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IN THE HIGH COURT OF JUSTICE

No. 1321 of 2004

CHANCERY DIVISION

COMPANIES COURT

MR JUSTICE ^{DAVID} RICHARDS



31 MARCH 2004

IN THE MATTER OF **THE BERMUDA FIRE & MARINE INSURANCE
COMPANY LIMITED (IN LIQUIDATION)**

AND

IN THE MATTER OF THE COMPANIES ACT 1985

ORDER

UPON THE APPLICATION by Claim Form dated 23 February 2004 and filed in this matter on that date by The Bermuda Fire & Marine Insurance Company Limited (in liquidation) whose registered office is situated at Reid Hall, 3 Reid Street, Hamilton, HM11, Bermuda, PO Box HM 463, Hamilton HMBX, Bermuda (the "**Company**") acting by its joint liquidators, Gareth Howard Hughes, Leon Anthony Joaquin and John Christopher McKenna who were appointed as liquidators of the Company pursuant to an Order of the Supreme Court of Bermuda dated 6 July 1995 and who are also the administrators under a Scheme of Arrangement dated 2 October 1996 between the Company and its Scheme Creditors (the "**Liquidators**" and the "**Original Scheme**", respectively);

AND UPON HEARING Counsel for the Company;

AND UPON READING the Claim Form, the First Witness Statement of John Christopher McKenna dated 22 February 2004 and Exhibit "JCM1" referred to therein ("**Witness Statement**" and "**Exhibit**", respectively) and the Second Witness Statement of John Christopher McKenna dated 5 March 2004 and Exhibit "JCM2" referred to therein in support of the Claim Form;

AND UPON the Court determining that in this Order, the defined terms set out on pages 102 to 105 of the Amending Scheme of Arrangement (as hereinafter defined) and pages 117 to 129 of Schedule 1 to the said Amending Scheme of Arrangement, shall have the respective meanings ascribed to them therein;

AND UPON:

(1) the Liquidators having sent a letter pursuant to the High Court Practice Statement (Companies: Schemes of Arrangement) [2002] 1 W.L.R. 1345) (the "**Letter**"), to each Scheme Creditor of whom they are aware, or whom they believe may be a Scheme Creditor, and for whom they have a last known address, and to those existing London market brokers believed by the Liquidators to be currently involved with the business originally placed with the Company, and to those Principals whose names and addresses are recorded on the Address List (as referred to in paragraph 39 of the Witness Statement), in each case at their last known address, inter alia, notifying such persons or entities of the venue and purpose of the hearing at which this Order is made.

and

(2) the Liquidators having caused notices of the hearing at which this Order is made to be published in the *Financial Times* (all Editions), *Insurance Day* (London), *Lloyd's List* (London), *Post Magazine* (London), *The New York Times* (USA), *Wall Street Journal* (the International and USA Editions), *Business Insurance*, the *Royal Gazette* (Bermuda) and the *Bermuda Sun*

IT IS ORDERED THAT THE Company do convene separate meetings of the following classes of Scheme Creditors (the "**Meetings**") at the following times (or as soon thereafter as the Chairman's introductory address referred to below or the previous Meeting shall have concluded or been adjourned):

1. General Scheme Creditors (being Scheme Creditors in respect of Scheme Claims which are not Protected Scheme Claims) at 10.00 am;
2. Protected Scheme Creditors (being Scheme Creditors in respect of Scheme Claims which are Protected Scheme Claims) at 10.20am;

AND IT IS ORDERED THAT the Meetings be held at The Fairmont Hamilton Princess, Pitts Bay Road, Hamilton, Bermuda on 18 May 2004 for the purpose of considering and, if thought fit, approving (with or without modification) an Amending Scheme of Arrangement (the "**Amending Scheme of Arrangement**") proposed to be made between the Company and its

Scheme Creditors pursuant to Section 99 of the Companies Act 1981 of Bermuda (the "**Bermudian Companies Act**") and pursuant to Section 425 of the Companies Act 1985 of Great Britain (the "**Companies Act**") in the form or substantially in the form set out at pages 100 to 284 of the document ("**Scheme Document**") set out at Tab 1 of the Exhibit initialled by this Court for the purposes of identification. The Scheme Document also includes the Explanatory Statement prepared in connection with the Amending Scheme of Arrangement under Section 100 of the Bermudian Companies Act and Section 426 of the Companies Act (the "**Explanatory Statement**") at pages 11 to 99, and the notice convening the Meetings ("**Notice**") at pages 285 to 288.

AND IT IS ORDERED THAT immediately prior to the commencement of the first Meeting referred to above, the Chairman (as hereinafter defined) be at liberty to address all Scheme Creditors generally on the Amending Scheme of Arrangement, the method of voting thereon at the Meetings and any other appropriate matters and that such address will be deemed to have been made at and for the purposes of both Meetings.

AND IT IS ORDERED THAT:

1. At least 28 clear days before the day appointed for the Meetings:
 - (a) a notice (the "**Advertisement**") convening the Meetings in the form or substantially in the form of the notice at Tab 14 of the Exhibit and initialled by this Court for the purposes of identification be inserted once in each of the following newspapers and publications: the *Financial Times* (all Editions), *Insurance Day* (London), *Lloyd's List* (London), *Post Magazine* (London), *New York Times* (USA), *Wall Street Journal* (the International and USA Editions), *Business Insurance*, the *Royal Gazette* (Bermuda) and the *Bermuda Sun* and any other publication as deemed appropriate by the Liquidators; and
 - (b) a covering letter in the form substantially in the form at Tab 13 of the Exhibit and initialled by this Court for the purposes of identification (the "**Covering Letter**") enclosing:
 - (i) a CD-ROM containing, in electronic format, the Scheme Document including the text of the Explanatory Statement in the form or substantially the form set out at pages 11 to 99 of the Scheme Document, the Notice and the text of the Amending Scheme of Arrangement; and

- (ii) a hard copy of the Notice in the form or substantially in the form of the notice at pages 285 to 288 of the Scheme Document and initialled by the Court for the purposes of identification; and
- (iii) a hard copy of the Form of Proxy in the form or substantially in the form of the document at Tab 5 of the Exhibit ("**Form of Proxy**") and initialled by this Court for the purposes of identification;

for use at the Meetings, be sent by pre-paid first class post or airmail (as appropriate) to each Scheme Creditor of whom the Liquidators are aware, or whom they believe may be a Scheme Creditor, and for whom they have a last known address, and to those existing London market brokers believed by the Liquidators to be currently involved with the business originally placed with the Company, and to those other Principals whose names and addresses are recorded on the Amended Address List (as referred to in the Witness Statement), in each case at their last known address. Such notification shall not be sent to those persons or entities whose names and addresses do not appear on the Address List (as a result of the matters referred to at paragraph 39 of the Witness Statement) or the Amended Address List (as referred to in the Witness Statement) by virtue of their Letter having been returned to the Liquidators for any reason, (including because that person or entity is unknown at the address recorded in the Company's records) without a substitute or forwarding address for that person or entity having been provided or because they have confirmed no continuing interest in the Company.

2. Unless the Court otherwise orders, the accidental omission to serve any Scheme Creditor or other person with the Scheme Document including the Notice or the non-receipt by any Scheme Creditor or other person of the Notice, shall not invalidate the proceedings at the Meetings.
3. The said Covering Letter, Advertisement, Form of Proxy, and Scheme Document including the Amending Scheme of Arrangement, Explanatory Statement and Notice (as amended in accordance with the schedule of changes set out in the appendix hereto) be approved for the purposes of the Meetings subject to completion of blanks and minor modifications as advised by solicitors and Counsel.
4. The Chairman be responsible for determining the entitlement of and value for which any Scheme Creditor should be permitted to vote at the Meetings by reference to any

information supplied by the relevant Scheme Creditor (whether in connection with its Form of Proxy or otherwise), any information (including any estimates and/or reserves provided in respect of any liability of the Company) contained in the Company's books and records and, if necessary, any actuarial advice or opinion obtained by the Liquidators from the proposed initial Scheme Actuary or otherwise for this purpose. The Chairman shall have the power to reject the whole or any part of any Scheme Creditors' claim for voting purposes if, in his reasonable opinion, it is not fair and reasonable in all the circumstances of the case, (including by virtue of inadequate supporting information).

5. At the Meetings, the Chairman shall be at liberty to accept the value for which a Scheme Creditor seeks to vote, in whole or in part, notwithstanding failure by such Scheme Creditor to comply with the relevant requirements contained in the Explanatory Statement and Form of Proxy, if sufficient information has been provided in the Form of Proxy or by some other means to enable the Chairman to assess the fairness and reasonableness of the value for which such Scheme Creditor should be permitted to vote and to accept otherwise incomplete or late Forms of Proxy at his discretion after the date fixed in the Notice.
6. The Chairman shall be at liberty to permit the attendance of persons who are not entitled to attend and vote at any particular Meeting (including Scheme Creditors of a different class) unless an objection is taken by (or by a person appointed to vote by proxy for) a Scheme Creditor entitled to attend and vote at such Meeting.
7. The Chairman be at liberty to accept a faxed Form of Proxy provided the original shall be received within 7 days of the date of the Meeting if he considers this to be necessary or desirable for the purpose of verification.
8. The Financial Services Compensation Scheme Limited be permitted to cast one vote at each of the Meetings at which it is entitled to attend and vote, in each case in an amount up to the aggregate amount of those claims relating to the Company assigned to it by Protected Policyholders (as defined in the Original Scheme).
9. For the purposes of determining whether the required statutory majorities of Scheme Creditors voting for the Amending Scheme of Arrangement have been achieved, the Chairman shall convert all claims of Scheme Creditors voting (whether in person or by proxy at the Meetings) into US dollars (at the rates of exchange ruling at the date of the Meetings).

10. The Chairman shall be at liberty to notify the results of the voting at the Meetings on the Company's website, www.bfmic.bm.
11. In so far as not specifically dealt with in this Order, the arrangements in relation to the voting on the Amending Scheme of Arrangement at the Meetings be determined in accordance with the procedures set out in paragraph 107 to 144 of the Witness Statement and the Explanatory Statement, in particular Appendix J thereof.

AND THE COURT HEREBY APPOINTS John Christopher McKenna as one of the Liquidators, or failing him Gareth Howard Hughes as one of the other Liquidators, or failing him Leon Anthony Joaquin as one of the other Liquidators to act as Chairman of the Meetings (the "**Chairman**") and to act as the representative of the Company in any proceedings under the United States Bankruptcy Code brought in connection with the Amending Scheme of Arrangement **AND ORDERS** the said Chairman to report the results of the Meetings to this Court;

AND IT IS ORDERED that the Liquidators shall be at liberty to apply for such further directions in this matter as they may consider necessary or appropriate;

AND IT IS ORDERED that the costs of this application shall be borne by the Company as Scheme Costs under the Original Scheme in such fair and reasonable proportions as the Liquidators shall determine.

Date: 31 March 2004

APPENDIX

**THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED
(IN LIQUIDATION)**

Application for an Amending Scheme of Arrangement

Summary of amendments to Exhibit JCM1 filed with Court on 23 February 2004

Please note: the amendments listed in this table are in addition to amendments to page numbering (and consequent cross-referencing changes) and formatting and typographical corrections.

Tab	Document	Page	Para/ Clause	Amendment
1	Explanatory Statement	61	165	insert "KHL and its subsidiaries" in list of Released Parties
		69	205	delete reference to page 6 of Proxy Form
		78	App. I	further assumption added as last bullet
		82	246	see amendment to page 69
		92	App. K	insert permanent 304 order. Copy appended hereto
		99	6	delete "Liquidators"
1	Restated Rules	118	"Business Day"	delete references to USA and Bermuda
		164	5.3.2(a)(ii)	delete references to "KES", insert reference to "KHL and its subsidiaries"
		225	9.4.1	insert reference to "KHL and its subsidiaries"
1	Claim Form/Guidance	250	last para, 2 nd sentence	replace "to the Scheme Creditor" with "on the Established Scheme Liabilities"
		260	para 4, final bullet	insert "of underlying limits of liability" after the word "erosion"
		262	"Scheme Payments"	see amendment to page 250
2	Order	292	3	insert reference to approval of this schedule of amendments
5	Form of Proxy	N/A	N/A	form simplified, substance unchanged. Copy appended hereto
13	Covering Letter	452	final page	letter will not be signed by LA Joaquin

IN THE SUPREME COURT OF BERMUDA
IN THE MATTER OF

THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION)
-and-
IN THE MATTER OF THE COMPANIES ACT 1981 OF BERMUDA

-AND-

IN THE HIGH COURT OF JUSTICE (ENGLAND), CHANCERY DIVISION, COMPANIES COURT
IN THE MATTER OF

THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION)
-and-
IN THE MATTER OF THE COMPANIES ACT 1985 OF GREAT BRITAIN

SCHEME CREDITORS' FORM OF PROXY

(FOR USE BY BOTH GENERAL SCHEME CREDITORS AND PROTECTED SCHEME CREDITORS. ANY SCHEME CREDITOR
WHO IS BOTH A GENERAL SCHEME CREDITOR AND A PROTECTED SCHEME CREDITOR OF
THE ABOVE COMPANY MUST COMPLETE A SEPARATE FORM OF PROXY IN RESPECT OF EACH CLASS OF SCHEME CLAIM)

To be used at the meetings (the "Meetings") of Protected Scheme Creditors (being Scheme Creditors in respect of Protected Scheme Claims) and of General Scheme Creditors (being Scheme Creditors with Scheme Claims that are not Protected Scheme Claims) (collectively referred to in this Form of Proxy as "Scheme Creditors") (as those terms are defined in the Amending Scheme of Arrangement hereinafter mentioned) of the above-mentioned company (the "Company") to be held on 18 May 2004 at The Fairmont Hamilton Princess, Pitts Ray Road, Hamilton, Bermuda commencing at the times mentioned in the accompanying notice summoning the Meetings.

I/We⁽¹⁾ (Enter the name of the Scheme Creditor)
of⁽¹⁾ (Enter the address of the Scheme Creditor)

with Principal Number⁽¹⁾
being a Scheme Creditor

HEREBY APPOINT⁽¹⁾ the Chairman of the Meetings or

as my/our proxyholder to act for me/us at such of the Meetings as I am/we are entitled to attend for the purpose of considering and, if thought fit, approving (with or without modification) the Amending Scheme of Arrangement referred to in the accompanying notice summoning the Meetings (the "Amending Scheme"); and at such Meetings, or any adjournment thereof, to vote for me/us and in my/our name for the Amending Scheme or against the Amending Scheme (either with or without modification, as my/our proxyholder may approve) as hereinafter indicated on page 3 of this Form of Proxy

This page is relevant to Protected Scheme Creditors only

If you are a Protected Scheme Creditor, please indicate that by placing a cross (or check) in the box below.

(A Protected Scheme Creditor is a Scheme Creditor whose Scheme Claim is eligible for protection by the FSCS. Broadly speaking, unless you are an individual or a partner in an unlimited liability partnership it is unlikely that you are a Protected Scheme Creditor.)

You should NOT place a cross (or check) in the box below if you are completing this Form of Proxy as a General Scheme Creditor.

Notes:

You will need to determine for voting purposes whether you are a Protected Scheme Creditor or a General Scheme Creditor in respect of any claim you have against the Company. If you consider that you are a Protected Scheme Creditor in respect of ALL of your claims against the Company, please place a cross (or check) in the box to the left of this column before continuing to complete this Form of Proxy in accordance with the instructions applicable to you. If you are a Protected Scheme Creditor, your attention is drawn to the Note at the bottom of this page and the Protected Scheme Creditor Confirmation at the foot of this page.

Alternatively, if you consider that you are a General Scheme Creditor in respect of ALL of your claims against the Company, you should not place a cross (or check) in the box to the left of this column as this Form of Proxy will apply to you by default. Neither should you sign the Protected Scheme Creditor Confirmation at the foot of this page.

In the event you consider that you are both a Protected Scheme Creditor and a General Scheme Creditor of the Company, you must complete a SEPARATE Form of Proxy (including Claims Table on page 6), in accordance with the accompanying instructions and guidance notes, for each class of Scheme Claim (photocopying or downloading from www.bfmic.bm an additional Form of Proxy (including Claims Table) and placing a cross (or check) in the box to the left of this column and signing the Protected Scheme Creditor Confirmation in respect of the Form of Proxy completed by you as a Protected Scheme Creditor). Alternatively, further hard copies of the Form of Proxy (including Claims Table) can be obtained from the Creditor Help Desk by telephone on +44 (0)20 7645 4995, fax +44 (0)870 600 7582 or email creditor.helpdesk@bfmic.bm or by post from the Liquidators.

If you complete more than one Form of Proxy, please ensure there is no double counting of your Scheme Claims in the accompanying Claims Tables.

Note for Protected Scheme Creditors only

Although you will need to determine for voting purposes whether or not you are a Protected Scheme Creditor (see above Notes), neither you nor the Financial Services Compensation Scheme Limited (as the statutory successor to the Policyholders Protection Board) ("FSCS") will be bound by your determination for the purpose of determining whether or not FSCS has a payment obligation to you under the Amending Scheme or in the liquidation of the Company.

If you are a Protected Scheme Creditor and wish to vote either for the Amending Scheme or against the Amending Scheme or to authorise your proxyholder to exercise its discretion to do either (or abstain) at the Meeting of Protected Scheme Creditors, you must sign the Protected Scheme Creditor Confirmation at the foot of this page after reading the Memorandum on the Policyholder Protection Act 1975 and FSCS at Appendix F of the Explanatory Statement (pages 63 to 68 of the Scheme Document dated [] as defined in Note E of page 5 of this Form of Proxy).

Protected Scheme Creditors may only vote in respect of Protected Liabilities to the extent that such liabilities have not, before the date of the Meetings, been assigned to FSCS as a condition of FSCS paying compensation to such Scheme Creditors. Where such an assignment has occurred, FSCS alone will be entitled to vote in respect of such assigned liabilities at the Meeting of the General Scheme Creditors.

Protected Scheme Creditor Confirmation (if appropriate – see above)

I, the below-named signatory, have read the memorandum on the Policyholders Protection Act 1975 and FSCS contained in Appendix F to the Explanatory Statement referred to above and hereby confirm that, to the best of my knowledge, the Scheme Creditor(s) whose name(s) is (are) entered on page 1 of this Form of Proxy and entered above (or listed in the attached Schedule) is (are) (a) Protected Scheme Creditor(s) in relation to each claim specified in the attached Claims Table(s).

Signature..... Dated this

day of 2004

FOR the Amending Scheme (please cross or check if applicable)	AGAINST the Amending Scheme (please cross or check if applicable)	Proxyholder's Discretion (please cross or check if applicable). If you cross (or check) this box, please insert name of proxyholder (not the Chairman) in the box below.

Name ⁽ⁱⁱⁱ⁾	Capacity ⁽ⁱⁱⁱ⁾	Signature ⁽ⁱⁱⁱ⁾
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Dated thisday of 2004

Notes in relation to Voting for all Scheme Creditors

If you wish to instruct your proxyholder to vote for the Amending Scheme, place a cross (or check) in the table above marked "FOR". Please state your name and the capacity in which you act in block capitals and sign where indicated.

If you wish to instruct your proxyholder to vote against the Amending Scheme, place a cross (or check) in the table above marked "AGAINST". Please state your name and capacity in which you act in block capitals and sign where indicated.

If you wish to give your proxyholder discretion to vote for or against the Amending Scheme (or to abstain), place a cross (or check) in the box marked "PROXYHOLDER'S DISCRETION" in the table above. Please state your name and the capacity in which you act in block capitals and sign where indicated.

If you place a cross (or check) in the box marked "PROXYHOLDER'S DISCRETION", you MUST APPOINT A PERSON OTHER THAN THE CHAIRMAN to be your proxyholder, or this Form of Proxy will not operate as a valid appointment of the Chairman as your proxyholder at the Meeting.

If you do not place a cross (or check) in either the box marked "FOR" or the box marked "AGAINST" or the box marked "PROXYHOLDER'S DISCRETION" this Form of Proxy will not operate as a valid appointment of your proxyholder at the Meeting.

NE. In order for your vote to be accepted, please ensure that you have completed the Claims Table on page 6 and return the completed Table together with the Form of Proxy to the Liquidators in advance of the Meetings on 18 May 2004. You can fax these documents to the Liquidators on 0870 600 7585 no later than 5pm (GMT) on 17 May 2004. Faxed forms received prior to this time will be accepted provided the originals are received by post no later than 7 days after the Meetings (see General Notes (A) on page 5)

INSTRUCTIONS FOR THE COMPLETION OF THE FORM OF PROXY

You should read the following "Instructions for the Completion of the Form of Proxy" and "General Notes" carefully. Failure to follow them may result in a claim being rejected in whole or in part for voting purposes if the Chairman of the Meetings has insufficient information to decide whether your claim is fair and reasonable.

The "Instructions for the Completion of the Form of Proxy" are divided into Sections A and B below. Section A contains instructions for the completion of this Form of Proxy by or on behalf of a single Scheme Creditor (including an individual, corporate or partnership Scheme Creditor). Section B contains instructions for the completion of this Form of Proxy by a duly authorised agent, representative and/or attorney ("Representative") of a number of Scheme Creditors (including, where any Form of Proxy is completed by a Representative on behalf of only one of such number). The "General Notes" apply equally to the Completion of this Form of Proxy by or on behalf of a single Scheme Creditor and by Representatives.

The numbered instructions set out on this page correspond to the footnote numbers on pages 1 to 3 of this Form of Proxy.

SECTION A – COMPLETION OF FORM OF PROXY BY OR ON BEHALF OF A SINGLE SCHEME CREDITOR

- I Enter the name and address of the Scheme Creditor in block capitals. If known, insert the Scheme Creditor's Principal Number which has been allocated to them by KWELM Management Services Limited ("KMS").

If you are completing this Form of Proxy in your capacity as a director or other officeholder of a corporate Scheme Creditor or a partner of a partnership or other unincorporated body of persons which is a Scheme Creditor, insert the name of the company or partnership. Insert your name and capacity (together with your signature) where indicated in the Voting Table on page 3 of this Form of Proxy (see Note III below). You must provide evidence (which must be satisfactory to the Chairman of the Meetings) of your authority to execute any Form of Proxy on behalf of the Scheme Creditor.

Please note that each General Scheme Creditor which is a company within a group of companies, one or more of which is also a General Scheme Creditor, must complete a separate Form of Proxy as a group submission is not permissible.

N.B. Scheme Creditors (whether General Scheme Creditors or Protected Scheme Creditors) must complete the attached Summary Claims Table for Voting Purposes ("Claims Table") on page 6 of this Form of Proxy, and provide supporting information in accordance with the appropriate attached instructions in this Form of Proxy, the Claims Table and respective guidance notes, in respect of any Form of Proxy submitted to the Liquidators. Any Scheme Creditor who submits more than one Form of Proxy (for the reasons set out in the Notes on page 2 of this Form of Proxy) should photocopy or download from www.bfmic.bm this Form of Proxy (including the Claims Table) as many times as necessary. Please complete a Claims Table in respect of each Form of Proxy completed and returned to the Liquidators, ensuring that there is no double counting of claims.

- II If you wish to appoint a person other than the Chairman of the Meetings as your proxyholder, delete the words "the Chairman of the Meetings" and enter the name of the person to be appointed in block capitals in the space provided. The person to be appointed as your proxyholder need not be a Scheme Creditor. If you have appointed a person other than the Chairman of the Meetings as your proxyholder, in order to represent you, that person must attend in person at the Meeting(s).

- III Enter the name and capacity of the person signing this Form of Proxy in block capitals and sign in the appropriate place.

SECTION B - COMPLETION OF FORM OF PROXY BY REPRESENTATIVES

NB. Representatives are referred to the Notes on page 2 and page 3 of this Form of Proxy (reading those Notes with all necessary changes to reflect that Representatives will be completing any Form of Proxy on behalf of the General Scheme Creditor(s) and/or Protected Scheme Creditor(s) whom they represent).

Accordingly, any Representative who acts for both General Scheme Creditors and Protected Scheme Creditors must complete a separate Form of Proxy for each class of Scheme Creditor for whom they act.

In addition, Representatives must also complete a separate Form of Proxy in respect of those General Scheme Creditor(s) and/or Protected Scheme Creditor(s) for whom they act, who wish to vote FOR the Amending Scheme; a separate Form of Proxy in respect of those General Scheme Creditor(s) and/or Protected Scheme Creditor(s) for whom they act who wish to vote AGAINST the Amending Scheme; and a separate Form of Proxy in respect of those General Scheme Creditor(s) and/or Protected Scheme Creditor(s) for whom they act who wish to give their Proxyholder a DISCRETION to vote for or against the Amending Scheme (or abstain from voting) at the Meeting(s) at which such Scheme Creditor(s) are entitled to attend.

- I Where a Representative completes any Form of Proxy on behalf of more than one Scheme Creditor, the Representative must (a) insert the words "See Attached Schedule" on page 1 in the spaces for the Scheme Creditor's name and address and (b) attach a separate Schedule (the "Schedule") to each Form of Proxy setting out in block capitals the names, addresses and Principal Numbers and the aggregate amount of the claims for EACH of those Scheme Creditors in respect of which that Form of Proxy is completed. Representatives should then insert their name and the specific capacity in which they act (and sign) where indicated in the Voting Table on page 3 of this Form of Proxy (see Note III below).

Representatives must provide evidence (which must be satisfactory to the Chairman of the Meetings) of their authority to execute any Form of Proxy on behalf of the Scheme Creditor(s) they represent. Failure to provide such evidence in respect of one or more Scheme Creditor(s) will invalidate this Form of Proxy in respect of those Scheme Creditor(s) only.

If, however, a Representative acts for more than one Scheme Creditor but in circumstances where they are completing a Form of Proxy in respect of only one such Scheme Creditor, the Representative should not provide a Schedule. Instead insert the name, address and Principal Number of that Scheme Creditor where indicated on page 1.

- NB. Representatives must complete the attached Summary Claims Table for Voting Purposes ("Claims Table"), and provide supporting information in accordance with the attached instructions in this Form of Proxy, the Claims Table and respective guidance notes in respect of EACH Scheme Creditor for whom they act. Representatives should photocopy or download from www.bfmic.bm this Form of Proxy, including the Claims Table(s), as many times as necessary.**
- II Representatives who wish to appoint a person other than the Chairman of the Meetings as their proxyholder, should delete the words "the Chairman of the Meetings" and enter the name of the person to be appointed in block capitals in the space provided. The person to be appointed as proxyholder need not be a Scheme Creditor. If Representatives appoint a person other than the Chairman of the Meetings as their proxyholder, in order to represent them, that person must attend in person at the Meeting(s).
- III Representatives should enter their name and the exact capacity (e.g. agent, representative and/or attorney) in which they are signing this Form of Proxy in block capitals and sign in the appropriate place.

GENERAL NOTES

- (A) This Form of Proxy, including any Claims Table(s), supporting information and, if appropriate, Schedule(s) must be returned to the Liquidators of the Company at John Stow House, 18 Bevis Marks, London EC3A 7JB, United Kingdom (Fax No.: +44 (0) 870 600 7585) by 5.00p.m. (GMT) on 17 May 2004. If not so returned, those documents will be accepted at any time prior to the commencement of the Meetings (and may be handed in no earlier than 12:30 pm (Bermuda) on the day of the Meetings at the place fixed for them). Faxed Forms of Proxy and accompanying documents will only be accepted if returned to the Liquidators at the above fax number by 5.00p.m. (GMT) on 17 May 2004 and the originals are received by the Liquidators no later than 7 days after the Meetings.
- (B) Any alteration to the entries made to this Form of Proxy, the Claims Table(s) and, if appropriate, Schedule(s) should be initialled by the person who signs the Form of Proxy.
- (C) Any Scheme Claims which have become Established Scheme Liabilities under the Original Scheme by agreement or otherwise (whether or not they are Protected Liabilities which have not been assigned to FSCS at the date of the Meetings) will be admitted for voting purposes at the agreed amount, net of any payments already made by the Company under the Original Scheme. Any other Scheme Claims (whether previously reported or not) will be admitted for voting purposes at an estimated amount, less the amount of any known security, letter of credit, trust, set off or cross claim. The Chairman of the Meetings (who will be one of the Liquidators) has the power to reject a claim for the purposes of voting in whole or in part if he considers that it is not fair and reasonable.
- (D) In order to determine whether the requisite statutory majorities have been obtained at each Meeting which a Scheme Creditor or a Representative completing this Form of Proxy on behalf of a single Scheme Creditor is entitled to attend, their vote will be calculated according to the aggregate amount of the claims specified against the Company in the attached Claims Table(s). If Representatives complete a Form of Proxy in respect of more than one Scheme Creditor, their vote will be calculated for that purpose at the aggregate amount of all the claims of those Scheme Creditors against the Company. In that case, the list of Scheme Creditors and their aggregated claims information set out in the Schedule accompanying each Form of Proxy must correspond to the individual names and Principal Numbers of the Scheme Creditors and their totals in the "AGGREGATE CLAIMS FOR VOTING PURPOSES" row in their respective Claims Tables.
- (E) Except where otherwise defined herein, certain terms used in this Form of Proxy, attached Claims Table and respective accompanying instructions and guidance notes are defined in the Amending Scheme and Restated Scheme on pages 102 to 105 and 117 to 129 respectively of the accompanying Scheme Document dated [] April 2004 ("Scheme Document")

THE BERMUDA FIRE & MARINE INSURANCE COMPANY LIMITED (IN LIQUIDATION)

Summary Claims Table For Voting Purposes Only ("Claims Table")
General Scheme Creditors and Protected Scheme Creditors

Please complete a separate Claims Table for each Scheme Creditor in accordance with the Notes for Completion (overleaf)

Scheme Creditor Name ⁽¹⁾	Policyholder Entity (if different) ⁽²⁾	Principal Number ⁽³⁾	Currency of Claims ⁽⁴⁾
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Established Scheme Liabilities/Protected Liabilities ⁽⁵⁾	
Estimated value of Outstanding Losses ⁽⁶⁾	
Estimated value of Incurred But Not Reported claims ("IBNR") ⁽⁷⁾	
Less Reinsurance etc ⁽⁸⁾	()
Less Scheme Payments made after 14 January 1997 ⁽⁹⁾	()
Less Letters of Credit etc ⁽¹⁰⁾	()
AGGREGATE CLAIM FOR VOTING PURPOSES⁽¹¹⁾	

Principal types of exposure giving rise to IBNR claims above:

NB This table must contain values for the vote to be accepted. Blank tables will not be accepted.

**NOTES FOR THE COMPLETION OF THE
SUMMARY CLAIMS TABLE FOR VOTING PURPOSES IN RESPECT OF
GENERAL SCHEME CREDITORS AND PROTECTED SCHEME CREDITORS**

Please complete a Claims Table on page 6 of this Form of Proxy in respect of your claims against the Company. If you are the Representative of a number of Scheme Creditors, please complete a separate Claims Table for each Scheme Creditor for whom you act and ensure that any Claims Table(s) and Schedule(s) are returned to the Liquidators with the appropriate Form of Proxy and any supporting information. Completed Claims Tables and supporting information must be returned to the Liquidators with the relevant Form of Proxy(ies) before the commencement of the Meetings in support of the Scheme Creditor's vote. Scheme Creditors and Representatives will not be allowed to vote at any Meeting of Scheme Creditors if they fail to complete and return the appropriate Claims Table(s) and any Poll Card used at the Meeting(s) will be invalid.

Please follow the numbered instructions set out below (which correspond to the numbers in the Claims Table).

Please read the following instructions carefully. Failure to follow them may result in a claim being rejected in whole or in part for voting purposes if the Chairman of the Meetings has insufficient information to decide whether it is a fair and reasonable claim.

No estimate of the amount of any claim(s) entered in the Claims Table will be taken into account in calculating payments under the Amending Scheme. Any such estimate will be used for voting purposes only.

- (1) **Scheme Creditor Name:** Specify the full name of the Scheme Creditor in block capitals.
- (2) **Policyholder Entity:** Enter the full name of the policyholder to whom the policy was originally issued, if different from the Scheme Creditor (this would, for example, be relevant in the case of assignees or in the event of a corporate restructuring).
- (3) **Principal Number:** Specify (if known) the principal number allocated to the Scheme Creditor by KWELM Management Services Limited ("KMS").
- (4) **Currency:** Specify in words the currency (e.g. US dollars or pounds sterling) in which the amount(s) specified in the Claims Table are denominated. If the Scheme Creditor has claims in more than one currency, photocopy or download from www.bfmc.com as many additional Claims Table(s) as necessary and complete a separate Claims Table for each currency. At the Meetings of Scheme Creditors, all claims will be converted into US dollars by the Chairman for the purpose of determining whether or not the requisite majorities of creditors voting for the resolution have been obtained at the relevant rates of exchange ruling on the date of the Meetings.
- (5) **Established Scheme Liabilities/Protected Liabilities:** Specify the amount of any claim or (where there is more than one claim) the aggregate amount of any claims that has/have been established by agreement or otherwise under the Original Scheme but not yet paid in full by the Company. Enter the amount of your claim or the aggregate amount of your claims against the Company in full, taking no account of any amounts paid as Scheme Payments by the Company under the Original Scheme. Protected Scheme Creditors should not include amounts in respect of claims which have already been assigned (together with the right to vote) to FSCS as a condition of receiving compensation.
- (6) **Outstanding Losses:** Specify the current estimated amount of any claim including, if applicable, Agreed Liabilities or (where there is more than one claim) the aggregate estimated amount of any such claims you have that has/have been reported but which are not Established Scheme Liabilities arising under a contract of insurance (including reinsurance, retrocession or otherwise) underwritten by the Company. Furnish full particulars of your estimate(s) in supporting schedules. Agreed Liabilities (or, in the case of Protected Scheme Creditors, Protected Agreed Liabilities) are claims where liability and quantum have been agreed by or on behalf of the Liquidators under the Original Scheme but which, for whatever reason, including, but not limited to the lack of contact details or the absence of any agreement on set off, have not become Established Scheme Liabilities (or in the case of Protected Scheme Creditors, Protected Liabilities). Include any non-insurance/reinsurance liabilities which have not yet become Established Scheme Liabilities.
- (7) **IBNR Claims:** Specify the current estimated amount of any incurred but not reported claim or (where there is more than one claim), the aggregate estimated amount of any such claims arising under a contract of insurance (including reinsurance, retrocession or otherwise) underwritten by the Company. Protected Scheme Creditors should include Protected IBNR claims. Summarise at the foot of the Claims Table, in the space provided, the principal types of exposure that give rise to the IBNR claims included in the table. Furnish full particulars of your estimate(s) in supporting schedules.
- (8) **Reinsurance etc:** Specify as a single amount and in brackets the amount or estimated amount of any claim or (where there is more than one claim) the aggregate amount of any claim(s) of the Company against the Scheme Creditor arising under (a) contract(s) of reinsurance or retrocession, including claims agreed but not yet paid and claims which have been reported but not agreed. Furnish in supporting schedules particulars of the amount entered. It is expected that only certain General Scheme Creditors, who reinsured the Company, will need to specify amounts on this line.
- (9) **Scheme Payments made after 14 January 1997:** Specify as a single amount and in brackets the amount of any payment or (where there has been more than one payment), the aggregate amount of any payment(s) made by the Company pursuant to the Original Scheme after 14 January 1997 with respect to claim(s) specified in the Claims Table.
- (10) **Letters of Credit etc:** Specify as a single amount and in brackets the aggregate amount of any letters of credit, trust, set-off, cross claim(s) or security which you have in relation to the claim(s) summarised above or any other amounts you owe to the Company and which is available in respect of such claim(s). Furnish particulars of the amount in supporting schedules.
- (11) **Aggregate claim for voting purposes:** Enter the aggregate of the amounts specified in rows (5), (6) and (7) (deducting any amounts shown in rows (8), (9) and (10)). This is the amount of your claim for voting purposes.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

Petition of Gareth Hughes and Anthony
Joaquin, as Joint Provisional Liquidators of
The Bermuda Fire & Marine Insurance
Company Limited,

Debtors in Foreign Proceedings.

An Ancillary Case under Section 304 of the
Bankruptcy Code

Case No. 93-B-46013 (PCB)

ORDER AMENDING PERMANENT INJUNCTION ORDER

This matter having come before this Court on the motion (the "Motion"), dated _____, 2004, made on behalf of Gareth Howard Hughes, Leon Anthony Joaquin and John Christopher McKenna (collectively, the "Liquidators") as the Joint Liquidators of The Bermuda Fire & Marine Insurance Company Limited (the "Company"), seeking the entry of an order pursuant to sections 105 and 304 of title 11 of the United States Code (the "Bankruptcy Code") amending a certain permanent injunction order previously entered by this Court on January 7, 1997 (the "Original Section 304 Order"), a copy of which is annexed hereto as Exhibit A; and the Court having reviewed and considered the Motion and the Declaration of John Christopher McKenna, dated _____, 2004, submitted in support of the Motion; and the Court having entered an order (the "Service Order"), dated _____, 2004 (i) scheduling a hearing (the "Hearing") with respect to the Motion for _____, 2004, and (ii) authorizing the Liquidators to serve and publish notice of the relief sought pursuant to the Motion as provided in the Service Order; and it appearing that notice of the Motion was served and published in accordance with the Service Order; and the Court having found and concluded that the manner in which the Liquidators have provided notice of the relief sought pursuant to the Motion and notice of the Hearing was sufficient and adequate and that no other or further notice with respect to the Motion or the Hearing need be provided; and the Hearing having been held on _____, 2004, and upon the record at the Hearing and any objections, answers, and responses interposed with respect to the Motion; and upon all of the motions, declarations, objections, responses, statements, schedules, appendices, exhibits and other papers filed in this ancillary proceeding; and the Court having determined that the relief sought in the Motion is appropriate under the circumstances; and after due deliberation and sufficient cause appearing therefor, the Court finds and concludes as follows:

1. The Company is the subject of "foreign proceedings" within the meaning of sections 101(23) and 304 of the Bankruptcy Code, and the Liquidators are the "foreign representatives" of the Company within the meaning of sections 101(23) and 304 of the Bankruptcy Code.

2. The Company is subject to a Scheme of Arrangement (the "Original Scheme"), dated October 2, 1996, between the Company and its creditors. The Original Scheme was approved by the requisite number of creditors, and sanctioned by orders of both the High

Court of Justice of England and Wales (the "High Court") and the Supreme Court of Bermuda (the "Bermuda Court") and became effective on 14 January 1997. The Original Scheme has been enforced in the United States by the Original Section 304 Order.

3. A further Scheme of Arrangement (the "Amending Scheme") between the Company and its creditors (the "Scheme Creditors") was approved by the requisite number of Scheme Creditors on May 18, 2004 and sanctioned by order of the High Court dated June ___, 2004, and by order of the Bermuda Court dated June ___, 2004. The Amending Scheme has amended certain provisions of the Original Scheme (as amended and restated, the "Restated Scheme"). A copy of the Restated Scheme (without appendices) is annexed hereto as Exhibit B.

4. The Liquidators have demonstrated that pursuant to section 304 of the Bankruptcy Code, the relief sought in the Motion will best assure an economical and expeditious administration of the Company's affairs in accordance with the terms and conditions set forth in the Restated Scheme, consistent with the factors set forth in section 304(c) of the Bankruptcy Code, including:

(i) the just treatment of all holders of claims against or interests in the Company's estates;

(ii) the protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in the foreign proceedings;

(iii) the prevention of preferential or fraudulent dispositions of the property of the Company's estate;

(iv) the distribution of proceeds of the Company's estate substantially in accordance with the order prescribed by the Bankruptcy Code; and

(v) comity.

5. Further, the Liquidators have demonstrated that the requested amendments to the Original Section 304 Order will not cause hardships to parties affected by the Original Section 304 Order that are not outweighed by the benefits of amending the Original Section 304 Order to incorporate the Restated Scheme. The relief requested will not cause undue hardship or inconvenience to Scheme Creditors and, to the extent any hardship or inconvenience does result from an order granting the relief requested in the Motion, such hardship or inconvenience is outweighed by the benefits to the Company, its estate and Scheme Creditors.

6. Further, this Court finds that unless the amendments to the Original Section 304 Order are approved, one or more persons or entities may transfer, relinquish or dispose of property of the Company, or proceeds thereof, or commence or continue the prosecution of judicial actions, arbitration proceedings, administrative or regulatory actions or other actions or proceedings against the Company, its property or the proceeds thereof, thereby interfering with, and causing harm to, the Liquidators' efforts to administer the Company's estate pursuant to the foreign proceedings pending in the United Kingdom and Bermuda, and that as

a result, the Liquidators and the Company will suffer irreparable injury for which they have no adequate remedy at law.

7. The interest of the public will be served by this Court granting the relief requested in the Motion.

NOW THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

ORDERED, that all references contained in the Original Section 304 Order to the Original Scheme (i.e., the "Scheme of Arrangement") shall be deemed to refer to the Restated Scheme from and after the date hereof; and it is further

ORDERED, that nothing herein shall alter, impair or limit the protections, privileges and immunities afforded to each of the following parties with respect to any act, omission or conduct, as provided by or permitted in any of the Original Section 304 Order, the Original Scheme or the Restated Scheme: the Company, the Liquidators, any subsequent or former liquidators, the Scheme Conflicts Administrators, the Scheme Actuary, the Scheme Adjudicator, the members of the Committee of Inspection and the Informal Creditors' Committee, KMS, KHL (and its subsidiaries) Nominated Representatives and representatives of FSCS (and their respective alternates), Designated Representatives, Employees and Delegates (within the meaning of Clause 5.3.2 of the Restated Scheme), any person who may be held liable in law for the actions or omissions of such persons, and the respective officers, directors, agents, employees, representatives, financial advisors and attorneys of each of the foregoing, all of which shall be included in the term "Company Parties" and "Scheme Parties", each as used in the Original 304 Order; and it is further

ORDERED, that notwithstanding anything contained herein, the provisions of Clause 9.4 of the Restated Scheme are expressly approved herein in their entirety and are hereby incorporated herein by reference as if set forth at length herein; and it is further

ORDERED, that except as modified herein, the Original Section 304 Order is hereby ratified, approved and re-affirmed in all respects; and it is further

ORDERED, that this Court shall retain jurisdiction with respect to the enforcement, amendment or modification of this Order or requests for any additional relief in this ancillary proceeding filed under Section 304 of the Bankruptcy Code and all adversary proceedings in connection therewith, which are properly commenced and within the jurisdiction of this Court; and it is further

ORDERED, that the Restated Scheme shall be given full force and effect and shall be binding on and enforceable against all Scheme Creditors in the United States that have claims against the Company, which claims are covered by, or afforded treatment under, the Restated Scheme; and it is further

ORDERED, that service of this Order in the following manner shall be good and sufficient service and adequate notice of entry of this Order for all purposes:

(A) by United States mail, first class, postage prepaid (without exhibits) upon all known Scheme Creditors and Principals in the United States, and those parties in interest appearing in this ancillary proceeding at the time of such service;

(B) by publication of notice of entry of this Order, promptly following entry hereof, once in The Wall Street Journal (USA national edition) and Business Insurance; and

(C) by posting a copy of this Order, together with the exhibits hereto, on the website maintained by the Company at www.bfmic.bm.

Dated: New York, New York

_____, 2004

UNITED STATES BANKRUPTCY JUDGE

No. 1321 of 2004

**IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT
MR JUSTICE ^{DAVID}RICHARDS**

31st MARCH 2004

**IN THE MATTER OF
THE BERMUDA FIRE & MARINE
INSURANCE COMPANY LIMITED (IN
LIQUIDATION)**

AND

**IN THE MATTER OF THE COMPANIES
ACT 1985**

ORDER

31 MARCH 2004

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