NOTICE OF FILING

Details of Filing

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File Title:	CREDIT SUISSE VIRTUOSO SICAV-SIF CREDIT SUISSE (LUX) SUPPLY CHAIN FINANCE FUND v INSURANCE AUSTRALIA LIMITED (ACN 000 016 722) & ORS
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.

Form 17
Rule 8.05(1)(a)

Tenth ~~Ninth~~ Amended Statement of Claim

Filed pursuant to leave granted by Thawley J on 19 August ~~26 June~~ 2026

No. 106 of 2022

Federal Court of Australia

District Registry: New South Wales

Division: Commercial and Corporations National Practice Area

CREDIT SUISSE VIRTUOSO SICAV-SIF IN RESPECT OF THE SUB-FUND CREDIT SUISSE (LUX) SUPPLY CHAIN FINANCE FUND

Applicant

INSURANCE AUSTRALIA LIMITED (ACN 000 016 722) and others set out in the schedule

Respondents

A. NATURE OF THE DISPUTE

1. The Applicant is named as Loss Payee in endorsements to insurance policies issued purportedly on behalf of the First Respondent, Insurance Australia Limited (ACN 000 016 722) (the **Insurer**), to Greensill Capital Pty Limited (ACN 154 088 132) (**GCPL**) and ~~the Second Respondent,~~ Greensill Bank AG (**Greensill Bank** or **GBAG**). Those policies were issued by the Fourth Respondent, BCC Trade Credit Pty Ltd (ACN 608 296 233) (**BCC**), and Fifth Respondent, Greg Brereton (**Brereton**), without the authority of the Insurer.

1A. The Applicant claims that BCC and Brereton engaged in misleading or deceptive conduct in contravention of s 1041H of the *Corporations Act 2001* (Cth) (**Corporations Act**), s 12DA of the *Australian Securities and Investments Commission Act 2001* (**ASIC Act**), and/or s 18 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**Competition and Consumer Act**), including as applied by the *Competition Policy Reform (New South Wales) Act 1995* (NSW) (**Australian Consumer Law**); knowingly or recklessly made representations,

Filed on behalf of (name & role of party)	Credit Suisse Virtuoso SICAV-SIF in respect of the sub-fund Credit Suisse (Lux) Supply Chain Finance Fund, Applicant
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including as to their authority, that were false in a material particular or were materially misleading and thereby committed the tort of deceit and contravened s 1041E of the Corporations Act.

1B. The Applicant alleges, further or in the alternative, that the Insurer and BCC and the Sixth and Seventh Respondents (being the Tokio Marine parties) knew by no later than mid-2020, but failed to disclose to the Applicant, that the relevant policy documents may have been entered into in excess of authority, and that those respondents thereby: (i) engaged in misleading or deceptive conduct in contravention of s 1041H of the Corporations Act, s 12DA of the ASIC Act, and/or s 18 of the Australian Consumer Law; and (ii) breached their duties of care to the Applicant.

1C. The Applicant also alleges that the Insurer and the Seventh Respondent, Tokio Marine & Nichido Fire Insurance Co Ltd (**TMNF**) are responsible for the conduct of BCC and Brereton for the purposes of ss 917B or 917C of the Corporations Act.

1D. As against the Eighth Respondent, Marsh Limited (**Marsh**), the Applicant alleges that it was negligent in 2017 when it failed to make proper inquiries as to the limits of BCC's and Brereton's authority, despite undertaking the responsibility to do so, and in that context, that it engaged in misleading or deceptive conduct in contravention of s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law, and made representations that were false in a material particular or were materially misleading in contravention of s 1041E of the Corporations Act, by periodically representing to the Applicant that the 2018 Policy or 2019 Policy, as the case may be, and their respective endorsements were valid and effective and that it was not aware of any matter that suggested that BCC or Brereton did not have the necessary authority to issue those documents.

1E. In addition, the Applicant alleges against the Eighth Respondent that the Eighth Respondent knew by no later than early July 2020 that the relevant policy documents may have been entered into in excess of authority, but failed to disclose this to the Applicant, and instead continued to represent that the policy documents were valid and enforceable. It is alleged the Eighth Respondent thereby: (i) engaged in misleading or deceptive conduct in contravention of s 12DA of the ASIC Act and/or s 18 of the Australian Consumer Law; (ii) made

representations that were false in a material particular or were materially misleading in contravention of s 1041E of the Corporations Act; and (iii) breached its duty of care to the Applicant.

B. ISSUES LIKELY TO ARISE

2. [NOT USED]

2A. Whether the Fourth Respondent and/or the Fifth Respondent were authorised to enter into the 2019 Policy (as defined at paragraph 38 below) as agent for the First Respondent.

2B. [NOT USED]

2C. Whether the First Respondent, Fourth Respondent, the Fifth Respondent, the Sixth Respondent and/or the Seventh Respondent engaged in misleading or deceptive conduct in contravention of s 1041H of the Corporations Act, s 12DA of the ASIC Act, and/or s 18 of the Australian Consumer Law.

2D. Whether the Fourth Respondent and/or the Fifth Respondent made representations that were false in a material particular or were materially misleading in contravention of s 1041E of the Corporations Act, or committed the tort of deceit.

2DA. Whether the First Respondent, Fourth Respondent, Sixth Respondent and/or Seventh Respondent were negligent.

2DB. Whether the Eighth Respondent engaged in misleading or deceptive conduct in contravention of s 12DA of the ASIC Act or s 18 of the Australian Consumer Law, made representations that were false in a material particular or were materially misleading in contravention of s 1041E of the Corporations Act, or was negligent.

2E. The quantum of the Applicant's loss or damage arising from one or more of the breaches or contraventions referred to in paragraphs 2C to 2DB above.

C. THE PARTIES

3. The Applicant (**Credit Suisse Virtuoso**) is:

(a) a Société Anonyme company incorporated under the laws of Luxembourg

and is able to sue and be sued; and

(b) acting in respect of its sub-fund, Credit Suisse (Lux) Supply Chain Finance Fund.

4. At all material times, Credit Suisse Virtuoso was in the business of generating financial returns by investing in zero coupon global notes issued by a special purpose vehicle.

Particulars

A zero coupon global note is a debt security instrument that pays, on the maturity date (and in some instances also on instalment dates), the value of the note (or the specified instalment) with no separate interest payments.

5. The First Respondent, the **Insurer**, is a company incorporated under the laws of Australia and is able to sue and be sued.

6. ~~The Second Respondent,~~ Greensill Bank~~,~~ is incorporated under the laws of Germany.

7. ~~The Third Respondent,~~ Dr Michael Frege~~,~~ was appointed as an insolvency administrator to Greensill Bank on 16 March 2021.

8. At all material times, the Insurer was in the business of issuing general insurance products in Australia.

D.1 [NOT USED]

8A. The Fourth Respondent, BCC, is and was at all material times a company registered under the laws of Australia and is able to be sued.

9. From 1 August 2017 to 30 June 2019, BCC was an authorised representative under the AFS Licence held by IAG Agencies Pty Limited (ACN 147 749 139) (**IAG Agencies**), a subsidiary of Insurance Australia Group Limited (ABN 60 090 739 923) (**IAG**), and wrote trade credit insurance policies on behalf of the Insurer, also a subsidiary of IAG.

10. From 1 July 2019, BCC has acted as the Insurer's agent to administer trade credit insurance policies issued by the Insurer on or before 30 June 2019.

10A. From at least 14 July 2016 to 8 July 2020, the Fifth Respondent, Brereton, was employed by Bond and Credit Company Pty Ltd (**Bond**) as BCC's Head of Trade Credit.

10AA. The Sixth Respondent, Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455) (**TMMA**) is:

(a) a company incorporated under the laws of Australia and able to sue and be sued; and

(b) the Australian managing agent of TMNF.

10AB. The Seventh Respondent, TMNF, is a foreign registered corporation and general insurer that provides financial services (namely, the issuing of insurance policies) under an Australian Financial Services Licence and is regulated by the Australian Prudential Regulation Authority.

10AC. At all material times, the Eighth Respondent, Marsh:

(a) was a company incorporated under the laws of the United Kingdom;

(b) was the insurance broker engaged by one or more of GCPL, Greensill Capital (UK) Limited (**GCUK**) and/or GBAG in respect of the 2018 Policy (as defined at paragraph 30 below) and the 2019 Policy (as defined at paragraph 38 below); and

(c) conducted business in Australia within the meaning of s 5 of the Competition and Consumer Act and s 12AC(1) of the ASIC Act.

Particulars

(i) Marsh provided insurance broking services pursuant to an engagement by one or more of GBAG, GCUK and/or GCPL (**Marsh Broking Services**).

(ii) The Marsh Broking Services were provided largely by Marsh employees, in particular Julian Macey-Dare, Edward Smith and Angus Ward, and included:

(A) negotiating and arranging insurance cover with Australian-domiciled insurers on behalf of an Australian-domiciled

Insured;

(B) arranging the Insurer's entry into the LOS Policy (as defined at paragraph 29ZZ below), the 2018 Policy and the 2019 Policy and the endorsements to those policies, each of which are governed by the law of New South Wales and have as parties an Australian-domiciled insurer and an Australian-domiciled insured; and

(C) accessing an online portal maintained by BCC in Australia for the purpose of confirming and/or monitoring the insurance cover arranged by Marsh and provided by the Insurer to the Insured.

(iii) Further, the Marsh Broking Services were provided in part by employees of Marsh Pty Ltd (**Marsh Sydney**), a company incorporated under the laws of Australia, acting at the direction of Marsh, including the invoicing and receipt of commissions payable by one or more of GBAG, GCUK and/or GCPL to Marsh in respect of the Marsh Broking Services. Those employees included in particular Ewan Berkemeier. That Marsh Sydney was acting at the direction of Marsh can be inferred from Marsh's entitlement to commissions in respect of premiums paid to the Insurer for the LOS Policy, the 2018 Policy and the 2019 Policy and the endorsements to those policies, among others, and Marsh Sydney's invoicing and receipt of those commissions: see, for example, invoice dated 4 December 2018 (MMC_GCUK12_00000548), invoice dated 4 August 2020 (MMC_GCUK14_00001947), invoice dated 16 February 2021 (MMC_GCUK14_00002453).

(iv) Further particulars may be provided after further discovery and evidence.

D. OTHER RELEVANT ENTITIES

D.2 Greensill group of companies

11. At all material times, GCPL was incorporated under the laws of Australia.

12. On 9 March 2021, Matthew Byrnes, Philip Campbell-Wilson and Michael

McCann, officers of Grant Thornton Australia Limited (**Grant Thornton**), were appointed Joint and Several Administrators of GCPL and on 22 April 2021, were appointed Joint and Several Liquidators of GCPL.

13. At all material times, GCUK was incorporated under the laws of England and Wales.

14. On 8 March 2021, GCUK applied under s 124 of the *Insolvency Act 1986* (UK) for GCUK to be wound up on the basis that GCUK was unable to pay its debts for the purposes of s 122(1)(f) of the *Insolvency Act 1986* (UK), and on or about 22 March 2021, a notice of administrator's appointment (dated 10 March 2021) was filed.

15. At all material times, Greensill Bank, GCPL and GCUK (together, the **Greensill Group**) were part of a group that provided financing, including, but not limited to, supply chain financing, to industrial companies.

D.3 Hoffman

16. Hoffman S.á r.l. (**Hoffman**) is:

    (a) a company incorporated under the law of Luxembourg; and

    (b) a securitisation company within the meaning of and governed by the *Luxembourg Securitisation Act 2004*.

D.4 Catfoss Renewables Ltd

17. At all material times, Catfoss Renewables Ltd (**Catfoss**) was, and is, a company incorporated under the laws of England and Wales.

18. At all material times, Catfoss was a start-up which aspired to be in the business of waste segregation.

E. THE INSTALMENT PAYMENT AGREEMENT, SIDE LETTER AND GROUP GUARANTEES

19. On 29 June 2018, GCUK entered into an Instalment Payment Agreement with Catfoss (the **IPA**).

Particulars

The IPA was in writing and was executed on 29 June 2018 (CSA.0001.0001.2904).

20. The IPA provided for GCUK to provide financing to Catfoss up to the "Facility Amount" (being GBP 23,000,000) according to the following process (with defined terms having the meaning assigned in the IPA):

(a) Catfoss could submit to GCUK a "payment assurance upload file" (**PAUF**) which set out one or more "Drawdown Amounts" which amounts Catfoss intended to use to discharge one or more "Payables", together with the "Maturity Dates" for the corresponding "Repayment Amounts": cl. 1;

(b) if GCUK accepted the offer to pay the Drawdown Amounts to Catfoss as set out in the PAUF, it was to procure payment of those amounts within 5 business days to allow Catfoss to discharge the applicable Payable(s): cl. 1;

(c) for each Drawdown Amount paid by GCUK, Catfoss agreed to pay the corresponding "Repayment Amount" on the "Maturity Date": cl. 2;

(d) Catfoss' obligation to remit the "Repayment Amounts" to GCUK in accordance with the IPA is absolute, unconditional, non-cancellable, and independent, and shall not be subject to any withholding, deduction, set-off, claim or defence for any reason, including, but not limited to any termination of the business relationship, or dispute arising, with any third party or GCUK (save in respect of a breach by GCUK of its obligation to accept PAUFs in the period of three years commencing on the first drawdown under the IPA, in accordance with the terms of the Side Letter), Catfoss' failure to settle a Payable, or any default by a third party: cl. 2;

(e) If full payment of any "Repayment Amount" and other amount payable is not received by GCUK within 5 clear days of the applicable "Maturity Date", Catfoss agrees to pay interest on the overdue amounts at the rate the lesser of 1.5% per month or the maximum amount allowed by law: cl. 2;

(f) The following constituted defaults under the IPA: (a) Catfoss fails to pay

when due any sums due under the IPA (other than in circumstances where GCUK had failed to accept an offer in the period of three years commencing on the first drawdown of the IPA, in accordance with the terms of the Side Letter); (b) Catfoss fails to perform or observe any obligation or breaches any representation in the IPA; (c) Catfoss ceases business, or becomes insolvent, or bankruptcy, reorganization or insolvency proceedings are instituted by or against Catfoss: cl. 5.

21. Also on 29 June 2018, Catfoss and GCUK entered into a side agreement to the IPA in the form of a side letter (**Side Letter**).

Particulars

The Side Letter was in writing and was executed on 29 June 2018 (CSA.0001.0001.3012).

22. It was a term of the Side Letter that (with defined terms having the meaning assigned in the Side Letter):

(a) the first offer submitted by Catfoss to GCUK would comprise 26 amounts each in the sum of GBP 884,616, and in respect of those offers, each "Repayment Amount" would be 26 amounts each in the sum of GBP 884,616 (each an "Instalment Amount") to be paid on each "Maturity Date": cl. 1.1;

(b) on each "Maturity Date" relating to an "Instalment Amount" during the three-year period after entry into the IPA, Catfoss would be deemed to have submitted, and GCUK deemed to have accepted (notwithstanding any provision in the IPA), an offer on the relevant "Maturity Date" for a new advance under the IPA of an amount of GBP 884,616, with a "Maturity Date" of 365 days after the "Drawdown Date": cl. 2.1;

(c) notwithstanding any provision of the IPA, GCUK shall accept an offer submitted in accordance with cl. 2.1 during the Period. Following expiry of the Period, GCUK shall not be obliged to accept any further offers from Catfoss under the IPA, and GCUK and Catfoss shall endeavour to renegotiate the terms of the IPA such that principal (sic) and interest under the IPA will amortise to zero over the subsequent 24-month period: cl. 2.3;

(d) Catfoss will pay interest to GCUK on all amounts outstanding under the IPA, on a quarterly basis: cl. 3.1;

(e) if Catfoss breaches the terms of the Side Letter, it shall be a Default under the IPA: p 4;

(f) if there is a conflict between the terms of the Side Letter and the terms of the IPA, the terms of the Side Letter will prevail: p 4.

23. On 20 November 2020, the Side Letter was amended to change the definition of "Period" to "the period commencing on the first date of Drawdown and ending on 28 February 2021".

Particulars

The Side Letter was amended by a further letter executed by GCUK and Catfoss and dated 20 November 2020 (CSA.0001.0006.0159).

24. On 31 December 2020, in supplement to the IPA, the parties agreed that from 31 December 2020, so long as no Default was continuing, interest accruing on amounts outstanding under the IPA which is payable at the end of each quarter shall be deferred to the earlier of (a) the expiry of the Period and (b) the date on which the IPA is refinanced or otherwise terminated, whereupon all interest that has been deferred shall be paid in full by Catfoss to GCUK.

25. The Applicant relies on the entirety of the IPA and the Side Letter (as amended) as if those documents were set out in this Statement of Claim.

F. CATFOSS NOTE PROGRAMME

26. On 13 October 2017, Hoffman and Citibank N.A., London Branch (**Citibank**) entered into a Master Trust Deed, which was supplemented from time to time, including on 21 December 2017, 21 June 2018, 3 September 2018, 21 November 2018, 12 April 2019, 6 August 2019, 19 December 2019, and 5 May 2020 (**Master Trust Deed**), pursuant to which Hoffman issued notes (**Catfoss Notes**) that were secured by Catfoss' obligations to pay the Repayment Amounts under the IPA and the Side Letter (**Catfoss Payment Obligations**).

Particulars

The Master Trust Deed was in writing and dated 13 October 2017

(CSA.0001.0007.3275). It was supplemented by Supplemental Master Trust Deeds dated 21 December 2017 (CSA.0001.0008.2964), 21 June 2018 (CSA.0001.0006.8605), 3 September 2018 (CSA.0001.0008.3025), 21 November 2018 (GCU.0012.0003.7509), 12 April 2019 (CSA.0001.0006.8601), 6 August 2019 (CSA.0001.0006.6352), 19 December 2019 (CSA.0001.0007.2856 and CSA.0001.0006.6328) and 5 May 2020 (CSA.0001.0006.8609).

Hoffman is organised to have “compartments", each of which has a distinct legal capacity as a matter of Luxembourg law and the assets of which form a part of its distinct estate. Each series of notes issued by Hoffman were issued for a separate compartment. The Catfoss Notes were in Compartment HY.

The Catfoss Notes the subject of this claim have International Securities Identification Numbers (ISIN): XS1809630145; XS1809630228; XS1809630491; XS1809630574; XS1809630731; XS1809630814; XS1809630905; XS1809631036; XS1809631200; XS1809631465; XS1809631549; XS1809631622; XS1809631895; XS1809631978; XS1809632190; XS1809632356; XS1809632513; XS1809632943; XS1809633164; XS1809633321; XS1809633594; XS1809633677; XS1809633750; XS1809633834.

27. On around 21 December 2017, GCUK, Hoffman and Citibank entered into a Master Assignment Agreement (**MAA**) with terms to the effect that Hoffman could purchase and have assigned to it, various “Payment Obligations”.

Particulars

MAA, including clauses 1.2, Definition of “Payment Obligation”, clause 2 Offer and Acceptance and clause 3 Assignment (CSA.0001.0001.3208).

27A. Credit Suisse Virtuoso relies upon the whole of the MAA as if it is set out in this Statement of Claim.

28. Between 6 March 2020 to 25 February 2021, the benefit of the Catfoss Payment Obligations under the IPA and Side Letter was assigned to Hoffman pursuant to the terms of the MAA.

Particulars

GCUK's offer, and Hoffman's acceptance of the benefit of the Catfoss Payment Obligations were set out in the Pricing Supplements and Notes Offer Reports for the Catfoss Notes.

28A. Between 6 March 2020 and 25 February 2021, Credit Suisse Virtuoso:

(a) acquired the Catfoss Notes; and

(b) paid a total amount of GBP 22,533,793.74 for the Catfoss Notes.

Particulars

The Catfoss Notes were acquired by Credit Suisse Virtuoso from 6 March 2020 to 25 February 2021 following Hoffman entering instructions into the Clearstream clearing system to process the transfer of the Catfoss Notes to a Euroclear account in the name of Credit Suisse Luxembourg S.A. as Credit Suisse Virtuoso's custodian (#46517). On the same day that the Catfoss Notes were transferred, cash was debited from the account of Credit Suisse Virtuoso's custodian and paid to an account in the name of Hoffman.

29. Between 24 and 27 August 2021 the Catfoss Notes were transferred to Greensill Bank.

Particulars

The Catfoss Notes were transferred to Greensill Bank by Credit Suisse Virtuoso as follows: Credit Suisse Asset Management AG (Zurich) instructed Credit Suisse (Luxembourg) S.A., the custodian bank of Credit Suisse Virtuoso, to process the transfer of the Catfoss Notes, from its Euroclear account (#46517) to a Citibank account in the name of Greensill Bank, free of payment. The trades settled between 24 and 27 August 2021.

The respective counterparties entered instructions for the transfers into their respective clearing systems (Euroclear for Credit Suisse Virtuoso, Clearstream for Greensill Bank). Following the transfers being completed, each counterparty confirmed to the other by email that their systems

matched.

FA. AGENT OF THE INSURER

FA.1 Agency arrangements between CGU and BCC and Brereton prior to the CGU Scheme

29A. In 2016 and 2017, CGU Insurance Limited (**CGU**) was a subsidiary of Insurance Australia Group Limited.

29B. On or about 28 July 2016, CGU and BCC entered into an agreement titled an "*Agency & Authorised Representative Agreement*" (**CGU AAR Agreement**).

29C. It was a term of the CGU AAR Agreement that:

(a) BCC was CGU's agent for the purposes set out in cll. 2.1 and 2.6: cll. 2.1, 2.6;

(b) by giving BCC the Authorisation Notice in the Authorisation Notice Schedule (**BCC Authorisation Notice**), BCC was CGU's "Authorised Representative" and was authorised to provide "Authorised Services" and to deal in, arrange and issue "Approved Products" in accordance with the "Underwriting Manual": cl 2.1;

(c) CGU would pay BCC commission on policies of trade credit insurance issued on behalf of CGU: cl 3.1(a);

(d) BCC would collect and remit to CGU premiums received by BCC on account of policies of trade credit insurance issued by BCC on behalf of CGU, net of BCC's commission: cll 3.1, 3.4, 8.1;

(e) BCC would maintain a bordereau of all trade credit insurance policies issued by BCC on behalf of CGU: cl 4.5(a);

(f) BCC would provide a copy of the bordereau to CGU within seven business days of the close of each month during which any transactions were undertaken or moneys received, refunded or paid in relation to trade credit insurance policies issued by BCC on behalf of CGU: cl 4.5(b);

(g) the "Commission Schedule" identified a single "Approved Product", namely, "Trade Credit Products";

(h) BCC must carry out the "Authorised Services" only through an "Authorised Individual": cl 2.2;

(i) BCC was not authorised to do anything on behalf of CGU that was not expressly authorised under the CGU AAR Agreement: cl 2.3;

(j) BCC must not, except to the extent expressly permitted by the CGU AAR Agreement or authorised in writing by CGU, enter into any contract or arrangement, do any acts, make any representations or incur any obligation (including accepting any risk) on behalf of CGU or the Insurer: cl 2.3(a);

(k) BCC must not, except to the extent expressly permitted by the CGU AAR Agreement or authorised in writing by CGU, vary or waive:

(i) any term or requirement of any "Insurance Policy";

(ii) any duty of a "Client" or any third party imposed by an "Applicable Law" relating to any "Insurance Policy" or proposed Insurance Policy, including the statutory duty of disclosure; or

(iii) any legal requirement relating to any "Insurance Application", any "Claim" or the administration, variation or cancellation of any "Insurance Policy": cl 2.3(b);

(l) the relationship between CGU and BCC created by the agreement was one of principal and agent for the purposes expressly permitted by the agreement only, and otherwise principal and independent contractor, and not one of employer and employee, joint venture or partnership: cl 2.6;

(m) BCC must comply with all written "Guidelines" given to BCC by CGU at any time in relation to (inter alia):

(i) the provision of "Authorised Services": cl 4.1(a); and

(ii) compliance with the "Applicable Laws" by BCC or CGU: cl 4.1(b);

(n) the "Guidelines" (being Underwriting Manual Version 1.0 and Underwriting Manual Version 2.0 referred to below at paragraphs 36A and 36E respectively) were taken to be incorporated into and form part of the CGU AAR Agreement: cl 4.2(a);

(o) BCC was to perform the "Authorised Services" and its obligations under the CGU AAR Agreement in accordance with the "Applicable Laws", in a prompt and professional manner, exercising reasonable care and skill, and fairly, efficiently and honestly: cl 4.3;

(p) BCC may from time to time appoint one or more individuals as "Authorised Individuals" to provide the "Authorised Services" on the conditions set out in clause 5.4: cl 5.4;

(q) BCC would perform its obligations under the CGU AAR Agreement in accordance with the "Underwriting Manual": cl 7.1; and

(r) BCC would collect premium for the risks underwritten within authority; cl 8.1,

where:

(s) **Applicable Laws** meant (a) all laws (including acts, regulations and instruments); (b) all policies, guidelines, standards and requirements issued or imposed by a Regulator; (c) any conditions imposed on CGU's AFSL notified by CGU to BCC; and (d) all industry codes of practice including the general insurance code of practice, to the extent that they relate to the conduct of the relevant party;

(t) **Approved Products** meant contracts of insurance issued or to be issued by CGU of the classes and types: (a) identified in the "Commission Schedule" to the CGU AAR Agreement; and (b) otherwise agreed between the parties in writing;

(u) **Authorisation Agreement** meant the agreement between BCC and an "Authorised Individual" appointing the "Authorised Individual" as CGU's authorised representative;

(v) **Authorisation Notice** meant, relevantly, an instrument in the form of the "Authorisation Notice Schedule" which appoints [BCC] as CGU's authorised representative;

(w) **Authorised Individual** meant an employee, officer or representative of BCC who has been appointed as an authorised representative of BCC or CGU in accordance with a duly executed "Authorisation Agreement" and

whose appointment has not been terminated;

(x) **Authorised Services** meant the services which BCC is authorised by CGU to perform as specified in the "Authorisation Notice" and, if applicable, any claims handling services delegated to BCC in accordance with clause 9;

(y) **Client** meant any person to whom BCC had provided any of the "Authorised Services" on behalf of CGU or any person whom BCC has dealt with in connection with the possible provision of any of the "Authorised Services" to the person by BCC on behalf of CGU;

(z) **Commencement Date** meant 1 July 2016;

(aa) **Guidelines** meant the written authorisations, procedures, guidelines (including any claims handling guidelines issued pursuant to clause 9) directions and requirements notified or provided by CGU to BCC from time to time in relation to the provision of the "Authorised Services" by BCC or BCC's obligations under the CGU AAR Agreement and including the compliance manual; and

(bb) **Underwriting Manual** meant the underwriting manual agreed between the Parties, as varied from time to time in accordance with the CGU AAR Agreement, which may include procedures in relation to: (a) the pricing of the "Approved Products" subject to underwriting variants in relation to the individual "Approved Products"; (b) the provision of services by BCC in relation to the "Approved Products" including service level requirements; (c) BCC's performance of its obligations under the CGU AAR Agreement; and (d) BCC's compliance with applicable laws.

29D. On or around 28 July 2016, CGU provided the BCC Authorisation Notice to BCC (**BCC Authorisation Notice**).

29E. By the CGU AAR Agreement and the BCC Authorisation Notice, CGU appointed BCC as its agent, authorised to issue and vary "Approved Products" on behalf of CGU.

29F. The BCC Authorisation Notice was a written notice given by CGU to BCC for the purpose of s 916A of the Corporations Act.

29G. Between 1 July 2016 and 30 July 2017, BCC was an authorised representative of CGU for the purposes of Part 7.6 of the Corporations Act.

29H. On or around 8 July 2016, CGU and Brereton entered into an agreement titled an "*Individual Authorisation Agreement*" (**Brereton Authorisation Agreement**).

29I. On or around 8 July 2016, CGU provided Brereton with a document titled "*Individual Authorisation Notice*" (**Brereton Authorisation Notice**).

29J. By the Brereton Authorisation Agreement and the Brereton Authorisation Notice:

(a) CGU appointed Brereton as its agentto provide and perform the "Authorised Financial Services" in relation to "Approved Products" only on behalf of CGU, and for that purpose appointed Brereton as its authorised representative for the purposes of Chapter 7 of the Corporations Act from the "Effective Date" being 8 July 2016;

(b) **Approved Products** was defined to have the same meaning given to that term in the CGU AAR Agreement, such that "Approved Products" were "Trade Credit Products", which could only be written using Approved Wording 1.3 (referred to in paragraph 29KC below) or Approved Wording 1.4 (referred in paragraph 29KD below);

(c) **Authorised Financial Services** meant that Brereton was authorised in accordance with the CGU AAR Agreement to: provide general advice, but not personal advice; deal in, arrange, acquire, issue, vary and dispose of "Approved Products"; collect and deal with client moneys, issue receipts and/or confirmations where a client acquires, varies or cancels an "Insurance Policy" for an "Approved Product"; and issue, negotiate and agree the terms of "Insurance Policies" for "Approved Products" as agent of CGU;

(d) Brereton must comply with and provide the "Authorised Services" in accordance with the CGU AAR Agreement as if Brereton were BCC; and

(e) Brereton must not cause BCC to breach any terms and conditions of the CGU AAR Agreement.

29KA. In or around June 2016, a document titled "BCC Trade Credit Pty Ltd

Underwriting Manual … (Version 1.0)" was issued (**Underwriting Manual Version 1.0**), being the "Underwriting Manual", further and alternatively "Guidelines" for the purposes of the CGU AAR Agreement, and which provided that:

(a) trade credit insurance was a general insurance policy and risk management product that covered the payment risk of corporate entities, resulting from the delivery of goods and services: p 7;

(b) trade credit insurance paid an agreed percentage of an invoice or receivable that remained unpaid as a result of protracted default, insolvency or bankruptcy, and trade credit insurance was purchased by business entities to insure their accounts receivable from loss due to the non-payment by applicable debtors: p 7;

(c) the insurance protection afforded under a trade credit transaction involved:

(i) a "Buyer" who receives goods or services from and trade credit from a "Seller" and who makes payments for goods or services to the "Seller";

(ii) a "Seller" who supplied goods or services and trade credit to the "Buyer" and who receives payments for goods or services from the "Buyer"; and

(iii) a "Credit Insurer" who provides insurance to the "Seller", who receives premiums from the "Seller" and who has a right of subrogation in respect of the "Buyer": p 7;

(d) trade credit insurance was a business insurance product that indemnified a seller against losses from non-payment of a commercial trade debt: p 13;

(e) BCC was authorised to bind insurance policies only in the nature of the product listed in "2 – Trade Credit Insurance Products" and not for other product lines or risk categories: p 8;

(f) BCC was required always to act within the authority and terms of the applicable agency agreement in the conduct of its business and

underwrite business within the scope and limits in accordance with the Underwriting Manual Version 1.0: p 8;

(g) the "Maximum Limits" that could be underwritten and accepted by BCC were:

(i) Whole of Turnover Limit: AUD 50 million, but only under the "Special Acceptance" stipulation referred to at sub-paragraph (h) below;

(ii) Major Debtors / Multi Buyer Limit: AUD 40 million, but only under the "Special Acceptance" stipulation referred to at sub-paragraph (h) below; and

(iii) Single Risks Limit: AUD 35 million: p 9;

(h) BCC's authority was up to AUD 35 million, with policies and buyers with limits up to AUD 50 million for Whole of Turnover Policies and up to AUD 40 million for Major Debtors / Multi-Buyer policies considered by "Special Acceptance" by CGU and its reinsurers: p 9;

(i) BCC was authorised only to issue policies to Australian customers in Australia: p 9;

(j) the maximum credit limit / credit term BCC was required to set for each policy written within authority was 180 days: p 9;

(k) the maximum indemnity limit BCC was required to adhere to for each policy written within authority was 90% of the Debt, being accounts receivable of the insured: p 9;

(l) the standard policy term was 12 months and policy periods beyond 15 months were to be referred to CGU for approval, but in any case would be no longer than 24 months: p 11;

(m) BCC was authorised only to use authorised endorsement clauses: pp 12, 14, 16;

(n) BCC was authorised to provide three types of trade credit insurance products for Australian clients that were transacting domestically or overseas, being Comprehensive / Whole of Turnover, Major Debtors /

Multi-Buyer and Single Risks cover, and to do so using the same core base wording (as recorded in Appendix 2 of the Underwriting Manual Version 1.0) with the application of select mandatory endorsements: p 16;

(o) the minimum premium BCC was to set for each policy written within authority was $10,000: p 26;

(p) there was a recommended excess of 1% of the policy limit, but in any event no less than 0.75% of the policy limit, comprising the amount the insured must bear for each loss or series of losses, must be set for each policy written within authority: p 28; and

(q) there were various "exclusions" from the risks that BCC was authorised to write, including any "financial guarantees that cover a purely monetary debt", "Insolvent risks" and "Intercompany sales": p 31.

29KB. On or around 22 July 2016, CGU approved a set of "Policy Endorsement Clauses" (**Approved Endorsements**) for use by BCC in accordance with the terms of the Underwriting Manual Version 1.0 and subsequent versions, and:

(a) at all material times thereafter, CGU and IAL did not approve any additional endorsement clauses for use by BCC; and

(b) at all material times thereafter, BCC did not have authority to issue endorsements that were not Approved Endorsements.

29KC. In or around October 2016, CGU issued the following approved wording (**Approved Wording 1.3**), being the "core base wording" for the purposes of the Underwriting Manual Version 1.0 and the Trade Credit Products listed in the Commission Schedule to the CGU AAR Agreement:

(a) "Trade Credit Insurance Whole of Turnover" dated October 2016 (Version WOT 1.3) (IAG.0001809750.0001.0004);

(b) "Trade Credit Insurance Multi Buyer" dated October 2016 (Version MB 1.3) (IAG.0001809750.0001.0003); and

(c) "Trade Credit Insurance Single Risk" dated October 2016 (Version SR 1.3) (IAG.0001809750.0001.0002).

29KD. In or around August 2017, IAL issued the following approved wording

(**Approved Wording 1.4**), which came into effect on 1 August 2017, being the "core base wording" for the purposes of the Underwriting Manual Version 1.0 and the "Trade Credit Products" listed in the Commission Schedule to the CGU AAR Agreement:

(a) "Trade Credit Insurance Whole of Turnover" dated August 2017 (Version WOT 1.4) (IAG.0000022998.0003);

(b) "Trade Credit Insurance Multi Buyer" dated August 2017 (Version MB 1.4) (IAG.0000022998.0002); and

(c) "Trade Credit Insurance Single Risk" dated August 2017 (Version SR 1.4) (IAG.0000022998.0001).

29KE. In or around July 2018, a document entitled "BCC Trade Credit Pty Ltd Underwriting Guidelines … (Version 2.0)" was issued (**Underwriting Manual Version 2.0**), being the "Underwriting Manual", further or alternatively "Guidelines" for the purposes of the CGU AAR Agreement, and which set out again the matters pleaded at sub-paragraphs 29KA(a) to (e), (i) to (l), (o) to (q) and also provided:

(a) BCC was required to at all times act within the authority and terms of the applicable agency agreement (being the CGU AAR Agreement) in the conduct of its business and underwrite business within the scope and limits in accordance with Underwriting Manual Version 2.0: p 8;

(b) BCC was authorised to write three products being the Whole of Turnover approved wording Version WOT 1.4 August 2017; Multi Buyers approved wording Version MB 1.4 August 2017; and Single Risks approved wording Version SR 1.4 August 2017: p 9;

(c) the "Maximum Limits" that may be underwritten and accepted by BCC were:

(i) Whole of Turnover Limit: AUD 50 million;

(ii) Major Debtor / Multi Buyer Limit: AUD 50 million; and

(iii) Single Risks Limit: AUD 50 million: p 9;

(d) BCC's binding authority is up to AUD 50 million, with policies and buyers

with limits up to AUD 75 million considered by Special Acceptance: p 9;

(e) BCC's authority limits referred to in sub-paragraphs 29KE(c), (d) and (f) of this Statement of Claim was a maximum sum which applied to each buyer or group of companies owned or controlled (more than 50%) by a legal entity or natural person or a group of legal entities or natural persons: pp 9, 56; and

(f) where a policy was issued in a foreign currency the maximum limit was to be no more than 95% of the AUD Binder Limit BCC was authorised to transact at the time cover was arranged: p 29.

29K. The Brereton Authorisation Notice was a written notice given by CGU to Brereton for the purpose of s 916A of the Corporations Act.

29L. Between 1 July 2016 and 30 July 2017, Brereton was an authorised representative of CGU for the purposes of Part 7.6 of the Corporations Act.

FA.2 The CGU Scheme

29M. On 20 July 2017, the Federal Court of Australia made an order under s 17F of the *Insurance Act 1973* (Cth) (**Insurance Act**) confirming, without modification and with effect from 1 August 2017, a scheme for the transfer of the insurance business of CGU to the Insurer.

29N. On 1 August 2017, by operation of the order referred to at paragraph 29M above and s 17G of the Insurance Act, the scheme for the transfer of the insurance business of CGU to the Insurer:

(a) became binding on all persons; and

(b) took effect.

29O. On 1 August 2017:

(a) the CGU AAR Agreement was transferred from CGU to the Insurer; and

(b) the BCC Authorisation Notice was transferred from CGU to the Insurer.

29P. By reason of the matters pleaded at paragraphs 29M to 29O above, on 1 August 2017:

(a) BCC became the agent of the Insurer, authorised to issue and vary trade credit insurance on behalf of the Insurer; and

(b) BCC became the authorised representative of the Insurer for the purposes of Part 7.6 of the Corporations Act.

29Q. The CGU AAR Agreement remained in force until at least 9 April 2019.

29R. The BCC Authorisation Notice remained in force until at least 9 April 2019.

29S. On 1 August 2017:

(a) the Brereton Authorisation Agreement was transferred from CGU to the Insurer; and

(b) the Brereton Authorisation Notice was transferred from CGU to the Insurer.

29T. By reason of the matters pleaded at paragraph 29S above:

(a) Brereton became the agent of the Insurer, authorised to issue and vary trade credit insurance on behalf of the Insurer; and

(b) Brereton became the authorised representative of the Insurer for the purposes of Part 7.6 of the Corporations Act.

29U. The Brereton Authorisation Agreement remained in force until at least 8 July 2020, alternatively until at least 9 September 2019.

29V. The Brereton Authorisation Notice remained in force until at least 8 July 2020, alternatively until at least 9 September 2019.

29W. [NOT USED]

29X. [NOT USED]

29Y. [NOT USED]

FA.3 IAL Agencies Agreements

29Z. At all material times, IAG Agencies Pty Limited (**IAGA**) and the Insurer have been wholly owned subsidiaries of Insurance Australia Group Limited.

29ZA. On and from 1 August 2017, IAGA had authority to issue and vary policies of trade credit insurance on behalf of the Insurer.

29ZB. At all material times prior to about 1 April 2019, IAGA owned 50% of BCC's issued shares.

29ZC. On or around 28 March 2019, the Insurer and BCC entered into an agreement titled an "*Agency & Authorised Representative Agreement*" (**IAL AAR Agreement**).

29ZD. It was a term of the IAL AAR Agreement that**:**

(a) BCC was the Insurer's agent for the purposes set out in cll. 2.1 and 2.5: cll. 2.1, 2.5;

(b) by giving BCC the Authorisation Notice in the Authorisation Notice Schedule (**BCC/IAL Authorisation Notice**), BCC was the Insurer's Authorised Representative: cl. 2.1;

(c) the Insurer would pay BCC commission on policies of trade credit insurance issued on behalf of the Insurer: cl. 3.1(a);

(d) BCC would collect and remit to the Insurer premiums received by BCC on account of policies of trade credit insurance issued by BCC on behalf of the Insurer, net of BCC's commission: cll. 3.1, 3.3, 8.1;

(e) BCC would maintain a bordereau of all trade credit insurance policies issued by BCC on behalf of the Insurer: cl. 4.5(a);

(f) BCC would provide a copy of the bordereau to the Insurer within 14 business days of the close of each month during which any transactions were undertaken or moneys received, refunded or paid in relation to trade credit insurance policies issued by BCC on behalf of the Insurer, in the manner and form requested by the Insurer from time to time: cl. 4.5(b);

(g) the Insurer authorised BCC, from the Commencement Date and for the Term of the agreement to provide the "Authorised Services" and to deal in, arrange and issue "Approved Products" in accordance with the applicable "Underwriting Manual" and specifically as follows (cl 2.1):

(i) BCC was not permitted to bind new Insurance Policies on behalf of

IAL after 30 June 2019 and new Insurance Policies issued prior to that date were not to exceed a policy term of 12 months;

(ii) BCC was not permitted to bind renewal Insurance Policies on behalf of IAL with renewal inception dates after 30 June 2019. This included:

(A) any Insurance Policies issued as a 2-year conditional contract. Second year renewal was not to be written with IAL as the insurer; and

(B) any extensions of policy due date;

(iii) renewal Insurance Policies due prior to the inception date of 30 June 2019 were not to exceed 12 months;

(iv) BCC could, unless the Insurer notified BCC otherwise, provide cover under a cover note upon the expiry of an Insurance Policy for policies where a renewal offer had been made. The interim cover would be in the same terms and conditions as the renewal offer for a maximum period of 30 days starting on the expiry date of the Insurance Policy but in any event was not to extend beyond 30 June 2019;

(v) BCC was authorised to bind mid-term Insurance Policy alterations where IAL was the Insurer provided that those changes were permitted by Underwriting Manual Version 3.0 (as defined at paragraph 56A below) after prudent underwriting judgment had been applied; and

(vi) no extensions of due dates were permitted;

(h) BCC was obliged to carry out the "Authorised Services" through an "Authorised Individual": cl 2.2;

(i) BCC was not authorised to do anything on behalf of the Insurer that was not expressly authorised by the IAL AAR Agreement: cl 2.3;

(j) BCC was prohibited, except to the extent expressly permitted by the IAL AAR Agreement or authorised in writing by the Insurer, from entering into

any contract or arrangement, doing any acts, making any representations or incurring any obligations (including accepting any risk) on behalf of the Insurer: cl 2.3(a);

(k) BCC was prohibited, except to the extent expressly permitted by the IAL AAR Agreement or authorised in writing by the Insurer, from varying or waiving:

(i) any term or requirement of any Insurance Policy;

(ii) any duty of a Client or any third party imposed by an Applicable Law relating to any Insurance Policy or proposed Insurance Policy, including the statutory duty of disclosure; or

(iii) any legal requirement relating to any Insurance Application, any Claim or the administration, variation or cancellation of any Insurance Policy: cl 2.3(b);

(l) the relationship between the Insurer and BCC created by the IAL AAR Agreement was one of principal and agent for the purposes expressly permitted by the IAL AAR Agreement only, and otherwise principal and independent contractor, and not one of employer and employee, joint venture or partnership: cl 2.5;

(m) BCC must comply with all reasonable written Guidelines given to BCC by the Insurer at any time in relation to the provision of the Authorised Services: cl 4.1(a);

(n) the Guidelines (being Underwriting Manual Version 3.0 referred to at paragraph 56A below) were taken to be incorporated into and form part of the IAL AAR Agreement: cl 4.2;

(o) BCC was to perform the Authorised Services and the obligations under the IAL AAR Agreement in accordance with the Applicable Laws, in a prompt and professional manner, exercising reasonable care and skill, fairly, efficiently and honestly: cl 4.3;

(p) the Insurer could in its complete discretion appoint or refuse to appoint a person as an authorised representative and BCC was prohibited from authorising any person to provide any Authorised Services on its behalf or

on behalf of IAL: cl 5.1;

(q) BCC would perform its obligations under the IAL AAR Agreement in accordance with the Underwriting Manual: cl 7.1; and

(r) BCC would collect a premium for risks written within its authority: cl 8.1.

29ZEA. On around 9 April 2019, a document titled "BCC Trade Credit Pty Ltd Underwriting Guidelines … (Version 3.0)" (**Underwriting Manual Version 3.0**) being the "Underwriting Manual", further or alternatively "Guidelines" for the purposes of the IAL AAR Agreement, came into effect and limited BCC's acceptance authority for IAL business effective from that date.

29ZEB. The Underwriting Manual Version 3.0 contained the express terms pleaded at paragraphs 29KA(a) to (e), (i) to (k), (m), (o) to (q) and at 29KE(f) as well as the following express terms:

(a) BCC was required always to act within the authority and the terms of the applicable agency agreement, being the IAL AAR Agreement, in the conduct of its business and underwrite business within the scope and limits in accordance with the Underwriting Manual Version 3.0: p 8;

(b) BCC was not permitted to quote or bind new business on behalf of the Insurer after the Effective Date, being 30 June 2019: p 8;

(c) any new insurance policies issued prior to 30 June 2019 were not to exceed a policy term of 12 months: p 8;

(d) any new business issued prior to 30 June 2019 was to adhere to the Underwriting Manual Version 3.0: p 8;

(e) BCC was not permitted to bind renewal business on behalf of the Insurer with renewal inception after the Effective Date, being 30 June 2019: p 8;

(f) any renewal business due prior to the inception date of 30 June 2019 must not exceed 12 months: p 8;

(g) BCC was authorised to bind mid-term policy alterations where the Insurer was the insurer provided those changes were permitted under the Underwriting Manual Version 3.0 after prudent underwriting judgement had been applied, with no extensions of due date permitted: pp 8, 9;

(h) the Maximum Limits that could be underwritten and accepted by BCC were (p 10):

(i) Whole of Turnover Limit: AUD 50 million;

(ii) Major Debtors Limit: AUD 50 million; and

(iii) Single Risks Limit: AUD 50 million;

(i) Maximum Limits of AUD 75 million per Buyer or Buyer Group, with Limits above AUD 50 million and below AUD 75 million referred to the lead reinsurer, and with the Insurer having final acceptance authority on those risks: p 9;

(j) the limits set out at sub-paragraphs 29ZEB(h), (i) and 29KE(f) of this Statement of Claim was a maximum sum which applied to each buyer or group of companies owned or controlled (more than 50%) by a legal entity or natural person or a group of legal entities or natural persons: pp 9, 57;

(k) BCC was authorised to write three Trade Credit Insurance Products only, being Approved Wording 1.4 as follows:

(i) Whole of Turnover approved wording version WOT 1.4;

(ii) Multi Buyers approved wording MB 1.4; and

(iii) Single Risks approved wording Version SR 1.4; and

(l) BCC would continue to manage claims on behalf of the Insurer under management of TMMA via the PACAO (as defined in paragraph 29ZN below).

29ZE. [NOT USED]

29ZF. By the IAL AAR Agreement and the BCC Authorisation Notice, the Insurer appointed BCC as its agent, authorised to issue and vary trade credit insurance on behalf of the Insurer.

29ZG. The BCC Authorisation Notice was a written notice given by the Insurer to BCC for the purposes of s 916A of the Corporations Act.

29ZH. Between 28 July 2017 and 30 June 2019, BCC was an authorised

representative of the Insurer for the purposes of Part 7.6 of the Corporations Act.

29ZI. On or about 28 July 2017, IAGA, on behalf of the Insurer, and Brereton entered into an agreement titled "*Individual Authorisation Agreement*" (**IAL/Brereton Authorisation Agreement**).

29ZJ. On or around 28 July 2017, IAGA, on behalf of the Insurer, provided Brereton with a document titled "*Individual Authorisation Notice*" (**IAL/Brereton Authorisation Notice**).

29ZK. By the IAL/Brereton Authorisation Agreement and the IAL/Brereton Authorisation Notice, the Insurer appointed Brereton as its agent, authorised to issue and vary trade credit insurance on behalf of the Insurer.

29ZL. The IAL/Brereton Individual Authorisation Notice was written notice given by the Insurer to Brereton for the purposes of s 916A of the Corporations Act.

29ZM. Between 28 July 2017 and 30 June 2019, Brereton was an authorised representative of the Insurer for the purposes of Part 7.6 of the Corporations Act.

FA.4 Administration of the policies

29ZN. On or around 9 April 2019, the Insurer, TMMA and Bond entered into an agreement titled the "*Policy and Claims Administration Outsourcing Deed*" **(PACAO**). The PACAO described TMMA and Bond (defined as BCC in the PACAO) together as the Administrator.

29ZO. Pursuant to the PACAO:

(a) the Insurer authorised the Administrator to provide the following "Services":

(i) customer service (including service availability, customer contact and complaints management);

(ii) claims processing (including claims processing, error management, document retention, claim lodgement and claim authorisation and claims payment);

(iii) policy administration (including modifications of policies, extensions of bonds and premium collection and remittance); and

(iv) preparing management reports: cll. 1.1, 5.1 and Schedules 3, 4, 5; and

(b) the Administrator was required to provide the Insurer with Quarterly Reports, including bordereau reports: cl. 7, Schedule 1.

29ZP. On and from 9 April 2019, the Insurer permitted BCC to provide the services of the Administrator under the PACAO.

29ZQ. On and from 1 July 2019, BCC has acted as the Insurer's agent to administer trade credit insurance policies issued by the Insurer on or before 30 June 2019.

FA.5 Conduct of the Insurer's trade credit insurance business

29ZR. [NOT USED]

29ZS. On and from 1 August 2017, BCC provided bordereaux to the Insurer.

29ZT. The bordereaux that BCC provided to the Insurer:

(a) [NOT USED]

(b) [NOT USED]

(c) [NOT USED]

(d) referred to the existence of trade credit insurance policy TB-03691 (**2019 Master Policy**) and TS-03087;

(e) did not refer to:

(i) 2018 Policy TS-03088 or Policy TS-03088 or any endorsements purportedly issued under those policies;

(ii) the 2018 Policy (as defined in paragraph 30 below) or any endorsements purportedly issued under the 2018 Policy; or

(iii) the 2019 Policy (as defined in paragraph 38 below) or any endorsements purportedly issued under the 2019 Policy;

(f) did not disclose that BCC had issued policies without using the Approved Wording 1.3 and Approved Wording 1.4;

(g) disclosed that there was only one insured under each of the 2019 Master Policy and TS-03087, being GCPL, which is and was a company domiciled in Australia;

(h) did not disclose that GCUK was a named insured;

(i) did not disclose that GBAG was a named insured;

(j) did not disclose that any overseas entity was a named insured under each of the 2019 Master Policy, 2019 Policy and TS-03087;

(k) did not disclose that any policies issued by BCC on behalf of the Insurer had an insured percentage of 100%;

(l) did not disclose that BCC had issued endorsements that had not been approved by CGU or IAL and/or were not in the form of the Approved Endorsements;

(m) prior to April 2021, did not disclose foreign exchange adjustments to premium for the 2019 Master Policy or the 2019 Policy and thereby failed to disclose information that would indicate that the insured was not an Australian domiciled company;

(n) prior to April 2021, did not disclose the extent of the risks purportedly underwritten by BCC on behalf of IAL under the 2019 Master Policy or the 2019 Policy;

(o) did not, until 9 June 2021, disclose that BCC had purported to renew TS-03087 with such renewal to apply for the period 1 March 2019 to 29 February 2020 (the original policy period purportedly being 9 February 2018 to 1 March 2019) by which time the renewed policy period had passed;

(p) did not, until 9 June 2021, disclose that BCC had purported to extend the due date of TS-03087 as renewed from 29 February 2020 to 15 May 2020 and then to 15 June 2020 and then to 30 June 2020 by which time the policy expiry date (as purportedly extended) had passed; and

(q) did not, until 11 June 2021, disclose that BCC had received premium for TS-03087 as purportedly renewed and extended.

29ZU. [NOT USED]

29ZV. [NOT USED]

29ZW. [NOT USED]

29ZX. [NOT USED]

29ZZ. On or around 15 December 2017, BCC, purportedly as agent and corporate authorised representative of the Insurer, issued two separate contracts of insurance evidenced by a Comprehensive Trade Credit Insurance Policy TW-02924, with no unique market reference number, relating to Liberty OneSteel (MDR) UK Limited (**LOS Policy**).

Particulars

The LOS Policy was in writing and dated 15 December 2017 (CMS.007.001.1542).

29ZZAA. [NOT USED]

29ZZAB. On or around 20 April 2018, BCC, purportedly as agent and corporate authorised representative of the Insurer, issued Comprehensive Trade Credit Insurance Policy TS-03088 with unique market reference B0509FINCW1800019 (**2018 Policy TS-03088**).

Particulars

The 2018 Policy TS-03088 was in writing and dated 20 April 2018 (CSA.0001.0035.0804).

29ZZAC. [NOT USED]

29ZZA. On or around 6 March 2019, BCC, purportedly as agent and corporate authorised representative of the Insurer, issued Comprehensive Trade Credit Insurance Policy TS-03088 with unique market reference B0509FINCW1900008 (**Policy TS-03088**).

29ZZB. [NOT USED]

29ZZC. It was outside the actual authority of BCC as the Insurer‘s agent to enter into each of the LOS Policy, the 2018 Policy TS-03088 and Policy TS-03088 on the Insurer’s behalf.

Particulars

Credit Suisse relies on paragraphs 9, 29H, 29ZZAA to 29ZZC of the Insurer’s defence filed in this proceeding on 1 May 2026.

The Affidavit of Bradley Forbes Robson sworn on 13 February 2026, [72], [75], [85], [92]-[93], [112], [119], [121], [126]-[128], [141], [163]-[166].

The Affidavit of Twain Abbott affirmed on 13 February 2026, [33]-[36], [47], [49]-[52], [57]-[70], [200], [243]-[270], [334]-[340], [344], [373]-[374].

29ZZD. It was outside the actual authority of Brereton as agent for the Insurer to enter into each of the LOS Policy, the 2018 Policy TS-03088 and Policy TS-03088 on the Insurer’s behalf.

Particulars

Credit Suisse relies on paragraphs 9, 29H, 29ZZAA to 29ZZC of the Insurer’s defence filed in this proceeding on 1 May 2026.

The Affidavit of Bradley Forbes Robson sworn on 13 February 2026, [72], [75], [85], [92]-[93], [112], [119], [121], [126]-[128], [141], [163]-[166].

The Affidavit of Twain Abbott affirmed on 13 February 2026, [33]-[36], [47], [49]-[52], [57]-[70], [200], [243]-[270], [334]-[340], [344], [373]-[374].

29ZZE. It was outside the actual authority of Brereton as Head of Trade Credit at BCC to execute each of the LOS Policy, the 2018 Policy TS-03088 and Policy TS-03088 on behalf of BCC.

Particulars

Credit Suisse relies on paragraphs 9, 29H, 29ZZAA to 29ZZC of the Insurer’s defence filed in this proceeding on 1 May 2026.

The Affidavit of Bradley Forbes Robson sworn on 13 February 2026, [72], [75], [85], [92]-[93], [112], [119], [121], [126]-[128], [141], [163]-[166].

The Affidavit of Twain Abbott affirmed on 13 February 2026, [33]-[36], [47], [49]-[52], [57]-[70], [200], [243]-[270], [334]-[340], [344], [373]-[374].

29ZZF. [NOT USED]

29ZZFA. [NOT USED]

29ZZFB. [NOT USED]

29ZZFC. [NOT USED]

29ZZG. [NOT USED]

29ZZH. [NOT USED]

29ZZI. [NOT USED]

29ZZJ. [NOT USED]

29ZZK. [NOT USED]

29ZZL. [NOT USED]

29ZZM. [NOT USED]

29ZZN. At all times between 1 August 2017 and 8 July 2020, BCC was a representative of the Insurer as that term is defined in s 910A of the Corporations Act.

29ZZO. At all times between 1 August 2017 and 8 July 2020, Brereton was a representative of the Insurer as that term is defined in s 910A of the Corporations Act.

29ZZP. At all times since at least 22 February 2019, the Insurer has held an Australian financial services licence issued under s 913B of the Corporations Act, permitting the Insurer to carry on in Australia the business of issuing and varying policies of general insurance.

29ZZQ. At all times from 1 July 2019, BCC was the authorised representative of TMNF and a representative of TMNF as that term is defined in s 910A of the Corporations Act.

29ZZR. At all times since 1 July 2019, Brereton was a representative of TMNF as that

term is defined in s 910A of the Corporations Act.

29ZZS. At all times since at least 1 July 2019, TMNF has held an Australian financial services licence issued under s 913B of the Corporations Act, permitting TMNF to carry out in Australia the business of issuing and varying policies of general insurance.

29ZZT. At all times from 9 April 2019:

(a) TMMA has owned 100% of the shareholding in Bond and 0.01% of the shareholding in BCC; and

(b) Bond has owned 99.9% of the shareholding in BCC.

G. THE INSURANCE POLICIES

G.1 The 2018 Policy

30. On or around 15 June 2018, BCC and Brereton issued, purportedly as agent and corporate authorised representative of the Insurer, the Comprehensive Trade Credit Insurance Policy TB-03690, with unique market reference B0509FINCW1800045, with an initial Policy Period of 27 December 2017 to 27 December 2018 (the **2018 Policy**).

31. The Insured paid a Premium pursuant to and in consideration of the 2018 Policy.

32. On 11 September 2018, GCUK sent an email to BCC, as agent for the Insurer:

(a) requesting an insurance limit in respect of the Catfoss Payment Obligations to GCUK under the IPA;

(b) expressly stating that:

(i) the loan that GCUK proposed to make to Catfoss was for project financing;

(ii) GCUK and Catfoss were proposing to enter into an Instalment Payment Agreement with a tenor of three years, and maximum roll tenors of 365 days secured by an all assets debenture;

(c) attaching a document titled *"Catfoss Renewables Ltd Assessment of Credit Risk"* report dated 13 July 2018, which assessed the financing

"Risk Score" as 8 and identified key risks; and

(d) attaching a document titled *"Catfoss Renewables Credit Analysis Pack"* dated 10 July 2018, which stated expressly that the funds to be provided by GCUK would be used:

(i) as to GBP 21.25m, to refinance all of Catfoss' debt; and

(ii) as to GBP 1.75m, as working capital.

Particulars

Email from Miroslav Knezicky (GCUK – Senior Credit Analyst) to Greg Brereton (BCC – Head of Trade Credit) dated 11 September 2018 (CSA.0001.0006.0543, CSA.0001.0006.0545, CSA.0001.0006.0544, CSA.0001.0006.0547, CSA.0001.0006.0548, CSA.0001.0006.0546, CSA.0001.0006.0549).

33. On 13 September 2018, BCC responded to GCUK's email pleaded at paragraph 32 above stating that it would be prepared to offer cover of GBP 23 million.

Particulars

Email from Greg Brereton to Lex Greensill dated 13 September 2018 (CSA.0001.0001.2947).

34. On 14 September 2018, GCUK sent an email to BCC proposing cover of GBP 23 million, with "Indemnity" of 75%.

Particulars

Email from Lex Greensill to Greg Brereton dated 14 September 2018 (CSA.0001.0006.0156).

35. On 15 September 2018, BCC confirmed that cover would be provided in respect of the Catfoss Payment Obligations on the terms set out in GCUK's email dated 14 September pleaded at paragraph 34 above.

Particulars

Email dated 15 September 2018 from Lex Greensill to Greg Brereton, and

Brereton's response of the same day (MMC_GCUK08_00001737, CSA.0001.0006.0156).

36. On 17 September 2018, BCC returned a signed Customer Endorsement No 27 purporting to endorse Catfoss as a Customer.

Particulars

Email dated 17 September 2018 from Greg Brereton to John Whelan (CSA.0001.0006.0156).

37. By Endorsement 1 to the 2018 Policy dated 17 September 2018, the Policy Period for the 2018 Policy was purportedly extended to 1 March 2019.

G.2 The 2019 Policy

38. On or around 13 March 2019, BCC and Brereton issued, purportedly as agent and corporate authorised representative of the Insurer,Comprehensive Trade Credit Insurance Policy TB-03690 with unique market reference B0509FINCW1900009, which was in materially the same terms as the 2018 Policy, with an initial Policy Period from 22 February 2019 to 1 March 2020 (**2019 Policy**).

39. The 2019 Policy contained express written terms to the effect that the Insurer agreed to indemnify the Insured for the Insured Percentage of all Loss suffered in respect of an Insured Cause, being relevantly, losses suffered where an Eligible Customer failed to make payment of an Eligible Debt on or before the Backstop Date, with any such amount payable to the Insured, or the Loss Payee (whomever so acquired the Asset), where:

(a) **Insured Percentage** means, in respect of a Customer, the Insured Percentage as stated in the relevant Customer Endorsement;

(b) **Customer** means a "Customer" endorsed to the 2019 Policy under a Customer Endorsement, being a debtor in respect of a Debt and including any successor in title or at law to such debtor;

(c) **Eligible Customer** is undefined as a composite phrase;

(d) **Eligible** means, in the context of a Customer and/or a Customer Group, a Customer and/or a Customer Group in relation to which all the warranties

set out in the 2019 Policy (including compliance with the Eligibility Criteria) are satisfied at the time of the purchase by the Insured of the Asset derived from such Debt;

(e) **Customer Limit** means, in respect of a Customer, the amount recorded in an Endorsement to the 2019 Policy, and which is the Insurer's maximum liability for the aggregate of all Losses insured under the 2019 Policy for the Customer;

(f) **Debt** means as the context requires, a debt of the type described in the relevant Debt Endorsement;

(g) **Eligible Debt** means, at any time, any Debt which satisfied the following criteria at the time of acquisition of the relevant Asset by the Insured:

(i) the obligor (being the Customer) of which (a) is not an Affiliate of any of the parties to the Transaction Documents (other than any Origination Documentation); (b) is not a government or a governmental subdivision or agency, other than a legal entity that does not benefit from immunity from being sued for non-payment of debt or breach of contract; (c) is a corporate entity and not an individual or sole trader or partnership; (d) is not Insolvent and (e) has a Customer Limit established in accordance with the terms of the 2019 Policy;

(ii) in relation to which the Due Date does not exceed the Maximum Tenor;

(iii) which is not outstanding after its Due Date;

(iv) which is denominated and payable only in an Approved Currency;

(v) which satisfies any further criteria set out in the relevant Debt Endorsement relating to that Debt.

(h) **Loss** means:

(i) In respect of a direct Asset owned by the Insured, the amount equal to the difference between:

(A) the Expected Allocation of the Insured in respect of such

Asset; and

(B) the amount actually paid by the Customer or on its behalf in respect of such Asset; and

(ii) in respect of an Asset (which is neither a Direct Asset nor a Note) owned by the Insured, the amount equal to the difference between:

(A) the Expected Allocation of the Insured in respect of such asset; and

(B) the Insured's pro rata pari passu entitlement under the relevant Participant Trust in respect of any amounts actually paid by the Customer or on its behalf to the Trustee in respect of the Eligible Debt from which such Asset is derived; and

(iii) in respect of an Asset (which is a Note) owned by the Insured immediately prior to the payment of a Claim (which for the avoidance of doubt shall also include the Expected Allocation of the Insured in respect of each Asset acquired by the Insured from a Loss Payee after the occurrence of the Insured Cause but prior to payment of such Claim), the amount equal to the difference between:

(A) the Expected Allocation of the Insured in respect of such Asset; and

(B) the Insured's entitlement under the Master Trust Deed (including, but not limited to, the benefit of any Mortgaged Property as defined in the Master Trust Deed);

(i) **Expected Allocation** means, where an Asset is (i) a Direct Asset, the Face Amount of the relevant Eligible Debt, or to the extent only part of the Eligible Debt comprises the Direct Asset, the amount due to the Insured in relation to such Eligible Debt, or (ii) neither a Direct Asset or a Note, in relation to any such Asset and the Insured, the expected distribution to the Insured of its entitlement to Trust Property consistent with the Asset acquired by it, as shown from time to time in a Trust Certificate, or (iii) where an Asset is a Note, in relation to any such Asset and the Insured, the Final Redemption Amount or aggregate of the 'Instalment Amounts'

(as set out in the relevant 'Pricing Supplement' as defined in the Master Trust Deed) of the relevant Asset.

(j) **Face Amount** means the amount of the Debt as shown in the File relating thereto inclusive of VAT;

(k) **File** means the file and/or records held by the Servicer in the form from time to time specified in the Transaction Documents relating to each Debt;

(l) **Asset** means either (i) a Direct Asset, or (ii) an indirect beneficial ownership interest in an Eligible Debt acquired by virtue of a participation in the Trust Property held subject to the relevant Participant Trust, or (iii) a Note relating to Eligible Debt(s) issued by the SPV in order to raise funds to allow the SPV to purchase a participation in the relevant Participant Trust, or Eligible Debts as the case may be;

(m) **Direct Asset** means a direct ownership interest in an Eligible Debt;

(n) **Insured Cause** means the failure of the Customer to make payment of an Eligible Debt on or before the Backstop Date for any reason;

(o) **Backstop Date** means the day falling forty-five (45) days after the earlier to occur of (i) the Due Date for payment of the Eligible Debt, and (ii) such other date as the Eligible Debt becomes due and payable under the relevant Origination Documentation.

Particulars

Policy Wording, cll. 1.1, 3.1, Schedule 1, Schedule 7 (CSA.0001.0001.3171).

40. In this Statement of Claim, capitalised terms have the same meaning as in the 2019 Policy unless otherwise defined.

41. Customer Endorsement 3 to the 2019 Policy dated 13 March 2019 purported to endorse Catfoss as a Customer, with an Aggregate Customer Limit of GBP 23 million, a Maximum Tenor of 365 days from the date the Insured acquired the Debt and a Premium of US$1.00.

42. Endorsement 9 dated 13 March 2019 provided that:

(a) Greensill Bank as the Insured might make a Claim for any Loss under the Policy at any time after such Loss arises; and

(b) the Insurer will pay any such Claim in full up to the amount of the relevant Loss, within 5 Business Days of such Claim being made by Greensill Bank, without the need for any further requirement to be met.

43. Endorsement 18 dated 27 June 2019 provided that the Policy Period in respect of the 2019 Policy was extended to 1 March 2021.

43A. By Endorsement 23, the definition of "Loss" or "Losses" part (III) in the 2019 Policy was amended to mean in respect of an Asset (which is a Note) owned by the Insured immediately prior to the payment of a Claim (which for the avoidance of doubt shall also include the Expected Allocation of the Insured in respect of each Asset acquired by the Insured from a Loss Payee after the occurrence of the Insured Cause but prior to payment of such Claim), the amount equal to the difference between:

(a) the Expected Allocation of the Insured in respect of such Asset; and

(b) the Insured's entitlement under the Master Trust Deed in respect of any amounts actually paid by the Customer or on its behalf in respect of the Eligible Debt from which such Asset is derived.

43B. Debt Endorsement 1 to the 2019 Policy dated 13 March 2019 and effective 22 February 2019 (**Debt Endorsement 1**) provided that a "Debt" under the 2019 Policy included where the underlying account receivable was settled, the benefit of an unconditional undertaking given by the Customer to or for the benefit of GCUK to pay or cause to be paid an amount equal to the amount of any receivables which GCUK (or an Affiliate of GCUK or a third party) had settled or agreed to settle in respect of goods and/or services provided by such Supplier to the Customer or such Affiliate, the payment details of which unconditional undertakings were either set out in the Customer Agreement or otherwise evidenced through written payment details provided by or written records held for or with respect to the Customer or any Affiliate and which receivables had been settled or agreed to be settled by GCUK (**Part C of Debt Endorsement 1**).

44. [NOT USED]

G.3 Loss Payee Endorsements

45. On around 13 March 2019, BCC purported to execute on behalf of the Insurer Loss Payee Endorsement 3 to the 2019 Policy, which provided that Credit Suisse Virtuoso was endorsed as a Loss Payee under the 2019 Policy effective from 22 February 2019 (the **Loss Payee Endorsement**).

46. It was an express term of the Loss Payee Endorsement that:

(a) Claim payments due under the 2019 Policy with respect to any Loss suffered by the Insured arising out of Assets acquired by the Insured from the Loss Payee prior to such Claim payment shall be paid to the Loss Payee to the extent that the Claim has been accepted by the Insurer with respect to such Assets, and up to a maximum of the amount specified as the maximum amount payable to the Loss Payee in respect of the relevant Customer as at the date on which the Loss Payee last acquired any Asset in respect of which such Loss was suffered; and

(b) any payment made by the Insurer to the Loss Payee constitutes a valid discharge of the Insurer's obligations to the Insured in respect of the Claim payment due under this policy in respect of the relevant Customer.

47. In the premises, including the matters pleaded above in paragraphs 8A to 46, Credit Suisse Virtuoso agreed to acquire the Catfoss Notes and pay the sums required to acquire them in consideration for not only the rights under the Catfoss Notes, but also that the Loss Payee entities would be endorsed as Loss Payees on this Policy.

47AA. On or around 15 December 2017, Brereton executed Loss Payee Endorsement 2 to the LOS Policy purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

47AB. On or around 20 April 2018, Brereton executed Loss Payee Endorsement 3 to 2018 Policy TS-03088 purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

47AC. On or around 13 March 2019, Brereton executed Loss Payee Endorsement 5 to the 2019 Policy purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

G.3A Loss Payee Limit Endorsements

47AD. On or around 1 June 2018, Brereton executed Loss Payee Limit Endorsement 5 to 2018 Policy TS-03088 purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

47AE. On or around 6 March 2019, Brereton executed Loss Payee Limit Endorsement 8 to Policy TS-03088 purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

47AF. On or around 13 March 2019, Brereton executed Loss Payee Limit Endorsement 11 to the 2019 Policy purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

G.3B Other Endorsements

47AG. On or around 6 March 2019, BCC executed Debt Endorsement 1 to Policy TS-03088 purportedly for and on behalf of BCC as agent and corporate authorised representative of the Insurer.

G.4 BCC as agent of the Insurer

47A. BCC and Brereton purported to execute:

(a) the 2018 Policy referred to in paragraph 30 above;

(b) Endorsement 27 referred to in paragraph 36 above;

(c) Endorsement 1 referred to in paragraph 37 above;

(d) the 2019 Policy referred to in paragraph 38 above;

(e) Customer Endorsement 3 referred to in paragraph 41 above;

(f) Endorsement 9 referred to in paragraph 42 above;

(g) Endorsement 18 referred to in paragraph 43 above;

(h) Loss Payee Endorsement 3 referred to in paragraph 45 above;

(i) Endorsement 23 referred to in paragraph 43A above;

(j) Debt Endorsement 1 referred to in paragraph 43B above;

(k) Debt Endorsement 1 to Policy TS-03088 referred to in paragraph 47AG above; and

(l) the other endorsements referred to in paragraphs 47AA to 47AF above,

on behalf of the Insurer.

Particulars

The 2018 Policy, 2019 Policy and the various endorsements were executed by Brereton purportedly for and on behalf of BCC as agent and authorised representative of the Insurer.

47B. Further to paragraph 47A above, BCC and Brereton:

(a) on 13 September 2018, sent the email referred to at paragraph 33 above; and

(b) on 15 September 2018, sent the confirmatory email referred to at paragraph 35 above,

purportedly on behalf of the Insurer.

Particulars

The emails were sent by Brereton purportedly for and on behalf of BCC as agent and authorised representative of the Insurer.

47C. The conduct of BCC and Brereton referred to in paragraphs 47A and 47B above was not within the actual authority of BCC and Brereton.

Particulars

Credit Suisse Virtuoso relies on section FA above.

Credit Suisse relies on the matters pleaded by the Insurer at paragraphs 9, 29H and 30 to 47C of the Insurer's Defence filed in this proceeding on 1 May 2026.

The Affidavit of Bradley Forbes Robson sworn on 13 February 2026, [72], [75], [85], [92]-[93], [112], [119], [121], [126]-[128], [141], [163]-[166].

The Affidavit of Twain Abbott affirmed on 13 February 2026, [33]-[36], [47], [49]-[52], [57]-[70], [200], [243]-[270], [334]-[340], [344], [373]-[374].

47D. [NOT USED]

47E. [NOT USED]

48. [NOT USED]

49. [NOT USED]

50. [NOT USED]

51. [NOT USED]

G.5 [NOT USED]

52. [NOT USED]

53. [NOT USED]

54. [NOT USED]

55. [NOT USED]

56. [NOT USED]

57. [NOT USED]

58. [NOT USED]

59. [NOT USED]

60. [NOT USED]

61. [NOT USED]

62. [NOT USED]

63. [NOT USED]

G POWER OF ATTORNEY

64. On 31 January 2019, Greensill Bank appointed Credit Suisse Virtuoso as its attorney to do in Greensill Bank's name any act, matter or thing which Credit Suisse Virtuoso considers necessary or desirable for the protection, preservation or enjoyment of Credit Suisse Virtuoso's interest as Loss Payee under, among other policies, the 2019 Policy.

Particulars

The Power of Attorney was in writing and executed as a deed on 31 January 2019 (CSA.0001.0001.3187).

H CATFOSS' FAILURE TO PAY

65. Catfoss has failed to pay the Repayment Amounts by the corresponding Maturity Dates (**Payment Failures**).

Particulars

Details of the debts in respect of which Catfoss has failed to make a payment are set out in the table at Annexure A to this Statement of Claim.

66. [NOT USED]

67. [NOT USED]

I CLAIMS ON THE POLICY

68. The Insured has submitted a Claim to BCC as the corporate authorised representative of the Insurer, in respect of the Payment Failures.

Particulars

The Claim Form was submitted by Greensill Bank and is dated 27 August 2021. In respect of the Amount Claimed, the Claim Form states:

"GBP 8,846,160 is presently outstanding and passed the relevant Backstop Date as at the date of this Claim Form. However, all of the outstanding amounts due under the Instalment Payment Agreement and the Side Letter will remain unpaid and the entire facility (up to the limit of GBP 23,000,000) will be sought in due course (as and when the Backstop

Dates have passed).” (CSA.0001.0008.0661)

69. [NOT USED]

70. [NOT USED]

J INSURER HAS FAILED TO PAY

71. [NOT USED]

72. [NOT USED]

73. As at the date of filing this Statement of Claim, the Insurer has not indemnified or paid the Insured or Credit Suisse Virtuoso under the 2019 Policy in respect of the Catfoss Notes.

74. The Insurer has publicly taken the position that the 2019 Policy was not validly entered into.

Particulars

Defence filed by the Insurer on 13 December 2021 in proceeding NSD1039/2021 - *White Oak Commercial Finance Europe (Non- Levered) Limited v Insurance Australia Limited* at [38] (CSA.0001.0001.3631).

Amended Defence filed by the Insurer on 7 April 2022 in proceeding NSD106/2022 – *Credit Suisse Virtuoso SICAV-SIF - Credit Suisse (Lux) Supply Chain Finance Fund v Insurance Australia Limited* at paragraph 30 (CSA.0001.0008.0048).

Defence filed by the Insurer on 1 April 2022 in proceeding NSD110/2022 – *Credit Suisse Virtuoso SICAV-SIF - Credit Suisse (Lux) Supply Chain Finance Fund v Insurance Australia Limited* at paragraph 36 (CSA.0001.0008.0114).

Defence filed by the Insurer on 6 June 2022 in proceeding NSD1216/2021 – *Greensill Bank AG & Anor v Insurance Australia Limited* at paragraph 13 (CSA.0023.0002.5863).

Letter from Clyde & Co to CMS dated 1 March 2022 (CSA.0001.0008.2729).

Defence filed by the Insurer in this proceeding on 1 May 2026, and particularly paragraphs 9, 29H and 30 to 47C.

75. [NOT USED]

76. [NOT USED]

77. [NOT USED]

K CLAIMS AGAINST BCC AND BRERETON

78. [NOT USED]

79. [NOT USED]

80. [NOT USED]

L.1 Knowledge of BCC and Brereton

81. BCC and Brereton knew the terms of the LOS Policy, 2018 Policy TS-03088, Policy TS-03088, 2018 Policy and the 2019 Policy (**Policies**) from at least the date that Brereton executed each of those policies respectively.

Particulars

Brereton's knowledge of the Policies is to be inferred from the fact that he signed them.

82. At all material times, BCC and Brereton knew the Policies provided that any Loss under those policies may be paid, after agreement with the Insured, to a Loss Payee, if agreed by the Insurer and evidenced by an endorsement to the Policies.

Particulars

LOS Policy wording, clause 15.3(d) (CMS.007.001.1542).

Policy TS-03088 wording, clause 15.3(d) (CSA.0001.0001.3228).

2018 Policy wording, clauses 1.1, 15.3(d) (GBA.0004.0004.0301).

2018 Policy TS-03088 wording, clause 15.3(d) (CSA.0001.0035.0804).

2019 Policy wording, clauses 1.1, 15.3(d) (CSA.0001.0001.3171).

83. From time to time during the Policy Period, BCC and Brereton entered into and executed Loss Payee Endorsements and Loss Payee Limit Endorsements under the Policies (or purportedly under the Policies), including the endorsements referred to in sections G.3 and G.3A above.

84. At all material times, BCC and Brereton each knew and understood that:

(a) some or all of the Assets the subject of the Policies would be acquired by one or more Loss Payees;

(ba) by executing the Policies and the endorsements to those Policies, BCC and Brereton represented that those documents were executed by BCC in its capacity as Corporate Authorised Representative of the Insurer and within the actual authority conferred upon it by the Insurer in that capacity;

(bb) to third parties (including, without limitation, prospective acquirers of such Assets), it would appear from each of the Policies that the Policies were:

(i) executed by Brereton for and on behalf of BCC as Corporate Authorised Representative of the Insurer;

(ii) executed with the actual authority of the Insurer; and

(iii) binding on the Insurer;

(bc) to third parties (including, without limitation, prospective acquirers of such Assets), it would appear from each of the endorsements to the Policies executed by Brereton that the endorsements and the relevant Policies were:

(i) executed by Brereton for and on behalf of BCC as Corporate Authorised Representative of the Insurer;

(ii) executed with the actual authority of the Insurer; and

(iii) binding on the Insurer;

(bd) to third parties (including, without limitation, prospective acquirers of such Assets), it would appear from each of the Policies and the endorsements

to the Policies that the cover the subject of the Policies would, according to their terms, operate in specified circumstances to the benefit of persons endorsed as Loss Payees under the Policies;

(be) the acquirers or potential acquirers of such Assets included, or might include, Credit Suisse, Credit Suisse Virtuoso and/or entities or funds associated with Credit Suisse;

(bf) the manner and capacity in which BCC and Brereton executed or purported to execute the Policies (and the endorsements thereto), would facilitate the insureds under the Policies representing to third parties (including, without limitation, prospective acquirers of Assets) that the Policies were binding on and enforceable against the Insurer;

(b) potential acquirers of Assets or Loss Payees would or would likely rely on the Policies, including the endorsements to those Policies, in purchasing or otherwise investing in Assets the subject of the Policies;

(ca) potential acquirers of Assets or Loss Payees would not, or would likely not, acquire Assets under the Policies if:

(i) Brereton and BCC did not have actual authority from the Insurer to execute the Policies (and endorsements thereto) on its behalf; or

(ii) there was a real question as to whether Brereton and BCC had actual authority from the Insurer to execute the Policies (and endorsements thereto) on its behalf; or

(iii) the Insurer was not, or may not, be bound by the Policies by reason of the circumstance that BCC and Brereton lacked, or may have lacked, actual authority to execute the Policies (and endorsements thereto);

and those potential acquirers or Loss Payees knew or suspected those matters;

(cb) if:

(i) Brereton and BCC did not have actual authority from the Insurer to execute the Policies (and endorsements thereto) on its behalf;

and/or

(ii) there was a real question as to whether Brereton and BCC had actual authority from the Insurer to execute the Policies (and endorsements thereto) on its behalf; and/or

(iii) the Insurer was not bound by the Policies;

there was a likelihood that third parties (including potential acquirers of Assets or Loss Payees) would be misled or deceived by Brereton's actions in executing the Policies and endorsements thereto purportedly for BCC as Corporate Authorised Representative of the Insurer; and

(c) potential acquirers of Assets and Loss Payees would or would likely rely on the manner and capacity in which BCC and Brereton executed or purported to execute the Policies, including the endorsements thereto, in purchasing or otherwise investing in Assets the subject of the Policies.

Particulars

Brereton's knowledge is to be inferred from:

(i) Brereton's awareness of the Loss Payee Endorsements, which is to be inferred from the fact that he signed them;

(ii) the objective commercial purpose of the Loss Payee Endorsements is to provide Loss Payees with benefits under the Policies, which benefits are described in:

A. the email from Julian Macey-Dare (Marsh) to Brereton dated 27 September 2017 (CSA.0001.0002.1248);

B. the email from John Whelan to Brereton and others dated 13 December 2017 (CMS.007.001.0509); and

C. the email exchange between John Whelan and PwC dated 8 February 2018, and forwarded to Brereton on 19 February 2018 (CMS.007.001.1817);

(iii) the email exchange between Lex Greensill and Brereton and others on 26 February 2019 (MMC_GCUK08_00005094); and

(iv) the email from Brereton to Lex Greensill dated 9 April 2019 and Lex Greensill's response (MMC_GCUK08_00007575).

Brereton's knowledge is to be attributed to BCC.

Additional particulars may be provided following further discovery and evidence.

85. When BCC and Brereton entered into and executed the Policies and endorsements referred to in paragraph 47A above, they each knew and understood that:

(aa) at least some of those Policies and endorsements (or the representations therein) would, or would likely, be transmitted to Loss Payees, including Credit Suisse Virtuoso and, alternatively, funds or entities associated with Credit Suisse;

(a) some or all of the Assets the subject of the Policies would be acquired by Credit Suisse Virtuoso or, alternatively, funds or entities associated with Credit Suisse;

(b) Loss Payees, including Credit Suisse Virtuoso or, alternatively, funds or entities associated with Credit Suisse, would or would likely rely on the existence and terms of the Policies, including any endorsements thereto, in purchasing or otherwise investing in Assets the subject of the 2019 Policy; and

(c) Credit Suisse Virtuoso or, alternatively, funds or entities associated with Credit Suisse, would or would likely rely on the manner and capacity in which BCC and Brereton executed or purported to execute the Policies, including the endorsements thereto, in purchasing or otherwise investing in Assets which were intended to attach to the Policies.

Particulars

Credit Suisse Virtuoso repeats the particulars to paragraph 84 above.

85A. BCC and Brereton knew of:

(a) the existence and terms of:

(i) the CGU AAR Agreement in force between 1 August 2017 and 9 April 2019 referred to in paragraph 29B above;

(ii) the BCC Authorisation Notice referred to in paragraph 29C above;

(iii) the CGU/Brereton Authorisation Agreement referred to in paragraph 9(e) of IAL's Defence;

(iv) the CGU/Brereton Authorisation Notice referred to in paragraph 9(e) of IAL's Defence;

(v) the Delegated Authority for Head of Business Unit of Trade Credit Effective 1st July 2017 (BCC.0001.0007.2654);

(vi) the Delegated Authority for Head of Business Unit of Trade Credit Effective 1st July 2018 (BCC.0001.0007.2655);

(vii) the Underwriting Manual Version 1.0 referred to in paragraph 9(g) of IAL's Defence;

(viii) the Approved Endorsements referred in paragraph 9(h) of IAL's Defence;

(ix) the Approved Wording 1.3 referred to in paragraph 9(i) of IAL's Defence;

(x) the Approved Wording 1.4 referred to in paragraph 9(j) of IAL's Defence;

(xi) the Underwriting Manual Version 2.0 referred to in paragraph 9(o) of IAL's Defence;

(xii) the IAL AAR Agreement in force between 9 April 2019 and 30 June 2019 and referred to in paragraph 29ZC above;

(xiii) the IAL/Brereton Authorisation Agreement and accompanying IAL/Brereton Authorisation Notice referred to in paragraphs 29ZI and 29ZJ above;

(xiv) the email from Brereton to Andrew Ross and others dated 24 July 2019 (BCC.0001.0007.6213); and

(xv) the email dated 30 May 2020 from Brereton to Mark Callahan and others (BCC.0001.0003.5715),

(together, the **Authority Documents**) from around the time that each of those documents came into existence; and

(b) at the time of executing the Policies (or the endorsements thereto) or the emails referred to in paragraphs 33 and 35 above, that BCC and Brereton did not have actual authority as was necessary to make an agreement on the terms of those Policies, endorsements or emails.

Particulars

In addition to Brereton's admissions (particularised below), Brereton's knowledge is to be inferred from the terms of the Authority Documents insofar as they were in force at the time that any particular Policy or endorsement was executed and Brereton's position as Head of Trade Credit at BCC, as well as the following documents, evidence and circumstances:

(i) Email from Twain Abbott (CGU) to Brereton dated 10 February 2017 (IAL.500.007.1396);

(ii) Email from Scott Newland to Brereton and Toby Guy dated 1 June 2018 (and earlier email in that chain) (BCC.0001.0007.2227);

(iii) the draft Underwriting Manual Version 1.0 (BCC.0001.0007.1929), which records track changes from Brereton;

(iv) Email from Brereton to Scott Newland and Toby Guy dated 2 July 2019 and attachment (BCC.0001.0007.5992; BCC.0001.0007.5993);

(v) Affidavit of Twain Abbott affirmed on 13 February 2026 at [75], [245]; and

(vi) the circumstances that Brereton altered his authority limits in Tinubu to exceed the limits prescribed by the Authority Documents (BCC.0001.0003.0886; BCC.0001.0008.0599).

It is also to be inferred from Brereton's later admissions that he

knowingly acted outside his authority in signing policies and endorsements relating to Greensill, and his actions in concealing the extent of that conduct, as recorded in the following documents:

(vii) Email from Mark Callahan to Toby Guy dated 2 July 2020 (TMA.0001.0008.1014);

(viii) Email from Toby Guy to Matt Barron and Mark Callahan dated 5 July 2020 (TMA.SUB.00000005_0001);

(ix) Email from Mark Callahan to Barry Cook and others dated 7 July 2020 (TMA.0001.0008.1111);

(x) Notes of meeting between Matt Barron, Toby Guy, Greg Brereton and Craig James on 6 July 2020 (including the admissions of Brereton recorded therein) (TMA.SUB.00000021_0001);

(xi) Final Status Report: Risk Management Incident dated 24 July 2020 (TMA.SUB.00000027_0001); and

(xii) Screenshot from the CIS Database (as defined in paragraph 85B below) illustrating that Brereton modified the CIS Database to nominate himself, rather than Marsh, as the broker for the 2019 Master Policy and then cancelled that policy (BCC.0001.0016.0153).

Brereton's knowledge is to be attributed to BCC.

85B. Brereton failed to record the existence and terms of all of the Policies and their endorsements on the Credit Insurance Suite Database (**CIS Database**) which BCC used to administer policies on behalf of IAL, and to report to IAL about those policies in bordereaux.

Particulars

Other than the LOS Policy, that Brereton did not upload the Policies or their endorsements to the CIS Database is to be inferred from the absence from BCC's discovery of CIS Database entries for those policies (equivalent to, for example, BCC.0001.0016.0614, which relates to the LOS Policy), and is also evidenced by the following documents:

(i) Notes of meeting between Matt Barron, Toby Guy, Brereton and Craig James on 6 July 2020 (including the admissions of Brereton recorded therein) (TMA.SUB.00000021_0001);

(ii) Email from Dilek Izciler to Murray Ironfield dated 3 July 2020 (BCC.0001.0005.2592);

(iii) Email from Toby Guy to Benjamin Le Forestier dated 5 July 2020 (TMA.0001.0007.0081); and

(iv) Email from Benjamin Le Forestier to Toby Guy dated 6 July 2020 (TMA.0001.0007.0127).

85C. At least at the time that the Policies and their endorsements were executed, and the emails referred to in paragraphs 33 and 35 above sent, BCC and Brereton knew that:

(a) the existence and terms of all of the Policies and their endorsements were not known to the Insurer;

Particulars

Brereton's knowledge is to be inferred from:

(i) Brereton's position as Head of Trade Credit at BCC;

(ii) the fact that Brereton failed to record the existence and terms of the 2019 Policy and its endorsements on the CIS Database which BCC used to administer policies on behalf of IAL, and to report to IAL about those policies in bordereaux as pleaded above at paragraph 85B;

(iii) a screenshot from the CIS Database illustrating that Brereton modified the database to nominate himself, rather than Marsh, as the broker for the 2019 Master Policy and then cancelled that policy (BCC.0001.0016.0153);

(iv) Emails exchanged between Toby Guy and Greg Brereton on or around 15 November 2018 in relation to the presentation "Trade Credit 2018/10 Underwriting Results" (BCC.0001.0003.1851; BCC.0001.0003.1852; BCC.0001.0003.1853; BCC.0001.0003.1854),

and the email from Toby Guy to Brad Robson (IAG), Phyong Ly (CGU) and Twain Abbott (CGU), copying Brereton, on 16 November 2018 attaching the final version of that presentation (IAL.500.005.0077; IAL.500.005.0078), which recorded incorrect exposures for Vodafone Pty Limited (see GCU.0009.0004.5514 and BCC.0001.0003.1586) and Shop Direct Limited (BCC.0001.0002.1753) and failed to record in the top 20 buyers: Bluestone Resources with a customer limit of USD 40m (MAR.0003.0001.3917); Atlantic 57 with a customer limit of USD 40m and Aluminium Dunkerque SAS with a customer limit of USD 60m (BCC.0001.0001.1061), and U Mobile Sdn Bhd with a customer limit of USD 50m (BCC.0001.0001.0929);

(v) Email from Brereton to Toby Guy on 3 December 2018, in response to an inquiry from IAG, incorrectly stating that IAG's total commitment to the "GFG Group" was $42 million (BCC.0001.0003.2125) when in fact IAG's purported exposure to the GFG Group was much more extensive (BCC.0001.0003.1218; BCC.0001.0007.3347; BCC.0001.0001.1239); and

(vi) Email from Brereton to Twain Abbott (CGU) on or around 12 December 2018, stating that Brereton was "aware that we probably cannot carry past $50 million" (BCC.0001.0004.1676), when IAG's purported exposure at that stage already far exceeded $50 million (see the particulars at (v) above).

Brereton's knowledge is to be attributed to BCC.

(b) in the premises of paragraphs 84, 85, 85A and 85C(a) above, Brereton's actions in executing the Policies and the endorsements thereto, and sending the emails referred to in paragraphs 33 and 35, were likely to:

(i) mislead third parties (including, without limitation, prospective acquirers of Assets and Loss Payees) that BCC and Brereton had actual authority to bind the Insurer to the Policies (and the endorsements thereto) when that was not the case; and

(ii) cause or facilitate Assets being promoted to possible acquirers for sale or investment on a false basis, being that the Assets were

supported by cover under Policies executed with the actual authority of the Insurer; and

(c) further, or in the alternative, in the premises of paragraphs 85A and 85C(a) above:

(i) if a claim was made by the Insured or a Loss Payee under the Policies and their endorsements, it was likely the Insurer would decline to indemnify on the ground that the Policies were not binding or enforceable against it; and

(ii) if the Insurer declined to indemnify the Insured or a Loss Payee on the ground that the 2019 Policy and its Endorsements were invalid and unenforceable, the Loss Payee(s) would suffer a loss.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraph 85 above and its particulars.

L.2 BCC/Brereton Conduct

86. BCC and Brereton:

(a) executed:

(ia) the LOS Policy referred to at 29ZZ above;

(ib) the 2018 Policy TS-03088 referred to at paragraph 29ZZAB above;

(ic) Policy TS-03088 referred to at paragraph 29ZZA above;

(i) the 2018 Policy referred to in paragraph 30 above;

(ii) Endorsement 27 referred to in paragraph 36 above;

(iii) Endorsement 1 referred to in paragraph 37 above;

(iv) the 2019 Policy referred to in paragraph 38 above;

(v) Customer Endorsement 3 referred to in paragraph 41 above;

(vi) Endorsement 9 referred to in paragraph 42 above;

(vii) Endorsement 18 referred to in paragraph 43 above;

(viii) the Loss Payee Endorsements referred to in section G.3 above;

(ixa) the Loss Payee Limit Endorsements referred to in section G.3A above;

(ix) Endorsement 23 referred to in paragraph 43A above;

(x) Debt Endorsement 1 referred to in paragraph 43B above; and

(xi) Debt Endorsement 1 to Policy TS-03088 referred to in paragraph 47AG above,

on or about the dates that those documents bear; and

(b) sent:

(i) the email referred to at paragraph 33 above; and

(ii) the email referred to at paragraph 35 above,

on or about the dates of those emails,

(**BCC/Brereton Conduct**).

87. [NOT USED]

88. [NOT USED]

89. [NOT USED]

90. [NOT USED]

91. [NOT USED]

92. [NOT USED]

92A. [NOT USED]

92B. [NOT USED]

L.3 Misleading or deceptive conduct

93. By engaging in the BCC/Brereton Conduct, BCC represented:

(aa) to Credit Suisse Virtuoso; and, or alternatively,

(ab) to a class of persons that included, at least, the Insureds, potential acquirers of Assets, Loss Payees and Marsh;

that:

(a) BCC was the agent of the Insurer;

(b) BCC was the Corporate Authorised Representative of the Insurer;

(c) BCC had actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent (**BCC Actual Authority Representations**); and

Particulars

The BCC Actual Authority Representations included, for the avoidance of doubt, that BCC was acting within the terms of its agency, and within its authority limits from the Insurer, by making an agreement on the terms of each of the documents.

(d) each of the documents referred to at paragraph 86 above was to BCC's knowledge binding upon the Insurer (**BCC Binding on Insurer Representations**),

(together, **BCC's Representations**).

Particulars

BCC's Representations were express or implied by:

(i) BCC's execution (via signature and stamp) of the Policies including the endorsements referred to at paragraph 86 above;

(ii) express statements in the execution block of the Policies and the documents referred to at subparagraphs 86(a)(ii), (iii) and (v) to (xi) above that the document was signed *"for and on behalf of [BCC]*

Corporate Authorised Representative of Insurance Australia Ltd";

(iii) express statements in the policy wording for the 2018 Policy and the 2019 Policy that BCC was the *"Corporate Authorised Representative of Insurance Australia Ltd"*: pages 1, 2, 16 and 44;

(iv) express statements in the policy wording for the LOS Policy and Policy TS-03088 that BCC was the *"Corporate Authorised Representative of Insurance Australia Ltd"*: pages 1, 18, and 44;

(v) clause 14.1 of the policy wording of the Policies; and

(vi) the documents described at paragraph 86(a)(i) to (xi) above were expressly issued by BCC as *"Corporate Authorised Representative of Insurance Australia Ltd"*.

94. At all material times, BCC failed to disclose to Credit Suisse Virtuoso, Credit Suisse Asset Management AG (Zurich), or to the Insured that BCC did not have actual authority to make the agreement on the terms of each of the documents referred to at paragraph 86 above (**BCC's Omissions**).

95. By engaging in the BCC/Brereton Conduct, Brereton represented:

(aa) to Credit Suisse Virtuoso; and, or alternatively,

(ab) to a class of persons that included, at least, the Insureds, potential acquirers of Assets, Loss Payees and Marsh;

that:

(a) BCC was the agent of the Insurer;

(b) BCC was the Corporate Authorised Representative of the Insurer;

(c) BCC had actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent (**Brereton's BCC Actual Authority Representations**);

Particulars

Brereton's BCC Actual Authority Representations included, for the

avoidance of doubt, that BCC was acting within the terms of its agency, and within its authority limits from the Insurer, by making an agreement on the terms of each of the documents.

(d) Brereton had actual authority to execute and send (as the case may be) each of the documents referred to at paragraph 86 above on behalf of BCC (**Brereton Actual Authority Representations**); and

(e) each of the documents referred to at paragraph 86 above was, to Brereton's knowledge binding upon the Insurer (**Brereton Binding on Insurer Representations**),

(together, **Brereton's Representations**).

Particulars

Brereton's Representations were express and implied by:

(i) Brereton's conduct in signing and stamping the 2019 Policy and endorsements referred to at paragraph 86 above;

(ii) the particulars to paragraph 93 above are repeated; and

(iii) Brereton's conduct in causing the documents referred to at paragraph 86 above to be sent to GCUK (as the 'Servicer' under the 2019 Policy) and/or to Marsh.

96. At all material times, Brereton failed to disclose to Credit Suisse Virtuoso, Credit Suisse Asset Management AG (Zurich), or to the Insured that:

(a) BCC did not have actual authority to make the agreement on the terms of each of the documents referred to at paragraph 86 above; and

(b) Brereton did not have actual authority to execute and send (as the case may be) each of the documents referred to at paragraph 86 above,

(together, **Brereton's Omissions**).

97. BCC's Representations and Brereton's Representations were:

(a) continuing representations; and

(b) not withdrawn or corrected at any material time.

98. The conduct of BCC pleaded at paragraphs 93 and 94 above and the conduct of Brereton pleaded at paragraphs 95 and 96 above was conduct:

(a) in relation to a financial service within the meaning of s 1041H of the Corporations Act;

(b) in trade or commerce within the meaning of s 18 of the Australian Consumer Law; and/or

(c) in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

99. Given BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent; then:

(a) the conduct of BCC pleaded at paragraphs 93 and 94 above was misleading or deceptive or likely to mislead or deceive; and

(b) by engaging in the conduct pleaded at paragraphs 93 and 94 above, BCC contravened s 1041H of the Corporations Act, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act.

100. Given:

(a) BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent; and/or

(b) Brereton did not have actual authority to execute or send (as the case may be) each of the documents referred to at paragraph 86 above on behalf of BCC,

then:

(c) the conduct of Brereton pleaded at paragraphs 95 and 96 above was misleading or deceptive or likely to mislead or deceive; and

(d) by engaging in the conduct pleaded at paragraphs 95 and 96 above, Brereton contravened s 1041H of the Corporations Act, s 18 of the

Australian Consumer Law and/or s 12DA of the ASIC Act.

101. But for:

(a) BCC's Representations and BCC's Omissions; and/or

(b) Brereton's Representations and Brereton's Omissions,

Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

102. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of BCC and Brereton pleaded at paragraphs 99 and 100 above.

Particulars

Credit Suisse Virtuoso's loss is the amount of GBP 22,533,793.74, being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes referred to at paragraph 26 above, plus any costs incurred to recover amounts owed in respect of the relevant Payment Failures (**Recovery Costs**), less any amount received by Credit Suisse Virtuoso in respect of Catfoss Notes.

102A. The conduct of BCC and Brereton pleaded at paragraphs 93 to 100 was conduct:

(a) that related to provision of a financial service;

(b) on which a Loss Payee (including Credit Suisse Virtuoso) could reasonably be expected to rely;

(c) on which Credit Suisse Virtuoso did in fact rely in good faith when entering into the Loss Payee Endorsements and when acquiring the Catfoss Notes;

(d) for which the Insurer is responsible, as between the Insurer and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority; and

(e) further and alternatively to sub-paragraph (d) above, to the extent the conduct pleaded at paragraphs 93 to 100 occurred on or after 1 July

2019, it was conduct for which TMNF is responsible, or partly responsible, as between TMNF and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority.

Particulars

Credit Suisse refers to paragraphs 29ZH, 29ZM, 29ZN to 29ZQ, and 29ZZQ to 29ZZT above.

With few exceptions, Brereton Representations and BCC Representations made after 1 July 2019 were made under cover of emails from Brereton which described BCC as "A member of the Tokio Marine Group".

102B. By reason of the matters pleaded at paragraphs 93 to 101 and 102A above, the Insurer, further and alternatively TMNF, is liable for the loss suffered by Credit Suisse Virtuoso pleaded at paragraph 102 above.

Particulars

(i) The Insurer and/or TMNF is liable for the conduct of Brereton and BCC for the reasons pleaded in paragraph 102A above.

(ii) The conduct and knowledge of Brereton prior to around 8 July 2020 is to be attributed to BCC in circumstances where: (i) Brereton was employed by Bond as BCC's Head of Trade Credit; and (ii) Brereton was responsible for dealing with the Greensill Group, Marsh and Credit Suisse Virtuoso regarding the 2018 Policy, the 2019 Policy and the endorsements thereto on behalf of BCC.

L.4 Section 1041E Claim

103. Given BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent, then:

(a) the BCC Actual Authority Representations were false in a material particular or materially misleading;

(ba) the BCC Actual Authority Representations were likely to induce persons in Australia to apply for financial products, or alternatively, to acquire financial products;

(b) at the time that the BCC Actual Authority Representations were made, BCC knew or ought reasonably to have been aware of the scope and limits of its actual authority (if any) to make an agreement on behalf of the Insurer as its agent;

(c) BCC knew or ought reasonably to have known that the BCC Actual Authority Representations were false in a material particular or materially misleading at the time they were made, or alternatively, did not care whether the BCC Actual Authority Representations were true or false at the time they were made; and

(d) by making the BCC Actual Authority Representations, and by failing to correct those representations at any material time, BCC engaged in conduct which contravened s 1041E of the Corporations Act.

Particulars

As to BCC's knowledge, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above, and the particulars thereto.

104. Given:

(a) BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent; and/or

(b) Brereton did not have actual authority to execute or send (as the case may be) each of the documents referred to at paragraph 86 above on behalf of BCC,

then:

(c) Brereton's BCC Actual Authority Representations and/or the Brereton Actual Authority Representations were false in a material particular or materially misleading;

(da) Brereton's BCC Actual Authority Representations and/or the Brereton

Actual Authority Representations were likely to induce persons in Australia to apply for financial products, or alternatively, to acquire financial products;

(d) at the time Brereton's BCC Actual Authority Representations and/or the Brereton Actual Authority Representations were made, Brereton knew or ought reasonably to have been aware of the scope and limits of:

(i) BCC's actual authority (if any) to make an agreement on behalf of the Insurer as its agent; and

(ii) Brereton's actual authority (if any) to execute documents on behalf of BCC;

(e) Brereton knew or ought reasonably to have known that Brereton's BCC Actual Authority Representations and/or the Brereton Actual Authority Representations were false in a material particular or materially misleading at the time they were made, or alternatively, did not care whether Brereton's BCC Actual Authority Representations and/or the Brereton Actual Authority Representations were true or false at the time they were made; and

(f) by making Brereton's BCC Actual Authority Representations, and/or the Brereton Actual Authority Representations and by failing to correct those representations at any material time, Brereton engaged in conduct which contravened s 1041E of the Corporations Act.

Particulars

As to Brereton's knowledge, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above, and the particulars thereto.

105A. Given that to BCC's knowledge, BCC did not have authority (actual or otherwise) to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent, then:

(a) the BCC Binding on Insurer Representations were false in a material particular or materially misleading;

(ba) the BCC Binding on Insurer Representations were likely to induce

persons in Australia to apply for financial products, or alternatively, to acquire financial products;

(b) at the time that the BCC Binding on Insurer Representations were made:

(i) BCC knew or ought reasonably to have been aware of the scope and limits of its actual authority (if any) to make an agreement on behalf of the Insurer as its agent;

(ii) BCC could not and did not know whether the conduct of the Insurer would ultimately give rise to an estoppel that would prevent the Insurer from relying on the absence of actual authority to decline to indemnify under the Policies;

(c) BCC knew or ought reasonably to have known that the BCC Binding on Insurer Representations were false in a material particular or materially misleading at the time they were made, or alternatively did not care whether the BCC Binding on Insurer Representations were true or false at the time they were made; and

(d) by making the BCC Binding on Insurer Representations, and by failing to correct those representations at any material time, BCC engaged in conduct which contravened s 1041E of the Corporations Act.

Particulars

As to BCC's knowledge, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above, and the particulars thereto.

105B. Given that to Brereton's knowledge:

(a) BCC did not have authority (actual or otherwise) to make an agreement in the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent; and/or

(b) Brereton did not have authority (actual or otherwise) to execute or send (as the case may be) each of the documents referred to at paragraph 86 above on behalf of BCC,

then:

(c) the Brereton Binding on Insurer Representations were false in a material particular or materially misleading;

(da) the Brereton Binding on Insurer Representations were likely to induce persons in Australia to apply for financial products, or alternatively, to acquire financial products;

(d) at the time the Brereton Binding on Insurer Representations were made, Brereton knew or ought reasonably to have been aware of the scope and limits of:

(i) BCC's actual authority (if any) to make an agreement on behalf of the Insurer as its agent; and

(ii) Brereton's actual authority (if any) to execute documents on behalf of BCC;

(e) Brereton knew or ought reasonably to have known that the Brereton Binding on Insurer Representations were false in a material particular or materially misleading at the time they were made, or alternatively did not care whether the Brereton Binding on Insurer Representations were true or false at the time they were made; and

(f) by making the Brereton Binding on Insurer Representations, and by failing to correct those representations at any material time, Brereton engaged in conduct which contravened s 1041E of the Corporations Act.

Particulars

As to Brereton's knowledge, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above, and the particulars thereto.

As to Brereton's knowledge of the absence of any ostensible authority, at the time that each of the Policies and endorsements were executed, and the emails referred to at paragraph 47B sent, Brereton could not have known, and did not know, whether the conduct of the Insurer would ultimately give rise to an estoppel that would prevent the Insurer from relying on the absence of actual authority to decline to indemnify under the Policies. It is to be inferred from that fact that, at least, Mr Brereton did not care about the existence of any ostensible authority.

105. But for:

(a) the BCC Actual Authority Representations;

(b) the BCC Binding on Insurer Representations;

(c) Brereton's BCC Actual Authority Representations;

(d) the Brereton Actual Authority Representations; and/or

(e) the Brereton Binding on Insurer Representations,

Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of BCC and Brereton pleaded at paragraphs 103 to 105B above.

Particulars

Credit Suisse Virtuoso's loss is the amount of GBP 22,533,793.74 being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Catfoss Notes, less any amount that Credit Suisse Virtuoso has been paid in respect of those Catfoss Notes.

106A. The conduct of BCC and Brereton pleaded at paragraphs 93, 95 and 103 to 105B was conduct:

(a) that related to provision of a financial service;

(b) on which a Loss Payee (including Credit Suisse Virtuoso) could reasonably be expected to rely;

(c) on which Credit Suisse Virtuoso did in fact rely in good faith when entering into the Loss Payee Endorsement and when acquiring the Catfoss Notes;

(d) for which the Insurer is responsible, as between the Insurer and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority; and

(e) further and alternatively to sub-paragraph (d) above, to the extent the

conduct pleaded at paragraphs 103 to 105B above occurred on or after 1 July 2019, it was conduct for which TMNF is responsible, or partly responsible, as between TMNF and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority.

Particulars

Credit Suisse refers to paragraphs 29ZH, 29ZM, 29ZN to 29ZQ, and 29ZZQ to 29ZZT above.

With few exceptions, Brereton Representations and BCC Representations made after 1 July 2019 were made under cover of emails from Brereton which described BCC as "A member of the Tokio Marine Group".

106B. By reason of the matters pleaded at paragraphs 103 to 105B and 106A above, the Insurer, further and alternatively TMNF, is liable for the loss suffered by Credit Suisse Virtuoso pleaded at paragraph 106 above.

L.5 Deceit

106ZA. Given BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent, then:

(a) the BCC Actual Authority Representations were false;

(b) at the time that the BCC Actual Authority Representations were made, BCC knew of, or was recklessly indifferent as to, the scope and limits of its actual authority to make an agreement on behalf of the Insurer as agent;

(c) at the time that the BCC Actual Authority Representations were made, BCC knew that the BCC Actual Authority Representations were false, or was recklessly indifferent as to whether or not they were true; and

(d) at the time that the BCC Actual Authority Representations were made, BCC intended that a class of persons including, at least, potential

acquirers of Assets and Loss Payees under the Policies, of which Credit Suisse Virtuoso was one, would rely on the BCC Actual Authority Representations when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZB. Given:

(a) BCC did not have actual authority to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent; and/or

(b) Brereton did not have actual authority to execute or send (as the case may be) each of the documents referred to at paragraph 86 above on behalf of BCC,

then:

(c) Brereton's BCC Actual Authority Representations and/or the Brereton Actual Authority Representations were false;

(d) at the time that Brereton's BCC Actual Authority Representations and the Brereton Actual Authority Representations were made, Brereton knew of, or was recklessly indifferent as to, the scope and limits of:

(i) BCC's authority to make an agreement on behalf of the Insurer as agent; and

(ii) Brereton's authority to execute documents on behalf of BCC;

(e) at the time that Brereton's BCC Actual Authority Representations were made, Brereton knew that those representations were false, or was recklessly indifferent as to whether or not they were true;

(f) at the time that the Brereton Actual Authority Representations were made, Brereton knew that those representations were false, or was recklessly indifferent as to whether or not they were true; and

(g) at the time Brereton's BCC Actual Authority Representations and the Brereton Actual Authority Representations were made, Brereton intended that a class of persons including, at least, potential acquirers of Assets and Loss Payees under Policies, of which Credit Suisse Virtuoso was one, would rely on those representations when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZC. Given that to BCC's knowledge, it did not have authority (actual or otherwise) to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent, then:

(a) the BCC Binding on Insurer Representations were false;

(b) at the time that the BCC Binding on Insurer Representations were made, BCC knew those representations were false, or was recklessly indifferent as to whether or not they were true; and

Particulars

As to Brereton's and BCC's knowledge of the absence of any actual authority, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

As to Brereton's knowledge of the absence of any ostensible authority, at the time that each of the Policies and endorsements were executed, and the emails referred to at paragraphs 33 and 35 were sent, Brereton could not have known, and did not know, whether the conduct of the Insurer would ultimately give rise to an estoppel that would prevent the Insurer from relying on the absence of actual authority to decline to indemnify under the Policies. It is to be inferred from that fact that he was, at least, recklessly indifferent to the existence of any ostensible authority.

Brereton's knowledge, or lack thereof, is to be attributed to BCC.

(c) at the time that the BCC Binding on Insurer Representations were made, BCC intended that a class of persons including, at least, potential

acquirers of Assets and Loss Payees under the Policies, of which Credit Suisse Virtuoso was one, would rely on the BCC Binding on Insurer Representations when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZD. Given that to Brereton's knowledge, BCC did not have authority (actual or otherwise) to make an agreement on the terms of each of the documents referred to at paragraph 86 above on behalf of the Insurer as its agent, then:

(a) the Brereton Binding on Insurer Representations were false;

(b) at the time that the Brereton Binding on Insurer Representations were made, Brereton knew those representations were false, or was recklessly indifferent as to whether or not they were true; and

Particulars

As to Brereton's knowledge of the absence of any actual authority, Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

As to Brereton's knowledge of the absence of any ostensible authority, Credit Suisse Virtuoso refers to and repeats the particulars to 106ZC(b).

(c) at the time that the Brereton Binding on Insurer Representations were made, BCC intended that a class of persons including, at least, potential acquirers of Assets and Loss Payees under the Policies, of which Credit Suisse Virtuoso was one, would rely on the BCC Binding on Insurer Representations when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZE. Given that to the knowledge of BCC, each of the documents referred to at paragraph 86 above was not binding on the Insurer from the dates they

were executed or sent (as the case may be) by Brereton, then:

(a) the BCC Binding on Insurer Representations were false;

(b) at the time that the BCC Binding on Insurer Representations were made, BCC knew those representations were false, or was recklessly indifferent as to whether or not they were true; and

Particulars

Brereton knew that the BCC Binding on Insurer Representations were false because:

(a) he knew of the absence of the necessary actual authority. Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto;

(b) he had no knowledge of any adequate ostensible authority. Credit Suisse Virtuoso refers to and repeats the particulars to 106ZC(b) above.

Brereton's knowledge is to be attributed to BCC.

(c) at the time that the BCC Binding on Insurer Representations were made, BCC intended that a class of persons including, at least, potential acquirers of Assets and Loss Payees under the Policies, of which Credit Suisse Virtuoso was one, would rely on the BCC Binding on Insurer Representations when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZF. Given that to the knowledge of Brereton, each of the documents referred to at paragraph 86 above was not binding on the Insurer from the dates they were executed or sent (as the case may be) by Brereton, then:

(a) the Brereton Binding on Insurer Representations were false;

(b) at the time that the Brereton Binding on Insurer Representations were

made, Brereton knew those representations were false, or was recklessly indifferent as to whether or not they were true; and

Particulars

Credit Suisse Virtuoso refers to and repeats the particulars to paragraph 106ZE above.

(c) at the time that the Brereton Binding on Insurer Representations were made, Brereton intended that a class of persons including, at least, potential acquirers of Assets and Loss Payees under the Policies, of which Credit Suisse Virtuoso was one, would rely on the BCC Binding on Insurer Representation when purchasing Assets.

Particulars

Credit Suisse Virtuoso refers to and repeats paragraphs 81 to 85C above and the particulars thereto.

106ZG. Credit Suisse received and ultimately acted upon:

(a) the BCC Actual Authority Representations;

(b) the BCC Binding on Insurer Representations;

(c) Brereton's BCC Actual Authority Representations;

(d) the Brereton Actual Authority Representations; and/or

(e) the Brereton Binding on Insurer Representations.

Particulars

(i) Credit Suisse received the representations either by:

A. receiving the Policies and their endorsements in the form signed by Brereton, as occurred in the case of the LOS Policy (CSA.5000.0001.0072 and CSA.5000.0001.0075); Loss Payee Endorsement 2 to the LOS Policy (CSA.5000.0001.0072 and CSA.5000.0001.0074); Loss Payee Endorsement 3 (Virtuoso) to the 2018 Policy (CSA.5000.0003.0778 and CSA.5000.0003.0779); Loss

Payee Limit Endorsement 5 to the 2018 Policy (CSA.5000.0002.1285 and CSA.5000.0002.1289); Debt Endorsement 1 to TS-03088 (CSA.5000.0001.0495 and CSA.5000.0001.0496); Loss Payee Limit Endorsement 8 to TS 03088 (CSA.5000.0001.0505 and CSA.5000.0001.0509); 2019 Policy (CSA.5000.0001.0893 and CSA.5000.0001.0894); Debt Endorsement 1 to the 2019 Policy (CSA.5000.0001.0495 and CSA.5000.0001.0504); Loss Payee Endorsement 3 (Virtuoso) to the 2019 Policy (CSA.5000.0001.0470 and CSA.5000.0001.0479); Customer Endorsement 54 to the 2019 Policy (CSA.5000.0001.1568 and CSA.5000.0001.1569); Debt Endorsement 2(iv) to 2019 Policy (CSA.5000.0003.5039 and CSA.5000.0003.5040); Customer Endorsement 54(i) to the 2019 Policy (CSA.5000.0001.1568 and CSA.5000.0001.1570); and Endorsement (Liberty MDR) Version 2 (CSA.5000.0001.1568 and CSA.5000.0001.1571);

B. Marsh providing Limit Confirmation Trackers and Limit Confirmation Letters to Credit Suisse, including as listed in the particulars to paragraph 106HH below and in Gilbert + Tobin's letter dated 5 April 2024, which conveyed the representations pleaded in subparagraphs 106LL(c) to (e) below;

C. the email from Ludwig Sels to Lukas Haas dated 26 September 2018 (CSA.5000.0001.0212_0001); and

D. the email from Angus Ward to Luke Haas dated 20 December 2019 (MAR.0003.0002.8218).

(ii) Credit Suisse also relies upon:

A. the Affidavit of Ruzica Stowe affirmed 25 October 2024, [15]-[18], [29], [30], [40]-[44], [48], [49]-[59];

B. the Affidavit of Christian Mossdorf affirmed 25 October 2024, [34]-[36], [49]-[52], [57], [58]-[78], [83];

C. the Affidavit of Nina Egelhof affirmed 25 October 2024, [36]-

[37]; and

D. the Affidavit of Guy Reiter sworn 25 October 2024, [118]-[126].

(iii) For the avoidance of doubt, Credit Suisse Virtuoso acted upon the representations by purchasing the Catfoss Notes in circumstances where the representations conveyed that BCC and Brereton were acting within their actual authority from the Insurer, which representations deterred further inquiry into BCC and Brereton's authority and, without which, Credit Suisse Virtuoso would have made further inquiry into BCC's and Brereton's authority to bind the Insurer before acquiring the Catfoss Notes.

106ZH. But for the representations referred to in 106ZG (or one or more of them), Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

Particulars

The particulars to paragraph 106ZG are repeated.

106ZI. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the conduct of BCC and Brereton pleaded at paragraphs 106ZA to 106ZF above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Notes, less any amount received by Credit Suisse Virtuoso in respect of those Notes, plus interest.

106ZJ The conduct of BCC and Brereton pleaded at paragraphs 93, 95 and 106ZA to 106ZF above was conduct:

(a) that related to the provision of a financial service;

(b) on which a Loss Payee (including Credit Suisse Virtuoso) could reasonably be expected to rely;

(c) on which Credit Suisse Virtuoso did in fact rely in good faith when entering into the Loss Payee Endorsements and when acquiring the

Catfoss Notes;

(d) for which the Insurer is responsible, as between the Insurer and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority; and

(e) further and alternatively to sub-paragraph (d) above, to the extent the conduct pleaded at paragraphs 93 to 99 and 106ZA to 106ZF occurred on or after 1 July 2019, it was conduct for which TMNF is responsible, or partly responsible, as between TMNF and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively, s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority.

Particulars

Credit Suisse refers to paragraphs 29ZH, 29ZM, 29ZN to 29ZQ, and 29ZZQ to 29ZZT above.

With few exceptions, Brereton Representations and BCC Representations made after 1 July 2019 were made under cover of emails from Brereton which described BCC as “A member of the Tokio Marine Group”.

106ZK By reason of the matters pleaded at paragraphs 106ZA to 106ZF and 106ZJ above, the Insurer, further and alternatively TMNF, is liable for the loss suffered by Credit Suisse Virtuoso pleaded at paragraph 106ZI above.

L.6 [NOT USED]

106ZL [NOT USED]

106ZM [NOT USED]

106ZN [NOT USED]

106ZO [NOT USED]

L CLAIMS RELATING TO TOKIO MARINE AND BCC

M.1 Knowledge of BCC, TMMA, TMNF and the Insurer

106C. At all material times, TMMA was the managing agent for TMNF.

106D. By no later than 3 June 2020, each of BCC, TMMA, TMNF and the Insurer knew that:

(a) Brereton had, on behalf of BCC, purported to execute and agree to insurance policies or endorsements which BCC, TMMA and TMNF regarded as being in excess of internal policy documents or underwriting guidelines;

(b) some of those policies or endorsements had purportedly been executed or agreed to by Brereton on behalf of BCC purportedly as agent for the Insurer;

(c) the insureds under some of those policies or endorsements were one or more of the members of the Greensill Group; and

Particulars

(i) Credit Suisse Virtuoso repeats sub-paragraphs 150(c) and (f) of the Brereton Defence.

(ii) The knowledge of BCC, TMMA and TMNF can be inferred from documents with the following document IDs: TMA.SUB.00000003_0001; TMA.SUB.00000004_0001; TMA.SUB.00000008_0001; TMA.SUB.00000009_0001; TMA.SUB.00000013_0001; TMA.SUB.00000015_0001; TMA.SUB.00000016_0001; TMA.SUB.00000019_0001; TMA.SUB.00000021_0001; TMA.SUB.00000023_0001; TMA.SUB.00000025_0001; TMA.SUB.00000027_0001; TMA.SUB.00000039_0001; TMA.SUB.00000045_0001; TMA.SUB.00000046_0001; TMA.SUB.00000057_0001; TMA.SUB.00000069_0001; TMA.SUB.00000070_0001; TMA.0001.0022.0032.

(iii) Credit Suisse Virtuoso repeats the particulars to paragraph 29ZZF

above.

(iv) The knowledge of TMMA is to be attributed to its principal, TMNF, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(v) The knowledge of BCC is to be attributed to its principal, TMMA, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(vi) The knowledge of BCC and TMMA of matters affecting the 2019 Policy and endorsements thereto is to be attributed to the Insurer because TMMA and BCC were acting as the Insurer's representative under the PACAO and by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(vii) The bordereaux provided to IAL by BCC throughout the relevant period (including from 1 July 2019 onward when BCC provided the bordereaux to IAL in its capacity as Administrator of the PACAO alongside TMMA) listed policies in the name of GCPL.

(viii) The bordereaux (including from 1 July 2019 onward) included insurance policies held by GCPL which were listed as variously having no maximum limit, or maximum policy limits of USD 158 million, EUR 1.6 billion, AUD 1.2 billion and AUD 400 million (IAG.0000033051.0001).

(ix) Further and better particulars may be provided following further discovery and evidence.

(d) in the premises, there was a substantial risk that the Insurer would take the position that it was not bound by the 2019 Policy and endorsements to that policy and that it would refuse to pay any claim made under the 2019 Policy.

106E. By no later than 19 June 2020, each of BCC, TMMA, TMNF and the Insurer knew that:

(a) loss payee endorsements had been issued under the 2019 Policy; and

Particulars

(i) Credit Suisse Virtuoso repeats the particulars to paragraphs 29ZZF to 29ZZFA and 84 above.

(ii) The knowledge of TMMA is to be attributed to its principal, TMNF, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(iii) The knowledge of BCC is to be attributed to its principal, TMMA, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(iv) This knowledge is also to be inferred from BCC's agreement, on behalf of the Insurer, to pay out a claim amount in the sum of USD 34,998,726 directly to a loss payee under the Policy TS-03088, which knowledge may be attributed to its principals TMNF and the Insurer, and to TMMA as BCC's co-administrator under the PACAO, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(v) Further and better particulars may be provided following further discovery and evidence.

(b) loss payees would, or might, acquire Assets within the meaning of the 2019 Policy in reliance on the 2019 Policy and its endorsements and the manner and capacity in which Brereton and BCC executed or agreed to the 2019 Policy and its endorsements.

Particulars

(i) Credit Suisse Virtuoso repeats the particulars to paragraph 106E(a) above.

(ii) This can further be inferred from the terms of the loss payee endorsements.

(iii) Further and better particulars may be provided following further discovery and evidence.

106F. By no later than 7 August 2020, each of BCC, TMMA, TMNF and the Insurer

knew that, whilst GCPL, GCUK, GBAG and Marsh had been informed of BCC's concerns regarding Brereton's authority to enter into or agree to the 2019 Policy and its endorsements:

(a) the stated position of Marsh, GCPL, GCUK and GBAG was that BCC was on risk in relation to all transactions agreed to be underwritten by Brereton as, or purportedly as, agent for the Insurer;

(b) loss payees were continuing to acquire Assets on the basis of the stated position referred to at (a) above; and

(c) in the premises, Marsh, GCPL, GBAG and GCUK might not inform the loss payees under the 2019 Policy of BCC's concerns.

Particulars

(i) Voice message from Mark Callahan (Director of BCC and TMMA) to Angus Ward (Marsh) on around 2 July 2020.

(iia) Email exchange between Mark Reynolds (President of Tokio Marine HCC – Credit Group), Blake Weber (Head Underwriter – US at Tokio Marine HCC – Credit Group) and Jerome Swinscoe (Chief Underwriting Officer at Tokio Marine HCC – Credit Group) dated 16 July 2020 (TMA.0001.0022.0032).

(ii) Email from Ewan Berkemeier (Marsh Sydney) to Toby Guy (Chief Executive Officer of TMMA and Director of BCC), Mark Callahan (TMMA/BCC) and others dated 29 July 2020 (MMC_GCUK08_00022411).

(iiia) Email from Ewan Berkemeier (Marsh Sydney) to Toby Guy (TMMA/BCC), Chris Blake (BCC) and others dated 29 July 2020 (TMA.0001.0007.1427).

(iii) Email from Mark Callahan (TMMA/BCC) to Angus Ward and others dated 2 July 2020 with subject line, "BCC on behalf of Tokio Marine" (CSA.0001.0015.0008).

(iv) Phone conversation between Toby Guy (TMMA/BCC) and Julian Macey- Dare (Marsh) on around 3 July 2020.

(v) Letter from Toby Guy (TMMA/BCC) to GCPL, GCUK and GBAG, copied to Marsh dated 4 August 2020 (CSA.0001.0008.0327).

(vi) Letter from Ewan Berkemeier (Marsh Sydney) to Toby Guy (TMMA/BCC) dated 7 August 2020 (MMC_GCUK14_00001920).

(vii) Letter from Mark Callahan (TMMA/BCC) to GCPL, GBAG and GCUK dated 28 August 2020 (CSA.0001.0015.0006).

(viii) Letter from Toby Guy (TMMA/BCC) on behalf of BCC to GCPL, GBAG and GCUK dated 1 September 2020 (MMC_GCUK08_00022720).

(ix) The knowledge of TMMA is to be attributed to its principal, TMNF, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(x) The knowledge of BCC is to be attributed to its principal TMMA, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(xi) The knowledge of BCC and TMMA of matters affecting the 2019 Policy and endorsements thereto is to be attributed to the Insurer because TMMA and BCC were acting as the Insurer's representative under the PACAO and by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

106G. By no later than September 2020, or alternatively by a later date known to BCC, TMMA and/or TMNF but unknown to the Applicant, BCC, TMMA, TMNF and the Insurer had concerns that:

(a) appropriate disclosures had not been made prior to placement of policies, including the 2019 Policy, which could impact coverage and/or application under the policies; and/or

(b) dealings between Brereton and GCPL, GCUK and/or GBAG involved fraud or malfeasance.

Particulars

(ia) Email from Jerome Swinscoe (Chief Underwriting Officer at Tokio

Marine HCC – Credit Group) to Mark Reynolds (President of Tokio Marine HCC – Credit Group) and Blake Weber (Head Underwriter – US at Tokio Marine HCC – Credit Group) dated 16 July 2020 (TMA.0001.0022.0029).

(i) Letter dated 16 March 2021 from Polczynski Robinson, solicitors for BCC and TMNF, to GCPL, GCUK and GBAG (CSA.0001.0001.3447).

(ii) Affidavit of Matt James Andrews (solicitor for TMMA) affirmed 27 June 2023 at [12(e)] (CSA.0001.0064.0002).

(iii) The knowledge of TMMA is to be attributed to its principal, TMNF, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(iv) The knowledge of BCC is to be attributed to its principal, TMMA, including by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

(v) The knowledge of BCC and TMMA of matters affecting the 2019 Policy and endorsements thereto is to be attributed to the Insurer because TMMA and BCC were acting as the Insurer's representative under the PACAO and by operation of s 769B of the Corporations Act and s 12GH of the ASIC Act.

Further and better particulars may be provided after further discovery and evidence.

106GA. By at least 14 January 2021, the Insurer was aware that:

(a) it considered Brereton had signed documents purportedly on its behalf but without its knowledge, consent or authority; and

(b) it was reserving all of its rights regarding the conduct of Brereton, BCC, the Greensill Group and Marsh.

Particulars

Letter from Oenone Ritman (IAG) to GCPL, GBAG and Ewan Berkemeier (Marsh Sydney) dated 14 January 2021 (MAR.0002.0001.3725).

M.2 Misleading or deceptive conduct

106H. From at least June 2020, each of BCC, TMMA, TMNF and the Insurer failed to disclose to the Applicant, as loss payee, that:

(a) Brereton had, on behalf of BCC, executed or agreed to insurance policies or endorsements which BCC, TMMA and TMNF regarded as being in excess of internal policy documents or underwriting guidelines; and

(b) there was at least a substantial risk that the Insurer would take the position that it was not bound by the 2019 Policy and its endorsements and that it would refuse to pay any claim made under the 2019 Policy,

(**2020 Omissions**).

106I. In the circumstances pleaded in paragraphs 106D to 106GA above, from a time presently unknown to Credit Suisse Virtuoso, but in any event by around 2 July 2020, 4 August 2020, 7 August 2020, September 2020 or alternatively in the case of the Insurer 14 January 2021, a person in the position of Credit Suisse Virtuoso would reasonably have expected one of BCC, TMMA, TMNF or the Insurer to disclose the substance of the 2020 Omissions.

106J. The failure to disclose the 2020 Omissions was conduct:

(a) in relation to a financial service within the meaning of 1041H of the Corporations Act;

(b) in trade or commerce within the meaning of s 18 of the Australian Consumer Law; and/or

(c) in trade or commerce and in relation to financial services within the meaning of s 12DA of the ASIC Act.

106K. In the circumstances pleaded in paragraphs 106D to 106GA above, the failure by each of BCC, TMMA, TMNF and the Insurer to disclose the 2020 Omissions to Credit Suisse Virtuoso was conduct:

(a) that was misleading or deceptive or likely to mislead or deceive; and

(b) thereby in contravention of s 1041H of the Corporations Act, s 18 of the Australian Consumer Law and/or s 12DA of the ASIC Act.

106L. But for the 2020 Omissions, Credit Suisse Virtuoso would not have purchased certain of the Catfoss Notes.

Particulars

The Catfoss Notes that would not have been purchased but for the 2020 Omissions are those which were acquired after the first time the substance of the 2020 Omissions ought to have been disclosed.

Alternatively, the Catfoss Notes that would not have been purchased but for the 2020 Omissions are those which were secured by any payment obligations or otherwise related to any Eligible Accounts Receivable created after the first time the substance of the 2020 Omissions ought to have been disclosed.

106M. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of BCC, TMMA, TMNF and the Insurer pleaded at paragraph 106K above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes particularised in paragraph 106L above, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

106MA From at least on or about 1 September 2018, Chris **Williams** was an employee of BCC's ultimate holding company, Tokio Marine Holdings Inc.

106MB From at least 2 July 2020, Williams received reports from BCC and TMMA about BCC's and TMMA's investigations into Brereton's suspected unauthorised conduct.

Particulars

(i) Email from Callahan to Williams dated 3 June 2020 advising of authority breaches within BCC (TMA.0001.0025.0001).

(ii) Email from Callahan to Williams and others dated 2 July 2020 advising of BCC's communication to Marsh that Brereton has no

authority to bind risk on IAL, that his authority to bind TMNF had been reduced as of 1 June 2019 and that all Greensill limits had been set to zero in BCC's systems (TMA.0001.0008.0964).

(iii) Email from Callahan to Williams dated 7 July 2020 reporting that Brereton had admitted to writing policies outside of authority "out of ego" (TMA.0001.0008.1111).

(iv) Email from Callahan to Williams and others dated 9 July 2020 providing update on the investigation into Brereton's conduct (TMA.0001.0008.1135).

(v) Email from Jumpei Kimura to Williams dated 14 July 2020 forwarding Guy's report to the TMMA board on the investigation into Brereton's conduct (TMA.0001.0025.0024).

(vi) Email from Callahan to Williams dated 17 July 2020 reporting on the possible fraud or malfeasance of Brereton (TMA.0001.0008.1594; TMA.0001.0008.1594_CT).

(vii) Email from Callahan to Williams dated 24 July 2020 (TMA.0001.0025.0032).

(viii) Email exchange between Callahan and Williams dated 31 July 2020 (TMA.0001.0011.0608).

106MC By no later than 28 July 2020, Williams:

(a) was acting on behalf of BCC, TMMA and TMNF in relation to:

(i) the investigations into Brereton's suspected unauthorised conduct; and/or

(ii) BCC, TMMA and TMNF's efforts to mitigate the impacts of that conduct on BCC, TMMA and TMNF;

(b) had undertaken to provide weekly updates to TMMA and TMNF on the progress of those investigations and/or efforts; and

(c) had assumed a leadership role in coordinating the response of BCC, TMMA and TMNF in respect of the investigations into Brereton's conduct

and the risk mitigation efforts.

Particulars

(i) Emails from Callahan to Williams and others on 16 July 2020, a second email from Callahan to Williams and Williams' response to Callahan dated 17 July 2020 (TMA.0001.0025.0026).

(ii) Email from Williams to Akira Harashima dated 27 July 2020 (TMA.0001.0008.1910).

(iii) Williams' approval of BCC's letter to Lex Greensill, GBAG and Marsh dated 4 August 2020 (TMA.0001.0008.2229; TMA.0001.0008.2230; TMA.0001.0008.2232; TMA.0001.0007.1879; TMA.0001.0007.1880).

(iv) Presentation dated 2 October 2020, identifying Williams as "Senior Executive Officer in charge of Australia" (TMA.0001.0011.4072).

106MD From at least 27 August 2020 to late February 2021, Williams acted on behalf of BCC, TMMA and TMNF in negotiations with Lex Greensill, GCUK and GCPL regarding the terms on which BCC would offer, confirm, or reduce cover of the risks the subject of the Policies.

Particulars

(i) Email dated 28 August 2020 from Callahan to Lex Greensill and GBAG, copying Williams and attaching a letter addressed to Lex Greensill, GBAG and GCUK (AGB.0002.0003.5402; AGB.0002.0003.5403).

(ii) Williams approved BCC's correspondence with APRA in relation to the expiration of the Greensill policies (TMA.0001.0008.5641 at 0002).

(iii) Williams engaged in bilateral discussions with Lex Greensill on 4 and 11 September 2020 (GCU.2000.0011.2334; TMA.0001.0008.3743).

(iv) Email from Lex Greensill to Williams dated 14 September 2020 (MAR.0009.0001.2761; MAR.0009.0001.2762).

(v) Email from Callahan to Williams dated 17 September 2020 (TMA.0001.0011.3165).

(vi) Email exchange between Williams and Lex Greensill dated 25 September 2020 (GCU.2000.0011.2718; GCU.2000.0011.2719).

(vii) Email from Lex Greensill to Williams dated 25 September 2020 attaching draft confirmations of insurance that Greensill sought from BCC (GCU.2000.0011.2722; GCU.2000.0011.2723; GCU.2000.0011.2724).

(viii) Email from Williams to Lex Greensill dated 3 October 2020 (GCU.2000.0011.2321; GCU.2000.0011.2322).

(ix) Email exchange between Lex Greensill and Williams dated 9 October 2020 (GCU.2000.0011.2710).

(x) Email exchange between Lex Greensill and Williams dated 11 October 2020 (GCU.2000.0011.2706).

(xi) Email from Lex Greensill and Williams dated 11 October 2020 attaching draft letter agreement, draft letter TBCC to GBAG, and draft letter TBCC to GCUK regarding loss payees (GCU.2000.0011.2701; GCU.2000.0011.2702; GCU.2000.0011.2703; GCU.2000.0011.2704).

(xii) Email from Lex Greensill to Williams dated 14 October 2020 attaching proposal to “cancel and terminate” four customer endorsements in respect of the 2019 Policy (GCU.2000.0011.2697; GCU.2000.0011.2698).

(xiii) Emails between Williams and Lex Greensill dated between 14 October 2020 and 19 October 2020, and Lex Greensill’s response on 19 October 2020 incorporating links to documents on SharePoint (GCU.2000.0011.2689; GCU.2000.0011.2690; GCU.2000.0011.2691; GCU.0006.0003.3988).

(xiv) Email from Macey-Dare to Callahan on 20 October 2020 forwarding Lex Greensill’s email to Williams on 19 October 2020 and links to the SharePoint (AGB.0002.0002.7245, attaching

AGB.0002.0002.7246; TMA.0001.0011.5509).

(xv) The inclusion in the SharePoint of, among other documents:

(A) 10 Loss Payee Endorsements and Loss Payee Limit Endorsements naming Credit Suisse Virtuoso, Credit Suisse Nova (Lux) Supply Chain Finance High Income Fund or Credit Suisse Funds 2 SICAV – Credit Suisse Supply Chain Finance Investment Grade Fund as Loss Payees purportedly executed by Brereton as authorised representative of the Insurer (as identified in Schedule A to the letter from Gilbert + Tobin to Kennedys dated 14 August 2026);

(B) 328 Debt Endorsements, Customer Endorsements and other endorsements under the 2019 Policy and the 2019 Master Policy (as identified in Schedule B to the letter from Gilbert + Tobin to Kennedys dated 14 August 2026);

(C) an email from Craig Pinnington (Greensill) to Edward Smith (Marsh) and others dated 3 April 2019 regarding the SSUK programme ("Distribution is via notes to Credit Suisse Virtuoso") (GCU.0042.0001.0055, attaching GCU.0042.0001.0056);

(D) an email chain between Greg Brereton, Lex Greensill, John Whelan (Greensill), Edward Smith (Marsh), Ewan Berkemeier (Marsh Sydney) and others, dated between 25 March 2020 and 29 April 2020, regarding the addition of White Oak as a Loss Payee under the 2019 Policy (GCU.0042.0001.0706); and

(E) three Loss Payee Endorsements for White Oak under the 2019 Policy (GCU.0042.0001.0707; GCU.0042.0001.0708; GCU.0042.0001.0719).

(xvi) Email from Williams to Lex Greensill dated 30 October 2020 attaching Williams' "summary of the various credits we went through today", which included several of the Customer

Endorsements under the 2019 Policy included on the SharePoint (GCU.2000.0011.2289, attaching GCU.2000.0011.2290).

(xvii) Email from Lex Greensill to Williams dated 2 December 2020 attaching a without prejudice proposal as marked up by Lex Greensill and Jonathan Lane (GCU.2000.0011.2643; GCU.2000.0011.2644).

(xviii) Email from Williams to Lex Greensill dated 26 December 2020 attaching draft letter agreement (GCU.2000.0011.2256; GCU.2000.0011.2257).

(xix) Email from Williams to Lex Greensill dated 3 January 2021 (GCU.2000.0011.2622).

(xx) Email from Williams to Lex Greensill dated 7 January 2021 (GCU.2000.0011.2254).

(xxi) Email from Lex Greensill to Williams dated 8 January 2021 (GCU.2000.0011.2620).

(xxii) Email from Lex Greensill to Williams dated 18 January 2021 (GCU.2000.0011.2613).

(xxiii) Email from Lex Greensill to Williams dated 20 January 2021 attaching "the proposal [they had] discussed" (GCU.2000.0011.2611; GCU.2000.0011.2612).

(xxiv) Email exchange between Williams and Lex Greensill dated 23 February 2020 (GCU.2000.0011.2541).

(xxv) Email from Williams to Lex Greensill dated 27 February 2021 stating "[i]t is disappointing that Credit Suisse and Soft bank were not introduced to the issues earlier on" (TMA.0001.0012.2004).

106ME Williams' communications with Lex Greensill between August 2020 to their conclusion in February 2021 were expressly confidential.

106MF By a time unknown to the Applicant, but no later than 7 August 2020, or alternatively 25 September 2020, or alternatively 7 January 2021, Williams knew, as was the case, that:

(a) Brereton had purported to execute insurance policies or endorsements which BCC, TMMA and TMNF regarded as being in excess of the authority granted by internal policy documents or underwriting guidelines;

(b) some of those policies or endorsements had purportedly been executed or agreed to by Brereton on behalf of BCC purportedly as agent for the insurer;

(c) the insureds under some of those policies or endorsements were one or members of the Greensill Group;

(d) loss payee endorsements had been issued under the 2019 Policy;

(e) loss payees would, or might acquire Assets within the meaning of the 2019 Policy in reliance on the 2019 Policy and its endorsements and the manner and capacity in which Brereton and BCC executed or agreed to the 2019 Policy and its endorsements;

(f) Greensill and Marsh had requested that IAL and BCC confirm cover under the Policies and endorsements;

(g) Greensill and Marsh had requested that IAL and BCC confirm indemnity for Loss Payees in accordance with the terms of the Policies and endorsements;

(h) IAL and BCC had declined to confirm cover under the Policies and endorsements, or to confirm indemnity for Loss Payees in accordance with the terms of the Policies and endorsements;

(i) IAL and BCC had expressly reserved their rights as to whether the Policies and endorsements were binding on IAL and BCC;

(j) there had been no public disclosure of:

  (i) Brereton's actions in excess of authority; or

  (ii) IAL's and BCC's reservation of rights;

(k) Loss Payees, such as Credit Suisse, had not been informed by BCC (or by anyone else to Williams' knowledge) of Brereton's misrepresentations

as to authority or as to IAL's and BCC's reservation of rights; and

(l) investors and third parties would or might continue to fund the Greensill Group through the purchase of originated financial instruments on the assumption that the Policies and endorsements were valid and binding on IAL.

Particulars

Williams' knowledge is to be inferred from:

(i) Letter from Berkemeier to Guy dated 7 August 2020 (TMA.0001.0007.1936) and the matters pleaded at paragraph 106MC above and the particulars thereto.

(ii) The matters pleaded in paragraphs 106MD and 106ME above and the particulars thereto.

(iii) Email exchange between Williams and Lex Greensill dated 25 September 2020 (GCU.2000.0011.2718).

(iv) Email from Lex Greensill to Williams dated 25 September 2020 attaching the "loss payee note that [they had] discussed" (GCU.2000.0011.2720; GCU.2000.0011.2721).

(v) Email from Williams to Lex Greensill dated 7 January 2021 (GCU.2000.0011.2254).

106MG From at least 7 August 2020, or alternatively 25 September 2020, or alternatively 7 January 2021, Williams did not take any steps to:

(a) disclose the substance of the 2020 Omissions to the Applicant himself; and

(b) cause any other person on behalf of BCC, TMMA or TMNF to disclose the substance of the 2020 Omissions to the Applicant.

106MH In the premises of paragraphs 106MA to 106MG above, TMMA and TMNF were "involved" within the meaning of s 12GF(1) of the ASIC Act and s 1041I(1) of the Corporations Act, in BCC's contraventions of s 12DA of the ASIC Act and s 1041H of the Corporations Act pleaded at paragraph 106K

above.

106N. Further and in the alternative to paragraph 106K above insofar as that paragraph relates to failures by TMMA, TMNF and the Insurer, BCC's failure to disclose the 2020 Omissions to Credit Suisse Virtuoso was conduct:

(a) of the Insurer by operation of s 769B(1) of the Corporations Act and s 12GH(2) of the ASIC Act, because it was conduct within BCC's actual or apparent authority as the Insurer's representative under the PACAO; and

(b) alternatively, of TMNF by operation of s 769B(1) of the Corporations Act and s 12GH(2) of the ASIC Act, because it was conduct within BCC's actual or apparent authority as TMNF's authorised representative and agent; and

(c) further or alternatively:

(i) that related to the provision of a financial service; and

(ii) on which a Loss Payee (including Credit Suisse Virtuoso) could reasonably be expected to rely;

(d) on which Credit Suisse Virtuoso did in fact rely in good faith when acquiring the Catfoss Notes referred to in paragraph 106L above;

(e) for which the Insurer is responsible, as between the Insurer and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (alternatively s 917C of the Corporations Act), whether or not BCC acted within the scope of its authority; and

(f) in respect of BCC's conduct during the period 1 July 2019 to 1 March 2021 for which TMNF is responsible, as between TMNF and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (alternatively s 917C of the Corporations Act), whether or not BCC acted within the scope of its authority.

Particulars

Credit Suisse refers to paragraphs 29ZH, 29ZM, 29ZN to 29ZQ, and 29ZZQ to 29ZZT above.

106O. By reason of the matters pleaded at paragraphs 106H and 106N above, the Insurer, further and alternatively TMNF, is liable for the loss suffered by Credit Suisse Virtuoso pleaded at paragraph 106M above.

M.2A [NOT USED]

106OA. [NOT USED]

106OB. [NOT USED]

106OC. [NOT USED]

106OD. [NOT USED]

M.3 Negligence

Risk of harm

106P. At all material times, there was a risk that Credit Suisse Virtuoso would suffer loss or damage if it acquired Catfoss Notes where there was reason to think there was a question or controversy as to the authority of Brereton or BCC to enter into the 2019 Policy and the endorsements thereto, including loss or damage in the form of:

(a) non-payment of insurance proceeds under the 2019 Policy; and/or

(b) delayed payment of insurance proceeds under the 2019 Policy, (**Risk of Harm**).

106Q. BCC, TMMA, TMNF and the Insurer knew, or ought to have known, of the Risk of Harm.

Particulars

Credit Suisse Virtuoso repeats the particulars to paragraphs 106D to 106GA above.

106R. The Risk of Harm was:

(a) foreseeable within the meaning of s 5B(1)(a) of the *Civil Liability Act 2002* (NSW) (**CLA**); and

(b) not insignificant within the meaning of s 5B(1)(b) of the CLA.

Duty of Care

106S. By no later than 3 June 2020, alternatively 7 August 2020, each of BCC, TMMA, TMNF and the Insurer owed a duty to each of Credit Suisse Virtuoso to:

(a) take reasonable steps to avoid Credit Suisse Virtuoso suffering the loss or damage referred to in paragraph 106P; and

(b) inform Credit Suisse Virtuoso of the substance of the 2020 Omissions.

Particulars

The salient features which support the finding of the duty include:

(i) the knowledge of BCC, TMMA, TMNF and the Insurer of the matters pleaded at paragraphs 106D to 106GA above;

(ii) Credit Suisse Virtuoso did not know, and could not have known absent disclosure from BCC, TMMA, TMNF, the Insurer, Marsh or a Greensill entity, of the matters referred to in sub-paragraph (i) above;

(iii) it was reasonably foreseeable that, as loss payees pursuant to the Loss Payee Endorsements, Credit Suisse Virtuoso would rely on the 2019 Policy and its endorsements, and the manner and capacity in which BCC and Brereton executed or agreed to those documents in advancing funding and acquiring Assets as defined in the 2019 Policy;

(iv) it was reasonable for an entity in the position of Credit Suisse Virtuoso to proceed on the basis that the 2019 Policy and its endorsements were valid and enforceable;

(v) the terms and scope of BCC's and/or Brereton's authority or delegations from the Insurer were not publicly available and, on their terms, were confidential; and

(vi) it was within the control of each of BCC, TMMA, TMNF and the Insurer to prevent the Risk of Harm from being realised by

disclosing the substance of the 2020 Omissions to Credit Suisse Virtuoso.

Reasonable precautions

106T. In the circumstances, a reasonable person in the position of BCC would have taken the precaution against the Risk of Harm for the purposes of s 5B(1)(c) of the CLA of disclosing to Credit Suisse Virtuoso the substance of the 2020 Omissions.

106U. In the circumstances, a reasonable person in the position of TMMA would have taken the precautions against the Risk of Harm for the purposes of s 5B(1)(c) of the CLA of:

(a) identifying Credit Suisse Virtuoso as loss payee (if it did not know the loss payee's identity already, which is denied); and

(b) disclosing to Credit Suisse Virtuoso the substance of the 2020 Omissions.

106V. In the circumstances, a reasonable person in the position of TMNF would have taken the precautions against the Risk of Harm for the purposes of s 5B(1)(c) of the CLA of:

(a) identifying Credit Suisse Virtuoso as loss payee (if it did not know the loss payee's identity already, which is denied);

(b) disclosing to Credit Suisse Virtuoso the substance of the 2020 Omissions; and/or

(c) causing its managing agent, TMMA, or its authorised representative, BCC, to disclose to Credit Suisse Virtuoso the substance of the 2020 Omissions.

106W. In the circumstances, a reasonable insurer in the position of the Insurer would have taken the precautions against the Risk of Harm for the purposes of s 5B(1)(c) of the CLA of:

(a) identifying Credit Suisse Virtuoso as loss payee (if it did not know the loss payee's identity already, which is denied);

(b) disclosing to Credit Suisse Virtuoso the substance of the 2020 Omissions;

and/or

(c) causing BCC as its agent and/or representative to disclose to Credit Suisse Virtuoso the substance of the 2020 Omissions.

106X. In failing to take the precaution pleaded at paragraph 106T, BCC breached the duty of care it owed to Credit Suisse Virtuoso.

106Y. In failing to take the precautions pleaded at paragraph 106U, TMMA breached the duty of care it owed to Credit Suisse Virtuoso.

106Z. In failing to take the precautions pleaded at paragraph 106V, TMNF breached the duty of care it owed to Credit Suisse Virtuoso.

106AA In failing to take the precautions pleaded at paragraph 106W, the Insurer breached the duty of care it owed to Credit Suisse Virtuoso.

Loss and Damage

106BB. Had BCC, TMMA, TMNF or the Insurer disclosed the substance of the 2020 Omissions, Credit Suisse Virtuoso would have immediately ceased purchasing the Catfoss Notes.

Particulars

The particulars to paragraph 106L are repeated.

106CC. In the premises, Credit Suisse Virtuoso has suffered loss or damage as the result of the breaches of duty by each of BCC, TMMA, TMNF and the Insurer.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes that were acquired after the date on which the Insurer, TMNF, TMMA or BCC first failed to disclose the substance of the 2020 Omissions, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

Alternatively, the total amount paid by Credit Suisse Virtuoso to acquire any Catfoss Notes which were secured by any payment obligations or

otherwise related to any Eligible Accounts Receivable created after the date on which the Insurer, TMNF, TMMA or BCC first failed to disclose the substance of the 2020 Omissions, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

Further and better particulars will be provided after further discovery and evidence.

106DDA. Further and in the alternative to paragraphs 106Y, 106Z, and 106AA above, BCC's breach pleaded at 106X above was conduct:

(a) of the Insurer by operation of s 769B(1) of the Corporations Act and s 12GH(2) of the ASIC Act, because it was conduct within BCC's actual or apparent authority as the Insurer's representative under the PACAO; and

(b) alternatively, of TMNF by operation of s 769B(1) of the Corporations Act and s 12GH(2) of the ASIC Act, because it was conduct within BCC's actual or apparent authority as TMNF's authorised representative and agent; and

(c) further or alternatively, BCC's breach of duty pleaded at paragraph 106X above was conduct:

(i) that related to the provision of a financial service;

(ii) on which a Loss Payee (including Credit Suisse Virtuoso) could reasonably be expected to rely;

(iii) on which Credit Suisse Virtuoso did in fact rely in good faith when entering into the Loss Payee Endorsements and when acquiring the Notes;

(iv) for which the Insurer is responsible, as between the Insurer and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively s 917C of the Corporations Act), whether or not BCC and/or Brereton acted within the scope of their authority; and

(v) further and alternatively to sub-paragraph (iv) above, for which

TMNF is responsible, or partly responsible, as between TMNF and Credit Suisse Virtuoso, by operation of ss 917A and 917B of the Corporations Act (or alternatively s 917C of the Corporations Act), whether or not BCC acted within the scope of its authority.

Particulars

Credit Suisse refers to paragraphs 29ZH, 29ZM, 29ZN to 29ZQ and 29ZZQ to 29ZZT above.

M CLAIMS AGAINST MARSH

N.1 Marsh's knowledge

106DD. By September 2017 at the latest, Marsh had been engaged as insurance broker by one or more of GCPL, GCUK and/or GBAG in respect of trade credit risks, including to:

(a) negotiate policy wording on behalf of GCPL, GCUK and/or GBAG to adapt to specific risk requirements and structure;

(b) bind coverage with carriers on behalf of GCPL, GCUK and/or GBAG; and

(c) confirm in writing to GCPL, GCUK and/or GBAG when cover under insurance policies had been bound and that no subjectivities or conditionalities remain.

Particulars

Letter from Julian Macey-Dare (Marsh) to GCUK dated 18 April 2016 (MAR.0001.0001.0003).

Letter from Julian Macey-Dare (Marsh) to Lex Greensill (GCUK) dated 3 March 2017 (MAR.0001.0001.0002).

Letter from Julian Macey-Dare (Marsh) to GCUK dated 15 June 2017 (MAR.0001.0001.0004).

106EE. By around December 2017 at the latest, Marsh knew that:

(a) GCPL, GCUK and/or GBAG were intending to endorse one or more loss payees to the policies of trade credit insurance that they were seeking to

obtain;

(b) the loss payee in each case would be the purchaser of notes that were backed by the underlying debts that were to be insured debts under the policies **(Insured Notes**);

(c) the insurance being sought was for the benefit of, amongst others, the loss payees, who were to receive insurance payouts if there were defaults in respect of the insured debts; and

(d) one or more funds or entities associated with the investment bank, Credit Suisse, would be loss payees.

Particulars

Email from Lex Greensill to John Whelan (GCUK), copied to Ewan Berkemeier (Marsh Sydney) and others, dated 5 September 2017 (CMS.007.001.0016).

Email from Ewan Berkemeier (Marsh Sydney) to Scott Newland (BCC), dated 9 November 2017 (CMS.007.001.0450).

Email from John Whelan (GCUK) to Lex Greensill (GCUK) and Brereton (BCC), copied to Julian Macey-Dare (Marsh) and others, dated 13 December 2017 (CMS.007.001.0509).

Email from John Whelan (GCUK) to Brereton and Lex Greensill, copied to others, dated 13 December 2017 (CMS.007.001.0724).

Further particulars to be provided after further discovery and evidence.

106FF. By around December 2017, Marsh knew that GCPL, GCUK and/or GBAG would require Marsh to confirm to the relevant Credit Suisse funds that there was sufficient cover under a relevant trade credit insurance policy for the receivables backing each Insured Note that a Credit Suisse fund acquired.

Particulars

Email from John Whelan (GCUK) to Edward Smith (Marsh) dated 6 October 2017 (MAR.0004.0001.0913).

Email from Edward Smith (Marsh) to Lex Greensill (GCUK), John Whelan (GCUK) and Brett Downes (GCUK), copied to Sophie Lettsome (GCUK) and Julian Macey-Dare (Marsh), dated 31 October 2017 (MAR.0003.0001.1565).

Email correspondence between Lex Greensill (GCUK), Julian Macey-Dare (Marsh), Edward Smith (Marsh) and Brett Downes (GCUK), dated 9 November 2017 (MAR.0003.0001.1585).

Email from Edward Smith (Marsh) to Julian Macey-Dare (Marsh) and John Whelan (GCUK), copied to Jason Austin (GCUK) and Brett Downes (GCUK), dated 13 December 2017 (MAR.0004.0001.1060).

Email correspondence between Jason Austin (GCUK), Julian Macey-Dare (Marsh) and John Whelan (GCUK), copied to Edward Smith (Marsh) and others, dated between 13 December 2017 and 15 December 2017 (CMS.007.001.1514).

Email from John Whelan (GCUK) to Julian Macey-Dare (Marsh), copied to Edward Smith (Marsh) and others, 13 December 2017 (CMS.007.001.0796).

Email from John Whelan (GCUK) to Brereton and Lex Greensill, copied to Julian Macey-Dare (Marsh) and others, dated 14 December 2017 (BCC.0001.0005.0475).

Email from Sophie Dyke (GCUK) to Edward Smith (Marsh), copied to Brett Downes (GCUK) and David Keeling (GCUK), dated 8 February 2018 (MAR.0003.0001.2159), attaching the Limit Confirmation Tracker (MAR.0003.0001.2160).

Email from Sophie Dyke (GCUK) to Lukas Haas (Credit Suisse), copied to Michael Schmid (Credit Suisse) and others, dated 9 February 2018 (CSA.5000.0003.0571), attaching the Limit Confirmation Tracker (CSA.5000.0003.0572).

Email correspondence between Edward Smith (Marsh) and Sophie Dyke (GCUK), dated 16 February 2018 (MAR.0003.0001.2209).

Email correspondence between Lukas Haas (Credit Suisse) and Edward

Smith (Marsh), copied to Sophie Dyke (GCUK) and Ludwig Sels (GCUK), dated 7 March 2018 (MAR.0003.0001.2400).

Email from Edward Smith (Marsh) to Lukas Haas (Credit Suisse) and others, dated 26 June 2018 (MAR.0003.0001.4351).

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T190.18-21.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T86.8-13; T190.25-191.3.

106GG. By around December 2017, Marsh knew, or alternatively ought to have known, that:

(a) the Insurer had issued a statement (the **To Whom It May Concern Letter**) on around 1 August 2017;

(b) the To Whom It May Concern Letter:

(i) was generic, in the sense that it was addressed "To Whom It May Concern";

(ii) confirmed that BCC had authority to write the class of business, being trade credit insurance, for the Insurer;

(iii) did not refer to any limits to that authority; and

(iv) stated BCC was an authorised representative of IAG Agencies, but did not state BCC was an authorised representative of the Insurer;

(c) negotiations with BCC for the provision of trade credit insurance to GCPL, GCUK and/or GBAG had broken down in around October 2017 in circumstances where BCC had communicated various limitations on its authority to offer trade credit insurance including.

(i) a general quantum limit on authority, being around AUD 35 million, or alternatively around AUD 50 million;

(ii) limitations referable to the Customer's credit rating;

(iii) that any quantum offered would need to take into account the exposures of BCC to the Customer under other trade credit insurance; and

(iv) that any departure from its standard wording would also require special acceptance by its insurer and/or reinsurer;

(d) the To Whom It May Concern Letter pre-dated events and communications from September 2017, which indicated that there were limitations (as pleaded in subparagraphs (c) above) to BCC's authority to generally bind the Insurer notwithstanding the terms of the To Whom It May Concern Letter;

(e) the wording proposed for the LOS Policy was bespoke, in a form materially different to trade credit insurance policies that are commonly used in the Australian market and/or materially different from the standard wording ordinarily used by BCC;

(f) the limit of liability proposed for the LOS Policy was substantial and materially higher than trade credit insurance policies that were commonly used in the Australian market and/or substantially greater than the limits communicated in around October 2017; and

(g) BCC had not completed an Intermediary Questionnaire regarding BCC's authority to offer insurance on behalf of IAL or provided the underwriting agreement with IAL confirming the existence of BCC's underwriting authority, duration of agreement, risks covered and related limits (or any extract thereof).

Particulars

Email from Tushar Gupta (BCC) to Brad dePlater (Marsh) dated 10 August 2017 (MAR.0004.0001.0597) and attached To Whom It May Concern Letter dated 1 August 2017 (MAR.0004.0001.0600).

Email from Ewan Berkemeier (Marsh Sydney) to Julian Macey-Dare (Marsh) dated 3 October 2017 (CMS.007.001.0142).

Email exchange between Ewan Berkemeier (Marsh Sydney) to Scott Newland (BCC) dated 3 and 4 October 2017 (CMS.007.001.0155).

Email from Scott Newland (BCC) to Ewan Berkemeier (Marsh Sydney) dated 5 October 2017 (CSA.0001.0002.1119).

Email exchange between Julian Macey-Dare (Marsh) to Scott Newland (BCC) dated 5 October 2017 (CMS.007.001.0264).

Email from Toby Guy (BCC) to Ewan Berkemeier (Marsh Sydney) dated 10 October 2017 (CMS.007.001.0287).

Email exchange between Lex Greensill, Edward Smith (Marsh) and Julian Macey- Dare (Marsh) dated 10 and 11 October 2017 (CMS.007.001.0290).

Email exchange between Julian Macey-Dare (Marsh) and Ewan Berkemeier (Marsh Sydney) and others dated 14 and 15 December 2017 (CMS.007.001.1410/ CMS.007.001.1415).

Email from Ewan Berkemeier (Marsh Sydney) to Brereton (BCC) dated 15 December 2017 (CMS.007.001.1004) and Brereton's response (CMS.007.001.0009).

Emails from Brereton (BCC) to John Whelan (GCUK), Lex Greensill, Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney) and others dated 15 December 2017 (CMS.007.001.1533).

Email from Ewan Berkemeier (Marsh Sydney) to Greg Brereton (BCC) dated 5 September 2017 and attached To Whom It May Concern Letter (MAR.0004.0001.0650; MAR.0004.0001.0656).

Email exchange between Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney), Lex Greensill and Brereton, dated 12 September 2017 (CMS.007.001.0093).

Email exchange between Brereton and Ewan Berkemeier (Marsh Sydney) dated 12 September 2017 (CSA.0001.0002.1039).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Brereton (BCC) dated 7 and 8 September 2017 (CSA.0001.0002.1132).

Email exchange between Ewan Berkemeier (Marsh Sydney), Brereton and Lex Greensill dated 5 September 2017 (CMS.007.001.0016).

Email exchange between Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney), Brereton, Lex Greensill dated 12 and 14 September 2017 (CMS.007.001.0100).

Email exchange between Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney), Brereton and Scott Newland (BCC), dated 15, 18, 19, 20 and 21 September 2017 (CMS.007.001.0120).

Email exchange between Brereton and John Whelan (GCUK) dated 14 September 2017 (BCC.0001.0002.0134).

Email from Julian Macey-Dare (Marsh) to John Whelan (GCUK) dated 21 September 2017 (CMS.007.001.0119).

Email from Julian Macey-Dare (Marsh) to Ewan Berkemeier (Marsh Sydney) and others dated 3 October 2017 (MAR.0003.0001.1310).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Scott Newland (BCC) dated 5 and 23 October 2017 (CSA.0001.0002.1230).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Scott Newland (BCC) dated 9 November 2017 (AGB.0002.0002.5291).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Scott Newland (BCC) dated 20 and 21 November 2017 (MAR.0003.0001.1638).

Credit Suisse Virtuoso repeats the particulars to the defence filed by the Insurer on 21 August 2024 at paragraph 29ZZ(g).

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T69.14-70.17; T80.11-81.19; T125.8-126.8; T143.25-144.24; T208.8-20; T209.10-210.1; T211.5-19.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T184.12-186.4; T188.11-21; T191.14-192.15; T194.13-17.

Email exchange between Ewan Berkemeier (Marsh Sydney), Lex Greensill (GCUK), Julian Macey-Dare (Marsh), Edward Smith (Marsh), Ilkka Tales and Matt Costello (both GCUK) dated 12 September 2017 (CMS.007.001.0093).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Julian Macey-Dare (Marsh) dated 3 October 2017 (CMS.007.001.0142).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Scott Newland (BCC) dated 4 October 2017 (CMS.007.001.0155).

Email exchange between Ewan Berkemeier (Marsh Sydney) and Edward Smith (Marsh), copied to Julian Macey-Dare (Marsh), dated 9 and 10 October 2017 (MAR.0013.0001.0054).

Email exchange between Greg Brereton (BCC) and Lex Greensill (GCUK), copied to Edward Smith (Marsh Sydney) and others, dated 17 October 2017 (IAL.500.011.0513).

Email exchange between Edward Smith (Marsh), Julian Macey-Dare (Marsh) and Ewan Berkemeier (Marsh Sydney) dated 21 November 2017 (MAR.0003.0001.1636).

Email exchange between Ewan Berkemeier (Marsh Sydney), Julian Macey-Dare (Marsh), John Whelan (GCUK), Jason Austin (GCUK) and others dated 13 and 14 December 2017 (MAR.0004.0001.1166).

Email exchange between John Whelan (GCUK), Jason Austin (GCUK), Julian Macey-Dare (Marsh), Edward Smith (Marsh) and Brett Downes (GCUK) dated 14 December 2017 (MAR.0004.0001.1166).

Email from Brereton (BCC) to Ewan Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0003.0001.1822) attaching the To Whom It May Concern Letter (MAR.0003.0001.1824).

Email exchange between Girshita Singh (Marsh Sydney) and Ewan Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0004.0001.1093).

Email exchange between Julian Macey-Dare (Marsh) and Ewan

Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0004.0001.1088).

Email exchange between Ewan Berkemeier (Marsh Sydney), Chris McDermott (Marsh Sydney) and Eric Wojcik (Marsh Specialty) dated 14 December 2017 (MAR.0002.0001.0024).

Email exchange between Ewan Berkemeier (Marsh Sydney), Brereton (BCC) and Scott Newland (BCC) dated 14 December 2017 (MAR.0002.0001.0035).

Email exchange between Julian Macey-Dare (Marsh) and Tim Smith (Marsh) dated 14 December 2017 (MAR.0004.0001.1086).

Email exchange between Greg Brereton (BCC), Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney), Edward Smith (Marsh), John Whelan, Lex Greensill, Brett Downes, Ilkka Tales and Matt Costello (all GCUK) dated 15 September 2017 (MAR.0003.0001.1171).

Marsh's knowledge is also to be inferred from the nature of the LOS Policy (CSA.5000.0001.0082; CSA.5000.0001.0083) and the endorsements to that policy.

106GGA. By around December 2017, Marsh knew, or alternatively ought to have known, that the only document or communication in its possession to which the Insurer was party purporting to confirm BCC's authority to bind the Insurer to policies and endorsements was the To Whom It May Concern Letter.

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T59.17-60.3; T60.21-61.10; T69.14-70.17; T80.11-81.19; T125.8-126.8; T143.25-144.24; T208.8-20; T209.10-210.1; T211.5-19.

Email from Tushar Gupta (BCC) to Brad dePlater (Marsh) dated 10 August 2017 (MAR.0004.0001.0597) and attached To Whom It May Concern Letter dated 1 August 2017 (MAR.0004.0001.0600).

Email exchange between Girshita Singh (Marsh Sydney) and Ewan

Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0004.0001.1093).

Email exchange between Julian Macey-Dare (Marsh) and Ewan Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0004.0001.1088).

Email exchange between Ewan Berkemeier (Marsh Sydney), Julian Macey-Dare (Marsh), John Whelan (GCUK) and others dated 14 December 2017 (MAR.0004.0001.1166).

Email from Brereton (BCC) to Ewan Berkemeier (Marsh Sydney) dated 14 December 2017 (MAR.0003.0001.1822) attaching the To Whom It May Concern Letter (MAR.0003.0001.1824).

Email exchange between Ewan Berkemeier (Marsh Sydney), Chris McDermott (Marsh Sydney) and Eric Wojcik (Marsh Specialty) dated 14 December 2017 (MAR.0002.0001.0024).

Email exchange between Ewan Berkemeier (Marsh Sydney), Greg Brereton (BCC) and Scott Newland (BCC) dated 14 December 2017 (MAR.0002.0001.0035).

Email exchange between Julian Macey-Dare (Marsh) and Tim Smith (Marsh) dated 14 December 2017 (MAR.0004.0001.1086).

Email from Edward Smith (Marsh) to Ewan Berkemeier (Marsh Sydney) dated 5 November 2020 (MAR.0006.0001.5317).

Email from Ewan Berkemeier (Marsh Sydney) to Edward Smith (Marsh) dated 5 November 2020 (MAR.0004.0004.6070), attaching the To Whom It May Concern Letter (MAR.0004.0004.6071).

Email from Ewan Berkemeier (Marsh Sydney) to Edward Smith (Marsh) and Julian Macey-Dare (Marsh), copied to Tim Smith (Marsh), dated 1 December 2020 (MAR.0003.0003.7404).

106GGB. From around December 2017, Marsh knew, or alternatively ought to have known that:

(a) Credit Suisse Virtuoso was relying upon the Limit Confirmation Letters

and/or the Limit Confirmation Trackers (as described in paragraphs 106HH to 106JJ below) to confirm that insurance was in place for each customer in sufficient amounts to provide coverage for the debts underpinning the Catfoss Notes; and

(b) the existence of insurance for each customer, and thereby the contents of the Limit Confirmation Letters and/or the Limit Confirmation Trackers, was relevant to Credit Suisse Virtuoso in deciding whether to advance funding in consideration for the Catfoss Notes.

Particulars

(i) Marsh's knowledge is to be inferred from the matters pleaded in paragraph 106EE above and the nature of the Limit Confirmation Letters and/or Limitation Confirmation Trackers, and further or alternatively, the documents particularised below.

(ii) Email from John Whelan (GCUK) to Brereton and Lex Greensill, copied to Julian Macey-Dare (Marsh) and others, dated 14 December 2017 (BCC.0001.0005.0475).

(iiia) Email exchange between Ewan Berkemeier (Marsh Sydney), Julian Macey-Dare (Marsh), John Whelan (GCUK), Jason Austin (GCUK) and others dated 13 and 14 December 2017 (MAR.0004.0001.1166).

(iiib) Email from Julian Macey-Dare (Marsh) to Sophie Dyke (GCUK), copied to John Whelan (GCUK) and others, dated 18 January 2018 (AGB.0002.0003.3887), attaching the Limit Confirmation Letter (AGB.0002.0003.3890).

(iii) Email from Sophie Dyke (GCUK) to Edward Smith (Marsh) dated 16 February 2018 (CSA.5000.0001.0092).

(iv) Email from Sophie Dyke (GCUK) to Edward Smith (Marsh) and Julian Macey-Dare (Marsh), with Brett Downes (GCUK) copied, dated 14 March 2018 (AGB.0002.0003.3997).

(va) Email from Edward Smith (Marsh) to Julian Macey-Dare (Marsh) and John Whelan (GCUK), copied to Brett Downes (GCUK), dated 22 May 2018 (MAR.0014.0001.0926).

(v) Email from Julian Macey-Dare (Marsh) to John Whelan (GCUK) and Brett Downes (GCUK), with Lex Greensill and others copied, dated 6 December 2018 (MAR.0004.0001.7176).

(vi) Email from Andreas Asche (CSAM) to Angus Ward (Marsh) copying Edward Smith (Marsh) and others, dated 20 June 2019 (MAR.0003.0002.4338).

(vii) Email dated 28 June 2019 from Andreas Asche (Credit Suisse Virtuoso) to Angus Ward (Marsh) and Edward Smith (Marsh) (MAR.0003.0002.4830).

(viii) Email exchange between Andreas Asche (Credit Suisse), Angus Ward (Marsh) and Edward Smith (Marsh), copied to Sophie Dyke (GCUK) and others, dated 1 July 2019 (CSA.5000.0002.2785).

(ix) Email from Angus Ward (Marsh) to Lukas Haas (Credit Suisse) and Ruzica Stowe (Credit Suisse), copied to Nina Egelhof (Credit Suisse) and others, dated 3 July 2019 (CSA.5000.0001.0679), attaching the Limit Confirmation Tracker (CSA.5000.0001.0680) and the draft Limit Confirmation Letter (CSA.5000.0001.0681).

(x) Email from Andreas Asche (Credit Suisse) to Angus Ward (Marsh) and Edward Smith (Marsh), copied to Sophie Dyke (GCUK) and others, dated 10 July 2019 (MAR.0003.0002.5179).

(xia) Email from Edward Smith (Marsh) to Mark Pearce (GAM) and others, copied to Craig Pinnington (GCUK) and others, dated 28 February 2020 (MAR.0003.0002.9175).

(xi) Email from Julian Macey-Dare (Marsh) to Edward Smith (Marsh) and Ewan Berkemeier (Marsh Sydney) dated 14 August 2020 (MAR.0003.0003.5659).

(xii) File note authored by Julian Macey-Dare (Marsh) dated 14 August 2020 (MAR.0004.0004.2651).

(xiii) Letter from Julian Macey-Dare (Marsh) to Lorna Croft (GCUK), dated 3 November 2020 (MAR.0003.0003.7092).

(xiv) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T178.13-18; T182.8-13; T190.18-21.

(xv) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T86.8-13; T190.25-191.3.

(xvi) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T185.17-186.9; T187.3-19; T188.13-189.12; T198.12-22.

(xvii) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T165.14-166.2; T167.1-168.16; T170.6-18; T171.8-22; T172.5-9.

106GGC From around November 2018, Marsh knew there was:

(a) a general quantum limit on BCC's authority, being circa AUD 50 million per buyer limit; and

(b) a possibility of BCC's quantum limit on authority being extended by an additional AUD 25 million, subject to special acceptance from its insurer and/or reinsurer.

Particulars

Email from Brereton (BCC) to Edward Smith (Marsh) and others dated 23 November 2018 (BCC.0001.0002.2083).

106GGD As at the date of placing each of the 2018 Policy and the 2019 Policy, Marsh also knew, or alternatively ought to have known, that:

(a) the wording proposed for each of the policies associated with GCUK were bespoke and in a form materially different to trade credit insurance policies that are commonly used in the Australian market and/or materially different from the standard wording ordinarily used by BCC;

(b) the limits of liability and, to the extent included, the discretionary credit limits, proposed for the policies associated with GCUK were substantial

and materially higher than trade credit insurance policies that were commonly used in the Australian market, and/or substantially greater than the limits communicated in around October 2017; and

(c) BCC had not completed an Intermediary Questionnaire regarding BCC's authority to offer insurance on behalf of IAL or provided an extract of the underwriting agreement with IAL confirming the existence of BCC's underwriting authority, duration of agreement, risks covered and related limits (or any extract thereof).

Particulars

Marsh's knowledge is to be inferred from the nature of the 2018 Policy and the 2019 Policy and the endorsements to those policies.

N.2 Misleading or deceptive conduct: limit confirmation trackers and letters

106HH. Marsh provided to Credit Suisse Virtuoso an Excel spreadsheet called a Limit Confirmation Tracker (**Limit Confirmation Tracker**):

(a) between about June 2018 and February 2021, each time insurance cover was added for a new obligor or there was a change in insurance limits or limit allocations for any existing obligor; and

(b) between about July 2019 and February 2021, on or around the last day of each month.

Particulars

The Limit Confirmation Trackers, and the emails by which those documents were conveyed to Credit Suisse Virtuoso in the period June 2018 to February 2021, examples of which are: CSA.0001.0006.2931; CSA.0001.0006.2933; MMC_GCUK11_00000032; MMC_GCUK11_00000033; CSA.0001.0006.3750; CSA.0001.0006.3752; MMC_GCUK11_00000021; MMC_GCUK11_00000022; MMC_GCUK11_00002067; MMC_GCUK11_00002068; MMC_GCUK11_00002070; MMC_GCUK11_00001174; MMC_GCUK11_00001175; MMC_GCUK11_00001176; MMC_GCUK11_00001890; MMC_GCUK11_00001891; MMC_GCUK11_00001893; MMC_GCUK11_00003954; MMC_GCUK11_00003957; MMC_GCUK11_00003958.

106II. Each Limit Confirmation Tracker recorded (amongst other information) for each listed customer of GCUK the total amount of insurance cover provided in respect of:

(a) Insured Notes that Credit Suisse Virtuoso had already acquired that were backed by receivables of that customer; and

(b) Insured Notes that were or would be offered for acquisition by Credit Suisse Virtuoso and would be backed by receivables of that customer,

and identified the insurance policies under which that cover had been provided.

Particulars

Typically, each Limit Confirmation Tracker listed the names of customers in one column on the left; insurance policy numbers were listed horizontally in a top row; and the total amount of insurance cover provided in respect of any individual customer was listed in a final column to the right.

106JJ. Each updated Limit Confirmation Tracker was provided to Credit Suisse Virtuoso under cover of:

(a) a Loss Payee Limit Confirmation Letter (**Limit Confirmation Letter**); and/or

(b) an email from a Marsh employee.

Particulars

Credit Suisse Virtuoso repeats the particulars to paragraph 106HH above.

106KK. Each Limit Confirmation Letter:

(a) was on Marsh letterhead;

(b) stated either:

(i) *"We are writing to confirm the following insurance limits whereby the individual insurance coverage for each Obligor is outlined in the accompanying Excel file"*; or

(ii) *"Assuming you will acquire the entire tranche of notes issued*

pursuant to the pricing supplement, we hereby confirm that in relation to each Relevant Claim backing such tranche of notes (and taking into account all current outstanding Relevant Claims payable by the same Customer(s), backing all other outstanding notes acquired and currently held by you or the Insured under the Hoffman Programme), there is sufficient availability of the Customer Limit to ensure that each such Relevant Claim is covered under the Policy in accordance with its terms"; and

(c) recorded in a table a list of customers and the total amount of insurance cover provided in respect of Insured Notes that Credit Suisse Virtuoso had already acquired and Insured Notes that would be offered for acquisition by Credit Suisse Virtuoso, consistently with the accompanying Limit Confirmation Tracker.

106KKA. Marsh stated to Credit Suisse Virtuoso:

(a) on 12 April 2018, that amounts to be funded and described in a letter and spreadsheet supplied by Marsh were within the approved limits written by the Insurer;

Particulars

Email dated 12 April 2018 from Edward Smith (Marsh) to Lukas Haas (Credit Suisse Virtuoso) and others (CSA.5000.0001.2897) attaching letter dated 12 April 2018 from Edward Smith (Marsh) on behalf of Marsh Ltd to Credit Suisse Virtuoso (CSA.5000.0001.2898) and Excel Spreadsheet dated 12 April 2018 and titled 'Account Debtor Rolling Values v16.xlsx' (CSA.5000.0001.2899).

(b) on 18 June 2018, that Marsh could confirm the attached Limit Confirmation Tracker was a correct reflection of Credit Suisse Virtuoso's position as at that date;

Particulars

Email dated 18 June 2018 from Edward Smith (Marsh) to Lukas Haas (Credit Suisse Virtuoso) and others (CSA.5000.0001.0137).

(c) on 17 May 2019, following the removal of certain customers from a Limit

Confirmation Tracker, that Marsh could confirm that assets that had already been purchased are still covered under the previous limits;

Particulars

Email dated 17 May 2019 from Angus Ward (Marsh) to Lukas Haas (Credit Suisse Virtuoso) and others (MMC_GCUK11_00000741).

(d) on 1 October 2019, in the course of providing information typically contained in a Limit Confirmation Tracker, that insurance cover was valid now for the identified customers; and

Particulars

Email dated 1 October 2019 from Edward Smith (Marsh) to Lukas Haas (Credit Suisse Virtuoso) (MMC_GCUK14_00000712).

(e) on 10 February 2020, following a query regarding a Limit Confirmation Tracker, that Credit Suisse Virtuoso was fully insured for all notes it was currently holding.

Particulars

Email dated 10 February 2020 from Edward Smith (Marsh) to Lukas Haas (Credit Suisse Virtuoso) (CSA.5000.0001.1433).

106KKB. On 28 June 2019 Credit Suisse Virtuoso:

(a) informed Marsh that it was working on the assumption that the maximum insurance coverage amounts of the obligors which Marsh provided in the Limit Confirmation Trackers were true, fair and reviewed by Marsh; and

(b) requested that Marsh also provide Limit Confirmation Trackers formalised in a signed letter on a monthly basis.

Particulars

Email dated 28 June 2019 from Andreas Asche (Credit Suisse Virtuoso) to Angus Ward (Marsh) and Edward Smith (Marsh) (MAR.0003.0002.4830).

106KKC. In response to Credit Suisse Virtuoso's request on 28 June 2019, Marsh:

(a) provided the Limit Confirmation Trackers referred to in paragraph 106HH(b) above; and

(b) did not make any express statement to Credit Suisse regarding its working assumption pleaded in paragraph 106KKB(a) above.

106KKD. At no point prior to February 2021, when Marsh sent the last Limit Confirmation Tracker and Limit Confirmation Letter to Credit Suisse Virtuoso, did Marsh inform Credit Suisse Virtuoso that:

(a) BCC was not, or might not have been, authorised to agree the terms of and issue, on behalf of the Insurer: (i) the 2018 Policy; (ii) the 2019 Policy; (iii) the endorsements thereto;

(b) Brereton was not, or might not have been, authorised to agree the terms of and issue, on behalf of the Insurer: (i) the 2018 Policy; (ii) the 2019 Policy; (iii) the endorsements thereto;

(c) each of the 2018 Policy, the 2019 Policy and the endorsements thereto were not, or may not be, valid, enforceable and binding on the Insurer; or

(d) the contents of the Limit Confirmation Letters and Limit Confirmation Trackers were not true, fair and reviewed by Marsh.

106LL. In the circumstances pleaded in paragraphs 106DD to 106KKD, by sending each of:

(a) the Limit Confirmation Trackers; and, or alternatively,

(b) the Limit Confirmation Letters,

Marsh represented that at the time of sending the Limit Confirmation Trackers or the Limit Confirmation Letters as the case may be:

(c) BCC and Brereton were authorised to agree the terms of, and enter into, the 2018 or 2019 Policy, as the case may be, on behalf of the Insurer;

(d) BCC and Brereton were authorised to agree the terms of, and issue, the endorsements to the 2018 or 2019 Policy, as the case may be, on behalf of the Insurer;

(e) each of the 2018 Policy, the 2019 Policy and the endorsements thereto were valid, enforceable and binding on the Insurer; and, or alternatively

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T179.21-23.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T185.17-186.9; T188.13-20; T198.12-22.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T152.1-13; T162.1-7; T164.1-9; T167.1-168.16

(f) Marsh:

(i) had reasonable grounds for believing each of the matters in (c) to (e); and

(ii) was not aware of any matters that suggested each of (c) to (e) was not correct,

(each of (i) to (ii) is a **Marsh Reasonable Grounds Representation**),

(each of (c) to (f) is a **Marsh Authority Representation**).

106MM. Further and in the alternative, in the circumstances pleaded in paragraphs 106DD to 106KKD, Marsh represented that at the time of sending the Limit Confirmation Trackers or the Limit Confirmation Letters as the case may be:

(a) Credit Suisse Virtuoso was entitled to receive the benefit of the cover under the 2018 or 2019 Policy, as the case may be;

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T179.21-23.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T185.17-186.9; T188.13-20; T198.12-22.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T152.1-13; T162.1-7; T164.1-9.

(b) the Catfoss Notes held by Credit Suisse Virtuoso related to debts falling within the meaning of the term "Eligible Debt" as defined in the 2018 or 2019 Policy, as the case may be;

(c) each of the Catfoss Notes held by Credit Suisse Virtuoso fell within the meaning of the term "Asset" as defined in the 2018 or 2019 Policy, as the case may be;

(d) the 2018 or 2019 Policy, as the case may be, would provide cover that was adequate and sufficient to cover the amounts advanced and to be advanced by Credit Suisse Virtuoso in consideration for the Catfoss Notes; and, or alternatively,

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T179.21-23.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T185.17-186.9; T188.13-20; T198.12-22.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T152.1-13; T162.1-7; T164.1-9.

(e) each Limit Confirmation Tracker and Limit Confirmation Letter (as the case may be) accurately reflected the available Customer Limit (as defined in the 2018 Policy and the 2019 Policy) for the applicable Customer under the applicable policy, as at the date it was sent (**Marsh Limits Representation**),

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T171.8-22; T172.5-9.

(each of (a) to (e) is a **Marsh Policy Response Representation**).

106NN. The Marsh Authority Representations and the Marsh Policy Response Representations were made in trade and commerce.

106NNA. The Marsh Authority Representations and the Marsh Policy Response Representations were continuing representations that were not withdrawn or corrected at any time.

106OO. By reason of the matters alleged in paragraphs 106EE to 106NNA above, by making one or both of the Marsh Reasonable Grounds Representations, Marsh engaged in conduct:

(a) that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the ACL; and, or alternatively,

(b) in relation to financial services that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act.

106PP. But for one or both of the Marsh Reasonable Grounds Representations, Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106QQ. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of Marsh pleaded at paragraph 106OO above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

106RR. Further and in the alternative, given:

(a) BCC and/or Brereton was not authorised to agree the terms of, or enter

into, the 2019 Policy on behalf of the Insurer;

(b) BCC and/or Brereton was not authorised to agree the terms of, or issue, the endorsements to the 2019 Policy on behalf of the Insurer;

(c) the 2019 Policy and the endorsements thereto are not binding on the Insurer;

(d) Credit Suisse Virtuoso is not entitled to receive the benefit of the cover under the 2019 Policy,

then, by making the Marsh Authority Representations, Marsh engaged in conduct:

(e) that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the ACL; and, or alternatively,

(f) in relation to financial services that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act.

106SSA. Further and in the alternative, if, as is alleged by certain of the Respondents in their defences in these proceedings:

(a) some or all of the debts backing the Catfoss Notes do not fall within the meaning of the term “Eligible Debt” as defined in the 2019 Policy;

(b) some or all of the Catfoss Notes acquired by Credit Suisse Virtuoso are not an “Asset” within the meaning of the 2019 Policy;

(c) the 2019 Policy does not provide Credit Suisse Virtuoso with cover that is sufficient to cover the amounts advanced by Credit Suisse Virtuoso in consideration for the Catfoss Notes; and, or alternatively,

(d) if, and to the extent that the “Loss” exceeds the “Applicable Limit of Liability” or the “Maximum Limit of Liability” in respect of relevant “Customers” within the meaning of the 2019 Policy, there is no coverage,

then, by making the Marsh Policy Response Representations, Marsh engaged in conduct:

(e) that was misleading or deceptive, or likely to mislead or deceive, in

contravention of s 18 of the ACL; and, or alternatively,

(f) in relation to financial services that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act.

106SS. But for the Marsh Authority Representations and the Marsh Policy Response Representations (or one or more of them), Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106TT. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of Marsh pleaded at paragraphs 106RR and 106SSA above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

N.3 Governing law for negligence claims

106UU. The claims in negligence and negligent misstatement pleaded at paragraphs 106VV to 106AAA, 106BBB to 106III and 106VVV to 106BBBB below are governed by the law of England and Wales, and are claims that are not subject to any Australian statutory proportionate liability regime.

N.4 Negligent misstatement

106VV. Marsh knew that Credit Suisse Virtuoso would rely on the Marsh Authority Representations and the Marsh Limits Representation (or one or more of them) when advancing funding in consideration for the Catfoss Notes.

Particulars

This can be inferred from the matters set out in paragraphs 106DD to 106KKD above.

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T136.5-19.

Transcript of White Oak Commercial Finance Europe (Non-Levered)

Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T187.3-19; T188.21-189.12.

106WW By undertaking to send the Limit Confirmation Trackers and/or Limit Confirmation Letters, Marsh assumed a responsibility to exercise reasonable care to ensure that the sending of those documents did not convey representations that were inaccurate.

106XX. In the premises of paragraphs 106VV to 106WW above, Marsh owed Credit Suisse Virtuoso a duty to exercise reasonable skill and care to ensure that the sending of Limit Confirmation Trackers and/or Limit Confirmation Letters did not convey representations that were inaccurate.

Particulars

The circumstances that support the existence of a duty include:

(i) the knowledge of Marsh of the matters pleaded at paragraph 106DD to 106KKD and 106VV above;

(ii) the assumption of responsibility pleaded in paragraph 106WW above;

(iii) it was reasonably foreseeable that, as loss payee under the 2018 and 2019 Policies, Credit Suisse Virtuoso would rely on the Marsh Authority Representations and the Marsh Limits Representation in advancing funding and acquiring Assets as defined in the 2018 and 2019 Policies, and that Credit Suisse Virtuoso would suffer loss if Marsh failed to exercise reasonable care when sending the Limit Confirmation Trackers and the Limit Confirmation Letters;

(iv) it was reasonable for an entity in the position of Credit Suisse Virtuoso to rely on the Marsh Authority Representations and the Marsh Limits Representation;

(v) the imposition of a duty of care upon Marsh to Credit Suisse Virtuoso is analogous to well established categories of relationship in which a duty of care is owed;

(vi) Marsh and Credit Suisse Virtuoso were in a relationship of proximity;

and

(vii) it is just and reasonable to impose a liability on Marsh for loss suffered by Credit Suisse Virtuoso resulting from its reliance on the Marsh Authority Representations and the Marsh Limits Representation.

106YY. In the premises of paragraphs 106EE to 106GGD above, Marsh failed to exercise reasonable skill and care when making the Marsh Authority Representations.

Particulars

A reasonable entity in Marsh's position would not have sent the Limit Confirmation Trackers and Limit Confirmation Letters in circumstances where Marsh:

(i) had the knowledge pleaded at paragraphs 106EE to 106GGD; and

(ii) had not taken the steps pleaded in paragraph 106EEE(a) to (h) below.

106YYA. If the circumstances in paragraph 106SSA(d) are established by any respondent, Marsh failed to exercise reasonable skill and care when making the Marsh Limits Representation.

Particulars

A reasonable entity in Marsh's position would not have sent the Limit Confirmation Trackers and Limit Confirmation Letters in circumstances where Marsh:

(i) had the knowledge pleaded at paragraphs 106EE to 106GGD; and

(ii) had not taken the steps pleaded in paragraph 106EEE(i) below.

Loss and damage

106ZZ. If Marsh had not made the Marsh Authority Representations and the Marsh Limits Representation (or one or more of them), Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106AAA. In the premises, Credit Suisse Virtuoso has suffered loss or damage:

(a) as the result of the breach of duty by Marsh pleaded at paragraph 106YY above; and/or

(b) if the circumstances in paragraph 106SSA(d) are established by any respondent, as the result of the breach of duty by Marsh pleaded at paragraph 106YYA above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

N.5 Negligence

Duty of Care

106BBB. At all material times, Marsh owed to Credit Suisse Virtuoso a duty to use reasonable skill and care in obtaining a policy of trade credit insurance for the intended commercial transaction described in paragraph 106EE above (**Marsh Duty to Obtain Cover**).

Particulars

The circumstances that support the existence of a duty include:

(i) the knowledge of Marsh of the matters pleaded at paragraphs 106DD to 106GGD above;

(ii) it was reasonably foreseeable that, as loss payee under the 2019 Policy, Credit Suisse Virtuoso would rely on the 2019 Policy and its endorsements, and would suffer loss if Marsh failed to exercise reasonable care in obtaining a policy appropriate and adapted to the intended commercial transaction;

(iii) the terms of Marsh's retainer with GCUK, GCPL and/or GBAG (CSA.0001.0051.0002), pursuant to which Marsh was (among other things) contractually obliged to provide such a policy;

(iv) the imposition of a duty of care upon Marsh to Credit Suisse Virtuoso is analogous to well established categories of relationship in which a duty of care is owed;

(v) Marsh and Credit Suisse Virtuoso were in a relationship of proximity; and

(vi) it is fair, just and reasonable to impose a liability on Marsh for loss suffered by Credit Suisse Virtuoso resulting from Marsh's failure to exercise reasonable care to obtain an appropriate policy.

106CCC. On around 14 December 2017, Marsh assumed a responsibility to loss payees in the position of Credit Suisse Virtuoso to confirm valid, binding and enforceable insurance was in place with respect to the Catfoss Notes and/or to ascertain whether BCC and Brereton were authorised by the Insurer to enter into insurance that provided for sufficient indemnity limits to cover losses of the loss payees.

Particulars

The assumption of responsibility is inferred from:

(i) the matters alleged at paragraphs 106DD to 106KKC above;

(ii) email exchange between Julian Macey-Dare (Marsh) and Ewan Berkemeier (Marsh Sydney) and others dated 14 and 15 December 2017 (CMS.007.001.1410 / CMS.007.001.1415);

(iii) email from Ewan Berkemeier (Marsh Sydney) to Brereton (BCC) dated 15 December 2017 (CMS.007.001.1004) and Brereton's response (CMS.007.001.0009); and

(iv) emails from Brereton (BCC) to John Whelan (GCUK), Lex Greensill, Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney) and others dated 15 December 2017 (CMS.007.001.1533);

(v) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T182.8-13; T190.18-21;

(vi) Transcript of White Oak Commercial Finance Europe (Non-Levered)

Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T86.8-13; T190.25-191.3; and

(vii) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T185.17-186.9; T187.3-19; T188.13-189.12; T198.12-22.

Further particulars may be provided after further discovery and evidence.

106DDD. Further, at all material times, Marsh owed Credit Suisse Virtuoso a duty to exercise reasonable care in:

(a) its dealings with Credit Suisse Virtuoso, including in respect of the accuracy of the Limit Confirmation Letters and Limit Confirmation Trackers; and

(b) confirming valid, binding and enforceable insurance was in place with respect to the Catfoss Notes and/or confirming that BCC and Brereton were authorised by the Insurer to enter into insurance that provided for sufficient indemnity limits to cover losses of the loss payees in respect of the Insured Notes,

(**Marsh Duty to Confirm Authority Limits**).

Particulars

The salient features that support the existence of a duty include:

(i) the knowledge of Marsh of the matters pleaded at paragraphs 106EE to 106GGB above;

(ii) the assumption of responsibility pleaded in paragraph 106CCC above;

(iii) it was reasonably foreseeable that, as loss payee under the 2018 and 2019 Policies, Credit Suisse Virtuoso would rely on the 2018 and 2019 Policies and their endorsements, and the manner in which BCC and/or Brereton executed those documents, in advancing funding and acquiring Assets as defined in the 2018 and 2019 Policies;

(iv) it was reasonable for an entity in the position of Credit Suisse Virtuoso to proceed on the basis that the 2018 and 2019 Policies and their endorsements were not invalid or unenforceable by reason that they were executed in excess of authority;

(v) the terms and scope of BCC's and/or Brereton's authority or delegations from the Insurer were not publicly available and, on their terms, were confidential;

(vi) it was within the control of Marsh to require further and better evidence of BCC's and Brereton's authority to bind the Insurer to the 2018 and 2019 Policies;

(vii) the imposition of a duty of care upon Marsh to Credit Suisse Virtuoso in such circumstances is analogous to well established categories of relationship in which a duty of care is owed;

(viii) Marsh and Credit Suisse Virtuoso were in a relationship of proximity; and

(ix) it is fair, just and reasonable to impose a liability on Marsh for loss suffered by Credit Suisse Virtuoso resulting from Marsh's failure to exercise reasonable care in respect of the matters alleged.

Further particulars may be provided after further discovery and evidence.

Precautions

106EEE. A reasonable person in the position of Marsh would have taken the following precautions to satisfy the Marsh Duty to Obtain Cover and/or the Marsh Duty to Confirm Authority Limits prior to sending any Limit Confirmation Trackers and the Limit Confirmation Letters:

(aa) when onboarding BCC prior to the inception of any policy:

(i) obtaining a complete copy of:

(A) the agreement between BCC and the Insurer regarding agency, to ascertain the existence, duration of agreement and related limits on BCC's authority to bind the Insurer; and/or

(B) other documents referred to in that agreement relevant to the scope of BCC's authority, including any underwriting manual and guidelines referred to;

(iia) in the event that BCC did not provide the documents described in (i), contacting the Insurer to obtain that documentation;

(ii) not accepting the To Whom It May Concern Letter as sufficient evidence of BCC's and Brereton's authority to bind the Insurer;

(iii) performing searches of the Australian Securities and Investments Commission register to confirm BCC was an authorised representative of the Insurer and, if it was not, to investigate why that was so;

(iv) reviewing the documentation identified in sub-paragraph (i) above and requesting clarification from BCC regarding any anomalies in those documents;

(v) ensuring that a senior staff member who would not be involved in the placing of any risk under any policy reviewed the documentation referenced in sub-paragraph (i) above;

(vi) seeking from the Insurer direct written confirmation of BCC and Brereton's authority to bind the Insurer; and/or

(vii) establishing systems or processes to:

(A) review on an annual basis the ongoing authority of BCC and Brereton to bind the Insurer; and

(B) maintain a list of acceptable security identifying whether BCC and Brereton were approved by Marsh to underwrite insurance on behalf of the Insurer;

(ab) prior to the inception of each of the 2018 Policy and 2019 Policy:

(i) having taken the precautions described in sub-paragraph (aa) above, ensuring that BCC was still included on Marsh's list of acceptable security;

(ii) reviewing the 2018 Policy and 2019 Policy against the documents described in sub-paragraph (aa)(i) above to confirm that BCC had the authority to enter into the 2018 Policy and 2019 Policy on behalf of the Insurer;

(iii) seeking from the Insurer direct written confirmation of BCC and Brereton's authority to bind the Insurer to an insurance policy that provided for sufficient indemnity limits to cover losses of the loss payees in the event the review described in sub-paragraph (ii) above raised any anomalies;

(ac) prior to issuing endorsements or amending the existing policies, reviewing each endorsement for any anomalies and confirming with the Insurer that BCC had authority to issue each endorsement;

(ad) prior to sending each Limit Confirmation Tracker and Limit Confirmation Letter, ensuring, or satisfying itself, that the total amount of insurance cover available in respect of each Customer was accurately reflected in each Limit Confirmation Letter and Limit Confirmation Tracker, having regard to the terms of the 2018 Policy and 2019 Policy;

(ae) throughout the period in which Marsh was sending Limit Confirmation Trackers and Limit Confirmation Letters:

(i) reviewing accumulating GCUK exposures on an ongoing basis;

(ii) notifying their client of the significant concentration of risk through the risk acceptances of BCC and Brereton and potential implications for insurance recovery;

(iii) investigating the authority of BCC and Brereton to write the monetary limits that Brereton was agreeing to write, having regard to:

(A) the significant disparity between the limits being agreed to by BCC and the previous statement of limitation by BCC on its general authority to write trade credit insurance made in about October 2017;

(B) the objectively high customer and aggregate limits of cover

being agreed to by Brereton; and

(C) the frequency of agreement of Brereton to high monetary limits, both on a customer and aggregate basis;

(iv) immediately seeking written confirmation from the Insurer of BCC and Brereton's authority, in particular, limits on authority to write risk;

(v) undertaking an annual review of BCC's authority to issue the non-standard policy wordings and endorsements, including requiring completion of Marsh's Intermediary Questionnaire annually;

(vi) cross-referencing the endorsement, limit amount and indemnity against the registered limit in the portal maintained by BCC;

(vii) maintaining a record of all bound policies and limits, inception dates and expiry dates of those limits bound by BCC;

(viii) notifying their client of the terms and conditions of the discretionary credit limits set out in the policy and the fact that discretionary credit limits are contingent upon compliance with the underwriting justification criteria and all other policy terms and conditions; and

(ix) notifying the loss payees of any risk that Marsh was aware of that the insurance in place with respect to the Notes would not respond to cover losses of the loss payees in respect of Insured Notes;

(af) at or around 9 April 2019, when TMMA acquired 100% of the shareholding in Bond (who owned 99.9% of the shareholding in BCC) and 0.01% of the shareholding in BCC:

(i) obtaining a complete copy of:

(A) the agreement between BCC and TMMA regarding agency, to ascertain the existence, duration of agreement and related limits on BCC's authority to bind TMMA; and/or

(B) other documents referred to in that agreement relevant to the scope of BCC's authority, including any underwriting manual and guidelines referred to;

(ii) reviewing the documentation identified in sub-paragraph (i) above and requesting clarification from BCC regarding any anomalies in those documents; and

(iii) ensuring that a senior staff member who would not be involved in the placing of any risk under any policy reviewed the documentation referenced in sub-paragraph (i) above; and

(ag) not proceed to place the insurances with BCC without obtaining written confirmation from the Insurer that BCC and Brereton had authority to issue insurance on the proposed wording(s) at the proposed limits in respect of the subject matter of the proposed insurance.

(a) [NOT USED]

(b) [NOT USED]

(c) [NOT USED]

(d) [NOT USED]

(i) [NOT USED]

(ii) [NOT USED]

(e) [NOT USED]

(f) [NOT USED]

(g) [NOT USED]

(h) [NOT USED]

(i) [NOT USED]

106FFF. Further, or in the alternative, in circumstances where:

(a) Marsh had the knowledge pleaded at paragraphs 106EE to 106GGB above;

(b) Marsh had assumed the responsibility pleaded in paragraph 106CCC above and the responsibility pleaded in paragraph 106WW; and

(c) Marsh knew it had not taken the precautions pleaded in paragraph 106EEE,

a reasonable person in the position of Marsh would not have sent each of the Limit Confirmation Trackers and the Limit Confirmation Letters without first having sought from the Insurer direct written confirmation of BCC and Brereton's authority to bind the Insurer to an insurance policy that provided for sufficient indemnity limits to cover at least the limits set out in the relevant Limit Confirmation Tracker and/or Limit Confirmation Letter.

106GGG. In failing to take the precautions pleaded at paragraph 106EEE above, and, or alternatively, the precautions pleaded at paragraph 106FFF, Marsh breached the Marsh Duty to Obtain Cover and, or alternatively, the Marsh Duty to Confirm Authority Limits.

Loss and damage

106HHH. Given BCC and/or Brereton did not have actual authority to enter into insurance that provided for sufficient indemnity limits to cover losses of the loss payees, then but for Marsh's breach pleaded at paragraph 106GGG, the 2018 and 2019 Policies would not have been concluded and/or in any event, Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106HHHA. If the circumstances in paragraph 106SSA(d) are established by any respondent, then but for Marsh's breach pleaded at paragraph 106GGG, the 2018 and 2019 Policies would not have been concluded and/or in any event, Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106III. In the premises, Credit Suisse Virtuoso has suffered loss or damage as the result of the breach of duty by Marsh pleaded at paragraph 106GGG.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes, plus Recovery Costs in respect of those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

N.6 Misleading or deceptive conduct: Marsh's 2020 Conduct

106JJJ. By no later than early July 2020, Marsh knew that BCC and TMMA were of the view that:

(a) Brereton had, on behalf of BCC, executed or agreed to insurance policies or endorsements in excess of internal policy documents or underwriting guidelines;

(b) some of those policies or endorsements had been executed or agreed to by Brereton on behalf of BCC as, or purportedly as, agent for the Insurer;

(c) the insureds under some of those policies or endorsements were one or more of the members of the Greensill Group;

(d) neither BCC nor Brereton had authority to bind risk on the Insurer and that such authority had ended upon the original expiration date of any then existing policy;

(e) Brereton's authority to bind risk on TMNF was reduced on 1 June 2020 and that no new exposures were to be bound, nor any extensions granted to Greensill;

(f) all existing limits on Greensill buyers had been set to nil in BCC's policy system; and

(g) no new extensions would be provided to any existing policy and no new limits would be granted on any policy with the explicit approval of Toby Guy until further instruction.

Particulars

(i) Mark Callahan's (TMMA/BCC) voicemail to Angus Ward (Marsh) on around 2 July 2020.

(ii) Email from Mark Callahan (TMMA/BCC) to Ewan Berkemeier (Marsh Sydney) and Angus Ward (Marsh) and others dated 2 July 2020 (CSA.0001.0015.0008).

(iii) Phone conversation between Toby Guy (TMMA/BCC) and Julian Macey- Dare (Marsh) on around 3 July 2020

(MAR.0004.0003.8483).

(iv) Email from Toby Guy (TMMA/BCC) to Julian Macey-Dare (Marsh), Ewan Berkemeier (Marsh Sydney) and Edward Smith (Marsh) dated 3 July 2020 (MAR.0002.0001.3308).

(v) Conference call between Toby Guy (TMMA/BCC), Scott Newland (BCC), Chris Blake (BCC), Ewan Berkemeier (Marsh Sydney), Edward Smith (Marsh), Julian Macey-Dare (Marsh) and others on around 8 July 2020 (MAR.0006.0001.4880).

(via) Email from Julian Macey-Dare (Marsh) to Jeremy Meredith (Marsh) copied to Nick Havers (Marsh) and others, dated 3 August 2020 (MAR.0011.0001.0003).

(vi) Letter from Toby Guy (TMMA/BCC) to GCPL, GCUK and GBAG, copied to Marsh dated 4 August 2020 (CSA.0001.0008.0327).

(vii) Letter from Mark Callahan (TMMA/BCC) to GCPL, GBAG and GCUK dated 28 August 2020 sent by email to Marsh (CSA.0001.0015.0006).

(viii) Letter from Toby Guy (TMMA/BCC) on behalf of BCC to GCPL, GBAG and GCUK dated 1 September 2020 (MMC_GCUK08_00022720), which was attached to an email sent from Toby Guy (TMMA/BCC) to Lex Greensill (GCUK), Markus Nuennerich (Greensill Bank), copying Ewan Berkemeier (Marsh Sydney), Julian Macey-Dare (Marsh) and Edward Smith (Marsh) (MMC_GCUK08_00022719).

(ix) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 4, T62.20-24; T63.7-16.

(x) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T52.24-53.1; T61.21-62.6.

106KKK. Further, by no later than early July 2020, Marsh knew that:

(a) Credit Suisse Virtuoso would not have acquired, and would not acquire, Catfoss Notes, save in circumstances where there was confirmation of insurance in respect of those Insured Notes from Marsh;

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T162.1-7; T164.1-9.

(b) Marsh had issued Limit Confirmation Letters and the Limit Confirmation Trackers to Credit Suisse Virtuoso since 20 June 2018 and continued to issue them;

(c) Marsh had made one or more of the Marsh Authority Representations and, or alternatively, the Marsh Policy Response Representations to Credit Suisse Virtuoso in the period 20 June 2018 up to 26 February 2021;

(d) Credit Suisse Virtuoso had relied upon the Limit Confirmation Letters, Limit Confirmation Trackers and, or alternatively, the Marsh Authority Representations and, or alternatively, the Marsh Policy Response Representations in acquiring Insured Notes;

(e) given the views of BCC and TMMA pleaded above at paragraph 106JJJ:

(i) the Insurer might assert that it was not bound by the 2019 Policy or the endorsements to that policy; and/or

(ii) the Insurer might not be bound by the 2019 Policy or the endorsements to it;

(f) Credit Suisse Virtuoso may not be entitled to receive the benefit of any cover under the 2019 Policy;

(g) Credit Suisse Virtuoso may not have the benefit of any insurance in respect of the Insured Notes acquired by it;

(h) Credit Suisse Virtuoso may suffer loss or damage if there were failures to repay the trade credit debts that were purportedly the subject of the 2019 Policy and the endorsements to it;

(i) Credit Suisse Virtuoso might suffer further loss should it acquire additional Notes in the future; and

(j) Brereton had been dismissed from BCC on the basis that he had breached his underwriting authority.

Particulars

(i) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T51.1-7; T51.12-52.6.

(ii) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T82.5-16.

(iii) Conference call between Toby Guy (TMMA/BCC), Scott Newland (BCC), Chris Blake (BCC), Lex Greensill (GCUK), Ewan Berkemeier (Marsh Sydney), Edward Smith (Marsh), Julian Macey-Dare (Marsh) and others on around 8 July 2020 (MAR.0006.0001.4878).

(iv) Conference call between Lex Greensill (GCUK), Edward Smith (Marsh) and Julian Macey-Dare (Marsh) on around 8 July 2020 (MAR.0002.0001.3323).

106KKKA. By no later than 4 August 2020, Marsh was informed that:

(a) on 2 July 2020, BCC had become aware that Brereton had sought to bind BCC to limits in relation to customers of the Greensill Group in circumstances where the customer limit sought to be approved by Brereton was in excess of his delegated authority;

(b) as a result, BCC had commenced an investigation into the dealings between the Greensill Group and Brereton;

(c) that investigation would be considering endorsements issued in relation to the 2019 Master Policy and policies TS-03088 and TS-03087 and endorsements to those policies, as well as all of Brereton's other dealings with the Greensill Group where Brereton has acted outside the scope of

his delegated authority;

(d) based on the investigation undertaken to date BCC and Tokio Marine understood that Brereton had during the period June 2019 to July 2020 signed numerous documents with the Greensill Group (**Documents Under Investigation**);

(e) nothing contained in correspondence to date should be construed as an admission by BCC that it is necessarily on risk in relation to the Documents Under Investigation; and

(f) BCC would be in a position to inform the Greensill Group as to its position in relation to the Documents Under Investigation upon completion of its investigation.

Particulars

(i) Letter from Toby Guy (TMMA/BCC) send to Ewan Berkemeier (Marsh Sydney) and Edward Smith (Marsh) dated 4 August 2020) (GBA.0004.0007.5302).

(ii) Conference call with Liz Coles (GCUK), Divya Eapen (GCUK), Andrew Kuyk (GCUK), Edward Smith (Marsh) and Julian Macey Dare (Marsh) on 14 August 2020 (MAR.0004.0004.2650).

(iii) Letter from Mark Callahan (TMMA) to Lex Greensill, Markus Nunnerich (GBAG), Edward Smith (Marsh) and Ewan Berkemeier (Marsh Sydney) dated 28 August 2020 (AGB.0002.0003.5403).

(iv) Letter from Toby Guy (TMMA/BCC) on behalf of BCC to GCPL, GCUK and GBAG dated 1 September 2020 (MMC_GCUK08_00022720).

106KKKB. From about 4 August 2020, Marsh formed the view that its ability to confirm cover to loss payees such as Credit Suisse Virtuoso was compromised.

Particulars

(i) Conference call between Julian Macey-Dare (Marsh), Liz Coles (GCUK), Divya Eapen (GCUK), Andrew Kuyk (GCUK) and Edward Smith (Marsh) on 14 August 2020 (MAR.0004.0004.2650).

(ii) Conference call between Julian Macey-Dare (Marsh) and Lex Greensill on 14 September 2020 (MAR.0004.0004.3676).

(iiia) Dictation from Julian Macey-Dare (Marsh) dated 9 October 2020 (MAR.0004.1000.1575).

(iii) Email exchange between Lex Greensill, Julian Macey-Dare (Marsh) and Toby Guy (TMMA/BCC) dated 13 November 2020 (AGB.0002.0005.1372).

(iv) Email from Julian Macey-Dare (Marsh) to Lex Greensill dated 17 November 2020 (AGB.0002.0005.1372).

(v) Email exchange between Lex Greensill and Julian Macey-Dare (Marsh) dated 23 November 2020 (MAR.0002.0001.3661).

(vi) Email exchange between Andrew Kuyk (GCUK), Julian Macey-Dare (Marsh) and Edward Smith (Marsh) dated 19 November 2020 (MAR.0004.0004.6605).

(vii) Email exchange between Ewan Berkemeier (Marsh Sydney) and Joaquim Smith (TMMA) dated 25 November 2020 (MAR.0004.0004.6724).

(viii) Email from Joaquim Smith (TMMA) to Ewan Berkemeier (Marsh Sydney) dated 1 December 2020 (MAR.0003.0003.7402) attaching IAL AAR Agreement (MAR.0003.0003.7403).

(ix) Email from Edward Smith (Marsh) to Lex Greensill forwarding an extract of the IAL AAR Agreement dated 2 December 2020 (MAR.0004.0004.6918).

(x) Letter from Oenone Ritman (IAG) to GCPL, GBAG and Ewan Berkemeier (Marsh Sydney) dated 14 January 2021 (MAR.0002.0001.3725).

(xi) Email from Julian Macey-Dare (Marsh) to Edward Smith (Marsh) dated 14 January 2021 (MAR.0002.0001.3731).

(xii) Telephone conversation between Julian Macey-Dare (Marsh), Edward Smith (Marsh) and Jonathan Lane (GCUK) on 14 January

2021 (MAR.0006.0001.5444).

(xiii) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T90.5-8.

(xiv) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T152.1-13; T164.17-165.8.

106LLL. By no later than 7 August 2020, Marsh had formed the view that BCC was reconsidering its agreement to honour its previous commitments regarding all insurance cover in place, including pursuant to the 2019 Policy.

Particulars

Letter from Ewan Berkemeier (Marsh Sydney) to Toby Guy (TMMA/BCC) dated 7 August 2020 (MMC_GCUK14_00001929).

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T71.16-72.6.

106LLLA. By no later than around November 2020, Marsh:

(a) knew that KPMG was investigating concerns as to:

(i) whether BCC was an authorised representative of the Insurer; and

(ii) the To Whom It May Concern Letter, including that even on face value, the scope and any limits of BCC's authority under that letter was unclear;

(b) had formed the view that BCC was ignoring or refusing to respond to Marsh and was not complying with what Marsh considered to be its contractual obligations in relation to the 2019 Policy; and

Particulars

(i) Email exchange between Lex Greensill, Julian Macey-Dare (Marsh) and Toby Guy (TMMA/BCC) dated 13 November 2020

(MAR.0004.0004.6377).

(ii) Email from Julian Macey-Dare (Marsh) to Lex Greensill dated 17 November 2020 (AGB.0002.0005.1372).

(iii) Email exchange between Lex Greensill and Julian Macey-Dare (Marsh) dated 23 November 2020 (MAR.0002.0001.3661).

(c) had formed the view that it should not continue to confirm coverage to loss payees.

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T38.24-39.21.

106LLLBB. By no later than 13 November 2020, Marsh had formed the view that the Insurer was unlikely to honour claims made under the 2018 Policy and the 2019 Policy.

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T143.19-144.1; T144.16-25; T147.22-148.11.

106LLLB. By no later than around 1 December 2020, Marsh knew that:

(a) the only agreement regarding authority it had a copy of between the Insurer and BCC/Brereton provided that the agreement terminated on 30 June 2019 and policies written prior to that date must not exceed the term of 12 months; and

(b) there was a risk that policies that did not comply with the stipulation in (a) were invalid.

Particulars

(i) Email from Joaquim Smith (TMMA) to Ewan Berkemeier (Marsh Sydney) dated 1 December 2020 (MAR.0003.0003.7402) attaching IAL AAR Agreement (MAR.0003.0003.7403).

(ii) Email from Edward Smith (Marsh) to Lex Greensill forwarding an extract of the IAL AAR Agreement dated 2 December 2020 (MAR.0004.0004.6918).

106LLLC. By no later than around 14 January 2021, Marsh was informed that the Insurer:

(a) considered Brereton had signed documents purportedly on its behalf but without its knowledge, consent or actual authority; and

(b) was reserving all of its rights regarding the conduct of Brereton, BCC, the Greensill Group and Marsh.

Particulars

(i) Letter from Oenone Ritman (IAG) to GCPL, GBAG and Ewan Berkemeier (Marsh Sydney) dated 14 January 2021 (MAR.0002.0001.3725).

(ii) Email from Julian Macey-Dare (Marsh) to Edward Smith (Marsh) dated 14 January 2021 (MAR.0002.0001.3731).

(iii) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 6, T149.5-150.11.

(iv) Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 7, T146.4-9; T147.11-19.

106LLLCC. By no later than around 14 January 2021, Marsh had formed the view that Brereton had engaged in a concerted misrepresentation of his authority.

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T176.11-18.

106LLLD. Between July 2020 and February 2021, Marsh continued to send Limit Confirmation Letters and Limit Confirmation Trackers to Credit Suisse Virtuoso.

106MMM. Notwithstanding the matters pleaded in paragraphs 106JJJ to 106LLLD:

(a) from at least early July 2020, Marsh failed to disclose the substance of the matters pleaded in paragraphs 106JJJ and 106KKK to Credit Suisse Virtuoso;

(b) from at least 7 August 2020, Marsh failed to disclose the substance of the matters pleaded at paragraphs 106KKKA to 106LLL to Credit Suisse Virtuoso;

(c) from at least November 2020, Marsh failed to disclose the substance of the matters pleaded at paragraph 106LLLA;

(d) from at least 13 November 2020, Marsh failed to disclose the substance of the matters pleaded at paragraph 106LLLBB to Credit Suisse;

(e) from at least 1 December 2020, Marsh failed to disclose the substance of the matters pleaded at paragraph 106LLLB; and

(f) from at least 14 January 2021, Marsh failed to disclose the substance of the matters pleaded at paragraphs 106LLLC and 106LLLCC,

(together, the **Marsh 2020 Omissions**).

Particulars

Transcript of White Oak Commercial Finance Europe (Non-Levered) Limited v Marsh Limited (Claim No. CL-2023-000294), Day 5, T111.23-112.15; T113.23-114.1; T114.20-24.

106NNN. In the circumstances pleaded in paragraphs 106DD to 106LLLCC above, from a time presently unknown to Credit Suisse Virtuoso, but in any event by no later than the dates pleaded in paragraph 106MMM, a person in the position of Credit Suisse Virtuoso would reasonably have expected Marsh to disclose the matters the subject of the Marsh 2020 Omissions to Credit Suisse Virtuoso.

106OOO. Marsh's conduct in failing to disclose the matters the subject of Marsh 2020 Omissions to Credit Suisse Virtuoso was conduct in trade or commerce.

106PPP. Marsh's conduct in failing to disclose the matters the subject of Marsh 2020 Omissions to Credit Suisse Virtuoso was conduct:

(a) that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the ACL; and, or alternatively,

(b) in relation to financial services that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act.

106QQQ. But for the Marsh 2020 Omissions, Credit Suisse Virtuoso would have immediately ceased purchasing the Catfoss Notes.

106RRR. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of Marsh pleaded at paragraph 106PPP above.

Particulars

Credit Suisse Virtuoso's loss being the total amount paid by Credit Suisse Virtuoso to acquire the Catfoss Notes that were acquired after the date on which the Insurer, TMNF, TMMA or BCC first failed to disclose the substance of the Marsh 2020 Omissions, plus Recovery Costs with respect to those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of the Catfoss Notes, plus interest.

Alternatively, the total amount paid by Credit Suisse Virtuoso to acquire any Catfoss Notes which were secured by any payment obligations or otherwise related to any Eligible Accounts Receivable created after the date on which Marsh first failed to disclose the substance of the Marsh 2020 Omissions, plus Recovery Costs with respect to those Catfoss Notes, less any amount received by Credit Suisse Virtuoso in respect of those Catfoss Notes, plus interest.

Further and better particulars will be provided after further discovery and evidence.

106SSS. Further or in the alternative, by reason of Marsh's knowledge pleaded at paragraphs 106JJJ to 106LLLCC above, from a date presently unknown to Credit Suisse Virtuoso but by no later than each of the dates pleaded in paragraph 106MMM, by making the Marsh Reasonable Grounds Representations, Marsh engaged in conduct:

(a) that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 18 of the ACL; and, or alternatively,

(b) in relation to financial services that was misleading or deceptive, or likely to mislead or deceive, in contravention of s 12DA of the ASIC Act.

106TTT. But for the Marsh Reasonable Grounds Representations occurring in the context of the knowledge pleaded at paragraphs 106JJJ to 106LLLCC above, Credit Suisse Virtuoso would have immediately ceased purchasing the Catfoss Notes.

106UUU. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of Marsh pleaded at paragraph 106SSS above.

Particulars

Credit Suisse Virtuoso repeats the particulars to paragraph 106RRR above.

N.7 Negligence: Marsh's 2020 Conduct

Duty of care

106VVV. At all material times, Marsh owed to Credit Suisse Virtuoso the Marsh Duty to Obtain Cover pleaded at paragraph 106BBB above.

106WWW. Further, or alternatively, at all material times:

(a) Marsh owed a continuing duty to Credit Suisse Virtuoso to inform it upon becoming aware of any matters which would affect or could reasonably be expected to affect the validity and enforceability of the 2018 and 2019 Policies; and

(b) accordingly, from a date presently unknown to Credit Suisse Virtuoso but by no later than each of the dates pleaded in paragraph 106MMM, Marsh owed to Credit Suisse Virtuoso a duty to inform them of the matters pleaded in paragraphs 106JJJ to 106LLLCC above (**Marsh Duty to Inform**).

Particulars

The circumstances that support the existence of the Marsh Duty to Inform include:

(i) the knowledge of Marsh of the matters pleaded at paragraphs 106JJJ to 106LLLCC above;

(ii) it was reasonably foreseeable that, as loss payee under the 2019 Policy, Credit Suisse Virtuoso would rely on the 2019 Policy and its endorsements, and the manner in which BCC and/or Brereton executed those documents, and on the Limit Confirmation Letters and the Limit Confirmation Trackers, in advancing funding and acquiring Assets as defined in the 2019 Policy, and that Credit Suisse Virtuoso would suffer loss if Marsh failed to exercise reasonable care;

(iii) it was reasonable for an entity in the position of Credit Suisse Virtuoso to proceed on the basis that the 2019 Policy and its endorsements were not invalid or unenforceable, by reason that they were executed in excess of authority;

(iv) the imposition of a duty of care upon Marsh to Credit Suisse Virtuoso is analogous to well established categories of relationship in which a duty of care is owed;

(v) Marsh and Credit Suisse Virtuoso were in a relationship of proximity; and

(vi) it is fair, just and reasonable to impose a liability on Marsh for loss suffered by Credit Suisse Virtuoso resulting from Marsh's failure to exercise reasonable care to inform them of the matters pleaded in paragraphs 106JJJ and 106LLLCC above.

Precautions

106XXX. A reasonable broker in the position of Marsh using reasonable care and skill would have taken the following precautions to satisfy the Marsh Duty to Obtain Cover:

(a) informing Credit Suisse Virtuoso, as the intended beneficiary of the 2019 Policy, of the matters pleaded in paragraphs 106JJJ and 106LLLCC above; and, or alternatively,

(b) ceasing to send the Limit Confirmation Trackers and Limit Confirmation

Letters to Credit Suisse Virtuoso.

106YYY. To satisfy the Marsh Duty to Inform, a reasonable person in the position of Marsh would have informed Credit Suisse Virtuoso, as the intended beneficiary of the 2019 Policy, of the matters pleaded in paragraphs 106JJJ and 106LLLCC above.

106ZZZ. By failing to take the precautions pleaded in paragraphs 106XXX and 106YYY above, Marsh breached the Marsh Duty to Obtain Cover and, or alternatively, the Marsh Duty to Inform.

Loss and damage

106AAAA. Given BCC and Brereton were not authorised to enter into the 2019 Policy (and/or the endorsements to that policy), then but for Marsh's breaches of duty pleaded at paragraph 106ZZZ, the 2018 and 2019 Policies would not have been concluded and/or in any event Credit Suisse Virtuoso would not have purchased certain Catfoss Notes.

106BBBB. In the premises, Credit Suisse Virtuoso has suffered loss or damage as the result of the breaches of duty by Marsh pleaded at paragraph 106ZZZ.

Particulars

Credit Suisse Virtuoso refers to and repeats the particulars to paragraph 106RRR above.

N.8 Section 1041E Claim

106CCCC. By reason of the matters alleged in paragraphs 106EE to 106GGD above, further or in the alternative by reason of Marsh's knowledge pleaded at paragraphs 106JJJ to 106LLLCC above:

(a) the Marsh Reasonable Grounds Representations were false in a material particular or materially misleading;

(b) at the time the Marsh Reasonable Grounds Representations were made, Marsh ought reasonably to have known that the Marsh Authority Representations were false in a material particular or materially misleading at the time they were made; and

(c) by making the Marsh Reasonable Grounds Representations, and by failing to correct those representations at any material time, Marsh engaged in conduct which contravened s 1041E of the Corporations Act.

106DDDD. But for the Marsh Reasonable Grounds Representations Credit Suisse Virtuoso would not have purchased the Catfoss Notes.

106EEEE. In the premises, Credit Suisse Virtuoso has suffered loss or damage by the contraventions of Marsh pleaded at paragraph 106CCCC above.

Particulars

Credit Suisse Virtuoso repeats the particulars to paragraph 106QQ above.

N.9 [NOT USED]

106FFFF. [NOT USED]

106GGGG. [NOT USED]

106HHHH. [NOT USED]

106IIII. [NOT USED]

106JJJJ. [NOT USED]

106KKKK. [NOT USED]

106LLLL. [NOT USED]

106MMMM. [NOT USED]

N THE RELIEF SOUGHT

107. Credit Suisse Virtuoso seeks the relief outlined in the Fifth Amended Originating Application.

Date: 21 August 2026 ~~2 July 2026~~



Signed by Crispian Lynch
Lawyer for the Applicant

This pleading was prepared by Michael Jones SC, Robert Yezerski SC, Amelia Smith, Amy Campbell, Hannah Ryan, Sefton Powrie and Jacob Saulwick.

Certificate of lawyer

I Crispian Lynch certify to the Court that, in relation to the statement of claim filed on behalf of the Applicant, the factual and legal material available to me at present provides a proper basis for each allegation in the pleading.

Date: 21 August 2026 ~~2 July 2026~~



Signed by Crispian Lynch
Lawyer for the Applicant

SCHEDULE

~~Greensill Bank AG~~

~~**Second Respondent**~~

~~Michael Frege in his capacity as Insolvency Administrator for Greensill Bank AG~~

~~**Third Respondent**~~

BCC Trade Credit Pty Ltd

Fourth Respondent

Greg Brereton

Fifth Respondent

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)

Sixth Respondent

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)

Seventh Respondent

Marsh Limited

Eighth Respondent

~~**CROSS CLAIM**~~

~~Greensill Bank AG~~

~~**Cross-Claimant**~~

~~Michael Frege in his capacity as Insolvency Administrator for Greensill Bank AG~~

~~**Second Cross-Claimant**~~

~~Insurance Australia Limited (ACN 000 016 722)~~

~~**Cross-Respondent**~~

CROSS CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)

Cross-Claimant

Greensill Capital (UK) Ltd

Cross-Respondent

~~Greensill Bank AG~~

~~**Second Cross-Respondent**~~

Greensill Capital Pty Ltd (in liquidation)

Third Cross-Respondent

CROSS CLAIM

Marsh Limited
Cross-Claimant

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Cross-Respondent

Greg Brereton
Second Cross-Respondent

Insurance Australia Limited (ACN 000 016 722)
Third Cross Respondent

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)
Fourth Cross-Respondent

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Fifth Cross-Respondent

CROSS CLAIM

Marsh Limited
Cross-Claimant

UBS Asset Management (Europe) S.A.
Cross-Respondent

UBS Asset Management Switzerland AG
Second Cross-Respondent

UBS Fund Administration Services Luxembourg SA
Third Cross-Respondent

CROSS CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Cross-Claimant

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Second Cross-Claimant

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)
Third Cross-Claimant
Marsh Limited
Cross-Respondent

Marsh Pty Ltd (ACN 004 651 512)
Second Cross-Respondent

CROSS CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Cross-Claimant

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Second Cross-Claimant

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)
Third Cross-Claimant

Insurance Australia Limited (ACN 000 016 722)
Cross-Respondent

CROSS CLAIM

Insurance Australia Limited (ACN 000 016 722)
Cross-Claimant

Marsh Limited
Cross-Respondent

Marsh Pty Ltd (ACN 004 651 512)
Second Cross-Respondent

UBS Asset Management (Europe) S.A.
Third Cross-Respondent

UBS Asset Management Switzerland AG
Fourth Cross-Respondent

UBS Fund Administration Services Luxembourg
Fifth Cross-Respondent

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)
Sixth Cross-Respondent

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Seventh Cross-Respondent

Tokio Marine Management (Australasia) Pty Ltd (ACN 001 488 455)
Eighth Cross-Respondent

CROSS CLAIM

BCC Trade Credit Pty Ltd (ACN 608 296 233)
Cross-Claimant

Tokio Marine Management (Australasia) Pty Ltd (ARBN 001 488 455)
Second Cross-Claimant

Tokio Marine & Nichido Fire Insurance Co Ltd (ARBN 000 438 291)
Third Cross-Claimant

UBS Asset Management (Europe) S.A.
Cross-Respondent

UBS Asset Management Switzerland AG
Second Cross-Respondent

UBS Fund Administration Services Luxembourg S.A.
Third Cross-Respondent

Annexure A

Invoice Number	Invoice Date	Certified Amount	Currency	Due Date	Backstop Date
CAT0106032069	06/03/2020	884616.00	GBP	05/03/2021	19/04/2021
CAT0120032070	20/03/2020	884616.00	GBP	19/03/2021	03/05/2021
CAT0103042071	03/04/2020	884616.00	GBP	02/04/2021	17/05/2021
CAT0117042072	17/04/2020	884616.00	GBP	16/04/2021	31/05/2021
CAT0101052073	30/04/2020	884616.00	GBP	30/04/2021	14/06/2021
CAT0101052074	15/05/2020	884616.00	GBP	14/05/2021	28/06/2021
CAT0101052075	29/05/2020	884616.00	GBP	28/05/2021	12/07/2021
CAT0101052076	12/06/2020	884616.00	GBP	11/06/2021	26/07/2021
CAT0101052077	26/06/2020	884616.00	GBP	25/06/2021	09/08/2021
CAT0101052078	10/07/2020	884616.00	GBP	09/07/2021	23/08/2021
CAT0101052079	24/07/2020	884616.00	GBP	23/07/2021	06/09/2021
CAT0101052081	07/08/2020	884616.00	GBP	06/08/2021	20/09/2021
CAT0101052082	21/08/2020	884616.00	GBP	20/08/2021	04/10/2021
CAT0101052080	04/09/2020	884616.00	GBP	03/09/2021	18/10/2021
CAT0101052083	18/09/2020	884616.00	GBP	17/09/2021	01/11/2021
CAT0101052084	02/10/2020	884616.00	GBP	01/10/2021	15/11/2021
CAT0101052085	16/10/2020	884616.00	GBP	15/10/2021	29/11/2021
CAT0101052086	30/10/2020	884616.00	GBP	29/10/2021	13/12/2021
CAT0101052087	13/11/2020	884616.00	GBP	12/11/2021	27/12/2021
CAT0101052089	11/12/2020	884616.00	GBP	10/12/2021	24/01/2022

CAT0101052090	24/12/2020	884616.00	GBP	23/12/2021	06/02/2022
CAT0101052091	08/01/2021	884616.00	GBP	07/01/2022	21/02/2022
CAT0101052092	22/01/2021	884616.00	GBP	21/01/2022	07/03/2022
CAT0101052093	05/02/2021	884616.00	GBP	04/02/2022	21/03/2022
CAT0101052094	19/02/2021	884616.00	GBP	18/02/2022	04/04/2022
CAT0101052096	25/02/2021	884616.00	GBP	24/02/2022	10/04/2022

Annexure B

No.	ISIN	Issue Date[1]	Counterparty for acquisition	Transfer Date[2]	Name of Loss Payee	Expected Allocation	Cash Amount paid by Loss Payee	Currency	Maturity Date	Date transferred to GBAG by Loss Payee[3]	Counterparty for transfer to GBAG
1.	XS1809630145	6/03/2020	Citibank as Issuing and Paying Agent	6/03/2020	Credit Suisse Virtuoso	884,616	864,248.51	GBP	5/03/2021	27/08/2021	Citibank as custodian for GBAG
2.	XS1809630228	20/03/2020	Citibank as Issuing and Paying Agent	20/03/2020	Credit Suisse Virtuoso	884,616	863,062.86	GBP	19/03/2021	27/08/2021	Citibank as custodian for GBAG
3.	XS1809630491	3/04/2020	Citibank as Issuing and Paying Agent	3/04/2020	Credit Suisse Virtuoso	884,616	862,507.59	GBP	2/04/2021	27/08/2021	Citibank as custodian for GBAG
4.	XS1809630574	17/04/2020	Citibank as Issuing and Paying Agent	17/04/2020	Credit Suisse Virtuoso	884,616	862,223.18	GBP	16/04/2021	27/08/2021	Citibank as custodian for GBAG
5.	XS1809630731	4/05/2020	Citibank as Issuing and Paying Agent	4/05/2020	Credit Suisse Virtuoso	884,616	862,903.19	GBP	30/04/2021	27/08/2021	Citibank as custodian for GBAG
6.	XS1809630814	18/05/2020	Citibank as Issuing and Paying Agent	18/05/2020	Credit Suisse Virtuoso	884,616	863,867.77	GBP	14/05/2021	27/08/2021	Citibank as custodian for GBAG
7.	XS1809630905	29/05/2020	Citibank as Issuing and Paying Agent	29/05/2020	Credit Suisse Virtuoso	884,616	864,560.61	GBP	28/05/2021	27/08/2021	Citibank as custodian for GBAG
8.	XS1809631036	12/06/2020	Citibank as Issuing and Paying Agent	12/06/2020	Credit Suisse Virtuoso	884,616	864,924.62	GBP	11/06/2021	27/08/2021	Citibank as custodian for GBAG
9.	XS1809631200	26/06/2020	Citibank as Issuing and Paying Agent	26/06/2020	Credit Suisse Virtuoso	884,600	865,439.30	GBP	25/06/2021	27/08/2021	Citibank as custodian for GBAG
10.	XS1809631465	14/07/2020	Citibank as Issuing and Paying Agent	14/07/2020	Credit Suisse Virtuoso	884,616	866,560.19	GBP	9/07/2021	27/08/2021	Citibank as custodian for GBAG
11.	XS1809631549	24/07/2020	Citibank as Issuing and Paying Agent	24/07/2020	Credit Suisse Virtuoso	884,616	866,792.67	GBP	23/07/2021	27/08/2021	Citibank as custodian for GBAG
12.	XS1809631622	7/09/2020	Citibank as Issuing and Paying Agent	7/09/2020	Credit Suisse Virtuoso	2,653,864	2,605,321.38	GBP	3/09/2021	24/08/2021	Citibank as custodian for GBAG
13.	XS1809631895	18/09/2020	Citibank as Issuing and Paying Agent	18/09/2020	Credit Suisse Virtuoso	884,616	867,954.26	GBP	17/09/2021	24/08/2021	Citibank as custodian for GBAG

[1] The date on which the note was issued by the issuer.
[2] The date on which the note was transferred to the Loss Payee which held the note until it was transferred to Greensill Bank AG.
[3] The date on which the note was acquired by Greensill Bank AG from the Loss Payee.

No.	ISIN	Issue Date[1]	Counterparty for acquisition	Transfer Date[2]	Name of Loss Payee	Expected Allocation	Cash Amount paid by Loss Payee	Currency	Maturity Date	Date transferred to GBAG by Loss Payee[3]	Counterparty for transfer to GBAG
14.	XS1809631978	2/10/2020	Citibank as Issuing and Paying Agent	2/10/2020	Credit Suisse Virtuoso	884,616	868,173.11	GBP	1/10/2021	24/08/2021	Citibank as custodian for GBAG
15.	XS1809632190	16/10/2020	Citibank as Issuing and Paying Agent	16/10/2020	Credit Suisse Virtuoso	884,600	868,324.86	GBP	15/10/2021	24/08/2021	Citibank as custodian for GBAG
16.	XS1809632356	30/10/2020	Citibank as Issuing and Paying Agent	30/10/2020	Credit Suisse Virtuoso	884,616	868,377.37	GBP	29/10/2021	24/08/2021	Citibank as custodian for GBAG
17.	XS1809632513	13/11/2020	Citibank as Issuing and Paying Agent	13/11/2020	Credit Suisse Virtuoso	884,616	868,272.28	GBP	12/11/2021	24/08/2021	Citibank as custodian for GBAG
18.	XS1809632943	11/12/2020	Citibank as Issuing and Paying Agent	11/12/2020	Credit Suisse Virtuoso	884,616	868,571.98	GBP	10/12/2021	24/08/2021	Citibank as custodian for GBAG
19.	XS1809633164	24/12/2020	Citibank as Issuing and Paying Agent	24/12/2020	Credit Suisse Virtuoso	884,616	868,712.29	GBP	23/12/2021	24/08/2021	Citibank as custodian for GBAG
20.	XS1809633321	8/01/2021	Citibank as Issuing and Paying Agent	8/01/2021	Credit Suisse Virtuoso	884,616	868,769.70	GBP	7/01/2022	24/08/2021	Citibank as custodian for GBAG
21.	XS1809633594	22/01/2021	Citibank as Issuing and Paying Agent	22/01/2021	Credit Suisse Virtuoso	884,616	868,715.47	GBP	21/01/2022	24/08/2021	Citibank as custodian for GBAG
22.	XS1809633677	5/02/2021	Citibank as Issuing and Paying Agent	5/02/2021	Credit Suisse Virtuoso	884,616	868,667.61	GBP	4/02/2022	24/08/2021	Citibank as custodian for GBAG
23.	XS1809633750	24/02/2021	Citibank as Issuing and Paying Agent	24/02/2021	Credit Suisse Virtuoso	884,616	868,556.95	GBP	18/02/2022	24/08/2021	Citibank as custodian for GBAG
24.	XS1809633834	25/02/2021	Citibank as Issuing and Paying Agent	25/02/2021	Credit Suisse Virtuoso	884,616	868,285.99	GBP	24/02/2022	24/08/2021	Citibank as custodian for GBAG
TOTALS						**23,000,000**	**22,533,793.74**				