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***Case No COMP/M.1989 -  
WINTERTHUR /  
COLONIAL***

Only the English text is available and authentic.

**REGULATION (EEC) No 4064/89  
MERGER PROCEDURE**

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Article 6(1)(b) NON-OPPOSITION  
Date: 09/06/2000

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, **09/06/2000**

In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EEC) No 4064/89 concerning non-disclosure of business secrets and other confidential information. The omissions are shown thus [...]. Where possible the information omitted has been replaced by ranges of figures or a general description.

PUBLIC VERSION

MERGER PROCEDURE  
ARTICLE 6(1)(b) DECISION

**To the notifying party**

Dear Sirs,

**Subject: Case No COMP/M.1989 – Winterthur Life/Colonial**

Notification of 11/05/2000 pursuant to Article 4 of Council Regulation No 4064/89

1. On the 11/05/2000 the Commission received a notification of a proposed concentration pursuant of Article 4 of Council Regulation (EEC) No. 4064/89<sup>1</sup> whereby, Winterthur Life UK Holdings Limited, (Winterthur Life) UK proposes to acquire, within the meaning of Article 3(1)(b) of Council Regulation, sole control of Colonial (UK) plc (Colonial) UK by way of purchase of shares.
2. After examination of the notification, the Commission has concluded that the notified operation fall within the scope of Council Regulation (EEC) No 4064/89 and does not raise serious doubts as to its compatibility with the common market and with the functioning of the EEA Agreement.

**I THE PARTIES**

3. Winterthur Life, a company incorporated in England and Wales, is ultimately owned by the Credit Suisse Group which is active in a wide range of financial services.

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<sup>1</sup> OJ L 395, 30.12.1989 p.1 corrigendum OJ L 257 of 21.09.1990, p.13; Regulation as last amended by Regulation (EC) No 1310/97 (OJ L 180, 9.7.1997, p1, corrigendum OJ L 40, 13.2.1998, p 17)

4. Colonial is a company incorporated in England and Wales, it is a wholly-owned subsidiary of Colonial International Holdings Pty limited, and is active in life assurance and pensions solely within the UK.

## **II THE OPERATION**

5. The operation involves the acquisition of the entire share capital of Colonial by Winterthur Life.

## **III CONCENTRATION**

6. The operation is a concentration in the sense of Article 3(1)(b) of the Merger Regulation since Winterthur Life will acquire sole control of Colonial.

## **IV COMMUNITY DIMENSION**

7. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 billion<sup>2</sup> (Credit Suisse Group: EUR 43 871 million, Colonial: EUR 369 million). Each have a Community-wide turnover in excess of EUR 250 million (Credit Suisse Group: EUR 10 457 million, Colonial EUR 369 million), but they do not achieve more than two-thirds of their aggregate Community-wide turnover within one and the same Member State. The notified operation therefore has a Community dimension.

## **V COMPETITIVE ASSESSMENT**

8. The parties overlap in the provision of life assurance and pensions in the UK there are also some limited overlap in the general insurance market in the UK.

### **A The relevant product markets**

#### ***(i) Life assurance and pension products***

9. The Notifying Party suggests that life assurance products and pensions products are in the same market. From the demand-side both products could be considered substitutes as they are both long-term business products involving a premium payment by the insured and a liability on the part of the insurance company which becomes payable many years later. Furthermore, both products involve a certain degree of risk on the part on the insurance company in respect of the length of life and the individual insured. Supply-side considerations also indicate strong substitutability as both products are generally offered by the same companies and providers are subject to the same regulatory regime. This approach is similar to the one taken previously (Case No IV/M.1691 – AEGON UK/GRE). The Notifying Party believes that it may be possible to make a distinction between products sold to individuals and products sold to groups. However, in this case it is not necessary for the Commission to define the relevant product market(s) as,

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<sup>2</sup> Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Notice on the calculation of turnover (OJ C66, 2.3.1998, p25). To the extent that figures include turnover for the period before 1.1.1999, they are calculated on the basis of average ECU exchange rates and translated into EUR on a one-for-one basis.

even on the basis of the narrowest definition, the proposed acquisition does not raise serious doubts as to its compatibility with the common market or a substantial part of it.

***(ii) General insurance products***

10. The Notifying Party identifies an overlap in two separate general insurance sectors: ‘household and domestic all risk’ and ‘accident and health’. Within general insurance there could be as many distinct product markets as there are risk categories, nevertheless a degree of supply substitutability may exist for products which require a common set of skill and resources.
11. However, in the present case it is not necessary to define the product markets because, even on the narrowest market definition, the proposed acquisition does not raise serious doubts as to its compatibility with the common market or a substantial part of it.

***B Relevant Geographical Market***

12. The Notifying Party views the geographical markets for life assurance, pensions products and general insurance as national at present. In previous cases the Commission has established that life assurance market are becoming more open to inter-community competition, particularly for industrial and commercial policies, as a result of current and future measures to facilitate cross-border selling<sup>3</sup>. Nevertheless, in the view of established market structures, the need for adequate distribution channels, fiscal constraints in some cases and differing national systems of regulatory supervision the Commission has previously considered the markets national. (See case No IV/M.759 – Sun Alliance/Royal Insurance).
13. However, in the present case it is not necessary to conclusively define the relevant geographic markets because, even on the narrowest definition, the concentration does not create or strengthen a dominant position as a result of with effective competition would be significantly impeded in the common market or any substantial part of it.

***C Assessment***

***Life assurance and pension products***

14. According to the Notifying Party there are no affected markets. If the relevant market were to include both life assurance and pensions in the UK, then the combined market share would be less than 1%, and if life assurance and pensions are considered separately the market share would be less than 3% in either case. If life assurance and pension products sold to individuals are considered separately from and those arranged for groups the combined market share would be below 4% in both categories.
15. On this basis the proposed concentration does not give rise to competition concerns.

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<sup>3</sup> Case No IV/M.627-Uap/Sun Life; Case No. IV/M.1009-Generali/AMB/Athena

*(ii) General insurance products*

16. Neither party provides general insurance directly but acts as intermediaries in respect of certain general insurance products. In the ‘household and domestic all risks’ market Winterthur Life sell insurance provided by Churchill Insurance (part of the same group as Winterthur), it has a market share of less than 1.5% (including insurance sold by Churchill). In the ‘accident and health’ market Winterthur introduces insurance provided by Paymentsshield and has a market share of less than 1%. Similarly, Colonial provides household insurance for Select & Protect and CGU, and accident insurance for Paymentsshield. Its market share is in both cases substantially less than 1%.
17. The overlap in this case is insignificant and does not raise competition concerns.

**VI ANCILLARY RESTRAINTS**

18. Colonial accepts for a period of [...] a non-competition clause for the retained group not to carry out Long Term Business and accepts not to solicit employees which are at present employees of ‘any group company’.
19. Colonial International agrees that it shall not and shall procure that all other companies in the Vendor’s Group shall not carry on Long Term Business in the United Kingdom under the name ‘Colonial’ for a period of [...] from completion.
20. The purpose of these provisions is to protect the goodwill of the business being acquired. The restrictions apply only for a finite duration and are limited to the business carried on at the date of the agreement. The restriction for [...] is considered necessary to protect the interest of consumers and to meet regulatory concerns. The restriction does not prevent any member of Colonial International conducting long term business in the UK under any name other than ‘Colonial’. The Commission regards these provisions as transitional measures in the transfer of business and does not consider them to restrict competition unduly.

**VII CONCLUSION**

21. For the above reasons, the Commission has decided not to oppose the notified operation and to declare it compatible with the common market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of Council Regulation (EEC) No 4064/89.

For the Commission