

**IN THE SUPREME COURT OF GIBRALTAR**

**2016/COMP/023**

**IN THE MATTER OF Enterprise Insurance Company PLC (In liquidation)  
AND IN THE MATTER of the Insolvency Act 2011 AND an application for  
directions pursuant to section 177(5) of the Insolvency Act 2011**

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**ORDER**

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Monday the 27<sup>th</sup> day of November 2023

Before the Honourable Mr Justice Restano, Puisne Judge

**UPON THE APPLICATION** of Mr Frederick White of Grant Thornton Limited in his capacity as Liquidator of Enterprise Insurance Company Plc (EIC) for directions under section 177(5) of the Insolvency Act 2011 in accordance with the Application Notice dated 27<sup>th</sup> September 2023

**AND UPON HEARING** Charles Simpson of Counsel instructed by Triay Lawyers, solicitors for the Liquidator **AND UPON NOTICE** of the application having been given to creditors in the manner specified in the Application Notice

**AND UPON READING** the Affidavit of Mr Frederick White dated 26<sup>th</sup> September 2023 and the exhibits thereto

**IT IS HEREBY DIRECTED** as follows:

1. The Liquidator be permitted to treat all the assets of EIC including reinsurance recoveries and recoveries arising from litigation as assets over which insurance claims have preference except for those preferential claims set out in regulation 250(2)(b) of the Financial Services (Insurance Companies) Regulations 2020 (“the FSR 2020”) (to the extent there are any).

2. The Liquidator be permitted in calculating the amount of the interim dividend to be paid to insurance creditors to make appropriate provision (if any) for the amount of any known or likely regulation 250(2)(b) claim.
3. Written notice to creditors of the decision by the Liquidator to fix a date on or before which creditors shall submit their claims to him for the purpose of section 208 of the Insolvency Act 2011 shall be provided by Mr White as follows:
  - (i) Notice by email to the statutory compensation schemes in UK, Ireland, Greece, Italy and France to the email addresses as follows:
    - a. The FSCS – [james.darbyshire@fscs.org.uk](mailto:james.darbyshire@fscs.org.uk)
    - b. The Auxiliary Fund, Bank of Greece – [valais@interamerican.gr](mailto:valais@interamerican.gr),  
[dep.insurancesupervision@bankofgreece.gr](mailto:dep.insurancesupervision@bankofgreece.gr)
    - c. The Italian Guarantee Fund
    - d. The Guarantee Fund for Mandatory Non Life Insurance ([philippe.roux@fgvitimes.fr](mailto:philippe.roux@fgvitimes.fr))
    - e. The Insurance Compensation Fund (Ireland), Central Bank of Ireland ([Siobhan.Hayes@ntma.ie](mailto:Siobhan.Hayes@ntma.ie))
  - (ii) Notice by email to the Icebreaker policy holders as represented by Moore Barlow by email to [alex.poplawka@moorebarlow.com](mailto:alex.poplawka@moorebarlow.com) and [claire.haverfield@moorebarlow.com](mailto:claire.haverfield@moorebarlow.com).
  - (iii) Notice by email to all admitted insurance creditors that Mr White is able to determine from the claims records available to him that show that the insurance creditor concerned is not eligible for protection by any of the statutory insurance compensation schemes referred to in paragraph 3(i) above.

- (iv) Written notice to all other creditors by advertisement and publication of the intention to pay an interim first dividend and the deadline date for creditors to submit claims forms on the EIC liquidation website namely [www.eigplc.com](http://www.eigplc.com)
4. There be no requirement on the Liquidator to serve notice expressly on the IBG policyholders directly given that (i) these policies have not yet been disclaimed by Mr White, that (ii) any claims which arise under these policies are in any event met by the FSCS in the UK and (iii) the FSCS will be provided with due notice in accordance with 3(i) above.
  5. A direction that claim forms be sent by the Liquidator to insurance creditors by email as follows:
    - (i) to the statutory compensation funds in UK, Ireland, Greece, Italy and France to the email addresses as specified in paragraph 3(i) above;
    - (ii) to all other insurance creditors that Mr White is able to determine (in the event that such insurance creditors are not covered by the statutory schemes) and such creditors have given Mr White notice of claims.
    - (iii) to the Icebreaker policy holders as represented by Moore Barlow by email to the email addresses specified in 3(ii) above.
  6. The requirement to send out claim forms to the IBG policyholders, insurance creditors (who have assigned or subrogated their claims to statutory compensation schemes in UK, France, Italy, Greece and Ireland) and to unsecured creditors be dispensed with.
  7. The method for the calculation by the Liquidator of provisions for the purpose of the first interim dividend (and any subsequent dividend) in accordance with rule 117(1) of the Insolvency Rules 2014 be approved as follows:

- (i) That in respect of insurance claims notified to EIC at the date set for the submission of claims in accordance with section 208(1) of the Insolvency Act 2011 (which have not yet been adjudicated on), the appropriate provision for such claims be calculated by Mr White at his discretion based upon the advice of his appointed claims managers and solicitors.
  - (ii) That an Incurred But Not Reported (“IBNR”) reserve be provided for in respect of claims which have not yet been reported at the date set for the submission of claims and further that an Incurred But Not Enough Reported reserve (“IBNER”) be calculated for any unforeseen deterioration in the provisions made for reported claims. The IBNR and IBNER provisions to be calculated by Mr White at his discretion with the assistance of actuarial advice and estimations as required.
  - (iii) That in respect of IBG policies a provision is set for estimated claims that may arise on policies up to 31<sup>st</sup> December 2026 along with a provision for return of premium claims which could arise from the disclaiming of remaining IBG policies at that date (after the expiry of the last of the 10-year policies).
8. The rate of exchange to be applied for the purpose of converting euro claims into pounds be €1.14/£1 for the reasons set out in paragraph 24 of Mr White’s Affidavit and exhibit FW2.



**REGISTRAR**