

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE:)	
)	
APPLICATION OF EASTERN ALLIANCE)	
INSURANCE COMPANY FOR APPROVAL OF)	
THE ACQUISITION OF CONTROL OF)	
GREAT FALLS INSURANCE COMPANY)	DECISION AND ORDER
)	
APPLICATION OF GREAT FALLS)	
INSURANCE COMPANY FOR APPROVAL)	
OF PLAN OF DISSOLUTION)	
)	
Docket No. INS-17-401)	
(Consolidated))	

Timothy Schott, Deputy Superintendent of Insurance (“Deputy Superintendent”), issues this Decision and Order regarding the above captioned matters.

I. THE PROPOSED TRANSACTIONS

The above-captioned applications seek approval of a two-part transaction. First, Eastern Alliance Insurance Company (“Eastern”), a Pennsylvania insurance holding company, proposes to acquire, by a purchase and sale agreement, Great Falls Insurance Company’s (“GFIC”) book of business, including its renewal rights for certain policies. GFIC will retain the liability for the book of business that existed as of the finalized purchase date (the “Acquisition Filing”). Second, upon approval of the Acquisition Filing, and execution of the purchase and sale agreement, GFIC intends to enter into a voluntary dissolution in accordance with the Application for Plan of Dissolution pursuant to 24-A M.R.S. § 3484.

II. PROCEDURAL HISTORY

On June 26, 2017, Eastern filed a Form A application seeking approval of the proposed acquisition of GFIC’s book of business. On the same date, GFIC filed a request for approval of a Plan of Dissolution. The Bureau of Insurance consolidated the matters and designated the proceeding as Docket No. INS-17-401.

In connection with its June 26, 2017 Form A application, Eastern filed a request for confidentiality, seeking confidential treatment of certain exhibits to its application.

On July 12, 2017, the Superintendent of Insurance issued an order delegating all authority for the adjudication of this matter to Deputy Superintendent Timothy Schott.

On July 12, 2017, the Deputy Superintendent issued a Notice of Pending Proceeding and Hearing. In the Notice, interested persons were provided an opportunity to request to intervene as a full party to the proceeding, but no requests were received prior to the intervention deadline of July 26, 2017.

Throughout the proceeding, the Deputy Superintendent issued information requests to both Eastern and GFIC, to which both applicants filed responses.

On August 10, 2017, the Deputy Superintendent issued a Procedural Order providing guidance for the applicants regarding the conduct of the proceeding.

On August 17, 2017, the Deputy Superintendent issued an Order on Eastern's Request for Confidentiality, granting confidentiality for the entirety of Form A Exhibits B, E, F, G, and H, and granting confidentiality to only certain information contained in Exhibit D.

On August 18, 2017, Eastern filed a Request for Waiver, asking that the 10-day waiting period provided by 24-A M.R.S. § 222(4-C)(A)(3) be waived to allow the closing of these transactions to occur sooner. At the hearing on August 28, 2017, GFIC orally joined this motion.

On August 28, 2017, at 1:00 p.m. a public hearing was held at the Bureau of Insurance, 76 Northern Avenue, Gardiner, Maine. No persons from the public attended or participated in the public hearing. At the hearing, certain evidence was offered and admitted into the record of the proceeding without objection, including the pending applications of the parties and the supporting documentation, the pre-filed testimony of witnesses, and the responses to information requests issued during the proceeding. Three witnesses testified at the hearing: Kevin Shook, Executive Vice President, Treasurer and Chief Financial Officer of Eastern Alliance Insurance Company and its parent, Eastern Insurance Holdings, Inc.; Michael Boguski, President of Eastern Alliance Insurance Company and its parent, Eastern Insurance Holdings, Inc.; and Gary Hall, President and Chief Executive Officer of Great Falls Insurance Company. The record was kept open following the hearing to allow for the submission of post-hearing responses to oral hearing requests of the Deputy Superintendent and Bureau staff.

On August 29, 2017, Eastern and GFIC each filed additional information requested at the hearing. Eastern's response was accompanied by a Motion for Confidentiality of Response to 1st Oral Data Request, requesting the confidentiality of an employment agreement.

On August 30, 2017, the Motion for Confidentiality of Response to 1st Oral Data Request was granted.

On September 5, 2017, Eastern filed a Motion for Confidentiality of Certain Great Falls Materials, requesting confidentiality for certain information produced in response to the Superintendent's First and Second Requests for Information from GFIC.

On September 7, 2017, GFIC filed a Position Statement, in which it joined in Eastern's September 5, 2017 motion.

On September 8, 2017, the Motion for Confidentiality of Certain Great Falls Materials was granted.

III. STANDARD OF REVIEW

As identified in the Notice of Pending Proceeding and Hearing, the legal standard of review for consideration of the pending Acquisition Filing includes the following under 24-A M.R.S. § 222(7)(A):

- (1) Whether, after the proposed acquisition, Eastern could satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance, or last renewal or continuation of its certificate of authority to do the insurance business which it intends to transact in the State of Maine.
- (2) Whether the effect of the proposed acquisition may be to substantially or materially lessen competition in insurance or the insurance business in the State of Maine, or would materially tend to create a monopoly as to such business in Maine, or would violate the laws of the State of Maine or of the United States relating to monopolies or restraints of trade.
- (3) Whether the financial condition of Eastern is such as would jeopardize the financial stability of GFIC or prejudice the interest of its policyholders.
- (4) Whether Eastern's proposed acquisition or proposals to make any major change in the business or corporate structure or management of GFIC are unfair or prejudicial to policyholders.
- (5) Whether the competence, experience, and integrity of Eastern's directors and officers indicate that it would not be in the interest of policyholders or the public to permit them to control the operation of GFIC.
- (6) Whether the proposed transaction violates 24-A M.R.S. § 3474, relating to mergers or consolidations of stock insurers.
- (7) Whether the proposed acquisition would tend to affect adversely the contractual obligations of GFIC or its ability and tendency to render service in the future to its policyholders and the public.

In addition to the legal standards of review under 24-A M.R.S. § 222 as identified above, the Deputy Superintendent in his discretion may consider such other relevant issues as are identified by parties or otherwise.

The legal standard of review for consideration of the Dissolution Filing includes the following under 24-A M.R.S. § 3484:

- (1) Whether the Plan provides for the disposition, by bulk reinsurance or other lawful procedure, of all of GFIC's insurance in force.
- (2) Whether the Plan provides for full discharge of all of GFIC's obligations.
- (3) Whether the Plan designates or provides for trustees to conduct and administer the settlement of GFIC's affairs.
- (4) Whether the Plan is otherwise unlawful, unfair, inequitable, or prejudicial to the interests of any of GFIC's stockholders, policyholders, or creditors.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. **Acquisition Filing**

As to the Form A filing, based upon the testimonial and documentary evidence presented at the hearing and upon a review of the record of this proceeding, it is hereby found that no issues of material concern exist with respect to Eastern's ability to satisfy the legal standards for approval set forth in 24-A M.R.S. § 222(7)(A). Specifically:

- (1) No evidence was presented to the contrary and it is hereby found that Eastern can satisfy the requirements for the issuance of a certificate of authority according to requirements in force at the time of the issuance, or last renewal or continuation of its certificate of authority to do the insurance business which it intends to transact in the State of Maine.
- (2) No evidence was presented to demonstrate and it is hereby not found that any aspect of the proposed acquisition may substantially or materially lessen competition in insurance or the insurance business in the State of Maine, or would materially tend to create a monopoly as to such business in Maine, or would violate the laws of the State of Maine or of the United States relating to monopolies or restraints of trade.
- (3) No evidence was presented to demonstrate and it is hereby not found that the financial condition of Eastern is such as would jeopardize the financial stability of GFIC or prejudice the interest of its policyholders.
- (4) No evidence was presented to demonstrate and it is hereby not found that Eastern's proposed acquisition or proposals to make any major change in the business or corporate structure or management of GFIC are unfair or prejudicial to policyholders.
- (5) No evidence was presented to demonstrate and it is hereby not found that the competence, experience, and integrity of Eastern's directors and officers indicate that it would not be in the interest of policyholders or the public to permit them to control the operation of GFIC.

(6) This transaction does not fall within the scope of 24-A M.R.S. § 3474.

(7) No evidence was presented and it is hereby not found that the proposed acquisition would tend to affect adversely the contractual obligations of GFIC or its ability and tendency to render service in the future to its policyholders and the public.

B. Dissolution Filing

There was no evidence presented and I hereby do not find that the Plan of Dissolution (“the Plan”) is unlawful, unfair or inequitable or prejudicial to the interests of any stockholder, policyholder or creditor. Based on the testimonial and documentary evidence presented at hearing, and upon a review of the record of this proceeding, I find that:

The Plan was unanimously approved by GFIC’s Board of Directors and by the Sole Shareholder at meetings held for the purpose of evaluating the Plan, and that the Sole Shareholder was duly authorized to grant its approval.

The Plan provides for disposition, by bulk reinsurance or other lawful procedure, of all of GFIC’s insurance in force.

The Plan provides for Trustees to conduct and administer the settlement of GFIC’s affairs. The Trustees designated by the Plan are: Gary Hall, Scott Penwell, Tony Weller, Robert Murch, Art Coleman, Jack Ignatowitz, and James Clemons.

The Plan contemplates that the Trustees shall provide for the full discharge of all of GFIC’s obligations.

However, the complexity of issues that may arise during the course of discharging GFIC’s obligations, and the lack of specificity in the Plan regarding the discharge of obligations, make it necessary to impose additional conditions in the Plan. The Plan must provide for the following so that the full discharge of GFIC’s obligations is adequately assured:

(1) The Trustees shall provide the Superintendent with detailed quarterly claim reporting, in a format acceptable to Bureau staff, to include all open claims (including re-opened claims), case reserves, paid claims during the period of the report, and claims closed within the past six (6) years. The Trustees shall also provide quarterly reporting of premium until all policies have expired and all premium audits and any other post-expiration premium adjustments are finalized.

(2) Before the final distribution of GFIC’s assets upon dissolution, the Trustees shall not, except with the prior written approval of the Superintendent:

(a) make any payments or incur any obligations to GFIC’s shareholder(s), the Trustees themselves, or to any of their successors in interest or related parties;

- (b) make any other payments or incur any obligations that exceed \$10,000 in the aggregate in any one month, other than claim payments and routine payment of expenses in the ordinary course of business; or
 - (c) enter into any lump-sum claim settlement agreement in excess of \$20,000 per claim.
- (3) The Superintendent shall have the right to take such actions as are necessary, including the initiation of examinations, audits, and investigations, and/or the maintenance of legal actions on behalf of GFIC's policyholders or creditors, to ensure the preservation of GFIC's assets before its dissolution or to recover payments improperly made from GFIC's assets. Before GFIC's dissolution, the Superintendent reserves the right to conduct a final audit and/or an examination of the company.
- (4) The Trustees must continue to make all required filings with the Superintendent unless specifically allowed an exemption.
- (5) Before the dissolution, the Trustees must provide the Superintendent with evidence that all claims liabilities have been transferred through a reinsurance agreement or other lawful arrangement acceptable to the Superintendent, or with evidence that all liabilities to policyholders and policy claimants have been fully discharged and all applicable statutes of limitations have run.
- (6) The Trustees shall ensure that GFIC maintains its Quota Share Reinsurance Agreement with Citadel Reinsurance Company Limited.
- (7) Any required notices from either GFIC or Eastern to policyholders regarding these transactions, including the acquisition, the plan of dissolution, and the transfer of GFIC's book of business, must be acceptable to Bureau staff in form and content. It is expected that GFIC and Eastern will consult as needed with Bureau staff to meet this requirement.

C. Exemption Request

Both GFIC and Eastern have requested that they be exempted from the 10-day waiting period under 24-A M.R.S. § 222(4-C)(A)(3). An exemption from this waiting period may be granted if it is demonstrated that an exemption will not be detrimental to the interests of policyholders in the State or the public and that the transaction satisfies one of five possible criteria listed in 24-A M.R.S. § 222(4-C)(D). The criteria relevant to this matter is subsection (1), which states "The interests of the State in regulating the transaction are minimal relative to the interests of other jurisdictions or are minimal relative to the impact of the transaction as a whole[.]"

No parties moved to intervene in this matter. There is no evidence in the record that an exemption from the 10-day waiting period will be detrimental to the interests of policyholders in

the State or to the public. In addition, the interests of the State in regulating this transaction are minimal relative to the impact of the transaction as a whole. Accordingly, the request for an exemption from the 10-day waiting period is hereby APPROVED.

V. ORDER

A. **Acquisition Filing**

The Form A application by Eastern Alliance Insurance Company to acquire the book of business and certain assets of Great Falls Insurance Company is hereby APPROVED.

B. **Dissolution Filing**

The application of Great Falls Insurance Company for approval of the Plan of Dissolution is hereby APPROVED; subject, however, to satisfaction of the conditions of approval set forth in Section IV.B. of this Decision and Order.

C. **Exemption Request**

The request for an exemption from the 10-day waiting period under 24-A M.R.S. § 222(4-C)(A)(3) is hereby APPROVED.

VI. NOTICE OF APPEAL RIGHTS

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative Procedure Act. It may be appealed to the Superior Court in the manner provided by 24-A M.R.S. § 236, 5 M.R.S. § 11001, *et seq.* and M.R. Civ. P. 80C. Any party to the proceeding may initiate an appeal within thirty days after receiving this notice. Any aggrieved non-party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal within forty days of the issuance of this decision. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S. § 11004.

PER ORDER OF THE SUPERINTENDENT OF INSURANCE

September 8, 2017


TIMOTHY N. SCHOTT
Deputy Superintendent of Insurance