

DETERMINATION OF MERGER NOTIFICATION M/24/021 – AVIVA/PROBITAS

Section 21 of the Competition Act 2002

Proposed acquisition by Aviva Insurance Limited of sole control of Probitas Holdings (Bermuda) Limited

Dated: 15 May 2024

Introduction

1. On 4 April 2024, 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 a proposed acquisition whereby Aviva Insurance Limited (“AIL”), a wholly owned subsidiary of Aviva Plc (“Aviva”), would acquire the entire issued share capital, and thus sole control, of Probitas Holdings (Bermuda) Limited (“Probitas”) (the “Proposed Transaction”).¹

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to two share purchase agreements dated 3 March 2024; one share purchase agreement is between individual management sellers² and AIL, and the other share purchase agreement is between Saudi Reinsurance Company and AIL. Pursuant to those share purchase agreements, AIL will acquire 100% of the issued share capital, and thus sole control, of Probitas.

The Undertakings Involved

The Acquirer – Aviva

3. Aviva is a public limited company incorporated under the laws of England and Wales and is listed on the London Stock Exchange. Aviva provides a broad range of life insurance/assurance,

¹ Aviva and Probitas are referred to collectively in this determination as the “Parties”.

² The individual management sellers are Ashis Mathuradas, Jonathan Matthew Foley, Nicholas Cooper Bacon, Neila Buurman, Francis Michael O’Halloran and Gabriel Anguiano Rodriguez. Together, the individual management sellers and Saudi Reinsurance Company are referred to as the “Sellers”.

general insurance and fund/asset management products. Aviva serves approximately 18.7 million customers through a number of distribution channels. Aviva is primarily active in the United Kingdom (“UK”), Ireland and Canada and operates in a number of smaller non-core jurisdictions.³

4. For the financial year ending 31 December 2023, Aviva’s worldwide turnover was €21.56 billion, of which €(...) million was generated in the State.

The Target – Probitas

5. Probitas, headquartered in London, UK, is a fully integrated Lloyd’s of London (“Lloyd’s”) platform. Lloyd’s is a statutory corporation incorporated under the Lloyd’s Acts 1871-1982 under the name of the Society of Lloyd’s.⁴ Lloyd’s is a specialist insurance and reinsurance marketplace⁵, facilitating the underwriting of a range of risk types for corporate and institutional clients by Lloyd’s members. The Lloyd’s members are organised into a number of syndicates including Probitas’ syndicate, Syndicate 1492. Lloyd’s is responsible for the management and supervision of the Lloyd’s market and has statutory powers to regulate insurance business carried out within the Lloyd’s market.⁶ Probitas is active in the general insurance market, underwriting a range of risks on behalf of corporate clients including those in the following sectors: UK and international property; construction; casualty; and financial lines of insurance.⁷
6. In the State, Probitas underwrites Irish business on behalf of Lloyd’s Insurance Company S.A.
7. For the financial year ending 31 December 2023, Probitas’ worldwide turnover was €331 million, of which €(...) million was generated in the State.

Rationale for the Proposed Transaction

8. The Parties state the following in the notification:

³ See [Aviva corporate website - Aviva plc](#).

⁴ In its response to an information request from the Commission, provided on 14 May 2024, Probitas informed the Commission that the Proposed Transaction requires the approval of Lloyd’s to proceed.

⁵ Lloyd’s insurance and reinsurance marketplace is commonly known as the “Lloyd’s market”.

⁶ For completeness, Lloyd’s does not “control” Probitas, beyond the exercise of its regulatory and supervisory functions which apply to all participants in the Lloyd’s market.

⁷ Financial lines solutions refer to insurance products which protect against financial loss.

“The Lloyd’s market is a specialist insurance and reinsurance marketplace, facilitating the underwriting of a range of risk types for corporate and institutional clients by Lloyd’s members. It represents a major source of untapped growth for Aviva, which is not currently active in Lloyd’s following its exit from the market in 2000. Re-entering Lloyd’s will allow Aviva to underwrite risks it cannot currently access, and more generally diversify and expand its existing Global Corporate & Specialty footprint, particularly by increasing the range and geographic scope of the distribution networks to which it will have access.

Aviva considers that its financial and brand strength, scale and distribution reach outside of the Lloyd’s market will complement Probitas’ existing capabilities and experience within the Lloyd’s market to generate further growth in its global specialty business, while maintaining Probitas’ unique culture and brand.”

Third Party Submissions

9. No third-party submission was received.

Competitive Analysis

Horizontal Overlap

10. There is a horizontal overlap between the Parties in respect of the supply of commercial, non-life insurance underwriting in the State, in particular in relation to: corporate property; casualty; and certain financial lines.

Vertical Relationship

11. There is a limited vertical relationship between the Parties as Aviva reinsures a *de minimis* amount of its commercial insurance book, in one instance, with Probitas.

Relevant Markets

Product market

12. In the notification, the Parties submit that the precise product market definition can be left open.

13. The Commission and the European Commission (“the EC”) have previously considered mergers in the insurance sector. The EC, without coming to a conclusion on market definition, has previously distinguished between product markets for life insurance, non-life insurance and re-insurance.⁸ The EC has further considered segmenting the life insurance market according to the purpose served by the product, distinguishing between: (i) pure protection products; (ii) savings and investment products; and (iii) pension products.⁹ In *M/17/010 – Liberty/Ironshore* the Commission followed the EC’s approach by segmenting the insurance market between the distribution of life and non-life insurance products and further segmented non-life insurance products by insured risk.¹⁰
14. In *M/21/034 - Arachas/Hooper*, the Commission, while ultimately leaving the precise product market definition open, considered the competitive effects of that proposed transaction with regard to the wholesale distribution of non-life insurance products, the distribution of non-life insurance products (intermediary services), and the distribution of non-life insurance products by risk insured¹¹ and type of customer^{12, 13}.
15. Similarly in *M/22/042 - Arachas/Glennon*, the Commission, while ultimately leaving the precise product market definition open, segmented the market by the wholesale distribution of non-life insurance products in the State, the distribution of non-life insurance products in the State (intermediary services), and the distribution of non-life insurance products by risk insured¹⁴ and type of customer.¹⁵
16. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, it is not necessary for the Commission to define the precise relevant product market(s) because the Proposed Transaction is unlikely to raise any competition concerns regardless of whether the potential product market is defined narrowly (e.g. by segmenting by the risk being underwritten) or more broadly (e.g. the underwriting of

⁸ See *COMP/M.8010 Irish Life/Aviva Health/GloHealth*.

⁹ See *COMP/M.7478 – Aviva/Friends Life/Tenet*.

¹⁰ See *M/17/010 - Liberty/Ironshore* paragraph 12 to 15, available [here](#).

¹¹ In *M/21/034 - Arachas/Hooper* – the risks insured were property, employers’ liability, public liability, private car & van.

¹² In *M/21/034 - Arachas/Hooper* – the types of customers were commercial and private individual.

¹³ See *M/21/034 Arachas/Hooper* paragraphs 21 and 22, available [here](#).

¹⁴ In *M/22/042 - Arachas/Glennon* – the risks insured were property, employers’ liability, public liability, private car & van.

¹⁵ In *M/22/042 - Arachas/Glennon* – the types of customers were commercial and private individual, paragraphs 23 and 24, available [here](#).

all non-life insurance risks). However, for the purpose of its assessment, the Commission has assessed the likely competitive impact of the Proposed Transaction with reference to both the broad and narrow potential markets.

17. Therefore, the Commission considered, for the purposes of assessing the Proposed Transaction, the following potential relevant product markets:
 - a. The underwriting of all commercial, non-life insurance risks.
 - b. The underwriting of commercial, non-life insurance risks with regard to the following insured risks:
 - i. Corporate Property
 - ii. Casualty
 - iii. Financial Lines.

Geographic Market

18. The Commission and the EC have left the precise geographic market definition open in previous decisions relating to the insurance sector, but analysed the relevant transactions on a national basis.¹⁶ The Commission does not need to come to a definitive view on the precise relevant geographic market in this instance since its conclusion on the competitive impact of the Proposed Transaction will be unaffected whether the precise relevant geographic market is national or broader than the State. However, in order to determine whether the Proposed Transaction might result in a substantial lessening of competition, the Commission has analysed its impact by reference to the narrowest possible relevant geographic market, which in this case is the State.

Conclusion on relevant markets

19. For the purposes of carrying out its competitive assessment of the Proposed Transaction, the Commission has assessed the impact of the Proposed Transaction by reference to the following potential relevant markets:
 - a. The underwriting of all commercial, non-life insurance risks in the State.

¹⁶ See the Commission's determination in *M/22/042 – Arachas/Glennon* and *M/21/034 – Arachas/Hooper* and the EC's decision in *COMP/M.7478, Aviva / Friends Life / Tenet* and *COMP/M.8010 Irish Life/Aviva Health/GloHealth*, for example.

b. The underwriting of commercial, non-life insurance risks in the State with regard to the following insured risks:

- i. Corporate Property
- ii. Casualty
- iii. Financial Lines.

Competitive Assessment

Underwriting of commercial, non-life insurance risks in the State

20. Table 1 sets out the estimated shares of the Parties for the underwriting of non-life insurance risks in the State for 2023.

Table 1: Market Share estimates for the underwriting of all non-life insurance risks, and specific risks in the State, 2023.

Risk	By Value				
	Aviva EUR (m)	Aviva (%)	Probitas EUR (m)	Probitas (%)	Combined (%)
All non-life insurance risks	(...)	[10-15]%	(...)	[0-5]%	[10-15]%
Corporate Property	(...)	[10-15]%	(...)	[0-5]	[10-15]%
Casualty	(...)	[10-15]%	(...)	[0-5]%	[10-15]%
Financial Lines	(...)	[0-5]%	(...)	[0-5]%	[0-5]%

Source: Parties' estimations on the basis of internal data and publicly available information.¹⁷

21. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no horizontal competition concerns in either the broad potential relevant market (i.e. the underwriting of all commercial non-life insurance risks in the State) or the narrower potential relevant markets (i.e. the underwriting of commercial, non-life insurance risks in the State with regard to the following insured risks: corporate property, casualty and financial lines) for the following reasons:
- a. Firstly, Table 1 shows that Aviva and Probitas had estimated [10-15]% and [0-5]% shares, respectively, for the underwriting of all non-life insurance risks in the State in 2023. Following the implementation of the Proposed Transaction, Aviva's market share increment in the potential market for the underwriting of all non-life insurance risks will be minimal, as Probitas' estimated share is [0-5]%.
 - b. Secondly, following the implementation of the Proposed Transaction, Aviva will continue to face a competitive constraint from a number of other underwriters of non-life insurance risk. These include: Zurich Insurance plc; Allianz plc; Chubb Ireland Limited; AXA Insurance DAC; and FBD Insurance Group Limited.
 - c. Thirdly, in respect of the narrower potential markets, segmenting the underwriting of non-life insurance by (i) corporate property risk, and (ii) casualty risk, Table 1 shows that following the implementation of the Proposed Transaction, Aviva will have a share of less than [10-15]% in each of these two narrower potential markets. For the potential narrower markets segmented by (i) corporate property risk, and (ii) casualty risk, there will remain a number of other competitors active in these segments including Axa Insurance DAC, Amtrust International Underwriters DAC, Berkshire Hathaway Reinsurance (Ireland) DAC and Ecclesiastical Insurance Office plc.¹⁸

¹⁷ In the Parties' response to information requests from the Commission, provided on 26 April 2024, the Parties state that these estimations have been provided by the Parties and estimated using internal party data. The total market size for each potential market was estimated using gross written premiums from Insurance Ireland Quarterly Reporting Data for the year 2023.

¹⁸ Parties' response to information requests from the Commission, provided on 26 April 2024.

- d. The Commission notes that accurate shares could not be estimated for the financial lines insurance underwriting potential market. However, this potential market represents a minor portion of both Aviva and Probitas' respective business in the State, accounting for [0-5]% and [10-15]% of their turnover in the State in 2023 respectively. Additionally, following the implementation of the Proposed Transaction there will remain a number of competitors active in the potential market for financial lines underwriting including: Allianz plc; AIG Europe SA; Chubb Ireland Limited; Liberty Mutual Insurance; Travellers Insurance Company Limited; and Berkshire Hathaway Reinsurance (Ireland) DAC.¹⁹
22. In light of the above, the Commission considers that the Proposed Transaction does not raise any horizontal competition concerns in respect of the following potential markets:
- a. The underwriting of all commercial, non-life insurance risks in the State.
 - b. The underwriting of commercial, non-life insurance risks in the State with regard to the following insured risks:
 - i. Corporate Property
 - ii. Casualty
 - iii. Financial Lines.

Vertical Overlap

23. The Parties state in the notification that a vertical relationship exists between the Parties as Aviva is active in the downstream potential market for the underwriting of non-life insurance risks, and Probitas is active to a limited extent in the upstream supply of commercial, non-life reinsurance underwriting in the State. Aviva reinsures one insurance premium worth €(...) with Probitas. The Parties state that this insurance premium represents less than (...)% of Aviva's total book value in the State as of March 2024.
24. The Commission considers that this vertical relationship will not give rise to vertical competition concerns for the following reasons.

¹⁹ Parties' response to information requests from the Commission, provided on 26 April 2024.

- a. Firstly, the Commission considers that Aviva would not have the ability or incentive to engage in customer foreclosure following the implementation of the Proposed Transaction. As shown in Table 1 above, Aviva's estimated market share for the underwriting of all non-life insurance risks in the State in 2023 was [10-15]%, and following the implementation of the Proposed Transaction, will be [10-15]%. There will remain numerous others active in the underwriting of non-life insurance risks in the State, as noted in paragraph 21 above, which suppliers of non-life reinsurance underwriting could service.
 - b. Secondly, the Commission considers that Aviva would not have the ability or incentive to engage in input foreclosure following the implementation of the Proposed Transaction. Aviva is not active in reinsurance underwriting, and Probitas' share in reinsurance activities would be less than [0-5]%, even if all of its premiums were associated with reinsurance.
25. In light of the above, the Commission therefore considers that the Proposed Transaction is unlikely to give rise to any vertical competition concerns in the State.

Conclusion of Competitive Analysis

26. 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

27. No ancillary restraints were notified.

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 acquisition whereby Aviva Insurance Limited, a wholly owned subsidiary of Aviva Plc, would acquire the entire issued share capital, and thus sole control, of Probitas Holdings (Bermuda) Limited, 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 and Consumer Protection Commission.

Úna Butler

Member

Competition and Consumer Protection Commission