BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF IOWA

In the matter of the Application of Transamerica Life Insurance Company (TLIC) for Approval of Its Plan of Division	(Iowa Code Chapter 521I)

BEFORE THE INSURANCE COMMISSIONER AND THE ATTORNEY GENERAL OF THE STATE OF IOWA

In the matter of the Application of Transamerica Life Insurance Company (TLIC) for Approval of the merger of Newly Formed Company with SCOR Global Life USA Reinsurance Company	(Iowa Code Chapter 521)

<u>SCOR GLOBAL LIFE USA REINSURANCE COMPANY'S RESPONSE TO JOHN HANCOCK LIFE INSURANCE COMPANY'S PETITION IN INTERVENTION</u>

TABLE OF CONTENTS

INTRODUCTION

SCOR Global Life USA Reinsurance Company ("SGLUSA") submits this Response to the Petition filed by John Hancock Life Insurance Company and its affiliate The Manufacturers Life Insurance Company (Bermuda Branch) ("John Hancock") challenging the Plan of Division and the Simultaneous Merger submitted by Transamerica Life Insurance Company ("TLIC") and SGLUSA (collectively the "Proposed Transaction").[1]

John Hancock's Petition is premised on a series of legal arguments that range from textually unsupported to constitutionally frivolous. None have merit, and none provide a legitimate basis for the Commissioner or the Merger Commission to reject the Proposed Transaction.[2] Given the illegitimacy of John Hancock's purely legal challenges to the Division Plan (Counts I, III, and IV) and their irrelevance to the August 20, 2026 hearing (the "Hearing"), Counts I, III, and IV of the Petition should be summarily dismissed in advance of the Hearing. John Hancock's mixed legal-and-factual challenge to the Plan of Division (Count II) also should be rejected, and the Proposed Transaction approved, following the August 20, 2026, hearing.

As detailed more fully in the materials submitted to the Commissioner on May 12, 2026, for nearly fifteen years, SGLUSA affiliate SCOR Global Life Americas Reinsurance Company ("SGLA") and SGLUSA parent company SCOR SE (all together, "SCOR") have borne the full economic risk and administered the full complement of reinsurance agreements that TLIC originally assumed through its former Transamerica Reinsurance ("TARe") division. The

[1] Unless otherwise indicated, capitalized terms used throughout this brief are as defined in the Proposed Transaction and accompanying materials submitted to the Commissioner on May 12, 2026.

[2] Pursuant to I.C.A. §521.5, the Merger Agreement is subject to review and approval by a commission consisting of the Commissioner of Insurance and the Attorney General. Although John Hancock purports to object to the Proposed Transaction as a whole, John Hancock's Petition does not address either the Merger Commission or the standard for approving mergers under the Iowa Merger law.

Proposed Transaction does nothing more than formalize that long-standing arrangement by dividing the TARe business from TLIC into a newly formed entity, TLIC-A, which will simultaneously merge into SGLUSA. The result is a simplified organizational structure in which SGLUSA becomes the direct contractual counterparty to the TARe reinsurance agreements that SCOR has already been administering and funding for over a decade. The reinsurance agreements are not modified in any respect. Nor is there any change in the economics of the reinsurance arrangements. The only change is that the legal form of the arrangement will finally reflect its economic substance.

Of course, John Hancock knows all of this. It has dealt with SCOR as the administrator of its reinsurance agreements since 2011. It has submitted claims to SCOR and received payments from SCOR throughout that period, without ever seeking to involve anyone from TLIC. It has executed numerous amendments to these agreements that were countersigned by SCOR – not TLIC – acting in SCOR's capacity as "administrator and Attorney-in-Fact" under those agreements. Throughout this time, John Hancock has never once challenged SCOR's financial capacity to honor its obligations. And as SGLUSA will show at the hearing, until very recently John Hancock repeatedly and voluntarily sought to expand its reinsurance relationship with SCOR. Against that backdrop, John Hancock's objections to the Proposed Transaction are irreconcilable with its own conduct and should be weighed accordingly.

Stripped of its rhetoric, John Hancock's Petition raises four challenges to the Proposed Transaction. First, John Hancock argues that the Iowa Division Law does not apply to the division of reinsurance business at all. This argument fails on its face. The Division Law applies to all

Iowa “domestic stock insurers” without regard to line of business.[3] Moreover, it specifically addresses the allocation of reinsurance agreements in multiple provisions.[4]

Second, John Hancock argues that the Plan of Division specifically (and by extension the Proposed Transaction as a whole) does not satisfy the approval criteria set forth in §521I.8(3) of the Division Law. That argument also fails. There is nothing unfair or prejudicial about the Proposed Transaction. The Proposed Transaction adequately protects the interests of all policyholders, creditors, and shareholders of TLIC, including John Hancock. John Hancock's counter-narrative, which ignores [redacted], is factually incomplete and legally insufficient.

Third, John Hancock argues that the Plan of Division specifically (and thus the Proposed Transaction as a whole) should be rejected because it would allegedly breach an “anti-assignment” provision contained in a handful of its reinsurance agreements with TLIC. That argument is both substantively and procedurally wrong. Substantively, John Hancock is wrong to suggest that the Plan of Division implicates its rights under the cited anti-assignment provisions, both because it does not involve a “transfer” and because it will not materially impact John Hancock’s experience under the reinsurance agreements. Procedurally, John Hancock is wrong because even if a breach were somehow found, the Division Law expressly provides that contractual breaches are not a basis to invalidate a division like that proposed by TLIC.[5]

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[3] *See* I.C.A. §521I.2.

[4] *See, e.g.,* I.C.A. §521I.2(5).

[5] *See* I.C.A. §521I.12(4).

Fourth and finally, John Hancock raises the specter of an as-applied Contracts Clause challenge under the United States Constitution, arguing that the Commissioner's approval of the Plan of Division would constitute unconstitutional state action impairing its contractual rights. That argument is not merely wrong, it is foreclosed by decades of consistent precedent from the U.S. Supreme Court and the federal circuits.[6] Courts have repeatedly and consistently held that a state insurance commissioner's approval of a privately conceived plan of reorganization does not constitute "state action" sufficient to sustain a Contracts Clause challenge. John Hancock's threatened constitutional claim is a transparent attempt to influence the Commissioner's and the Merger Commission's deliberations through the prospect of protracted litigation. It should not succeed.

For all of the reasons set forth in this Response, the Commissioner and the Merger Commission should reject each of John Hancock's objections and approve the Proposed Transaction.

BACKGROUND

1. The facts supporting the Proposed Transaction are set forth in the materials submitted to the Commissioner on May 12, 2026. Those facts will be supplemented as necessary by testimony and exhibits that will be offered at the hearing scheduled for August 20, 2026. Accordingly, this Response does not seek to restate every potentially relevant fact. Instead, SGLUSA sets forth only those facts that are both relevant to SGLUSA's Response to the Petition and necessary to correct the record submitted by John Hancock. For the avoidance of doubt, unless SGLUSA specifically

[6] *See infra* at ¶¶110-115.

accepts a factual assertion from John Hancock's Petition, it should be considered a disputed fact that will be addressed at the hearing.

I. THE PARTIES AT ISSUE IN JOHN HANCOCK'S PETITION

2. Transamerica Life Insurance Company ("TLIC") is an Iowa-domiciled stock insurance company incorporated on April 19, 1961, with its principal place of business and registered office in Cedar Rapids, Iowa. TLIC offers life and health insurance as well as annuities, mutual funds, and retirement solutions, with products primarily distributed through agents and brokers. TLIC also operated as a reinsurer through its former Transamerica Reinsurance ("TARe") division – a business segment within TLIC that, at its peak, was one of the three largest life reinsurers in the United States.

3. SCOR Global Life USA Reinsurance Company ("SGLUSA") is a Delaware-domiciled stock insurance company and a subsidiary of SCOR Global Life USA Holdings, Inc. ("SGLUSA Holding"), a holding company organized under the laws of Delaware. SGLUSA is an established life and health reinsurance company that has reinsured North American life and health risks since its incorporation in 1982.

4. [redacted]

5. SGLUSA's business is administered by its affiliate, SCOR Global Life Americas Reinsurance Company ("SGLA"). SGLA has also administered the TARe business – including the John Hancock reinsurance agreements at issue – since 2011, pursuant to a series of

7 [redacted]

administrative services agreements. As the surviving entity in the Merger, SGLUSA will be the direct contractual counterparty to all allocated reinsurance agreements, including the John Hancock agreements. Aside from that, there will be no changes to the management of the TARe business, as it will continue to be administered by SGLA.

6. John Hancock Life Insurance Company ("John Hancock") is a Michigan corporation with its principal place of business in Boston, Massachusetts. It is a wholly owned subsidiary of Manulife Financial Corporation, a Canadian financial services and insurance company. John Hancock is a party to nineteen (19) reinsurance agreements with TLIC that will be allocated by the Proposed Transaction.

7. John Hancock also has a long-standing reinsurance relationship with SGLUSA. In fact, notwithstanding John Hancock's claimed concerns about the financial condition of SGLUSA, John Hancock has ceded significantly more business to SGLUSA than to TLIC, and until recently John Hancock continued to invite SGLUSA to bid on many reinsurance placement proposals.[8] Thus, regardless of whether the Proposed Transaction is approved, John Hancock and SGLUSA will continue to have a significant relationship moving forward.

II. THE DEVELOPMENT AND SUBMISSION OF THE PROPOSED TRANSACTION

8. The Proposed Transaction, including the Plan of Division and the Merger Agreement, was unanimously authorized, approved and adopted by written consent of the TLIC Board of Directors in accordance with all provisions of TLIC's articles of incorporation and bylaws, pursuant to

[8] [redacted]

Section 521I.7 of the Iowa Division Law.[9] The Proposed Transaction was also unanimously approved, adopted and ratified by written consent of TLIC's sole shareholder, Commonwealth General Corporation, pursuant to Iowa Code §§ 490.1104.2 and 521.10.[10]

9. In connection with the Proposed Transaction, TLIC and SGLUSA retained Milliman, Inc. ("Milliman") to prepare a report addressing the financial requirements for a division to satisfy the Iowa Division Law. The Milliman Report, attached as Exhibit D to the Proposed Transaction, demonstrates that following the Division and Merger: (1) the financial condition of SGLUSA will not jeopardize the interests of cedents, whose contracts are being allocated as part of the Division; (2) SGLUSA will be qualified and eligible to receive a certificate of authority to transact the business of insurance in Iowa; (3) SGLUSA will be solvent when the Division and simultaneous Merger become effective; and (4) the remaining assets of SGLUSA will not be unreasonably small in relation to the business and transactions it will engage in after completion of the Division and simultaneous Merger.[11]

10. On May 12, 2026, TLIC filed the Proposed Transaction with the Iowa Insurance Commissioner ("Commissioner"), seeking approval of the Division and Merger pursuant to Iowa Code § 521I et seq. (the "Division Law") and Iowa Code § 521.1 et seq. (the " Merger Law"). TLIC and SGLUSA are targeting an Effective Time of 12:00 a.m. (Central Time) on October 1, 2026, subject to receipt of regulatory approvals.

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[9] *See* Proposed Plan of Division at Art. II.2.

[10] *Id.* at Art. II.3.

[11] [redacted]

III. THE MECHANICS OF THE PROPOSED TRANSACTION

11. The purpose of the Proposed Transaction is to separate and allocate the Covered Contracts, Inuring Reinsurance Agreements, and the related assets and liabilities, from TLIC's other contracts and business. It consists of two parts: the Division and the Merger.

12. Upon approval of the Plan of Division, all assets, surplus, and liabilities relating to the Covered Contracts and Inuring Reinsurance Agreements shall be allocated automatically, by operation of law, solely to TLIC-A as a successor of the dividing company. All assets, surplus, and liabilities *not* allocated to TLIC-A, shall remain vested in and be the sole and exclusive responsibility of TLIC.

13. Simultaneously with the Division, TLIC-A will merge with and into SGLUSA pursuant to the Merger Agreement, in accordance with the Iowa Merger Law and the Delaware Merger Law. All assets, liabilities, contracts, and required surplus associated with the Specified Business allocated to TLIC-A will reside in SGLUSA as the surviving entity in the Merger. SGLUSA will be the successor by Merger to TLIC-A on all Covered Contracts and will remain a subsidiary of SGLUSA Holdings. TLIC-A will have no separate corporate existence following the Merger.

IV. THE IMPACT OF THE PROPOSED TRANSACTION

14. The Proposed Transaction will have no adverse impact on any individual policyholders or consumers.[12] TLIC's retail insurance policies – its life and health insurance policies, annuities, and other consumer products – are not allocated to TLIC-A and remain with TLIC. No obligations to TLIC's individual policyholders will be allocated to TLIC-A. TLIC will retain all assets, liabilities, contracts, and required surplus associated with its non-TARe business.

[12] As discussed *infra*, although TLIC and SGLUSA elected to give cedents the additional considerations afforded to policyholders under the Division Law, they are actually *creditors* of TLIC, not policyholders.

15. The Proposed Transaction will also have no adverse impact on any of TLIC's shareholders. TLIC's sole shareholder, Commonwealth General Corporation, has approved and adopted the Plan of Division and the Merger Agreement by unanimous written consent.

16. Finally, the Proposed Transaction will have no material adverse effect on John Hancock or the other TARe cedents whose reinsurance agreements will be allocated to TLIC-A. In fact, it will have no "material" effect on John Hancock or the other cedents whatsoever. The Proposed Transaction does not change the economics of the reinsurance agreements, shift the risk allocation between the parties, or modify any substantive contractual rights or obligations. The only real change occasioned by the Proposed Transaction will be the substitution of SGLUSA for TLIC as the contractual counterparty on these agreements. This change essentially formalizes what has been the status quo since the business was first retroceded to SCOR in 2011. Further, as noted, the Milliman Report independently confirms that SGLUSA's financial condition will not jeopardize the interests of cedents, and that it will have sufficient assets in relation to the business and transactions it will engage in after completion of the Division.[13]

17. As set forth below, the Proposed Transaction satisfies each of the relevant financial requirements set forth in Section 521I.8 of the Iowa Division Law. As such, the Commissioner and the Merger Commission can and should approve the Proposed Transaction without reservation.

V. A HISTORICAL PRECEDENT FOR THE PROPOSED TRANSACTION

18. To date, no Iowa insurer has submitted a plan of division under the Iowa Division Law. As such, the Proposed Transaction presents the Commissioner and the Merger Commission with

[13] [redacted]

a case of first impression. That is not to say, however, that there is no precedent to help guide the Commissioner's and the Merger Commission's consideration. Rather, the 1996 CIGNA – Brandywine division under an analogous Pennsylvania division law provides a helpful historical precedent.

19. As noted in a 2025 NAIC White Paper on Restructuring Mechanisms, Pennsylvania was one of the first states to enact a division law like §521I. [14] While Pennsylvania's division law is not limited in application to insurance entities, it is otherwise very similar to the Iowa Division Law. Like the Iowa Division law, the Pennsylvania statute applies to all "domestic" entities, without distinguishing between certain lines of business.[15] Like the Iowa Division Law, the Pennsylvania statute requires dividing entities to submit plans of division that detail the manner in which all assets, liabilities, and contracts of the dividing company will be "allocated" to the resulting entities.[16] Like the Iowa Division Law, the Pennsylvania statute provides that if a division breaches an obligation of the dividing association, all of the resulting associations are jointly and severally liable for the breach, "but the validity and effectiveness of the division are not affected thereby."[17] And like the Iowa Division law, the Pennsylvania statute authorized the Insurance Department to issue a final order approving a plan of division.[18]

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[14] *See* December 11, 2025 NAIC White Paper on Restructuring Mechanisms at 11; *see also* 15 Pa. C.S.A §§361–368.

[15] 15 Pa. C.S.A §361(a).

[16] *Id.* at §362.

[17] *Id.* at §368(c).

[18] *Id.* at §368(i).

20. Also like the Iowa Division Law, the Pennsylvania statute declares that property and liabilities allocated as a result of the division "shall not constitute a transfer, directly or indirectly."[19] A comment to that provision explains that:

> The term "transfer" is defined in 15 Pa. C.S. § 102 to include an assignment. Thus the statement in section 367(a)(4)(iii) that property vests in a division without transfer *means that the allocation of property in a division does not involve an assignment of the property, including by operation of law*.[20]

The comment went on to clarify that:

> This means, for example, that *if a dividing association is a party to a contract that requires prior consent to its assignment or transfer*, a resulting association to which the contract is allocated in the division will be bound by the contract and will be entitled to its benefits *without the need to seek consent from the other party to the contract*.[21]

The comment further clarified that in that situation, the division might constitute a breach of contract for which the resulting associations "may be liable."[22] However, as noted above, the Pennsylvania legislature was clear (as the Iowa legislature was here) that breaches occasioned by a division will not affect the "validity and effectiveness of the division."[23]

21. In 1996, the Pennsylvania division law was used to effect the division of a book of commercially insured long tail toxic tort liability coverage and related reinsurance coverages that was in run-off from CIGNA Corporation's INA Financial Corporation. Pursuant to that division, the assets, liabilities, and reinsurance agreements of the dividing company were allocated to

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[19] *Id.* at §367(a)(4)(iii) (concerning allocation of property); *see also id.* at §367(a)(6) (concerning allocation of liabilities).

[20] *Id.* at Committee Comments (Feb 1, 2022) (emphasis added).

[21] *Id.* (emphasis added).

[22] *Id.*

[23] *Id.* at §368(c).

several active and inactive insurance companies owned by a newly created entity called Brandywine Holdings Corporation.[24] In connection with that process, INA presented plans of division and restructure (akin to the merger here) to the Pennsylvania Insurance Commissioner, who approved the proposed plans after conducting a hearing.[25]

22. In the case of CIGNA's 1996 division and restructure (as here), the Pennsylvania Insurance Department conducted an examination of the proposed plans and (as here) renowned financial experts evaluated the proposed transactions. CIGNA retained Houlihan, Lokey, Howard and Zukin to opine as to the solvency and financial condition of the companies involved, and Milliman to opine as to the methodology and assumptions used in estimating the allocated risk, reserves and capitalization.[26] Milliman also opined as to industry standards for the operation of such business in run-off post-division.[27] Like RRC in this case, the Pennsylvania Insurance Department retained Tillinghast to review the reserves.[28]

23. Upon receiving notice of the proposed division, some objecting policyholders contended (like John Hancock does here) that they were entitled to the financial strength of their original insurer and to continuity of their relationship with the dividing companies.[29] They further argued (like John Hancock does here) that their contracts could not be allocated without their

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[24] *See, e.g.,* February 7, 1996, Decision & Order of the Insurance Commissioner of the Commonwealth of Pennsylvania in the matter of *In Re: Plan of Restructuring of INA Financial Corporation, Bankers Standard Insurance Company, et al*. ("Brandywine Decision").

[25] *Id.*

[26] *See* Brandywine Decision, Findings of Fact at ¶192.

[27] *Id.* at ¶195.

[28] *Id*. at ¶265.

[29] *Id.* at ¶¶208, 218.

consent.[30] The Pennsylvania Insurance Commissioner overruled such objections, finding that the allocation occurred by operation of law pursuant to statute, and that the General Assembly did not intend for policyholders and other creditors to have approval power over a plan of division.[31] The Commissioner further noted the many types of corporate changes that may be lawfully done without such consent, even though the changes may significantly affect the financial condition of an insurer, including intercompany pooling agreements, investment strategies, reserving practices and the creation and divestment of subsidiaries.[32] As here, the Commissioner noted that she was charged with protecting the interests of all policyholders and creditors, obviating the need for policyholder consent.[33]

24. Certain reinsurance counterparties also expressed concern (like John Hancock does here) that their interests would be harmed because an underfunded entity would result from the plan.[34] In response, the Commissioner noted that the counterparties were all large, sophisticated insurers who are presumed to have equal bargaining power with INA.[35] She further noted that any obligation to "cover" if INA failed was not altered or expanded by the division plan, and that the risk of fluctuation in INA's financial condition and/or corporate structure did not mandate disapproval of the restructure plan.[36]

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[30] *Id.* at ¶218 ("Some commenters claimed that this allocation constitutes a novation requiring policyholder consent; others claimed that the allocation constitutes an assumption of contractual duties by a new party which mandates policyholder consent.")

[31] *Id.* at ¶222 ("Upon a division, the extinguishment of INA's liability for policyholder obligations and other liabilities allocated to CCI occurs by operation of law."); *see also id.* at ¶225 ("The General Assembly did not intend for creditors, including policyholders, to have approval power over a Plan of Division.").

[32] *Id.* at ¶233.

[33] *Id.* at ¶¶ 234-35.

[34] *Id.* at ¶252.

[35] *Id.* at ¶254.

[36] *Id.* at ¶255.

25. Ultimately, despite objections from a handful of policyholders, creditors, and reinsurance counterparts, the Pennsylvania Commissioner approved the plan of division.[37] In doing so, the Commissioner noted that creditors could later sue if they sustained actual loss and could establish that the division operated as a fraud upon them or otherwise violated law.[38] Thereafter, the Brandywine division was heavily litigated, but the Commissioner's approval was never reversed or undone. As set forth below, the same would undoubtedly be true of the Commissioner's and Merger Commission's approval of the Proposed Transaction, which meets all statutory elements for approval under the Iowa Division and Merger laws.

STANDARD OF REVIEW

26. An objection to a proposed simultaneous insurance business division and merger under Iowa law must meet certain statutory standards.

27. When considering a policyholder's, creditor's, or shareholder's objection to a plan of division, the Commissioner must consider whether such persons' interest *collectively* "will be adequately protected and the plan of division is not unfair or unreasonable to the policyholders of the dividing insurer and is not contrary to the public interest."[39] Additionally, the Commissioner must consider whether "[t]he financial condition of the resulting insurers will not jeopardize the financial stability of a dividing insurer or the resulting insurers or prejudice the interests of the policyholders [or, in TLIC's case, cedents] of such insurers."[40]

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[37] *Id.* at "Order."

[38] *Id.* at ¶ 236. Here, of course, the Commissioner will determine whether any fraud is being committed prior to approving the Division, as part of his review under I.C.A. §521I.8(3).

[39] I.C.A. §521I.8(3)(a).

[40] I.C.A. §521I.8(3)(b).

28. When considering an objection to a merger plan, the Merger Commission must consider whether "the interests of the members, policyholders, or shareholders of the affected company are properly protected and no reasonable objection to the application and plan exists."[41] Section 521.8 in turn makes clear that the merger provisions of Chapter 490 in the Iowa Code apply to insurers like TLIC and SGLUSA.

29. Although the standards applicable to a proposed division and a proposed merger are set forth in separate sections of the Iowa Code, both standards expressly focus on the impact of a division or merger on ***all*** members of an insurer's creditor class generally. The operative concern of both statutes is "adequate" or "proper" protection of the class interests, not confirmation that there are no policyholder, creditor, or shareholder objections.

30. The terms "adequate protection" and "proper protection" are not defined in the Iowa Code. However, it cannot be reasonably disputed that they mean that the entity surviving a proposed merger or division is able to pay all obligations as and when they come due, pursuant to the terms of the merging or dividing entities' insurance or reinsurance contracts. Consistent with other provisions of the Iowa Code, factors to be considered when determining whether the Proposed Transaction "adequately" or "properly" protects all relevant interests include: (1) that the division and merger will be accomplished pursuant to a plan which details its terms and conditions;[42] (2) that the division and merger is permitted by applicable law;[43] and (3) that the plan of merger has been adopted by the board of directors and shareholders.[44]

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[41] I.C.A. §521.8.

[42] I.C.A. §490.1102(1)(a), 4(c), and §521.3.

[43] I.C.A. §490.1102(1)(b).

[44] I.C.A. §490.1104(1), (2).

31. Under Iowa law, an intervenor in an administrative proceeding bears the burden of proof.[45] In order to succeed with their objection, the intervenor must satisfy a "preponderance of the evidence" standard.[46]

32. In short, in order to succeed on its Petition in Intervention, John Hancock must prove, by a preponderance of the evidence, that the Proposed Transaction does not "adequately" or "properly" protect the interests of policyholders, creditors, and/or shareholders *generally*, and not just that it would not be in John Hancock's best interests. As set forth further herein, John Hancock cannot hope to meet its burden. Accordingly, the Commissioner and the Merger Commission should reject the Petition and approve the Proposed Transaction.

ARGUMENT

33. John Hancock articulates four challenges to the Proposed Transaction. None have merit. John Hancock is wrong about the scope of the Division Law, which does not contain any of the limitations John Hancock tries to read into it. John Hancock is wrong about the merits of the Proposed Transaction's Plan of Division, which plainly meets the requirements of §521I.8.3. John Hancock is wrong to insist that its private breach of contract arguments can or should invalidate the Proposed Transaction. Lastly, John Hancock is wrong to suggest that the Commissioner's approval of the Proposed Transaction would be vulnerable to an as-applied Contracts Clause challenge. In every respect, John Hancock's arguments are inconsistent with Iowa law, constitutional law, and common sense. Accordingly, the Commissioner should reject each of them

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[45] *See Verschoor v. Miller*, 143 N.W.2d 385, 388-89 (Iowa 1966).

[46] *See, e.g.,* I.C.A. §17A.15 (applying a preponderance standard for agency review of a presiding officer's decision); *see also Eaves v. Bd. of Med. Examiners*, 467 N.W.2d 234, 237 (Iowa 1991) (applying the standard in a medical disciplinary case).

and approve the proposed Division without reservation. Similarly, the Merger Commission should approve the Merger Agreement and plan of Merger, which remains unopposed.

I. THE IOWA DIVISION LAW DOES NOT DISCRIMINATE BETWEEN DOMESTIC STOCK INSURERS BASED ON LINES OF BUSINESS.

34. John Hancock argues that "[t]he Proposed Plan should be rejected because the Division Law does not apply to the division of reinsurance business."[47] In support of this claim, John Hancock argues that the Division Law "unambiguously applies to insurers dividing policyholder liabilities; it does not apply to a reinsurer seeking to get out of the contractual bargains it struck with its cedents."[48] Setting aside John Hancock's mischaracterization of the motivations behind the Plan of Division – which has nothing to do with "getting out of" any obligations – John Hancock is wrong about the scope of the Division Law.

A. The Division Law Permits any "Domestic Stock Insurer" – including TLIC – to Submit a Plan of Division.

35. Despite John Hancock's insistence otherwise, the plain language of the Division Law permits *any* "domestic stock insurer" to submit a plan of division that allocates its assets and liabilities (including reinsurance agreements) into two or more "resulting insurers."[49] The Division Law defines a "domestic stock insurer" as:

> [A] stock insurer domiciled and organized under the laws of this state pursuant to chapter 508, 514B, or 515, including domestic stock insurers affiliated with a mutual insurance holding company organized pursuant to section 521A.14, and including those insurers which confer membership rights in the mutual insurance holding company.[50]

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[47] John Hancock Petition at ¶49.

[48] *Id.*

[49] I.C.A. §521I.2 ("Plan of Division – general requirements").

[50] *Id.* at §521I.1(6).

A "resulting insurer" is defined as "a dividing domestic stock insurer that survives a division or a new domestic stock insurer that is created by a division."[51] Conversely, a "dividing insurer" is defined as "a domestic stock insurer that approves a plan of division."[52]

36. Conspicuously absent from these definitions is any support for John Hancock's argument that the Division Law "unambiguously applies to insurers dividing policyholder liabilities" and that "it does not apply to a reinsurer seeking to get out of the contractual bargains it struck with its cedents."[53] Recognizing this, John Hancock looks to borrow from other sections of the Iowa Code that are more to its liking. For example, John Hancock cites to the Iowa "Reinsurance Intermediaries Act" as evidence that Iowa statutes "define and treat an 'insurer' and a 'reinsurer' differently."[54] Similarly, John Hancock cites to Iowa's "Reserve Credit for Reinsurance" act as evidence that the Iowa legislature treats cedents and policyholders differently.[55] John Hancock's arguments fail for at least two reasons.

37. First, the other Chapters cited by John Hancock specify that their definitions apply to the text "***[a]s used in this chapter***."[56] John Hancock ignores this clear textual limitation, insisting that because the Iowa legislature distinguished between insurers and reinsurers in other Chapters of the Iowa code, it must have meant to do so in the Division Law as well.[57] There is no evidence to

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[51] *Id.* at §521I.1(8).

[52] *Id.* at §521I.1(5).

[53] John Hancock Petition at ¶49.

[54] *See, e.g.,* John Hancock Petition at ¶2 (citing Iowa Code §521C.2 (the "Reinsurance Intermediaries Act"); *see also id.* at ¶54 (citing Iowa Code §521B ("Credit for Reinsurance").

[55] *Id.* at ¶54 (citing I.C.A. §521B.102 ("Credit for Reinsurance").

[56] *See, e.g.,* I.C.A. §521C.2 (emphasis added); *see also* I.C.A. §521B.101A (emphasis added).

[57] *See, e.g.,* John Hancock Petition at ¶2 ("Taken as a whole, the Iowa Code reflects the Iowa legislature's recognition of the differences between insurance and reinsurance, and its policy decisions as to what statutes and regulations apply to one type of risk transfer versus the other.")

support John Hancock's claim that the Iowa legislature intended for this distinction to apply to the Division Law, however. As drafted, the Iowa Division Law does not distinguish between "insurers" and "reinsurers" at all. Instead, it refers only to "domestic stock insurers," "resulting insurers," and "dividing insurers," and defines those terms broadly enough to include *any* stock insurer organized under Iowa law, including those – like TLIC – that operate as both insurers and reinsurers.

38. Moreover, John Hancock's arguments ignore the fact that even in the context of the Iowa Credit for Reinsurance Act (which John Hancock cites as evidence that Iowa distinguishes between "reinsurers" and "insurers"), Iowa law makes clear that "reinsurers" ***are*** "insurers." To that end, the Iowa Administrative Code specifically provides that "[t]he commissioner shall allow credit for reinsurance ceded by a domestic insurer to ***assuming insurers*** which were licensed in this state as of the date of the ceding insurer's statutory financial statement."[58] The Iowa Administrative Code similarly defines "reinsurers" as "assuming insurers" when discussing "accredited reinsurers,"[59] "reinsurer[s] domiciled and licensed in another state,"[60] "reinsurers maintaining trust funds,"[61] and "certified reinsurers."[62] Thus, even when the Iowa legislature intends to distinguish between insurers and reinsurers for one purpose, it still recognizes that reinsurers are a type of insurer.

39. That brings us to the second flaw in John Hancock's approach. As John Hancock helpfully points out, when the Iowa legislature wants to draw a distinction between insurers and reinsurers for a particular purpose, it does so clearly and unambiguously. Thus, it is significant that the Iowa

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[58] Iowa Admin. Code 191-5.33(3).

[59] *Id.* at 191-5.33(4).

[60] *Id.* at 191-5.33(5).

[61] *Id.* at 191-5.33(6).

[62] *Id.* at 191-5.33(7).

legislature chose *not* to do so in the Division Law. Of course, this decision makes sense given that nothing about the Division Law requires a distinction between "insurers" and "reinsurers" in the first place.[63] Rather, the clear purpose of the Division Law (as drafted) is to allow *any* domestic stock insurer to submit a plan of division that would allocate *all* assets and liabilities – including "policy liabilities" and "reinsurance contracts."[64] This stands in stark contrast to the other Chapters that John Hancock cites, each of which dealt with issues that required distinguishing between insurers and reinsurers – such as legislating the role of reinsurance intermediaries.[65]

40. Simply put, there is no textual basis for John Hancock's claim that the Division Law applies only to "insurers dividing policyholder liabilities." On its face, the Division Law applies to all "domestic stock insurers" without regard to line of business or type of risk transfer. As the "polestar of statutory interpretation" is construing legislative intent "as shown by what the legislature said rather than what it should or might have said,"[66] the Commissioner should reject John Hancock's attempt to reimagine the words of the Division Law and should instead give full effect to the actual text of the statute by ruling that, since TLIC is a "domestic stock insurer," it is entitled to undertake the Plan of Division.

B. The Division Law Specifically Addresses the Allocation and Division of Reinsurance Obligations.

41. Further undermining John Hancock's claim that the "Division Law does not apply to the division of reinsurance business," is the fact that the Division Law specifically addresses the

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[63] John Hancock's insistence otherwise is but one example of its inappropriately results-oriented approach to statutory interpretation.

[64] I.C.A. §521I.2 ("Plan of Division – general requirements").

[65] *See* Iowa Code §521C.2 (legislating the role of "reinsurance intermediaries"); *see also* I.C.A. §521B.102 (legislating the reserve credit that Iowa ceding insurers can take for reinsurance).

[66] John Hancock Petition at ¶3.

allocation of reinsurance agreements. For example, the "general requirements" for any plan of division include:

> A description of all liabilities and all assets that the dividing insurer proposes to allocate to each resulting insurer, *including the manner by which the dividing insurer proposes to allocate all reinsurance contracts***.**"[67]

This provision – which is front and center in the Division Law – contradicts John Hancock's claim that the Division Law is "completely void" of reference to assets impacted by reinsurance agreements.[68]

42. This is not the only section of the Division Law that contemplates that it might be used to allocate rights and obligations under reinsurance contracts. Rather, §521I.12 specifically includes reinsurance agreements within the list of liabilities that can be allocated, while further providing that:

> If a provision of any evidence of indebtedness, whether secured or unsecured, or a provision of any contract other than an insurance policy, annuity, ***or reinsurance agreement*** that was issued, incurred, or executed by the dividing insurer before July 1, 2019, requires the consent of the oblige to a merger of the dividing insurer, or treats such a merger as a default, such provision shall apply to a division of the dividing insurer as if such division were a merger.[69]

This is significant for two reasons. First, it once again refutes John Hancock's claim that the Division Law applies only to "insurers dividing policyholder liabilities," by acknowledging that reinsurance agreements are amongst the liabilities that can be allocated by a plan of division. Second, it specifically rejects the notion that "consent to merger provisions" in pre-July 2019 reinsurance agreements apply to divisions under this section. Thus, even if John Hancock's

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[67] I.C.A. §521I.2(5) (emphasis added).

[68] John Hancock Petition at ¶56.

[69] I.C.A. §521I.12(3) (emphasis added).

treaties contained a "consent to merger" provision – which they pointedly do not – the plain language of the Division Law confirms that the Iowa legislature determined that this type of provision in pre-2019 reinsurance agreements should not prevent the allocation of those agreements.[70]

43. Given that the Division Law specifically addresses the allocation of reinsurance obligations, it is hard to understand why John Hancock would insist that it "does not apply to the division of reinsurance business." These provisions confirm that the Iowa legislature anticipated that the Division Law would be used to allocate reinsurance agreements. They also demonstrate that where the Iowa legislature intended to specifically address reinsurance as opposed to other "assets" and "liabilities" of domestic stock insurers, they did so explicitly. If the legislature intended for the Division Law to apply as narrowly as John Hancock suggests, it very easily could have said so. The fact that it did not do so while otherwise specifically addressing reinsurance in the Division Law speaks volumes. There is simply no merit to John Hancock's conclusory claim that the Division Law was not intended to apply to allocation of reinsurance agreements.

C. John Hancock's Objection to Treating Cedents as "Policyholders" Proves That No Good Deed Goes Unpunished.

44. John Hancock's Petition makes much of the fact that the "Recitals" in the Plan of Division indicate that TLIC and SGLUSA agreed to treat cedents like John Hancock "as occupying the position of policyholders" under the Division Law. This fact was so upsetting to John Hancock that it apparently merited highlighting as a block quote leading its Motion to Intervene.[71] According to John Hancock, this courtesy extended by TLIC and SGLUSA "summarizes the core

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[70] As discussed *infra*, John Hancock's anti-assignment arguments are both substantively and procedurally wrong for other reasons as well.

[71] *See* John Hancock's Motion at 1.

defect of the Proposed Plan" because a "cedant" in a reinsurance relationship is not the same as a "policyholder."[72] John Hancock argues that TLIC and SGLUSA are "'treat[ing]' statutory language in a manner that departs from the actual words enacted by the legislature" in order to "seek approval of a reinsurance transaction that directly contravenes the plain text of the Division Law."[73] Nothing could be further from the truth.

45. First, it is important to dispel the notion that TLIC and SGLUSA were compelled to afford cedents policyholder status in order to take advantage of the Division Law. They were not. The Division Law describes four categories of parties whose interests must be considered and addressed through any plan of division: (1) Policyholders, (2) Creditors, (3) Shareholders, and (4) the general public.[74] While TLIC and SGLUSA elected to treat cedents like John Hancock as "policyholders," in actuality they are "creditors" of TLIC. Thus, TLIC and SGLUSA could have submitted the Proposed Transaction *without* extending cedents the courtesy of policyholder status.

46. The fact that cedents and reinsurers are "creditors" of one another is not a new or controversial idea. They are explicitly classified as "general creditors" by Iowa's "Insurers Supervision, Rehabilitation, and Liquidation Act."[75] This approach is consistent with wider industry practice, which recognizes that cedents are "general creditors" of their reinsurers.[76] This should come as no surprise to John Hancock, as it assumed the position of general creditor in the

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[72] John Hancock Petition at ¶5.

[73] *Id.* at ¶¶4-5.

[74] I.C.A. §521I.8(3)(a).

[75] *See* I.C.A. §507C.42(5) ("Class 5. Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.").

[76] *See* NAIC Receiver's Handbook for Insurance Company Insolvencies at p. 179-180 (confirming that cedents are "Class 7 – General Creditors" of their reinsurers).

Scottish Re insolvency referenced throughout its Petition.[77] Despite this, John Hancock feigns outrage at the fact that TLIC and SGLUSA elected to treat John Hancock as a policyholder, rather than as a general creditor.

47. To be clear, TLIC and SGLUSA were under no obligation to extend this courtesy to John Hancock and the other cedents. They simply chose to do so out of respect for the longstanding relationships that both TLIC and SCOR had with these cedents. In doing so, they did *not* "decide to 'treat' statutory language in a manner that departs from the actual words enacted by the legislature" as John Hancock suggests.[78] Instead, TLIC and SGLUSA simply indicated their intent to afford John Hancock and the other cedents the additional consideration that policyholders are entitled to under the Division Law. This includes both (a) enhanced notice of the Plan of Division, and (b) enhanced consideration of their interests.[79] John Hancock's attempt to use that act of good faith to argue that the Plan of Division "contravenes the plain text of the Division Law" is meritless.

48. For all these reasons, John Hancock's argument that the Division Law does not apply to the division of reinsurance business is without merit. The text of the Division Law does not carve out reinsurance arrangements, and John Hancock's attempt to read such a limitation into the statute finds no support in the statutory language, structure, or legislative history. John Hancock's policy-based objections fare no better, as they rest on a mischaracterization of the Plan of Division's purpose and ignore that the Division Law's protections and procedures are fully capable of

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[77] *See* Del. Court of Chancery "Notice to SRUS Creditors" (February 24, 2024) at 2 (categorizing reinsurance claims as "Class VI General Creditor[s]").

[78] John Hancock Petition at ¶5.

[79] *See, e.g.,* I.C.A. §521I.8(2)(b) (requiring written mailed notice of the public hearing "to the dividing insurer's policyholders"); *see also id.* at §521I.8(3)(a) (requiring that "the plan of division is not unfair or unreasonable to the policyholders of the dividing insurer….").

accommodating the division at issue here. Accordingly, the Commissioner should reject John Hancock's threshold objection and proceed to evaluate the Plan of Division on its merits.

II. THE PROPOSED TRANSACTION SATISFIES THE REQUIREMENTS OF THE DIVISION LAW AND SHOULD BE APPROVED

49. In addition to arguing that the Division Law does not apply to reinsurance, John Hancock argues that "the Proposed Plan would in any event not satisfy the statutory criteria."[80] In doing so, John Hancock claims that the "Proposed Plan is unreasonable, unfair, and does not protect the interest of cedents like John Hancock" and that it "exposes cedents to significant counterparty credit risk and puts cedents in a worse position tha[n] they currently are in."[81] In every respect, John Hancock is wrong.

50. Pursuant to Section 521I.8(3), the Commissioner may approve a plan of division if the Commissioner finds that each of the requirements in subsections (a)-(g) of Section 521I.8(3) apply. In determining that these standards are met, the Commissioner "may consider all proposed assets of the resulting insurer, including without limitation reinsurance agreements, parental guarantees, support agreements, keepwell agreements, and capital maintenance of contingent capital agreements regardless of whether such qualify as an admitted asset under state law."[82] Here, the information and documents submitted with the Proposed Transaction, along with the evidence that will be supplemented at the Hearing, demonstrate that the Proposed Transaction clearly meets each of the requirements for Commissioner approval.

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[80] John Hancock Petition at ¶65.

[81] *Id.* at ¶68.

[82] *See* I.C.A. §521I.8(4).

A. The Proposed Transaction Satisfies Section 521I.8(3)(a) Because It Will Adequately Protect the Interests of All Interested Parties, Including John Hancock.

51. Subsection (a) requires the Commissioner to determine that "[t]he interest of the policyholders, creditors, or shareholders of the dividing insurer will be adequately protected and the plan of division is not unfair or unreasonable to the policyholders of the dividing insurer and is not contrary to the public interest."[83]

52. John Hancock claims that the Plan of Division does not satisfy this requirement because it is allegedly "unreasonable, unfair, and does not protect the interest of cedents like John Hancock."[84] This is incorrect. As demonstrated by the documents and information submitted to the Commissioner already, and as will be further demonstrated at the Hearing, the Proposed Transaction – which includes both a Plan of Division *and* a simultaneous Merger – is reasonable, fair, and adequately protects the interests of all cedents, including John Hancock.

53. John Hancock cites two bases for its allegations of unfairness. First, John Hancock claims that "TLIC is forcing a change in John Hancock's bargained for reinsurance counterparty and doing so in contravention of anti-assignment rights contained in the reinsurance agreements."[85] Second, John Hancock claims that the Plan of Division results in cedents having "a financially sound company like TLIC substituted for a significantly smaller company" like SGLUSA, which John Hancock asserts "exposes cedents to significant counterparty credit risk and puts cedents in

[83] *Id.*, §521I.8(3)(a).

[84] John Hancock Petition at ¶68.

[85] *Id.*

a worse position than they are currently in."[86] Neither of John Hancock's claims hold up under scrutiny.

54. First, as outlined more fully in Part III *infra*, the Plan of Division does not contravene any of John Hancock's alleged "anti-assignment" rights in the reinsurance agreements. As an initial matter, this is because Iowa law is clear that the Plan of Division does not involve an "assignment," "sale," or "transfer" implicating the plain language of John Hancock's claimed "anti-assignment" provision in the reinsurance agreements. Further, even if the Plan of Division did result in an "assignment," "sale," or "transfer," since the Plan of Division does not have a "material effect on the risks transferred or the expected economic results" of the underlying ceded business, John Hancock admittedly has no contractual right to withhold its consent for the Plan of Division. Additionally, even assuming *arguendo* the Plan of Division somehow breached the "anti-assignment" clause (and it does not), the Division Law expressly states that such a breach is not a basis to disrupt approval of the Plan of Division.[87]

55. Second, the Proposed Transaction does not put cedents like John Hancock in a "worse position" by formally moving the reinsurance from TLIC to SGLUSA. Instead, when properly accounting for "all proposed assets" of SGLUSA, including but not limited to [redacted], cedents like John Hancock are more than adequately protected.[88] This is demonstrated through both public information and information that has already been submitted to the Commissioner.

[86] *Id.*

[87] *See* I.C.A. §521I.12(4) ("If a division breaches a contractual obligation of the dividing insurer, all resulting insurers are jointly and severally liable for the breach. *The validity and effectiveness of the division shall not be affected by the breach*.") (italics added).

[88] I.C.A. §521I.8(4).

56. For example, both TLIC and SCOR SE are large, global insurers with S&P ratings of A+ (S&P) and A (AM Best). These ratings reflect the stability and long-term strength of both companies. Moving the reinsurance from one (TLIC) to another (SGLUSA, backed by SCOR SE) does not change that.

57. As John Hancock admits, it is also the case that SCOR has been financially and administratively responsible for the TLIC reinsurance business at issue for fifteen years. Yet not once during those fifteen years has John Hancock claimed that SCOR was somehow incapable of fulfilling its reinsurance obligations. Instead, as will be addressed at the Hearing, John Hancock routinely and continuously solicited and approached SCOR to assume additional portions of business written by John Hancock by entering into additional reinsurance agreements. Consistent with this history, and contrary to John Hancock's overconcentration claims, public information also demonstrates that the Proposed Transaction results in only a minor increase of the proportion of John Hancock's business being reinsured with SCOR, all of which is relatively insignificant in the face of the total amount of business John Hancock cedes to third-party reinsurers.

58. The Milliman Report previously submitted to the Commissioner further confirms why the financial and capital strength of SGLUSA adequately protects cedents like John Hancock.[89] [redacted]

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[89] [redacted]

[redacted]

> [redacted]

[redacted]

59. In light of this, there is simply no merit to John Hancock's claim that the Proposed Transaction is unfair. The Proposed Transaction will not actually harm John Hancock (or any other cedent) in any way. Nor will it harm the policyholders, shareholders, or the general public. Accordingly, the Commissioner can and should find that the Plan of Division submitted as part of the Proposed Transaction satisfies the requirements of §521I.8(3)(a).

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90 [redacted]

91 [redacted]

B. The Proposed Transaction Satisfies Section 521I.8(3)(b) Because the Financial Condition of the Resulting Insurer Will Not Prejudice the Interests of the Policyholders or Cedents, Including John Hancock.

60. Subsection (b) requires the Commissioner to determine that "[t]he financial condition of the resulting insurers will not jeopardize the financial stability of a dividing insurer or the resulting insurers or prejudice the interests of the policyholders of such insurers."[92]

61. John Hancock claims that the Plan of Division does not satisfy this requirement because the financial condition of TLIC-A – which John Hancock claims "will be a thinly capitalized company whose primary assets are the retrocessional agreements between TLIC and SCOR DE" – somehow "will prejudice the interests of the cedents."[93] John Hancock further argues that it will be prejudiced because "SGLUSA has significantly lower capital and surplus than TLIC and the only assets being transferred to SGLUSA are the retrocessional agreements between TLIC and SCOR DE," which "will be terminated as part of the overall transaction."[94] Once again, John Hancock is wrong.

62. First, John Hancock's argument regarding TLIC-A is misplaced. As John Hancock has acknowledged, under the Proposed Transaction, when TLIC-A is divided from TLIC, it will merge with SGLUSA *simultaneously*. There will not even be one moment between the Division and the Merger, where TLIC-A could be considered a standalone company, whose assets might prejudice John Hancock. As such, TLIC-A's financial condition is ultimately irrelevant and cannot possibly prejudice cedent interests.

[92] I.C.A. §521I.8(3)(b).

[93] John Hancock Petition at ¶69.

[94] *Id.* at ¶70

63. Likewise, for all of the reasons outlined in Paragraph 58 above, the financial condition of SGLUSA is fully adequate to protect the interests of cedents like John Hancock. The Milliman Report confirms that [redacted]

64. Accordingly, the Commissioner should reject John Hancock's claim that the financial condition of the resulting insurers will prejudice TLIC's cedents and find that the Plan of Division submitted as part of the Proposed Transaction satisfies the requirements of §521I.8(3)(b).

C. The Proposed Transaction Satisfies Section 521I.8(3)(c) Because All Resulting Insurers Will Be Qualified and Eligible to Do Business in Iowa.

65. Subsection (c) requires the Commissioner to determine that "[a]ll resulting insurers created by the proposed division will be qualified and eligible to receive a certificate of authority to transact the business of insurance in this state."[96]

66. It does not appear that John Hancock is challenging the fact that the Proposed Transaction satisfies this requirement. For good reason, as the Proposed Transaction certainly does so. Both TLIC and SGLUSA are currently licensed insurers in Iowa. Furthermore, as the Milliman Report outlines, post-merger SGLUSA [redacted]

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95 [redacted]

96 I.C.A. §521I.8(3)(c).

[redacted] SGLUSA's asset portfolio and investment guidelines also [redacted]

67. In light of this, the Commissioner should affirm that the Plan of Division submitted as part of the Proposed Transaction complies with Section 521I.8(3)(c).

D. The Proposed Transaction Satisfies Section 521I.8(3)(d) Because it is Not a "Voidable Transaction" That Violates a Provision of Iowa Code Chapter 684.

68. Subsection (d) requires the Commissioner to determine that "[t]he proposed division does not violate a provision of chapter 684," with the proviso that where, as here, "the dividing insurer will survive," the Commissioner shall "apply chapter 684 to the dividing insurer in its capacity as a resulting insurer" and "(1) Treat the resulting insurer as a debtor; (2) Treat a liability allocated to the resulting insurer as a liability incurred by a debtor; (3) Treat the resulting insurer as receiving unequal value in exchange for incurring allocated obligations; and (4) Treat assets allocated to the resulting insurer as remaining assets."[99] In other words, when considering whether the Plan of Division satisfies §521I.8(3)(d), the Commissioner is instructed to apply §684 to the proposed division as though TLIC-A is a "creditor" of TLIC.

69. John Hancock does not actually argue that the Plan of Division would breach any aspect of Chapter 684. The closest John Hancock comes is its claim that the Plan of Division supposedly "is being made for the purpose of hindering, delaying, or defrauding cedents" because it is allegedly "designed to circumvent John Hancock's right to decline to consent to transfer and/or novation" of the reinsurance agreements.[100] John Hancock is wrong, however, about both the

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97 [redacted]

98 [redacted]

99 Iowa Code §521I.8(3)(d).

100 John Hancock Petition at ¶71. This allegation is clearly directed to §521I.8(3)(e), but it also arguably could be construed as an alleged violation of §684.4(a).

impact of the Plan of Division and the motivation behind it. As such, John Hancock would be wrong to suggest that it might breach a provision of chapter 684.

70. First, as flagged in Paragraph 54 above, and outlined more fully in Part III *infra*, John Hancock does not possess the "right to decline to consent" to the assignment of the reinsurance agreements to TLIC-A and, ultimately, SGLUSA.

71. Second, even if the Plan of Division could result in a breach of John Hancock's "right to decline" under the reinsurance agreements (which as discussed *infra,* it cannot), the Division Law expressly states that breaches of contract are not a basis to disrupt approval of a plan of division.[101] Since the Iowa Legislature expressly determined that contractual breaches cannot disrupt a division, it necessarily determined that a supposed contractual breach like the one claimed by John Hancock here is not a basis to challenge a proposed plan of division under Iowa Code § 521I.8(3)(d).

72. Third and perhaps most notably, John Hancock has offered *zero* evidence that the "purpose" of the Proposed Transaction is to defraud cedents like John Hancock or to "circumvent" any of John Hancock's supposed "consent" rights. As the submission with the Proposed Transaction outlines, the purpose of the division of TLIC and ultimate merger of TLIC-A into SGLUSA is "to formalize legally the transfer of the reinsurance business sold to SCOR through the TARe Transaction, and to simplify the organizational structure and subsequent financial reporting associated with such business."[102] Thus, John Hancock and the other cedents are not being "defrauded" in any way. Since 2011 those cedents have dealt with SCOR as the

[101] *See* I.C.A. §521I.12(4) ("The validity and effectiveness of the division shall not be affected by the breach.").

[102] *See* May 12, 2026, Letter to Commissioner Ommen at 3.

administrator of their reinsurance agreements and the party financially responsible for paying the cedents' claims. Preserving that long-standing structure is the opposite of fraud; it clarifies and formalizes the existing process that has been in place for over fifteen years.

73. In short, the Plan of Division submitted as part of the Proposed Transaction clearly complies with Section 521I.8(3)(d), as there is no evidence that it violates any provision of Chapter 684.

E. The Proposed Transaction Satisfies Section 521I.8(3)(e) Because it is Not Being Made for the Purpose of Hindering, Delaying, or Defrauding TLIC's Policyholders and Creditors, Including John Hancock.

74. Subsection (e) requires the Commissioner to determine that "[t]he proposed division is not being made for the purpose of hindering, delaying, or defrauding any policyholders or other creditors of the dividing insurer."[103]

75. As noted above, John Hancock claims that the Plan of Division "is being made for the purpose of hindering, delaying, or defrauding cedents" because it is allegedly "designed to circumvent John Hancock's right to decline to consent to transfer and/or novation" of the reinsurance agreements.[104] Those arguments are meritless for the reasons set forth in paragraphs 69 through 71.

76. Accordingly, the Commissioner should reject John Hancock's conclusory assertions and affirm that the Plan of Division submitted as part of the Proposed Transaction complies with Section 521I.8(3)(e).

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[103] I.C.A. §521I.8(3)(e).

[104] John Hancock Petition at ¶71.

F. The Proposed Transaction Satisfies Section 521I.8(3)(f) Because All Resulting Insurers Will Be Solvent.

77. Subsection (f) requires the Commissioner to determine that "[a]ll resulting insurers will be solvent when the division becomes effective."[105]

78. John Hancock summarily claims that "TLIC has not sufficiently established that the resulting insurer, TLIC-A, will be solvent when the division becomes effective given the magnitude of liabilities being transferred and the limited assets accompanying that transfer."[106] That is both false and misleading.

79. First, John Hancock's focus on TLIC-A is misplaced. Under the Proposed Transaction – which includes both a Division *and* a simultaneous Merger – the succeeding insurers will be TLIC and SGLUSA.

80. Second, there is no question that SGLUSA will be solvent following implementation of the Proposed Transaction. The Milliman Report is dispositive on this point, noting that:

> [redacted]
>
> [redacted]
>
> [redacted]
>
> [redacted]

[105] I.C.A. §521I.8(3)(f).

[106] John Hancock Petition at ¶72.

[107] [redacted]

81. The same is true for TLIC, which the Milliman Report confirms [redacted][108]

82. Despite this, John Hancock insists that TLIC and SGLUSA have not adequately established that the resulting insurers will be solvent. Notably, John Hancock does not provide any facts or figures to support its false claims of potential insolvency. Instead, John Hancock seems to rely on the fact that the Plan of Division only transfers reinsurance agreements to TLIC-A and not any other assets.[109] That is absurd. The Commissioner is fully entitled to consider TLIC-A's reinsurance agreements as assets.[110] Moreover, as outlined above and in the Proposed Transaction, the entire rationale for the division is that TLIC already reinsured 100% of the relevant business being divided into TLIC-A to SCOR back in 2011 and the Proposed Transaction is solely intended to "formalize" that status quo.

83. John Hancock's suggestion that the Commissioner should consider TLIC-A in a vacuum, without considering the simultaneous merger with SGLUSA and without taking into account the fact that SCOR has been 100% responsible for TLIC's reinsurance portfolio for the last fifteen years strains credulity.

84. The Commissioner should reject John Hancock's conclusory assertions and affirm that the Plan of Division submitted as part of the Proposed Transaction complies with Section 521I.8(3)(f).

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[108] [redacted]

[109] *Id.*

[110] I.C.A. §521I.8(4).

G. The Proposed Transaction Satisfies Section 521I.8(3)(g) Because the Resulting Insurers' Assets Will Be Reasonably Proportional to Their Liabilities.

85. Subsection (g) requires the Commissioner to determine that "[t]he remaining assets of a resulting insurer will not be unreasonably small in relation to the business and transactions such resulting insurer has been engaged in or will engage in after completion of the division."[111]

86. John Hancock claims that the Proposed Transaction does not meet this requirement because supposedly "[t]he remaining assets of the resulting insurer …. will be unreasonably small in relation to the business and transactions that the entities will engage in after completion of the division" because the only assets in the division are the retrocessional agreements and "it is unclear what internal support any of the other SCOR entities will provide to SGLUSA in light of the liabilities SGLUSA would be assuming."[112] Once again, John Hancock's claims miss the mark.

87. As outlined above, the Milliman Report and John Hancock's fifteen years of continuing reinsurance with SCOR refutes and disproves John Hancock's claim that SGLUSA's assets will be unreasonably small in relation to the business it is assuming after completion of the division and merger. As the Milliman Report shows, [redacted][redacted] SGLUSA also is projected to have a Liabilities/Adjusted Capital ratio of [redacted] after the merger, which Milliman describes as [redacted]

[111] I.C.A. §521I.8(3)(g).

[112] John Hancock Petition at ¶73.

[113] [redacted]

88. It is possible that when John Hancock submitted its petition, it was unaware of [redacted] However, John Hancock is aware of it now, and has not sought to either withdraw or amend its claim that SGLUSA's assets will be insufficient. Moreover, regardless of John Hancock's awareness of [redacted] the Commissioner is certainly entitled to consider [redacted] as part of the assets of SGLUSA.[115]

89. Given the existence of the [redacted], there is ample evidence to support Milliman's independent conclusion that SGLUSA will have sufficient assets to support its liabilities following implementation of the Proposed Transaction. Thus, the Commissioner should reject John Hancock's claim that SGLUSA will be insufficiently capitalized and should affirm that the Proposed Transaction complies with Section 521I.8(3)(g)

90. As demonstrated above and elsewhere herein, John Hancock's claim that the Plan of Division submitted as part of the Proposed Transaction does not satisfy the requirements of Section 521I.8 of the Division Law is baseless. The Proposed Transaction more than meets each one of the requirements of Section 521I.8(a)-(g). Based on the information and record before the Commissioner already, as will be supplemented at the Hearing, the Commissioner should confirm the Plan of Division and the Merger Commission should confirm the simultaneous Merger Agreement.

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[114] [redacted]

[115] I.C.A. §521I.8(4).

III. JOHN HANCOCK'S BREACH OF CONTRACT ARGUMENTS ARE SUBSTANTIVELY AND PROCEDURALLY WRONG

91. Through Count III, John Hancock asks the Commissioner to reject the Plan of Division as "inconsistent with contractual anti-assignment rights."[116] Although styled as a defense of industry norms, John Hancock's argument is essentially a preemptive private breach of contract claim. John Hancock urges the Commissioner to reject the Plan of Division in its entirety because implementing it would – according to John Hancock – breach the terms of an anti-assignment provision found in a handful of John Hancock's reinsurance agreements with TLIC.[117] In every respect, John Hancock's arguments are wrong.

92. Substantively, John Hancock is wrong because the Plan of Division will not breach any contractual right that it enjoys under its agreements with TLIC. The Plan of Division does not involve an "assignment," "sale," or "transfer" that would implicate the plain language of the cited anti-assignment provision. Even if it did, John Hancock would have no contractual right to withhold its consent because the Plan of Division will not have a "material effect on the risks transferred or the expected economic results."[118] Procedurally, John Hancock is wrong because even if the Plan of Division *would* result in a breach, the Division Law expressly states that John Hancock's remedy is a breach of contract action.[119] Accordingly, the Commissioner should dismiss John Hancocks' "anti-assignment" arguments as a basis for rejecting the Proposed Transaction.

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[116] John Hancock Petition at Count III.

[117] *Id.* at ¶107.

[118] *See id.* at ¶21.

[119] I.C.A. §521I.12(4).

A. The Proposed Transaction Does Not Implicate John Hancock's Contractual Rights Under the Anti-Assignment Provision.

93. Throughout its Petition, John Hancock argues that the Plan of Division would result in either a "transfer,"[120] an "assignment,"[121] or a "novation"[122] that would breach the following provision found in twelve of its reinsurance agreements with TLIC:

> Neither the Company nor the Reinsurer may assign any of the rights and obligations under this Agreement, nor may either party sell, assumption reinsure or transfer the policies without the prior written consent of the other party. Consent will not be withheld if the assignment, sale, assumption reinsurance or transfer does not have a material effect on the risks transferred or the expected economic results.[123]

John Hancock does so in an effort to manufacture a contractual basis for objecting to the Proposed Transaction. As discussed further *infra* in Section III.B*,* John Hancock's attempt to use a private breach of contract claim to impede the Proposed Transaction is hopelessly at odds with the plain language of the Division Law. However, even if that were not the case, John Hancock's arguments would fail, because the Proposed Transaction does not implicate any contractual right John Hancock enjoys under the cited provision.

1) <u>The Proposed Transaction Does Not Involve a Sale, Assignment, or Transfer That Would Breach the Anti-Assignment Clause.</u>

94. On its face, the provision cited by John Hancock only applies to assignments, sales, assumption reinsurance transactions, and transfers. Presumably that is why John Hancock goes to such lengths to insist that the Plan of Division calls for either a novation, an assignment, or a

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[120] *See, e.g., id.* ¶22.

[121] *See, e.g., id.* at ¶78.

[122] *See, e.g., id.* at ¶29.

[123] *Id.* at ¶22.

transfer. But the Proposed Transaction does not call for an "assignment," "transfer," or "sale" that would implicate the anti-assignment clause in John Hancock's treaties. Instead, as is clear from both the plain language of the Proposed Transaction and the plain language of the Division Law, the Plan of Division would result in an *allocation* of the reinsurance agreements to TLIC-A, by operation of law.

95. The Division Law is unambiguous on this point. Section 521I.2 requires that a plan of division detail "[t]he manner of ***allocating*** assets and liabilities, including policy liabilities, between or among all resulting insurers."[124] This section also requires the plan of division to include "[a] description of all liabilities and all assets that the dividing insurer ***proposes to allocate*** to each resulting insurer, including the manner by which the dividing insurer proposes to allocate all reinsurance contracts."[125] Altogether, the Division Law confirms that all assets and liabilities of the dividing insurer – including reinsurance agreements – will be "allocated" no less than 21 separate times.[126]

96. The Division law also unambiguously provides that this allocation is not a sale, transfer, or assignment. When describing the effect of a division on a "resulting insurer," the Division Law states:

> Each resulting insurer shall hold any capital, surplus, and other assets allocated to such resulting insurer by the plan of division as a successor to the dividing insurer by operation of law, and ***not by transfer***, whether directly or indirectly.[127]

[124] I.C.A. §521I.2(3) (emphasis added).

[125] I.C.A. §521I.2(5) (emphasis added).

[126] *See, e.g., id.* at §521I.8(1); *see also id.* at §521I.12 ("Resulting insurers liability for allocated assets, debts, and liabilities.").

[127] I.C.A. §521I.11(1)(c) (emphasis added).

Similarly, Section 521I.11(3) of the Division Law states "all capital, surplus, and other assets of the dividing insurer otherwise vest as provided in this section ***without transfer***, reversion, or impairment."[128] In both respects, the Division law is clear that the allocation of capital, surplus, and assets – including rights and obligations under reinsurance agreements – is "not by transfer."[129] As the Division Law's definition of "transfer" includes both sales and assignments, this means that the resulting allocation is also not a "sale" or "assignment."[130]

97. For the avoidance of doubt, the Division Law also makes clear that the allocation of liabilities is not by transfer. To that end, Section 521I.12(5) provides that:

> A direct or indirect allocation of capital, surplus, assets, or liabilities, including policy liabilities, shall occur automatically, by operation of law, and ***shall not be treated as a distribution or transfer for any purpose with respect to either the dividing insurer or any resulting insurer***.[131]

That section also provides that resulting insurers "shall not be liable" under "the common law doctrine of successor liability or any other theory of liability applicable to transferees or assignees of assets."[132] This language makes clear that any allocation of assets or liabilities (including any insurance policies or reinsurance agreements) that occurs as a result of the Division shall be considered an allocation by operation of law, not a transfer, sale, or assignment.

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[128] *Id.* at §521I.11(3)(d)(3) (emphasis added).

[129] The Division Law defines "assets" as "property whether real, personal, mixed, tangible, or intangible and any right or interest therein, *including all rights under a contract or other agreement*." *Id.* at §521I.1(1) (emphasis added).

[130] *Id.* at §521I.1(11) ("'Transfer' includes an assignment, assumption, conveyance, sale, lease, encumbrance, security interest, gift, or transfer by operation of law.")

[131] *Id.* at §521I.12(5) (emphasis added).

[132] *Id.* at §521I.12(9).

98. There is nothing novel about the Division Law's distinction between allocations by operation of law and voluntary transfers. For more than 85 years, Iowa courts have recognized that transfers are different from allocations by operation of law. As the Iowa Supreme Court recognized in *McDonald v. Farley & Loetscher Mfg., Co.* in 1939, "[t]he general rule is that a covenant against the assignment of a lease without the owner's consent applies to voluntary assignments and does not include transfers or assignments by operation of law, as transfers in bankruptcy and other transfers in the interest of creditors or lien holders, as, for example, execution sales and receiver's sales."[133] In *McDonald*, the Iowa Supreme Court concluded that this "well settled" rule was "applicable to restrictions on the sale of corporate stock" as well as to leases, reasoning that restrictive covenants like the anti-assignment provision John Hancock relies on "are not favorites of the law and are very strictly construed."[134] In doing so, the Iowa Supreme Court affirmed that where – as here – the restrictive covenant does not expressly state that it applies to transfers by operation of law as well as voluntary transfers, it will not be construed to preclude the allocation.[135]

99. Lastly, although John Hancock's Petition does not expressly address this point, the simultaneous merger of TLIC-A with SGLUSA would also not be a sale, transfer, or assignment that would implicate the "anti-assignment" provision. First, the Iowa Code defines a "sale" as "the passing of title from the seller to the buyer for a price."[136] That is clearly not what is happening

[133] *McDonald v. Farley & Loetscher Mfg. Co.*, 283 N.W. 261, 263 (Iowa 1939).

[134] *Id.* at 265.

[135] *Id.* ("In the restriction before us there is no restrictive provision making it applicable to transfers by operation of law. This court has recognized the distinction between voluntary assignments of contracts containing restrictive provisions and transfers of such contracts made by operation of law in the interest of creditors.").

[136] I.C.A. §554.2106(1).

here, as the Proposed Transaction does not involve SGLUSA "purchasing" anything from TLIC or TLIC-A. Second, courts applying Iowa law have explicitly stated that mergers do not constitute an assignment or transfer.[137] As the Iowa Court of Appeals noted in *Cass Atl. Dev. Corp*:

> A corporate merger consists of a combination whereby one of the constituent corporations remains in existence, absorbing in itself all the other constituent corporations which cease to exist as separate corporate entities. When corporations merge, the surviving corporation succeeds to both the rights and obligations of the constituent corporations.[138]

That is precisely what is happening in this case, where the Proposed Transaction calls for TLIC-A and SGLUSA to combine, with the surviving corporation – SGLUSA – succeeding to both the rights and obligations of the constituent corporations.

100. In short, the Proposed Transaction simply does not trigger John Hancock's rights under the cited anti-assignment provision. On its face, this language applies only to assignments, sales, or transfers. The Proposed Transaction does not involve any of these transactions. Accordingly, John Hancock has no contractual basis to object to the Proposed Transaction.

2) <u>John Hancock Does Not Have a Contractual Basis to Object to the Proposed Transaction Because It Will Not Have a "Material Effect on the Risks Transferred or the Expected Economic Results."</u>

101. Even if the Proposed Transaction did call for a transfer, sale, or assignment (which, again, it does not), John Hancock's arguments would still fail because John Hancock does not have a contractual right to withhold consent to the Proposed Transaction. The anti-assignment provision states in no uncertain terms that John Hancock's "[c]onsent will not be withheld if the assignment, sale, assumption reinsurance or transfer does not have a material effect on the risks transferred or

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[137] *See Cass Atl. Dev. Corp. v. Pellett*, No. 05-1569, 2006 WL 3313791, at *4 (Iowa Ct. App. Nov. 16, 2006).

[138] *Id.*

the expected economic results."[139] This language makes clear that John Hancock only has the discretion to withhold consent to a sale, transfer, or assignment if that transaction will have an objective and material effect on either the risks transferred (*i.e.*, the underlying policies) or the expected economic results. Here, nothing in the Proposed Transaction will have a material effect on the risks transferred or the expected economic results.

102. First, the Proposed Transaction will not materially impact the risks transferred under the allocated reinsurance agreements. The "risks" transferred by the reinsurance agreements are the individual mortality risks associated with the reinsured policies written and administered by John Hancock. The allocation of John Hancock's reinsurance agreements to TLIC-A and the simultaneous merger of TLIC-A and SGLUSA will have no effect on the John Hancock policies themselves, which shall remain contracts between John Hancock and its policyholders. Nor will there be any impact on the reinsurance provided to John Hancock for those policies. The Proposed Transaction will not change the terms of reinsurance or the portion of the death benefits reinsured. To the contrary, the Proposed Transaction simply formalizes what has been the status quo for reinsurance of this business since 2011, when SCOR first assumed responsibility for administering the reinsurance of John Hancock's treaties with TLIC.

103. Second, the Proposed Transaction will not have a material effect on the expected economic results under these agreements. The expected economic results of inforce life reinsurance agreements are driven almost exclusively by policyholder behavior and considerations, such as lapse patterns and individual mortality. Because the Proposed Transaction will have no direct impact on the policyholders, it will have no material impact on policyholder behavior. This means

[139] John Hancock Petition at ¶21.

that the Proposed Transaction will not have a material impact on either Party's expected economic results under the reinsurance agreements.

104. Despite spending numerous pages arguing that the Proposed Transaction violates its contractual anti-assignment rights, John Hancock pointedly fails to identify any "material effect" on either the risks transferred or the expected economic results that would permit John Hancock to withhold its consent. The closest John Hancock comes is arguing that SGLUSA will be relatively less well-capitalized than TLIC.[140] As noted above, however, John Hancock's suggestion that SGLUSA is undercapitalized is belied by the fact that SGLUSA's parent company, SCOR SE, guarantees the performance of SGLUSA's claims payment obligations. It is also clearly at odds with John Hancock's market activities over much of the last 15 years, since John Hancock has more reinsurance placed with SGLUSA than with TLIC.[141].

105. In light of this, even if the Proposed Transaction did involve a sale, assignment, or transfer that implicated the anti-assignment provision (and it does not), there is no objective basis upon which John Hancock could credibly argue that it has a contractual right to withhold its consent to the Proposed Transaction.

B. Even if the Plan of Division Would Result in a Breach, John Hancock's Remedy is A Private Breach of Contract Action, Not Disruption of the Transaction as a Whole.

106. As detailed above, John Hancock's arguments cannot be reconciled with the plain language of the anti-assignment provision. However, the Commissioner need not reach that conclusion to reject John Hancock's attempt to use a private breach of contract claim to frustrate the Plan of

[140] *See, e.g.,* John Hancock Petition at ¶41.

[141] As noted above, it is only in the recent past that John Hancock stopped inviting SGLUSA to bid on new reinsurance opportunities, which coincided with the start of a disagreement over treaty rights and obligations that led to a pending dispute between the companies.

Division. Rather, the Division Law itself rejects the idea that John Hancock can use a private breach of contract claim to challenge the validity of the proposed Division.

107. The relevant section is §521I.12(4), which provides:

> If a division breaches a contractual obligation of the dividing insurer, all resulting insurers are jointly and severally liable for the breach. ***The validity and effectiveness of the division shall not be affected by the breach***.[142]

This language is plain and unambiguous. It confirms that when the Iowa legislature enacted the Division Law, it (a) contemplated the possibility that divisions might result in breaches of the dividing insurer's contractual obligations, and (b) expressly rejected that as a basis for invalidating divisions. Instead, the legislature made clear that the appropriate remedy for such a resulting breach is a private breach of contract action against "all resulting insurers."

108. It is hard to imagine a clearer statutory rejection of John Hancock's Count III than §521I.12(4). It specifically anticipates John Hancock's argument and rejects it as a basis for challenging the validity of the Plan of Division. It confirms that if John Hancock believes the Plan of Division will breach its contracts with TLIC, its remedy is a breach of contract action against the resulting insurers. This is consistent with the overall purpose of the Division Law, which is to provide a mechanism for Iowa domestic stock insurers to pursue divisions that will be in the interests of the company, the policyholders, and the general public. It would be contrary to both the public interest and Iowa's legislative intent to permit John Hancock to use its own claimed private contract interest to prevent the entire Proposed Transaction from being implemented, particularly where the Division Law adequately protects John Hnacock's contractual cause of action.

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[142] I.C.A. §521I.12(4) (emphasis added).

109. In summary, John Hancock's anti-assignment arguments fail on several independent yet equally dispositive bases. John Hancock cannot use a contractual provision to veto a statutory process that the legislature specifically designed to operate free from such interference. And even if it could, the Proposed Transaction does not implicate John Hancock's contractual rights under the anti-assignment provision. Having failed to identify any genuine contractual harm – let alone one that the Division Law recognizes as grounds for relief – John Hancock's anti-assignment objections provide no basis for rejecting the Proposed Transaction.

IV. JOHN HANCOCK'S "CONTRACT'S CLAUSE" ARGUMENTS ARE MERITLESS

110. John Hancock's last (and most futile) attempt to disrupt the Proposed Transaction is a half-hearted Contracts Clause claim brought under color of the United States Constitution. John Hancock acknowledges that "as currently written" the Division Law does not violate the Contracts Clause.[143] Nevertheless, John Hancock insists that the Commissioner's approval of the Plan of Division *would* violate the Contracts Clause because "it forces a novation on John Hancock that it has already explicitly rejected."[144] As detailed above, John Hancock's insistence that the Proposed Transaction would occasion a "transfer" or a "novation" is simply wrong. However, even if that were not the case, John Hancock's as-applied Contracts Clause challenge must (and will) fail because John Hancock cannot establish that the Proposed Transaction is the product of "state action."

111. It is well-established that in order to mount an as-applied constitutional challenge to an insurance company's plan of reorganization, a plaintiff "must show that the reorganization

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[143] John Hancock Petition at ¶109.

[144] *Id.* at ¶111.

constituted state action."[145] The "state action" requirement entails "*both* an alleged constitutional deprivation 'caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by the State or by a person for whom the State is responsible,' *and* that 'the party charged with the deprivation must be a person who may fairly be said to be a state actor.'"[146] "Under the latter requirement, a plaintiff must show that the allegedly unconstitutional conduct is 'fairly attributable' to the state."[147]

112. The U.S. Supreme Court has held that for the conduct of a private entity to be "fairly attributable" to the state, there must be "such a 'close nexus between the State and the challenged action' that seemingly private behavior 'may be fairly treated as that of the State itself.'"[148] This is a "necessarily fact-bound inquiry." [149] A challenged activity by a private entity may be deemed state action when the state exercises "coercive power," is "entwined in [the] management or control" of the private actor, or provides the private actor with "significant encouragement, either overt or covert," or when the private actor "operates as a 'willful participant in joint activity with the State or its agents,'" is "controlled by an agency of the State,'" has been delegated a "public function" by the State, or is "entwined with governmental policies."[150]

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[145] *Cranley v. Nat'l Life Ins. Co. of Vermont*, 318 F.3d 105, 111 (2d Cir. 2003) (affirming dismissal of facial and as-applied Contracts Clause challenges to demutualization of a life insurance company under Vermont statutory regime); *see also Tancredi v. Metropolitan Life Ins. Co.*, 316 F.3d 308 (2d Cir. 2003) (dismissal of facial and as-applied Contracts Clause challenges to demutualization of a life insurance company under New York statutory regime).

[146] *Am. Mfrs. Mut. Ins. Co. v. Sullivan,* 526 U.S. 40, 50 (1999) (quoting *Lugar v. Edmonson Oil Co.*, 457 U.S. 922, 937 (1982)) (emphasis in original).

[147] *Cranley*, 318 F.3d at 111 (citing *Am. Mfrs.*, 526 U.S. at 50).

[148] *Brentwood Academy v. Tennessee Secondary School Athletic Ass'n*, 531 U.S. 288, 295 (2001) (quoting *Jackson v. Metropolitan Edison Co.*, 419 U.S. 345, 351 (1974).

[149] *Id.* at 298.

[150] *Id.* at 296.

113. By contrast, private conduct is *not* attributable to the state "merely because the private entity is a business subject to extensive state regulation or 'affected with the public interest.'"[151] Nor may a finding of state action be premised solely on the private entity's creation, funding, licensing, or regulation by the government.[152] A private entity is also not a state actor where its conduct is merely permitted by state law.[153] Rather, "[a]ction taken by private entities with the mere approval or acquiescence of the State is not state action."[154]

114. Here, there is simply no basis upon which either John Hancock or a reviewing court could conclude that the Proposed Transaction is the product of "state action." The state did not initiate, instigate, compel, convince, or otherwise cajole TLIC and SGLUSA to submit the Proposed Transaction. Nor did the state play a role in drafting, devising, or otherwise designing the plan. Instead, as detailed above, the Plan of Division was conceived, drafted, and submitted by TLIC, and the Merger Agreement was conceived, drafted, and submitted by TLIC and SGLUSA. TLIC and SGLUSA are private companies, and it is well established that "[t]he management of a corporation is not a public function" and that "a state's permission for a corporation to organize itself in a particular manner is not the delegation of governmental authority."[155]

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[151] *Cranley*, 318 F.3d at 112 (quoting *Jackson v. Metropolitan Edison Co.*, 419 U.S. at 350).

[152] *See, e.g., San Francisco Arts & Athletics, Inc. v. United States Olympic Committee*, 483 U.S. 522, 543-44 (1987).

[153] *See, e.g., Flagg Brothers, Inc. v. Brooks*, 436 U.S. 149, 164-66 (1978) (no state action where private storage company threatened to sell plaintiff's stored goods, as authorized by state law, to cover unpaid storage fee); *Jackson v. Metropolitan Edison Co.*, 419 U.S. at 350-51 (no state action where private electricity provider operated pursuant to state-granted monopoly).

[154] *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. at 52.

[155] *Cranley,* 318 F.3d at 112 (citing *Gayman v. Principal Financial Services, Inc.*, 311 F.3d 851 (7th Cir. 2002)).

115. Nor is there any basis upon which either John Hancock or a reviewing court could conclude that approval of the Proposed Transaction constitutes "state action" sufficient to sustain a Contracts Clause challenge. Courts have consistently rejected the argument that a state's approval of a privately conceived plan of reorganization constitutes "state action" sufficient to sustain an as-applied Contracts Clause challenge. For example, in *Cranley v. National Life Ins. Co. of Vermont*, the Second Circuit Court of Appeals specifically rejected the argument that the state Commissioner's approval of a plan of reorganization constituted "state action" because "the state did not instigate the reorganization" and the Commissioner's functions were only to "analyze the reorganization plan to determine that the conversion *would not prejudice policyholders or their financial interests,* to determine that the demutualization *would not be contrary to the general good of the State,* and to ensure that the company provided policyholders with *sufficient disclosure materials to permit their informed vote on the plan."*[156] The Second Circuit reached a similar conclusion in *Tancredi v. Metropolitan Life Ins. Co.*, when it held that the New York State Superintendent's approval of a plan of reorganization did not constitute "state action.[157]

116. Simply put, John Hancock's threatened Contracts Clause action is entirely without merit. It runs contrary to decades of Supreme Court and U.S. Court of Appeals precedent, and rests on half-baked arguments and theories that have been raised and rejected time and again. It is a transparent attempt by John Hancock to use the specter of possible reversal to influence the Commissioner's thought process as it considers the merits of the Proposed Transaction. The

[156] *Id.* at 112 (emphasis added).

[157] *Tancredi v. Metropolitan Life Ins. Co.*, 316 F.3d at 313-314 (affirming dismissal of an as-applied Contracts Clause claim brought against MetLife after it availed itself of a New York state law permitting domestic mutual insurers to submit plans of reorganization).

Commissioner should not be intimidated. There is absolutely no basis for John Hancock's Contracts Clause claims, and John Hancock knows it.

CONCLUSION

117. For the reasons set forth above, the Commissioner and the Merger Commission can and should find that John Hancock's arguments are wrong on the law, wrong on the facts, and wrong on the equities. On its face, the Division Law applies to any domestic stock insurer – including TLIC – without the carve-outs John Hancock asks the Commissioner to invent. The Plan of Division submitted as part of the Proposed Transaction plainly satisfies each of the approval criteria set forth in Section 521I.8(3), and John Hancock cannot establish that it would not adequately protect the interest of *all* cedents. John Hancock's private breach of contract arguments are substantively wrong and procedurally foreclosed by the express terms of the Division Law. And John Hancock's threatened Contracts Clause challenge cannot succeed because it was not the product of "state action."

118. Given the clear legal and evidentiary insufficiency of John Hancock's arguments, the Commissioner and the Merger Commission would be well within their rights to summarily dismiss all four counts of John Hancock's Petition in advance of the Hearing. At a minimum, however, the Commissioner should resolve Counts I, III, and IV of the Petition in advance of the Hearing.

119. As John Hancock acknowledges by seeking declaratory relief, Counts I, III, and IV are pure legal challenges that involve no questions of fact and do not require an evidentiary hearing. Accordingly, the Commissioner should resolve them in advance of Hearing by either ruling on the papers or scheduling a separate hearing to address those arguments. As the Hearing is intended to be a "public opportunity for TLIC, SGLUSA, and any other interested party to present evidence

and argument relevant to TLIC's planned division and merger,"[158] this approach would benefit all parties involved – including the general public – by restoring the focus of the Hearing to the merits of the Proposed Transaction.

120. For these reasons, SGLUSA respectfully requests that the Commissioner issue an order rejecting John Hancock's arguments on Counts I, III, and IV of the Petition in advance of the August 20, 2026, Hearing. SGLUSA further requests that after hearing the evidence and argument to be presented on August 20, 2026, the Commissioner and the Merger Commission reject John Hancock's arguments on Count II of the Petition and approve the Proposed Transaction as submitted.

Respectfully submitted,

Dated: July 10, 2026

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[158] May 12, 2026 Notice of Public Hearing and Order at 1.

CERTIFICATE OF SERVICE

I certify under penalty of perjury and pursuant to the laws of Iowa that on July 10, 2026, I served a true and correct copy of the foregoing [Insert] by email to the following individuals:

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