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***Case No COMP/M.7044 - BLACKSTONE/ CAMBOURNE/
GOLDMAN SACHS/ ROTHESAY***

Only the English text is available and authentic.

**REGULATION (EC) No 139/2004
MERGER PROCEDURE**

Article 6(1)(b) NON-OPPOSITION
Date: 29/11/2013

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Brussels, 10.12.2013
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In the published version of this decision, some information has been omitted pursuant to Article 17(2) of Council Regulation (EC) No 139/2004 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 Where possible the information omitted has been replaced by ranges of figures or a general description.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

To the notifying party:

Dear Sir/Madam,

**Subject: Case No COMP/M.7044 – Blackstone/ Goldman Sachs/ Rothesay
Commission decision pursuant to Article 6(1)(b) of Council Regulation
No 139/2004¹**

1. On 25 October 2013, the European Commission received notification of a proposed concentration pursuant to Article 4 of the Merger Regulation by which the Blackstone Group L.P. ("Blackstone", USA) and Goldman Sachs Group, Inc. ("Goldman Sachs" USA) acquire within the meaning of Article 3(1)(b) of the Merger Regulation joint control of the undertaking Rothesay Holdco UK Limited ("Rothesay", UK) by way of purchase of shares (hereinafter the "proposed transaction").² Blackstone and Goldman Sachs are collectively designated hereinafter as the "the Parties".

I. THE PARTIES

2. Blackstone is a global alternative asset manager and provider of financial advisory services in the United States of America, Europe and Asia. It operates as an investment management firm, as opposed to a conglomerate or a holding company. Each company in its investment portfolio is independently managed and financed, and has different investors.

¹ OJ L 24, 29.1.2004, p. 1 ("the Merger Regulation"). With effect from 1 December 2009, the Treaty on the Functioning of the European Union ("TFEU") has introduced certain changes, such as the replacement of "Community" by "Union" and "common market" by "internal market". The terminology of the TFEU will be used throughout this decision.

² Publication in the Official Journal of the European Union No 2013/C 316/08

3. Goldman Sachs is a global firm that provides a wide range of banking, securities and investment services worldwide to a substantial and diversified client base that includes corporations, financial institutions, governments and high net-worth individuals. Its activities are overall divided into four segments: (i) investment banking, (ii) institutional client services, (iii) investing and lending, and (iv) investment management.
4. Rothesay is a holding company established by Goldman Sachs for the purpose of the proposed transaction and which controls Rothesay Life Limited and Rothesay Pensions Management Limited. Rothesay Life Limited was established in 2007 as a regulated insurance company, is fully owned by Goldman Sachs and is primarily focused on defined benefit pension risk transfers within the UK. Rothesay Pensions Management Limited, which is also part of the proposed transaction, is the human resources vehicle of Rothesay Life Limited.

II. THE OPERATION

5. The proposed transaction consists of the acquisition by Blackstone of approximately 29.9% of the voting shares and [20-30]% of the economic interest in Rothesay. In parallel, two other investors, Cambourne Life Investment PTE Ltd ("Cambourne") and Massachusetts Mutual Life Insurance Company ("MassMutual"), will respectively acquire 25% and 7% of the voting rights.

Joint control

6. The Shareholders' Agreement contains a list of matters that require the written approval of each shareholder holding more than [20-30]% of the shares, namely Cambourne, Blackstone and Goldman Sachs, referred to as "qualifying shareholders".³ These matters relate to minority protection rights [...].
7. In addition, the Shareholders' Agreement contains a list of reserved matters which require the written approval of each qualifying shareholder, [...].⁴ This list contains matters relating to the strategic decisions of Rothesay, such as the adoption and revision of the business plan and the budget, the appointment, removal or replacement of the Chairman and other key management members of the company, including the senior management.
8. The Shareholders' Agreement thus specifically distinguishes between the rights exercisable by Cambourne, together with Blackstone and Goldman Sachs, and those exercisable only by Goldman Sachs and Blackstone. [...]. Consequently, through the proposed transaction Blackstone and Goldman Sachs will together acquire joint control over Rothesay.

Full-functionality

9. Rothesay is currently, and will remain following the completion of the proposed transaction, full function. [...]. Rothesay is autonomously active on the market as it holds an authorisation by the Prudential Regulation Authority of the Bank of England for being active in the field of the insurance business. As Goldman Sachs does not hold the necessary authorisation, it is unable to interfere in the business of Rothesay.
10. With regard to the sourcing of upstream products and services, Rothesay sources certain back-office support functions from Goldman Sachs at arms' length on the basis of normal

³ Schedule 4 (A) of the Shareholders' Agreement.

⁴ Schedule 4 (B) of the Shareholders' Agreement.

commercial conditions, including limited support for collateral management, asset and liability operations, real estate and IT. Rothesay is also currently testing programmes offered by third party providers with the aim to replace the Goldman Sachs' system. Rothesay estimates that within two years from closing of the proposed transaction, it will have replaced all Goldman Sachs' services. Finally, out of 61 employees, Rothesay directly employs 41 persons, including the management. The 20 employees who are currently still seconded from Goldman Sachs will be transferred to Rothesay prior to the closing of the proposed transaction. Furthermore, Rothesay has the possibility to recruit its own personnel and has done so in the past two years.

11. For all the above reasons, the proposed transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

III. EU DIMENSION

12. The undertakings concerned have a combined aggregate world-wide turnover of more than EUR 5 000 million⁵ (Blackstone: EUR [...] million; Goldman Sachs: EUR [...] million; Rothesay: EUR [...] million). Each of them has an EU-wide turnover in excess of EUR 250 million (Blackstone: EUR [...] million; Goldman Sachs: EUR [...] million; Rothesay: EUR [...] million) and only Rothesay achieves more than two-thirds of their aggregate EU-wide turnover within the United Kingdom.
13. The notified transaction therefore has an EU dimension, within the meaning of Article 1(2) of the Merger Regulation.

IV. COMPETITIVE ASSESSMENT

1. Market definition

1.1. Markets related to the activities of Rothesay

14. Rothesay is active in the market for de-risking of defined pension schemes in the UK. All pension schemes are presided over by a board of trustees ("the Trustees") that manages the assets and liabilities of the pension scheme.

(i) Product market definition

15. Pension scheme de-risking is a process whereby the Trustees or the corporate sponsor seek to manage or transfer the risks associated with the pension schemes to an insurer, bank, asset manager or actuarial firm. Rothesay's activities are only relevant with respect to Defined Benefit ("DB") pension schemes, as only in relation to these schemes the risks are borne by the Trustees.
16. The Commission has previously defined the market for pension products as a sub-segment of life insurance,⁶ without looking at de-risking products. The Commission has in particular identified the following sub-segments of the life insurance market: (i) protection products,

⁵ Turnover calculated in accordance with Article 5(1) of the Merger Regulation and the Commission Consolidated Jurisdictional Notice (OJ C95, 16.04.2008, p1).

⁶ Case No COMP/M.6883 – *Canada Life / Irish Life* para 10.

(ii) pension products, and (iii) savings and investment products.⁷ Furthermore, the Commission previously segmented the market for insurance products according to the category of customers to which the products are addressed, namely between life insurance to individuals and to group customers.⁸ However, the Commission ultimately left open the exact product market definition.

17. The Parties submit that de-risking transactions (i.e. Buy-in, Buy-out,⁹ and Longevity Swaps¹⁰) are part of an overall market for the de-risking of DB pension schemes.
18. However, the exact product market definition for markets horizontally related to the activities of Rothesay can be left open for the purpose of the present case as the proposed transaction will not give rise to serious doubts as to its compatibility with the internal market, in any of the markets, irrespective of the precise product market definition.

(ii) Geographic market definition

19. The Commission has previously considered the related markets for pension products to be national in scope due to: (i) the existence of national distribution channels; (ii) different regulatory frameworks and fiscal regimes; and (iii) different established brands. However, the Commission ultimately left open the exact geographic market definition.¹¹
20. The Parties submit that de-risking transactions have the same characteristics as the market for pension products, and that the geographic market should therefore be considered as national in scope. They argue, in particular, that as an insurance company Rothesay is subject to national regulation and supervised by national regulators (i.e. the Financial Conduct Authority and the Prudential Regulation Authority in the UK) and that Rothesay's services are aimed at UK DB pension schemes. Moreover, the de-risking transactions entered into by Rothesay and its competitors primarily represent a UK-focused sector.
21. However, the exact geographic market definition for markets horizontally related to the activities of Rothesay can be left open for the purpose of the present case as the proposed transaction will not to give rise to serious doubts as to its compatibility with the internal market in any of the markets irrespective of the precise geographic market definition.

⁷ Case No COMP/M.6883 – *Canada Life / Irish Life* para 10; Case No COMP/M.4701- *Generali/PPF Insurance Business* para 20; Case No COMP/M.4047 - *Aviva/Arik Life* para 11.

⁸ Case No COMP/M.6883 – *Canada Life / Irish Life*, para 10 and Case No COMP/M.6883 – *Talanx international / Meiji Yasuda Life Insurance / Warta* para 16; Case No COMP/M.4284 -*AXA/Winterthur* para 12.

⁹ Buy-in contract: trustees agree to purchase a policy for a single up-front premium. In return, the insurer agrees to pay the actual insured benefits of the relevant members. The trustees retain their administration role and their relationship with the members. Buy-out works in almost the same manner as 'Buy-in', except that the trustees will no longer have responsibility for managing the pension scheme and meeting the annuity payments, and the relationship between the trustees and the members' transfers to the insurer.

¹⁰ Trustees may seek to transfer some or all of the responsibility for meeting on-going payments to policy holders to a third party. Trustees may do so by purchasing insurance to cover them in the event that members live longer than expected. This solution is often referred to as a longevity swap which obliges the insurer (or bank) to pay schemes in respect of pension payments where members live longer than expected.

¹¹ Case No COMP/M.6883 - *Canada Life / Irish Life*, para 19; Case No COMP/M.6521 - *Talanx International / Meiji Yasuda Life Insurance / Warta*, para 54; Case No COMP/M.4701 – *Generali / PPF Insurance Business*, para 26.

1.2. Other markets related to the activities of the parent companies

22. Blackstone's and Goldman Sachs' activities overlap internationally in the areas of investment banking, financial market services, corporate finance, and the private equity segment of the corporate finance market and asset management services (even though they typically invest in different assets).
23. Previously, the Commission has defined separate product markets for: (i) investment banking; and (ii) financial markets services¹². The Commission has also examined cases dealing with various private equity segments (in its widest sense, as equity investments in unquoted companies), the supply of funds comprising equity and debt finance,¹³ lending services,¹⁴ securities lending,¹⁵ Initial Public Offering advisory services and equity and debt underwriting,¹⁶ and asset management services. Asset management includes the creation, establishment and marketing of retail pooled funds (mutual funds, unit trusts, investment trusts and open-ended investment companies) and the provision of portfolio management services to pension funds, institutions, international organisations and private investors.¹⁷ The Commission has considered the possibility to further segment the market for asset management into retail and institutional segments and based on investment strategy into active and passive investment. The Commission also pointed out that asset management excludes the provision of portfolio management services to individuals (so-called private banking).¹⁸
24. The exact product market definition was left open in all those cases. As far as the geographical scope of these markets is concerned, the Commission considered an EEA-wide or global dimension, without concluding on the exact definition.
25. In any event, for the purposes of this case, the exact product and geographic market definitions can be left open as no serious doubts will arise irrespective of the precise market definition.

2. Competitive assessment

26. The Parties submit that the proposed transaction is a purely financial investment operation and that neither Blackstone nor Goldman Sachs, nor any of their controlled portfolio companies, are active in the same markets as Rothesay.
27. The Commission considers that to the extent the Parties' activities overlap in markets which are unrelated to Rothesay's activities, namely investment banking, financial market services, private equity, and asset management services, the Parties' shares do not give rise to any affected markets.

¹² Case No OMP/M.6168 – *RBI / EFG Eurobank/JV* paras 14-15; Case No COMP/M.3894 – *Unicredito / HVB*, paras 30-33; Case No COMP/M.2225 – *Fortis / ASR* para 8; Case No COMP/M.1910 – *Meritanordbanken / Unidanmark* para 7; Case No COMP/M.1172 – *Fortis AG / Generale Bank*.

¹³ Case No COMP/M.2577 – *GE Capital / Heller* para 15.

¹⁴ Case No COMP/M.2577 – *GE Capital / Heller* para 16.

¹⁵ Case No COMP/M.3511 – *Wiener Boerse et al/Budapest Stock Exchange/Budapest Commodity Exchange / KELER / JV* para 14.

¹⁶ Case No COMP/M.2158 – *Credit Suisse Group / Donaldson, Lufkin & Jenrette* para 7.

¹⁷ Case No COMP/M.5580 – *Blackrock / Barclays Global Investors UK Holdings* para 9.

¹⁸ Case No COMP/M.5580 – *Blackrock / Barclays Global Investors UK Holdings* para 10.

28. There are no overlaps between the activities of notifying parties and Rothesay in any potential product and geographical markets resulting in a combined market share of 15% or more. Further, Goldman Sachs and Blackstone do not have an individual or combined market share at either level of 25% or more in a potential product market which is upstream or downstream of a product market in which Rothesay is engaged.
29. Furthermore, spill-over effects in the meaning of Article 2(4) of the Merger Regulation as a result of the proposed transaction can be discarded as none of the parents has activities in the same markets as the joint venture or in a market which is up or downstream from that of the joint venture or in neighbouring markets closely related to this market. Indeed, Rothesay and the parent companies perform different types of activities. Whereas Rothesay is active in the field of DB pension risk in the UK, Goldman Sachs provides investment banking, securities and investment management services globally, and Blackstone is active in the field of asset management and financial advisory services.
30. Finally, the joint venture only represents a small part of the parents' portfolio, so that coordination between independent undertakings that restricts competition within the meaning of Article 101(1) of the TFEU is highly unlikely.

V. CONCLUSION

31. For the above reasons, the European Commission has decided not to oppose the notified operation and to declare it compatible with the internal market and with the EEA Agreement. This decision is adopted in application of Article 6(1)(b) of the Merger Regulation.

*For the Commission
(Signed)*

*Joaquín ALMUNIA
Vice-President*