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Corporate & Financial Regulation

JUL 17 2014

July 16, 2014

Pennsylvania  
Insurance Department

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VIA UPS & EMAIL

Stephen Johnson  
Steven L. Yerger (syerger@pa.gov)  
Pennsylvania Insurance Department  
Bureau of Company Licensing and Financial Analysis  
1345 Strawberry Square  
Harrisburg, PA 17120

Re: In re Application for Approval to Acquire Control of OneBeacon Insurance Company, Potomac Insurance Company, OneBeacon America Insurance Company and the Employers' Fire Insurance Company by Trebuchet US Holdings, Inc.

Dear Messrs. Johnson and Yerger:

In response to Pennsylvania Bulletin 44 Pa. Bull. 3824, dated June 21, 2014, providing notice of a "public informational hearing" as to the Application for Approval to Acquire Control of OneBeacon Insurance Company, Potomac Insurance Company, OneBeacon America Insurance Company and the Employers' Fire Insurance Company by Trebuchet US Holdings, Inc. ("Proposed Transaction"), Olin Corporation ("Olin") submits this letter.

Olin intends to attend and participate at the hearing on July 23, 2014. Olin repeats the request of other policyholders for further information from the Department as to how the hearing will proceed, what limitations will be placed on participation and what rules will be enforced.

By submitting this letter, and by participating in the hearing, Olin does not waive its rights, including its objections to the failure of the Pennsylvania Insurance Department ("Department") to take action on Olin's Petition to Intervene in the above-referenced proceeding. Olin also objects to the hearing as failing to afford Olin the due process protections afforded to intervenors as provided by the Administrative Agency Law (1 Pa.C.S. Ch. 5, Subch. A and Ch. 7, Subch. A), 1 Pa. Code §§ 35.27-.28 and 31 Pa. Code § 56.1. Olin expressly reserves all rights, including the right to challenge, in any appropriate forum, any Department decision (or failure to make a decision) as to Olin's Petition to Intervene, any Department decision that fails to grant Olin the procedural and substantive rights due intervenors and any Department decision as to the above-referenced proceeding and the Proposed Transaction.

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Olin joins in the procedural and substantive objections and concerns raised by all other policyholders that have petitioned to intervene in this proceeding and that have submitted responses and statements to the Department and fully incorporates those objections and concerns herein.

Olin encloses its previously submitted Petition to Intervene with this letter to be included in the Department's record of written submissions. By this letter, Olin raises two specific points which are discussed in greater detail in Olin's Petition to Intervene and for which Olin reserves the right to provide additional testimony and information. Olin further reserves the right to provide the Department with additional points, including through additional written comments or oral or written testimony before or during the hearing.

First, as discussed in its Petition to Intervene, Olin has obtained a jury verdict against OneBeacon America Insurance Company ("OneBeacon") in the United States District Court for the Southern District of New York as to general liability coverage for five environmental sites. *See Olin Corp. v. Ins. Co. of N. Am., et al.*, 84 Civ. 1968 (S.D.N.Y.) ("New York Litigation"). Olin claims that the amount of such damages based on that jury verdict will exceed (potentially materially) \$60 million in past costs and prejudgment interest prior to taking account of future costs. And this is prior to trebled damages Olin claims under Mass. Gen. Law Ch. 93A. That large claimed damages amount leaves Olin with serious concerns as to the level of reserves OneBeacon has set for these five environmental sites, or if OneBeacon has set any specific reserves at all for these sites. OneBeacon's ability to pay not only these past costs, interest, and trebled damages in the near term but also future costs incurred at the five trial sites (not to mention at additional sites where Olin has sued OneBeacon) in the years or decades ahead could be greatly impaired if the Proposed Transaction is approved as currently structured. Without full disclosure of information as to the Proposed Transaction, as discussed in Olin's Petition to Intervene and the petitions to intervene of other policyholders, Olin is limited in its ability to assess the impact that the Proposed Transaction will have and to comment meaningfully.

Second, Olin has serious concerns that OneBeacon's reserves fail to take account of legal precedents from the New York Litigation as to coverage for continuing environmental damage. As discussed in Olin's Petition to Intervene, the New York Litigation, including in both the district court and the United States Court of Appeals for the Second Circuit, contain rulings on OneBeacon policy language known as a continuing coverage provision. The provision in practical terms means that the general liability policies that OneBeacon issued to Olin in 1970 cover not only environmental property damage that took place in 1970 but also environmental property damage that continued into the years and decades after 1970. This is important because the OneBeacon policies issued to Olin in 1970, unlike general liability policies issued to Olin in later years, do not include any pollution exclusions.

These are precisely the sort of new judicial precedents in the environmental context that both Towers Watson and RRC – in the context of this proceeding – have cautioned are extremely hard

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to adequately reserve for and that subject reserve projections to great uncertainty. In connection with the Proposed Transaction, both Towers Watson and RRC have acknowledged that environmental coverage litigation and settlement outcomes more often have a negative impact on insurers. That is certainly the case with OneBeacon as to the New York Litigation judicial precedents. Olin has serious concerns whether OneBeacon's current reserves adequately account for these New York Litigation judicial precedents as to the continuing coverage provision in any manner; Olin's concern is not only for the claims that Olin has against OneBeacon, but also for the claims that other policyholders with policies containing the same continuing coverage provision have, or may have, against OneBeacon. Should the Proposed Transaction proceed as currently structured, Olin and those other policyholders will be left to pursue such claims from an insufficiently reserved and undercapitalized runoff entity – with no access to ongoing premium income or other capital infusions to supplement reserves.

Olin repeats its request for the Department to grant Olin's Petition to Intervene and to hold a full evidentiary hearing that affords Olin and all other intervenors with complete and robust procedural and substantive rights and full access to information. Any Department decision on the Proposed Transaction should be postponed until after Olin and the other intervenors have been afforded such rights and given adequate time to review and analyze all materials that have been withheld on confidentiality grounds. Olin would be willing to enter into a confidentiality agreement to address any such confidentiality concerns.

Respectfully Submitted,



Brian S. Scarbrough

Enclosure

cc: Craig C. Martin  
Mathew J. Thomas  
Patricia C. Shea  
Raymond P. Pepe