



# DETERMINATION OF MERGER NOTIFICATION M/21/042 – CANADA LIFE/AIB (JV)

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## Section 21 of the Competition Act 2002

Proposed creation of a joint venture between Canada Life Irish Holding Company Limited and Allied Irish Banks, plc

Dated: 13 September 2021

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### Introduction

1. On 4 August 2021, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of the proposed creation of a full function joint venture between Allied Irish Banks, plc (“AIB”) and Canada Life Irish Holding Company Limited (“Canada Life Holdco”), an indirect wholly-owned subsidiary of The Canada Life Assurance Company (“Canada Life”) (the “Proposed Transaction”).

### The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share subscription and shareholders agreement dated 23 June 2021 between Canada Life Holdco and AIB (the “SSSA”). Pursuant to the SSSA, Canada Life Holdco and AIB will procure the incorporation of a holding company to be called AIB Life HoldCo Limited (“AIB Life HoldCo”) in which AIB and Canada Life Holdco will each hold 50% of the shares. Following the incorporation of AIB Life HoldCo, Canada Life Holdco and AIB will procure the incorporation of a designated activity company and regulated life insurance undertaking as a wholly-owned subsidiary of AIB Life HoldCo, to be called AIB Life Designated Activity Company (the “JV”). Therefore, following the implementation of the Proposed Transaction, Canada Life Holdco and AIB will have indirect joint control of the JV.

### The Undertakings Involved

#### **AIB**

3. AIB is a direct subsidiary of AIB Group plc (“AIB Public”), a public limited company incorporated in the State and listed on the Irish Stock Exchange. The largest shareholder of AIB Public is the Government of Ireland, which as at 4 August 2021, holds 71.1% of its issued share capital.
4. AIB Public and its subsidiaries (together the “AIB Group”) provide a range of banking products and services to personal, business and corporate customers in the State and the United Kingdom. In the State, the AIB Group provides two types of banking products and services:



- a) **Retail Banking**, includes mortgages, consumer lending, small and medium-sized enterprise lending, asset-backed lending, wealth management and daily banking. The AIB Group's Retail Wealth division distributes life insurance products to customers in the State through a tied agency agreement with Irish Life Group Limited ("Irish Life")<sup>1</sup>; and,
  - b) **Corporate, Institutional and Business Banking**, includes specialised finance, commercial finance, syndicated finance and corporate finance advisory services. In addition, the AIB Group provides private banking services and advice to corporate clients.
5. The AIB Group also participates in international syndicated finance transactions through teams based in New York and Dublin.
  6. For the year ended December 2019, the AIB Group's worldwide turnover was €2,695 million, of which €2,293 million was generated in the State.

#### **Canada Life Holdco**

7. As noted above, Canada Life Holdco is a wholly-owned indirect subsidiary of Canada Life, which is part of the Great-West Lifeco Inc. ("Great-West Lifeco") group of companies. Great-West Lifeco is in turn part of a larger corporate group, the Power Corporation of Canada, which is listed on the Toronto Stock Exchange.
8. Great-West Lifeco is an international financial service holding company with interests in life insurance, health insurance, retirement and investment services, asset management, and reinsurance business. In the State, Great-West Lifeco operates through Irish Life and its subsidiaries. Irish Life and its subsidiaries provide life insurance products (both as an insurer/underwriter and through intermediaries), pensions, and retirement savings in the State. Hereinafter reference to Irish Life includes its subsidiaries unless stated otherwise.
9. For the financial year ending 31 December 2020, the Great-West Lifeco's worldwide turnover was [...], of which [...] was generated in the State.

#### **The JV**

10. The JV is a new company that is yet to be incorporated. Therefore, the JV does not have any activities. The parties submit that, following implementation of the Proposed Transaction, the JV will be an independent life insurance company under Irish law, and will become a life insurance undertaking regulated by the Central Bank and under European Union (Insurance and Reinsurance) Regulations 2015. The JV will provide life insurance products, savings and investments and pre- and post-retirement areas (i.e. pension products) to customers.
11. Funding will be provided by Canada Life Holdco and AIB to enable the JV to commence trading and develop the customer proposition. As part of the implementation of the

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<sup>1</sup> The parties state in the notification that the AIB Group does not price the life insurance products provided by Irish Life in the State. Instead, Irish Life prices its own life insurance products and pays the AIB Group on a commission basis.



Proposed Transaction, the JV will enter into a distribution agreement with AIB. Pursuant to the distribution agreement, AIB will distribute life insurance products of the JV and will not distribute life insurance products of any other life insurer.

12. The JV has no turnover as it is yet to be incorporated.

#### **Rationale for the Proposed Transaction**

13. The parties state the following in the notification:

*“The JV is aligned with AIB’s stated ambition to complete its customer product suite and diversify income. The JV has a customer promise of easy access, smart engagement and speed of service with instant decisions and good value. The JV will deploy a lean operating model with an emphasis on digitisation & intelligent systems, such that the significant investments in set-up of the JV are expected to generate an attractive financial return [...].”*

14. Canada Life Holdco states,<sup>2</sup>

*Canada Life’s rationale for the Proposed Transaction follows on from AIB’s strategic decision to establish a new jointly owned life company and, as a direct result, to cease distributing life products for third-parties (including Canada Life/Irish Life). Most recently, AIB had a contractual arrangement to distribute Irish Life products. Previously, AIB had distributed Aviva products.*

*In light of its strategic decision to establish a JV life company, AIB tendered for a partner with whom it would establish a jointly owned life company... AIB indicated to Canada Life/Irish Life that once this new company was established, AIB would cease to offer Canada Life/Irish Life products to AIB customers.*

*Following a competitive tender for the joint venture role with AIB, Canada Life was selected as AIB’s preferred partner in December 2020. Canada Life considers that the new company, to include Canada Life’s long-term equity partnership opportunity therein, has potential to achieve greater sales than current levels.”*

#### **Market Enquiries**

15. During its investigation, the Commission conducted market enquiries which included issuing questionnaires to a number of customers of Irish Life. None of the parties contacted by the Commission raised concerns with regard to the Proposed Transaction.

#### **Third Party Submissions**

16. No third party submission was received.

#### **Background: Relationship between the JV, Canada Life and AIB**

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<sup>2</sup> Information provided to the Commission by Canada Life dated 26 August 2021.



17. The JV is a new entity in which AIB and Canada Life (through Canada Life Holdco) will each hold 50% indirect shares, respectively. The JV will be an independent producer of life insurance products. AIB and Canada Life (through Irish Life) are both currently active in various levels of the supply chain for the production and distribution of life insurance products. In particular, Irish Life is a producer of life insurance products as well as a distributor of life insurance products through various channels, including independent financial brokers, employed advisors and self-employed tied agents, employee benefit consultants and banks. AIB is only active in the distribution level as an exclusive distributor of Irish Life's life insurance products.
18. Following the implementation of the Proposed Transaction, the relationship and activities of AIB, Canada Life and the JV will be as follows:
  - a. AIB and Canada Life will indirectly jointly control a new producer of life insurance products in the State (i.e. the JV), resulting in AIB entering the production level of the supply chain for provision of life insurance products; and,
  - b. the direct exclusive distribution relationship between AIB and Irish Life will cease and instead AIB will exclusively distribute the life insurance products of the JV.
19. Irish Life will continue its existing insurance production and distribution operation outside the JV.<sup>3</sup>

## **Competitive Analysis**

### Horizontal overlap

20. There is no current horizontal overlap between the business activities of (i) the JV and (ii) AIB and Canada Life (through Irish Life), since the JV is yet to be established and is not active in any capacity in the State. However, there is a potential horizontal overlap in the activities of the JV and Canada Life (through Irish Life) in the State in the production of life insurance products.
21. The parties submit in the notification that there is an overlap in the activities of AIB and Canada Life (through Irish Life) in the provision of investment and wealth management services in the State.

### Vertical overlap

22. There is also a vertical relationship between AIB and Canada Life's activities in the State as Canada Life (through Irish Life) is a producer of life insurance products and AIB is a distributor of Irish Life's insurance products in State.

## **Relevant Product and Geographic markets**

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<sup>3</sup> The parties submit that [...].



23. The Commission defines the markets to the extent necessary depending on the particular circumstances of a given case. In this instance, however, the Commission does not need to come to a definitive view on the precise relevant product and geographic markets as its views on the likely competitive impact of the Proposed Transaction are unaffected regardless of the precise relevant markets adopted. For the purposes of its assessment of the likely competitive impact of the Proposed Transaction, the Commission has considered the potential product and geographic markets described below.

**(a) The provision of investment and wealth management services in the State**

24. The Commission recently assessed the competitive effects of a proposed transaction in the provision of investment and wealth management services in *M/21/012 AIB/Goodbody* (“*AIB/Goodbody*”).<sup>4</sup> The Commission did not conclude on the scope of the relevant product market but followed its previous decision<sup>5</sup> and analysed the likely effects of that transaction on competition based on the potential product markets for the provision of investment and wealth management services. The Commission in *AIB/Goodbody* also left the precise geographic market definition open in but followed its previous decisions,<sup>6</sup> analysed the competitive impact of that proposed transaction by reference to the narrowest potential geographic market, i.e., the State.

25. The Commission does not need to come to a definitive view on the precise relevant product and geographic markets as its views on the likely competitive impact of the Proposed Transaction are unaffected by the precise definition of the relevant markets adopted. For the purposes of assessing whether the Proposed Transaction might result in a substantial lessening of competition, in the activities of AIB and Irish Life, the Commission has not found compelling reasons to depart from the approach in *AIB/Goodbody*. Therefore, the Commission has assessed the competitive impact of the Proposed Transaction in the potential market for the provision of investment and wealth management services in the State.

**(b) The provision of life insurance products in the State**

26. The European Commission (the “EC”) has, in its determinations, made a distinction between the distribution of life and non-life insurance products.<sup>7</sup> The EC also considered whether it is appropriate to sub-divide non-life and life insurance further on the basis of business sectors or the type of risk insured. The EC recognised that, from a supply-side perspective, the conditions for insurance of different risk types are quite similar and most

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<sup>4</sup>For more information see merger determination available at: <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/03/2021.07.19-M.21.012-Determination-Public.pdf>.

<sup>5</sup>For more information see merger determination available M/18/035 *Irish Life/Invesco*, available at [https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/05/M\\_18\\_035-Irish-Life-Invesco.pdf](https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/05/M_18_035-Irish-Life-Invesco.pdf).

<sup>6</sup>See Commission’s Determinations in M/21/012 *AIB/Goodbody* <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2021/03/2021.07.19-M.21.012-Determination-Public.pdf> and M/18/035 *Irish Life/Invesco*, available at [https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/05/M\\_18\\_035-Irish-Life-Invesco.pdf](https://www.ccpc.ie/business/wp-content/uploads/sites/3/2018/05/M_18_035-Irish-Life-Invesco.pdf).

<sup>7</sup>See paragraph 10 of Case No COMP/M.8010 *Irish Life/Aviva Health/Glohealth*, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016M8010> paragraphs 8 and 19 of IV/M.1307 -*Marsh&McLennan/Segwick* [https://ec.europa.eu/competition/mergers/cases/decisions/m1307\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m1307_en.pdf) and paragraph 11 of M.8257- *NN Group/Delta Lloyd* [https://ec.europa.eu/competition/mergers/cases/decisions/m8257\\_1125\\_3.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m8257_1125_3.pdf).



large insurance companies are active in several risk types.<sup>8</sup> The EC did not definitively conclude as to whether these segments constitute distinct product markets. The EC identified an upstream market for the production of life insurance products and a downstream distribution market for life insurance products.<sup>9</sup> The Commission assessed the distribution of life insurance in *M/18/035 Irish Life/Invesco* (“*Irish Life/Invesco*”). The Commission did not segment the market by type of risk assured but has considered that the three main distribution channels for life insurance – direct sales, broker intermediaries and bancassurance - compete.

27. The Commission does not need to come to a definitive view on the precise relevant product market for the assessment of the Proposed Transaction as its views on the likely competitive impact of the Proposed Transaction are unaffected by the precise relevant markets adopted. The Commission therefore considers the activities of the parties in the potential upstream market for the production of Insurance products and the potential downstream market for the distribution of life insurance products.
28. In relation to the geographic market, the EC has, in its previous decisions, considered the market for life insurance as being national in scope as a result of national distribution channels, the established market structures, fiscal constraints and differing regulatory systems. For the purposes of assessing whether the Proposed Transaction might result in a substantial lessening of competition, in the activities of AIB and Irish Life, the Commission has assessed the competitive impact of the Proposed Transaction in the State for both the potential upstream market for the production of life insurance products and the potential downstream market for the distribution of life insurance products.

### **Conclusion of relevant product and geographic market**

29. For the purpose of the horizontal assessment of the Proposed Transaction, the Commission has assessed the competitive impact of the Proposed Transaction in relation to the following potential markets:
  - a. the potential market for the provision of investment and wealth management services in the State; and
  - b. the potential product market for the production of life insurance products in the State.
30. For purpose of the vertical assessment of Proposed Transaction, the Commission has assessed the competitive impact of the Proposed Transaction in relation to the potential upstream market for the production of life insurance products in the State and the potential downstream distribution of life insurance products in the State.

### **Competitive assessment**

#### Horizontal overlap

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<sup>8</sup>See paragraph 9 of EC determination here:

[https://ec.europa.eu/competition/mergers/cases/decisions/m4047\\_20060120\\_20310\\_en.pdf](https://ec.europa.eu/competition/mergers/cases/decisions/m4047_20060120_20310_en.pdf).

<sup>9</sup> For more information see paragraph 19 of merger determination available *M/18/035 Irish Life/Invesco*, available at [https://www.cpc.ie/business/wp-content/uploads/sites/3/2018/05/M\\_18\\_035-Irish-Life-Invesco.pdf](https://www.cpc.ie/business/wp-content/uploads/sites/3/2018/05/M_18_035-Irish-Life-Invesco.pdf).



**(a) The provision of investment and wealth management services in the State**

31. Based on information available to the Commission at the time of the assessment of the Proposed Transaction, the Commission considers that the Proposed Transaction is unlikely to lead to competition concerns in the provision of investment and wealth management services resulting from any potential direct or indirect exchange of competitively sensitive information between AIB and Irish Life, through the Target JV, for reasons below.
32. Firstly, the parties submit in the notification that the JV will be operationally independent as AIB and Canada Life will not be involved in the running of the JV.
33. Secondly, the Proposed Transaction does not result in market share accretion. In any case, Irish Life has a relatively small share of supply in the provision of investment and wealth management services, estimated at 4.8%<sup>10</sup> by the parties<sup>11</sup>.
34. Thirdly, there are a number of providers of investment and wealth management services, such as investment intermediaries, banks, insurers, brokers, fund managers and wealth managers, who are likely to continue to exert a competitive constraint on the parties following implementation of the Proposed Transaction. These competitors include Brewin Dolphin Wealth Management Limited, trading as Brewin Dolphin and Brewin Dolphin Ireland; Bank Julius Baer Europe S.A. Ireland branch; Smith & Williamson investment management (Ireland) limited; Davy (Wealth Management); Barclays Bank Ireland (Barclays Wealth); Bank of Ireland; and Cantor Fitzgerald Ireland Limited.
35. In light of the above, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competitive concerns.

**(b) The production of life insurance products in the State**

36. With respect to the potential overlap between the JV and Canada Life (through Irish Life) in the production of life insurance products in the State, the Commission considers that the Proposed Transaction is unlikely to raise horizontal competition concerns for the reasons set out below.
37. Firstly, the JV is a new entrant in the production of life insurance products and thus there is no market share accretion. The parties submit in the notification that the JV will not distribute its life insurance product through any brokers but will exclusively supply its life insurance to AIB.
38. Secondly, there are a number of producers of life insurance products currently active in the State including Vhi insurance DAC trading (“Vhi”), New Ireland Assurance Company plc (“New Ireland”), Aviva Direct Ireland Limited (“Aviva”), Standard Life International DAC (“Standard Life”) and Zurich Life Assurance plc (“Zurich”). These competitors are likely to continue to provide a competitive constraint on the parties following the implementation of the Proposed Transaction.

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<sup>10</sup> Information provided to the Commission by Canada Life dated 26 August 2021.

<sup>11</sup> For completeness, the parties submit that AIB has 20.5% estimated market share in the potential market for the provision of investment and wealth management services in the State.



39. In light of the above, and on the basis of the information available to the Commission at the time of the assessment of the Proposed Transaction, the Commission considers that the Proposed Transaction is unlikely to raise any horizontal competitive concerns in the production of life insurance products in the State.

#### Vertical Relationship

40. There is an existing vertical relationship between Irish Life, which provides life insurance products (i.e. insurance underwriting) and AIB, which distributes life insurance products (i.e. insurance intermediaries).

#### **The potential upstream market for production of life insurance products in the State**

41. In the Commission's view, the Proposed Transaction is unlikely to raise input foreclosure concerns as it does not enhance the ability or incentive of Irish Life to engage in foreclosure. It does not appear that the Proposed Transaction would lead to Irish Life benefitting more from sales of life insurance supplied by the JV and distributed through AIB than it does currently by being the exclusive supplier to AIB. Therefore, the incentive for Irish Life to engage in input foreclosure is not increased by the Proposed Transaction. Furthermore, the parties submit that Irish Life will continue to sell its insurance products through other intermediaries, including brokers and banks. There are other upstream insurance providers such as, Vhi, New Ireland, Aviva, Standard Life and Zurich Life, who distribute their products through other intermediaries. Following implementation of the Proposed Transaction, customers in the downstream market will continue to be able to source wholesale life insurance products from these competitors

#### **Potential downstream market for the distribution of life insurance products**

42. The Commission considers that the Proposed Transaction is unlikely to raise any customer foreclosure concerns, however, as AIB currently exclusively distributes life insurance products for Irish Life. Following the implementation of the Proposed Transaction, AIB will exclusively distribute the products of the JV. Although Irish Life products will no longer be supplied by AIB, Canada Life Holdco which is the parent of Irish Life, will hold a 50% share of the JV and, so, will continue to contribute to the supply of life insurance products through AIB.
43. In light of the above, the Commission considers that the Proposed Transaction does not raise any vertical competition concerns in the State.

#### **Conclusion on competitive analysis**

44. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

#### **Ancillary Restraints**

45. The parties state in the notification that Clause 26 of the SSSA contains certain non-compete and non-solicitation obligations on AIB and Canada Life which the parties believe are directly related and necessary to the implementation of the Proposed Transaction.





The Commission notes that the restrictions referred to by the parties appear to be contained in Clause 26.1 of the SSSA. The scope and duration of the restrictions of the restraints in Clause 26.1 of the SSSA do not exceed the maximum scope and duration acceptable to the Commission.<sup>12</sup> The Commission considers that they are directly related and necessary to the implementation of the Proposed Transaction, insofar as they relate to the State.

46. The parties also state that Clause 12 of the SSSA, contains certain non-compete and non-solicitation obligations on the JV which the parties believe are directly related and necessary to the implementation of the Proposed Transaction. The Commission notes that the obligation referred to by the parties appears to be contained in Clause 12.1 of the SSSA. The Commission considers that the scope and duration of the restrictions of the restraints in Clause 12.1 of the SSSA do not exceed the maximum scope and duration acceptable to the Commission.<sup>13</sup> The Commission considers that they are directly related and necessary to the implementation of the Proposed Transaction.

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<sup>12</sup> In this respect, the Commission follows the approach adopted by the European Commission in paragraph 36 of its “Commission Notice on restrictions directly related and necessary to concentrations” (2005) OJ C56/03. For more information, see [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305\(02\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005XC0305(02)&from=EN).

<sup>13</sup> See footnote 12.



### **Determination**

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed creation of a full function joint venture between Allied Irish Banks, plc and Canada Life Irish Holding Company Limited, an indirect wholly-owned subsidiary of The Canada Life Assurance Company, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the transaction may be put into effect.

For the Competition and Consumer Protection Commission

**Brian McHugh**

**Member**

**Competition and Consumer Protection Commission**