

26 October 2021

Update on FCA's consideration of LV / Bain Capital transaction

I am writing to update you on the FCA's consideration of the proposed transaction between Liverpool Victoria Financial Services Limited (LV) and Bain Capital. I thought it would be helpful to set out the latest position and to highlight particular areas of focus in the FCA's consideration of the proposed transaction.

The FCA's consideration of the proposed transaction

As you are aware the proposed deal between LV and Bain Capital has a number of steps to it. LV is planning to first provide its members with a vote on the overall transaction with Bain Capital. Only if members approve this will the deal proceed. This vote would then be followed immediately by a second vote on changes to LV's Articles of Association via a Scheme of Arrangement (subject to Court approval), which is necessary to enable the subsequent planned insurance business transfer to a Bain Capital-controlled entity under Part VII of FSMA (2000). It is this Part VII transfer (subject also to Court approval) that would result in the effective demutualisation of LV. In order to acquire this entity, to which the business of LV would be transferred, Bain Capital has submitted a change in control application to the regulators.

The FCA has scrutinised the fairness of the proposed transaction and process for how it is decided. As a result, we have now provided our non-objection to LV proceeding to the Court (with respect to the Scheme of Arrangement) and to putting the proposals (on both the overall Bain transaction and the Scheme of Arrangement) to member votes, subject to LV meeting some additional requirements which I have summarised further below.

The next step for LV is a Convening Hearing on the Scheme of Arrangement and, subject to the outcome of this hearing, LV would start sending voting packs (including full information on both the proposed Bain transaction and the Scheme of Arrangement) to its members, in advance of a Special General Meeting (SGM) to enable LV members to vote on both of these proposals. In the event of a positive vote on the Scheme of Arrangement, LV will need to return to the Court for a Sanction Hearing.

Alongside this, the PRA's and FCA's consideration of the change in control application is ongoing, and approval of this change in control would be required for the transaction to proceed, regardless of the outcome of the member votes.

Arriving at our decision

As we have discussed, under FSMA, Parliament has not legislated for the FCA to consider form of ownership of an acquirer when considering transactions such as these. We consider such transactions in the context of our statutory objectives in relation to consumer protection, market integrity and competition in the interests of consumers.

In arriving at our decision not to object to LV proceeding to the Court (with respect to the Scheme of Arrangement) and to putting the proposals (on both the overall Bain transaction and the Scheme of Arrangement) to member votes, we considered the views of the firm's With-Profits Actuary and With-Profits Committee, as well as those of the Independent Expert. This decision follows extensive engagement with LV, during which we challenged their proposals where necessary to ensure the fair treatment of their policyholders.

We have also benefited from the opportunity to attend member webinars hosted by LV and to hear directly from LV members.

As part of our assessment that led to this decision not to object at this stage, we considered the overall fairness of the proposed transaction and Scheme of Arrangement. I have set out the areas most material to our considerations below:

- Whether we are satisfied that the comparators being used by the firm and the Independent Expert in assessing the proposed transaction were reasonable in light of the options available to the firm at this time.
- Whether we are satisfied that the voting process and voting class composition being proposed by LV for the member votes is fair and reasonable and reflective of the rights of members. As part of this, we have considered the fairness of the proposed Scheme of Arrangement, which would allow LV to demutualise even if fewer than 50% of eligible individuals vote. We recognised that:
 - in order for LV to make the proposed change, 75% of those who do vote will need to vote positively for it;
 - any members who object to the change have the opportunity to do so in Court; and
 - the Court will be able to consider whether the proportion of votes submitted is sufficient to support the proposal at the Sanction Hearing.
- Whether we are satisfied that LV had addressed our previous feedback regarding the member communications satisfactorily and whether their engagement plans have been robustly adhered to, and more broadly whether the medium, timing and form of customer communications, and the firm's overall customer engagement plans and arrangements for supporting customers through the process, are adequate and appropriate.

- Whether we are satisfied that the proposed transaction would not result in any material weakening of the standards of governance, administration and servicing experienced by LV's customers.
- Whether we are satisfied that the proposed distributions resulting from the transaction are fair and reasonable in light of the different interests of LV's policyholders, particularly as between the with-profits and non-profits policyholders.
- Whether we are satisfied that it is unlikely for there to be a material adverse impact on the benefit expectations of LV's policyholders under their policies, particularly the with-profits policyholders, as a result of the proposed transaction.
- Whether there are any significant negative impacts on competition in the interests of consumers resulting from the proposed transaction that might cause us to object at this stage.

Our expectations of LV

We have challenged LV on their current and planned engagement and communications strategy with their policyholders and members, as an area of particular concern for us. Given the complexity of the proposed transaction and the need for policyholders and members to engage with and understand the proposals before voting on them, we have focused on ensuring that LV does all it can to support them, particularly once full member voting packs are sent. We have ensured LV has appropriately recognised the different interests of different policyholders, particularly with-profits policyholders, in their engagement and communications.

In addition to feedback already provided during the course of the last few months, as part of our non-objection to LV, we have required them to address a few further points to ensure that policyholders are treated fairly and given as much opportunity as possible to ask questions and have these answered once the proposals are put to them. I have set out the key areas below to give you a sense of these:

- We have requested that LV operate extended opening hours for their customer helpline during the relevant period up to the date of the SGM. We believe it is important that there is maximum opportunity during this window for LV's policyholders and members to engage with the proposals once they have received the member voting packs, and to allow those for whom working hours are not convenient to be able to call at a more suitable time.
- We have requested that LV look to add further Zoom / webinar sessions for policyholders and members beyond those they already have planned, with a focus on responding to questions rather than presenting more information to their members and policyholders. Additional sessions – held at different times of the day to the ones already planned – will add to policyholders' and members' ability to engage at a time that suits them, to ask all the questions that they have and to hear a response from LV and the Independent Expert, who will attend all of these sessions.

- During the period from now through to the SGM, we have made clear that we expect that where LV receive requests for further engagement / information from policyholders and members, these should be acted upon and that LV should do everything in their power to meet the expectations of these policyholders and members (within reason) in this regard.
- We expect that LV will update FAQs regularly on their website to reflect questions being asked by their policyholders and members.
- We have asked for specific Senior Managers (under the Senior Managers and Certification Regime) to take accountability for ensuring that there is ongoing monitoring and assessment to ensure that, if the Bain transaction is approved, service standards are maintained (as per the agreement with Bain Capital) and that changes to the providers of investment management services do not result in any material adverse impact on policyholders. We will additionally assess these points through our ongoing supervision of LV after the proposed transaction.

The FCA will continue to assess that LV takes forward the next steps in line with our expectations, and we will also continue to consider the responses of LV's policyholders and members to the proposed transaction, observing LV's planned webinars as part of this. If members vote in favour of the Scheme of Arrangement, we will be writing to the Court for the Sanction Hearing in late December with our views on all of the above. We also continue to provide input to the PRA's consideration of Bain Capital's change in control application, and would assess the Part VII transfer in 2022 and provide our views to the Court, if members vote in favour of both the deal with Bain Capital and the Scheme of Arrangement, and if the change in control application is approved.