



Gazette

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CROSS BORDER MOBILITY GAZETTE
14 February 2024

CRO GAZETTE, WEDNESDAY, 14 February 2024

CROSS BORDER MOBILITY SUBMISSIONS RECEIVED BETWEEN 7-FEB-24 AND 13-FEB-24							
Company Number	Company Name	Document	Date of Receipt	Company Number	Company Name	Document	Date of Receipt
592779	Fresenius Financial Holdings Limited	High Court Order	09/02/2024				

Company 592779



AN ARD-CHÚIRT
THE HIGH COURT

COMMERCIAL
H.COS.2023.0000216
(2023 No. 93 COM)

MONDAY THE 29TH DAY OF JANUARY 2024

BEFORE MR JUSTICE DENIS McDONALD

IN THE MATTER OF FRESENIUS FINANCE HOLDINGS LIMITED

AND

**IN THE MATTER OF FRESENIUS FINANCE IRELAND PUBLIC LIMITED
COMPANY**

AND

**IN THE MATTER OF AN APPLICATION UNDER SECTION 1141 OF THE
COMPANIES ACT 2014**

**FRESENIUS FINANCE HOLDINGS LIMITED AND FRESENIUS FINANCE
IRELAND PUBLIC LIMITED COMPANY**

APPLICANTS

The Originating Notice of Motion filed on the 21st day of November 2023 (the Application) coming before the Court on the 20th day of December 2023 pursuant to the Order made herein by this Honourable Court on the 27th November 2023 (McDonald J) (the "Order") and on this day in the presence of Counsel for Fresenius Finance Holdings Limited and Fresenius Finance Ireland Public Limited Company (the "Applicants")

And upon reading the said Originating Notice of Motion the Grounding Affidavit of Alan McDermott filed the 21st day of November 2023 the Affidavit of Gillian Cantrell filed

the 15th day of December 2023 the Supplemental Affidavit of Alan McDermott filed the 24th day of January 2024 the exhibits to said Affidavits the Order and the written submissions of Counsel for the Applicants all in support of the application

And the Court being satisfied that at the initial hearing date of the Application on the 20th day of December 2023 pursuant to the said Order there was no attendance in Court by or on behalf of any creditor contributory or interested party in the Application before the Court

And the Court having adjourned the making of the Orders herein to todays date

And upon hearing Counsel for the Applicants

IT IS ORDERED pursuant to Section 1144(2) of the Companies Act 2014 and pursuant to the Special Resolution of the sole member of the Applicants passed on the 23rd day of January 2024 that the proposed merger by acquisition be entered into between Fresenius Finance Holdings Limited and Fresenius Finance Ireland Public Limited Company upon the terms of the common draft terms of merger incorporated into a document entitled Draft Terms of Merger which is set forth in the Annex hereto (the "Merger") with effect 5.00p.m. on 30 January 2024 and that Fresenius Finance Ireland Public Limited Company shall be the "successor company" as defined in the Act

AND IT IS ORDERED pursuant to Section 1142(3) of the Act that the provisions of Section 1142(2) of the Act shall not apply as regards any of the classes of creditors of the Applicants or either of them

AND IT IS ORDERED that pursuant to Section 1146(1) of the Companies Act 2014 Tom Casey of A&L Goodbody LLP (solicitors for the Applicants) being an officer of the Court produce this Order to the Registrar of Companies and that a certified copy thereof be delivered to him within 14 days of the perfection of this Order

Liberty to Apply

DAMIEN BOLGER KERR
REGISTRAR

Perfected 1st February 2024

A COPY WHICH I ATTEST


.....
FOR REGISTRAR

A &L Goodbody LLP
Solicitors for the Applicants

Merger means the proposed merger by acquisition as contemplated by Section 1129, Chapter 16 of Part 17 of the Act between the Transferor Company and the Successor Company, pursuant to which the Transferor Company, as the company being acquired, transfers the Assets and Liabilities to the Successor Company, as the acquiring company, in exchange for the issue of shares in the Successor Company to the member of the Transferor Company, and the Transferor Company is dissolved as of the Effective Date without going into liquidation (the **Merger** and to **Merge** shall mean the act of such Merger);

Merging Companies means the Successor Company and the Transferor Company, each a **Merging Company**; and

New Successor Shares has the meaning given to it as set out in clause 3.2.1.

Terms means these common draft terms of Merger prepared jointly by the Transferor Company and the Successor Company.

1.2 In these Terms, a reference to:

1.2.1 the word "including" will be deemed to be followed by the words "without limitation", and references to the singular include the plural and vice versa;

1.2.2 a time of day is a reference to the time in Dublin, unless a contrary indication appears; and

1.2.3 a Clause, annex or schedule, unless the context otherwise requires, is a reference to a Clause of or annex or schedule to these Terms.

1.3 The headings in these Terms of Merger do not affect their interpretation.

2 THE MERGER PROPOSAL AND CONSEQUENCES OF MERGING THE TRANSFEROR COMPANY INTO THE SUCCESSOR COMPANY

2.1 It has been proposed by the boards of directors of each Merging Company that a merger by acquisition shall be effected as contemplated by Section 1129, Chapter 16 of Part 17 of the Act whereby the Transferor Company will transfer the Assets and Liabilities to the Successor Company, in exchange for the issue of shares in the Successor Company to the sole member of the Transferor Company, being FSE, and the Transferor Company will be dissolved without going into liquidation.

2.2 This document comprises the common draft terms of the Merger referred to in Section 1131 of the Act which have been drawn up and adopted by the boards of directors of the Merging Companies for the purposes of a merger by acquisition between the Transferor Company and the Successor Company under the Act.

2.3 In accordance with Section 1144 of the Act, at the Effective Date, subject to the Court Order having been granted:

2.3.1 all the Assets and Liabilities will transfer to the Successor Company;

2.3.2 the New Successor Shares will be issued to FSE;

2.3.3 all legal proceedings pending by or against the Transferor Company will be continued with the substitution for the Transferor Company of the Successor Company as a party;

- 2.3.4 every contract, agreement, or instrument to which the Transferor Company is a party will, notwithstanding anything to the contrary contained in that contract, agreement or instrument, be construed and have effect as if:
- (a) the Successor Company had been a party thereto instead of the Transferor Company;
 - (b) any reference (however worded and whether express or implied) to the Transferor Company will be substituted with the Successor Company; and
 - (c) any reference (however worded and whether express or implied) to the directors, officers, or representatives of the Transferor Company, or any of them, were, respectively, a reference to the directors, officers or representatives of the Successor Company or to such director, officer or representative of the Successor Company as the Successor Company nominates for that purpose or, in default of nomination, to the director, officer or representative of the Successor Company who corresponds as nearly as may be to the first-mentioned director, officer or representative,
- 2.3.5 every contract, agreement or instrument to which the Transferor Company is a party becomes a contract, agreement or instrument between the Successor Company and the counterparty with the same rights, and subject to the same obligations, liabilities and incidents (including rights of set-off) as would have been applicable thereto if that contract, agreement or instrument had continued in force between the Transferor Company and the counterparty, and any money due and owing (or payable) by or to the Transferor Company under or by virtue of any such contract, agreement or instrument will become due and owing (or payable) by or to the Successor Company instead of the Transferor Company;
- 2.3.6 an offer or invitation to treat made to or by the Transferor Company before the Effective Time will be construed and have effect, respectively as an offer or invitation to treat made to or by the Successor Company;
- 2.3.7 in addition to the application of section 1144(3) of the Act and any other consequences set out in the Act, section 1143 (*preservation of rights of holders of securities*) of the Act, section 1147 (*civil liability of directors and experts*) of the Act and section 1148 (*criminal liability for untrue statements in merger documents*) of the Act shall apply; and
- 2.3.8 the Transferor Company will be dissolved without going into liquidation.

3 LEGAL GROUNDS FOR THE COMMON DRAFT TERMS OF MERGER

3.1 The name, registered office and registered number of the Merging Companies

3.1.1 *Transferor Company*

Fresenius Finance Holdings Limited, a private limited company incorporated under the laws of the Republic of Ireland, with company registration number 592779, having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland.

3.1.2 *Successor Company*

Fresenius Finance Ireland Public Limited Company, a public limited company registered in Ireland under company number 593152 and having its registered office at 3A Fingal Bay Business Park, Balbriggan, Dublin, Ireland.

3.2 The proposed share exchange ratio and the amount of any cash payment

3.2.1 In consideration for the transfer of the Assets and Liabilities under the Merger, 25,000 ordinary shares of €1.00 each, comprising the entire issued share capital of the Transferor Company, are hereby exchanged for 25,000 ordinary shares of €1.00 in the Successor Company (the **New Successor Shares**).

3.2.2 The share exchange ratio is therefore 1:1.

3.2.3 No cash payment will be made.

3.3 The proposed terms relating to the allotment of shares or other securities in the Successor Company

As consideration for the transfer of the Assets and Liabilities, the Successor Company shall allot and issue the New Successor Shares to FSE, subject to completion of the Merger. Once issued, FSE shall have the right to have its details updated on the register of members of the Successor Company as the holder of the New Successor Shares.

3.4 The date from which the holding of shares or other securities in the Successor Company will entitle holders to participate in profits and any special conditions affecting that entitlement

FSE's entitlement to profits of the Successor Company, in so far as that entitlement relates to the New Successor Shares, shall be as and from the Effective Date. There are no special conditions affecting that entitlement.

3.5 The date from which the transactions of the Transferor Company are to be treated for accounting purposes as being those of the Successor Company

The date as of which the Assets and Liabilities and the operations of the Transferor Company will be treated for accounting purposes as being those of the Successor Company will be the Effective Date. From this date onwards, all acts and transactions of the Transferor Company will be deemed for accounting purposes to have been effected by and for the account of the Successor Company.

3.6 Rights to be conferred by the Successor Company on the members of the Transferor Company who enjoy special rights, or on holders of securities other than shares representing the Transferor Company's capital and the measures proposed concerning them

3.6.1 The Transferor Company has not issued shares or other securities to which special rights are attached. The Successor Company will consequently not grant any special rights in the framework of the contemplated Merger.

3.6.2 The Transferor Company does not have any securities other than shares representing the Transferor Company's capital. The Transferor Company therefore has not proposed any measures in relation thereto in the framework of the contemplated Merger.

3.7 Special advantages attributed to the experts examining the proposed Merger (where relevant), or to any director or manager of a Merging Company

No expert who has been involved in the examination of the merger, in accordance with Section 1133, nor any director or manager of Merging Companies has been granted any special advantages and it is not intended to grant any special advantages to such persons on account of the Merger.

3.8 Constitution of the Successor Company

The current constitution of the Successor Company is appended at Schedule 1 hereto and will not be amended in the course of or as a result of the Merger.

3.9 Information on the evaluation of assets and liabilities transferred by the Transferor Company to the Successor Company

The evaluation of assets and liabilities of the Transferor Company which are to be transferred to the Successor Company is set forth in the Transferor Company's management financial statements for the period ending 31 October 2023 as referred to in paragraph 3.11.2 below. Book value has been used as the valuation method.

3.10 Dates of the Merging Companies' financial statements used for the purpose of preparing the Terms

3.10.1 The date of the Successor Company's unaudited management financial statements used for the purpose of preparing the Terms is 31 October 2023.

3.10.2 The date of the Transferor Company's unaudited management financial statements used for the purpose of preparing the Terms is 31 October 2023.

3.11 Approval by the members of the Merging Companies

3.11.1 Notwithstanding that pursuant to section 1137(7) of the Act, it is not necessary for the Successor Company to approve the Terms by means of a special resolution of its members once the Successor Company complies with the conditions under Section 1137(8) of the Act, the Successor Company shall approve the Merger by passing a special resolution of its sole member approving the Merger.

3.11.2 It is noted that the Transferor Company must approve the Merger by passing a special resolution of its sole member approving the Terms.

3.12 Shareholders' Inspection Right

It is hereby confirmed that, pursuant to Section 1136 of the Act, a copy of the Terms (together with such other documents as are required by the said section), will be available from 9.00am (Irish time) to 5.00pm (Irish time) at the registered office address of each Merging Company for inspection by the members of the Merging Companies for a period of at least 30 days before the passing of the shareholder's resolutions required to approve the Merger pursuant to Section 1137 of the Act.

3.13 Directors' Explanatory Report and Independent Expert's Report

3.13.1 Pursuant to Section 1132(2)(5)(a) of the Act a directors' explanatory report is not required, with respect to a merger, if the members of each of the Merging Companies involved in the Merger have so agreed.

3.13.2 Pursuant to Section 1133(14)(a) of the Act an independent expert's report is not required, with respect to a merger, if all members of each of the Merging Companies involved in the Merger have so agreed.

3.13.3 Pursuant to section 1134(8)(a), a merger financial statement is not required, with respect to a merger, if all members of each of the Merging Companies involved in the Merger have so agreed.

3.13.4 Pursuant to a unanimous written resolution of the Transferor Company dated the date hereof and a unanimous written resolution of the Successor Company dated the date hereof, FSE as the sole member of each of the Transferor Company and the Successor Company has in each case respectively resolved that:

- (a) a directors' explanatory report is not required and that section 1132 shall not apply;
- (b) an independent expert's report is not necessary and that section 1133 shall not apply;
and
- (c) a merger financial statement is not necessary and that section 1134 shall not apply.

3.13.5 Accordingly, no amount or benefit has been or will be paid to any such independent expert.

4 FURTHER ASSURANCES

4.1 The Transferor Company shall do all things, execute all documents and take whatever action may be required by the Successor Company:

4.1.1 to transfer the Assets and Liabilities and, in particular, each of the assets and liabilities comprised in the Assets and Liabilities to the Successor Company;

4.1.2 as appropriate, (i) to perfect or protect the Successor Company's interest in and/or (ii) to vest in the Successor Company full legal title and the full beneficial interest in, the assets and liabilities comprised in the Assets and Liabilities; and

4.1.3 to facilitate and effect the transfer of (i) the legal and beneficial ownership of the Assets and Liabilities including each asset and liability comprised in the Assets and Liabilities to the Successor Company and (ii) the right of the Successor Company to exercise all and any rights, powers and discretions exercisable by the Successor Company in respect of the Assets and Liabilities and/or any such asset or liability,

including the execution, acknowledgement and delivery of all and any agreements, documents, deeds, transfers, assignments, notices or forms and the making of all and any registrations necessary or desirable in connection with any of the foregoing.

5 POWER OF ATTORNEY

5.1 Power of attorney

5.1.1 The Transferor Company hereby irrevocably and unconditionally appoints the Successor Company and any of its Delegates, jointly and also severally, to be its attorney:

- (a) to do all things, execute all documents and take any action that the Transferor Company is obliged to take under these Terms, including under paragraph 5;
- (b) without prejudice to the generality of sub-paragraph 5.1.1(a):
 - (i) to execute all and any agreements, documents, deeds, transfers, assignments, notices or forms of any kind that the Transferor Company may be required to execute on or following the Effective Date in order to give full effect to the matters provided for at paragraph 4.1 and generally in these Terms;

- (ii) to do all such acts or things as may be required by the Successor Company; and
- (iii) to secure and effect the performance of any of the Transferor Company's obligations owed to the Successor Company under these Terms or otherwise.

5.1.2 The Transferor Company ratifies and confirms all things done by each and every attorney appointed under this paragraph in the exercise or purported exercise of all or any of such attorney's powers; and

5.1.3 The power of attorney set out in this paragraph 5.1 is given, *inter alia*, to secure a proprietary interest (arising from the merger provided for in these Terms) of the Successor Company in the Assets and Liabilities and, in particular, in the assets comprised in the Assets and Liabilities and to secure performance by the Transferor Company of its obligations under these Terms and this power of attorney shall not be revoked by the winding-up or dissolution of the Transferor Company.

5.2 Delegation

The Successor Company may delegate by power of attorney or in any other manner, to any person, any right, power or discretion exercisable by it under these Terms upon any terms (including the power to sub-delegate) as it may deem fit but no such delegation shall preclude the subsequent exercise of such power by the Successor Company itself or preclude the Successor Company from making a subsequent delegation thereof to some other person. Any such delegation may be revoked by the Successor Company at any time.

6 TERMINATION AND AMENDMENTS

6.1 These Terms and the transactions contemplated herein may be nullified, and the Merger consequently terminated, at any time, before the approval of the Merger, if the Successor Company and the Transferor Company agree to do so in writing.

6.2 These Terms can only be amended by a written decision of the Successor Company and the Transferor Company.

7 COUNTERPARTS

These Terms may be executed in any number of counterparts and by the Merging Companies hereto on separate counterparts.

8 GOVERNING LAW AND JURISDICTION

8.1 These Terms and any dispute or claim arising out of or in connection with them or their subject matter, whether of contractual or non-contractual nature, shall be governed by and construed in accordance with the laws of Ireland.

8.2 Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

SIGNED ON BEHALF OF

FRESENIUS FINANCE HOLDINGS LIMITED

by:

DocuSigned by:
Alan McDermott
A931AD2D6A0341D...

Alan McDermott

Director

DocuSigned by:
Oonagh Hayes
A885345688FB441...

Oonagh Hayes

Director

SIGNED ON BEHALF OF

FRESENIUS FINANCE IRELAND PUBLIC LIMITED COMPANY

by:

DocuSigned by:
Alan McDermott
A931AD2D6A0341D...

Alan McDermott

Director

DocuSigned by:
Oonagh Hayes
A885345688FB441...

Oonagh Hayes

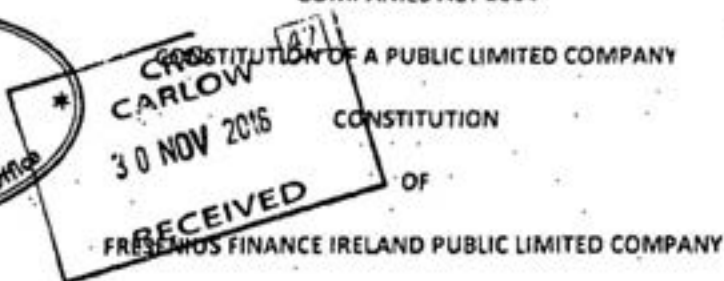
Director

SCHEDULE 1

CONSTITUTION OF SUCCESSOR COMPANY

SA

COMPANIES ACT 2014



MEMORANDUM OF ASSOCIATION

1. The name of the Company is Fresenius Finance Ireland PUBLIC LIMITED COMPANY (the "Company").
2. The Company is a public limited Company, registered under Part 17 of the Companies Act, 2014 ("the Act").
3. The objects for which the Company is established are:
 - A) (i) To carry on the business of a finance Company within the group of Fresenius SE & Co. KGaG together with its subsidiaries (the "Fresenius Group") including the raising and procurement of all kinds of finance for the Fresenius Group, whether on a secured or unsecured basis, in any currency and in any jurisdiction including by way of the issue of debt, including the creation and issue of listed or unlisted notes, bonds, euro bonds, debentures, debt instruments, bonds, promissory notes or other securities, and the borrowing of money to on-lend to other Fresenius Group companies.
 - (ii) To negotiate borrowings and loans, and to borrow moneys on such terms and conditions as may be deemed appropriate and to loan moneys to the Fresenius Group, and to aid the Fresenius Group with capital, credit, means or resources for the prosecution of any works, undertakings, projects or enterprises.
 - (iii) To identify, negotiate, enter into and manage short term investments in consultation with the Fresenius Group treasury function and in accordance with the Fresenius Group's financing strategy, including to acquire and hold either in the name of the Company or in that of any nominee, shares, stocks, gifts, debentures, debenture stock, bonds, notes, obligations, securities and financial instruments of any kind whatsoever issued or guaranteed by any Company wherever incorporated or carrying on business, any government, sovereign ruler, province, region, commissioners, public utility body or authority, supreme, dependent, municipal, local or otherwise in any part of the world, and to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock, obligations or other securities.
 - (iv) To engage in foreign currency and interest rate transactions in accordance with the Fresenius Group's financing strategy including but not limited to entering into foreign currency spot and forward rate exchange contracts, futures, options, forward rate agreements, swaps, caps, floors, collars and other foreign exchange and interest rate hedging arrangements and other instruments as are similar to, or derivatives of any of the foregoing and as such instruments may be developed from time to time.

- (v) As an object of the Company and as a pursuit in itself or otherwise, and whether for the purpose of making a profit or avoiding a loss or for any other purpose whatsoever, to engage in currency and interest rate transactions, credit default swaps, hedges or other transactions and any other financial or other transactions of whatever nature, including any transaction for the purpose of, or capable of being for the purposes of, avoiding, reducing, minimising, hedging against or otherwise managing the risk of any loss, cost, expense or liability arising, or which may arise, directly or indirectly, from a change or changes in any interest rate or currency exchange rate or in the price or value of any property, asset, commodity, index or liability or the credit standing of any person or entity or from any other risk or factor affecting the Company's undertaking and business, including but not limited to dealings, whether involving purchases, sales or otherwise in any credit-default contracts, currency, spot and forward exchange rate contracts, forward rate agreements caps, floors and collars, futures, options, swaps, and any other credit default currency interest rate and other hedging arrangements and such other instruments as are similar to, or derivatives of any of the foregoing.
 - (vi) To guarantee, grant indemnities in respect of, support or secure, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company, or by both such methods, the performance of the contracts or obligations of and the repayment or payment of the principal amounts of and premiums, interest and dividends on any securities or indebtedness of any Company in the Fresenius Group or otherwise associated with the Fresenius Group notwithstanding the fact that the Company may not receive any consideration, advantage or benefit, direct or indirect from entering into such guarantee or other arrangement or transaction contemplated herein.
 - (vii) To hold funds for the purpose of engaging in the activities specified in (i), (ii), (iii), (iv), (v) and (vi) above.
 - (viii) To supply advice and to render services to enterprises and companies of the Fresenius Group and to third parties.
- (B) To engage in any type of activity in furtherance of any of the activities specified under (A) above.

And it is hereby declared that the word "Company" in this clause, except where used in reference to this Company, shall be deemed to include any person, partnership or other body of persons whether incorporated or not incorporated and whether domiciled in the Ireland or elsewhere.

- 4. The liability of the members is limited.
- 5. The authorized share capital of the Company is € 1,000,000 divided into 1,000,000 ordinary shares of €1.00 each.

ARTICLES OF ASSOCIATION

The following regulations shall apply to the Company:

- 6. The provisions of the 2014 Act which are stated therein to apply to a public limited Company (or a PLC as that term is defined in the 2014 Act), save to the extent that its constitution is permitted to provide or state otherwise, will apply to the Company subject to the alterations contained in these Articles, and will bind the Company and its Members.

7. Without prejudice to Section 1007(4) of the 2014 Act and save as otherwise expressly provided in these Articles, where a provision of these Articles covers substantially the same subject matter as any optional provision of the 2014 Act, and such optional provision of the 2014 Act shall be deemed not to apply to the Company and for the avoidance of doubt, these Articles shall be deemed to have effect and prevail over the terms of such optional provisions of the 2014 Act (and the expression "optional provision" shall take its meaning from Section 1007(2) of the 2014 Act).

8. In these Articles, unless the context otherwise requires:

Act means the Companies Act 2014;

Articles means the Articles of Association;

Director means a director for the time being of the Company or a director present at a meeting of the board of directors and includes any person occupying the position of director by whatever name called, and directors means all such persons;

Chairperson means the director elected by the board of directors of the Company who shall preside over meetings of the board of directors and general meetings;

The seal means the common seal of the Company;

Unless the contrary is clearly stated, references to the Act or to any other enactment (including any subordinate legislation) or any section or provision thereof shall mean the Act or such enactment, subordinate legislation, section or provision (as the case may be), as the same may be consolidated, amended, extended, modified, supplemented or re-enacted (whether before or after the date hereof) from time to time and may be for the time being in force.

SHARES

9. The directors may allot relevant securities to such persons, on such terms and conditions and at such times as they may consider to be in the best interests of the Company and its shareholders within the meaning of section 1021 of the Act up to an amount equal to the authorized but unissued share capital of the Company as at the date of the adoption of this Constitution but this authority shall not extend beyond such date as shall be five years from the date of the adoption of this Constitution provided always that the directors shall have power notwithstanding that the date aforesaid shall have expired, to allot relevant securities in pursuance of an offer or agreement previously made by the Company, if that authorisation enabled the Company to make an offer or agreement which would or might require relevant securities to be allotted after the authorisation's expiry.
- (a) Section 1022(1), (8) and (9) of the Act are hereby excluded in relation to all allotments of shares by the Company.
- (b) The directors may execute and do all such documents, acts and things as in their opinion are necessary or desirable in order to give effect to the authority conferred by this Article.
10. Without prejudice to the powers of the directors under Section 95(2) of the Act, the directors may, in their absolute discretion, and without giving any reason for doing so, decline to register any transfer of any share, whether or not it is a fully paid share.

11. The Company shall have a first and paramount lien on every share (whether fully paid or partly paid) for all moneys (whether immediately payable or not) called, or payable at a fixed time, in respect of that share. The directors may at any time declare any share in the Company to be wholly or in part exempt from this regulation.

GENERAL MEETINGS

12. The provision of notice of general meetings shall be permitted via electronic means.
13. The signature to any notice of any meeting of the Company may be written or printed.
14. (i) The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year and shall specify the meeting as such in the notices calling it and not more than 15 months shall elapse between the date of one annual general meeting of a Company and that of the next.

(ii) So long as the Company holds its first annual general meeting within 18 months after the date of its incorporation, it need not hold it in the year of its incorporation or in the following year.
15. The business of the annual general meeting shall include—
 - (a) the consideration of the Company's statutory financial statements, the report of the directors and the report of the statutory auditors on those statements;
 - (b) the review by the member[s] of the Company's affairs;
 - (c) the declaration of a dividend (if any) of an amount not exceeding the amount recommended by the directors;
 - (d) the authorisation of the directors to approve the remuneration of the statutory auditors; and
 - (e) the appointment or re-appointment of statutory auditors.
16. The Company, if, and for so long as it has a single member, need not hold an annual general meeting in any year where the sole member entitled (at the date of the written resolution referred to in this subsection) to attend and vote at such general meeting signs, before the latest date for the holding of that meeting, a written resolution—
 - (a) acknowledging receipt of the financial statements that would have been laid before that meeting;
 - (b) resolving all such matters as would have been resolved at that meeting; and
 - (c) confirming no change is proposed in the appointment of the person (if any) who, at the date of the resolution, stands appointed as statutory auditor of the Company.
17. All general meetings other than annual general meetings shall be called extraordinary general meetings.

18. (i) Subject to subsection (iii) below, any member of the Company entitled to attend and vote at a meeting of the Company shall be entitled to appoint another person (whether a member or not) as his or her proxy to attend and vote instead of him or her.
- (ii) A proxy so appointed shall have the same right as the member to speak at the meeting and to vote on a show of hands and on a poll.
- (iii) The instrument appointing a proxy (the "instrument of proxy") shall be in writing—
- (a) under the hand of the appointer or of his or her attorney duly authorised in writing;
or
- (b) if the appointer is a body corporate, either under seal of the body corporate or under the hand of an officer or attorney of it duly authorised in writing.
- (iv) The instrument of proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the Company concerned or at such other place within the State as is specified for that purpose in the notice convening the meeting, and shall be so deposited before the commencement of the meeting.
- (v) The depositing of the instrument of proxy referred to in subsection (iv) may, rather than its being effected by sending or delivering the instrument, be effected by communicating the instrument to the Company by electronic means, and this subsection likewise applies to the depositing of anything else referred to in subsection (iv).
- (vi) A body corporate may, if it is a member of the Company, by resolution of its directors or other governing body authorise such person (in this section referred to as an "authorised person") as it thinks fit to act as its representative at any meeting of the Company or at any meeting of any class of members of the Company.

DIVIDENDS

19. (i) The Company in general meeting may, by ordinary resolution, declare dividends but no dividend shall exceed the amount recommended by the directors of the Company.
- (ii) The directors of the Company may from time to time—
- (a) pay to the members such interim dividends as appear to the directors to be justified by the profits of the Company, subject to the provisions of the Companies Act 2014;
- (b) before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion either be employed in the business of the Company or be invested in such investments as the directors may lawfully determine;
- (c) without placing the profits of the Company to reserve, carry forward any profits

which they may think prudent not to distribute.

WRITTEN RESOLUTIONS

20. (i) A resolution in writing signed by all the members of the Company for the time being entitled to attend and vote on such resolution at a general meeting (or being bodies corporate by their duly appointed representatives) shall be as valid and effective for all purposes as if the resolution had been passed at a general meeting of the Company duly convened and held; and
- (ii) If described as a special resolution shall be deemed to be a special resolution within the meaning of this Act.

SINGLE MEMBER COMPANY

21. (i) Subject to subsection (ii), all the powers exercisable by the Company in general meeting or otherwise shall be exercisable, for so long as the Company is a single-member Company, by the sole member without the need to hold a general meeting for that purpose.
- (ii) Subject to subsection (iii), any provision of this Act which—
- (a) enables or requires any matter to be done or to be decided by the Company in general meeting, or
- (b) requires any matter to be decided by a resolution of the Company,
- shall be deemed to be satisfied by a decision of the member which is drawn up in writing and notified to the Company in accordance with this section.
- (iii) Where the sole member takes any decision which has effect, pursuant to subsections (i) and (ii), as if agreed by the Company in general meeting, the member shall provide the Company with a written record of that decision, unless the decision is taken by way of written resolution which the member has already forwarded to the Company.

DIRECTORS

22. (i) If and so long as the Company has a sole member being a body corporate (hereinafter called the Holding Company) who beneficially owns the whole of the issued equity share capital of the Company (within the meaning of Section 7(11) of the Act) the Holding Company shall have power at any time and from time to time to appoint the board of directors of the Company and any such appointment shall be made by notice in writing addressed to the Company signed by a director or secretary of the Holding Company and shall take effect on delivery of such notice to the registered office of the Company or at a meeting of directors of the Company.
- (ii) The directors shall not retire by rotation and no director who has been appointed by the directors, as permitted by the Act, will require to be re-elected at the next following annual general meeting or at any extraordinary general meeting following such appointment.

23. A director of the Company shall—
- (a) act in good faith and in the interests of the Company;
 - (b) act honestly and responsibly in relation to the conduct of the affairs of the Company;
 - (c) act in accordance with this constitution and exercise his or her powers only for the purposes allowed by law;
 - (d) not use the Company's property, information or opportunities for his or her own or anyone else's benefit unless—
 - this is expressly permitted by this constitution; or
 - the use has been approved by a resolution of the Company in general meeting;
 - (e) not agree to restrict the director's power to exercise an independent judgment unless—
 - this is expressly permitted by this constitution;
 - the case concerned falls within subsection (2); or
 - the director's agreeing to such has been approved by a resolution of the Company in general meeting;
 - (f) avoid any conflict between the director's duties to the Company and the director's other (including personal) interests unless the director is released from his or her duty to the Company in relation to the matter concerned, whether in accordance with provisions of this constitution in that behalf or by a resolution of it in general meeting;
 - (g) exercise the care, skill and diligence which would be exercised in the same circumstances by a reasonable person having both—
 - the knowledge and experience that may reasonably be expected of a person in the same position as the director; and
 - the knowledge and experience which the director has; and
 - (h) in addition to the duty under section 224 (duty to have regard to the interests of its employees in general), have regard to the interests of its members.
24. (i) In accordance with the Act, the directors may elect a Chairperson of their meetings (the "Chairperson") and determine the period for which he or she is to hold office, but if no such Chairperson is elected, or, if at any meeting the Chairperson is not present within 15 minutes after the time appointed for holding it, the directors present may choose one of their number to be Chairperson of the meeting.
- (ii) The Chairperson, if any, of the board of directors shall preside as Chairperson at every general meeting of the Company, or if there is no such Chairperson, or if he or she is not present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act, the directors present shall elect one of their number to be Chairperson of the meeting.

25. The Chairperson shall at each directors meeting be located in Ireland and all meetings shall take place in Ireland.
26. The office of director shall be vacated if—
- (a) the director resigns his or her office by notice in writing to the Company; or
 - (b) the health of the director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or
 - (c) a declaration of restriction is made in relation to the director and the directors, at any time during the currency of the declaration, resolve that his or her office be vacated; or
 - (d) the director is sentenced to a term of imprisonment following conviction of an indictable offence; or
 - (e) the director is for more than 6 months absent, without the permission of the directors, from meetings of the directors held during that period.
27. (i) The business of the Company shall be managed by its directors, who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by the constitution, required to be exercised by the Company in general meeting, but subject to—
- (a) any regulations contained in this constitution;
 - (b) the provisions of the Act; and
 - (c) such directions, not being inconsistent with the foregoing regulations or provisions, as the Company in general meeting may give.
- (ii) However, no direction given by the Company in general meeting under subsection (i)(c) shall invalidate any prior act of the directors which would have been valid if that direction had not been given.
- (iii) Without prejudice to the generality of that subsection, subsection (i) operates to enable, subject to a limitation (if any) arising under any of paragraphs (a) to (c) of it, the directors of the Company to exercise all powers of the Company to borrow money and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof.
- (iv) The directors may delegate any of their powers to such person or persons as they think fit, including committees; any such committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors.
28. (i) The directors of the Company may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- (ii) The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be 2. A person who holds office only as an alternate director shall, if his appointer is not present, be counted in the quorum, but not withstanding that such person may act as alternate director for more than one director

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

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Date | 7 February 2024
Our ref | LCK/NLJ 01442115
Your ref |

By Hand

FAO: Paddy Porter
Domestic Mergers Section
Companies Registration Office
Gloucester Place Lower
Dublin 1

Fresenius Finance Holdings Limited (the Transferor Company) *Company Number 592799*
Fresenius Finance Ireland Public Limited Company (the Successor Company)
(the Transferor Company and the Successor Company, together, the Merging Companies)

Court-Approved Domestic Merger (the Merger) – Cover Letter in respect of the Transferor Company

Number 592799

Dear Mr. Porter

We refer to the Merger and enclose the following documents for filing in respect of the Transferor Company:

- 1 Attested copy of the High Court Order dated 29 January 2024 (together with Draft Terms of Merger); and
- 2 Payment in the sum of €15.00.

Please note that the effective date of the Merger is **30 January 2024**.

Please do not hesitate to contact me should you have any queries.

pp Gavin Creed Callaghan

Yours sincerely
Nicole Jones
T: 35316492539
E: njones@algoodbody.com

M-72977711-1

CE Gil - JG Gannon - PD White - VJ Power - SM Doggett - M Sherlock - KP Allen - C Rogers - G O'Toole - JN Kelly - N O'Sullivan - MJ Ward - D Wittger - C Christie - S O'Connell
DR Bader - A McCarthy - JF Whelan - JB Somerville - MF Barr - AM Curran - A Roberts - RM Moore - D Main - J Cahill - M Traynor - PM Murray - P Walker - K Furlong
PT Fahy - D Inverarity - M Coghlan - DR Francis - A Casey - B Hooly - M O'Brien - L Mulrady - K Ryan - E Hurley - D DeGastino - R Gray - R Lyons - J Sheehy - C Carroll - SE Cannon
P Duggin - J Williams - A O'Beirne - J Dallas - SM Lynch - M McElhinney - C Owens - AD Ian - K O'Connor - JH Milne - T Casey - M Doyle - CJ Comerford - R Marron - K O'Shaughnessy
S O'Connor - SE Murphy - D Nangle - C O'Connell - N McMahon - HP Broad - A Sheridan - N Cole - M Devane - D Fitzgerald - G McDonald - N Meenan - R O'Driscoll - B O'Malley
C Ballard - M Daly - D Geraghty - LC Kennedy - E Mulhern - E O'Keefe - MJ Ellis - D Griffin - D McElroy - C Cullen - S No Subhan - S Quinlan - J Rattigan - K Mulhern
A Mullooney - L Dunne - A BuAa - C Bergin - P Fogarty

Consultants: Professor JCW Wylie - MA Greene - AV Fanagan - PM Law - SW Haughey - PV Maher

