

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)
CONTROL OF CHUBB CUSTOM INSURANCE) ORDER APPROVING
COMPANY AND CHUBB INSURANCE) ACQUISITION
COMPANY OF NEW JERSEY BY ACE)
LIMITED, ACE GROUP HOLDINGS, INC.,)
AND ACE INA HOLDINGS INC.)

I have read the Hearing Officer's report dated December 2, 2015 regarding the above-captioned matter and I concur with the recommendation contained therein. Accordingly, pursuant to N.J.S.A. 17:27A-2, I hereby approve the proposal of ACE Limited; ACE Group Holdings, Inc.; and ACE INA Holdings Inc. to acquire control of Chubb Custom Insurance Company and Chubb Insurance Company of New Jersey.



12/2/15
Date

Richard J. Badolato
Acting Commissioner

order acechubb jc/inoord

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)	
CONTROL OF CHUBB CUSTOM INSURANCE)	HEARING OFFICER'S
COMPANY AND CHUBB INSURANCE)	REPORT
COMPANY OF NEW JERSEY BY ACE)	
LIMITED, ACE GROUP HOLDINGS, INC.,)	
AND ACE INA HOLDINGS INC.)	

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated October 8, 2015, as supplemented through November 20, 2015, ACE Limited (“ACE”); ACE Group Holdings, Inc. (“ACE Group”); and ACE INA Holdings Inc. (“ACE INA”) (collectively, “the applicants”) filed with the Department of Banking and Insurance (“Department”) an application to acquire control (“the Form A filing”) of Chubb Custom Insurance Company (“Chubb Custom”) and Chubb Insurance Company of New Jersey (“Chubb NJ”) (collectively, “the insurers”), both New Jersey-domiciled stock insurers. The insurers are ultimately wholly-owned by the Chubb Corporation, (“Chubb”) a New Jersey-domiciled holding company. The applicants intend to acquire control of the insurers through the acquisition of Chubb.

Pursuant to N.J.S.A. 17:27A-2d, a public hearing was held on the Form A filing on December 1, 2015. Pursuant to N.J.A.C. 11:1-35.6(g), the public hearing was conducted based on the documents filed. The hearing panel and Department staff determined that the documents filed in connection with the proposed acquisition satisfied the requirements of N.J.S.A. 17:27A-2b. Public comments were allowed to be submitted through the close of business on December 1, 2015. No comments were received. No other documents were required and the record was closed on December 1, 2015

Findings of Fact

ACE was incorporated in the Cayman Islands in 1985 and moved its place of incorporation from the Cayman Islands to Zurich, Switzerland in 2008. ACE, through its subsidiaries, is a global insurance and reinsurance organization, providing a range of insurance and reinsurance products. ACE has a presence in 54 countries, and commercial and individual customers in more than 170 countries.

ACE Group is a Delaware-domiciled insurance holding company, incorporated in 1999. ACE Group is a direct, wholly-owned subsidiary of ACE. ACE Group owns 80 percent of ACE INA.

ACE INA is a Delaware-domiciled insurance holding company, incorporated in 1988. As noted above, ACE INA is owned 80 percent by ACE Group with the remaining 20 percent of its ownership directly by ACE. Upon consummation of the proposed transaction, ACE INA will be the direct 100 percent owner of Chubb and indirect owner of the insurers.

Chubb Custom was formed on October 3, 1980, and commenced business in New Jersey on December 26, 1980; Chubb NJ was formed on May 20, 1982, and commenced business in New Jersey on November 1, 1982. The insurers transact multiple lines of property/casualty insurance in New Jersey.

Pursuant to the Agreement and Plan of Merger, dated as of June 30, 2015, by and among ACE; William Investment Holdings Corporation (“William Holdings”), a New Jersey corporation that is directly and wholly-owned by ACE INA; and Chubb (“the Merger Agreement”), included as part of the Form A filing, the applicants propose to acquire control of the insurers by becoming, directly through ACE INA, the sole owner of 100 percent of the common stock of Chubb. The proposed acquisition will be effected through the merger of

William Holdings with and into Chubb, with Chubb surviving the merger (“the Merger”). The applicants stated that immediately following the Merger, Chubb will be caused to merge with and into ACE INA, with ACE INA as the surviving corporation (“the Holding Company Merger”). The Holding Company Merger will be effected in accordance with an Agreement and Plan of Merger to be entered into between ACE INA and William Holdings. After the Merger and the Holding Company Merger, the insurers will be wholly-owned subsidiaries of ACE INA and ACE INA will remain an indirect wholly-owned subsidiary of ACE.¹

In the Merger, at the effective time (as defined in the Merger Agreement) each share of Chubb’s common stock, par value \$1.00 per share (each, a “Chubb share”), will be converted into the right to receive: (i) 0.6019 ACE Common Shares (the “Per Share Stock Consideration”) and (ii) an amount in cash equal to \$62.93 (“the Per Share Cash Consideration”) (collectively “the Merger Consideration”), subject to the terms and conditions set forth in the Merger Agreement. The applicants stated that on July 1, 2015, the date of the public announcement of the proposed acquisition, the total amount of consideration for the total proposed acquisition (“the Aggregate Merger Consideration”) of Chubb by ACE was valued at approximately \$28.3 billion.

The applicants also stated that the Merger Agreement provides that, at the effective time, ACE’s board of directors will be expanded from fourteen directors to eighteen directors, and four independent directors from Chubb’s current board of directors will be elected to ACE’s board of directors.

¹ The applicants requested in the Form A filing that because Chubb already will be a wholly-owned subsidiary of ACE INA at the time of the holding company merger, the holding company merger agreement is not being “entered into for the purpose and [will] not hav[e] the effect of changing or influencing the control of” the insurers, and, therefore, the holding company merger is eligible for exemption from the provisions of N.J.S.A. 17:27A-2. The applicants thus request that the holding company merger be exempted from the provisions of N.J.S.A. 17:27A-2 pursuant to N.J.S.A. 17:27A-2f(2). As the Holding Company Merger is encompassed as part of the proposed acquisition, review of the Holding Company Merger is encompassed by this Report and a separate filing with respect to the Holding Company Merger is not required.

The closing of the Merger is subject to certain conditions, including the approval of various regulatory authorities in the United States, including insurance and competition regulators in: Connecticut, Delaware, Indiana, New Jersey, New York, Texas and Wisconsin. In addition, the Merger is subject to approval by regulators outside of the United States in: Argentina, Australia, Bermuda, Brazil, Canada, Chile, China, Columbia, the European Union, Hong Kong, Japan, Korea, Malaysia, Mexico, New Zealand, Singapore and the United Kingdom.

The applicants stated that through the proposed acquisition, ACE intends to create a global leader in commercial and personal property/casualty insurance, with enhanced growth and earning power and mix of products reflecting greater diversification and reduced exposure to the property/casualty industry pricing cycle. The applicants stated that the proposed acquisition will allow Chubb's insurance subsidiaries, including the insurers, to serve their current and future customers in a more efficient manner. The applicants stated that Chubb currently distributes its products primarily through an agent channel, and ACE currently distributes its products primarily through brokers and direct response marketing channels. The applicants stated that they have no immediate plans to change the business written by Chubb. The applicants stated that they do anticipate that both ACE's and Chubb's distribution capabilities and customer reach will expand by cross-selling the products of each organization through the other's distribution channels, thereby expanding the distribution networks of both entities and the products available to those networks, and, ultimately, the combined customer base. The applicants thus anticipated expanding the suite of products offered to existing Chubb customers through the provision of such coverage by the applicants' affiliates.

As noted above, the Aggregate Merger Consideration was valued at approximately \$28.3 billion on July 1, 2015. The applicants stated that they intend to fund this from a combination of:

(i) approximately \$6 billion of dividends from several of ACE's United States and Bermuda subsidiaries; (ii) approximately \$3 billion of dividends from Chubb and Federal Insurance Company, or a short-term loan of such amount; (iii) \$5.3 billion from the issuance of senior unsecured notes; and (iv) ACE common shares valued at approximately \$14.0 billion.

The applicants do not have, nor contemplate, any plans or proposals to cause the insurers to pay any extraordinary dividends, liquidate the insurers, sell any of their assets or merge or consolidate them with any person or persons, other than as set forth in the filing. The applicants are considering potential synergies that may be achieved as a result of the proposed acquisition, but have no immediate plan to make any other material change in the insurers' business operations or corporate structures or management, or cause the insurers to enter into any material agreements, arrangements or transactions of any kind with any party.

Based on the consolidated financial statements filed by the applicants, ACE had shareholders' equity of approximately \$29.58 billion in 2014; \$28.82 billion in 2013; and \$27.53 billion in 2012. In addition, ACE had net-before tax income of approximately \$3.48 billion in 2014 and \$4.23 billion in 2013.

Analysis

N.J.S.A. 17:27A-2d(1) provides that the Commissioner of Banking and Insurance ("Commissioner") shall approve an acquisition of control of a domestic insurer unless he or she finds that one or more of the seven disqualifying factors set forth therein exist. The statute provides in pertinent part:

(1) The Commissioner shall approve any merger or other acquisition of control ... unless, after a public departmental hearing thereon, he [or she] finds that:

(i) After the change of control the domestic insurer ... would not be able to satisfy the requirements for the issuance of a

license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly therein ... [applying the competitive standard as set forth in the statute];

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The financial condition of any acquiring party is such that (a) the acquiring party has not been financially solvent on a generally accepted accounting principles basis, or if an insurer, on a statutory accounting basis, for the most recent three fiscal years immediately prior to the date of the proposed acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); (b) the acquiring party has not generated net before-tax profits from its normal business operations for the latest two fiscal years immediately prior to the date of acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); or (c) the acquisition debt of the acquiring party exceeds 50 percent of the purchase price of the insurer;

(v) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(vi) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vii) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

Upon a thorough review of the documents submitted into evidence, the hearing panel and Department staff have determined that none of the seven disqualifying factors set forth above should result if the proposed acquisition is effectuated. Each of these conditions is discussed below.

First, after the acquisition, the insurers will continue to meet the requirements to transact the business for which they are presently licensed pursuant to Title 17 of the New Jersey Statutes. Chubb Custom was formed on October 3, 1980, commenced business in New Jersey on December 26, 1980, and is currently licensed and in good standing. Chubb NJ was formed on May 20, 1982, commenced business in New Jersey on November 1, 1982, and is currently licensed and in good standing. There is nothing in the record to indicate that after the proposed acquisition the insurers would not be able to continue to satisfy the requirements to transact the business for which they are presently licensed.

Second, for the reasons set forth below, it does not appear that the acquisition of the insurers will substantially lessen competition in the New Jersey insurance market or tend to create a monopoly therein. N.J.S.A. 17:27A-2d(1)(ii) provides that in applying this competitive standard, the standard set forth in N.J.S.A. 17:27A-4.1d shall apply. That statute utilizes a complex formula based on the market shares of the insurers involved in the transaction. In the present matter, based on the countrywide data available (for 2013) at the time of the filing, the applicants and its subsidiaries and the insurers and their affiliates compete in numerous lines of property/casualty insurance in this State. Based on information provided by the applicant, the lines in which the applicants' subsidiaries and the insurers and their affiliates compete in this State do not indicate a prima facie violation of the standards set forth in N.J.S.A. 17:27A-4.1d(a), except for: "Aircraft (All Perils)," "Fidelity," "Burglary & Theft" and "Other Liabilities-Claims

Made” (collectively “the Affected lines”).² However, this finding of a prima facie violation of the competitive standard does not end our analysis. First, it should be noted that N.J.S.A. 17:27A-2d provides that the Commissioner “shall approve” a proposed acquisition of control, unless one of the seven disqualifying factors is found. Thus, the Legislature has provided that a proposed acquisition of control should be approved, unless there is a finding by the Commissioner that a condition exists warranting disapproval. The question before us then is whether the proposed acquisition of control should be disapproved solely on the basis of the violation of the competitive standard with respect to the Affected Lines as set forth above. For the reasons set forth below, the hearing panel and Department staff have determined that the proposed acquisition should not be disapproved solely on that basis.

N.J.S.A. 17:27A-4.1d(2)(c) provides that “[e]ven though an acquisition is prima facie violative of the competitive standard ... a party may establish the absence of the requisite anticompetitive effect based on other substantial evidence.” Relevant factors for determining the existence of such other substantial evidence include “market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry and ease of entry and exit into the market.” In other words, the applicants can rebut the presumption that the acquisition of the insurers is in violation of New Jersey’s anticompetitive standard. The burden of proof to rebut this presumption rests with the applicant.

The applicants maintain that there will be no anticompetitive effect due to the proposed acquisition. In support of its position, the applicants stated that while the combined market share of ACE and Chubb and their respective affiliates in the Affected Lines following the proposed

² The applicants noted that each of the Affected Lines of “Fidelity”, “Burglary & Theft” and “Other Liabilities-Claims Made” exceed the quantitative thresholds set forth in N.J.S.A. 17:27A-4.1(d)(2)(a) while the remaining Affected Line of “Aircraft (All Perils)” exceeds the trend concentration standards set forth in N.J.S.A. 17:27A-4.1(d)(2)(b), but not the quantitative thresholds set forth in N.J.S.A. 17:27A-4.1(d)(2)(a).

acquisition technically exceeds the competitive standards set forth in N.J.S.A. 17:27A-4.1(d)(2), these markets are considered to be not “highly concentrated.” Pursuant to N.J.S.A. 17:27A-4.1(d)(2)(a), a highly concentrated market is one “in which the share of the four largest insurance companies is seventy-five per cent or more of the market.” In this case, the Affected Lines are not highly concentrated because the market shares of the four largest insurers comprise the following market shares in New Jersey: 53.22 percent (Aircraft (All Perils)); 54.64 percent (Fidelity); 56.91 percent (Burglary & Theft); and 38.33 percent (Other Liability-Claims Made).

Furthermore, as noted above, the provisions of N.J.S.A. 17:27A-4.1(d)(2)(c), which, pursuant to N.J.S.A. 17:27A-2(d)(1)(ii), the Commissioner must apply in considering the competitive impact of the proposed acquisition, provide that the absence of any unacceptable anticompetitive effect may be shown based upon other substantial evidence including, but not limited to: concentration and ease of entry and exit into the market, number of competitors, and market shares. The applicants stated that the proposed acquisition would not result in any unacceptable anticompetitive effect in the Affected Lines for the reasons set forth below.

Concentration and Ease of Entry/Exit into the Market. The applicants assert that each of the Affected Lines exhibits characteristics of ease of entry/exit into the market. As described above, there are groups of competitors in the marketplace of the Affected Lines ranging from 39 to 119 competitors among the various Affected Lines, substantially all of which are well-known and well-capitalized providers of insurance. The applicants stated that the number of competitors is evidence that there are not substantial barriers to entry into these insurance markets. Moreover, the existence of a number of well-known competitors helps to ensure that healthy competition will remain a feature of these markets. Finally, the existence of a

number of insurers which, in 2014, each received premium of less than \$1 million in the various Affected Lines (34 in “Aircraft (All Perils),” 51 in “Fidelity,” 59 in “Burglary & Theft” and 70 in “Other Liabilities-Claims Made”) further demonstrates that there is no minimum necessary scale of operations required for a firm to compete in these markets.

Number of Competitors. The applicants stated that, as shown in its filing, there are numerous competitors in each of the Affected Lines in New Jersey (39 in “Aircraft (All Perils),” 60 in “Fidelity,” 61 in “Burglary & Theft” and 119 in “Other Liabilities-Claims Made”). In addition, many of those competitors listed represent groups of companies and include numerous subsidiary or affiliated insurance companies engaged in the Affected Lines. The actual number of insurance companies engaged in the Affected Lines is as a consequence, even larger. Purchasers of insurance thus have a large number of well-known insurance carriers from which to purchase insurance products included in these lines of business.

Market Shares. The applicants also stated that there are a number of competitors with substantial market shares in each of the Affected Lines in New Jersey. In 2014, there were a number of competitors, each with a sizable market share in excess of or within a few percentage points below either Chubb (and its affiliates) and/or ACE (and its affiliates). Moreover, many of these competitors are well-known and well-capitalized insurance carriers. The applicants stated that this indicates that competition in each of the Affected Lines is robust in New Jersey and that, after the proposed acquisition, insurance buyers will continue to have a range of insurance carriers from which to purchase products in the Affected Lines.

Finally, the applicants noted that on September 30, 2015, ACE received notice that the Federal antitrust authorities had ended their review of the proposed acquisition under Federal antitrust law and took no action against such proposed acquisition.

For these reasons and the other factors and considerations described above, the applicants believe the effect of the proposed acquisition would not be to substantially lessen competition of insurance in New Jersey or tend to create a monopoly therein within the meaning of N.J.S.A. 17:27A-2(d)(1)(ii). Upon review of the documents filed, the hearing panel and Department staff find that the applicants' conclusions are reasonable and are amply supported by the submissions in the record. Accordingly, for the reasons set forth above, the hearing panel and Department staff have concluded that the proposed acquisition should not be disapproved solely on the basis of the prima facie violation of the competitive standard set forth in N.J.S.A. 17:27A-4.1 with respect to the four Affected Lines.

Third, it does not appear that the financial condition of the applicants will jeopardize the financial condition of the insurer. As reported in the applicable financial statements filed by the applicants, ACE had shareholders' equity of approximately \$29.58 billion in 2014; \$28.82 billion in 2013; and \$27.53 billion in 2012.³

Fourth, it appears that the financial condition of the applicants is such that they have been solvent on a generally accepted accounting principles basis for the three-year period immediately prior to the date of the proposed acquisition. As set forth above, based upon the filing the applicants had substantial shareholders' equity for the most recent three years, indicating they have been in a sound and viable financial condition for the relevant period. Also, ACE had net before-tax income of approximately \$3.48 billion in 2014 and \$4.23 billion in 2013. Finally, the

³ As ACE wholly owns the other two listed applicants, ACE's financial condition reflects the financial condition of the applicants on a consolidated basis. Accordingly, for purposes of this report, only ACE's financial condition is addressed.

applicants stated that approximately \$5.3 billion of the \$28.3 billion in consideration will be incurred by the applicant in connection with the proposed acquisition, with the potential for up to an additional \$3 billion in additional debt. The total potential debt of \$8.3 billion is less than 50 percent of the anticipated purchase price. Accordingly, the requirement that the acquisition debt may not exceed 50 percent of the purchase price is satisfied.

Fifth, the applicants do not propose to liquidate the insurers or sell their assets. As set forth above, the applicants intend to continue the insurers' current operations. The applicants intend to increase the number of ACE's Board of Directors to include four directors from Chubb's Board. Moreover, the applicants intend to increase the products offered to the insurers' customers by offering those products also written by ACE's subsidiaries.

Sixth, there is nothing in the record from which it may be concluded that the competence, experience and integrity of the persons who will control the operations of the insurers are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. The persons who will serve as officers and directors of the insurers are those presently in those positions with the insurers or the applicants. In addition, the persons who will control the insurers have had substantial experience in the property/casualty insurance business.

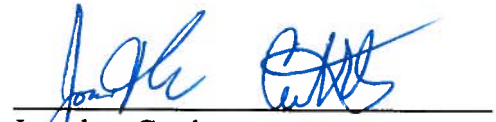
Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

Recommendation

Based on the foregoing analysis, the hearing panel and Department staff recommend that the proposed acquisition be approved.

Upon a thorough review of the foregoing, I concur with the findings, analysis and recommendations of the hearing panel and Department staff. I therefore recommend that the proposed acquisition be approved.

12/2/15
Date


Jonathan Cuttler
Hearing Officer

HO report ACE CHUBB jc/inoord

EXHIBITS LIST

In the Matter of the Acquisition of Control of Chubb Custom Insurance Company and Chubb Insurance Company of New Jersey (the “Acquired Entities”) by ACE Limited, ACE Group Holdings, Inc., and ACE INA Holdings Inc. (the “Applicants”)

Form A Hearing on the Papers December 1, 2015

The following documents were submitted into the record on behalf of ACE Limited, ACE Group Holdings, Inc., and ACE INA Holdings Inc. pursuant to their application to acquire control of Chubb Custom Insurance Company and Chubb Insurance Company of New Jersey.:

- DOBI 1 - Form A filing dated October 8, 2015 together with Exhibits 1-10, including Agreement and Plan of Merger dated June 30, 2015 and, pre and post organizational charts, and financial statement of ACE Limited for the years ending 2010, 2011, 2012, 2013 and 2014.
- DOBI 2 - NAIC affidavits
- DOBI 3 – Form A amendment via email from Robert Fettman, Esq. of Sullivan and Cromwell, LLP dated November 20, 2015, together with attachment with market share analysis.
- DOBI 4 – Form A amendment via email from Robert Fettman, Esq. of Sullivan and Cromwell, LLP dated November 20, 2015, together with supplemental attachment (exhibit) for market share analysis.
- DOBI 5 – November 23, 2015 letter from Robert Fettman, Esq. of Sullivan and Cromwell, LLP waiving the requirement of a 20-day notice to the Applicants.
- DOBI 6 – November 23, 2015 letter from Nicholas Demo, Esq. of Wachtel, Lipton, Rosen and Katz, waiving the requirement of a 20-day notice to the Acquired Entities.
- DOBI 7 - Affidavits of publication from the Trentonian, Jersey Journal, and Burlington County Times confirming publication at least 7 days in advance of the hearing date of the hearing that is the subject of this acquisition.

exhibits list acechubb jc/inoord