

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re

**SCOTTISH HOLDINGS, INC., et al.,**

Debtors.<sup>1</sup>

Chapter 11

Case No.

Joint Administration Requested

**DECLARATION OF GREGG KLINGENBERG  
IN SUPPORT OF FIRST DAY RELIEF**

I, Gregg Klingenberg, hereby declare under penalty of perjury, pursuant to section 1746 of title 28 of the United States Code, as follows:

1. I have served as Chief Executive Officer of the above-captioned debtors and debtors in possession, Scottish Holdings, Inc. (“SHI”) and Scottish Annuity & Life Insurance Company (Cayman) Ltd. (“SALIC,” and together with SHI, the “Debtors”) and certain of their non-debtor affiliates (the Debtors with their non-debtor affiliates are collectively referred to as “Scottish Re”) since May 2015. Prior to being appointed as CEO, I served as General Counsel and Executive Vice President of the majority of the Scottish Re entities. In these capacities, I have become familiar with the Debtors’ day-to-day operations, business, and financial affairs.

2. On the date hereof (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) and filed the motions described herein requesting certain relief (the “First Day”).

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<sup>1</sup> The Debtors, along with the last four digits of their federal tax identification numbers, are as follows: Scottish Holdings, Inc. (4408) and Scottish Annuity & Life Insurance Company (Cayman) Ltd. (3285). The Debtors’ mailing address for purposes of these chapter 11 cases is 14120 Ballantyne Corporate Place, Suite 300, Charlotte, NC 28277.

Pleadings”). I submit this declaration on behalf of the Debtors in support of the Debtors’ chapter 11 petitions and the First Day Pleadings.

3. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to Bankruptcy Code sections 1107(a) and 1108. Contemporaneous with the filing of this declaration, the Debtors have requested procedural consolidation and joint administration of the above-captioned chapter 11 cases (these “Chapter 11 Cases”).

4. The First Day Pleadings seek, among other things, to ensure the continuation of the Debtors’ cash management systems and other business operations without interruption and establish certain other administrative procedures to promote a smooth transition into these Chapter 11 Cases pending the Debtors’ anticipated reorganization and sale through a chapter 11 plan.

5. Except as otherwise indicated herein, all of the facts set forth in this declaration are based upon my personal knowledge, information supplied to me by other members of the Debtors’ management or professionals, information learned from my review of the relevant documents, or my experience and knowledge of the Debtors’ operations and financial condition and the reinsurance industry generally. If called as a witness, I could and would testify to the facts set forth in this declaration. I am authorized to submit this declaration on behalf of the Debtors.

## INTRODUCTION

6. Founded in 1998, the Scottish Re companies are engaged in the reinsurance of life insurance, annuities and annuity-type products. These products are written by life insurance companies and other financial institutions primarily located in the United States.

7. Reinsurance is an arrangement under which an insurance company, known as the reinsurer, agrees in a contract, called a treaty, to assume specified risks of another insurance company, known as the ceding company or cedent. The reinsurer may assume all or a portion of the insurance underwritten by the ceding company. The liability or risk ceded is known as a cession.

8. In exchange for assuming the risks of the ceding company, the reinsurer receives some or all of the premium and, in certain cases, investment income derived from the assets supporting the reserves of the reinsured policies. Reinsurance permits primary insurers to diversify their risks over larger pools of risks and to write insurance policies in amounts larger than they are willing or able to retain. In turn, reinsurers may also purchase reinsurance, or “retrocession” coverage, to limit their own risk exposure. In a retrocession arrangement, the reinsurance company ceding the risk to another reinsurance company is known as the retroceding company or retrocedent, and the reinsurance company taking the risk is known as the retrocessionaire.

9. Reinsurance does not change the responsibility to the policyholder of original insurer (often called the direct writer).

10. There are three types of reinsurance relationships in the life reinsurance business: (i) yearly renewable term; (ii) coinsurance; and (iii) modified coinsurance. Yearly renewable term, or “YRT,” is a type of reinsurance that covers only mortality risk (and not any

other benefits such as cash surrender value), with each year's premium based on the current amount of risk. In a coinsurance relationship, the ceding company shares its premiums, death claims, surrender benefits, dividends, and policy loans with the reinsurer and the reinsurer pays expense allowances to reimburse the ceding company for a share of its expenses. Modified coinsurance is a variation of traditional coinsurance whereby the ceding company retains all of the reserves and assets, and pays interest to the reinsurer on the reinsurer's share of the reserves. Scottish Re wrote reinsurance in all three forms.

11. In early 2008, the Scottish Re companies ceased writing new business and notified existing clients that they would not be accepting any new reinsurance risks under existing reinsurance treaties, thereby placing their remaining treaties into run-off. Scottish Re's business today consists of managing a legacy reinsurance portfolio.

12. Scottish Re's insurance and reinsurance companies are subject to insurance laws and regulations in the jurisdictions in which they operate, which include Bermuda, the Cayman Islands, Ireland, and the United States. These laws and regulations include certain minimum capital requirements and restrictions on dividends.

### **CORPORATE STRUCTURE**

13. The ultimate parent of the Scottish Re companies is Scottish Re Group Limited ("SRGL"), a holding company organized under the laws of the Cayman Islands with a permit to carry on business from Bermuda. SRGL is not a debtor in these Chapter 11 Cases, and as described further below has commenced voluntary winding-up proceedings in the Cayman Islands and Bermuda.

14. SRGL directly owns SALIC, a company organized under the laws of the Cayman Islands with operations in Bermuda. SALIC is a foreign reinsurance company not

subject to the regulation or oversight of any domestic state insurance agency. Therefore, SALIC is eligible to be, and is, a debtor in these Chapter 11 Cases.

15. SALIC directly owns SHI, a Delaware-incorporated holding company that has its headquarters in Charlotte, North Carolina. SHI is a holding company that does not engage in the insurance or reinsurance business and therefore is eligible to be, and is, a debtor in these Chapter 11 Cases.

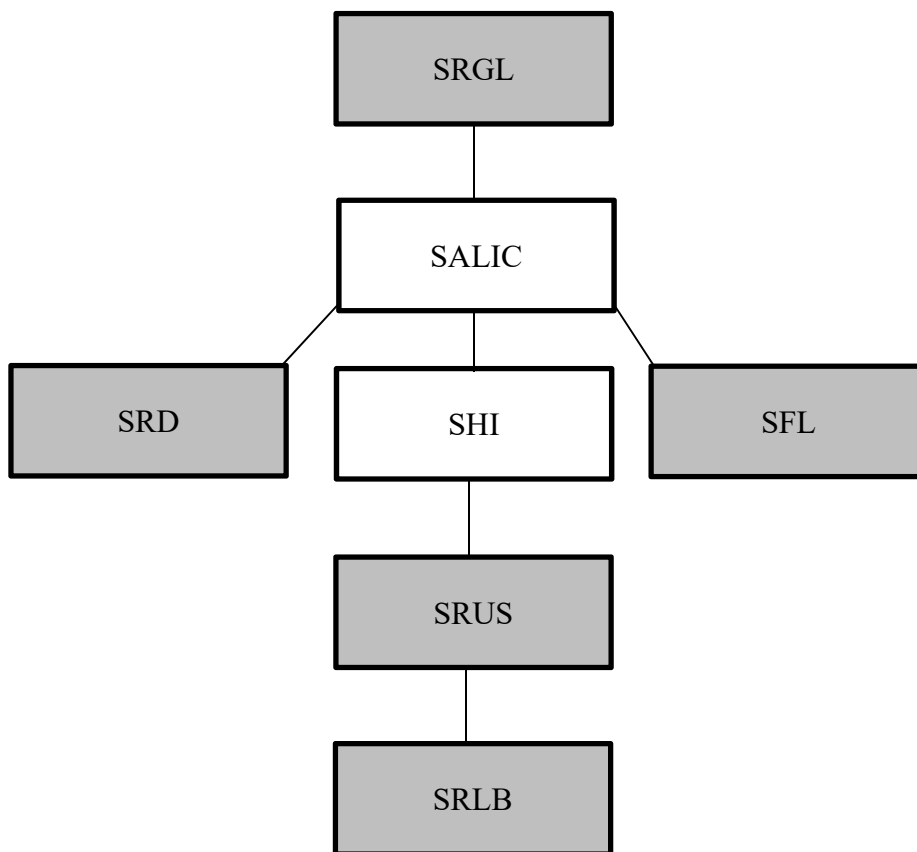
16. SHI directly owns Scottish Re (U.S.), Inc. ("SRUS"), a Delaware reinsurance company subject to regulation and oversight by the Delaware Department of Insurance (the "Delaware DOI"). The majority of Scottish Re's North American reinsurance business is through SRUS. As a domestic insurance company, SRUS is not eligible for relief under chapter 11 of the Bankruptcy Code and is not a debtor in these Chapter 11 Cases.

17. SRUS directly owns Scottish Re Life (Bermuda) Limited. ("SRLB"), a Bermuda reinsurance company. SRLB is not a debtor in these Chapter 11 Cases.

18. SALIC also owns Scottish Financial (Luxembourg) S.á r.l. ("SFL"), a Luxembourg-organized special purpose financing entity. SFL is not a debtor in these Chapter 11 Cases.

19. Additionally, SALIC owns Scottish Re (Dublin) dac ("SRD"), a designated activity company organized under the laws of the Republic of Ireland and authorized to carry on a life reinsurance business. SRD is not a debtor in these Chapter 11 Cases.

20. Following is an organizational chart showing the organizational structure of the foregoing entities, with nondebtor entities shaded in gray and Debtor entities in white:



**SIGNIFICANT INDEBTEDNESS**

21. Following is a summary of the significant indebtedness of the Debtors, apart from obligations under reinsurance treaties.

22. Scottish Re raised capital through five offerings of trust preferred securities, or “TruPS”. In each TruPS transaction, a Scottish Re entity—in all cases either SHI or SFL—created a statutory business trust, and held all of the common shares of that trust. The trust then sold preferred shares—the TruPS—to investors in privately offered transactions. The funds raised through the sale of the TruPS were then used by the trust to purchase debentures from the applicable entity (i.e., SHI or SFL). The sole asset of each trust consists of the applicable debentures purchased with the TruPS proceeds.

23. In each transaction, the debentures have the same features as the TruPS from the same transaction, including maturity date and interest payable. Quarterly interest payments by the applicable entity to the relevant trust are used by the trust to fund equal quarterly interest payments to the holders of the TruPS issued by such trust. In each transaction, interest may be deferred without penalty or acceleration for up to 20 consecutive quarters.

24. SALIC issued a parent guarantee of the principal and interest due on the debentures in each transaction.

25. The Debtors and SFL entered into the following five TruPS transactions:

(a) *Capital Securities Due 2032*: On December 4, 2002, Scottish Holdings Statutory Trust I, a Connecticut statutory business trust (“Capital Trust”), issued and sold in a private offering an aggregate of \$17.5 million Floating Rate Capital Securities (the “Capital Securities Due 2032”). All of the common shares of the Capital Trust are owned by SHI. The sole assets of the Capital Trust consist of \$18.0 million principal amount of Floating Rate Debentures (the “2032 Debentures”) issued by SHI, and have all the same features (maturity date, interest payable, interest rate, maximum number of quarters for which interest may be deferred, and the number of quarters for which interest was deferred as of December 31, 2017) as the Capital Securities Due 2032.

(b) *Preferred Trust Securities Due 2033*: On October 29, 2003, Scottish Holdings, Inc. Statutory Trust II, a Connecticut statutory business trust (“Capital Trust II”), issued and sold in a private offering an aggregate of \$20.0 million Preferred Trust Securities (the “Preferred Trust Securities Due 2033”). All of the common shares of Capital Trust II are owned by SHI. The sole assets of Capital Trust II consist of \$20.6 million principal amount of Floating Rate Debentures (the “2033 Floating Rate Debentures”) issued by SHI, and have all the

same features (maturity date, interest payable, interest rate, maximum number of quarters for which interest may be deferred, and the number of quarters for which interest was deferred as of December 31, 2017) as the Preferred Trust Securities Due 2033.

(c) *Trust Preferred Securities Due 2033*: On November 14, 2003, GPIC Holdings Inc. Statutory Trust, a Delaware statutory business trust (“GPIC Trust”) issued and sold in a private offering an aggregate of \$10.0 million Trust Preferred Securities (the “Trust Preferred Securities Due 2033”). All of the common shares of GPIC Trust are owned by SHI. The sole assets of GPIC Trust consist of \$10.3 million principal amount of Junior Subordinated Notes (the “Junior Subordinated Notes”) issued by SHI, and have all the same features (maturity date, interest payable, interest rate, maximum number of quarters for which interest may be deferred, and the number of quarters for which interest was deferred as of December 31, 2017) as the Trust Preferred Securities Due 2033.

(d) *Trust Preferred Securities Due 2034*: On May 12, 2004, Scottish Holdings, Inc. Statutory Trust III, a Connecticut statutory business trust (“Capital Trust III”) issued and sold in a private offering an aggregate of \$32.0 million Trust Preferred Securities (the “Trust Preferred Securities Due 2034”). All of the common shares of Capital Trust III are owned by SHI. The sole assets of Capital Trust III consist of \$33.0 million principal amount of Floating Rate Debentures (the “2034 Floating Rate Debentures”) issued by SHI, and have all the same features (maturity date, interest payable, interest rate, maximum number of quarters for which interest may be deferred, and the number of quarters for which interest was deferred as of December 31, 2017) as the Trust Preferred Securities Due 2034.

(e) *Trust Preferred Securities Due December 2034*: On or about December 15, 2004, SFL Statutory Trust I, a Delaware statutory business trust (“SFL Trust I”)



issued and sold in a private offering an aggregate of \$50.0 million Trust Preferred Securities (the “Trust Preferred Securities Due December 2034,” and together with the Trust Preferred Securities Due 2034, the Trust Preferred Securities Due 2033, the Preferred Trust Securities Due 2033 and the Capital Securities Due 2032, the “TruPS”). All of the common shares of SFL Trust I are owned by SFL. The sole assets of SFL Trust I consist of \$51.5 million principal amount of Floating Rate Debentures (the “December 2034 Floating Rate Debentures,” and together with the 2034 Floating Rate Debentures, Junior Subordinated Notes, 2033 Floating Rate Debentures, and the 2032 Debentures, the “Debentures”) issued by SFL, and have all the same features (maturity date, interest payable, interest rate, maximum number of quarters for which interest may be deferred, and the number of quarters for which interest was deferred as of December 31, 2017) as the Trust Preferred Securities Due December 2034.

26. SHI and SFL began the current deferral of quarterly interest payments on the debentures in the first quarter of 2013, and thus quarterly interest payments have been deferred on all of the TruPS for the same amount of time. As of December 31, 2017, SHI and SFL had accrued and deferred interest payments on the TruPS in the total approximate amount of \$31.1 million.

27. Subsequent to the initial sale of the TruPS, SRGL acquired in aftermarket transactions from third-parties and currently holds \$43 million aggregate liquidation amount of the TruPS, along with the right to deferred interest of \$11.1 million (as of December 31, 2017) on such TruPS, as follows:

(a) On December 3, 2014, SRGL agreed to acquire, in a privately-negotiated transaction, the entire \$20.0 million in aggregate liquidation amount of Preferred

Trust Securities Due 2033, with a liquidation preference of \$1,000 per security, at a purchase price of \$665.00 per security.

(b) On December 3, 2014, SRGL agreed to acquire, in a privately-negotiated transaction, the entire \$10.0 million in aggregate liquidation amount of Trust Preferred Securities Due 2033, with a liquidation preference of \$1,000 per security, at a purchase price of \$665.00 per security.

(c) On January 31, 2013, SRGL agreed to acquire, in a privately-negotiated transaction, approximately \$13.0 million in aggregate liquidation amount of Trust Preferred Securities Due 2034, with a liquidation preference of \$1,000 per security, at a purchase price of \$520.00 per security.

28. The option to continue to defer interest on the TruPS transactions is expiring in the first quarter of 2018. Absent the filing of these Chapter 11 Cases, all of the deferred interest would therefore need to be paid in the first quarter of 2018 or the TruPS and associated debentures would be in default. The Debtors do not project sufficient available capital to satisfy the deferred interest when due.

29. As mentioned above, SALIC's material indebtedness includes guarantees of the SHI and SFL Debentures discussed above. SALIC's other material obligations include several reinsurance agreements and other types of insurance and financial services related contracts among Scottish Re entities and third-parties in the ordinary course of business.

30. In addition, SALIC is obligated on certain contractual agreements with certain of SALIC's direct and indirect operating subsidiaries. For example, SALIC is party to certain net worth maintenance agreements with several of these operating subsidiaries, whereby SALIC agreed to provide support to allow such subsidiaries to meet their financial obligations.

31. Such agreements include the SALIC Net Worth Maintenance Agreement, pursuant to which SALIC agrees to maintain the net worth of SRUS and specifically, agrees to: (a) maintain minimum capital and surplus levels at SRUS sufficient to prevent the occurrence at SRUS of a “company action level” event under the Risk Based Capital regulations of the State of Delaware; and (b) provide SRUS with sufficient liquidity to meet its obligations in a timely manner.

32. SALIC is also lender to SRGL, as borrower, under a certain Revolving Credit Agreement dated September 20, 2009. The borrowing limit under the Revolving Credit Agreement is \$90 million. Interest accrues at a rate equal to the interest rate on 10-Year U.S. Treasury Notes. As of December 31, 2017, SRGL was indebted to SALIC under the Revolving Credit Agreement in the approximate amount of \$77,505,389, representing principal and accrued interest. Following SRGL’s commencement of provisional winding-up proceedings (discussed below), SRGL’s ability to make additional draws on the revolving credit facility terminated.

**EVENTS LEADING TO CHAPTER 11 CASES**

33. In recent years Scottish Re has suffered negative financial results led primarily by adverse mortality experience on the yearly renewable term (“YRT”) segment of its business. On a consolidated US GAAP basis, Scottish Re incurred a net loss of \$202.8 million for the year ended December 31, 2016, and a net loss of \$260.8 million for the year ended December 31, 2015. Though Scottish Re has taken steps to improve its financial results, including by increasing the premiums it charges for YRT reinsurance, these steps have not resulted in improvement significant enough to avoid the need to restructure Scottish Re.

34. Additionally, as mentioned above, Scottish Re’s ability to defer interest on the TruPS is expiring in the first quarter of 2018. Absent the filing of these Chapter 11 Cases, all

of the deferred interest would need to be paid or the TruPS and associated debentures would be in default. The Debtors do not project sufficient available capital to satisfy the deferred interest when due.

35. As part of its efforts to address its financial situation prior to commencing the Chapter 11 Cases, the Debtors engaged Keefe Bruyette & Woods, Inc. (“KBW”), an investment banking firm specializing in the financial services and insurance sectors, as its exclusive investment banker to market the company for a potential sale. KBW contacted approximately 51 potential strategic and financial buyers or investors. Twenty-three potential buyers or investors expressed interest and executed non-disclosure agreements to gain access to a confidential data room with additional information on the Debtors. Unfortunately, no potential buyer or investor was willing to invest or acquire the Debtors given their current capital structure. Thus, a chapter 11 proceeding is necessary to right-size the Debtors’ balance sheet in connection with any transaction.

#### **SRGL’s WINDING-UP PROCEEDINGS**

36. On May 17, 2017, SRGL filed a winding-up petition in the Supreme Court of Bermuda (the “Bermuda Court”) under the Bermuda Companies Act of 1981, and, on the same day, filed parallel proceedings in the Grand Court of the Cayman Islands (Financial Services Division) (the “Cayman Islands Court”) under the Cayman Islands Companies Law (2106 Revision). On May 18, 2017, the Bermuda Court entered an order appointing John C. McKenna of Finance & Risk Services Ltd., and Eleanor Fisher of Kalo (Cayman) Limited as joint provisional liquidators of SRGL (together, the “JPLs”) with limited powers.

37. The Debtors understand that SRGL expects to seek full-powers liquidation, and appointment of the JPLs as joint official liquidators (the “Joint Liquidators”) at a

hearing to be held before the Bermuda Court on or about January 30, 2018, and to shortly thereafter seek parallel relief in the Cayman Islands Court. Upon appointment of the Joint Liquidators by the Bermuda and Cayman Islands Courts, management and control of SRGL is assumed by the Joint Liquidators.

### **ANTICIPATED SALE AND RESTRUCTURING**

38. The Debtors believe that there is value in their underlying reinsurance businesses, but that the value is insufficient to satisfy the Debtors' funded indebtedness, including the Debtors' TruPS and Debentures obligations. The Debtors therefore anticipate restructuring their business in a sale to be accomplished through a chapter 11 plan that settles, resolves and/or discharges all of the Debtors' funded indebtedness, including the Debtors' obligations under the TruPS, the Debentures, and SALIC's related parent guarantees (collectively, "TruPS Obligations"). The value realized through the sale would be distributed to holders of claims, including Debentures (and from there, the holders of the TruPS) under the chapter 11 plan.

39. At the same time that KBW was soliciting interest in an out-of-court acquisition of the Debtors, KBW solicited interest from parties for completing a transaction through a chapter 11 case. As mentioned above, KBW contacted approximately 51 financial and strategic parties regarding the opportunity, and 23 of those parties expressed interest and executed NDAs. Three parties submitted first-round bids, and two parties submitted second-round bids. Through these extensive, arm's-length negotiations, the Debtors, in their business judgment in consultation with KBW and their other advisors, selected HSCM Bermuda Fund Ltd. ("HSCM" or the "Stalking Horse") as the proposed stalking horse purchaser.

40. On the Petition Date, the Debtors and HSCM executed a Stock Purchase Agreement, dated January 28, 2018 (together with its exhibits and schedules, as amended from time to time, the “Stalking Horse SPA”). The Debtors intend to file a bidding procedures motion within two business days of the Petition Date (the “Bid Procedures Motion”), seeking entry of an order: (a) approving certain bidding, auction, and notice procedures (the “Bidding Procedures” and the “Notice Procedures”) for the solicitation and consideration of competing offers for the right to purchase all of the new capital stock (the “Shares”) of reorganized SALIC to be issued under the Debtors’ plan of reorganization (the “Plan”) and the right to sponsor the Plan (the “Plan Sponsorship”); (b) approving and authorizing the payment of a break-up fee and expense reimbursement (collectively, the “Stalking Horse Protections”) for HSCM as the Stalking Horse; and (c) authorizing the Debtors to conduct an auction for Plan Sponsorship (the “Auction”).

41. The Stalking Horse SPA contemplates that, if HSCM is the Winning Bidder (defined below), upon closing of the Stalking Horse SPA and the effective date of the Plan (anticipated to occur simultaneously), HSCM will acquire effective ownership of reorganized SALIC and its subsidiaries other than SFL.<sup>2</sup> Components of this transaction include (a) the pre-closing surrender to SALIC by SRGL, as SALIC’s sole shareholder, of all but one of SALIC’s issued and outstanding ordinary shares, (b) the issuance of new ordinary shares to HSCM at closing, and (c) immediately after closing, SRGL’s surrender to reorganized SALIC of its sole remaining SALIC ordinary share.

42. The purchase price to be funded by HSCM under the Stalking Horse SPA has three principal components. First, upon the effective date of the Plan and closing of the

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<sup>2</sup> SFL is a special purpose entity that has no operations and *de minimis* assets. The restructuring transactions with HSCM contemplate that, on or before the Closing, all equity interests in SFL will be abandoned by SALIC or transferred to the liquidating trust to be established under the Plan.

Stalking Horse SPA, HSCM will pay \$12.5 million (the “Plan Funding Payment”) (including a \$2.5 million Good Faith Deposit that HSCM will deposit into escrow on the terms set forth in the SPA and subject to an Escrow Agreement to be agreed by the parties) to fund (a) the unpaid costs of administration of the Debtors’ Chapter 11 Cases, (b) the costs of implementation of the Plan, and (c) distributions to the holders of claims allowed in the Chapter 11 Cases, all in accordance with the terms of the Plan. Any portion of the Plan Funding Payment that is not immediately disbursed to the Debtors’ creditors on account of their allowed claims on the Effective Date of the Plan will be transferred to a liquidating trust to be established pursuant to the Plan to fund trust reserves for costs of administration of the trust and future distributions to holders of allowed claims in accordance with the terms of the Plan, including allowed claims against Debtors for the TruPS Obligations.<sup>3</sup>

43. Second, HSCM will pay an additional \$12.5 million (the “Recapitalization Funding Payment”) upon the effective date of the Plan and the closing of the Stalking Horse SPA to reorganized SALIC to recapitalize the business of SALIC and its operating subsidiaries going forward. The Recapitalization Funding Payment, while not consideration that will flow directly to the Debtors’ creditors, is critical to the unlocking value for the Debtors’ creditors in these Chapter 11 cases. Reorganized SALIC and its subsidiaries, including SRUS, must be recapitalized in order to remain viable and the Debtors lack the resources and access to capital necessary to accomplish such a recapitalization. The Recapitalization Funding Payment is intended to be used in part as a funding mechanism for cure payments discussed below as well as part of the capital necessary to ensure regulatory approval and feasibility.

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<sup>3</sup> The Debtors currently expect there to be sufficient funds to cover costs of the administration of the Debtors’ estates incurred through the date of confirmation of the Plan without materially invading the Plan Funding Payment.

44. Third, HSCM has agreed to bear the cost of cure obligations, up to \$100,000, incurred for any executory contracts or unexpired leases that are required to be assumed by the Debtors pursuant to the Stalking Horse SPA or that HSCM otherwise designates for the Debtors' assumption pursuant to the terms thereof.

45. HSCM's offer embodied in the Stalking Horse SPA will be subject to higher and better bids that will be solicited in these Chapter 11 Cases consistent with the Bidding Procedures to be approved by the Court (such purchaser who submits the highest and best Bid, the "Winning Bidder"). The Winning Bidder will serve as a sponsor of the Debtors' Plan and will acquire the Debtors and their businesses free and clear of all liabilities (except liabilities expressly assumed). The proceeds of the sale of the Debtors to the Winning Bidder will be used to fund distributions to the Debtors' creditors in accordance with the Plan.<sup>4</sup>

46. Concurrently with the Stalking Horse SPA, the Debtors and HSCM also executed a Plan Sponsorship Agreement, dated January 28, 2018 (together with its exhibits and schedules, as amended from time to time, the "PSA"). The PSA contains, among other things, terms and provisions relating to restructuring transactions in addition to those set forth in the Stalking Horse SPA. By separate motion to be filed within two business days of the Petition Date, the Debtors will be requesting that the Court authorize them to assume the PSA and perform in accordance with its terms.

47. Further, the Debtors and SRGL have executed a Restructuring Implementation Agreement, dated January 28, 2018 (together with its exhibits and schedules, as amended from time to time, the "RIA"). The RIA is intended to ensure that the Debtors will

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<sup>4</sup> The Bidding Procedures do not foreclose bidders from making and the Debtors from accepting alternative bid structures, such as bids contemplating asset sales or bids to provide the Debtors with debt financing.



have the cooperation and support of SRGL, acting through the Joint Liquidators, in connection with pursuing these restructuring transactions. The RIA contains, among other things, undertakings by SRGL and the Joint Liquidators to seek authorization from the Cayman Islands Court to surrender the existing ordinary shares of SALIC held by SRGL so that new shares can be issued to the Stalking Horse, all in accordance with the terms of the Stalking Horse SPA. The requirements of the law of the Cayman Islands, where SALIC is organized, make this an essential step for the Debtors to consummate the Stalking Horse SPA.

48. Furthermore, the RIA addresses the reconciliation of intercompany obligations between SRGL and SALIC and its subsidiaries, which again is necessary to the Debtors' ability to reorganize pursuant to, and maximize value from, the currently contemplated restructuring transactions. By motion to be filed within two business days of the Petition Date, the Debtors will be requesting that the Court authorize them to assume the RIA and perform in accordance with its terms. Additionally, it is contemplated that promptly after the JPLs are appointed as Joint Liquidators by the Cayman Islands Court, they will be requesting approval of the RIA from that court and authorization for SRGL to complete the steps required of it in connection with the contemplated restructuring transactions.

49. The JPLs, who were appointed on May 18, 2017, by the Bermuda Court have the power, among other things, to oversee and otherwise liaise with the board of SRGL and its stakeholders in determining the most appropriate manner of effecting a reorganization and/or refinancing of SRGL in conjunction with (a) proceedings commenced by it in both the Bermuda Court and the Cayman Islands Court, as well as (b) these Chapter 11 Cases. In that capacity, the JPLs have reviewed the RIA and in all the circumstances known to them at this time support the

actions thereunder as representing the best plan available in the best interests of SRGL's general body of unsecured creditors.

50. Also in advance of filing these Chapter 11 Cases, Scottish Re's representatives have been in communication with representatives of the Insurance Commissioner for the State of Delaware (the "Insurance Commissioner"), the agency with regulatory oversight for non-debtor SRUS, and representatives of the Cayman Islands Monetary Authority ("CIMA"), the Cayman Islands agency with regulatory oversight for SRGL and SALIC. While the proposed transaction remains fully subject to regulatory approval by the Insurance Commissioner, CIMA and other relevant regulators, the Debtors believe that their restructuring, as currently structured, is likely to satisfy these regulators. Indeed, much of the structure of this transaction can be attributed to efforts the parties have made to comply with the anticipated expectations of these regulators and other requirements of the law of the Cayman Islands, where SRGL and SALIC are organized.

### **FIRST DAY PLEADINGS**

51. Concurrently with the commencement of the Chapter 11 Cases, the Debtors have filed, and request this Court's approval for, a number of proposed orders (the "First Day Orders"), which the Debtors believe are necessary to enable it to operate with a minimum level of disruption and loss of productivity. The Debtors request that each of the First Day Orders be entered as critical elements in stabilizing and facilitating the Debtors' operations during the pendency of the Chapter 11 Cases. A description of the relief requested and the facts supporting each of the First Day Orders is set forth below.

**A. Motion for Joint Administration**

52. The Debtors are requesting the entry of an order directing joint administration of their related Chapter 11 Cases for procedural purposes only. The Debtors request that (a) the Court maintain one file and one docket for the jointly-administered Chapter 11 Cases under the case number assigned to SHI, (b) the Chapter 11 Cases be administered under a consolidated caption, and (c) the Court grant related relief.

53. I am informed and believe that joint administration obviates the need for multiple and duplicative notices, motions, applications, and orders, which saves the Debtors, the Court and parties in interest time and expense. The Debtors intend to consolidate their cases for procedural and administrative purposes only. Accordingly, I am informed and believe that creditors will not be adversely affected as the Debtors request only administrative, and not substantive, consolidation of their estates.

**B. Motion to Maintain the Debtors' Existing Cash Management System**

54. The Debtors seek entry of an interim order, pending the entry of a final order or the interim order becoming a final order, authorizing, but not directing, the Debtors to continue to operate their existing cash management system in the day-to-day operation of their businesses, and to honor certain prepetition obligations in accordance with the operation of the cash management system. Specifically, the Debtors request authority to: (a) continue to use, with the same account numbers, each of their existing bank accounts; (b) treat the bank accounts for all purposes as accounts of the Debtors as debtors in possession; and (c) conduct banking transactions by all usual means and debit the bank accounts on account of all usual items and payment instructions.

55. Additionally, the Debtors seek authority to: (a) use, in their present form, all business forms (including check stock, letterhead, purchase orders, and invoices) and other correspondence and documents related to their bank accounts, without reference to the Debtors' status as debtors in possession; and (b) continue intercompany transactions between and among the Debtors and their nondebtor affiliates in the ordinary course of business and in accordance with transfer pricing agreements and historical practices.<sup>5</sup> The Debtors further request authority for their banks to: (i) continue to maintain, service, and administer their bank accounts; (ii) debit their bank accounts in the ordinary course of business on account of (a) all checks drawn on their bank accounts that are cashed at their banks or exchanged for cashier's checks by the payees thereof prior to the Petition Date, (b) all checks or other items deposited in one of the bank accounts at the banks prior to the Petition Date that have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any bank as fees or service charges for the maintenance of any aspect of the applicable cash management system.

56. Further, the Debtors request that the Court grant interim and final waivers of the requirements of section 345(b) of the Bankruptcy Code. The Debtors also request that, upon entry of the interim order, the Court schedule a final hearing on the motion to consider the relief requested on a final basis.

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<sup>5</sup> Because the Debtors engage in intercompany transactions on a regular basis and such transactions are common among similar enterprises, the Debtors believe the Intercompany Transactions are ordinary course transactions within the meaning of section 363(c)(1) of the Bankruptcy Code and, therefore, do not require the Court's approval. Nonetheless, out of an abundance of caution, the Debtors are seeking express authority to engage in such transactions on a postpetition basis. The continued performance of the ordinary course Intercompany Transactions is necessary to ensure the Debtors' ability to operate their business during these chapter 11 cases.

### The Cash Management System

57. The Debtors maintain an integrated, complex cash management system (as described herein, the “Cash Management System”), comprising eighteen accounts (the “Bank Accounts”) at four financial institutions. Attached as Exhibit C to the motion is a table identifying the Bank Accounts, along with the financial institutions at which they are held (the “Banks”), the last four digits of each Bank Account number, and the Debtor account holder.

58. The Cash Management System is centrally managed for all of the Debtors out of the Debtors’ U.S offices in Charlotte, North Carolina, and all funds in the Bank Accounts are denominated and held in U.S. Dollars. The Debtors use the Cash Management System in the ordinary course of business to collect, transfer, and disburse funds generated from their operations and to facilitate cash monitoring, forecasting, and reporting. The Debtors’ treasury department maintains daily oversight of the Cash Management System and implements cash management controls for entering, processing, and releasing funds, including in connection with intercompany transactions. Additionally, the Debtors regularly reconcile books and records to ensure that all transfers are accounted for properly.

### SALIC Bank Accounts

59. SALIC, the only operating Debtor, has sixteen Bank Accounts. The two primary groups of SALIC Bank Accounts are: (i) trust accounts utilized to support insurance liabilities (the “Trust Accounts”); and (ii) liquidity accounts for funds that are not committed for any specific insurance liability (the “Liquidity Accounts”). The Trust Accounts and Liquidity Accounts are all held at Bank of New York Mellon.

60. The Trust Accounts are used to support liabilities for the benefit of third party reinsurers. Although SALIC is the nominal account holder under the Trust Accounts, the

funds in the Trust Accounts do not belong to SALIC, but are set aside to support or satisfy insurance liabilities under reinsurance treaties. The Trust Accounts are used to fund Reserve Credit Trusts. Each Reserve Credit Trust is associated with a particular reinsurance relationship and is set aside to support and fund insurance payout obligations under that relationship. To the extent that any Trust Account is overfunded, the overfunding may be transferred to the applicable Liquidity Accounts.

61. The Liquidity Accounts are used to pay operating expenses, net reinsurance settlement obligations, and funding of any shortfall in the respective Trust Accounts.

62. Third party reinsurance settlements made between third party Reserve Credit Trusts and the beneficiary are completed on a monthly basis. Release of funds for payments are countersigned by the ceding company and are settled via wire. If there is a shortfall of funds in the Trust account, then SALIC Liquidity Accounts will fund any shortfall.

63. Other net payments, such as quarterly intercompany settlements, are made between SALIC Liquidity Accounts and Debtor and nondebtor Scottish Re entities for shared operating expenses and transfer pricing.

64. The balances in the Trust Accounts and the Liquidity Accounts consist of investment securities and cash. The investment manager for all accounts is Barings Asset Management (“Barings”). Target cash balances are established based on projections of cash flows of reinsurance, investment, and operating expenses. Cash is received for interest and dividend income, pay downs and maturities, and for sales of assets in the ordinary course of business. Cash above set targets is used to purchase investments within SALIC’s investment guidelines in the ordinary course of business. Income from investment practices is used to fund obligations under reinsurance treaties.

65. In addition to the Trust Accounts and Liquidity Accounts, SALIC also maintains a collateral account to secure a Letter of Credit with Comerica, which secures certain reinsurance treaty obligations, and allows SALIC to obtain an exemption on excise taxes in Ireland. SALIC also maintains an account with Wells Fargo for the purpose of reserving and funding federal excise taxes due under offshore reinsurance arrangements. Finally, SALIC has a money market account with Union Bank through Institutional Cash Distributors.

66. A diagram illustrating the foregoing Cash Management System at SALIC is attached to the motion as Exhibit D.

#### SHI Bank Accounts

67. SHI has two bank accounts, both located in the United States. SHI holds an operating disbursements account at Wells Fargo and a liquidity account at Bank of New York Mellon.

#### Bank and Trustee Fees

68. Fees incurred in connection with the Bank Accounts (the “Bank Fees”) are paid in the first instance by SRUS and then transfer-priced and reimbursed by SHI and SALIC on a quarterly basis. Bank Fees attributable to SHI and SALIC total approximately \$600 per month. As of the Petition Date, the Debtors estimate that they owe approximately one month of prepetition Bank Fees, or \$600, to SRUS.

69. The Debtors also incur trustee fees (the “Trustee Fees”) related to the Bank Accounts held for the benefit of ceding companies. Trustee Fees are paid on a quarterly basis and total approximately \$12,000 per quarter. As with Bank Fees, Trustee Fees are paid in the first instance by SRUS and then allocated to, and reimbursed by, SALIC through transfer

pricing. The Debtors estimate that accrued, unpaid prepetition Trustee Fees total approximately \$4,000.

#### Business Forms

70. As part of the Cash Management System, the Debtors utilize numerous preprinted business forms (the “Business Forms”) in the ordinary course of their business. The Debtors also maintain books and records to document, among other things, receipts and expenses. To minimize expenses to their estates and avoid confusion on the part of employees, customers, vendors, and suppliers during the pendency of these Chapter 11 Cases, the Debtors request that the Court authorize their continued use of all correspondence and business forms (including, without limitation, letterhead, purchase orders, invoices, and preprinted checks) as such forms were in existence immediately before the Petition Date and thereafter, without reference to the Debtors’ status as debtors in possession, rather than requiring the Debtors to incur the expense and delay of ordering entirely new business forms as required under the U.S. Trustee Guidelines.

#### Intercompany Transactions

71. As mentioned above, the Scottish Re companies, which include Debtors and nondebtors, operate a central, integrated cash management system. The Debtors and their nondebtor affiliates rely on intercompany transfers pursuant to a transfer pricing model and agreements established by applying the arm’s-length standard consistent with the rules and principles governing related-party transactions under the laws of the United States and other jurisdictions in which the Debtors and nondebtor affiliates operate. These intercompany transactions include, among other things, allocation of shared services such as employee wages and salaries, operating costs, insurance, and other obligations incurred in the ordinary course of



business (the “Intercompany Transactions” and claims arising from such Intercompany Transactions, the “Intercompany Claims”). The Debtors track all fund transfers in their respective accounting systems and can ascertain, trace, and account for all Intercompany Transactions. Intercompany Transactions are typically settled on a quarterly basis.

72. Given the interdependence of the Debtors and nondebtor entities comprising the Scottish Re corporate group, it is critical to preserve the Debtors’ ability to move cash in the same manner as it has historically moved funds among the Debtors and their nondebtor affiliates during the pendency of these Chapter 11 Cases. Indeed, all of the personnel and operating infrastructure the Debtors rely upon to operate their business reside at nondebtor affiliates (primarily SRUS) and are provided through the Intercompany Transactions. Therefore, the Debtors can only maintain their operations by continuing to perform these Intercompany Transactions in the ordinary course of business. Without continuing the Intercompany Transactions, the Debtors will not be able to operate their business, and the Debtors’ estates will be irreparably harmed.

73. In connection with the daily operation of the Cash Management System, as funds are disbursed throughout the Cash Management System and as business is transacted between the Debtors, at any given time there may be Intercompany Claims owed by one Debtor to another Debtor. It is possible that as of the Petition Date, there are certain Intercompany Claims reflected as journal entry receivables and payables, as applicable, in the respective Debtors’ accounting systems. The Debtors ask for authority to continue to honor all Intercompany Transactions in the ordinary course of business, including any prepetition amounts due.

**C. Employee-Related Obligations**

74. To preserve the value of the Debtors' business as well as to prevent the disruption that the businesses will suffer if prepetition employment-related obligations are not paid when due or as expected, as well as to maintain morale of the Debtors' workforce during this critical time, the Debtors request entry of an order (i) authorizing, but not directing, the Debtors to (a) pay all prepetition employee-related claims and obligations in the ordinary course under intercompany transfer pricing arrangements; (b) continue to offer, honor, and facilitate all employee obligations and programs in the ordinary course under intercompany transfer pricing arrangements during the pendency of these Chapter 11 Cases; (ii) authorizing, but not directing, the Debtors to reissue checks, wire transfers, automated clearing house payments, electronic payments, or other similar methods of payment for such payments where such method of payment has been dishonored postpetition; (iii) directing all banks to honor the Debtors' prepetition and postpetition checks, wire transfers, automated clearing house payments, electronic payments, or other similar methods of payment for payment of the employee-related obligations; and (iv) granting related relief.<sup>6</sup>

**Employee Obligations**

75. The Debtors have no direct employees, but they utilize the services of approximately 33 employees (the "Employees") of Scottish Re to conduct their normal business,

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<sup>6</sup> At this time, the Debtors do not seek to modify the terms of any employee program and do not seek to assume or reject such program to the extent that such program is determined to be an executory contract within the meaning of Section 365 of the Bankruptcy Code. Similarly, nothing in the motion should be construed as a request for authorization to assume or reject any executory contract between the Debtors and any party. Furthermore, the motion shall not be construed to limit, or in any way affect, the Debtors' right to contest on any grounds the amount claimed to be due as an employee-related obligation. The Debtors do not waive the right to modify or terminate any employee program to the extent that such right exists under the terms governing such program or as may be permitted or required by applicable law or further order of the Court.

including executive, management, financing and accounting, information technology, legal, and actuarial services.<sup>7</sup>

(i) *Payroll and Transfer Pricing*

76. The Debtors' nondebtor affiliate SRUS employs the 30 Employees who reside in the United States, and their nondebtor affiliate SRLB employs the 2 Employees who reside in Bermuda. SRUS and SRLB directly fund Employees' salaries, expenses and benefits in the first instance. All Employee-related obligations are then allocated through transfer pricing agreements that meet the arm's-length standard consistent with the rules and principles governing related-party transactions under the laws of the United States and other jurisdictions in which the Debtors and nondebtor affiliates operate. Transfer pricing and payment for Employee-related obligations are charged to the Debtors by SRUS and SRLB to SALIC on a quarterly basis and to SHI on an annual basis.<sup>8</sup> The Debtors believe that the portion of payroll, benefits and other Employee-related obligations allocable to them does not exceed the statutory cap of \$12,850 per Employee.

(ii) *Payroll Services*

77. Scottish Re utilizes Checkpoint HR LLC ("Checkpoint") as payroll service provider for U.S. Employees. Checkpoint performs all services related to Scottish Re's U.S. Employee payroll, including payroll deductions and tax withholdings. SRUS pays Checkpoint's fees.

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<sup>7</sup> The Debtors' non-debtor affiliate, SRD, employs one person in Ireland. That employee's services are not transfer-priced to the Debtors.

<sup>8</sup> As SHI is a non-operating holding company, its proportionate allocation of employee time is relatively small compared to SALIC and SRUS, which are operating companies, and therefore SHI's allocation is determined on a less frequent basis.

78. For the payroll of offshore Employees, Scottish Re utilizes Expertise Offshore. Expertise Offshore performs all services related to Scottish Re's offshore Employee payroll, including payroll deductions and tax withholdings. SRLB pays Expertise Offshore's fees.

**(iii)** *Prepetition Deductions and Payroll Tax Withholdings*

79. Checkpoint deducts certain amounts from Employees' paychecks, including, without limitation: (i) pre-tax, optional contributions to health and dependent care, as described in detail below; (ii) other pre-tax and after-tax deductions payable pursuant to certain of the Employee benefit plans discussed below; and (iii) other miscellaneous deductions. The Debtors estimate that Checkpoint withholds, on average, approximately \$1,600 per pay period in deductions from Employees' paychecks, collectively.

**(iv)** *Expense Reimbursement*

80. In the ordinary course of business, Scottish Re reimburses Employees for certain expenses incurred while performing their duties. Reimbursable expenses include payments for travel, lodging, reimbursable meals, business meals and entertainment, and other business-related activities. SRUS reimburses Employee expenses in the first instance, and the applicable portions of expenses are then allocated among the Debtors and their nondebtor affiliates through transfer pricing. The Debtors estimate that, on average, they are charged less than \$1,000 per month in Employee expense reimbursements. As of the Petition Date, the Debtors believe that they are obligated to pay for approximately \$1,000 in outstanding prepetition expense reimbursements.

81. Additionally, SRUS maintains company credit cards for use by Employees for work-related expenses. Monthly charges on such cards total approximately \$10,000 and are paid by SRUS, and then allocated throughout Scottish Re through transfer pricing. As of the

Petition Date, the Debtors estimate that their share of outstanding prepetition credit card charges is no more than \$5,000 to \$10,000.

Employee Benefits

82. Scottish Re also provides Employees with access to health and other benefit plans. For U.S. Employees, benefits include the following (along with a notation as to whether Scottish Re or the Employee pays the applicable premium or cost).

<b>Benefit Plan</b>	<b>Premiums Paid By</b>
Medical	Scottish Re Pays 100%
Dental	Scottish Re Pays 100%
Vision	Scottish Re Pays 100%
Employee Basic Life Insurance	Scottish Re Pays 100%
Employee Accidental Death & Dismemberment	Scottish Re Pays 100%
Dependent Basic Life Insurance	Scottish Re Pays 100%
Short-Term Disability	Scottish Re Pays 100%
Long-Term Disability	Scottish Re Pays 100%
Employee Fitness Program	Scottish Re Pays 100%
Employee Assistance Program	Scottish Re Pays 100%
Scottish Re 401(k) and Profit Sharing Plan	Scottish Re and Employee
Employee Supplemental Life Insurance	Employee
Dependent Supplemental Life Insurance	Employee
Cancer Plan	Employee
Critical Illness Plan	Employee
Hospital Confinement Plan	Employee
Dependent Fitness Program	Employee

83. SRUS is the primary contract party with the applicable coverage provider on the foregoing U.S. benefit programs, and is also the sponsor of the Scottish Re 401(k) and Profit Sharing Plan.

84. For offshore Employees, benefits include the following (along with a notation as to whether Scottish Re or the Employee pays the applicable premium or cost):

<b>Benefit Plan</b>	<b>Premiums Paid By</b>
Medical	Scottish Re Pays 100%
Dental	Scottish Re Pays 100%
Vision	Scottish Re Pays 100%
Employee Basic Life Insurance	Scottish Re Pays 100%
Employee Accidental Death & Dismemberment	Scottish Re Pays 100%
Short-Term (Weekly) Disability	Scottish Re Pays 100%
Long-Term Disability	Scottish Re Pays 100%
Scottish Re Pension Plan	Scottish Re and Employee

85. SRLB is the primary contract party with the applicable coverage provider for the foregoing offshore benefit programs.

(i) *Medical and Other Health Plans*

86. Scottish Re offers coverage to eligible U.S. Employees, their spouses, and their dependents for medical, dental, vision, and other related benefits. All non-seasonal, full-time U.S. Employees working at least 30 hours per week are eligible for these benefits. Eligible offshore Employees and their dependents also receive medical, dental, vision, and other related benefits. All full-time offshore Employees working at least 40 hours per week are eligible for these benefits (or at least 30 hours per week with respect to life insurance, accidental death and dismemberment, long-term disability and short-term disability benefits).

87. Scottish Re offers medical and vision insurance plans to eligible U.S. Employees through United Healthcare Insurance Company, and dental insurance to eligible U.S. Employees through Principal Life Insurance Company. SRUS initially pays 100% of the monthly premiums under the medical, dental, and vision plans for each eligible U.S. Employee and his or her significant other and dependents, subject to transfer pricing allocation.<sup>9</sup>

<sup>9</sup> Scottish Re also pays 50% of the monthly premiums of an Employee's spouse or domestic partner that has access to medical coverage through his or her employer, subject to transfer pricing allocation.

88. Scottish Re also offers medical, dental, and vision plans through Colonial Medical Insurance Company Limited for offshore Employees. SRLB initially pays 100% of the monthly premiums under the medical, dental, and vision plans for each eligible offshore Employee, subject to transfer pricing allocation.

**(ii)** *Flexible Spending Accounts*

89. Eligible U.S. Employees may elect to enroll in two flexible spending accounts administered by AmeriFlex: one for healthcare expenses and the second for dependent care expenses. U.S. Employees may choose to participate in one, both, or neither of the FSAs. The FSAs permit U.S. Employees to make pre-tax payroll contributions up to \$2,600 per year for healthcare expenses and up to \$5,000 per year for dependent care expenses. A U.S. Employee's gross pay is reduced by an amount equal to the U.S. Employee's contributions, as elected annually during the open enrollment period. SRUS pays all applicable fees related to this program.

**(iii)** *Life and Accidental Death and Dismemberment & Long-Term and Short-Term Disability Insurance*

90. Eligible U.S. Employees and their eligible dependents, as well as eligible offshore Employees, receive basic life insurance and accidental death and dismemberment coverage, plus long-term and short-term disability insurance. SRUS and SRLB initially fund 100% of the premiums under these plans for U.S. Employees and offshore Employees, respectively, subject to transfer pricing allocation.

91. Eligible Employees may purchase supplemental personal insurance coverage. Participating Employees pay premiums for supplemental insurance through payroll withholding, which is then remitted to the appropriate provider.

**(iv)** *COBRA Medical and Dental Coverage*

92. Former U.S. Employees are entitled to continue to participate in the Debtors' healthcare insurance coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1986 (as amended, "COBRA") for up to 18 months post-employment (such coverage, the "COBRA Medical Coverage"). Former Employees who elect to participate in the COBRA Medical Coverage must pay a set amount, dependent on which type of plan they elect (*e.g.*, family or individual), to the Debtors' healthcare insurance provider.

**(v)** *Workers' Compensation Insurance*

93. Scottish Re maintains a workers' compensation insurance policy that covers all U.S. Employees. The Debtors request authority to continue the workers' compensation insurance policy in the ordinary course of business in their motion to maintain insurance programs.

**(vi)** *Paid Time-Off Benefits*

94. U.S. Employees and Bermuda Employees accrue paid vacation days and paid sick leave. For U.S. Employees, vacation days are accrued at a rate of 1.67 days per month, up to 20 days per calendar year. Up to five days of unused vacation time may be carried forward to the next calendar year. Although U.S. Employees earn vacation days by accruing them over the course of the year, Employees may take paid vacation at any time during the year (*i.e.*, before it is actually accrued). Cash payments are not granted in lieu of vacation time, except at termination, the value of any accrued but unused vacation days is paid out with the Employee's final pay. Conversely, where permitted by applicable law, if an Employee has used more vacation days than the Employee has accrued, then the value of the deficit is deducted from the Employee's final pay upon termination.



95. Offshore Employees accrue up to 20 vacation days during each calendar year, accrued on a monthly basis. Up to five days of unused vacation time may be carried forward to the next calendar year with prior approval. Although offshore Employees earn vacation days by accruing them over the course of the year, Employees may take paid vacation at any time during the year (*i.e.*, before it is actually accrued). Cash payments are not generally granted in lieu of vacation time (though it may be considered in exceptional circumstances).

96. Each calendar year, eligible U.S. Employees receive five paid sick days and eligible offshore Employees receive up to ten paid sick days. Unused sick days do not roll over to the next calendar year.

97. Eligible U.S. Employees are also afforded paid time off each year of up to three days for bereavement, up to five days for jury duty, and up to 7.5 hours for volunteering in the community, and are paid for official holidays. U.S. Employees are also eligible for unpaid leaves of absence consistent with the Uniformed Services Employment and Reemployment Rights Act and other applicable federal and state laws. Other paid or unpaid leaves of absence may be granted upon prior approval.

98. Eligible offshore Employees are afforded paid time off each year for up to three consecutive days for bereavement (five consecutive days if the funeral services are overseas), public holidays, pre-natal care appointments during working hours, up to eight weeks for maternity leave, reasonable time for public duties (such as government boards, public office, or reserve police), and jury or subpoenaed witness duty. Offshore Employees are also eligible for an additional four weeks of unpaid maternity leave (or eight weeks total unpaid maternity leave if the Employee is not eligible for paid maternity leave).

(vii) *Employee Wellness and Development Programs*

99. Scottish Re provides several wellness and continuing development programs. Each U.S. Employee receives a fully-paid gym membership at a YMCA in Charlotte, North Carolina. If an Employee elects another fitness center, then they may receive up to \$35 per month toward a gym membership.

100. Each U.S. Employee and his or her immediate family members are enrolled in an Employee Assistance Program through which the participants may receive free, confidential professional counseling to assist through difficult times of marital, family, financial, or legal problems, drug or alcohol abuse, or other personal issues.

101. Scottish Re also maintains an adoption assistance program for eligible U.S. Employees, under which Employees may be reimbursed 100% of certain eligible expenses up to a maximum of \$5,000 per adoption. Eligible expenses may include adoption agency fees, foreign adoption fees, government and legal fees, home-study fees, maternity fees, placement fees, temporary foster care, and transportation and travel expenses directly related to the adoption.

102. Additionally, Scottish Re provides eligible U.S. Employees with certain continuing education assistance. Scottish Re pays for eligible U.S. Employees' expenses of participating in an actuarial education program, as well as preparing and sitting for the Certified Public Accountant Exam and maintaining the required registration and licensing. In addition, Scottish Re provides eligible U.S. Employees with a \$500 bonus for obtaining the designation of Certified Public Accountant. Scottish Re also reimburses eligible U.S. Employees up to \$5,250 per calendar year for certain expenses of participating in an accredited program, including the expenses of tuition and text books. Scottish Re also provides cash bonuses to eligible U.S. Employees who participate in certain self-study courses and receive a score of at least 80% on

the applicable exam (the bonus is \$250 per course, up to a maximum of \$500 per calendar year per Employee).

**(viii) Retirement Plans**

103. SRUS sponsors a 401(k) retirement savings plan for the benefit of eligible U.S. Employees and former U.S. Employees. SRUS matches each Employee's contribution dollar-for-dollar up to 6% of his or her salary, with 4% vesting immediately and 2% subject to a three-year vesting schedule. The 401(k) plan is administered by Fidelity Investments.

104. SRLB maintains a defined contribution pension plan for each eligible Bermudan Employee and his or her spouse. The offshore pension plan is a private pension plan maintained pursuant to Bermuda's National Pension Scheme (Occupational Pensions) Act 1998. Each Bermudan Employee is eligible to participate in the plan if he or she is over the age of twenty-three and has been employed for at least 720 hours in a calendar year. Each participating Employee is required to contribute five percent of his or her earnings, and may make additional voluntary contributions. SRLB matches each Employee's contribution of up to five percent of his or her earnings, and makes additional voluntary contributions. Each Employee's interest in his or her own contribution as well as SRLB's contribution is fully vested immediately upon contribution. The Bermudan plan is administered by FMi Retirement Services. Administration fees are paid by Employees, and quarterly wire transfer fees are paid by SRLB.

**(ix) Severance Benefit Program**

105. Except as separately provided in certain employment agreements,<sup>10</sup> each U.S. Employee who has been employed for at least 90 days, is terminated without cause, and executes a release in favor of Scottish Re is entitled to a severance payment. U.S. Employees are

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<sup>10</sup> Scottish Re is party to employment and severance agreements with certain executives. The Debtors do not seek any relief related to such agreements in the motion.

entitled to a severance payment in an amount equal to 2 weeks' pay for each year of employment, subject to a maximum of 26 weeks' pay. U.S. Employees that were first employed before June 1, 2015, and who elect to participate in COBRA continuation coverage are also entitled to an amount equal to 100% of the premiums due in connection with COBRA continuation coverage for the number of weeks for which the Employee is eligible to receive severance payments. As of the Petition Date, there is no outstanding severance obligations.

**D. Motion to Pay Prepetition Taxes and Fees**

106. The Debtors seek entry of an order authorizing but not directing the Debtors to pay taxes and fees that in the ordinary course of business accrued or arose before the Petition Date in an aggregate amount not to exceed \$605,000 (excluding amounts paid prepetition by checks that have not yet cleared on the Petition Date).<sup>11</sup>

107. Additionally, to the extent that any check has been issued or electronic transfer initiated prior to the Petition Date to satisfy any prepetition obligation on account of taxes or fees, and such payment has not cleared the Debtors' bank accounts as of the Petition Date, the Debtors request the Court to authorize the Debtors' banks, when requested by the Debtors in their sole discretion, to receive, process, honor, and pay such checks or electronic transfers initiated prior to the Petition Date. The Debtors also seek authority to issue replacement checks, or to provide for other means of payment to application authorities, to the extent necessary to pay such taxes and fees.

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<sup>11</sup> Nothing in the motion shall be deemed to constitute an admission by the Debtors to any asserted liability or obligation with respect to any taxes or fees. The Debtors reserve any and all rights to contest any taxes or fees asserted against them by any of authorities. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to subsequently dispute such claim.

108. The Debtors incur taxes in the ordinary course of business, primarily comprising federal excise taxes on premiums paid to them under reinsured life insurance policies. Under section 4371(3) of the Internal Revenue Code, 26 U.S.C. § 4371, the IRS imposes certain excise taxes on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer. The excise tax for life insurance policies is 1% of premiums paid. *See* 26 U.S.C. § 4371 (“There is hereby imposed, on each policy of insurance, indemnity bond, annuity contract, or policy of reinsurance issued by any foreign insurer or reinsurer, a tax at the following rates . . . 1 cent on each dollar, or fractional part thereof, of the premium paid on the policy of life, sickness, or accident insurance, or annuity contract.”). One of the Debtors, SALIC, is a foreign reinsurance company that reinsures life insurance policies. The IRS therefore imposes and collects a 1% tax on life insurance policies reinsured by SALIC.

109. Under the law and IRS regulations, payment of the tax (and associated filing of returns and reporting obligations) is ordinarily the obligation of the ceding insurer or retroceding reinsurer rather than the cessionaire or retrocessionaire reinsurer. In connection with certain of its reinsurance treaties and agreements, however, SALIC is contractually obligated to reimburse—and, in some instances, file applicable returns and pay—the associated federal excise tax. Federal excise taxes are paid quarterly in arrears in connection with quarterly settlements under reinsurance treaties and agreements.

110. For the third quarter of 2017 (which was settled and paid in the fourth quarter of 2017), SALIC remitted approximately \$327,000 in federal excise taxes—comprising approximately \$150,000 remitted directly to the IRS and approximately \$177,000 remitted to cedents under the terms of applicable reinsurance agreements. On an annual basis, SALIC

remitted approximately \$3 million in federal excise taxes—comprising approximately \$1.5 million remitted directly to the IRS and \$1.5 million remitted to cedents.

111. SALIC is in the process of reconciling and settling fourth quarter 2017 payments. SALIC estimates that, once this process is complete, there will be approximately \$520,000 in prepetition federal excise taxes due under such treaties and agreements, comprising approximately \$420,000 of direct payments due to the IRS and approximately \$100,000 due to cedents. Out of an abundance of caution, however, SALIC seeks authority to remit up to \$600,000 on account of federal excise taxes incurred prior to the Petition Date to account for possible variance in its current estimates.

112. In addition to taxes, the Debtors incur business license and permitting fees and other similar assessments. Laws and regulations in jurisdictions in which the Debtors operate require the Debtors to pay fees to obtain a range of business licenses and permits from a number of different authorities. In particular, SALIC is liable for a license fee to the CIMA, annual fees to the Cayman Registrar of Companies, and annual Registered Office fees. In the aggregate, these fees total approximately \$18,000 annually. SALIC has paid such fees for 2018, and therefore, as of the Petition Date, the Debtors do not believe that there are any fees due and owing. Nonetheless, out of an abundance of caution, the Debtors request authority to pay prepetition business license and permitting fees and other similar assessments incurred in the ordinary course of business up to \$5,000 in the aggregate.

**E. Motion to Maintain Existing Insurance Policies and Program**

113. The Debtors seek authority, but not direction, to continue their existing insurance program, including by renewing or replacing insurance arrangements in the ordinary course of business without further order of the Court. Though the Debtors believe that they do

not owe any prepetition insurance policy premiums or other obligations on the policies, the Debtors also request, out of an abundance of caution, permission to make all payments required to continue their insurance program, including payment of any prepetition premiums, deductibles, or other obligations under their policies and, to the extent applicable, engage and pay insurance brokers in the ordinary course of business.

114. Further, if the Court grants the relief sought, the Debtors request that all applicable banks and other financial institutions be authorized, when requested by the Debtors in their discretion, without any duty of inquiry or liability to any party for following the Debtors' instructions, to receive, process, honor, and pay any and all checks drawn on the Debtors' accounts to pay amounts owed under the insurance program, whether those checks are presented prior to or after the Petition Date, and to make other transfers, provided that sufficient funds are available in the applicable accounts to make the payments.

115. In the ordinary course of their businesses, the Debtors maintain an insurance program (the "Insurance Program") that provides coverage for, among other things: commercial general liability; property and casualty; automobile liability; employers responsibility; accidental death and dismemberment; commercial property; international operations; crime and theft; directors, officers, and organizational liability; insurance company professional liability; workers compensation; and umbrella liability (collectively, the "Policies"). In some instances, the Policies are held in the name of a nondebtor affiliate of the Debtors and in other instances Policies in the name of one or both of the Debtors identify nondebtor affiliates as additional insureds. Payments for Policy premiums are allocated among the Debtors and nondebtors according to internal transfer pricing applying the arm's-length standard consistent

with the rules and principles governing related-party transactions in the United States and the other jurisdictions where the Debtors and their nondebtor affiliates operate.

116. All of the Policies are annual policies and premiums are paid annually, typically in full, in advance. A majority of the Policies are managed through Willis Group, as broker. Willis assists the Debtors in determining the appropriate type and amount of insurance coverage and then negotiates with insurance companies to procure the optimal policies. The premiums for Willis-brokered policies are generally paid to Willis who then remits such payments to the insurance carriers. Willis's fees are typically a percentage of the Policy premiums and are paid directly by the insurance carriers. Consequently, the Debtors do not owe Willis any brokerage fees. Premiums for the remaining Policies are paid directly to the carrier. The Debtors do not finance any of their premiums.

117. Attached as Exhibit A to the motion is a comprehensive list of the Policies, including the type of coverage, Policy number, Policy effective dates, Policy limits, Policy carrier, Policy premium, Policy payment terms, and whether the Policy premium is paid directly or through Willis.

118. As of the Petition Date, the Debtors believe that they were substantially current on amounts owed under the Policies. Out of an abundance of caution, however, the Debtors seek authorization to make any unforeseen payments attributable to the prepetition period, as well as to continue or renew or replace the Policies and the Insurance Program.

119. Adequate insurance coverage is essential to operating the Debtors' business, maintaining and protecting the value of its assets for the benefit of creditors, and guarding against risk of loss. Moreover, in many cases, the coverage provided by the Policies is required by regulations, laws, or contracts that govern the conduct of the Debtors' business under



applicable nonbankruptcy law. Likewise, the U.S. Trustee Guidelines for debtors in possession operating in chapter 11 cases in this Bankruptcy Court require the Debtors to maintain adequate insurance coverage. This coverage could not be provided without continuing the Insurance Program.

**F. Motion for Additional Time to File Schedules and Statements**

120. The Debtors also request additional time to file schedules of assets and liabilities and statements of financial affairs (collectively, the “Schedules and Statements”). I am informed that, absent an extension, the Debtors would be required to file their Schedules and Statements within fourteen days of the Petition Date.

121. As explained above, the Debtors maintain a complex cash management system that includes the tracking and accounting of numerous transactions, including among others, intercompany transfers, reinsurance treaty obligations and settlements, and reserve credit trusts settlements. Given the complexity of the Debtors’ cash management system and books and records, the Debtors expect that they may require additional time to complete their Schedules and Statements, especially given the competing demands that have been placed on the Debtors’ personnel and professionals in filing these cases, completing their fiscal year 2017 financials, and negotiating and executing the numerous restructuring documents described above.

122. The Debtors recognize the importance of the Schedules and Statements and have mobilized their personnel and professionals to work diligently on preparing the Schedules and Statements to file them as quickly as possible.

123. The Debtors request that the Court extend the time within which they must file Schedules and Statements through and including the 60th day after the Petition Date, subject to the Debtors’ rights to request further extensions of the deadline.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: January 28, 2018

*/s/ Gregg Klingenberg*  
Gregg Klingenberg  
Chief Executive Officer