

BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF IOWA

In the matter of application of)	
COMMONWEALTH ANNUITY)	
AND LIFE INSURANCE COMPANY)	FINDINGS OF FACT,
and THE GOLDMAN SACHS)	CONCLUSIONS OF LAW,
GROUP, INC. for a plan to acquire)	AND ORDER
control of PRESIDENTIAL LIFE)	(Iowa Code chapter 521A)
INSURANCE COMPANY-USA)	
)	

I. INTRODUCTION

Commonwealth Annuity and Life Insurance Company (“Commonwealth”), a Massachusetts domestic insurer and The Goldman Sachs Group, Inc. (“Goldman Sachs”), a Delaware holding company (collectively referred to as “Applicants”), seek to acquire all of the issued and outstanding stock of Presidential Life Insurance Company-USA (“Presidential”), an Iowa domestic life insurance company.

Commonwealth is a wholly-owned, indirect subsidiary of Global Atlantic Financial Group (“Global Atlantic”). Goldman Sachs holds approximately 20 percent of the voting securities of Global Atlantic. Following the acquisition, Goldman Sachs will be a controlling person of Presidential as contemplated under Iowa law. Presidential is wholly owned by Presidential Life LLC (“Presidential LLC”), a Delaware limited liability company. Presidential LLC is a wholly owned subsidiary of Athene Annuity & Life Assurance Company, a Delaware life insurance company, which is in turn a wholly owned subsidiary of Athene Holding Ltd. (“Athene”), a Bermuda exempted company¹.

The Applicants wish to acquire control of Presidential and have filed an application with the Iowa Insurance Commissioner (“Commissioner”) for permission to do so.

¹ 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.

Pursuant to Iowa Code section 521A.3(4)(b) (2013), and at Applicants' request, a public hearing was held Thursday, August 29, 2013, at the Iowa Insurance Division ("Division") for the purpose of determining whether Applicants' proposed acquisition of control of Presidential 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 and affidavit of Nicholas von Moltke, Director, President and CEO of Commonwealth and the affidavit of Guy Hudson Smith III, President of Athene Annuity & Life Assurance Company. Mr. von Moltke testified to the purpose and in support of the proposed acquisition. Mr. Smith's affidavit detailed that Presidential sent a copy of the Form A to its shareholder.

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.

No one appeared at the hearing to oppose Applicants' request or otherwise offer evidence or contradict or question Applicants' submission of evidence.

IV. FINDINGS OF FACT

The statutory requirements Applicants' acquisition plan must meet are relatively straightforward. Iowa Code section 521A.3(4)(a) (2013) requires a showing by Applicants that the facts and circumstances supporting their application for acquisition of control of Presidential 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 Presidential and its policyholders, (4) the effect of Applicants' anticipated changes to Presidential's operations on its policyholders and the public interest, and (5) the effect those persons that Applicants choose to lead Presidential 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 its 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, Presidential will be able to satisfy Iowa licensure requirements and thus continue writing the line or lines of insurance for which it is 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.

Presidential is licensed and in good standing with the Division. *Trans.* at 27.

Mr. von Moltke testified that Presidential will continue to satisfy all capital, surplus and statutory requirements after closing. *Id.* at 27. Presidential will continue to operate with a sound plan of operation and continue to be managed by competent and trustworthy individuals with substantial insurance industry experience. *Id.*

Presidential will continue to operate its life insurance business in a manner substantially consistent with Aviva USA Corporation's ("Aviva USA") historical practices and does not anticipate material changes to that business. *Trans.* at 25.

Mr. von Moltke testified that there are no current plans for dividends. *Trans.* at 26. As part of the transaction, Commonwealth expects to contribute approximately \$240 million of additional capital to Presidential. *Id.* In the future, Presidential may declare dividends to the extent financially prudent. *Id.*

Applicants have no current plans to merge Presidential, or to divest Presidential, Aviva USA's life insurance business, or any portion of Aviva USA's business. *Trans.* at 26.

Following completion of the proposed transaction, Applicants plan to have Presidential assume all of the economic risk and reward of the life insurance business of Aviva Life and Annuity Company. *Trans.* at 24. Presidential will become part of Global Atlantic's retail distribution platform with the expectation that it will issue universal life and potentially other life and annuity products in 49 states. *Id.* Mr. von Moltke testified that Presidential expects to use Goldman Sachs Asset Management, L.P. to manage the assets that support the insurance and annuity business. *Id.*

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 Presidential 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. von Moltke affirmed, as part of his testimony, that the proposed transaction will not substantially lessen competition in the State of Iowa. *Trans.* at 29. According to year-end 2012 data provided by SNL Financial and AM Best, the market share held by Commonwealth of Iowa life and annuity premiums and annuity considerations were less than .01 percent. *Id.* The market share held by Presidential was zero and the market share of life premiums held by Aviva Life and Annuity of Iowa was 2.53 percent. *Id.* The proposed acquisition will not substantially lessen competition of insurance in Iowa. *Id.*

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

3. Applicants' financial condition will not jeopardize the financial stability of Presidential, 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.

Commonwealth has entered into an agreement with Athene to reinsure all of the US-based life insurance business that Athene will be acquiring when it purchases Aviva USA from Aviva plc. *Trans.* at 20. As part of that transaction, Commonwealth intends to acquire Presidential so it can act as the reinsurer of Aviva USA's life insurance business. *Id.* That reinsurance will initially be provided on an indemnity basis. *Id.* With two exceptions, the reinsurance will then be converted into assumption reinsurance so that the covered policies can be moved to Presidential's paper. *Id.* The two exceptions are the reinsurance of the closed block within Aviva Life and Annuity Company and the term and universal life insurance business of Aviva Life and Annuity Company of New York. *Id.* The reinsurance of those businesses will remain on an indemnity basis. *Trans.* at 21.

Mr. von Moltke explained that the reinsurance transactions taken together offer Commonwealth the opportunity to assume an attractive, seasoned block of business from Aviva USA and to acquire an excellent platform to expand life insurance sales nationally. *Trans.* at 21. In connection with the reinsurance agreement, Commonwealth and Athene intend to replace captive financing transactions previously implemented by Aviva USA with new captive financing that substitutes Presidential for Aviva Life and Annuity Company. *Trans.* at 23. The terms of the new captive financing transactions are substantially similar to the structures that are currently in place at Aviva USA and have been filed with the Division. *Id.* Approval of the insurance licenses for the Presidential Iowa domiciled captive insurers, if granted, will take place after Commonwealth acquires control of Presidential and prior to the close of the reinsurance transaction. *Id.* at 23-24.

Mr. von Moltke described Commonwealth as a large diversified life insurance company with approximately \$9.7 billion in admitted assets as of June 20, 2013. *Trans.* at 30. Upon closing of the proposed transaction, Commonwealth is expected to have a company-action level risk-based-capital ratio in excess of 400 percent. *Id.* at 30. At closing, Commonwealth intends for Presidential to have approximately \$400 million of capital to support the reinsurance as well as future business growth. *Id.* Mr. von Moltke testified to the intention to ensure that Presidential maintains a company-action level risk-based-capital of at least 350 percent. *Id.* The financial statements of both Commonwealth and Goldman Sachs that were provided to the Division along with the Form A Statement demonstrate that Applicants are financially sound. *Trans.* at 30-31.

Total consideration for the sale of the shares of Presidential will be a cash amount equal to the total statutory capital and surplus of Presidential plus \$2 million. *Trans.* at 21-22. The purchase and sale agreement provides for a maximum total statutory capital and surplus of Presidential equal to \$15 million. *Id.* at 22. Mr. von Moltke testified that

Presidential will receive a ceding commission from Aviva Life and Annuity Company in connection with the reinsurance transaction. *Id.* Commonwealth also agreed to contribute capital to Presidential to ensure that it will have at least a 350 percent company-action level risk-based-capital ratio after completion of the reinsurance transaction. There is no acquisition financing for the purchase of the Presidential shares. *Trans.* at 23.

Mr. von Moltke testified that Commonwealth expects to pay consideration for the shares of Presidential to Athene in cash. *Trans.* at 22. The source of that consideration for Presidential will be the available capital of Commonwealth. *Id.* Commonwealth intends to make this payment, and take ownership of the Presidential shares two business days prior to the date on which the reinsurance of Aviva USA's life insurance business takes effect. *Trans.* at 22-23.

The Commissioner finds no evidence of an adverse financial impact on Presidential and the interests of Presidential's policyholders will not be prejudiced by Applicants' financial condition.

4. Applicants' proposed post-acquisition changes in Presidential's business, or corporate structure, or management are not unfair or unreasonable to Presidential's 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. von Moltke testified that Applicants do not have any current plans to liquidate Presidential, sell its assets, or consolidate or merge it with another entity. *Trans.* at 31. Additionally, Mr. von Moltke explained that there are no current plans to make any other material changes to Presidential's business, corporate structure, or management that would be unfair or unreasonable to policyholders or contrary to the public interest. *Id.* at 31-32.

In connection with the closing of the acquisition of Presidential, the current directors and officers of Presidential will resign. *Trans.* at 33. Commonwealth will select new directors and officers. *Id.* Initially, the Presidential directors and officers will be the individuals currently serving as directors and officers of Commonwealth. *Id.*

Commonwealth will also add senior-level officers currently serving the life insurance business of Aviva USA to be officers of Presidential and at least one director of Presidential. *Id.*

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

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

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. von Moltke testified that the directors and officers of Commonwealth and Goldman Sachs have many years of experience working at a senior level in financial services industries. *Trans.* at 32. The directors and officers of Commonwealth and Goldman Sachs have demonstrated their dedication, competence and integrity over the course of their years of service. *Id.* Biographical information for the new Presidential directors and officers has been provided to the Division. *Id.* at 33. Mr. von Moltke testified to his belief that the newly selected Presidential officers and directors have sufficient competence, experience and integrity to control the operations of Presidential such that the interests of policyholders of Presidential and the public will not be jeopardized by the acquisition of control. *Trans.* at 33-34.

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

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 sufficiently 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, that 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 Presidential should therefore be approved.

ORDER

IT IS ORDERED that:

The application of Commonwealth Annuity and Life Insurance Company and The Goldman Sachs Group, Inc., for approval of a plan to acquire control of Presidential Life Insurance Company-USA is **APPROVED**.

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 26th day of September, 2013.



NICK GERHART
Iowa Insurance Commissioner

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