

Life Insurance Act 1995

(Part 9)

SCHEME FOR THE TRANSFER OF THE LIFE INSURANCE BUSINESS OF ONEPATH LIFE LIMITED TO ZURICH AUSTRALIA LIMITED

Background

- A OnePath Life Limited ABN 33 009 657 176 (**OnePath Life**) and Zurich Australia Limited ABN 92 000 010 195 (**Zurich**) are registered under the Life Act to carry on life insurance business in Australia.
- B This Scheme has been prepared under Part 9 of the Life Act to give effect to the terms of an agreement by which OnePath Life has agreed to sell and transfer, and Zurich has agreed to purchase and accept the transfer of, all of the Business carried on by OnePath Life in Australia. In particular, OnePath Life has agreed to transfer and Zurich has agreed to accept and assume all of the Policies, the Policy Liabilities, the Business Assets and the Business Liabilities.
- C This Scheme is based on an Actuarial Report prepared by the Appointed Actuaries of OnePath Life and Zurich.
- D Before the Scheme can take effect, it must be confirmed by the Federal Court of Australia under Part 9 of the Life Act.

1. Definitions and interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

Actuarial Report means the report dated 23 March 2022 prepared by the Appointed Actuaries, on the Scheme.

Appointed Actuaries means:

- (a) Mr Ian Wong, FIAA, the appointed actuary (within the meaning of the Life Act) of OnePath Life; and
- (b) Mr Stuart Turner, FIAA, the appointed actuary (within the meaning of the Life Act) of Zurich.

APRA means the Australian Prudential Regulation Authority.

Australian Policy Owners' Retained Profits has the meaning given to it in section 61(1) of the Life Act.

Business means the life insurance business carried on by OnePath Life in Australia, within the meaning of the Life Act, including any business of OnePath Life that relates to its life insurance business, as otherwise defined in the Life Act, including:

- (a) the Policies and the Policy Liabilities; and
- (b) the Business Assets and the Business Liabilities,

but does not include the Regulatory Capital.

Business Assets means the assets of OnePath Life (in any jurisdiction) used for the purposes of conducting the Business and without limiting the foregoing, includes the following as may be applicable to the Business:

- (a) right, title and interest in the Business Contracts;

- (b) Business Records;
 - (c) Intellectual Property;
 - (d) Investment Assets;
 - (e) goodwill in the Business;
 - (f) Licences;
 - (g) Plant and Equipment;
 - (h) Receivables; and
 - (i) assets (if any) in the OnePath Life Shareholder Fund related to the Business,
- but excluding the Policies and the Regulatory Capital.

Business Contracts means any oral or written contracts, deeds and arrangements made by OnePath Life (in any jurisdiction) in connection with the Business and subsisting at the Effective Date (including without limitation the Reinsurance Agreements, agreements to settle claims, disputes or allegations relating to the conduct or sale of the Business, the Distribution Agreements and other contracts with intermediaries, suppliers or otherwise), but excluding the Policies and the Tax Deeds of Release.

Business Liabilities means Claims, losses, liabilities, costs or expenses of any kind of the Business (including liabilities (if any) in the OnePath Life Shareholder Fund related to the Business) which have arisen and remain unsatisfied or which may arise in the future or which are prospective or contingent and whether or not the amount of the liability is ascertained or ascertainable other than the Policy Liabilities.

Business Records has the meaning given in the Transfer Agreement.

CCI Class Action means the class action relating to consumer credit insurance filed against Australia and New Zealand Banking Group Limited, OnePath Life, OnePath General Insurance Pty Limited and QBE Insurance (Australia) Limited on or around 28 February 2020.

CCI Class Action Liabilities means the contingent liabilities of OnePath Life arising from the CCI Class Action including, but not limited to, legal costs and expenses incurred in connection with the defence of the CCI Class Action and any damages or other compensation, interest or costs for which OnePath Life may become liable pursuant to either Court order or agreement in connection with the CCI Class Action.

Claim means, in relation to any person, a claim, action, proceeding, judgment, damage, loss, cost, charge, expense or liability of whatever nature incurred by or to or made or recovered by or against the person, however arising and whether present, future or contingent, whether ascertained or unascertained and whether arising before or after the Effective Date.

Corporations Act means the *Corporations Act 2001* (Cth).

Distribution Agreement means any agreement in force at the Effective Date pursuant to which OnePath Life appoints a third party to distribute financial products of the Business.

Effective Date means 12:01am on 1 August 2022 or such other date that the Federal Court of Australia may specify as the commencement date of the Scheme should the Scheme be confirmed by the Court.

Intellectual Property has the meaning given in the Transfer Agreement.

Investment Assets has the meaning given in the Transfer Agreement.

Licences has the meaning given in the Transfer Agreement.

Life Act means the *Life Insurance Act 1995* (Cth).

life policy has the meaning given in the Life Act and includes contracts of insurance and reinsurance.

OnePath Life Participating Policies means the policies referable to OnePath Life Statutory Fund No. 1 or OnePath Life Statutory Fund No. 3 immediately prior to the Effective Date that are classified in accordance with the Life Act as participating and that become referable to Zurich Statutory Fund No. 2 on and from the Effective Date as contemplated by this Scheme.

OnePath Life Statutory Fund means a statutory fund established by OnePath Life that relates solely to the life insurance business of OnePath Life or a particular part of that business.

Overseas Policy Owners' Retained Profits has the meaning given to it in section 61(1) of the Life Act.

Plant and Equipment has the meaning given in the Transfer Agreement.

Policies means:

- (a) all life policies that are referable to the Business issued, entered into or assumed by OnePath Life as insurer or reinsurer prior to the Effective Date (including, for clarity, life policies which may have lapsed, been cancelled or expired but under which benefits or rights may remain);
- (b) any agreement to insure or reinsure under a life policy that is referable to the Business issued, entered into or assumed by OnePath Life as insurer or reinsurer prior to the Effective Date where the life policy is to commence or does commence on or after the Effective Date; and
- (c) any Post-Effective Date Policy.

Policy Liabilities means claims, losses, liabilities, costs or expenses of any kind under or in respect of the Policies, which have arisen and remain unsatisfied or which may arise in the future or which are prospective or contingent and whether or not the amount of the liability is ascertained or ascertainable.

Post-Effective Date Policy means any life policy that is referable to the Business issued, entered into or assumed by or on behalf of OnePath Life as insurer or reinsurer (whether through inadvertence, mistake or otherwise) in the three months following the Effective Date.

Receivables has the meaning given in the Transfer Agreement.

Regulatory Capital means an amount equal to 120% of the minimum amount of capital required to be held by OnePath Life immediately after the Effective Date under APRA Prudential Standard LPS 110.

Reinsurance Agreements means all contracts of reinsurance (however described) relating to the Business where OnePath Life is the reinsured party in force at the Effective Date.

Retained Profits means Retained Profits (Participating) and Shareholders' Retained Profits (Overseas and Non-Participating).

Retained Profits (Participating) means any Australian Policy Owners' Retained Profits, Overseas Policy Owners' Retained Profits and Shareholders' Retained Profits (Australian Participating).

Retained Regulatory Capital means, in relation to OnePath Life Statutory Fund No. 1, an amount equal to the Regulatory Capital.

Scheme means the scheme, as set out in this document, to be confirmed by the Federal Court of Australia in accordance with Part 9 of the Life Act for the transfer of the Business to Zurich.

Shareholders' Capital has the meaning given to it in section 61(1) of the Life Act.

Shareholder Fund means a fund so designated and maintained in the records of a life insurer registered under the Life Act, outside of its statutory funds.

Shareholders' Retained Profits (Overseas and Non-Participating) has the meaning given to it in section 61(1) of the Life Act.

Shareholders' Retained Profits (Australian Participating) has the meaning given to it in section 61(1) of the Life Act.

Superannuation Class Action means the class action filed against OnePath Custodians Pty Limited, Australia and New Zealand Banking Group Limited and OnePath Life on or around 23 December 2020.

Superannuation Class Action Liabilities means the contingent liabilities of OnePath Life arising from the Superannuation Class Action including, but not limited to, legal costs and expenses incurred in connection with the defence of the Superannuation Class Action and any damages or other

compensation, interest or costs for which OnePath Life may become liable pursuant to either Court order or agreement in connection with the Superannuation Class Action.

Tax Deeds of Release means the:

- (a) ITSA Deed of Release dated 31 May 2019 between OnePath Life, OnePath Life Australia Holdings Pty Limited, OnePath General Insurance Pty Limited and Australia and New Zealand Banking Group Limited; and
- (b) TSA/TFA Deed of Release dated 31 May 2019 executed by Australia and New Zealand Banking Group Limited.

Transfer Agreement means the Transfer Agreement dated 24 March 2022 between OnePath Life, Zurich and ZFSA for the sale and transfer of the Business to Zurich.

Zurich Statutory Fund means a statutory fund established by Zurich that relates solely to the life insurance business of Zurich or a particular part of that business.

ZFSA means Zurich Financial Services Australia Limited ABN 11 008 423 372 (the Australian parent company of Zurich and OnePath Life).

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply in this Scheme unless the context requires otherwise:

- (a) The singular includes the plural and conversely.
- (b) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (d) A reference to a clause or schedule is a reference to a clause of or a schedule to, this Scheme.
- (e) A reference to an agreement or document (including, without limitation, a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced except to the extent prohibited by this Scheme or that other agreement or document.
- (f) A reference to a party to an agreement or document includes the party's successors and permitted substitutes or assigns (and, where applicable, the party's legal personal representatives).
- (g) A reference to legislation or to a provision of legislation includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (h) **includes, including** and similar expressions are not intended to operate as words of limitation or imply any limitation.
- (i) A reference to time is to New South Wales, Australia time.
- (j) A reference to '\$' is to Australian dollars.
- (k) A word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act.

2. Transfer of Business

On the Effective Date, OnePath Life agrees to sell and transfer and Zurich agrees to purchase and accept the transfer of all of the Business and, in particular:

- (a) the Policies and the Policy Liabilities; and
- (b) the Business Assets and the Business Liabilities,

from OnePath Life in accordance with the terms of the Transfer Agreement, including all right, title, interest, benefit and powers that have arisen, or may in the future arise under any of the above.

3. Consideration for the transfer of Business

In consideration of the transfer of the Policies and Business Assets to Zurich, Zurich agrees to assume the Policy Liabilities and Business Liabilities.

4. Transfer of Policies and Policy Liabilities

- (a) On and from the Effective Date, OnePath Life transfers to Zurich and Zurich accepts the transfer of the Policies and the Policy Liabilities, and Zurich assumes and takes over and must indemnify and keep OnePath Life indemnified from and against all Claims under or in connection with the Policies or Policy Liabilities.
- (b) In the case of any Post-Effective Date Policies, the transfer of those policies to and the assumption of liabilities under those policies by Zurich will take effect on and from the date on which the Post-Effective Date Policy is issued or entered into by OnePath Life.

5. Transfer of Business Assets

On and from the Effective Date, Zurich is beneficially entitled to the benefit of the Business Assets and Zurich assumes responsibility for the Business Assets and shall indemnify and keep OnePath Life indemnified from and against all Claims under or in connection with the Business Assets in accordance with the terms of the Transfer Agreement.

6. Proceedings

If any proceedings are pending or any proceedings are brought on or after the Effective Date by or against OnePath Life in any court or tribunal in respect of or in connection with the Policies, the Policy Liabilities, the Business Assets or the Business Liabilities, such proceedings will be continued by or against Zurich, and the parties agree to take all necessary action to effect a change of the name of the party in those proceedings from OnePath Life to Zurich.

7. Effective Date

The sale and purchase of the Business from OnePath Life to Zurich, and the transfer to and assumption of the Policies and Policy Liabilities by Zurich pursuant to this Scheme will take effect on and from the Effective Date (or in the case of any Post-Effective Date Policy, on the date that it is issued by OnePath Life).

8. Implementation

OnePath Life and Zurich will do all such things and execute all such deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of the Transfer Agreement, this Scheme, the Actuarial Report and the transactions contemplated by them.

9. Costs of the Scheme

Any stamp duty and other costs and expenses incurred in connection with the Scheme will not be paid by or charged to policy owners, but will be met by ZFSA.

10. Consequences of the transfer of Business

10.1 References in Policies

On and from the Effective Date:

- (a) all references to OnePath Life in a Policy are replaced with a reference to Zurich;
- (b) all references to OnePath Life Statutory Fund No. 1 in a Policy shall be read as a reference to Zurich Statutory Fund No. 2;
- (c) all references to OnePath Life Statutory Fund No. 2 in a Policy shall be read as a reference to Zurich Statutory Fund No. 3;
- (d) all references to OnePath Life Statutory Fund No. 3 in a Policy shall be read as a reference to Zurich Statutory Fund No. 2;
- (e) all references to OnePath Life Statutory Fund No. 4 in a Policy shall be read as a reference to Zurich Statutory Fund No. 3; and
- (f) all references to OnePath Life Statutory Fund No. 5 in a Policy shall be read as a reference to Zurich Statutory Fund No. 2.

10.2 References in Business Contracts

On and from the Effective Date:

- (a) all references to OnePath Life in a Business Contract (including a Reinsurance Agreement) are replaced with Zurich;
- (b) all references to OnePath Life Statutory Fund No. 1 in a Business Contract (including a Reinsurance Agreement) shall be read as a reference to Zurich Statutory Fund No. 2;
- (c) all references to OnePath Life Statutory Fund No. 2 in a Business Contract (including a Reinsurance Agreement) shall be read as a reference to Zurich Statutory Fund No. 3;
- (d) all references to OnePath Life Statutory Fund No. 3 in a Business Contract (including a Reinsurance Agreement) shall be read as a reference to Zurich Statutory Fund No. 2;
- (e) all references to OnePath Life Statutory Fund No. 4 in a Business Contract (including a Reinsurance Agreement) shall be read as a reference to Zurich Statutory Fund No. 3; and
- (f) all references to OnePath Life Statutory Fund No. 5 in a Business Contract (including a Reinsurance Agreement) shall be read as a reference to Zurich Statutory Fund No. 2.

10.3 Rights and obligations of Policy owners and insured persons

- (a) With effect on and from the Effective Date, the rights, benefits and liabilities of owners of Policies, and of all persons claiming through or under them, on the one hand and Zurich on the other hand, will be the same in all respects as they would have been if the Policies had been issued or entered into by Zurich instead of OnePath Life.
- (b) All proposals, applications, declarations and representations made to OnePath Life on which any Policy or other life policy (whether issued or entered into by OnePath Life or Zurich) is based shall as and from the Effective Date be taken to have been made to or accepted by Zurich instead of OnePath Life.
- (c) Any Policy owner or other person having any claim on or obligation to OnePath Life under or in respect of a Policy will, as and from the Effective Date, have the same claim on or obligation to Zurich in substitution for that person's claim on or obligation to OnePath Life irrespective of when such claim or obligation arose.
- (d) Zurich will, on and from the Effective Date, be entitled to enforce all rights and remedies as against any Policy owner or third party arising under or by virtue of any Policy (including but not limited to any claims by way of subrogation, contribution, outstanding premium and any other recoveries related directly or indirectly to any Policies) and receive and appropriate all premiums and other monies which, but for the Scheme would have been enforceable or recoverable by OnePath Life under or in respect of the Policies.
- (e) Policy owners are not required to take any action before or as a result of the Scheme.

- (f) For the purposes of any Post-Effective Date Policies, the provisions of this clause 10.3 will apply with effect on and from the date on which the Post-Effective Date Policy is issued or entered into by OnePath Life.
- (g) Upon confirmation of the Scheme by the Federal Court of Australia, the Scheme becomes binding on all persons.

10.4 Authorities

On and from the Effective Date, all directions, authorities, mandates or instructions given to OnePath Life:

- (a) to deduct premiums or fees payable in respect of the Policies (including by debiting a bank account, through automatic payroll deductions or through electronic bank transfer); or
 - (b) to disclose or obtain information in the course of carrying on the Business,
- are deemed to be given to Zurich instead of OnePath Life.

10.5 Commissions

On and from the Effective Date, Zurich:

- (a) bears the obligation to pay commissions payable to any person in respect of a Policy; and
- (b) is entitled to seek repayment of commission (whether originally paid by Zurich or OnePath Life) in excess of the recipient's entitlement, instead of OnePath Life.

11. OnePath Life Statutory Funds

11.1 Policies

On and from the Effective Date:

- (a) each Policy referable to OnePath Life Statutory Fund No. 1, OnePath Life Statutory Fund No. 3 or OnePath Life Statutory Fund No. 5 becomes a policy referable to Zurich Statutory Fund No. 2; and
- (b) each Policy referable to OnePath Life Statutory Fund No. 2 or OnePath Life Statutory Fund No. 4 becomes a policy referable to Zurich Statutory Fund No. 3.

11.2 Business Assets

On and from the Effective Date:

- (a) the Business Assets of OnePath Life Statutory Fund No. 1 immediately before the Effective Date become assets of Zurich Statutory Fund No. 2;
- (b) the Business Assets of OnePath Life Statutory Fund No. 2 immediately before the Effective Date become assets of Zurich Statutory Fund No. 3;
- (c) the Business Assets of OnePath Life Statutory Fund No. 3 immediately before the Effective Date become assets of Zurich Statutory Fund No. 2;
- (d) the Business Assets of OnePath Life Statutory Fund No. 4 immediately before the Effective Date become assets of Zurich Statutory Fund No. 3; and
- (e) the Business Assets of OnePath Life Statutory Fund No. 5 immediately before the Effective Date become assets of Zurich Statutory Fund No. 2.

11.3 Policy Liabilities and Business Liabilities

On and from the Effective Date:

- (a) the Policy Liabilities (excluding the CCI Class Action Liabilities) and Business Liabilities of OnePath Life Statutory Fund No. 1 immediately before the Effective Date become liabilities of Zurich Statutory Fund No. 2;
- (b) the Policy Liabilities and Business Liabilities of OnePath Life Statutory Fund No. 2 immediately before the Effective Date become liabilities of Zurich Statutory Fund No. 3;

- (c) the Policy Liabilities and Business Liabilities of OnePath Life Statutory Fund No. 3 immediately before the Effective Date become liabilities of Zurich Statutory Fund No. 2;
- (d) the Policy Liabilities (excluding the Superannuation Class Action Liabilities) and Business Liabilities of OnePath Life Statutory Fund No. 4 immediately before the Effective Date become liabilities of Zurich Statutory Fund No. 3;
- (e) the Policy Liabilities and Business Liabilities of OnePath Life Statutory Fund No. 5 immediately before the Effective Date become liabilities of Zurich Statutory Fund No. 2; and
- (f) the CCI Class Action Liabilities of OnePath Life Statutory Fund No. 1 and the Superannuation Class Action Liabilities of OnePath Life Statutory Fund No. 4 immediately before the Effective Date become liabilities of, and will be borne by, the Zurich Shareholder Fund.

11.4 Shareholders' Capital and Retained Profits

- (a) Any Retained Profits (Participating) in relation to OnePath Life Statutory Fund No. 1 or OnePath Life Statutory Fund No. 3 that are maintained in respect of OnePath Life Participating Policies immediately prior to the Effective Date become Retained Profits (Participating) respectively in relation to Zurich Statutory Fund No. 2 that are maintained in respect of OnePath Life Participating Policies.
- (b) Any Shareholders' Retained Profits (Overseas and Non-Participating) in relation to OnePath Life Statutory Fund No. 1 or OnePath Life Statutory Fund No. 3 immediately prior to the Effective Date become part of the Shareholders' Retained Profits (Overseas and Non-Participating) in relation to Zurich Statutory Fund No. 2.
- (c) Any Shareholders' Capital (other than the Retained Regulatory Capital) in relation to OnePath Life Statutory Funds No. 1 and No. 3 immediately prior to the Effective Date become part of the Shareholders' Capital in relation to Zurich Statutory Fund No. 2.
- (d) Any Shareholders' Capital and Retained Profits in relation to OnePath Life Statutory Fund No. 2 immediately prior to the Effective Date become part of the Shareholders' Capital and Retained Profits respectively in relation to Zurich Statutory Fund No. 3.
- (e) Any Shareholders' Capital and Retained Profits in relation to OnePath Life Statutory Fund No. 4 immediately prior to the Effective Date become part of the Shareholders' Capital and Retained Profits respectively in relation to Zurich Statutory Fund No. 3.
- (f) Any Shareholders' Capital and Retained Profits in relation to OnePath Life Statutory Fund No. 5 immediately prior to the Effective Date become part of the Shareholders' Capital and Retained Profits respectively in relation to Zurich Statutory Fund No. 2.

12. OnePath Life Shareholder Fund

For the avoidance of doubt the assets and liabilities of the OnePath Life Shareholder Fund related to the Business immediately prior to the Effective Date will become assets and liabilities respectively of the Zurich Shareholder Fund on and from the Effective Date.

13. Conduct of Business on and from Effective Date

13.1 Policies and practices

- (a) On and from the Effective Date, Zurich shall maintain policies and practices designed to enable it to conduct the Business in a manner which:
 - (i) is consistent with its legal and regulatory obligations;
 - (ii) satisfies the contractual rights and benefits and reasonable benefit expectations of the owners of Policies; and
 - (iii) provides adequate benefit security for the owners of Policies.

- (b) For the purposes of this clause 13.1, 'policies and practices' include policies and practices relating to:
 - (i) the declaration of interest crediting rates and bonus rates in respect of the OnePath Life Participating Policies;
 - (ii) investment policies and strategies;
 - (iii) underwriting and claims management;
 - (iv) arrangements relating to reinsurance;
 - (v) the bases to be used for asset valuations;
 - (vi) unit pricing systems and processes;
 - (vii) the method of determining premium rates and charges;
 - (viii) the process and basis of taxation;
 - (ix) the risk management framework;
 - (x) the capital management framework;
 - (xi) the principles underpinning the method of allocating expenses;
 - (xii) the processes applied in determining discretionary charges and surrender values; and
 - (xiii) remediation.
- (c) Zurich will review such policies and practices periodically to ensure that they remain appropriate and, following such review, may alter those policies and practices in any manner which is designed to enable it to conduct the Business in a manner which:
 - (i) is consistent with its contractual and legal obligations;
 - (ii) satisfies the contractual rights and benefits and reasonable benefit expectations of the owners of Policies; and
 - (iii) provides adequate benefit security for the owners of Policies.

13.2 Investment portfolios

- (a) Subject to clause 13.2(b), the investment portfolios in OnePath Life Statutory Fund No.1 , OnePath Life Statutory Fund No. 3 and OnePath Life Statutory Fund No. 5 immediately prior to the Effective Date become maintained in Zurich Statutory Fund No. 2.
- (b) The investment portfolios in OnePath Life Statutory Fund No. 1 and OnePath Life Statutory Fund No. 3 in respect of the OnePath Life Participating Policies immediately prior to the Effective Date become maintained in Zurich Statutory Fund No. 2 in respect of the OnePath Life Participating Policies only.

13.3 Units and investment unit pools

- (a) The units and investment unit pools in OnePath Life Statutory Fund No. 2 immediately prior to the Effective Date become maintained in Zurich Statutory Fund No. 3 separately from the existing Zurich units and investment pools in that Statutory Fund.
- (b) The units and investment unit pools in OnePath Life Statutory Fund No. 4 immediately prior to the Effective Date become maintained in Zurich Statutory Fund No. 3 separately from the existing Zurich units and investment pools in that Statutory Fund.

13.4 Ordinary course of business

Nothing in clauses 13.2 or 13.3 shall be construed to limit actions that may otherwise be taken by Zurich after the Effective Date in the ordinary course of business consistent with its contractual and legal obligations.