

045



Constance B. Foster  
Phone: (717) 238-7560  
Fax: (717) 257-7582  
cfoster@saul.com  
www.saul.com

May 3, 2013

**RECEIVED**  
Corporate & Financial Regulation

MAY 03 2013

**Pennsylvania  
Insurance Department**

Via Hand Delivery

Mr. Robert Brackbill, Jr.  
Pennsylvania Insurance Department  
Bureau of Company Licensing  
and Financial Analysis  
1345 Strawberry Square  
Harrisburg, PA 17120

**Re: Application for Approval to Acquire Control of OneBeacon Insurance Company  
and Potomac Insurance Company, 43 Pa. Bull. 1157 (Feb. 23, 2013)  
Response to Comment filed by the PMA Group Petitioners**

Dear Mr. Brackbill:

One Beacon Insurance Group, Ltd. ("OBIG") and Armour Group Holdings Limited ("Armour") hereby respond to the procedural issues raised by the "Petition to Intervene" filed by the Pennsylvania Manufacturers' Association, Associated Industries of Massachusetts, Belden, Inc., Crosby Valve, LLC, Invensys Inc., ITT Corporation, Meritor, Inc., PolyOne Corporation, The Proctor & Gamble Company, Rockwell Automation, Inc., 3M Company, United Technologies Corporation and the Powell Company (the "PMA Group Petitioners") on April 24, 2013.

The PMA Group Petitioners seek leave to "intervene" in the Department's proceedings on the Form A application for permission to acquire control of two insurers. Pennsylvania's regulatory review process provides policyholders and other interested parties the opportunity to comment on a proposed transaction of this kind. This process has been affirmed by the Pennsylvania Supreme Court as the appropriate and sole process for policyholders to identify issues and bring their concerns to the Department. OBIG and Armour support this process and will respond to all of the substantive issues raised by the PMA Group Petition. However, through their Petition to Intervene, the PMA Group Petitioners seek procedural remedies from the Department that are inconsistent with the regulatory review process set forth in the Insurance Holding Companies Act as well as Pennsylvania Supreme Court precedent. The Petition should therefore be denied.

03

On February 7, 2013, Armour filed a Form A application with the Department requesting permission for Trebuchet US Holdings, Inc., a subsidiary of Armour, to acquire control of two OBIG subsidiaries, OneBeacon Insurance Company and Potomac Insurance Company. Pursuant to Section 1402(f)(2) of the Insurance Holding Companies Act, the Department published notice of the application in the Pennsylvania Bulletin, providing that “[p]ersons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department within 60 days from the date of this issue of the *Pennsylvania Bulletin*.” 43 Pa. Bull. 1157 (Feb. 23, 2013). In response, the PMA Group Petitioners filed their “Petition to Intervene,” in which they assert that proceedings under Section 1402 are subject to the requirements of the Pennsylvania Administrative Code (Petition at p. 18), and, on that basis, apparently seek (i) party status “to participate in all aspects of this proceeding,” including “any hearings,” and (ii) discovery, in the form of “complete access to the materials submitted” in support of the Application (including all confidential materials). *Id.* at p. 21.

While policyholders clearly have a right to provide comments on the pending Form A, the PMA Group Petitioners’ attempt to “intervene” and expand a notice and comment proceeding into a trial-type hearing, complete with discovery, is inconsistent with the Pennsylvania Supreme Court’s decision in LaFarge Corp. v. Commonwealth of Pennsylvania, Insurance Department, 557 Pa. 544, 735 A.2d 74 (1999). In LaFarge, policyholders and reinsurers appealed a decision by the Insurance Department to approve a reorganization by CIGNA Insurance Company in which CIGNA divested itself of contingent liabilities connected to asbestos and environmental hazards. The Commonwealth Court vacated the Insurance Department’s approval and directed the Insurance Department to hold adversarial type hearings. The Supreme Court reversed, holding that the Department’s notice and comment process under the GAA Amendments Act of 1990, coupled with the Department’s thorough analysis of the application, fulfilled the due process requirements for reviewing and approving the transaction. The Court reasoned that the review and analysis of an application for change of corporate organization is “a statistical and economic one, an area indisputably within the expertise of the department.” LaFarge, 557 Pa. at 553, 735 A.2d at 78. Furthermore, in addition to its own expertise, the Department can solicit independent expert reports and evaluations. *Id.*

The Supreme Court further held that the Department was not obligated to follow the procedures set forth in the Administrative Agency Law. LaFarge, 557 Pa. at 546, 554, 735 A.2d at 75, 79. See also Pa. Coal Mining Assoc. v. Insurance Department, 471 Pa. 437, 370 A.2d 685 (1977) (holding that the procedural due process requirement of an opportunity to be heard in an administrative matter involving “economic or statistical questions” is satisfied by providing interested persons with an opportunity to submit written comments rather than a full hearing with its attendant extended delay).

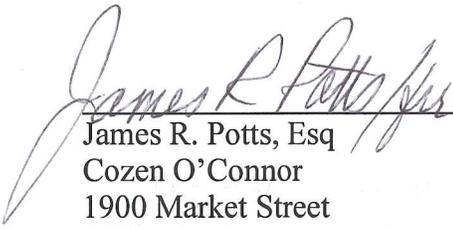
The procedures adopted by the Department under Section 1402 of the Insurance Holding Companies Act provide procedures identical to those approved by the Supreme Court in LaFarge. Compare 40 P.S. § 991.1402 with 15 P.S. § 21207 (c). Consequently, the Supreme Court’s reasoning in LaFarge clearly applies to the procedural issues raised by the Petition. A

notice and comment process, without the extensive delay and significant additional cost associated with a trial-type hearing, meets all legal standards, and Petitioners' attempt to expand the process into an adversarial proceeding is inappropriate.

While pointing out the procedural infirmities of the Petition, Armour and OBIG nevertheless recognize the PMA Group Petitioner's right to voice their concerns about substantive issues related to the proposed transaction. Accordingly, Armour and OBIG will separately and fully respond to the substantive concerns identified in the Petition as though they had been submitted as a comment.

A copy of this Response has been sent to counsel for the PMA Group Petitioners as identified in the Petition to Intervene.

Respectfully submitted,

  
\_\_\_\_\_  
James R. Potts, Esq  
Cozen O'Connor  
1900 Market Street  
Philadelphia, PA 19103  
(215) 665-2748 - [jpotts@cozen.com](mailto:jpotts@cozen.com)  
*Attorney for Armour Group  
Holdings Limited*

Respectfully submitted,

  
\_\_\_\_\_  
Constance B. Foster, Esq.  
Saul Ewing LLP  
2 N. Second Street, 7<sup>th</sup> Floor  
Harrisburg, PA 17101  
(717) 238-7560- [cfoster@saulewing.com](mailto:cfoster@saulewing.com)

Paul M. Hummer, Esq.  
Saul Ewing LLP  
Centre Square West  
1500 Market Street, 38<sup>th</sup> Floor  
Philadelphia, PA 19102  
(215) 972-7788 – [pummer@saulewing.com](mailto:pummer@saulewing.com)  
*Attorneys for OneBeacon Insurance Group, LLC*