



## **DETERMINATION OF MERGER NOTIFICATION M/12/025 – AIB / ARK LIFE**

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### **Section 21 of the Competition Act 2002**

#### **Proposed acquisition of Ark Life Assurance Company Limited by Allied Irish Banks plc**

**Dated 19 December 2012**

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#### **Introduction**

1. On 23 November 2012, in accordance with Section 18 of the Competition Act, 2002 ("the Act"), the Competition Authority ("the Authority"), received a notification of a proposed transaction whereby Allied Irish Banks plc ("AIB") would acquire Ark Life Assurance Company Limited ("Ark Life") from Aviva Life Holdings Ireland Limited ("ALHIL").

#### **The Undertakings Involved**

##### ***Acquirer***

##### **AIB**

2. Allied Irish Banks plc is an Irish registered company and is one of the largest retail banks in Ireland. AIB is majority owned by the Irish State. It is regulated by the Central Bank of Ireland and is listed on the Enterprise Securities Market of the Irish Stock Exchange.
3. AIB operates in the commercial and personal banking sectors and offers goods and services in those sectors both worldwide and within the State. It is also registered as an insurance/reinsurance intermediary under the European Communities (Insurance Mediation) Regulations, 2005 (as amended) with the Central Bank.<sup>1</sup>
4. In the life insurance sector, until 31 March 2012, AIB distributed Ark Life insurance products through its branch network under a distribution agreement ("the Ark Life Distribution Agreement") between AIB and Ark Life, Aviva, ALHIL and ALHIL's subsidiary Aviva Life and Pensions Ireland Limited. The terms of the Ark Life Distribution Agreement expired on the 31 March 2012. AIB entered into a new distribution agreement with Irish Life Assurance plc ("Irish Life") to distribute life insurance and investment products on 2 April 2012.<sup>2</sup> In terms of non-life insurance distribution activities, AIB has arrangements with a number of third party insurance undertakings to provide such services.

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<sup>1</sup> The Central Bank of Ireland defines an 'insurance intermediary' as 'a person who, for remuneration, undertakes or purports to undertake insurance mediation' and 'insurance mediation' as 'any activity involved in proposing or undertaking preparatory work for entering into insurance contracts, or of assisting in the administration and performance of insurance contracts that have been entered into (including dealing with claims under insurance contracts).' See: <http://registers.financialregulator.ie/GlossaryPage.aspx#I>

<sup>2</sup> Irish Life Assurance plc is an Irish registered company.

5. For the financial year ending 31 December 2011, AIB had a worldwide turnover of approximately €5,139 million and a turnover in the State of approximately €4,630 million.

### **The Vendor**

Aviva Group Ireland plc

6. Aviva is an Irish registered public limited company and is the ultimate vendor in the proposed transaction. It holds a controlling interest of 75.01% in ALHIL which is the parent company of Ark Life.
7. Aviva provides insurance including life, pensions, general (including motor, household and commercial insurance) and health insurance products along with savings and investment products to customers either directly or through brokers.

### **The Target**

Ark Life

8. Ark Life is an Irish registered company which, up until 31 March 2012, operated in the design and underwriting of life insurance products (including protection products, pension products and investment products). It is authorised to carry on Life Insurance Business under the European Communities (Life Insurance) Regulations, 1994.
9. Ark Life is a subsidiary of ALHIL. ALHIL is a joint venture company between Aviva (75.01%) and AIB (24.99%). Currently, ALHIL has sole control over Ark Life. ALHIL was established in January 2006 following the receipt of merger clearance from the European Commission.<sup>3</sup> Prior to the Commission decision, Ark Life was part of the AIB group.
10. The parties state in the notification that Ark Life's products were designed and underwritten primarily for distribution through the AIB branch network, pursuant to the Ark Life Distribution Agreement. Ark Life's activities in the design and underwriting of life insurance products ceased on 31 March 2012 upon the expiry of the Ark Life Distribution Agreement. The parties further state that the effect of this expiry was that no new customers could be acquired by Ark Life through the AIB Network due to the new arrangement between AIB and Irish Life.
11. Ark Life is now solely engaged in the business of managing a closed book of life insurance funds, i.e., life insurance funds that have ceased writing life insurance to new customers.
12. For the financial year ending 31 December 2011, Ark Life had a worldwide turnover of approximately €[350-450] million and a turnover in the State of approximately €[350-450] million.

### **The Proposed Transaction and the Rationale**

13. This is an acquisition of the entire issued share capital in Ark Life pursuant to a Share Purchase Agreement dated 23 November 2012.

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<sup>3</sup> Case No COMP/M.4047 - AVIVA / ARK LIFE – for a copy of the Commission Decision please See: [http://ec.europa.eu/competition/mergers/cases/decisions/m4047\\_20060120\\_20310\\_en.pdf](http://ec.europa.eu/competition/mergers/cases/decisions/m4047_20060120_20310_en.pdf)

14. The ALHIL joint venture is governed by a Shareholders' Agreement dated 27 January 2006 as amended (the "Shareholders Agreement"). [...]. [...]. In November 2012 the parties entered into the Share Purchase Agreement which will result in AIB holding 100% of the issued share capital of Ark Life and Aviva holding 100% of the issued share capital of ALHIL.
15. The commercial objectives sought to be achieved by the proposed transaction is to enable AIB *"to re-align its distribution arrangements for life insurance products"*. AIB states that the proposed acquisition arose as a direct consequence of the decision to terminate the ALHIL joint venture and the expiry of the Ark Life Distribution Agreement.
16. Ark Life has advised the Authority that from 1 April 2012 its strategy is *"not to enter any distribution agreements with a distributor via any party (including independent brokers)."*<sup>4</sup> In addition, Ark Life's exit from ALHIL means that Ark Life will cease to benefit from the resources of Aviva (including its product design expertise). Ark Life will no longer design or underwrite new insurance products following the proposed transaction.
17. Ark Life will continue to administer existing policies as before and in line with the applicable terms and conditions of those policies. Thus existing policy holders will not be affected by the proposed transaction and can cancel their Ark Life policy and replace Ark Life with another provider.<sup>5</sup> In addition, Ark Life can, for existing policy holders in certain limited circumstances and only where the terms and conditions of a policy permit, write new business under those policies. Such a situation will only arise if a customer exercises an option under the existing policy such as a guaranteed insurability option; a convertible term option; increases to existing pensions and savings policies or where a new employee is added to an existing group scheme policy.
18. AIB has advised the Authority that it will outsource to [...] the operation of the IT systems necessary for Ark Life to manage its closed book following completion of the proposed transaction. This will involve the provision of services previously provided by members of the Aviva group to Ark Life. The parties submit that this arrangement will not involve the transfer of assets held by Ark Life which might enable [...] to provide similar services to third parties. The parties submit that this arrangement is separate to the Proposed Transaction.

### **Third Party Submissions**

19. No third party submission was received.

### **Analysis**

20. Ark Life formerly operated in the design and the underwriting of life insurance products (comprising protection, saving and investment products, and pension products) sector but as of 31 March 2012, Ark Life is solely involved in the management of its closed book of life insurance funds.

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<sup>4</sup> In response to questions raised by the Authority.

<sup>5</sup> Subject always to the terms and conditions of the individual policy concerned.

21. AIB is one of the largest retail banks in Ireland, operating in the commercial and personal banking sectors. It is not engaged in the design and underwriting of life insurance products nor is it involved in the management of a closed book of insurance funds. It does, however, act as an insurance intermediary and distributes life insurance products under a distribution agreement with Irish Life.
22. There is no horizontal overlap in the activities of the parties in the State. AIB is active in the state in the commercial and retail banking sectors while Ark Life manages a closed book of insurance funds.
23. The proposed transaction does not raise any vertical competitive concerns in the State. AIB is not an authorised insurance undertaking nor is it engaged in the design and underwriting of life insurance products or the acquisition or management of closed books of insurance funds. In addition, Ark Life no longer designs and underwrites or supplies life insurance products to new customers.
24. There are a number of key competitors in the Irish life insurance market including Bank of Ireland Life, Canada Life, Zurich, New Ireland and Aviva Life and Pensions. In addition there are a number of distributors of life products in the market including independent intermediaries (such as Mercer, Willis, IFG, AON and Invesco); Bank of Ireland Life, Irish Life, New Ireland, Zurich and Canada Life.
25. Based on all of the above the Authority considers that the proposed transaction does not raise any competition concerns in the State.

## **DETERMINATION**

The Competition Authority, in accordance with Section 21(2)(a) of the Competition Act, 2002, has determined that, in its opinion, the result of the proposed acquisition of Ark Life Assurance Company Limited by Allied Irish Banks plc will not be to substantially lessen competition in any market for goods or services in the State and, accordingly, that the acquisition may be put into effect.

**For the Competition Authority**

**Stephen Calkins**

**Member of the Competition Authority**

**Director, Mergers Division**