ProTucket Insurance Company
Paper on Insurance Business Transfer Plans
Under Rhode Island Law

Introduction

ProTucket Insurance Company ("ProTucket") respectfully submits this Paper to assist insurance regulators in their consideration of issues related to insurance business transfers ("IBTs"). ProTucket is a Rhode Island domiciled insurance company whose sole business is to engage in IBTs under applicable Rhode Island law, namely the Rhode Island Voluntary Restructuring of Solvent Insurers Act (1995), as amended[1] (the "RI Act") and regulations promulgated thereunder. The RI Act as it applies to IBTs is more narrowly focused than other comparable state laws; for example, it does not permit an IBT of personal lines business. Accordingly, this Paper will not address various issues that are raised by legislation in other states but are not relevant to the RI Act.

The RI Act addresses an increasingly evident need in the insurance industry and serves a public purpose for the benefit of transferring and transferee insurers, as well as policyholders. The history of IBTs outside the USA, principally in the UK, has demonstrated that such transfers strengthen the insurance sector through a more efficient allocation of capital and management resources and provide policyholders financial security and responsible claims management.

ProTucket is part of a larger group of companies focused on insurance services with a history going back to 1993 in the field of run off, having successfully managed several billion dollars of run-off business in that period, including several insurance pools in the U.K. that comprise some of the most complicated run offs seen in the last 30 years as well as run offs in the U.S. market.

[1] R.I. Gen. Laws § 27-14.5-1 et seq.

The IBT Process Under Rhode Island Law.

Rationale and History.

There has been a growing need in the insurance sector for mechanisms to transfer books of legacy insurance business to dedicated and responsible run-off insurer managers. In recent years, surveys by PricewaterhouseCoopers, LLC; the publication The Insurance Insider; the Association of Insurance and Reinsurance Run-Off Companies ("AIRROC") and others have indicated an industry view in favor of developing mechanisms in the US to permit the transfer of books of insurance business.[2]

Many U.S. reinsurers and insurers are looking for new solutions that provide legal and economic finality to legacy insurance risks as a means to improve the efficient allocation of capital and management resources to legacy and on-going insurance operations. Specifically, the segregation and transfer of legacy books of business can free up capital, better allocate specialized management resources currently being occupied with the oversight of disparate discontinued and on-going businesses and rationalize and facilitate the run-off of discontinued lines of business. Experience elsewhere, including in the UK as discussed below, has shown that prudent allocation of reserves and management of legacy books of business reduces volatility and improves capital efficiency with benefits for reinsureds/policyholders[3] of both legacy and on-going books of business. Furthermore, run-off experts such as the Pro group of companies, including ProTucket, bring focused expertise to managing run offs compared to ongoing enterprises. The focus of an ongoing enterprise is the generation of increased premium growth, and legacy business is both a distraction to management and a poor step child in the regulatory and investor oversight of the company. A company focused on legacy business brings specific expertise in managing legacy problems, and the isolation of such business from ongoing business enhances the visibility of those operations, and hence the supervision of those operations, by both regulators and by investors in the owner of the legacy business.

In addition, the efficiencies that result from the segregation and specialized management of these disparate books of business have the ultimate result of releasing resources of the transferring insurers and allowing them to better focus on improving their current operations. Transferor companies can better focus on core areas, leading to better service for current and future policyholders and better service for policyholders on their run-off claims. In many cases, the run-off business consists of long-tail lines, such as mass tort, asbestos, environmental or general liability risks, which have tied up financial and management resources out of proportion to the size or importance of the run off book within the insurer.

Experience with IBTs elsewhere, especially in the UK, has proved that IBTs have been very successful over a substantial period of time. In the UK, IBTs are permitted under Part VII of the UK Financial Services and Markets Act 2000. Since 2002 there have been at least 253 "Part VII

[2] For example, the 2018 PwC Global Insurance Run-off survey showed: (a) PwC estimates the size of the US run-off market at $335 billion; (b) 68% of US survey respondents indicated they will undertake restructuring or exit activity in the next three years; (c) 41% of US survey respondents anticipate using an IBT as a restructuring tool in the next three years.

[3] Hereinafter, references to policyholders includes reinsureds, where appropriate.

Transfers" under that statute with no insolvencies.[4] Their success has led to adoption of directives of the European Union requiring similar laws throughout the EU, and as a result the adoption of legislation making available comparable transfer mechanisms throughout the EU.[5] The US remains one of few large insurance markets with no ready mechanism to address the problem the RI Act is designed to solve.

The Part VII procedures and safeguards for prudent reserving, notice, and regulatory and judicial involvement are similar to those found in the RI Act. Furthermore, many prominent insurer groups with extensive operations in the US, including the UK operations of The Hartford, AIG, Fairfax, St Paul, Swiss Re, Zurich and Lloyd's of London, have all engaged in Part VII Transfers. Many UK Part VII Transfers have also involved books of business covering US risks (either surplus lines or reinsurance) which have required review and been favorably acted upon by US insurance regulators in all 50 States, as well as the International Insurers Department of the NAIC. Again, there has been not any insolvency in any of these and other Part VII cases throughout the entire history of Part VII Transfer - over nearly two decades.[6]

[4] *See* "The Insurance Business Transfer Act restructuring option for insurance and reinsurance companies" (2019), available at http://ncoil.org/wp-content/uploads/2018/12/IBT-presentation-NCOIL.pdf . The PwC report counted only those transfers up to and including 2017. The number of 253 transfers to date would be greater if those effected during the year 2018 were included.

[5] Directive 2002/83/EC provides for the transfer of all or part of the portfolio of life assurance business from one life assurer to another (see article 14), Directive 92/49/EC addresses the transfer of all or part of the portfolio of non-life insurance business (see article 12), and Directive 2005/68/EC addresses portfolios of reinsurance business (see article 18).

[6] Other US states have adopted or are in the process of adopting laws similar to those of Rhode Island. These include Oklahoma and Vermont and others which have adopted laws permitting other methods to segregate insurer books of business, including division statutes which permit insurers to divide the corporate entity. Very briefly, the salient differences in these statutes are:

State	Type of Restructuring	Some Salient Characteristics
Rhode Island	IBT	• Minimum 5-years run-off. • No personal lines on admitted basis (excludes long-term care). • No workers' compensation.
Oklahoma	IBT	• None of the Rhode Island restrictions.
Vermont	IBT	• Limited to commercial non-admitted policies and reinsurance agreements. • Provides for a transfer of policies as a result of an approval order from the Vermont Commissioner. A court-ordered approval is not required. • Policyholders can opt out of the transfer.
Illinois	Division	• Plan of division must be approved by the Director of the department of insurance after reasonable notice and a public hearing. • No court approval required. • No restrictions on lines of insurance.
Pennsylvania	Division	• No restriction on lines of insurance. • A plan of division must be approved by the Department of Insurance.

The Rhode Island Law.

The Rhode Island law authorizing IBTs was modelled on the UK's successful and long-standing regime of Part VII Transfers with the addition of safeguards in line with U.S. practices. The RI Act creates a comprehensive and detailed process for the transfer of some or all of the commercial run-off liabilities, with related assets, of a Rhode Island or foreign insurer to a Rhode Island insurer.

To effect an IBT, a special term of the Rhode Island court system, the Business Calendar of the Rhode Island Superior Court (the "RI Court"), is granted authority to transfer books of insurance business (policies and/or reinsurance contracts with related assets, reinsurance or retrocessional protections) to a Rhode Island insurer, such as ProTucket, from other insurers. The RI Court may approve an IBT only after notices are given to interested parties and after obtaining approvals from the Insurance Division of the Rhode Island Department of Business Regulation (the "RI Department") and the domestic insurance regulator of the transferring insurer (the "Transferor Regulator"). Upon RI Court approval of the IBT transaction, the transferring insurer will have no further obligations under the transferred contracts or rights to related assets and the transferee insurer will become fully obligated under those contracts and fully entitled to the rights to the transferred assets. The transferee insurer will be responsible for those liabilities on the same terms as the original transferor, with the transferee insurer subject to the same solvency standards and insurance regulations as any other Rhode Island domestic insurer, and thus to the same solvency standards applicable to insurers throughout the U.S.

The RI Act authorizes IBTs only for reinsurance and commercial lines (including surplus lines), in each case only if the business has been in run-off for at least 5 years. Workers' compensation, life insurance, long-term care insurance, other personal lines insurance (not including reinsurance), and any business currently being written or in run-off for less than 5 years are not eligible for transfer under the RI Act.[7]

		• Court order not required.
Connecticut	Division	• A division shall not become effective until it is approved by the commissioner after reasonable notice and a public hearing. • Court order not required. • No restrictions on lines of insurance.
Arizona	Division	• Must obtain approval from local governmental agency or office if the laws of that state or country of domicile require approval to perform a merger prior to the performance of a division. • No restrictions on lines of insurance
Michigan	Division	• The division plan must be approved by the insurance department of Michigan, after reasonable notice and a public hearing. • Notice must be sent by the dividing insurer to each reinsurer that is a party to a reinsurance contract allocated in the plan of division within 10 days of filing the division plan. • No restrictions on lines of insurance.

Both Nebraska and Iowa have legislation pending to enact division statutes. *See* Iowa House Study Bill 35; Nebraska Legislative Bill 62.

[7] 230-RICR-20-45-6.3(A), R.I. Gen. Laws § 27-14.5-1(6), and 230-RICR-20-45-6.4(I)(A).

In addition to the approvals of the RI Department and the Transferor Regulator, the RI Act requires notice to all interested parties, who have a right to object, and expert financial and actuarial reviews. Regulators in states in which the transferor is authorized will be provided notice before the IBT goes to the RI Court. No IBT is presented to the RI Court for approval without the RI Department having already reviewed and approved the transaction and the Transferor Regulator having reviewed and not objected to the transaction. Once the RI Department has approved the transaction, the Transferor Regulator has reviewed and not objected to the transaction, and the RI Court has considered any objections and found that all requirements have been met, the RI Court can issue its order and effect the IBT transfer. There is no available opt-out provision that would allow any policyholder or other party to refuse to recognize the transfer once approved by the court.

An IBT in Rhode Island is effected via a "voluntary restructuring" as defined in the RI Act:

> "the act of reorganizing the legal ownership, operational, governance, or other structures of a solvent insurer, for the purpose of enhancing organization and maximizing efficiencies, and shall include the transfer of assets and liabilities to or from an insurer, or the protected cell of an insurer pursuant to an insurance business transfer plan. A voluntary restructuring under this chapter may be approved by the commissioner only if, in the commissioner's opinion, it would have no material adverse impact on the insurer's policyholders, reinsureds, or claimants of policies subject to the restructuring."[8]

The RI Act requires that notice be provided to all policyholders, contract parties and other interested parties, including insurance regulators and guaranty funds of other states that may have interests in the IBT.[9]

The IBT approval process also requires (1) extensive disclosure of financial information of the transferee insurer; (2) an expert report that will evaluate the impact on transferring and non-transferring policyholders and contract parties; (3) an independent evaluation by the RI Department; and (4) approval by the Transferor Regulator. Most importantly, there is complete judicial review of the IBT plan, and before the transaction will be approved, the transferee insurer must satisfy the RI Court that the transfer does not materially, adversely affect policyholders, reinsureds or claimants.[10]

Any party who feels adversely affected by the transfer can file an objection with the RI Court for consideration. Once approved, the transferee insurer is subject to the continuing authority of the RI Department.[11]

To become effective a proposed IBT in Rhode Island must undergo a review, including the following:

1. Summary of the IBT Plan, including the Business Transfer Agreement, if any;

[8] R.I. Gen. Laws § 27-14.5-1(22).
[9] R.I. Gen. Laws § 27-14.5-3.
[10] 230-RICR-20-45-6.4(IV)(D)(ii).
[11] 230-RICR-20-45-6.6.

2. Identification and description of business to be transferred;

3. Most recent audited financial statements and annual reports of the transferring insurer filed with its domiciliary regulator;

4. The most recent actuarial report and opinion that quantifies the liabilities in the business to be transferred to the transferee insurer under the policies or reinsurance agreements;

5. Pro-forma financial statements demonstrating the projected solvency of the transferee insurer;

6. Plan Administration, including the form of notice to be provided under the IBT Plan to any policyholder or reinsured of the transferring insurer whose policies or contracts are to be transferred and to any reinsurers of any such polices or contracts;

7. Full description as to how such notice shall be provided.

8. Description of any guarantees or additional reinsurance that will cover the transferred business;

9. Description of any reinsurance arrangements that would pass to the transferee insurer under the IBT Plan;

10. If the transferred business is intended to be transferred into a protected cell, the requirements related to the plan of operation for protected cells must be included in the IBT Plan;

11. Approval of the IBT Plan obtained from the Transferor Regulator; and

12. An expert report providing an opinion on the proposed transaction.[12]

The RI Act and the standards adopted by the RI Department are comparable to those used with success in the UK and in some respects are more conservative. Rhode Island requires that the Company have sufficient capital such that policyholders are not materially adversely affected,[13] whereas a UK Part VII Transfer requires that the transaction not prejudice policyholders, which generally requires that the Company have sufficient capital to meet its regulatory solvency requirements under Solvency II.[14] The RI Act, however, does not permit IBTs for current writings, for direct personal lines business, or for workers' compensation, all of which are allowed for UK Part VII Transfers.[15] Significantly, whereas under the UK procedure the independent expert is selected by the parties (albeit with regulatory approval) and subject to their direction (albeit within the constraints of independence imposed by the appointment), the Rhode

[12] 230-RICR-20-45-6.4(II)(A).
[13] 230 RICR 20-45-6.4(B)(1)(p)(11).
[14] *See Re Norwich Union and other companies*, [2004] EWHC 2802 (Ch); *Re Sompo Japan Ins. Inc*, [2011] EWHC 260 (Ch), ¶ 36.
[15] R.I. Gen. Laws § 27-14.5-1(6); 230-RICR-20-45-6.3(A).

Island process allows for two experts, one of which is appointed directly by and under the control of the RI Department.[16]

Constitutional Issues

The US Constitution and general principles of contract law provide protections to assure the rights of parties to their contracts. Insurance and reinsurance contracts benefit from those protections, as well as varying degrees of insurance regulatory oversight depending upon whether the contracts are for direct insurance, surplus lines or reinsurance.

An IBT under the RI Act effects a corporate restructuring of insurers such that assets and contracts without any other modification are transferred from one to another insurer. Such a transfer complies with all Constitutional, contract law and regulatory requirements.

Contract Clause.

One potential argument against IBTs is that a transfer of an insurance contract impairs the policyholder's rights in violation of the Contract Clause of the U.S. Constitution, which prohibits states from passing laws "impairing the obligation of contracts."[17] However, "not every modification of a contractual promise … impairs the obligation of contract" under the Constitution.[18] To violate the Contract Clause, a law must "substantially impair" a contract based on an analysis which must consider "the extent to which the law undermines the contractual bargain, interferes with a party's reasonable expectations, and prevents the party from safeguarding or reinstating his rights."[19] And, even if a "substantial impairment" is found, the legislative enactment will continue to pass constitutional muster if "the state law is drawn in an 'appropriate" and "reasonable' way to advance 'a significant and legitimate public purpose.'"[20] As to the effect of court orders, the Supreme Court has frequently stated that the Contract Clause does not limit judicial decisions, however erroneous, as they may impact existing contract rights.[21]

Consistent with the above, an IBT does not substantially impair any insurance contract, and therefore does not substantially impair any policyholder rights. No insurance policy is modified other than references to the transferring insurer being changed to references to the transferee insurer. The essence of the contractual obligations in question (*i.e*., to pay a claim according to the contract terms) will not have been changed or abrogated, but rather simply transferred to the transferee insurer pursuant to a procedure assuring the creditworthiness of the transferee.

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[16] 230-RICR-20-45-6.4(B)(1)(p) & (B)(6).
[17] U.S. Const. art. I, § 10, cl. 1.
[18] *El Paso v. Simmons*, 379 U.S. 497, 506-507 (1965).
[19] *Sveen v. Melin*, 584 U.S. ___, slip op. at 7 (2018).
[20] *Id*. (quoting *Energy Reserves Group, Inc.* v. *Kansas Power & Light Co*., 459 U. S. 400, 411–412 (1983)).
[21] *Central Land Co. v. Laidley*, 159 U.S. 103 (1895); *see also New Orleans Water-Works Co. v. Louisiana Sugar Co*., 125 U.S. 18 (1888); *Hanford v. Davies*, 163 U.S. 273 (1896); *Ross v. Oregon*, 227 U.S. 150 (1913); *Detroit United Ry. v. Michigan*, 242 U.S. 238 (1916); *Long Sault Development Co. v. Call*, 242 U.S. 272 (1916); *McCoy v. Union Elevated R. Co*., 247 U.S. 354 (1918); *Columbia Ry., Gas & Electric Co. v. South Carolina*, 261 U.S. 236 (1923); *Tidal Oil Co. v. Flannagan*, 263 U.S. 444 (1924).

Most importantly, the IBT (and the limited modification of the policyholders' contracts) offers an "appropriate" and "reasonable" way to advance "a significant and legitimate public purpose" as required by long-standing and recently reaffirmed Supreme Court precedent. In this case, the public purpose of the RI Act and its realization in a Rhode Island IBT will have been confirmed by the RI Department and the RI Court with all due, appropriate and reasonable protections set forth under Rhode Island law. The Rhode Island law promotes "a significant and legitimate public purpose" by facilitating the reorganization of a solvent insurer's business in an orderly fashion and furthering efficiency and innovation in the insurance industry as a whole, implemented in conformity with the procedures and safeguards of the RI Act. Furthermore, it increases regulatory oversight of the run-off of legacy business by separating run offs from ongoing business enterprises, enhancing the regulatory oversight of the legacy operations.[22]

Significantly, the insurance contract itself is not being modified; it is being transferred pursuant to a reorganization that transfers an insurer's assets and liabilities – a corporate transaction effected pursuant to the *in rem* jurisdiction of the RI Court over the insurers, as described below.

Due Process Clause.

The IBT contracts are being transferred by the RI Court by authority of that court's jurisdiction over the insurers, not by reason of its jurisdiction over the contract parties. This jurisdiction of the RI Court over the insurers *in rem* is consistent with Constitutional due process guaranties and can be seen in other *in rem* cases involving bankruptcy, liquidation and other courts that adjudicate matters *in rem*. Those courts acquire legitimate jurisdiction to affect contract parties wherever they may be located, whether inside or outside the jurisdiction, by reason of their jurisdiction over the *res* present in the jurisdiction.

A proceeding *in rem* "is founded upon a right in the thing,"[23] in contradistinction to personal actions, which are said to be *in personam.* In a strict sense, a proceeding *in rem* is one taken directly against property, and has for its object the disposition of property, without reference to the title of individual claimants; but, in a larger and more general sense, the term is applied to actions between parties, where the direct object is to reach and dispose of property owned by them, or of some interest therein. Examples include cases commenced by attachment against the property of debtors, or instituted to partition real estate, foreclose a mortgage, enforce a lien, or quiet title; also, proceedings to escheat a bank deposit, probate of a will, admiralty suits against a vessel to satisfy debts arising from the operation or use of the vessel, and certain marital actions.[24] Bankruptcy jurisdiction, at its core, is *in rem*.[25]

The various types of proceedings that may be considered *in rem* have a common aim: "to reach a conclusive determination of all claims to the thing so that it may be transferred to, or confirmed

[22] *Cf. In re GTE Reins. Co. Ltd*, 2011 WL 7144917, *16 (2011)
[23] *The Maggie Hammond*, 76 U.S. 435 (1869).
[24] *See Pennoyer v. Neff*, 95 U.S. 714 (1878) ("[s]o far as they affect property in this state, they are substantially proceedings in rem in the broader sense which we have mentioned").
[25] *See Gardner v. New Jersey*, 329 U. S. 565, 574 (1947) ("[t]he whole process of proof, allowance, and distribution is, shortly speaking, an adjudication of interests claimed in a res").

in the hands of, a person who will then hold it free and clear of all claims."[26] Because *in rem* actions adjudicate rights in specific property (real or intangible) before the court, judgments in them "operate against anyone in the world claiming against that property" and a judgment in an *in rem* case "foreclose[s] any person from later seeking rights in the property subject to the in rem action."[27]

U.S. courts generally will recognize a state's exercise of jurisdiction "to determine interests in a thing if the relationship of the thing to the state is such that the exercise of jurisdiction is reasonable."[28] The prerequisites to a valid exercise of *in rem* jurisdiction are (1) presence of the property or *res* in the jurisdiction of the court adjudicating the matter, which in the case of intangible property means that there are at least minimum contacts between the transaction at issue and the state, and (2) notice procedures (i) reasonably certain to result in actual notice to persons who will be bound by the proceeding if they can be identified and located (such as notice by mail addressed to the person at his last reasonably discoverable address or to someone who could represent him), or (ii) that will have a practical possibility of reaching categories of persons who cannot be specifically identified or located (such as notice by publication).[29]

In this case, the *res* is before the RI Court, the *res* being the presence of the transferring and transferee insurers, each with the agreement of its domiciliary regulator (the RI Department and the Transferor Regulator). A restructuring of those insurers with appropriate notices to contract and other interested parties is properly within the *in rem* jurisdiction of the RI Court.

The Supreme Court has stated that so long as there are at least minimum contacts between the jurisdiction and the *res*, as well as adequate notice, *in rem* jurisdiction will be valid.[30]

Accordingly, just as in other cases of *in rem* jurisdiction, the presence of the *res* (here, the Rhode Island and the foreign transferring insurers) would be sufficient to allow a court to take action affecting parties outside the jurisdiction to effect a restructuring of the operations of these insurers.

Comparable "Restructurings".

There are also practical regulatory reasons that argue in favor of recognizing the effectiveness of IBTs. Many forms of restructurings and other corporate transactions with a potentially equivalent impact on policyholders and other contract parties are routinely processed and approved by insurance regulators, often merely with the approval of the domestic regulator. The

[26] Restatement Second of Judgments, § 6, comment b.
[27] *R.M.S. Titanic v. Haver*, 171 F.3d 943, 957-58 (4th Cir. 1999); *see also Goodrich v. Ferris*, 214 U.S. 71, 80-81 (1909) ("[i]t is elementary that probate proceeding by which jurisdiction of a probate court is asserted over the estate of a decedent for the purpose of administering the same is in the nature of a proceeding in rem, and is therefore one as to which all the world is charged with notice").
[28] Restatement Second of Judgments, § 6.
[29] *Id*. at comments a, b, e.
[30] *Shaffer v. Heitner*, 433 U.S. 186 (1977) ("to justify an exercise of jurisdiction in rem, the basis for jurisdiction must be sufficient to justify 'exercising jurisdiction over the interests of persons in a thing'; the standard for determining whether such exercise is "consistent with the Due Process Clause is the minimum-contacts standard" of *International Shoe Co. v. Washington*, 326 U.S. 310 (1945)).

novelty of IBTs raises legitimate issues that call for answers, but many other more routine transactions can raise similar concerns. For example:

(i) *Mergers*: Insurer mergers can create conditions by which a more credit-worthy insurer becomes weaker after the merger. The merger itself is often subject merely to domestic regulatory approval without any say by that insurer's policyholders or its regulator's outside its domicile. The possible review by the non-domiciliary regulator of a license for re-issuance is often perfunctory. In effect, the domestic regulator is often the only one to have a say in protecting policyholders or reinsureds in other states.

(ii) *Divisions*: Regulatory procedures similar to those for mergers apply to division statutes as well. But, in these cases the comparison to an IBT is even closer. Different books of insurance business get attributed to each of the resulting entities in an insurer division, very similar to the result in an IBT. Again, the depth of review by non-domiciliary regulators is limited. A division followed by a merger of an insurer into one of the insurers resulting from a division would have the same result as an IBT, but without the procedural safeguards inherent in the Rhode Island IBT process.

Although these "restructurings" are more common and do not have the novelty of the RI Act, ProTucket believes that the RI Act, with its many protections, participation by both domiciliary regulators, notices to all interested parties, and judicial review, offers a comparable level of review and, in some respects, a heightened level of assurance of contract integrity to regulators and contract parties.[31] It is also noteworthy that many states have started to consider the enactment of laws similar to the RI Act or with similar objectives.[32] Whether to implement a regime similar to the RI Act or otherwise, it appears that the public policy of many states has now begun to move in the direction of recognizing and promoting legacy solutions.

Conclusion.

For some time, many reinsurers and insurers have been looking for new solutions that provide legal and economic finality to increase capital and/or operational efficiencies. All EU jurisdictions have laws permitting IBTs. The UK has been doing IBTs for decades, most recently pursuant to Part VII of their corporate law. There have been at least 253 Part VIIs completed in the UK to date with no insolvencies and, on average, there have been around 18 Part VIIs completed every year since 2004. Many large US insurers entered into IBTs in the UK or elsewhere in Europe to reorganize their European businesses and transfer books to unaffiliated third parties. As shown by industry surveys, and increasing legislative activity in the US, those

[31] Even acquisitions, which would appear to be the most routine of insurer corporate transactions, can lead to dramatic changes in insurer management, which sometimes implicate changes in capital structure, reserving and operations. Acquisitions typically are reviewed by the domiciliary state only. Policyholders rarely have any say when the insurer is sold and non-domiciliary states often play a negligible role.

[32] In addition to the states listed in footnote 6 above, others are currently considering similar legislation.

large insurer groups have an interest in realizing these efficiencies here at home through the use of an IBT mechanism. The US needs such a mechanism.

All Rhode Island IBTs are subject to strict review and approval by the RI Department as well as the Transferor Regulator and the RI Court who will ensure the viability and legality of the transfer. By segregating legacy portfolios and dedicating specialized teams to the management and run off of these discrete books of business, these insurers can more efficiently operate their current business. Experience elsewhere has demonstrated that this can be done without sacrificing policyholder and claimant protections, and policyholder services.

ProTucket's own business plan aims to facilitate transfers under Rhode Island law and bring the advantages of IBTs to the U.S. market. The broader Pro group has been involved in run offs since 1993, including Part VII transfers in the UK and run-off services in the U.S., and has worked closely with numerous clients on both sides of the Atlantic to successfully manage legacy business for the benefit of investors, policyholders, and regulators. ProTucket aims to continue that track record with IBTs in Rhode Island.

The long and successful history of IBTs in other countries demonstrates that such transfers benefit both industry and policyholders by enabling a more efficient allocation of capital and management resources while providing policyholders with financial security and responsible claims management. IBTs under Rhode Island law advance good public policy and are consistent with existing statutes and regulations.

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