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Common Market for Eastern and Southern Africa

Case File No. CCC/MER/02/04/2023

Decision[1] of the Ninety-Fifth (95th) Committee Responsible for Initial Determinations Regarding the Regarding the Proposed Acquisition of sole control by ACA Cornerstone Limited and Capital Alliance Private Equity IV Limited over C-RE Holding Limited

ECONOMIC SECTOR: Insurance

26 June 2023

[1] In the published version of this decision, some information has been omitted pursuant to Rule 73 of the COMESA Competition Rules concerning non-disclosure of business secrets and other confidential information. Where possible, the information omitted has been replaced by ranges of figures or a general description.

The Committee Responsible for Initial Determinations,

Cognisant of Article 55 of the Treaty establishing the Common Market for Eastern and Southern Africa (the "**COMESA Treaty**");

Having regard to the COMESA Competition Regulations of 2004 (the "**Regulations**"), and in particular Part 4 thereof;

Mindful of the COMESA Competition Rules of 2004, as amended by the COMESA Competition [Amendment] Rules, 2014 (the "**Rules**");

Conscious of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation of 2015;

Recalling the overriding need to establish a Common Market;

Recognising that anti-competitive mergers may constitute an obstacle to the achievement of economic growth, trade liberalization and economic efficiency in the COMESA Member States;

Considering that the continued growth in regionalization of business activities correspondingly increases the likelihood that anti-competitive mergers in one Member State may adversely affect competition in another Member State,

Desirability of the overriding COMESA Treaty objective of strengthening and achieving convergence of COMESA Member States' economies through the attainment of full market integration,

Having regard to the COMESA Merger Assessment Guidelines of 2014,

Determines as follows:

Introduction and Relevant Background

1. On 25 April 2023, the COMESA Competition Commission ("**Commission**") received notification of a merger involving ACA Cornerstone Limited ("**ACA Cornerstone**"), Capital Alliance Private Equity IV Limited ("**CAPE IV**") and C-RE Holding Limited ("**C-RE Holding**" and its subsidiaries, together the "**C-RE Group**", pursuant to Article 24(1) of the Regulations.

2. Pursuant to Article 26 of the Regulations, the Commission is required to assess whether the transaction between the parties would or is likely to have the effect of substantially preventing or lessening competition or would be contrary to public interest in the Common Market.

3. Pursuant to Article 13(4) of the Regulations, there is established a Committee Responsible for Initial Determinations, referred to as the CID. The decision of the CID is set out below.

The Parties

ACA Cornerstone and CAPE IV (the acquirers)

4. ACA Cornerstone is a limited liability company registered in Mauritius and holds a global business licence under the Mauritian Financial Services Act 2007.

5. The parties submitted that ACA Cornerstone was established to make equity and quasi equity investments in non-banking financial institutions in Sub-Saharan Africa. The principal activity of ACA Cornerstone is that of investment holding. It currently does not have any investments and thus does not control any companies active in the reinsurance sector or in the Common Market.

6. CAPE IV is a private equity fund registered in Mauritius. CAPE IV makes equity and quasi-equity investments in selected equity and equity-linked securities in African companies and businesses that are positioned to experience long-term growth and which have the potential to expand across the Region.

7. The parties submitted that CAPE IV's investment portfolio consists of companies active in a wide range of economic sectors: agribusiness, fast moving consumer goods, financial services, media & technology (TMT), oil and gas and telecommunications. CAPE IV's investment portfolios relevant for the proposed transaction are its 49% shareholding in the target undertaking and a minority shareholding in West Indian Ocean Cable Company ("**WIOCC**"). WIOCC is one of the leading players in Africa's wholesale connectivity market and is responsible for more than 50% of capacity activated on the Eastern Africa Submarine Cable System, a key undersea fiber-optic cable system connecting countries and consumers in Eastern and Southern Africa to the rest of the world.

8. Within the Common Market, CAPE IV is active in Burundi, Kenya, Malawi, Mauritius, Rwanda, Seychelles, Uganda, Zambia, and Zimbabwe.

C-RE Holding (the target)

9. C-RE Holding is an investment holding company registered in Mauritius. C-RE Holding is the holding company of a group of subsidiaries across Africa (the "**C-RE Group**") that offer capacity and reinsurance services in the life and non-life sectors. The C-RE Group provides reinsurance expertise and services in the aviation, bonds and guarantees, energy, engineering, fire, individual and group life, marine and oil sectors in a number of African jurisdictions. The C-RE Group writes both Facultative and Treaty business.

10. C-RE Group comprised of the following entities as presented in Table 1 below:

Table 1: List of entities that form the C-RE Group and their respective activities

Name of entity	Place of incorporation	Activities	Physical address of the entity
C-RE African Investments Limited (**CRAFIL**)	Mauritius	Holding company services	C/O Ocorian Corporate Services (Mauritius) Limited, 6th Floor, Tower A, 1 Cybercity, Ebene, Mauritius
Continental Reinsurance Company Limited (Botswana) (**C-RE Botswana**)	Botswana	Reinsurance	Plot 64517, Fairground, The Office, Unit 5, Gaborone, Botswana.
Continental Reinsurance Cameroun SA (**C-RE Cameroun**)	Cameroon	Reinsurance	Bonanjo, Plateau Joss, Immeuble Galaxie, 1st Floor, B.P. Box 4745, Bonanjo, Douala, Cameroon.
Continental Reinsurance Limited (Kenya) (**C-RE Kenya**)	Kenya	Reinsurance	4th Floor, 197 Lenana Place, Nairobi
Continental Reinsurance Plc (**C-RE Plc**)	Nigeria	Reinsurance	Continental Re Center (3rd - 5th Floor), 17 Olosa Street, off Ademola Adetokunbo, Lagos.

11. C-RE Group's business is obtained directly from insurance companies as well as through reinsurance brokers.

12. The activities of C-RE Group are summarised as follows:

    (i) C-RE Group sells insurance to primary insurers as a means of transferring the risk of those insurers. The insurers transfer to C-RE Group the part of the risk which exceeds their underwriting limit and which would unduly affect the balance of their retained portfolios. C-RE Group offers both facultative and treaty reinsurance across the full spectrum of Life and Non-Life business lines.

    (ii) In addition to providing reinsurance products, C-RE Group provides specialist skills development programmes and support in reinsurance structuring, actuarial and risk management as well as product development.

13. The parties submitted that C-RE Group is active across COMESA through the following entities under the same brand (i.e., Continental Reinsurance) throughout all jurisdictions as presented in Table 2 below.

Table 2: C-RE Group entities and their specific geographic responsibilities within COMESA

Member State	Subsidiary Name	Activities
Eswatini, Madagascar, Malawi, Mauritius, Seychelles, Zambia and Zimbabwe	C-RE Botswana	Reinsurance
The Democratic Republic of Congo	C-RE Cameroon	Reinsurance
Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Rwanda, Somalia and Uganda	C-RE Kenya	Reinsurance
Libya, Sudan and Tunisia	The Tunis branch of C-RE Plc	Reinsurance

Jurisdiction of the Commission

14. Article 24(1) of the Regulations requires 'notifiable mergers' to be notified to the Commission. Rule 4 of the Rules on the Determination of Merger Notification Thresholds and Method of Calculation (the "**Merger Notification Thresholds Rules**") provides that:

    Any merger, where both the acquiring firm and the target firm, or either the acquiring firm or the target firm, operate in two or more Member States, shall be notifiable if:

    a) the combined annual turnover or combined value of assets, whichever is higher, in the Common Market of all parties to a merger equals or exceeds COM$ 50 million; and

    b) the annual turnover or value of assets, whichever is higher, in the Common Market of each of at least two of the parties to a merger equals or exceeds COM$ 10 million, unless each of the parties to a merger achieves at least two-thirds of its aggregate turnover or assets in the Common Market within one and the same Member State.

15. The undertakings concerned have operations in two or more Member States. The parties' combined asset value in the Common Market exceeds the threshold of USD 50 million and they each hold asset value of more than USD 10 million. In addition, the merging parties do not hold more than two-thirds of their respective COMESA-wide asset within one and the same Member State. The notified transaction is, therefore, notifiable to the Commission within the meaning of Article 23(5)(a) of the Regulations.

Details of the Merger

16. The proposed transaction entails that ACA Cornerstone and CAPE IV will acquire the 51% shareholding held by Sanlam Pan Africa Maroc S.A., a wholly owned subsidiary of Sanlam Emerging Markets (Proprietary) Limited, in C-RE Holding. Following the proposed transaction, ACA Cornerstone and CAPE IV will have shareholdings of 15.3% and 84.7% in C-RE Holding, respectively.

Competition Assessment

Consideration of the Relevant Markets

Relevant Product Markets

17. The assessment has focused on the activities of the target group in the reinsurance sector, in view of the lack of overlap (direct or indirect) between the activities of ACA Cornerstone, CAPE IV, and the target group.

The provision of reinsurance services

18. Reinsurance refers to insurance purchased by an insurer (the ceding insurer) to provide protection against certain risks, primarily underwriting risks of the insurance policies issued by the insurer[2]. According to the International Risk Management Institute, Inc. "*a ceding insurer is an insurer that underwrites and issues an original, primary policy to an insured and contractually transfers (cedes) a portion of the risk to a reinsurer*"[3]. Reinsurance is a contract between a reinsurer and an insurer and consists in providing insurance cover to the insurer for part or all the liabilities assumed under its insurance policies, in order to transfer the risks from the insurer to the reinsurer.

19. The parties, in their submission, refer to the CID's previous decisional practice[4] where it considered that the reinsurance market is a distinct market segment given that reinsurance entails one insurer providing cover to another insurer for part or all of the liability assumed by it under an insurance policy it has issued. Consistent with this approach, the CID has identified the market for reinsurance as separate from direct insurance services because of its purpose of spreading risks between insurers and due to a different regulatory framework.

20. The parties have further argued that there is no need to further subdivide the reinsurance market into life and non-life segments since the transaction does not lead to any horizontal or vertical overlaps in any plausible market. The CID has not

[2] International Association of Insurance Supervisory, ICP 13 Reinsurance and other Forms of Risk Transfer, para 13.0.1, https://www.iaisweb.org/uploads/2022/01/170601-Revised-Insurance-Core-Principles-13-Reinsurance-and-Other-Forms-of-Risk-Transfer1.pdf, accessed on 29 May 2023.
[3] https://www.irmi.com/term/insurance-definitions/cedent#:~:text=A%20ceding%20insurer%20is%20an,underlying%20reinsurance%20to%20a%20retrocessionaire, aaccessed on 29 May 2023.
[4] CCC/MER/06/30/2022 - Naivas International/ Mambo Retail Ltd.

previously considered segmentation of the reinsurance market. The CID noted that whilst reinsurers may require different capital or resources for certain types of risks (in particular life insurance policies) or classes (e.g., within the non-life segment), it appears that the majority of reinsurers provide reinsurance services in respect of a wide range of classes or risks, including the target undertaking.

21. The CID further noted that the reinsurance policy may either cover entire insurance portfolio of the insurer or just relate to single risks. "Traditional reinsurance contracts typically take one of two basic forms – treaty or facultative agreements where[5]:

   (i) ***Facultative reinsurance*** *allows a cedant to select which policies or individual risks to reinsure and gives the reinsurer the option to accept or refuse any offered policy or risk. Risk is analysed on a policy-by-policy basis, making the process administratively more burdensome than treaty reinsurance. Facultative reinsurance is typically used for complex, large individual risks that require individual analysis and fall outside of the scope of a treaty.*

   (ii) ***Treaty reinsurance*** *is used to reinsure entire portfolios and is therefore more administratively efficient than facultative reinsurance for reinsurers. Under treaty reinsurance agreements (also known as obligatory reinsurance), a set of insurance risks specified in the contract is covered and a share of the premium and losses linked to these covered risks are transferred to one (or more) reinsurer(s). Because reinsurers do not analyse each policy relating to the reinsured business before accepting the cession, reinsurers are dependent on the cedant's underwriting and claims management ability".*

22. Treaty reinsurance involves reinsurance of a portfolio of business, covering all or part of the risks incurred by the insurer. On the other hand, facultative reinsurance involves reinsurance on a specific individual policy or a specific risk or contract, consequently, each policy is negotiated separately, and the reinsurer has the right to accept or reject the facultative reinsurance proposal. Apotential segmentation could thus be made between treaty and facultative services, as they involve different levels of complexity in administrative process and cater for different levels of risks. This notwithstanding, it appears that a reinsurer could be able to offer the full range of reinsurance services or would easily switch from the provision of one arrangement to the other.

23. The parties submitted that the relative use of facultative and treaty reinsurance services is driven by a range of factors (such as the type of risk and the cedant's requirements) as opposed to limitations in the ability of the reinsurer to offer both categories of reinsurance services. In this regard, reinsurers typically offer the full

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[5] OECD, the Contribution of Reinsurance Markets to Managing Catastrophe Risk, page 57. file:///C:/Users/HP/Downloads/the-contribution-of-reinsurance-markets-to-managing-catastrophe-risk.pdf, accessed on 29 May 2023.

range of both facultative and treaty reinsurance services in order to cater for the range of requirements from cedants. While it is possible a new reinsurer may elect to initially focus on facultative reinsurance as it is generally easier to provide, a reinsurer would typically have the necessary expertise in underwriting, pricing, business administration and technical accounting skills to also offer treaty reinsurance services. The parties further indicated that the previous merger cases in the sector have not sought to distinguish facultative from treaty reinsurance services for market definition purposes. The CID noted that most reinsurance companies (such as the target undertaking[6], Africa Re[7], **Munich Re Co. of Africa**[8]**)** offer the full range of reinsurance services. The CID further noted from the parties' submission that the target undertaking offers both facultative and treaty reinsurance services across the full spectrum of life and non-life insurance business lines.

24. In view of the foregoing and noting the absence of overlap in the activities of the merging parties, the CID considered that for purposes of this transaction, a further segmentation of the reinsurance market may not be necessary since the proposed transaction does not lead to competition concerns under any alternative market definition.

25. Based on the foregoing assessment and without prejudice to the CID's approach in similar future cases, the relevant product market is construed as the **provision of reinsurance services**.

Relevant Geographic Market

26. The CID considered that the geographic market for the provision of reinsurance service is likely to be global in scope since most of the re-insurers tend to be global re-insurers. The type of reinsurance activity requires distribution of risks on an international basis and further insurers can source their reinsurance service from continental and global providers and are not confined to their national borders.

27. In ***SEMIL/Saham***[9], the CID identified the scope of reinsurance market as global since customers can source from global reinsurance providers. Similarly, the European Commission[10] has considered that the relevant geographic market for reinsurance service is worldwide in scope due to the need to pool risks on a global basis.

28. Further, the target itself serves different Member States from entities incorporated in other jurisdictions. For instance, through its Kenyan subsidiary, it serves

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[6] https://www.continental-re.com/what-we-do/products/custom-turn-key-solutions/, accessed on 12 May 2023.
[7] https://www.africa-re.com/services/reinsurance, accessed on 13 May 2023.
[8]https://www.munichre.com/en/company/about-munich-re/munich-re-worldwide/sub-saharan-africa/about-us.html, accessed on13 May 2023.
[9] See para 9, case No. CCC/MER/4/16/2018, decision dated 4 October 2018.
[10] See para 49 of Case M.10102 - VIG / AEGON CEE, decision dated 12/08/2021.

customers in Burundi, Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Rwanda, Somalia and Uganda. Further, during the assessment of ***Sanlam/Allianz***[11], market players confirmed that competition for reinsurance market is at a global scale.

29. In view of the above, the geographic scope for the re-reinsurance service market is construed as global.

Market Shares and Concentration

30. The parties submitted their estimated market shares and those of their competitors in the reinsurance market in Africa as per Table 3 below.

Table 3: Estimated market shares of the provision of reinsurance market in Africa

Company name	Estimated premiums (USD million)	Estimated market share (%)
Munich Reinsurance of Africa	980	22.2
Africa Re	805	18.3
Swiss Re Africa	417	9.5
General Reinsurance Africa	255	5.8
Hannover Life Reassurance Africa	227	5.1
RGA Re	217	4.9
Zep Re (PTA Re)	208	4.7
Hannover Reinsurance Africa	195	4.4
C-RE Group	**179**	**4.1**
Kenya Re	169	3.8
CICA Re	158	3.6
African Reinsurance Corporation	145	3.3
WAICA Re	103	2.3
SCOR Africa	101	2.3
Tan Re	60	1.4
GIC RE	59	1.3
Ghana Re	53	1.2
NamibeRe	42	1.0
East Africa Re	36	0.8
Total	**4409**	**100**

31. The African reinsurance market is characterised by the presence of many players. Munich Reinsurance of Africa, Africa Re, Swiss Re Africa, General Reinsurance Africa, and Hannover Life Reassurance Africa are the top 5 reinsurance providers.

[11] CCC/MER/8/37/2022 – Proposed Acquisition of Joint Control by Sanlam Limited and Allianz SE over Sanlam Transaction Assets and Allianz Transaction Assets.

It was further noted that the target has a relatively small market share in the reinsurance market in the African Continent.

32. The pre-merger market shares of the target undertaking will remain the same post-merger, given the absence of horizontal overlap between parties in the reinsurance market. Further, a consideration of the market shares of the top three players (being Munich Reinsurance of Africa, Africa Re and Swiss Re Africa) indicates that this market is moderately concentrated at 52.4%.

33. The CID noted that there are several global competitors in the reinsurance market and many of them have higher market shares than the target undertaking. Among them, Munich Reinsurance Company, Swiss Re Ltd., Hannover Rück S.E., Berkshire Hathaway Inc., Lloyd's, China Reinsurance (Group) Corporation, Reinsurance Group of America Inc., Everest Re Group Ltd., and PartnerRe Ltd are the top 10 of the top 50 global reinsurance competitor. In any event, the transaction is not likely to result in a change in the market structure of the global reinsurance market given the absence of overlaps in the parties' activities pre-merger.

Consideration of Third-Party Views

34. Submissions were received from the national competition authorities of Egypt, Eswatini, Kenya, Malawi, Mauritius, Rwanda, Seychelles and Zimbabwe which did not raise any concerns in relation to the transaction, given that there is no overlap in the parties' activities in their territories. This is consistent with the CID's assessment, as presented above.

Determination

35. Based on the foregoing reasons, the CID determined that the merger is not likely to substantially prevent or lessen competition in the Common Market or a substantial part of it, nor be contrary to public interest. The CID further determined that the transaction is unlikely to negatively affect trade between Member States.

36. The CID therefore approved this transaction. This decision is adopted in accordance with Article 26 of the Regulations.

Dated this 26th day of June 2023

Commissioner Dr Mahmoud Momtaz (Chairperson)

Commissioner Lloyds Vincent Nkhoma

Commissioner Islam Tagelsir Ahmed Alhasan