



EXTRAORDINARY
OFFICIAL GAZETTE
THE BAHAMAS
PUBLISHED BY AUTHORITY

NASSAU

4th April, 2017

(A)

PLAN OF ARRANGEMENT (BRITISH-AMERICAN INSURANCE COMPANY LIMITED) ACT, 2017

Arrangement of Sections

Section

1.	Short title.....	2
2.	Interpretation.....	2
3.	Power of the Court to sanction an Arrangement.....	4
4.	Arrangement originating outside The Bahamas.....	5
5.	Information as to compromise with creditors.....	6
6.	Sub-Meetings.....	6
7.	Priority of distribution of assets.....	6
8.	Regulations.....	7



No. 7 of 2017

PLAN OF ARRANGEMENT (BRITISH-AMERICAN INSURANCE COMPANY LIMITED) ACT, 2017

AN ACT TO PROVIDE A FRAMEWORK TO AID IN THE RESOLUTION OF THE INSOLVENCY OF BRITISH-AMERICAN INSURANCE COMPANY LIMITED BY MEANS OF A PLAN OF ARRANGEMENT

[Date of Assent - 4th April, 2017]

Enacted by the Parliament of The Bahamas

1. Short title.

This Act may be cited as the Plan of Arrangement (British-American Insurance Company Limited) Act, 2017.

2. Interpretation.

(1) In this Act —

“**Arrangement**” means a compromise or arrangement proposed between BAICO and its creditors or any class of its creditors;

“**BAICO**” means British-American Insurance Company Limited, a company incorporated under the Companies Act with registration number C-47;

“**Companies Act**” means the Companies Act (*Ch. 308*);

“**Court**” means the Supreme Court of The Bahamas;

“**Directions Order**” means the court order for directions convening a Meeting of the creditors, or any class of creditors, of BAICO;

“**EC Arrangement Legislation**” means the legislation enacted in the EC Territories to facilitate an Arrangement in respect of BAICO (whether or not such legislation also relates to matters other than BAICO);

- “EC Court”** means the relevant court in an EC Territory;
- “EC Officers”** means each of the judicial managers or administrators of BAICO, as the case may be, appointed by an EC Court, or their agent;
- “EC Territories”** means any one or more of the following Eastern Caribbean countries which have enacted EC Arrangement Legislation —
- (a) Anguilla;
 - (b) Antigua and Barbuda;
 - (c) the Commonwealth of Dominica;
 - (d) Grenada;
 - (e) Montserrat;
 - (f) Saint Christopher (St. Kitts) and Nevis;
 - (g) Saint Lucia;
 - (h) Saint Vincent and the Grenadines;
- “Insurance Act”** means the Insurance Act (*Ch. 347*);
- “insurance claim”** means a claim pursuant to or arising out of an insurance policy issued by BAICO;
- “judicial manager”** means the judicial manager of BAICO appointed by the Court;
- “Meeting”** means the meeting, ordered by a court, of the creditors or class of creditors of BAICO to consider an Arrangement, whether held in one place or in multiple places;
- “Minister”** means the Minister responsible for Finance;
- “Recognition Order”** means an order of the Court, or of an EC Court, that grants recognition and confirms the full force and effect in its jurisdiction of the arrangement which is subject to the Sanction Order;
- “Registrar of Companies”** means the Registrar General;
- “Sanction Order”** means —
- (a) in case of an Arrangement proposed under section 3, an order made by the Court under subsection (3) of section 3; and
 - (b) in case of an Arrangement proposed in an EC Territory, an order that sanctions the Arrangement made by the court in the relevant EC Territory pursuant to its EC Arrangement Legislation.

- (2) Where any provision of this Act is inconsistent with a provision in the Companies Act (*Ch. 308*) or the Insurance Act (*Ch. 347*), the provision of this Act shall prevail.

3. Power of the Court to sanction an Arrangement.

- (1) BAICO may in accordance with this Act apply to the Court to sanction an Arrangement and, in this regard, file with the Court a draft Directions Order for the summoning of a Meeting.
- (2) Subject to subsection (3), the Court may on an application by BAICO pursuant to subsection (1) order a Meeting to be summoned in such manner as the Court may direct in a Directions Order.
- (3) The Court may order a Meeting to be summoned under subsection (2) only where the Court is satisfied that —
 - (a) each EC Court has considered and issued an order with respect to the draft Directions Order under its EC Arrangement Legislation or, where an EC Court has not issued such an order, at least twenty-eight days has passed from the date that the draft Directions Order was filed with the relevant EC Court; and
 - (b) where an EC Court has considered and made an order amending the draft Directions Order in accordance with its own EC Arrangement Legislation to ensure that adequate notice will be provided to the creditors of BAICO in that EC Territory, such amendments have been made to, and are consistent with, the draft Directions Order that BAICO proposes the Court to make under subsection (1).
- (4) An Arrangement may be sanctioned by the Court only where at the Meeting ordered by the Court a majority in number of creditors or class of creditors, present and voting in person or by proxy and representing three-fourths in value of the votes, agree to the Arrangement.
- (5) Where the Court orders a Meeting pursuant to subsection (3) and thereafter sanctions an Arrangement agreed by the creditors in accordance with subsection (4), the Arrangement shall be binding on —
 - (a) BAICO; and
 - (b) all the creditors or the class of creditors, as the case may be, wherever they may be located.
- (6) The judicial manager shall, within seven days of the making by the Court of a Sanction Order, provide a copy of the Sanction Order to each EC Officer.
- (7) A Sanction Order shall have no effect until a copy of the Sanction Order has been filed with the Registrar of Companies.

4. Arrangement originating outside The Bahamas.

- (1) BAICO may apply to an EC Court in accordance with the relevant EC Arrangement Legislation to sanction an Arrangement and, in this regard, file with such EC Court a draft Directions Order for the summoning of a Meeting.
- (2) Where BAICO makes an application pursuant to subsection (1), the judicial manager shall within seven days of receipt of a copy of the draft Directions Order from the EC Officer in the relevant EC Territory seek a review of the Draft Directions Order by filing it with the Court.
- (3) The Court shall review a draft Directions Order filed pursuant to subsection (2) and may make an order amending the draft Directions Order to ensure that adequate notice will be provided to the creditors of BAICO in The Bahamas.
- (4) Where the Court, within twenty-eight days of the filing of the draft Directions Order, makes no order under subsection (3) —
 - (a) BAICO may file the draft Directions Order with the relevant EC Court; and
 - (b) the EC Court may order the Meeting and issue a Directions Order without reference to any subsequent order of the Court.
- (5) An Arrangement may be sanctioned by the EC Court only where at the Meeting a majority in number of creditors or class of creditors, present and voting in person or by proxy and representing three-fourths in value of the votes, agree to the Arrangement.
- (6) Where the EC Court orders a Meeting and thereafter sanctions an Arrangement agreed by the creditors in accordance with subsection (5), the judicial manager shall within seven days of receiving the Sanction Order of the EC Court submit it to the Court for the purpose of seeking a Recognition Order.
- (7) The Court shall —
 - (a) review the Sanction Order; and
 - (b) within twenty-eight days of the filing of the Sanction Order with the Court, give effect to the Sanction Order in The Bahamas by making a Recognition Order.
- (8) The Arrangement shall become binding on BAICO, and on all creditors of BAICO wherever located, when —
 - (a) the Sanction Order is filed with the Registrar of Companies for registration in the EC Territory where the Sanction Order was made;
 - (b) the Court has made a Recognition Order; and

- (c) a copy each of the Sanction Order and the Recognition Order have been filed with the Registrar of Companies.

5. Information as to compromise with creditors.

- (1) Where a Meeting is summoned pursuant to an order of the Court under section 3 —
 - (a) every notice summoning the Meeting which is sent to a creditor shall be accompanied by a statement —
 - (i) explaining the effect of the proposed Arrangement; and
 - (ii) stating in particular the material interests of any person connected with the promotion of the Arrangement and the effect of the Arrangement on such interests in so far as it is different from the effect on the like interests of the other persons; and
 - (b) every notice summoning the Meeting which is given by advertisement shall include a statement as referred to in paragraph (a) or a notification of the place at and manner in which creditors or members entitled to attend the Meeting may obtain copies of such statement.
- (2) Where a notice given by advertisement includes a notification referred to in subsection (1)(b), BAICO shall furnish every creditor or member who applies in the manner indicated by the notice with a copy of the statement free of charge.

6. Sub-Meetings.

- (1) Where a Meeting is convened —
 - (a) the Meeting may be held in multiple locations and each meeting in each location shall be designated a sub-Meeting;
 - (b) the sub-Meetings shall, taken together, constitute a single Meeting; and
 - (c) the votes in favour of the Arrangement cast at each sub-Meeting, and the votes against the Arrangement cast at each sub-Meeting, shall be aggregated.
- (2) A procedural irregularity with respect to any sub-Meeting shall not render the Meeting invalid unless the Court, or the relevant EC Court, that ordered the Meeting orders otherwise.

7. Priority of distribution of assets.

- (1) Insurance claims shall, after the costs and expenses of the judicial management or the subsequent liquidation of BAICO —

- (a) have a first priority on the assets of BAICO; and
 - (b) rank above all unsecured creditors.
- (2) Subject to subsection (1), the priority of distribution of assets of BAICO shall in the case of the winding-up of BAICO be in accordance with the Companies Act (*Ch. 308*).

8. Regulations.

The Minister may make regulations as may be necessary to give effect to this Act.