IM SCR, both before and after the Transfer, and the difference.

Table 5: MIICL IM Solvency II capital requirement (figures in \$m)

SCR	Internal Model		
	MIICL pre-Transfer	MIICL post-Transfer	Change
	[A]	[B]	[C]
<i>Underwriting Risk</i>	174	170	(4)
<i>Reserving Risk</i>	143	118	(25)
[1] Insurance Risk	249	211	(38)
[2] Counterparty Default Risk	111	84	(27)
[3] Operational Risk	47	35	(12)
[4] Market Risk	193	183	(10)
[5] Diversification	(312)	(256)	57
[6] Pension Risk charge	32	32	0
[7] Ultimate SCR	320	290	(30)
[8] Difference ([9]-[7])	11	25	14
[9] One-year SCR	331	315	(17)

24. The one-year SCR reduction of \$17m is mainly driven by the following:

- ▶ Reserving and Counterparty Default Risks are reduced; this is due to the decrease in MIICL's claims reserves following the Transfer.
- ▶ The transfer of claims reserves to MISE results in a reduction in the level of assets held, and hence a reduction in Market Risk; this reduction is partially offset by the fact that post-Transfer, equities are a slightly larger proportion of MIICL's asset portfolio.
- ▶ Operational Risk is reduced in line with the reduction in premiums.
- ▶ Underwriting Risk remains largely the same, as most of the catastrophe risk exposure remains within MIICL after the Transfer.

25. The table below shows the movement in Standard Formula SCR, Capital Adequacy Ratios and Solvency II Own Funds of MIICL and MISE between 31 December 2017 and 31 December 2018.

Table 6: Change in Capital Adequacy Ratios for MIICL and MISE

	Scheme Report - 31 December 2017			Supplementary Report - 31 December 2018		
	MIICL pre-Transfer	MIICL post-Transfer	MISE post-Transfer	MIICL pre-Transfer	MIICL post-Transfer	MISE post-Transfer
SF SCR	431	401	16	453	404	24
IM SCR	329	n/a	n/a	331	315	n/a
Solvency II Own Funds	642	599	50	638	627	47
SF Capital Adequacy ratio	149%	150%	319%	141%	155%	196%
IM Capital Adequacy ratio	195%	n/a	n/a	193%	199%	n/a

Note, the IM SCR for MIICL post-Transfer was not available at the time of producing the Scheme Report.

26. The Capital Adequacy Ratios for MIICL have remained broadly unchanged between 31 December 2018 and 31 December 2017, both before and after the Transfer.
27. For MISE, the Capital Adequacy Ratio post the Transfer has reduced from 319% to 196%. Notwithstanding the reduction, I still consider this to be a strong solvency position. This reduction is in line with my expectations. As at 31 December 2017, MISE had not written any business, and the amount of business planned for 2018 was relatively small. MISE commenced writing new business on 1 October 2018. From that point the SCR will increase over time, until the volume of business written by MISE reaches a steady state. Therefore, the Capital Adequacy Ratio is expected to reduce between 31 December 2017 and 31 December 2018, as shown in Table 6. Given that MISE is subject to the same capital setting policy as MIICL, I expect that the Capital Adequacy Ratio will be maintained above the minimum threshold as set out in MIICL's capital setting policy, which states that MIICL will hold capital to at least the level of 135% of SCR plus pension provision; and that once the level of capital increases above 150% of SCR plus pension provision, the Board of Directors may consider paying a dividend.
28. Given that there have not been any material changes to MIICL and MISE, and given that the balance sheet position as at 30 September 2018 is as expected, I do not believe that there would be any significant change to the ability of MIICL and MISE to meet those capital requirements. I expect that the level of the capital of MIICL and MISE after the Transfer will be significantly above the level of the regulatory required capital under Solvency II.
29. The conclusions of this updated capital modelling work are unchanged from the analysis I described in the Scheme Report (paragraphs 6.50 to 6.52).

Bermuda QS

30. I have received and reviewed the final contract wording for the Bermuda QS. The operation of the Bermuda QS is in all material aspects as described in the Scheme Report (as set out in paragraphs 4.17 to 4.21 of the Scheme Report):
- ▶ MISE will cede 90% of the Total Underwriting Result to MBL for the applicable calendar year premium received by MISE, net of any premium paid for any outward reinsurance other than Bermuda QS. Effectively, this means that there is a 90% quota share in place. This will also cover the settlement amounts on the claims reserves transferring to MISE as part of the Transfer.
 - ▶ There is an additional profit commission payable by MBL to MISE. If MISE makes an underwriting profit during a given calendar year, then it would be allowed a 7.5% participation in the profit accruing to MBL on the Total Underwriting Result of the contract.
31. I have also received an update from Markel on the tax implications of the implementation of the Bermuda QS. Markel was advised by a consulting company based in Germany that the reinsurance contract does not breach the German nor the branch office's territorial tax rules. In addition, Markel has also been advised that the 7.5% profit commission is reasonable. MBL has elected to be taxed as a US company. I have consulted with tax specialists from my own firm on this matter and based on the discussion, I do not believe there are any material implications that would change my conclusion on the Transfer.
32. Given that the Bermuda QS has been placed in line with my original understanding as set out in the Scheme Report (paragraphs 4.17 to 4.21), this does not affect my conclusion on the Transfer.

Impact of Brexit

33. In paragraphs 7.2 to 7.12 of the Scheme Report I discussed the potential uncertainty due to the UK's vote to leave the European Union in the referendum of June 2016, and the possible implications of this for the Transfer.
34. Currently, the proposed withdrawal agreement has not been ratified by the UK and EU, and so the uncertainties around the operating environment for insurers, and market volatility in general, continue to exist, as discussed in the Scheme Report (paragraphs 7.2 to 7.12).
35. Since the Scheme Report, Markel has had the UK branch of MISE approved by the PRA on a freedom of establishment basis. MISE has notified the PRA that it wishes to benefit from the UK's temporary permissions regime in the event that the withdrawal agreement is not agreed by 29 March 2019. I understand that MISE intends to establish a third country branch in the UK in accordance with that regime (if applicable).
36. I am not aware of any developments relating to Brexit which lead me to change my conclusions in the Scheme Report (paragraph 7.12).

Policyholders in jurisdictions outside the EEA

37. The location of the policyholder's risk covered by the Transferring Policies is all in the EEA and the UK (as set out in paragraph 2.8 of the Scheme Report). However, there are some Transferring Policies written by the MIICL UK head office and the MIICL Irish branch office which have risks located in both the EEA and a non-EEA state (in such circumstances, only the EEA30 component of the policy is included as a Transferring Policy).

38. MIICL believes that the governing law for the vast majority of the Transferring Policies is English law or the law of an EEA state (as set out in the first witness statement of Andrew John Davies). However, for those Transferring Policies written by MIICL's UK Head Office and Irish branch office which contain an element of non-EEA risk, it is possible that the governing law of the policy is that of a non-EEA state. As set out in my Scheme Report (paragraphs 7.45 and 7.46), Markel has undertaken a sampling exercise of the Transferring Policies written by MIICL's UK head office and its Irish branch office to verify its belief that most of the Transferring Policies are governed by English law or the law of another EEA state.
39. I have received and reviewed the results of this sampling exercise. It shows that out of the 84 Transferring Policies included in the sampling exercise, only 2 policies are not governed by the law of an EEA state and 19 policies could not have the law and jurisdiction identified based on the available information in the policy. The two policies identified are both governed by the law of New York State. For these policies, the EEA30 component of the risk will be included as a Transferring Policy; any part of the policy which covers risks in the UK or ROW will remain with MIICL.
40. The sampling exercise therefore shows that there are only likely to be a small number of Transferring Policies with a governing law which is that of a non-EEA state.
41. My conclusions set out in the Scheme Report (paragraphs 7.45 and 7.46) were based upon the assumption that it is likely that there would be a small number of policies with non-EEA state governing law. Accordingly, these findings do not affect my conclusions on in the Scheme Report. My reasons for this are set out again below.
42. In theory, a policyholder with a non-EEA policy, such as the New York law-governed policies referred to above, may be able to challenge the effectiveness of the Court order in a non-EEA jurisdiction. The relevant court would consider whether it recognises the order of the English Court. I consider that in practice such circumstances are unlikely in respect of this Transfer because:
 - ▶ A successful challenge by a policyholder would mean that the portion of their policy which covers EEA-situated risk would be held not to transfer, and accordingly would remain with MIICL. Post-Brexit, there is a significant risk that their claim could not lawfully be paid by MIICL (unless MIICL was eligible to benefit under a Run-Off Scheme (as defined in paragraph 61 below) implemented by the relevant EEA regulator, which MIICL is already aware is not the case in Ireland). As a result, the policyholder's challenge to the effectiveness of the Transfer is likely to be against its financial interests, as MISE would be able to pay their claim, whereas MIICL may not.
 - ▶ Typically, a scenario in which a policyholder may claim that a transfer is not enforceable is where the transferee has become insolvent, and the policyholder is seeking to claim that its insurance policy remains with the transferor. As set out in paragraph 6.50 of the Scheme Report, MISE is well capitalised, and I believe that the likelihood of insolvency is remote.
43. I therefore consider that it is unlikely that a policyholder would seek to challenge the enforceability of the Court order in respect of this Transfer. In particular, the Transfer is intended to protect policyholders' interests, by ensuring that the policy is transferred to an insurer which is able to service their policy. If the Transfer did not take place, such policyholder would not have certainty that any valid or existing new claims could be paid.
44. The confirmations provided by Markel in the First Witness Statement of Andrew John Davies and the results of the sampling exercise indicate that only a very small proportion of Transferring Policies are likely to have a governing law of a non-EEA state. In the unlikely event that those small number of policyholders who can in theory challenge the effectiveness of the Court order elected to do so, it would not affect my wider conclusions on the Transfer and the financial position of MIICL and MISE if they were

successful. As a result, this matter is immaterial to my conclusion on the Transfer. By consequence, I do not believe that it is necessary or proportionate to obtain specific legal advice on this matter in the context of this Transfer, including in respect of the two New York law-governed policies identified by the sampling exercise.

Exclusion of legal expenses policies from the Transfer

45. Certain policies written by MIICL include an element of legal expense cover. Markel have made a change to the terms of the transfer of Transferring Policies so that the legal expense component of various policies will no longer be included in the Transfer. Markel made this change because it was not practical or commercially desirable to obtain the necessary licenses to continue to write this type of business from MISE. There are three relevant groups of policies which will be affected by this change:
- ▶ Various professional indemnity policies, written by the Spanish branch of MIICL, for Spanish psychologists' professional associations include an element of legal expense cover (which we will refer to as 'Spanish Psychologists').
 - ▶ Various personal accident policies, written by the Spanish branch of MIICL include an element of legal expense cover (which we will refer to as 'Top Cover PA')
 - ▶ Various policies, written by the Irish branch of MIICL, include an element of legal expense cover (which we will refer to as 'Irish LE')
46. The number of policies involved is very small (15 for Spanish Psychologists, 45 for Top Cover PA and 5 for Irish LE), and this does not have any material effect on the financial amounts involved for the Transfer (i.e., claims reserve, capital available, and capital requirements for MIICL and MISE).
47. The legal expense component for these affected policies will not transfer to MISE as part of the Transfer. Therefore, that part of the policy is not directly affected by the Transfer, in the sense that the position of the policyholder will be the same after the Transfer Date, regardless of whether the Transfer is effected. However, MIICL has put in place various other changes for these policies (as described below for each sub-group), and I have considered whether this has any impact on my conclusion.

Spanish Psychologists

48. There were 15 policies written as group professional indemnity policies for various Spanish psychologists' professional associations. The policies were written by the Spanish branch of MIICL. These policies all expired on 19 March 2019, and at renewal the legal expense coverage was not provided by MIICL or MISE (rather, the policyholder purchased a separate policy from another insurer if they wished to continue to have legal expense insurance). The exclusion of these policies does not affect my conclusion on the Transfer because:
- ▶ The Spanish Psychologists policies have expired, and the policyholder will now have legal expense cover provided by an insurer with no connection to the Transfer.
 - ▶ In the two years in which MIICL has written the Spanish Psychologists policies, there have not been any legal expense claims, and because this type of insurance is very short-tailed (i.e., claims are generally reported quickly to the insurer) and these policies operate on a claims-made basis, I believe that it is unlikely that there would be any claim made after the Transfer Date in respect of the expired Spanish Psychologists policies.

- ▶ In the unlikely event that there are any future claims, then MIICL would still be liable for paying those claims. As set out in paragraphs 7.2 to 7.12 of the Scheme Report there are various Brexit related risks for the policies of MIICL with a connection to the EEA (i.e., MIICL might not lawfully be able to pay claims and service the policies in some Brexit scenarios). However, this risk would be present for the Spanish Psychologists policyholders even if the Transfer were not effected (and, as discussed from paragraphs 60 below, MIICL may be eligible under the Run-Off Schemes to continue to service such policies). Therefore, by effecting the Transfer, the Spanish Psychologists policyholders are not made materially worse off.

Top Cover PA

49. There are currently 45 Top Cover PA policies, all written by the Spanish branch of MIICL. The amount of premium in respect of the legal expense component of these policies is only €123 in total (so less than €3 per policy).
50. MIICL have made arrangements to provide a legal assistance service to the Top Cover PA policyholders. The terms and conditions of this service matches with that of the existing legal expenses coverage of the Top Cover PA policy. If a Top Cover PA policyholder needs legal assistance after the Transfer Date, they will be able to use this new legal assistance service rather than making an insurance claim on their insurance policy. In this way, I believe that they will be able to receive the same benefits from using this legal assistance service (rather than by using their insurance policy).
51. The new legal assistance service will be provided by SOS Assistance. SOS Assistance is not an insurance company, but rather a third-party service company. MIICL has a contract with SOS Assistance to provide this legal assistance service.
52. MIICL have already informed the brokers of the Top Cover PA policies about this arrangement, and individual communications to each policyholder have been distributed. The exclusion of these policies does not affect my conclusion on the Transfer because:
 - ▶ The amount of premium involved (less than €3 per policy) is very small.
 - ▶ I have reviewed the terms and conditions of the new SOS Assistance service. I believe that there is no material difference between the new service and the legal expense coverage currently provided by MIICL. In particular, I do not believe that any policyholder would be inconvenienced by needing to use the SOS Assistance service.
 - ▶ As set out in paragraphs 7.2 to 7.12 of the Scheme Report there are various Brexit related risks for the policies of MIICL with a connection to the EEA (i.e., MIICL might not lawfully be able to pay claims and service the policies in some Brexit scenarios). I believe that providing a new legal assistance service for these policyholders is a good practical way of ensuring that they have continuity of legal expense assistance, and that this removes the associated risks from Brexit, as they will have access to an alternative arrangement rather than having to rely on MIICL paying a claim (which it may not be able to do).
 - ▶ The Top Cover PA policyholders will be provided with a legal assistance service by SOS Assistance. However, in the unlikely event that a Top Cover PA policyholder needs to make an insurance claim against MIICL, then MIICL would still be liable for paying those claims, although, in certain Brexit scenarios, MIICL might not be authorised to do so lawfully. However, this risk would be present for the Top Cover PA policyholders even if the Transfer were not effected (and, as discussed from paragraphs 60 below, MIICL may be eligible under the Run-

Off Schemes to continue to service such policies). Therefore, by effecting the Transfer, the Top Cover PA policyholders are not made materially worse off.

Irish LE

53. The Irish branch office of MIICL wrote 5 policies which cover various trade associations. These policies included an element of legal expense coverage, which is now excluded from the Transfer. MIICL has provided each affected policyholder with a new policy, written by Lloyd's Insurance Company S.A, Lloyd's' Brussels subsidiary ('LBS'). LBS is licenced for legal expenses insurance business in the EEA. The policies are reinsured from LBS to the Markel Group Lloyd's Syndicate. The new policies were written on 15 March 2019, with an immediate start, on the same terms and with the same expiry as each current MIICL policy. No action was required by the policyholder, and no additional premium was payable. The existing MIICL policies are still in force, and affected policyholders will still be able to claim under those policies from MIICL until the Transfer Date. The claims will continue to be handled in the same way, by the same employees of the Markel Group after the Transfer. MIICL has informed the relevant brokers of this change, and the brokers will notify the policyholders (this is the usual channel of communication used by MIICL). There are two open claims from the Irish LE policies, and I understand that settlement negotiations are in process with a view to settlement prior to the Transfer Date. The exclusion of these policies does not affect my conclusion on the Transfer because:

- ▶ The replacement policies provided by LBS are on substantially the same commercial terms as the existing Irish LE policies.
- ▶ As set out in paragraphs 7.2 to 7.12 of the Scheme Report there are various Brexit related risks for the policies of MIICL with a connection to the EEA (i.e., MIICL might not lawfully be able to pay claims and service the policies in some Brexit scenarios). By issuing a separate new policy (with retrospective effect) with an insurance carrier with the required licenses in the EEA, these Brexit related risks are removed.
- ▶ There are only two open Irish LE claims and I understand that MIICL intends to settle these prior to the Transfer Date. As this type of insurance is very short-tailed, I believe that it is unlikely that there would be any claim made after the Transfer Date on the old Irish LE policies, and policyholders would be able to claim under the new LBS policies as an alternative.

Financial Services Compensation Scheme ('FSCS') for legal expense policies of MIICL

54. The MIICL policies for Spanish Psychologists, Top Cover PA and Irish LE will not be cancelled or transferred to MISE. As described below in paragraph 67, these policyholders should continue to be eligible for FSCS protection to the extent that they are currently eligible, as MIICL will remain a UK authorised insurer following the Transfer.

Update on policyholder communications

55. I have received and reviewed the second witness statement, which sets out the implementation of the communication plan. In my opinion, this in all material aspects complies with the communication plan I had reviewed at the time of writing the Scheme Report. In particular:
- ▶ The process of notification of the Transfer to the relevant policyholders has been carried out in line with the communication plan.
 - ▶ The communication pack issued to the relevant policyholders comprised the appropriate documents (translated to the appropriate languages) as set out in the communication plan.
 - ▶ The Transfer has been publicised in the press in accordance with the communication plan and in the form which had been approved by the PRA.
 - ▶ Helplines have been put into place in accordance with the communication plan.
56. I have been kept informed by Markel of responses to the communications exercise. In particular, I have reviewed a sample of the complaints received from policyholders and I consider the categorisation of these responses appropriate. At the time of writing this Supplementary Report I am not aware of any objection to the Transfer or anything to affect my conclusions as set out in the Scheme Report (paragraphs 8.20 to 8.23).

Impact of other portfolio transfers

57. In my Scheme Report (paragraph 7.61), I stated that MIICL was planning to transfer its business written through a branch office in Switzerland to MISE, pursuant to a separate portfolio transfer to be undertaken in due course, in accordance with Swiss Law. Following the announcement of the UK-Swiss Direct Insurance Agreement between the UK and Switzerland on 25 January 2019, which allows non-life insurance firms to branch into one jurisdiction from the other with greater ease through mutual recognition of solvency requirements, MIICL no longer intends to transfer the Swiss portfolio to MISE. The UK-Swiss Direct Insurance Agreement replicates the terms of the existing agreement between Switzerland and the EU and will therefore ensure continuity for UK and Swiss insurers accessing the UK or Swiss market both now and in the future, consistent with the terms of the original EU-Swiss Direct Insurance Agreement. It will come into force once the UK is no longer subject to the existing EU-Swiss Direct Insurance Agreement.
58. The proposed transfer of the Swiss Book was not interdependent with the Transfer because the Swiss policies were not part of the Transferring Policies and the Transfer will be effective in accordance with its terms regardless of any steps being undertaken in respect of MIICL's Swiss branch. Therefore, the cancellation of the proposed transfer of the Swiss Book does not affect my conclusion of the Transfer.
59. I understand that MIICL is currently planning to effect an additional insurance business transfer scheme under the FSMA. This would transfer the assets and liabilities of EC Insurance Company Limited ("ECICL") to MIICL. ECICL is a wholly owned subsidiary of the Markel Group and all ECICL insurance liabilities are currently subject to a 100% reinsurance agreement with MIICL. MIICL anticipates that this transfer will be completed in late 2020. I have not considered the impact of the ECICL transfer on MIICL and MISE policyholders in this report given that the proposed completion date of the ECICL transfer is after the Transfer Date. In addition, the ECICL transfer takes place after the Transfer, and will only be able to proceed with the sanction of the Court, who will be informed by a separate Independent Expert report.

Run-Off Schemes and EIOPA's recommendations

60. Since my Scheme Report, the European Insurance and Occupational Pensions Authority ('EIOPA') published on 19 February 2019 a series of recommendations to national competent authorities in the EU ('the EIOPA Recommendations'). One of the EIOPA Recommendations was that national competent authorities should implement schemes for the orderly run-off of business by insurance undertakings ("Run-Off Schemes") which become unauthorised post-Brexit or require insurance undertakings to immediately take all necessary measures to become authorised in the EU. A number of member states of the EU have introduced draft legislation to implement Run-Off Schemes.
61. If the Transfer is not effected then these Run-Off Schemes could be used by MIICL as a mechanism for completing the run-off of those policies affected by the issues created by Brexit. MIICL might need to use the Run-Off Scheme of any EEA state in which there is a location of risk of an affected policy. The main Run-Off Schemes that MIICL would need to use would be those locations where MIICL has a branch office (i.e., Ireland, Germany, Spain and the Netherlands).
62. However, as noted by Markel in the second witness statement, there are various reasons why the Run-Off Schemes would not provide an adequate solution to the Brexit related uncertainties:
- ▶ Run-Off Schemes have not yet been introduced in all EEA jurisdictions, and so there is no general EEA-wide solution to the contract continuity issue raised by Brexit. It is not yet clear whether these will be fully implemented by the date of Brexit, or if MIICL would be able to access these regimes once they have been implemented. For example, MIICL would not have access to the Run-off Scheme in Ireland due to restrictions from other types of business written by MIICL in that territory.
 - ▶ Some of the Run-Off Schemes are for a limited duration. The Transferring Policies, however, contains some long-tail business which would continue to be in force beyond the expiry of the Run-Off Scheme. This is the case for Spain, where the proposed scheme only has a nine-month duration. This would be shorter than the period of time over which most of the insurance claims from the Spanish branch office of MIICL would be paid.
 - ▶ Run-off Schemes might not allow MIICL to undertake any activities other than to service claims. A large proportion of MIICL policyholders are corporate entities, and they require frequent amendments to the coverage of their policies, depending on their requirements. This would not be possible under the terms of some Run-Off Schemes (for example, the Run-Off Scheme for Germany only allows for the settlement of claims). Indeed, EIOPA's recommendations explicitly request that the scope of the Run-Off Schemes is limited in this way. MISE would, by contrast, be able to provide a broad range of services to policyholders: for example, issuing new insurance contracts, renewals, and extensions to policies, and other ordinary course mid-term adjustments and policy administration.
63. I believe that the Run-Off Schemes might be able to provide some level of assurance to UK insurance firms operating in the EU, with businesses in run-off. However, for the reasons described above, I believe that a greater level of assurance can be provided by effecting the Transfer (as set out in paragraphs 7.2 to 7.12 of the Scheme Report). If the Transfer is effected then the Run-Off Schemes would not need to be utilised by MIICL, and so they would not have any bearing on the Transfer. Therefore, my conclusion of the Transfer remains unchanged in light of the EIOPA recommendations and the implementation of these Run-Off Schemes.

Financial Services Compensation Scheme ('FSCS')

64. In paragraphs from 7.13 of the Scheme Report I set out my consideration of the effect of the Transfer on the ability of policyholders to make a claim on the FSCS. In particular, in paragraph 7.22 of the Scheme Report, I explained that there was a risk that some Transferring Policyholders could lose some of their protection after the Transfer. It is now my understanding that MISE will be treated as a 'relevant person' after the Transfer. This is because: (i) MISE currently has a freedom of establishment branch authorised in the UK which would maintain its licence in any agreed transitional period; (ii) MISE will be within the scope of the UK's temporary permission regime in the event of a no-deal Brexit; and, (iii) in such circumstances MISE will establish in due course a third country branch in the UK authorised under Part 4A of FSMA in accordance with that regime. Therefore, MISE will be treated as a relevant person, and as a consequence, the Transferring Policyholders will continue to have the same level of protection from the FSCS that they had before the Transfer. This is an improvement to the position I described in the Scheme Report for those affected policyholders.
65. It is not possible to state with absolute certainty the number of policyholders with a Transferring Policy that would currently be able to bring a claim with the FSCS without obtaining additional information about each individual policyholder to determine whether they would be classified as an eligible claimant. For example, subject to certain exceptions, companies with an annual turnover of £1,000,000 or more are not able to claim compensation under the FSCS. MIICL would, therefore, need information about the annual turnover of each relevant policyholder to definitively assess the impact of the Transfer on policyholder access to the FSCS. MIICL does not hold such information (which would not be practicable to obtain) and I understand that it is not market practice to hold or request such information.
66. Given that the Transferring Policies only contains a proportionally small amount of personal lines business and, generally speaking, MIICL focusses on the provision of insurance to commercial enterprises, I believe that a large majority of policyholders of the Transferring Policies (estimated by MIICL as approximately 80%) are unlikely to be categorised as eligible to have access to the FSCS. As set out in the First Witness Statement of Andrew John Davies, MIICL estimates that over 80% of the policyholders of the Transferring Policies are not likely to be categorised as having access to the FSCS. I believe this is a reasonable estimate, as the Transferring Policies only contains a proportionally small amount of personal lines business and, generally speaking, MIICL focusses on the provision of insurance to commercial enterprises. As set out above, the remaining 20% should, provided that they do in fact meet the eligibility criteria, continue to be able to access the FSCS following the Transfer.
67. Those policyholders of MIICL who are excluded from the Transfer should continue to be eligible to the extent that they are currently eligible, as MIICL will remain a UK authorised insurer following the Transfer.

Other issues

68. I have also conducted a continuous review of the remaining issues discussed in Section 7 of my Scheme Report. There have been no developments that would have any effect on those topics since the date of the Scheme Report and my conclusions on these issues remain unchanged. Therefore, I have not discussed those topics again in this Supplementary Report.
69. I have not identified any other issues in relation to the Transfer since the date of the Scheme Report.

Overall conclusion

70. I confirm that I am aware of the requirements of Part 35 of the Civil Procedure Rules and the Protocol for Instruction of Experts to give Evidence in Civil Claims. As required by Part 35 of the Civil Procedure Rules, I hereby confirm that I understand my duty to the Court, I have complied with that duty and I will continue to comply with that duty.
71. I have considered the Transfer and its likely effects on the policyholders that I believe could be affected, or potentially affected, by the Transfer. I have considered each of the different groups of policyholders which I identified in the Scheme Report (paragraph 2.8). In particular, I have considered:
- ▶ The policyholders of MIICL which will become policyholders of MISE after the Transfer.
 - ▶ The policyholders of MIICL which will not transfer to MISE after the Transfer.
 - ▶ The existing policyholders of MISE.
72. I have considered the possible effects on the Transfer of developments that have occurred since the date of the Scheme Report, and my conclusion is unchanged from that stated in the Scheme Report.



Niranjan Nathan

22 March 2019

Fellow of the Institute and Faculty of Actuaries