

STATE OF CONNECTICUT

INSURANCE DEPARTMENT

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In the Matter of:	X	
Proposed Acquisition Of Control Of:	X	
	X	
HARBOR POINT REINSURANCE U.S., INC.,	X	
a Connecticut Insurance Company and an indirect,	X	
wholly owned subsidiary of Harbor Point Limited	X	Docket No. EX 10-32
	X	
BY	X	
	X	
MAX CAPITAL GROUP LTD.,	X	
a Bermuda exempted company	X	
-----	X	

ORDER

I, Thomas R. Sullivan, Insurance Commissioner of the State of Connecticut, having read the record in the above-captioned matter, do hereby adopt the findings and recommendations of Kathy Belfi, Hearing Officer, which are contained in the attached Proposed Final Decision, dated May 10, 2010, and issue the following orders, **TO WIT:**

1. The Application of the Applicant is which it seeks approval to acquire control of the Domestic Insurer is hereby approved.

2. Applicant and Domestic Insurer shall conduct their operations consistent with the representations, disclosures and commitments as set forth in the record of the proceedings and the Proposed Final Decision.

3. Applicant shall provide the Insurance Department with written confirmation of the consummation of the acquisition of control by the end of the month in which the acquisition of control takes place.

4. Applicant should provide the Department with the names and titles of those individuals who will be responsible for filing an amended Insurance Holding Company System Annual Registration Statement pursuant to Conn. Agencies Regs. §38a-138-10.

5. Within fifteen (15) days following the end of the month in which the Proposed Transaction is consummated, the Domestic Insurer shall file an amended Insurance Holding Company System Annual Registration Statement pursuant to Conn. Agencies Regs. §38a-138-10.

6. For a period of two (2) years, Applicant shall file semiannually with the Insurance Department, commencing six months from consummation of the Proposed Transaction, a report under oath of its business operations in Connecticut, including but not limited to, any change to the business of the Domestic Insurer; changes in offices of the Domestic Insurer; and notice of any statutory compliance or regulatory actions taken by other state regulatory authorities against the Applicant and the Domestic Insurer.

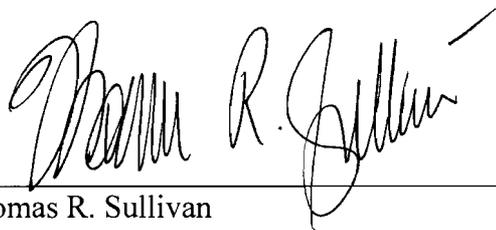
7. Domestic Insurer shall, at all times, maintain its books, records and assets in Bernardsville, New Jersey at its principal business location unless otherwise approved by the Insurance Commissioner pursuant to Connecticut law.

8. If the Proposed Transaction is not consummated within three (3) months of the date of this Order and the Applicant intends to consummate the Proposed Transaction, the Applicant shall submit to the Commissioner a statement, which shall

include (i) the reason for the Applicant's inability to consummate the Proposed Transaction; (ii) any material changes in the information contained in the Application; and (iii) the current financial statements of the Applicant and Domestic Insurer.

9. Applicant shall pay the expenses incurred by the Insurance Commissioner in connection with the Insurance Department's review of the Application pursuant to sections 38a-132(a)(3) and 38a-132(c) of the Connecticut General Statutes.

Dated at Hartford, Connecticut this 11th day of May, 2010.

A handwritten signature in black ink, appearing to read "Thomas R. Sullivan", is written over a horizontal line.

Thomas R. Sullivan
Insurance Commissioner

Point, which is the indirect parent of the Domestic Insurer, through the amalgamation of Harbor Point with the Amalgamation Sub, which is a newly formed, direct, wholly owned subsidiary of the Applicant (the “Amalgamated Company”). The terms of the Proposed Transaction are set forth in the Agreement and Plan of Amalgamation, dated as of March 3, 2010, among Harbor Point, the Applicant and the Amalgamation Sub (the “Amalgamation Agreement”). Upon completion of the Proposed Transaction, the resulting amalgamated company, to be named Alterra Holdings Limited, will be a direct, wholly owned subsidiary of the Applicant.

Supplemental information was subsequently requested by the Department and provided by the Applicant. An Amended and Restated Form A Application was filed with the Department on April 1, 2010.

On April 20, 2010, a notice of hearing was issued by Insurance Commissioner Sullivan, in which a public hearing was ordered for May 6, 2010 concerning the application for approval of the Proposed Acquisition of Control of the Domestic Insurer. The hearing notice was subsequently published in *The Hartford Courant*, once a week for two consecutive weeks. The notice of hearing was also filed by the Department with the Office of the Secretary of State on April 20, 2010 and was published on the Department’s Internet website. On April 20, 2010 the undersigned was appointed Hearing Officer by Insurance Commissioner Sullivan concerning the proposed acquisition of control of the Domestic Insurer. In accordance with Conn. Agencies Regs. §38a-8-48, the following were designated as parties to this proceeding: the Applicant and the Domestic Insurer.

The following individuals participated in and/or testified at the public hearing on behalf of the Applicant and the Domestic Insurer:

Joseph W. Roberts, Executive Vice President and Chief Financial Officer of the Applicant and Wayne C. Paglieri, Chief Underwriting Officer of the Domestic Insurer. Charles R. Welsh, Esq., Edwards Angell Palmer & Dodge LLP represented the Applicant. Nehemiah E. Ginsburg, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, represented the Domestic Insurer.

The following Department staff participated in the public hearing: Joan Nakano, Insurance Supervising Examiner and Mike Malesta, Counsel.

Pursuant to the published hearing notice, the public was given an opportunity to speak at the hearing or to submit written comments no later than the close of business on May 4, 2010, by an Order dated April 20, 2010. No public officials or members of the public signed up to speak, spoke at the hearing, or submitted written testimony.

II. FINDINGS OF FACT

After reviewing the exhibits entered into the record of this proceeding, and based on the written and oral testimony of the witnesses, the undersigned makes the following findings of fact:

1. The Applicant has fully complied with the disclosure requirements of Conn. Gen. Stat. §38a-130.
2. Due notice of the public hearing required by Conn. Gen. Stat. §38a-130(a) was given.
3. Applicant is organized under the laws of Bermuda.
4. Applicant's principal business address is Max House, 2 Front Street, Hamilton, HM 11, Bermuda.

5. Applicant is a global provider of specialty insurance and reinsurance products for the property and casualty insurance market, with underwriting operation based in Bermuda, Ireland, the United State, Latin America and the United Kingdom.

6. Applicant's United States operations are conducted through Max USA Holdings Ltd. and its operating subsidiaries.

7. Applicant and its subsidiaries intend to continue their business activities in the future, except as they relate to the integration of its business with that of Harbor Point following completion of the Proposed Transaction.

8. Domestic Insurer is a wholly owned indirect subsidiary of Harbor Point. The Domestic Insurer's statutory home office is 20 Horseneck Lane, Greenwich, Connecticut.

9. The Domestic Insurer's principal business address is 4 Essex Avenue, Suite 300, Bernardsville, New Jersey.

10. The Domestic Insurer is an indirect reinsurance subsidiary of Harbor Point and writes primarily casualty and specialty reinsurance from its Bernardsville, New Jersey office.

11. The Domestic Insurer is licensed or accredited to provide reinsurance in all 50 states plus the District of Columbia.

12. The consideration to be used in effecting the Proposed Transaction consists of common shares, share awards, share options, warrants and funds of the Applicant, to be issued to holders of shares, share awards, share options and warrants of Harbor Point, as of the effective

time of the Proposed Transaction or, in the case of fractional shares held by such shareholders, to be paid in cash.

13. Pursuant to the Amalgamation Agreement, each Harbor Point common share outstanding at the effective time of the Proposed Transaction will be cancelled and converted into the right to receive 3.7769 (the “Exchange Ratio”) validly issued, fully paid and nonassessable voting common shares of the Applicant (the “Share Consideration”), together with any cash paid in lieu of fractional shares.

14. The nature and amount of the consideration and the Exchange Ratio to be used in connection with the Proposed Transaction were determined through arm’s-length negotiations.

15. The Applicant’s and Harbor Point’s shareholders each approved the Proposed Transaction on April 29, 2010.

16. The biographical affidavits executed by the current and proposed directors and executive officers of the Applicant and the Amalgamated Company included in the record of this proceeding and the files of the Department, describe each individual’s educational background, professional credentials and employment history, and attests to the competence, experience and integrity of those individuals who would control the operations of the Applicant and indirectly the Domestic Insurer after the acquisition.

17. Following the completion of the Proposed Transaction, the following will be the officers and directors of the Applicant:

Officers

W. Marston Becker, Chief Executive Officer

Peter A. Minton, Chief Operating Officer

Carol S. Rivers, General Counsel

Joseph W. Roberts, Chief Financial Officer

Andrew Cook, Chief Integration Officer and EVP Global Development

John R. Berger, Chief Executive Officer of Reinsurance

Directors

W. Marston Becker

John R. Berger

Gordon Cheesbrough

James Carey

K. Bruce Connell

Thomas Forrester

Willis T. King, Jr.

Meryl Hartzband

James H. MacNaughton

Stephan Newhouse

Mario P. Torsiello

Michael O'Reilly

James L. Zech

Andrew Rush

18. The Domestic Insurer's current officers and directors are set forth below and the Applicant has no present plans or proposals to change such officers and directors: following the completion of the Proposed Transaction:

**Current and Proposed Officers and Directors
of the Domestic Insurer**

Officers

Thomas C. Wafer, President

Sheila Nugent Carter, General Counsel and
Secretary

Stephen Leitz, Treasurer

Wayne C. Paglieri, Executive Vice President
and Chief Underwriting Officer

Jeffrey L. Webb, Executive Vice President

Directors

Stephen Leitz

Sheila Nugent Carter

Wayne C. Paglieri

Thomas C. Wafer

Jeffrey L. Webb

19. Following the completion of the Proposed Transaction, the Applicant has no present plans or proposals: (i) to cause the Domestic Insurer to declare an extraordinary dividend; (ii) to liquidate the Domestic Insurer; (iii) to sell the Domestic Insurer's assets (other than such sales of assets as may be contemplated in the ordinary course of business); (iv) to merge or consolidate the Domestic Insurer with any person or persons; (v) to make any other material change in the Domestic Insurer's business operations or corporate structure or management; or (vi) to cause the Domestic Insurer to enter into material contracts, agreements, arrangements, understandings or transactions of any kind.

20. It is anticipated that the Domestic Insurer's existing agreements with Harbor Point affiliates previously approved or not disapproved by the Commissioner will remain in place following the completion of the Proposed Transaction.

21. The Department's records indicate the Domestic Insurer's books, records and assets are currently maintained in Bernardsville, New Jersey and Mr. Paglieri testified that the

location of the Domestic Insurer's books and records were not changed as a result of the Proposed Transaction.

22. As described in the Application, upon completion of the Proposed Transaction, Harbor Point will amalgamate with the Amalgamation Sub. As a result of such amalgamation, the Applicant will acquire indirectly all of the shares of common stock of the Domestic Insurer.

23. The overall integration of the Applicant and Harbor Point will be overseen by Andrew Cook, Harbor Point's current Chief Financial Officer. Following completion of the Proposed Transaction, Mr. Cook will serve as the Amalgamation Sub's Chief Integration Officer and Executive Vice President of Global Development.

24. Neither the Applicant nor any person controlling, controlled by or under common control with the Applicant, or any person listed in item 3 of the Application, beneficially owns, directly or indirectly, or has a right to acquire beneficially any voting securities of the Domestic Insurer or any securities convertible into or evidencing a right to acquire any such voting securities whether or not such right of conversion or acquisition is exercisable immediately or at some future time.

25. There are no contracts, arrangements or understandings, whether oral or in writing, directly or indirectly relating to any voting securities of the Domestic Insurer or any securities convertible into or evidencing a right to acquire any such voting securities involving the Applicant, any person controlling, controlled by or under common control with the Applicant during the twelve calendar months preceding the filing of the Application.

26. Except in connection with the execution of the Amalgamation Agreement, there have been no recommendations to purchase, directly or indirectly, any voting security of the Domestic Insurer made by the Applicant, any person controlling, controlled by or under common control with the Applicant during the twelve calendar months preceding the filing of the Application.

27. There is no agreement, contract or understanding made by the Applicant with any broker-dealer as to solicitation of voting securities of Harbor Point or the Domestic Insurer for tender.

28. The Domestic Insurer writes reinsurance business and does not currently have any direct written premium. The Proposed Transaction will not result in an increase in the market share of the Applicant's insurance company subsidiaries.

29. The Applicant and Harbor Point were granted early termination of their Hart-Scott-Rodino ("HSR") filings by the Federal Trade Commission on March 26, 2010.

30. As of December 31, 2009, Applicant's financial strength rating for non-Lloyd's reinsurance and insurance subsidiaries is A- (excellent)^a from A.M. Best; A (strong)^b from Fitch; A3^c from Moody's; and A-^d from S&P.

31. As of Year End December 31, 2009, Applicant reported the following GAAP consolidated balance sheet and income statement accounts (in thousands):

^a Applicable to Max Bermuda, Max Specialty, Max America, Max Re Europe and Max Insurance Europe.

^b Applicable to Max Bermuda, Max Specialty, Max America, Max Re Europe and Max Insurance Europe.

^c Applicable to Max Bermuda

^d Applicable to Max Bermuda, Max Specialty, Max America, Max Re Europe and Max Insurance Europe.

Assets	\$7,339,746
Liabilities	\$5,775,113
Shareholder's Equity	\$1,564,633
Net Income	\$246,215
Gross Premiums Written	\$1,375,001

32. Three years of statutory financial projections for the Domestic Insurer are included in the records and files of the Insurance Department.

III. DISCUSSION

Section 38a-132(b) of the Connecticut General Statutes specifically requires the approval of the proposed acquisition of control of the Domestic Insurer unless it is determined that:

- (A) After the change of control, the Domestic Insurer would not be able to satisfy the requirements for the issuance of licenses to write the lines of business for which they are presently licensed;
- (B) The effect of the merger or other acquisition of control would be to substantially lessen competition of insurance in this state or tend to create a monopoly in Connecticut;
- (C) The financial condition of the acquiring party is such as might jeopardize the financial stability of the Domestic Insurer or prejudice the interests of its policyholders;
- (D) The plans or proposals which the acquiring party has to liquidate the Domestic Insurer, sell its assets or consolidate or merge it with any person, or make any other material

change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the Domestic Insurer and not in the public interest;

- (E) The competence, experience and integrity of those persons who would control the operations of the Domestic Insurer are such that it would not be in the interest of the policyholders of the Domestic Insurers and of the public to permit the merger or other acquisition of control; or
- (F) The acquisition of control of the Domestic Insurer is likely to be hazardous or prejudicial to those buying insurance.

A. The ability of the Domestic Insurer to satisfy the requirements for the issuance of licenses to write the line or lines of business for which they are presently licensed following the proposed acquisition of control.

The Domestic Insurer is a domestic insurance company currently licensed pursuant to Conn. Gen. Stat. §38a-41. Conn. Gen. Stat. §38a-72 requires that a domestic stock property and casualty reinsurance company must have a minimum of \$2,000,000 in capital and \$2,000,000 in paid-in surplus in the aggregate. The Domestic Insurer currently satisfies the requirements for the issuance of a license to write the lines of business for which it is licensed.

As noted in the findings of fact, following completion of the Proposed Transaction, the Applicant has no plans or proposals to liquidate the Domestic Insurer, to sell its assets, merge, or consolidate the Domestic Insurer with any other person or entity. There are no plans for the Domestic Insurer to enter into any material contract, agreement, arrangement or transaction of any kind with any person or entity. In addition to the criteria set forth in Conn. Gen. Stat. §38a-72, the Department considers the location of the company's books, records and assets, and the management of the company when evaluating an insurer's ability to operate pursuant to Conn.

Gen. Stat. §38a-41. The Domestic Insurer testified that the location of its books and records were not changed as a result of the Proposed Transaction. Such books and records are currently maintained in the Domestic Insurer's New Jersey principal business location.

The Applicant also submitted evidence that the information contained in the biographical affidavits for the directors and officers of the Applicant proposed for the Domestic Insurer attest to the competence, experience and integrity of the individuals who will be responsible for the governance and operation of the Domestic Insurer, and should insure the safe and expert operation of the Domestic Insurer following completion of the Proposed Transaction.

Accordingly, the undersigned hereby finds that the evidence contained in the record supports a finding that the Domestic Insurer will be able to satisfy the requirements for the issuance of the necessary license of an insurer for which it is presently licensed following completion of the Proposed Transaction.

B. Whether the effect of the proposed acquisition of control of the Domestic Insurer would be to substantially lessen competition of insurance in this state or tend to create a monopoly herein.

The Domestic Insurer writes reinsurance business and does not currently have any direct written premiums and, as a result, completion of the Proposed Transaction will not result in an increase in the market share of the Applicant's insurance company subsidiaries. In addition, the early termination of the Applicant's and Harbor Point's HSR filings indicates that the Proposed Transaction does not create a potential antitrust issue from a Federal Trade Commission perspective and that such acquisition will result in no decrease in competition. Therefore, the undersigned hereby finds that the effect of the acquisition of control of the

Domestic Insurer will not substantially lessen the competition of insurance or tend to create a monopoly in Connecticut.

C. Whether the financial condition of the Applicant is such as might jeopardize the financial stability of the Domestic Insurer or prejudice the interests of its policyholders.

Based on the written testimony and the evidence contained in the record, the undersigned hereby finds that there is no evidence indicating that the financial condition of the Applicant might jeopardize the financial condition of the Domestic Insurer, or prejudice the interest of its policyholders.

D. Whether the plans or proposals which the Applicant has to liquidate the Domestic Insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the Domestic Insurer and not in the public interest.

The record reveals that the Applicant has no current plans or proposals to liquidate the Domestic Insurer, sell its assets or consolidate or merge it with any other entity.

Accordingly, the record supports and the undersigned hereby finds that there are no material plans or proposals for the Domestic Insurer that are unfair and unreasonable to policyholders of the Domestic Insurer or not in the public interest.

E. Whether the competence, experience and integrity of those persons who would control the operation of the Domestic Insurer are such that it would not be in the interest of the policyholders of the Domestic Insurer and of the public to permit completion of the Proposed Transaction.

The record includes the biographical affidavits of those individuals who will serve as members of the board and as officers of the Applicant and the Domestic Insurer following the change of control. The biographical affidavits disclose each individual's educational

background, professional credentials and their employment history. In addition, the Applicant has represented, and the biographical affidavits confirm, that during the last ten years none of the proposed directors or officers of the Applicant and Domestic Insurer have been convicted in a criminal proceeding (excluding minor traffic violations) or have been convicted or otherwise penalized for violating any federal or state law regulating the business of insurance securities or banking, (or in the case of an alien person, such equivalent provision as applicable). During the last ten years, none of the proposed directors or officers of the Applicant or Domestic Insurer has been the subject of any proceeding under the Federal Bankruptcy Code, (or in the case of an alien person, such equivalent provision as applicable) or have been affiliated with a business or organization which has been subject to such proceeding.

Furthermore, no proposed director or officer of the Applicant or Domestic Insurer has had a revocation, suspension or disciplinary sanction imposed against him or her by a governmental agency. None of the filed biographical affidavits contain any information that reflects negatively on the integrity of these individuals. Accordingly, the undersigned hereby finds that the competence, experience, and integrity of those persons who would control the operations of the Domestic Insurer after completion of the Proposed Transaction is such that it would be in the interest of policyholders of the Domestic Insurer and in the public interest to permit the Proposed Transaction.

F. Whether completion of the Proposed Transaction is likely to be hazardous or prejudicial to those buying insurance.

Based on the financial strength of the Applicant and the affirmation that the current plans of the Applicant for the Domestic Insurer will provide a strong and stable financial environment

for the Domestic Insurer, it is hereby concluded that completion of the Proposed Transaction is not likely to be hazardous to those buying insurance.

Accordingly, assuming compliance with all of Connecticut's insurance statutes and regulations, the undersigned hereby finds that it is reasonable to conclude that the proposed acquisition of control of the Domestic Insurer is not likely to be hazardous to those buying insurance.

IV. RECOMMENDATION

Based on (i) the foregoing findings of fact and discussion; (ii) the written testimony and exhibits submitted to the Department; and (iii) the record of the **May 6, 2010** public hearing, the undersigned hereby concludes that none of the conditions justifying disapproval listed in Conn. Gen. Stat. §38a-132(b) is present with respect to completion of the Proposed Transaction. Because the Applicant has satisfied the statutory criteria as provided in Conn. Gen. Stat. §38a-132, the undersigned hereby recommends that the Insurance Commissioner find that following completion of the Proposed Transaction (i) the Domestic Insurer will be able to satisfy the requirements for the issuance of a license to write the lines of business for which they are presently licensed; (ii) the effect of the acquisition of control will not substantially lessen competition of insurance in this state or tend to create a monopoly therein; (iii) the financial condition of the Applicant is not such as might jeopardize the financial stability of the Domestic Insurer or prejudice the interest of policyholders; (iv) the Applicant's plans or proposals for the Domestic Insurer are not unfair and unreasonable to the policyholders of the Domestic Insurer and are in the public interest; (v) the competence, experience and integrity of the management of the Applicant and Domestic Insurer are such that it would be in the interest of policyholders of

the Domestic Insurer and of the public to permit the Proposed Transaction; and (vi) completion of the Proposed Transaction is not likely to be hazardous or prejudicial to those buying insurance.

Accordingly, the undersigned recommends that the Insurance Commissioner issue the following orders:

1. The Application of the Applicant is which it seeks approval to acquire control of the Domestic Insurer is hereby approved.

2. The Applicant and Domestic Insurer shall conduct their operations consistent with the representations, disclosures and commitments as set forth in the record of this proceeding and Proposed Final Decision.

3. The Applicant shall provide the Insurance Department with written confirmation of the consummation of the acquisition of control by the end of the month in which the acquisition of control takes place.

4. The Applicant should provide the Department with the names and titles of those individuals who will be responsible for filing an amended Insurance Holding Company System Annual Registration Statement pursuant to Conn. Agencies Regs. §38a-138-10.

5. Within fifteen (15) days following the end of the month in which the Proposed Transaction is consummated, the Domestic Insurer shall file an amended Insurance Holding Company System Annual Registration Statement pursuant to Conn. Agencies Regs. §38a-138-10.

6. For a period of two (2) years, the Applicant shall file semiannually with the Insurance Department, commencing six months from consummation of the Proposed Transaction, a report under oath of its business operations in Connecticut, including but not

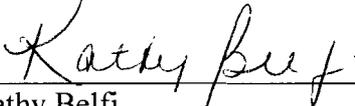
limited to, any change to the business of the Domestic Insurer; changes in offices of the Domestic Insurer; and notice of any statutory compliance or regulatory actions taken by other state regulatory authorities against the Applicant and the Domestic Insurer.

7. The Domestic Insurer shall, at all times, maintain its books, records and assets in Bernardsville, New Jersey unless otherwise approved by the Insurance Commissioner pursuant to Connecticut law.

8. If the Proposed Transaction is not consummated within three (3) months of the date of this Order and the Applicant intends to consummate the Proposed Transaction, the Applicant shall submit to the Commissioner a statement, which shall include (i) the reason for the Applicant's inability to consummate the Proposed Transaction; (ii) any material changes in the information contained in the Form A Application; and (iii) the current financial statements of the Applicant and the Domestic Insurer.

9. The Applicant shall pay the expenses incurred by the Insurance Commissioner in connection with the Insurance Department's review of the Application pursuant to Conn. Gen. Stat. §38a-132(a)(3) and §38a-132(c).

Dated at Hartford, Connecticut, this 10th day of May, 2010



Kathy Belfi
Hearing Officer