

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF IOWA

---

In the matter of application of	)	
APOLLO GLOBAL	)	
MANAGEMENT, LLC,	)	
LEON BLACK, JOSHUA HARRIS,	)	<b>FINDINGS OF FACT,</b>
and MARC ROWAN for approval	)	<b>CONCLUSIONS OF LAW,</b>
of a plan to acquire control of	)	<b>AND ORDER</b>
AVIVA LIFE AND ANNUITY	)	(Iowa Code chapter 521A)
COMPANY, AVIVA RE IOWA, INC.,	)	
AVIVA RE IOWA II, INC., and	)	
AVIVA RE IOWA III, INC.	)	
	)	

---

**I. INTRODUCTION**

Apollo Global Management, LLC (“AGM”), a Delaware limited liability company, Leon Black, Joshua Harris, and Marc Rowan , through Athene Holding Ltd. (“Athene”), a Bermuda exempted company<sup>1</sup> (collectively referred to as “Applicants”), seek to acquire all of the issued and outstanding capital stock of Aviva Life and Annuity Company, (“ALAC”), Aviva Re Iowa, Inc. (“Aviva Re”), Aviva Re Iowa II, Inc. (“Aviva Re II”), and Aviva Re Iowa III, Inc. (Aviva Re III), and Structured Annuity Reinsurance Company<sup>2</sup> (“Structured Annuity”), collectively referred to as “Aviva Insurers.”

ALAC is an Iowa domestic insurance company. Aviva Re, Aviva Re II, and Aviva Re III are Iowa domestic limited purpose subsidiary insurance companies, and Structured Annuity will be licensed as an Iowa domiciled life insurance company. The ultimate controlling person of ALAC, Aviva Re, Aviva Re II, Aviva Re III, and Structured Annuity is Aviva plc. Aviva plc is organized under the laws of England and Wales.

The Applicants wish to acquire control of ALAC, Aviva Re, Aviva Re II, Aviva Re III, and Structured Annuity and have filed an application with the Iowa Insurance Commissioner (“Commissioner”) for permission to do so.

---

<sup>1</sup> Exempted companies are formed primarily for the benefit of non-residents of Bermuda, to enable such persons to carry on business outside Bermuda or with other exempted undertakings in Bermuda. Bermuda Companies Act 1981, §§ 127-132B.

<sup>2</sup> Prior to closing, ALAC shall seek licensure of Structured Annuity Reinsurance Company as an Iowa domiciled life insurance company.

Pursuant to Iowa Code section 521A.3(4)(b) (2013), and at the Applicants' request, a public hearing was held Wednesday, July 17, 2013, at the Iowa Insurance Division ("Division") for the purpose of determining whether Applicants' proposed acquisition of control of ALAC, Aviva Re, Aviva Re II, Aviva Re III, and Structured Annuity complies with the statutory requirements set forth in Iowa Code section 521A.3(4)(a) (2013).

## **II. JURISDICTION**

The Commissioner has jurisdiction over this matter under Iowa Code section 521A.3 (2013).

## **III. EVIDENCE PRESENTED**

In support of the application, Applicants submitted a "Statement Regarding the Acquisition of Control or Merger with a Domestic Insurer" with attached exhibits ("Form A") containing details relating to Applicants' operations.

Applicants also submitted the testimony of Grant Kvalheim, President of Athene Holding Ltd., and the affidavit of Richard Cohan, Executive Vice President and General Counsel of Aviva USA Corporation. Mr. Kvalheim testified to the purpose and in support of the proposed acquisition. Mr. Cohan's affidavit attested to the distribution of the Form A to ALAC, Aviva Re, Aviva Re II, and Aviva Re III stockholders.

Additional comments were made by Jim Baker, Research Coordinator with Unite Here and Fred Haskins, Esq. representing Ron Bobman, President of Capital Returns Management.

Mr. Baker expressed concern regarding a trend of private equity companies acquiring blocks of fixed annuity products as a relatively cheap and stable source of financing for their operations. Specifically, he questioned whether private equity firm investment philosophies, including the Applicants, are a fit for the insurance business. Additionally, Mr. Baker requested that the Commissioner consider measures to protect policyholders from potential risks. Finally, Mr. Baker proposed recommendations and areas of inquiry for the Commissioner to consider while reviewing the Form A.

Mr. Haskins, on behalf of his client, strongly supported the transaction and urged the Commissioner to approve the Form A.

At the close of the hearing, the Commissioner closed the record and the hearing was adjourned. All evidence was admitted without objection and is part of the record considered by the Commissioner in issuing the following findings, conclusions, and order.

#### IV. FINDINGS OF FACT

The statutory requirements the Applicants' acquisition plan must meet are relatively straightforward. Iowa Code section 521A.3(4)(a) (2013) requires a showing by the Applicants that the facts and circumstances supporting their application for acquisition of control of insurers meet five standards.

Briefly, these standards relate to (1) Applicants' post-acquisition ability to retain an Iowa license and continue writing existing lines of insurance, (2) the effect of acquisition on insurance competition in Iowa, (3) the effect of Applicants' financial condition on Aviva Insurers and their policyholders, (4) the effect of Applicants' anticipated changes to Aviva Insurers' operations on their policyholders and the public interest, and (5) the effect those persons that Applicants choose to lead Aviva Insurers in the future will have on the interests of their policyholders and the public. Each requirement is discussed in greater detail below.

If Applicants establish that their application for acquisition of control meets these requirements, section 521A.3(4)(a) (2013) requires the Commissioner to approve the application.

Applying these standards to the evidence presented by the record, when viewed as a whole, the Commissioner finds the following facts:

1. **After a change of control, the Aviva Insurers will be able to satisfy Iowa licensure requirements and thus continue writing the line or lines of insurance for which they are presently licensed.**

Iowa Code section 521A.3(4)(a)(1) (2013) requires an applicant to demonstrate to the Commissioner that, after a change of control, the acquired domestic insurer will be able to satisfy the requirements for issuing a license to write the line or lines of insurance for which it is presently licensed.

The Aviva Insurers are licensed and in good standing with the Division. *Trans.* at 27.

Mr. Kvalheim testified that the Aviva Insurers will continue to satisfy all capital and surplus requirements after closing, will operate with a sound plan of operation, and will continue to be managed by individuals with relevant insurance industry experience. *Id.* at 27-28.

Presently, ALAC has two main lines of business, fixed annuities and indexed universal life insurance. *Trans.* at 20. Under Applicants' ownership, ALAC will continue to operate its annuity business substantially as it has in the past. *Id.*

There are no present plans or proposals to change the annuity business and operations in any significant way other than to update its product portfolio consistent with Athene's underwriting philosophy. *Id.* at 20-21. Specifically, Mr. Kvalheim testified that Applicants' product design philosophy is more focused on accumulation versus guaranteed lifetime income, as Athene believes that it carries a lower risk profile. *Trans.* at 34-35.

Immediately prior to closing, ALAC will cede a portion of certain in force and future annuities and funding agreements to an affiliated reinsurer, Athene Life Re Ltd. *Kvalheim Affidavit* p.6 at ¶21. The reinsurance agreement will be submitted to the Commissioner for prior approval. *Id.* Additionally, immediately prior to closing, ALAC will cede its life insurance business through a reinsurance transaction. Mr. Kvaleim noted that the sale of ALAC's life insurance business is not a condition of the closing of Athene's purchase of the Aviva Insurers. *Trans.* at 21. Thereafter, other than on a transition basis, ALAC will cease writing life insurance business. *Id.*

Mr. Kvalheim testified that prior to the proposed reinsurance transaction to effect the sale of ALAC's life insurance business, ALAC will recapture the business currently ceded to Aviva Re, Aviva Re II, and Aviva Re III. *Trans.* at 22. Following the closing and the settlement of the recapture transactions, the Applicants plan to dissolve Aviva Re, Aviva Re II, and Aviva Re III. *Id.* The newly formed Structured Annuity will coinsure 100 percent of all structured settlement annuities previously issued by ALAC and its predecessor by merger, Aviva Life Insurance Company to Aviva London Assignment Corp. *Id.* at 22-23. The Applicants anticipate following the closing of the proposed transaction that Structured Annuity will operate substantially as described in the application for the company's certificate of authority, which ALAC filed with the Division. *Id.* at 23.

Immediately following the closing of the transaction, the Applicants intend to make certain changes to the corporate ownership structure of the Aviva Insurers. *Trans.* at 24.

Athene intends to make Aviva USA Corporation the onshore holding company of all Athene's U.S. domiciled subsidiaries. *Id.* Additionally, ALAC's direct parent will be Athene Annuity and Life Assurance Company, a Delaware domiciled life insurance company and an existing subsidiary of Athene. *Id.*

Lastly, Mr. Kvalheim testified that other than the transactions detailed in his testimony and affidavit, there are no other plans to divest any portion of the Aviva Insurers or plans to merge the Aviva Insurers with any other person or persons. *Trans.* at 24.

The Commissioner finds that Applicants' ability to satisfy Iowa licensure requirements and their ability to continue writing existing lines of insurance for which they are presently licensed will be unimpaired after a change of control.

**2. Applicants' acquisition of control of Aviva Insurers will not substantially lessen insurance industry competition within Iowa.**

Iowa Code section 521A.3(4)(a)(2) (2013) requires an applicant to demonstrate to the Commissioner that the effect of acquiring control will not substantially lessen competition in insurance in Iowa.

Mr. Kvalheim affirmed, as part of his testimony, that the proposed transaction will not substantially lessen competition in the State of Iowa. *Trans.* at 26. According to A.M. Best 2011 year-end data, the combined market share in Iowa of Athene and the Aviva Insurers for all statutory lines of business would be exempt from the obligation to make any anti-competition filing under the NAIC Insurance Holding Company System Regulatory Model Act, which indicates no substantial lessening of competition in Iowa. *Id.*

The Commissioner finds that Applicants' acquisition of control of Aviva Insurers will not substantially lessen competition in insurance in Iowa.

**3. Applicants' financial condition will not jeopardize the financial stability of Aviva Insurers, or prejudice the interests of their policyholders.**

Iowa Code section 521A.3(4)(a)(3) (2013) requires an applicant to demonstrate to the Commissioner that the applicant's financial condition will not jeopardize the financial stability of the acquired domestic insurer, or prejudice the interest of its policyholders.

Mr. Kvalheim testified that the financial statements submitted by the Applicants demonstrate that they and their affiliates are financially sound. *Trans.* at 29.

As of the December 31, 2012, AGM and its subsidiaries had \$114 billion of assets under management. *Trans.* at 17. The assets were divided \$45 billion in private equity and \$69 billion in a credit fund. *Trans.* at 34. The Applicants' acquisition of the Aviva Insurers will in no way jeopardize their financial position or prejudice the interests of their policyholders. *Trans.* at 29. Mr. Kvalheim also testified that Athene will become the second largest underwriter of fixed annuities in the U.S. with total assets in excess of \$60 billion upon its successful acquisition of the Aviva Insurers. *Trans.* at 42. Following the acquisition, Athene is estimated to have approximately \$5 billion of capital on a combined Bermuda statutory basis. *Id.* at 29. In support of the existing insurers, Mr. Kvalheim stated, Athene will enter into a capital maintenance agreement pursuant to which Athene will maintain the capital and surplus of ALAC above an agreed-upon level with the Commissioner. *Id.* Additionally, Athene will voluntarily increase reserves by approximately \$150 million before the closing of the transaction. *See, Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer.*

Under the terms of the Stock Purchase Agreement, Aviva plc will receive in the aggregate consideration of approximately \$1.55 billion, subject to certain adjustments, in conjunction with the sale of Aviva USA Corporation ("AUSA") to Athene. The purchase price will be paid in a series of transactions that will occur at approximately the same time on the closing date. *Trans.* at 19-20; *Kvalheim Affidavit* p.4 at ¶15.

Athene does not expect that any acquisition financing will be required in connection with the transaction. *Id.* Additionally, Applicants have no current plans to have the Aviva Insurers declare any dividends or distributions following the closing of the proposed transaction. However, prior to the proposed acquisition closing, ALAC will seek approval of an extraordinary dividend in the sum of a \$1.4 billion distribution of excess capital from ALAC to AUSA. *Trans.* at 23; *Kvalheim Affidavit* pp. 4-5 at ¶17(b). The actual amount of the dividend has yet to be finalized. *Trans.* at 38. Once the transaction is finalized, the amount will be determined as a function of the closing transactions, taking into account the profitability of ALAC from the time Applicants entered the stock purchase agreement until the closing date. *Id.* Following payment of the extraordinary dividend, Aviva Insurers will have a risk based capital ratio of at least 475 percent of company action level. *Id.*; *See Also* Iowa Code section 521E.3.

There being no evidence of adverse financial impact on Aviva Insurers, the Commissioner also finds that the interests of the Aviva Insurers' policyholders will not be prejudiced by Applicants' financial condition.

4. **Applicants' proposed post-acquisition changes in Aviva Insurers' business, or corporate structure, or management are not unfair or unreasonable to Aviva Insurers' policyholders and are not contrary to the public interest.**

Iowa Code section 521A.3(4)(a)(4) (2013) requires an applicant to demonstrate to the Commissioner that the applicant's plans or proposals for material changes to the acquired domestic insurer's business, or corporate structure or management are not unfair or unreasonable to its policyholders and are not contrary to the public interest.

Mr. Kvalheim testified that Applicants do not have any current plans to liquidate the ALAC or Structured Annuity, sell their assets, or consolidate or merge them with any person, or to make any other material change in their business or corporate structures. *Trans.* at 30. However, he noted that Aviva Re, Aviva Re II, and Aviva Re III will be dissolved prior to the proposed life reinsurance transaction. *Trans.* at 22. Applicants do not have any current plans to change management in a manner that would be unfair or unreasonable to their policyholders or contrary to the public interest. *Id.* Following the proposed transaction, the Aviva Insurers' Boards of Directors and certain executive officers of the Aviva Insurers will be replaced with individuals currently serving as executive officers or directors of the Applicants or Athene's U.S. subsidiaries. *Trans.* at 25.

In connection with the acquisition, Athene plans to transfer its U.S. headquarters from South Carolina to Des Moines. *Trans.* at 19. Athene's and ALAC's annuity operations will be consolidated at ALAC's building in West Des Moines, Iowa. *Id.* Mr. Kvalheim testified that Athene has no current plans to outsource any functions of the Aviva Insurers' operations. *Trans.* at 38. Some contractors may be outsourced away from Des Moines, but they are not current employees. *Id.*

The Commissioner finds that Applicants' proposed post-acquisition changes in Aviva Insurers' business, corporate structure, and management are not contrary to the public interest.

5. The competence, experience, and integrity of those individuals who will control Aviva Insurers after acquisition are sufficient to indicate that Aviva Insurers policyholder interests and the public interest will not be jeopardized by Applicants' acquisition of control of the Aviva Insurers.

Iowa Code section 521A.3(4)(a)(5) (2013) requires an applicant to demonstrate to the Commissioner that the competence, experience, and integrity of those the applicant selects to control the acquired domestic insurer are sufficient to indicate that policyholders' interests and the public's interest will not be jeopardized by acquisition.

Mr. Kvalheim testified that he is familiar with the individuals who serve and will serve as directors and executive officers of Applicants who will control the Aviva Insurers after the closing. *Trans.* at 31. In the view of Mr. Kvalheim, the competence, experience, and integrity of the individuals who will control the Aviva Insurers operations after the closing will be sufficient to insure that the interests of the Aviva Insurer policyholders and the public interest will not be jeopardized by the acquisition of control. *Id.*

The Commissioner finds that the competence, experience, and integrity of those individuals who will control the Aviva Insurers after acquisition are sufficient to indicate that the Aviva Insurer policyholder interest and the public interest will not be jeopardized by Applicants' acquisition of control of the Aviva Insurers.

## V. CONCLUSIONS OF LAW

The legislature has vested discretion in the Commissioner not only to hold hearings and make factual findings, but also to interpret and apply the law.

Iowa Code section 521A.3(4)(a) (2013) requires the Commissioner to approve an application for acquisition of control if, after a public hearing, the applicant demonstrates all five criteria listed within that section to the Commissioner.

After a careful review of all evidence submitted, the Commissioner concludes, upon substantial evidence, Applicants have demonstrated to the Commissioner all five requirements set forth in, and required by, section 521A.3(4)(a) (2013). Applicants' proposed acquisition of control of the Aviva Insurers should be approved subject to the conditions listed below.



## ORDER

**IT IS THEREFORE ORDERED** that:


The application of Apollo Global Management, LLC, Leon Black, Joshua Harris, and Mark Rowan for approval of a plan to acquire control of Aviva Life and Annuity Company, Aviva Re Iowa, Inc., Aviva Re Iowa II, Inc., and Aviva Re Iowa III, Inc. is **APPROVED** subject to the following conditions:

1. ALAC shall not pay any dividend or other distribution to shareholders prior to the fifth anniversary of the date of this Order without the prior approval of the Commissioner. Upon request, the Commissioner may review the necessity of this condition in connection with any initial public offering of Athene Holding, Ltd.
2. ALAC shall notify the Division if it plans to make any significant deviations from the Plan of Operations submitted with its application, including, but not limited to, a plan to enter into new lines of business. In such event, ALAC will submit a revised Plan of Operations and Financial Projections to the Division, and shall obtain the Division's approval prior to making any such deviation.
3. ALAC shall establish a process prior to closing, acceptable to the Commissioner, for the submission of all affiliated agreements and affiliated investments that would be subject to Iowa Code sections 521A.5(b) or (c) but for the application of any materiality thresholds set forth therein. ALAC shall not proceed with any transaction related to these agreements and investments if the Division notifies ALAC of its objection.
4. ALAC shall implement reserving methodologies for Non-variable Deferred Annuities containing Guaranteed Minimum Withdrawal Benefits and Guaranteed Minimum Death Benefits consistent with Actuarial Guideline 33 for all contracts issued after December 31, 2013.

This Order shall be considered final agency action for the purposes of Iowa Code chapter 17A (2013). Any action challenging the Order shall comply with the requirements of Iowa Code chapter 17A (2013).

Any application for rehearing shall comply with the requirements of Iowa Code chapter 17A (2013).

**DATED** this 15<sup>th</sup> day of August, 2013.



---

NICK GERHART  
Iowa Insurance Commissioner

Copies to:

Mark Dickinson, Nyemaster, Goode, West, Hansell & O'Brien, P.C.

John Suydam, Apollo Global Management, LLC

John Golden, Athene Annuity & Life Assurance Company

Perry Shwachman, Sidley Austin LLP

Andrew Holland, Sidley Austin LLP

Harold Schneebeck, Brown, Winick, Graves, Gross, Baskerville and Schoenebaum,  
P.L.C.