

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)
CONTROL OF INTERNATIONAL FIDELITY)
INSURANCE COMPANY AND ALLEGHENY)
CASUALTY COMPANY BY TRANSGUARD)
INSURANCE COMPANY OF AMERICA, INC.)
AND IAT REINSURANCE COMPANY LTD.)

ORDER APPROVING
ACQUISITION

I have read the Hearing Officer's report dated September 13, 2018 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 IAT Reinsurance Company Ltd. and TransGuard Insurance Company of America, Inc. to acquire control of International Fidelity Insurance Company and Allegheny Casualty Company (ACC), subject to the following conditions: a) the Applicants obtain all necessary regulatory approvals, including but not limited to, approvals of all applicable state insurance departments of the proposed acquisition; and b) the Applicants will obtain all necessary regulatory approvals for any subsequently agreed-upon sale of ACC, including but not limited to N.J.S.A. 17:27A-2.

9/17/18
Date

Marline Caride
Marline Caride
Commissioner

jd IFIC by IAT acquisition order/orders

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)
CONTROL OF INTERNATIONAL FIDELITY)
INSURANCE COMPANY AND ALLEGHENY)
CASUALTY COMPANY BY TRANSGUARD)
INSURANCE COMPANY OF AMERICA, INC.)
AND IAT REINSURANCE COMPANY)
LTD.)

HEARING OFFICER'S
REPORT

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated April 11, 2018, IAT Reinsurance Company Ltd. ("IAT") and TransGuard Insurance Company of America, Inc. ("TransGuard"), (together "the applicants"), filed with the Department of Banking and Insurance ("the Department") an application to acquire control ("the Form A filing") of International Fidelity Insurance Company ("IFIC") and Allegheny Casualty Company ("ACC") (collectively as "the insurers"). Both IFIC and ACC are New Jersey-domiciled property and casualty insurance companies. Both companies specialize in a variety of surety bonds, including bail. TransGuard is wholly-owned by IAT Insurance Group, Inc., which in turn is wholly-owned by IAT. IAT is wholly-owned by Goose Creek Capital, Inc., which in turn is wholly-owned by Peter Kellogg, a private United States Citizen. IFIC Surety Group, Inc. is the beneficial and record owner of 100 percent of IFIC's authorized, issued, and outstanding capital stock. In addition, IFIC wholly-owns The Chestnut Group, Inc. ("The Chestnut Group") which in turn, is the owner of 100 percent of ACC's authorized, issued, and outstanding capital stock. ACC is The Chestnut Group's sole asset.

This transaction is part of an agreement whereby the applicants will acquire control of 100 percent of the issued and outstanding stock of IFIC Surety Group, Inc. As a result of these

transactions, IFIC Surety Group, Inc. and the insurers will be wholly-owned subsidiaries of TransGuard.

Pursuant to N.J.S.A. 17:27A-2d, a public hearing was held on the Form A filing on August, 28, 2018. 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 accepted through the close of business on August 28, 2018. No comments were received. No other documents were required and the record was closed on August 28, 2018.

Findings of Fact

IFIC was incorporated on December 27, 1904 and commenced business in New Jersey on January 5, 1905. ACC was incorporated in Pennsylvania on April 15, 1936 and was re-domesticated in New Jersey on November 30, 2015.

IAT was incorporated on June 6, 1991 and is domiciled in the Cayman Islands and provides excess of loss and other reinsurance to primary insurance companies. TransGuard is domiciled in Illinois and is a casualty insurance company that specializes in providing coverage to the transportation market and focuses on insuring risks for moving and storing agents and owner operators. IAT and TransGuard are part of the IAT Insurance Group, which is domiciled in North Carolina.

Pursuant to the Agreement and Plan of Merger dated April 3, 2018, ("the Merger Agreement"), included as part of the Form A Filing, IFIC Surety Group, Inc. will be merged with TIC Acquisition Sub, Inc., a wholly-owned subsidiary of TransGuard ("the merger"). After the merger, TIC Acquisition Sub, Inc. will cease to exist and IFIC Surety Group, Inc. will continue to exist as a wholly-owned subsidiary of TransGuard. ACC will continue to be wholly-owned by the

Chestnut Group, which in turn, will be wholly-owned by IFIC, which will be wholly-owned by IFIC Surety Group.

The applicants stated that they have no plans to declare an extraordinary dividend, liquidate IFIC, sell its assets, or to merge it with any person or persons or to make any other material change in its business operations, corporate structure, or management. Existing staff is expected to remain. As to ACC, applicants state that after closing, they intend to pursue a sale of The Chestnut Group, together with its ownership of ACC and The Chestnut Group will discontinue its practice of writing bail bond business in IFIC.

The applicants stated that they agreed to pay \$176.3 million in cash consideration to acquire control of ACC and IFIC through TransGuard's acquisition of 100 percent of the issued and outstanding stock of IFIC Surety Group, Inc. The amount to be paid at closing will be paid from available funds on hand of the applicants. There are no loans involved in this transaction.

Based on the consolidated financial statements filed by the applicant, Transguard had net admitted assets of \$237.9 million in 2015, \$299.2 million in 2016, and \$389.5 million in 2017. In addition, Transguard had net before-tax income of approximately \$6.0 million in 2016 and \$321,200 in 2017. Additionally, Peter Kellogg filed certain financial information.¹

Analysis

N.J.S.A. 17:27A-2d(1) provides that the 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:

¹ Pursuant to N.J.A.C. 11:1-35, Appendix Exhibit A Item 12(b), financial statements for individuals shall not be public and shall not be considered a public record for the purposes of the "Right-to-Know" law, (now known as the Open Public Records Act) N.J.S.A. 47:1A-1 to -13.

(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, IFIC and ACC will continue to meet the requirements to transact the business for which they presently licensed pursuant to Title 17 of the New Jersey Statutes. IFIC was incorporated on December 27, 1904 and commenced business in New Jersey on January 5, 1905. ACC was incorporated in Pennsylvania on April 15, 1936 and was re-domesticated in New Jersey on November 30, 2015. There is nothing in the record to indicate that after the proposed acquisition IFIC and ACC would not be able to continue to satisfy the requirements to transact the business for which they are presently licensed, and the Commissioner will similarly have the ability to review any subsequent sale of ACC pursuant to N.J.S.A. 17:27A-2.

Second, it does not appear that the acquisition of IFIC and ACC 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. IAT provides excess of loss and other reinsurance to primary insurance companies. TransGuard is a casualty insurance company that specializes in providing coverage to the transportation market and focuses on insuring risks for moving and storing agents and owner operators. IFIC and ACC are New Jersey-domiciled property and casualty insurance companies. The statute by its terms does not apply if, as an immediate result of the acquisition, there would be no increase in the overall market share of the involved insurers after the acquisition. See N.J.S.A. 17:27A-4.1b(2)(d). The applicants state that

one of their affiliates, Harco National Insurance Company, wrote \$4,967 in surety premium in New Jersey in 2016 and \$50 in surety premium in 2017. This is a negligible amount, and is less than one percent of the market in New Jersey in any line. As the applicants and its subsidiaries and IFIC and ACC compete only minimally in New Jersey, there would be little increase post-acquisition in the market share of the involved insurers in the New Jersey insurance market. Accordingly, the acquisition will not violate the complete standard set forth in N.J.S.A. 17:27A-4.1 because it does not appear that the acquisition of IFIC and ACC will substantially lessen competition in New Jersey or tend to create a monopoly therein.

Third, it does not appear that the financial condition of the applicants will jeopardize the financial condition of ACC and IFIC. As reported in the applicable financial statements filed by the applicants, Transguard had net admitted assets of \$237.9 million in 2015, \$299.2 million in 2016, and \$389.5 million in 2017. In addition, Transguard had net before-tax income of approximately \$6.0 million in 2016 and \$321,200 in 2017. Additionally, according to the financial information filed by Peter Kellogg, it does not appear that the financial condition of the insurers will be jeopardized.²

Fourth, it appears that the financial condition of the applicants is such that they have been solvent on a basis of generally accepted accounting principles 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-year period, indicating they have been in a sound and viable financial condition for the relevant period. Finally, no debt or loans will be utilized to fund the acquisition on IFIC and ACC. Consideration will be paid from

² Pursuant to N.J.A.C. 11:1-35, Appendix Exhibit A Item 12(b), financial statements for individuals shall not be public and shall not be considered a public record for the purposes of the "Right-to-Know" law, (now known as the Open Public Records Act) N.J.S.A. 47:1A-1 to -13.

available funds on hand of the applicants. Accordingly, the requirement that the acquisition debt may not exceed 50 percent of the purchase price is satisfied.

Fifth, the applicant does not propose to liquidate IFIC or sell its assets. As set forth above, the applicant does not intend to change IFIC's business operations, corporate structure, or management. Applicants state that after closing, they intend to pursue a sale of The Chestnut Group, together with its ownership of ACC and The Chestnut Group will discontinue its practice of writing bail bond business in IFIC. The applicants state that they commit to working in good faith to leave the bail business and sell The Chestnut Group subject to all appropriate regulatory filings and approvals. They also state that that they will file a Form A in California, where ACC is commercially domiciled.

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 IFIC are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. The staff of IFIC is expected to remain and continue to contribute their experience. In addition, the persons who will control IFIC have had substantial experience in the business of insurance services.

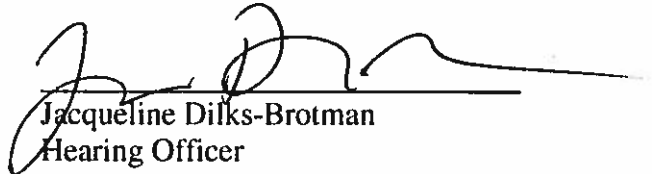
Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

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.

9/17/18
Date


Jacqueline Dilks-Brotman
Hearing Officer

jd IFIC by IAT HO Rpt Form A/orders

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

EXHIBIT LIST

IN THE MATTER OF THE ACQUISITION OF CONTROL OF INTERNATIONAL
FIDELITY INSURANCE COMPANY AND ALLEGHENY CASUALTY COMPANY BY
TRANSGUARD INSURANCE COMPANY OF AMERICA AND IAT REINSURANCE
COMPANY, LTD.

- Exhibit 1.....Form A application submitted April 13, 2018
- Exhibit 2.....Waiver of 20 day notice of hearing, submitted by Cynthia Borrelli,
of Bressler, Amery and Ross, on behalf of the Applicants,
dated August 14, 2018
- Exhibit 3.....Waiver of 20 day notice of hearing, submitted by Cynthia Borrelli,
of Bressler, Amery and Ross, on behalf of International Fidelity Insurance
Company and Allegheny Casualty Company, dated August 14, 2018
- Exhibit 4.....Affidavit of Publication of Notice of Public Hearing for notice published in
the Trenton Times on Tuesday, August 21, 2018.
- Exhibit 5.....Affidavit of Publication of Notice of Public Hearing for notice published
in the Newark Star Ledger on Tuesday, August 21, 2018.
- Exhibit 6.....Affidavit of Publication of Notice of Public Hearing for notice published
in the Asbury Park Press on Tuesday, August 21, 2018.