

LIFE INSURANCE ACT 1995

(PART 9)

SCHEME FOR THE TRANSFER OF THE INSURANCE BUSINESS OF ST ANDREW'S LIFE INSURANCE PTY LTD TO HALLMARK LIFE INSURANCE COMPANY LTD

Background

- A. St Andrew's Life Insurance Pty Ltd (ABN 98 105 176 243) (**St Andrew's Life**) and Hallmark Life Insurance Company Ltd (ABN 87 008 446 884) (**Hallmark Life**) are registered under the Life Insurance Act to carry on a life insurance business in Australia.
- B. St Andrew's Life has, as part of its business, operated the Business in Australia as an APRA-registered life insurer.
- C. This Scheme has been prepared under Part 9 of the *Life Insurance Act 1995* (Cth) to give effect to the terms of an agreement by which St Andrew's Life has agreed to transfer, and Hallmark Life has agreed to accept the transfer of all of the Business carried on by St Andrew's Life.
- D. If confirmed by the Federal Court of Australia, the Scheme will become binding on all persons.
- E. Actuarial Reports have been prepared in connection with the Scheme.

1. Definitions and Interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

APRA means the Australian Prudential Regulation Authority.

Appointed Actuaries means David Millar and Stephen Jones who are the Appointed Actuaries of Hallmark Life and St Andrew's Life instructed by Hallmark Life and St Andrew's Life to provide the Joint Actuarial Report.

Assets means the assets of St Andrew's Life used for the purposes of conducting the Insurance Business as at the Transfer Effective Date including (without limiting the generality of the foregoing):

- (a) the rights, benefits and powers of St Andrew's Life under or by virtue of the Transferring Policies and Transferring Reinsurances;
- (b) all rights and Claims (present or future, actual or contingent) against any third party in relation to the Insurance Business or arising as a result of St Andrew's Life having carried on the Insurance Business;
- (c) the rights, benefits and powers of St Andrew's Life under or by virtue of any contracts or arrangements in connection with the Insurance Business;
- (d) the Business Intellectual Property;
- (e) the Fixed Assets; and

- (f) all book, trade and other debts owing to St Andrew's Life as at the Transfer Effective Date and all deposits and bills receivables held by St Andrew's Life as at the Transfer Effective Date, in each case relating to the Business, and all rights in relation thereto and the benefit of all guarantees or other security in respect thereof.

but excluding the Second Tranche Assets.

Business means the business carried on by St Andrew's Life in Australia as at the Transfer Effective Date including:

- (a) the Insurance Business;
- (b) the Assets;
- (c) the Liabilities; and
- (d) the Records,

and all powers, functions, rights and liabilities arising under, by virtue of, attributable to or in connection with these (including the Transferring Reinsurances).

Business Transfer Agreement means the Business Transfer Agreement dated on or about 26 April 2024 between Hallmark Life and St Andrew's Life pursuant to which Hallmark Life agrees to transfer, and St Andrew's Life agrees to accept, the Business.

Claim means any claim, demand, legal proceedings or cause of action including any claim, demand, legal proceedings or cause of action based in contract, tort (including misrepresentation or negligence), under common law or under statute and includes a claim, demand, legal proceeding or cause of action arising from any breach of warranty or indemnity.

Independent Actuary means David Goodsall of Synge & Noble who is the independent qualified actuary instructed by St Andrew's Life to provide the Independent Actuarial Report.

Independent Actuarial Report means the report dated 26 April 2024 prepared by David Goodsall of Synge & Noble, the Independent Actuary, which sets out actuarial opinions in respect of the transfer of the Business to Hallmark Life.

Insurance Business means the business carried on by St Andrew's Life in or from Australia in connection with its undertaking of liability under the Transferring Policies.

Joint Actuarial Report means the report of St Andrew's Life and Hallmark Life that has been prepared by David Millar and Stephen Jones in their capacity as the Appointed Actuaries of Hallmark Life and St Andrew's Life.

Liabilities means all liabilities whatsoever (whether present or future, certain or contingent) of St Andrew's Life as at the Transfer Effective Date under or by virtue of the Business or any cost, expense (including the fees and expenses of professional advisers), liability under any contracts or arrangements in connection with the Business, and damage or Loss of any kind in connection with the Business.

Life Insurance Act means the *Life Insurance Act 1995* (Cth), including any act or enactment which amends or replaces, or has amended or replaced it and shall include any subordinate legislation made under it.

Records means the books and records (held in whatever medium) referable to the Business in the Transferor's possession or control up to the Transfer Effective Date, including (but not limited to) any books and records relating to sales, marketing, underwriting and outstanding claims in respect of the Insurance Business, and any related accounting and financial records.

Scheme means the scheme, as set out in this document, to be confirmed by the Federal Court of Australia in accordance with Part 9 of the Life Insurance Act for the transfer of the Business to Hallmark Life

Second Tranche Assets means a combination of cash and non-cash investments and STA Records as agreed between the parties (on the terms described in the Business Transfer Agreement) as at the STA Date.

STA Date means the date the parties agree the makeup of the combination of cash and non-cash investments that will form the Second Tranche Assets, which must occur prior to the Transfer Effective Date.

STA Records means the books and records (held in whatever medium) referable to the Second Tranche Assets in the Transferor's possession or control up to the STA Transfer Effective Date, including (but not limited to) any books and records, and any accounting and financial records.

Transfer Effective Date means the time and date on which the Transferring Policies are transferred to the Transferee pursuant to an order made by the Court pursuant to section 194 of the Life Insurance Act confirming the Scheme.

Transfer Value means the consideration for the Business, being the amount equal to the difference between the Assets and Liabilities as at the Transfer Effective Date, calculated in accordance with the Australian Accounting Standards.

Transferring Contracts means all contracts to which St Andrew's Life is a party to as at the Transfer Effective Date which relate to the Insurance Business.

Transferring Policies means any life insurance policies or risks forming part of the policies underwritten by St Andrew's Life.

Transferring Reinsurances means any reinsurance agreements or arrangements in respect of the Insurance Business including any reinsurance policies under which St Andrew's Life is reinsured in respect of the Transferring Policies.

1.2 Interpretation

In this Scheme:

- (a) the singular includes the plural and the plural includes the singular;
- (b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) a reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them;
- (d) a reference to a party includes the party's executors, administrators, successors and permitted assigns;
- (e) a reference to a clause or schedule is a reference to a clause of or a schedule to, this Scheme;
- (f) a reference to an agreement or document (including, without limitation, a reference to the Business Transfer Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Scheme or that other agreement or document;
- (g) a reference to a statute or to a provision of a statute includes any amendment to or re-enactment of that statute, including any subordinate legislation issued under it; and
- (h) headings are for convenience only and do not form part of the Scheme or affect its interpretation.

2. Conditions Precedent

Amongst other commercial condition precedents, this Scheme and the Business Transfer Agreement are conditional upon and will have no effect unless and until:

- (a) the Scheme is confirmed by the Federal Court of Australia and, if made on conditions, on such conditions as are acceptable to the parties; and

- (b) the Treasurer of the Commonwealth of Australia or his permitted delegate having no objection to the acquisition by Hallmark Life of the Business under section 41 of the *Insurance Acquisitions and Takeovers Act 1991* (Cth) and, if made on conditions, on such conditions as are acceptable to the parties.

3. Transfer of Business

In accordance with the terms of the Business Transfer Agreement, St Andrew's Life agrees to transfer and Hallmark Life agrees to accept the transfer of the Business, with effect on and from the Transfer Effective Date.

4. Consideration

In consideration of the transfer of the Business from St Andrew's Life to Hallmark Life, Hallmark Life agrees to assume the Liabilities.

5. Proceedings

- (a) As at the Transfer Effective Date, there are no proceedings on foot against St Andrew's Life.
- (b) If any proceedings are pending or any proceedings are brought on or after the Transfer Effective Date by St Andrew's Life in any court or tribunal in respect of the Business, St Andrew's Life and Hallmark Life shall determine whether such proceedings will be continued by St Andrew's Life in which case the parties agree to take all necessary action to effect a change of the name of the plaintiff or applicant in those proceedings from St Andrew's Life to Hallmark Life and Hallmark Life agrees to indemnify St Andrew's Life in relation to any adverse costs orders made in the proceedings.
- (c) If any proceedings are pending or any proceedings are brought on or after the Transfer Effective Date against St Andrew's Life in any court or tribunal in respect of the Business, Hallmark Life agrees that it will indemnify in relation to any judgment or adverse costs order made in the proceeding against St Andrew's Life and will keep St Andrew's Life indemnified accordingly.
- (d) Hallmark Life will be entitled to all defences, claims, counterclaims and rights of set-off that would have been available to St Andrew's Life in relation to any such proceedings.
- (e) Hallmark Life, in its absolute discretion, may determine after the Transfer Effective Date to continue, discontinue or settle any proceedings relating to the Business that have been brought by St Andrew's Life.
- (f) Any judgement, settlement, order or award (or relevant part thereof) obtained by or against St Andrew's Life whether before or after the Transfer Effective Date to the extent that it relates to any part of the Business and which is not fully satisfied before the Transfer Effective Date shall, on that date and to the extent to which it was enforceable by or against immediately St Andrew's Life prior to such date (or, if later, the date on which the judgement, settlement, order or award is obtained), become enforceable by or against Hallmark Life (to the exclusion of St Andrew's Life).
- (g) All documents which would before the Transfer Effective Date have been evidence in respect of any matter for or against St Andrew's Life shall on and from the Transfer Effective Date be evidence in respect of the same matter for or against Hallmark Life.

6. Transfer of Assets

The Business Transfer Agreement provides for the transfer of two classes of assets:

- (a) The first class is the transfer of the Assets under the Scheme. In particular, on and from the Transfer Effective Date, Hallmark Life is legally and beneficially entitled to the benefit of the Assets and Hallmark Life assumes responsibility for the Assets and shall indemnify and keep St Andrew's Life indemnified from and against all Claims under or in connection with the Assets.
- (b) The second class is the transfer of the Second Tranche Assets which will take place after the Transfer Effective Date in accordance with the terms of the Business Transfer Agreement.

7. Transfer of Liabilities

On and from the Transfer Effective Date, St Andrew's Life transfers the Liabilities to Hallmark Life and Hallmark Life accepts the transfer of the Liabilities, and Hallmark Life assumes and takes over and must indemnify and keep St Andrew's Life indemnified from and against all Claims under or in connection with the Liabilities.

8. Transfer Effective Date

The sale and purchase of the Business from St Andrew's Life to Hallmark Life, and the transfer to and assumption of the Insurance Business, Assets, Liabilities and Records by Hallmark Life pursuant to this Scheme take effect on and from the Transfer Effective Date.

9. Implementation

St Andrew's Life and Hallmark Life will do all such things and execute all such deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the Business Transfer Agreement, this Scheme, the Actuarial Report and the transactions contemplated by them.

10. Costs of the Scheme

Any stamp duty and other costs and expenses incurred in connection with the Scheme will not be paid by or charged to policy owners but will be met by Hallmark Life and St Andrew's Life out of shareholder funds.

11. Consequences of the transfer of the Business

- (a) The Scheme does not change the terms of any Transferring Policies or affect any claim in respect of any Transferring Policies, issued by St Andrew's Life other than that Hallmark Life will become the insurer in place of St Andrew's Life. Policy owners will continue to have the same rights and obligations under or in respect of any Transferring Policies or claim but with Hallmark Life as the insurer.
- (b) Subject to confirmation of the Scheme by the Federal Court of Australia, on and from the Transfer Effective Date:
 - (i) all outstanding claims-related rights and liabilities of St Andrew's Life in respect of the Transferring Policies will be transferred to Hallmark Life such that any claims arising under or in connection with any Transferring Policies underwritten by St Andrew's Life must be made against Hallmark Life;
 - (ii) all premiums and other amounts payable to or recoverable by St Andrew's Life under the Transferring Policies will be payable to and recoverable by Hallmark Life instead of St Andrew's Life;

- (iii) Hallmark Life will be entitled to enforce all rights and remedies which but for the Scheme would have been enforceable by St Andrew's Life under or in respect of the Transferring Policies (including but not limited to any claims by way of subrogation, contribution, outstanding premium and any other recoveries related directly or indirectly to any Transferring Policies);
 - (iv) any policy owner under a Transferring Policy or other person who has a Claim on or obligation to St Andrew's Life under or in respect of a Transferring Policy will have the same Claim on or obligation to Hallmark Life in substitution for his or her Claim on or obligation to St Andrew's Life irrespective of when such Claim or obligation arose; and
 - (v) any authority granted to St Andrew's Life by a policy owner under or in respect of a Transferring Policy will be vested in Hallmark Life as if Hallmark Life was, and at all time had been so authorised. This includes all directions, authorities, mandates or instructions given to St Andrew's Life to deduct premium or fees payable in respect of the Transferring Policies (including by debiting a bank account/credit card or through electronic bank transfer) or to use, disclose or obtain information in the course of carrying on the Business (including personal information within the meaning of the *Privacy Act 1988* (Cth)) are deemed to be given to Hallmark Life instead of St Andrew's Life.
 - (vi) All references to St Andrew's Life in any of the Transferring Policies are replaced with Hallmark Life.
 - (vii) The Transferring Policies will remain on foot and there will be no cancellation and reissue of the Transferring Policies as a result of the Scheme.
 - (viii) All references to St Andrew's Statutory Fund No. 1 in any of the Transferring Policies will be read as a reference to Hallmark SF 1.
 - (ix) Hallmark Life assumes the position of St Andrew's Life under all Transferring Contracts as if Hallmark Life was the original party to those contracts in place of St Andrew's Life. The Transferring Contracts will remain in full force and effect on this basis.
- (c) Policy owners are not required to take any action before or as a result of the Scheme.
 - (d) In the event of any inconsistency between this clause 11 and any other provision of this Scheme or the Business Transfer Agreement, the other provision shall prevail to the extent of the inconsistency.
 - (e) The terms of this clause 11 apply *mutatis mutandis* to the Transferring Reinsurances and any other third-party contracts that form part of the Assets.