

Danish report of 16 October 2023 – translation made on 30 October 2023

# Report under section 125(4) of the Danish Bankruptcy Act

**Qudos Insurance A/S in bankruptcy - CVR no (business registration no) 33 95 69 67**

The Bankruptcy Division of the Danish Maritime and Commercial High Court - K 4368/18-A

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As the trustee of the above bankruptcy estate I hereby present my report under section 125(4) of the Danish Bankruptcy Act regarding the affairs of the estate.

Firstly, I refer to my previous report under section 125(1) of the Bankruptcy Act of 17 January 2019, the report under section 125(2) of the Bankruptcy Act of 16 April 2019 and the reports under section 125(4) of the Bankruptcy Act of 16 October 2019, 16 April 2020, 16 October 2020, 16 April 2021, 15 October 2021, 13 April 2022, 14 October 2022 and most recently of 14 April 2023.

The estate's assets at this point in time are as follows:

## 1. ASSETS

### 1.1 Accounts

When the bankruptcy order was issued on 20 December 2018 Qudos Insurance A/S (now in bankruptcy) had a total of 27 open bank accounts with Nordea Bank Danmark.

As stated in previous reports, the trustee has kept several of the company's bank accounts as payments are still being made to and from the accounts in connection with the day-to-day operations.

The trustee is assessing on an ongoing basis whether there is still any need to keep the individual bank accounts. The bankruptcy estate currently has a total of 18 open bank accounts with Nordea Bank Danmark.

## 1.2 Registered assets

The registered assets have been provided as security for the insurance obligations, see section 167(4) of the then current Danish Financial Business Act. The assets also cover the necessary costs relating to winding up the insurance company as described.

The registered assets as at 31 August 2023 were booked at the following values:

### 1. Government bonds

The bankruptcy estate's government bonds as at 31 August 2023 amounted to DKK 7,307,279, which is why the asset has been included at this value

DKK 7,307,279

### 2. Corporate bonds

The bankruptcy estate's corporate bonds as at 31 August 2023 amounted to DKK 5,033,693. The difference in the securities portfolio compared to the most recent report is called bonds of DKK 232,523 as well as price adjustments and interest. The proceeds from the called bonds are included in the company's deposit in paragraph 1.2, item 4, below. The asset is included at the market value as at 31 August 2023 by

DKK 5,033,693

### 3. Shares in subsidiary

The bankruptcy estate's shares in ASG Forsikringsagentur A/S in bankruptcy are still included at book value.

DKK 0

### 4. Deposit

The bankruptcy estate's deposit as at 31 August 2023 was booked at DKK 557,809,477.

The deposit has increased by DKK 24,085,129 in total. The reason for the increase is that reinsurance payments were made in the period. The asset has been included at book value.

DKK 557,809,477

### 5. The share of the reinsurance of the provision for unearned premiums and the provision for claims outstanding

The bankruptcy estate has a booked asset consisting of current and future claims against its reinsurers. The amount is only a calculation for the purpose of the bookkeeping as the amount of the final asset is not yet known. This is why the receivable is included at the book value as at 31 August 2023 of DKK 433,686,711.

The primary reason for the reduction in the bankruptcy estate's shares of the reinsurance of DKK 28,218,023 is the following two activities:

A) A recalculation of the expected claim for compensation in respect of parts of the insurance portfolio has been made. The recalculation shows an expected reduction in the claims for compensation which results in a reduction in the expected future claims against the reinsurers.

B) The Danish Guarantee Fund for Non-life Insurers and other national funds continue to pay out claims for compensation regarding certain losses resulting in a reduction in the expected claims for compensation and therefore also the share of the reinsurance of this amount. The reduction will be counterbalanced by a corresponding increase in the receivable, shares of the reinsurance (paragraph 1.2, item 6).

DKK 433,686,711

The asset has been included at book value.

**6. Receivable, shares of the reinsurance (reinsurance)**

The receivable regarding the shares of the reinsurance as at 31 August 2023 has been booked at DKK 145,889,355. The increase of DKK 9,186,750 in the booked receivable primarily relates to the shares of the reinsurance of payouts from the Guarantee Fund for Non-life Insurers and other national funds of DKK 34,388,999. There has also been a number of small movements.

The receivable has been included at book value.

DKK 145,889,355

**7. Receivable from insurance brokers/coverholders**

When Qudos Insurance A/S went bankrupt it had a booked asset with the company's insurance brokers/coverholders of DKK 84,251,990. The receivable consists of outstanding premiums and deposits in accounts with claims examiners for the payment of losses. Receivables from insurance

brokers and coverholders may, in respect of the bookkeeping, be included by half of the book value as a deduction from the insurance provisions according to section 5, para (4), of the then current Statutory Order on Registration of Assets in Insurance Companies and Company Pension Funds. It means that the receivable may only be included as an asset at DKK 0 as long as the funds are still with the insurance brokers and coverholders. As the bankruptcy estate's payable premiums are paid to the bankruptcy estate the funds will, however, be added to the deposits under the registered assets (paragraph 1.2, item 4). The trustee notes for the avoidance of doubt that the existence and value of these receivables are subject to great uncertainty, see paragraph 6.1.3 below for details.

DKK 0

#### 8. Unearned coverholder commission

The bankruptcy estate has a claim for unearned coverholder commission against the coverholders that previously sold insurance on Qudos's behalf. The total claim amounted to approximately DKK 255,900,000 which the trustee has started to collect. The collected amounts will be added to the deposit (paragraph 1.2, item 4). Legal actions are currently pending about this issue, see paragraph 6.1.3.3. The extent to which the former coverholders will be able to pay the bankruptcy estate's claims is also uncertain, which is why for now the amount is included at a reminder value.

DKK 1

**Registered assets etc in total (provisionally calculated) DKK 1,149,726,514**

It is noted that the registered assets have increased in the period by DKK 4,803,056, which is primarily because of an increase in the receivables from the company's reinsurers (paragraph 1.2, item 6) as well as an increase in the deposits (paragraph 1.2, item 4).

As has been the case so far costs relating to running the bankruptcy estate have been paid, including payments to external claims examiners and lawyers for the purpose of securing the collection of the company's assets. There has also been work relating to calculating and limiting the liabilities. These costs have been deducted from the calculation of the registered assets.

### 1.3 Unencumbered assets

The unencumbered assets are to be used to pay all the other creditors against the bankruptcy estate, including the part of the insurance obligations not covered by the registered assets. This includes the ordinary creditors relating to the operations, see paragraph 2.2 below.

The unencumbered assets as at 31 August 2023 were booked at:

#### 9. Tools and equipment, etc

The bankruptcy estate's tools and equipment consist of various office furniture, computers, monitors and other office supplies. The tools and equipment as at 31 August 2023 were booked at DKK 50,000. For the time being the tools and equipment have been included at book value.

DKK 50,000

#### 10. Receivable from consolidated companies

The bankruptcy estate has a booked asset consisting of receivables from consolidated companies. The bankruptcy estate has collected receivables on an ongoing basis which have been deposited into the client account (paragraph 1.3, item 16). There was only one receivable remaining as at 31 August 2023 which has been booked at DKK 3,126,305. Bankruptcy proceedings have been commenced against the consolidated company and a claim for the receivable has been filed against the bankruptcy estate. The claim has been examined and admitted. The bankruptcy estate awaits the dividend payout. Afterwards this item can probably be finally settled. The bankruptcy estate's receivables are currently included at the book value by

DKK 3,126,305

#### 11. Rent deposit - Sundkrogsgade 21

The bankruptcy estate paid a rent deposit equal to the bankruptcy estate's proportionate share of this rent deposit as part of the merger of the operations of the bankruptcy estate with the operations of the bankruptcy estate of Alpha Insurance A/S, including the agreement between Alpha Insurance A/S in bankruptcy and Qudos Insurance A/S in bankruptcy (the bankruptcy estate), see the trustee's report of 16 April 2020, paragraphs 6.1.3.3 and 6.1.3.10. The bankruptcy estate's proportionate share of the rent deposit has been booked at

DKK 982,912

#### 12. Rent deposit - Kongevejen 371

The receivable relating to the rent deposit is no longer deemed to be of any value to the estate as previously stated.

DKK 0

**13. Rent deposit - Købmagergade 22**

As previously stated, the appointed ad-hoc trustee had discussions with the landlord about the deposit claim that the bankruptcy estate had raised against the landlord. The rent deposit regarding the leased premises as at 31 August 2023 was booked at DKK 1,502,977. The bankruptcy estate received DKK 786,239.61 on 5 September 2023 concerning the deposit which has been deposited into the client account, see paragraph 1.3, item 16.

DKK 0

**14. Rent deposit - London**

The receivable relating to the rent deposit is no longer deemed to be of any value to the estate as previously stated.

DKK 0

**15. Intangible assets**

The intangible assets are software equipment used in the operation of the bankruptcy estate and goodwill. The asset as at 31 August 2023 was booked at DKK 0. The asset has been included at book value.

DKK 0

**16. Deposit in client account**

The trustee has paid costs of approximately DKK 2,750,759. There has been an increase in the period of DKK 33,651,875. The primary reason for the increase is payroll tax which the bankruptcy estate has requested to be repaid by the Danish Tax Agency, payment of deposit as well as payment of approximately DKK 21.5 million concerning a legal action, see paragraph 6.4.3. The deposit in the client account as at 31 August 2023 amounted to

DKK 33,878,147

**Unencumbered assets in total**

DKK 38,037,365

**2. LIABILITIES****2.1 Liabilities relating to the registered assets**

The liabilities that are assumed on the existing basis to have a priority right to receive cover from the bankruptcy estate's registered assets are listed below, see paragraph 1.2 above.

Below, the starting point is that both the insurance claims and the claims for return premium are covered by the registered assets. But the trustee knows that a decision has been delivered by the EFTA Court regarding Gable Insurance AG in bankruptcy that could possibly change this starting point, see paragraph 6.1.7.2 below. But the consequences and scope of the decision are not yet clear, which is why the classification in the calculation below is maintained for the time being.

**1. Expected claims for return premium**

The expected claim for return of premiums as at 31 August 2023 was booked at DKK 156,757,368. The claim has been calculated according to the same principles used in connection with the calculation of the company's provisions for unearned premiums. The amount is the company's estimate of the claims for return premium and it is expected that it will be offset by claims for return premium raised by policyholders. But it is the trustee's opinion that it must be assumed that any further filed claims will be statute-barred. The reason for the increase of DKK 1,655,332 is translation adjustments.

The liability is included at book value by

DKK 156,757,368

**2. Expected claims for compensation**

The expected claim for compensation is a calculation for the purpose of the bookkeeping of the amount put aside to cover the policyholders'/the claimants' claims for compensation. The expected claim for compensation has been calculated according to principles corresponding to the previous provisions for claims outstanding. The claim is thus an estimate of the future payouts relating to claims for compensation and may deviate from the actual claims for compensation. The expected claims for compensation as at 31 August 2023 were booked at DKK 538,022,486. The primary reason for the reduction is the following important activities:

A) The expected claims for compensation in respect of parts of the company's portfolio have been recalculated. The recalculation is based on the data most recently received from the company's coverholders.

B) The amount has been reduced by approximately DKK 62,117,968. The expected claims for compensation have been reduced because the Guarantee Fund for Non-life Insurers and other national funds regularly make payouts regarding insurance claims. The payouts from the Guarantee Fund for Non-life Insurers and other national funds and thus the decline in the expected claims for compensation are expected to be counterbalanced by a corresponding claim against the estate from the Danish Guarantee Fund for Non-life Insurers and other national funds.

DKK 538,022,486

**3. Deduction of half of the outstanding payable premiums**

Under section 5, para (4), of the then current Statutory Order on Registration of Assets in Insurance Companies and Company Pension Funds the bankruptcy estate is entitled to deduct up to half of the outstanding payable premiums from the insurance provisions.

DKK -42,125,995

**4. Claims proved so far in respect of the registered assets**

As at 31 August 2023, claims proved in respect of the registered assets amounted to DKK 2,973,697,806.90 in total. It is noted that this is only a provisional calculation of the proved claims as the various guarantee fund schemes are still making payouts, and the trustee therefore expects to receive further proofs of claim.

DKK 3,094,843,396.13

**Expected liabilities in total**

DKK 3,747,497,255.13

It is noted in respect of the above calculation that the expected claims for return premium and the insurance claims later on in the estate administration will be replaced by actual claims (as stated in paragraph 2.1, item 4) as the claims for return premium and the insurance claims are finalised, including from the Guarantee Fund for Non-life Insurers and other national guarantee fund schemes that are subrogated to the policyholder's and the claimant's respective claims against the bankruptcy estate under the registered assets, see paragraph 6.1.4.4 below for details. The various guarantee fund schemes are still making payouts.

Moreover, there is no doubt that the above calculation contains elements of double registration, which is why overall the registered liabilities are expected to be reduced over time. But the extent will only become clear in connection with the future examination of claims. As at 31 August 2023, the various guarantee fund schemes have reported to the bankruptcy estate that a total of DKK 1,479,229,860 has been paid to cover both the accepted insurance claims and the claims for the return of premiums.

It is noted in this connection that it must be assumed that these payments are included in the above calculation of the liabilities to a certain extent. In addition, some guarantee funds have notified expected/future payouts, which is why it is also expected that there will be an overlap here between notified claims and the calculated reserves. It is also the trustee's assessment at this point in time that the allocated provisions to cover claims for return premium as well as claims for compensation fully cover the future payments/notices of claims.

The trustee's most important task is consequently still to ensure that the notified claims are handled correctly. In cooperation with the Danish Guarantee Fund for Non-life Insurers the trustee has continued the claims handling by the existing claims examiners, see paragraph 6.1.4.1 for details.



## 2.2 Other liabilities relating to the unencumbered assets

Claims under section 94 of the Bankruptcy Act (secondary administration expenses)	DKK	1,669,694.25
Claims under section 95 of the Bankruptcy Act (preferential employee claims)	DKK	967,914.74
Claims under section 97 of the Bankruptcy Act (general creditor claims)	DKK	34,291,336.49
<b>Liabilities in total</b>	<b>DKK</b>	<b>36,928,945.48</b>

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It is generally noted in respect of the filed claims that it must be assumed that several claims have been filed both under the registered assets, see paragraph 2.1 above, and at the same time under the unencumbered assets, see paragraph 2.2 above. It means that the same claim could be included twice in the above calculations. At this point in time the scope of any claims that have been filed twice is not yet clear as the initial work regarding the examination of the filed claims has only just begun.

## 3. INVESTIGATIONS RELATING TO AVOIDANCE

The trustee refers to previous reports regarding this subject-matter as well as to paragraph 6.3 below.

## 4. CRIMINAL OFFENCES

The trustee's investigations have been concluded.

## 5. BANKRUPTCY-RELATED DISQUALIFICATION

The Bankruptcy Division of the Danish Maritime and Commercial High Court was separately notified in connection with the bankruptcy estate's report of 16 October 2019 under section 125(4) of the Bankruptcy Act of the trustee's investigation and assessment of whether there was any basis for instituting bankruptcy-related disqualification proceedings against the former management of Qudos Insurance A/S in bankruptcy under section 157(1), first sentence, cf section 160(1), first sentence, of the Bankruptcy Act.

The trustee's investigations have been concluded, see previous reports.

## 6. THE ESTATE ADMINISTRATION AND THE TIME SPENT IN THE PAST PERIOD

### 6.1 The time spent on the registered assets

The trustee's work relating to the registered assets in the period since 1 March 2023 and up to 31 August 2023 has focused on the following tasks:

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## **6.1.1**     *Securities*

The bankruptcy estate's securities portfolio primarily still consists of government bonds and corporate bonds which were booked at DKK 7,307,279 and DKK 5,033,693 respectively on 31 August 2023, see the list of assets in paragraph 1.2, items 1 and 2.

The trustee is managing the bankruptcy estate's securities portfolio and assessing the bankruptcy estate's securities investment policy and considering the need for having funds to pay for the day-to-day operations in the bankruptcy estate.

Since the most recent report, DKK 232,523 has been withdrawn from the company's custody account which has been added to the deposit used for operating the bankruptcy estate.

Approximately 5 hours have been spent by lawyers on such work since the most recent report.

## **6.1.2**     *Reinsurance*

The work involving the bankruptcy estate's reinsurance in the previous period was, and still is, very complicated and the trustee is spending a significant amount of time on collecting the receivables arising from the reinsurance contracts. The work is very protracted, but it is necessary to secure, over time, the bankruptcy estate's most important asset.

The trustee's handling of the bankruptcy estate's reinsurance focuses on calculating and collecting the bankruptcy estate's receivables from the reinsurers. Handling the reinsurance continues to involve complicated issues which the trustee is assessing and dealing with on an ongoing basis. In that connection the trustee has had discussions with the reinsurers and the bankruptcy estate's employees on a daily basis regarding calculations, reconciliation and payment of receivables from reinsurers to the bankruptcy estate as well as other operational matters and other clarification of legal issues.

The trustee has dealt with a challenge with a significant claims examiner in Great Britain that stopped reporting to the bankruptcy estate. The trustee has ensured that a report was made concerning the most recent development in claims and compensation to the reinsurers. The trustee's work has also included ensuring that the reinsurers make payments according to the reporting on an ongoing basis.

The trustee has had extensive discussions with a European reinsurer regarding the portfolios that were not handled through an insurance broker prior to the bankruptcy. A significant receivable was still outstanding, and the trustee has been in close dialogue with the reinsurer on an ongoing basis including fixed meetings every other week and ad-hoc meetings on a regular basis to ensure that the receivable is collected. The trustee also held yet another in-person meeting with the reinsurer. The reinsurer has asked

questions concerning the calculation method for earning premium that the Guarantee Fund for Non-life Insurers and the estate have applied to a specific type of insurance. The result has been that the reinsurer has withheld payments to a certain extent. The trustee expects that the issue will be solved by a close dialogue.

The trustee is also directly cooperating with the above insurer concerning the English and Irish motor insurance which is significant receivables from reinsurers. The meetings previously mentioned also include this part and the reconciliation work is progressing, albeit not at the speed that the trustee had hoped. Most recently, the insurer has pointed out a number of issues, primarily relating to the external bordereaux on which the collection of the reinsurance is based and this is delaying the payment of the receivables from reinsurers.

The trustee has also spent time on calculating the receivables from reinsurers and has dealt with various requests from the reinsurer. The trustee has received a significant payment from the European insurer, but a significant receivable is still outstanding. The trustee is therefore still in dialogue with the reinsurer.

The English broker is still responsible for collecting receivables from reinsurers concerning excess of loss claims in England and Ireland. But not from the biggest reinsurer where it is the estate that collects the receivable directly from this reinsurer. Payments have been made in respect of these excess of loss claims since the most recent report and further amounts will be paid in the coming months. The bankruptcy estate still has significant receivables from the reinsurers in respect of excess of loss claims, and the broker has been asked on a regular basis to collect and press the reinsurers for payment on behalf of the bankruptcy estate.

The amounts that the reinsurers are to pay in respect of the excess of loss claims where payments are still being made to the claimants are still to be indexed due to inflation. The trustee indexes the bankruptcy estate's excess of loss claims on an ongoing basis and is in dialogue with the reinsurers in this regard.

There have been challenges with delayed payments from one Asian reinsurer in particular for some time. The trustee has therefore continued the reporting, follow-up and inquiries to the broker in Singapore that is the link between the bankruptcy estate and the reinsurer, and the trustee has also tried to contact the reinsurer directly. By now, the receivable amount is significant and the reinsurer does not respond to the trustee's approaches. The trustee has therefore contacted a lawyer in London for the purpose of commencing arbitration proceedings.

The trustee's work also includes the work of commutating the reinsurance contracts where the run-off can be determined with a high degree of probability, including making a number of legal analyses and assessments by an actuary.

Moreover, the trustee is in regular contact with the bankruptcy estate's English consultant that handles the English and Irish substantial claims and reports to the reinsurers.

The trustee participates in meetings with relevant reinsurers and insurance brokers on an ongoing basis for the purpose of solving specific issues relating to the reporting and settlement of the bankruptcy estate's receivable and ensuring ongoing collaboration and communication.

DKK 27,935,438 was received since the most recent report and until 31 August 2023.

It means that a total of DKK 530,859,324 has been paid to the bankruptcy estate by the reinsurers since the company went bankrupt and until 31 August 2023.

Approximately 679 hours have been spent by lawyers regarding the reinsurance since the most recent report.

### **6.1.3      *Receivables from coverholders, claims examiners, insurance brokers, etc***

The bankruptcy estate's receivables from coverholders and claims examiners under the registered assets as at 20 December 2018 were booked at a value of DKK 84,251,990, but have been stated at DKK 0, see paragraph 1.2, item 7, as it is noted, however, that the bankruptcy estate's receivable of DKK 84,251,990 consisting of payable premiums is included with a deduction of 50% in the value of the bankruptcy estate's liabilities attached to the registered assets, see paragraph 2.1, item 3, under section 5, para (4), of the then current Statutory Order on registration of assets in insurance companies and company pension funds.

The trustee continued collecting outstanding excess amounts from several policyholders. There were a total of 36 open cases in this connection and the trustee has closed some of those cases. The trustee collects excess amounts on an ongoing basis. Six cases involving recovery are still pending.

Moreover, the trustee has continued the work of determining whether the Guarantee Fund for Non-life Insurers has a right as a secured creditor to the excess amounts of the insurance claims that the Guarantee Fund for Non-life Insurers covers.

#### **6.1.3.1      *Premium receivables***

The trustee has concluded his examinations of the booked premium receivables and of whether the necessary accounting adjustments have been made. The trustee has provided for depreciation where necessary and on a case by case basis. It has turned out that often the booked values do not correspond to the facts.

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### 6.1.3.2 *Claiming back insurance premium tax from tax authorities*

As for the periodical reporting of direct and indirect taxes abroad, the trustee has continued to correspond with the external tax consultants and tax authorities that handle the declaration of direct and indirect taxes abroad on an ongoing basis.

The trustee is still in dialogue with the tax authorities in Great Britain, Ireland and France for the purpose of reclaiming premium tax that was declared and paid before the issue of the bankruptcy order. The dialogue with the tax authorities in Denmark is being handled by the ad-hoc trustee who is currently waiting for the decision by the Danish National Tax Tribunal.

It is noted that the British tax authorities have rejected the bankruptcy estate's claim for reclaim of premium taxes. The trustee has therefore appealed against the British tax authorities' rejection of the bankruptcy estate's claim for a refund. In that connection the trustee has spent time on obtaining documentation by way of payment receipts and other material to prove the bankruptcy estate's claim for a refund. Moreover, the process has been quite complex and the bankruptcy estate has received local legal advisory services.

As for reclaiming premium tax in Ireland, the trustee is still working on securing the relevant documentation. The work has been made difficult because a large part of the requested information is in the possession of the bankruptcy estate's former coverholder in Ireland.

As for the reclaim process in France, the trustee has been in dialogue with the Guarantee Fund for Non-life Insurers for the purpose of obtaining the necessary documentation, including payment receipts from the bank of the Guarantee Fund for Non-life Insurers. The trustee has also sought assistance from tax consultants in France and subsequently from a lawyer in France with interpreting the French tax rules, etc. The trustee is currently waiting for the French tax authorities' response.

Approximately 114 hours have been spent by lawyers on collecting the receivables from the coverholders, insurance brokers, tax authorities, etc as well as on the work regarding the independent collection of unearned coverholder commission which is described separately in paragraph 6.1.3.3 below since the most recent report.

### 6.1.3.3 *Reclaiming unearned coverholder commission*

The trustee has raised claims on behalf of the bankruptcy estate for repayment of unearned coverholder commission against a number of the bankruptcy estate's former coverholders.

- 1) Legal action against a former coverholder in Italy

On 15 July 2021, the trustee brought a legal action against a former coverholder, claiming payment of EUR 1,554,307.01.

On 7 June 2022, a trial in part was held in the case and on 6 July 2022 the bankruptcy estate received the judgment by which the case was dismissed by the Danish courts because of lack of jurisdiction. The trustee subsequently filed a notice of appeal on 20 July 2022 with the Danish Eastern High Court.

The trial hearing in part was held on 31 January 2023 before the Danish Eastern High Court. The trustee received the judgment on 28 February 2023 by which the Danish Eastern High Court upheld the decision by the Danish Maritime and Commercial High Court.

The trustee is currently looking into the possibility of bringing the case in Italy and is in contact with a lawyer in Italy in that connection.

## 2) Legal action against a former coverholder in France

On 9 July 2021, the bankruptcy estate brought a legal action against a former coverholder, claiming payment of EUR 2,383,970.68. A default judgment was delivered on 23 December 2021 and the company subsequently entered into liquidation. The trustee is still in dialogue with the French lawyers for the purpose of collecting the judgment debt.

## 3) Legal action against a former coverholder in Denmark

On 22 October 2021, the bankruptcy estate brought a legal action against a former coverholder, claiming payment of DKK 498,327.32.

Bankruptcy proceedings were commenced against the former coverholder on 21 December 2021 and the trustee has filed a claim against the estate.

## 4) Legal action against a former coverholder in Denmark

On 17 December 2021, the bankruptcy estate brought a legal action against a former coverholder, claiming payment of DKK 110,913,051.71.

On 8 March 2023, the Danish Maritime and Commercial High Court delivered a judgment in a similar case where the Maritime and Commercial High Court established that the coverholder was under an obligation to repay unearned coverholder commission to the extent that a claim for return premium had been filed against the bankruptcy estate.

As a consequence of that judgment, the trustee has recalculated his claim for unearned coverholder commission in the case against the coverholder and on 14 August 2023 the bankruptcy estate reduced its claim to DKK 92,274,454.11 exclusive of statutory interest.

An extensive number of pleadings have been exchanged in the case and the trustee has spent time on both preparing pleadings and on going through the defendant's pleadings and the extensive number of exhibits including various calculation methods. The trustee has also spent time on preparing the expert survey and appraisal in the matter.

On 22 August 2023, bankruptcy proceedings were commenced against the coverholder. The deadline for the trustee of the bankruptcy estate of the other coverholder to inform the court whether the bankruptcy estate wishes to become a party to the legal action is the beginning of November 2023.

For the time being, Qudos Insurance A/S in bankruptcy has filed a claim of DKK 112,994,545.17 in total against the coverholder's bankruptcy estate consisting of the claim for unearned coverholder commission and statutory interest.

## 5) Legal action with Irish governing law

On 2 June 2022, the trustee filed a plenary summons with the courts in Ireland and raised a claim against an Irish coverholder of EUR 2,009,231.60 and GBP 103,465.67 regarding premium receivables and a claim of EUR 1,540,663.21 regarding unearned coverholder commission.

The number of pleadings exchanged in the case has been significant and the trustee has spent time on going through the defendant's pleadings and drafting responses to such pleadings.

On 19 May 2023, the trustee filed a request for discovery by which the trustee clarified a number of the facts in dispute of which the defendant is requested to provide documentation. In that connection the trustee has had discussions with the Irish lawyer and spent time on going through the defendant's comments. The trustee has also spent time on going through the defendant's corresponding request for discovery against the bankruptcy estate. The trustee has obtained the requested documentation in that connection and drafted a response which was filed with the Irish court on 26 May 2023.

On 30 June 2023, the trustee filed an affidavit of discovery whereby the trustee asked the Irish court to determine the extent to which the trustee's request for discovery could be granted as the parties were unable to reach an agreement.

The trustee has also spent time on collecting extensive documentation and discussing the provision of security for the legal costs.

The case is currently pending on the court's decision on the parties' affidavit of discovery.

6) Legal action with English governing law

The bankruptcy estate still has one case that is being handled by a lawyer in England where particulars of claims were filed with the courts in England on 13 April 2022. The bankruptcy estate calculated its claim to amount to GBP 77,288.86. The bankruptcy estate entered into a settlement agreement on 13 April 2023, according to which the defendant was to pay GBP 40,000 to the bankruptcy estate.

The bankruptcy estate received the settlement amount on 12 May 2023 and the case has consequently been closed.

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The bankruptcy estate has also raised a claim running into millions against an English coverholder and a reinsurer. The trustee has had ongoing discussions with the bankruptcy estate's lawyers in England and has participated in meetings with the lawyers in London. The trustee has continued the work of collecting the claim from the coverholder and the reinsurer.

The trustee's work relating to claiming back the coverholders' unearned commission is therefore still taking place.

Approximately 566 hours have been spent by lawyers on the work of collecting/recovering unearned coverholder commission since the most recent report.

**6.1.4 *The work relating to dealing with the operations***

The work relating to the operations is described in detail below, see paragraphs 6.1.4.1-6.1.4.9.

**6.1.4.1 *Claims handling***

The trustee's work of dealing with the claims handling is still extensive. The purpose of the work is to ensure that the claims are always being properly handled so that the notification to the bankruptcy estate's reinsurers and the registration in the bankruptcy estate's register of debts and claims are also correct.

As at 31 August 2023, there was a total of 1,033 open losses and a significant number of complicated insurance claims including large and complicated personal injury cases are still to be examined which require the trustee's ongoing involvement, including also in respect of determining the reserves that are of great importance to the bankruptcy estate's receivable from reinsurers.

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The trustee's work has also included in-depth discussions and correspondence with the attached claims examiners regarding the process of rejecting claims notified after the expiry of the policies, the procedure for reporting the accepted claims to the Guarantee Fund for Non-life Insurers and/or other national guarantee fund schemes as well as to the bankruptcy estate for the purpose of registration in the register of debts and claims.

An Italian claims examiner had decided when Qudos went bankrupt to stop the claims handling and paid out claims for compensation to approximately 400 policyholders without the bankruptcy estate's acceptance despite the fact that only approximately 100 claims had been handled. The trustee is making sure on an ongoing basis that the contract subsequently entered into with a new claims examiner regarding claims handling in Italy is being performed, and that the claims are being handled once again.

The day-to-day claims handling is therefore still taking place.

Approximately 478 hours have been spent by lawyers on such work since the most recent report.

#### *6.1.4.2 Bilateral agreements and contracts*

The trustee continued to spend time on administering and approving payments regarding the agreements and contracts to which the bankruptcy estate has become a party, including the payment of various operating expenses. This work will be performed as long as the bankruptcy estate has operations.

The trustee has also spent time on regularly reviewing the costs that Alpha Insurance A/S in bankruptcy has paid regarding the service charges and other operating expenses of the leased premises because Qudos Insurance A/S in bankruptcy is still to pay a proportionate part of the service charges of the leased premises and other operating expenses because of the sublease with Alpha Insurance A/S in bankruptcy and the agreement on apportionment of costs between Alpha Insurance A/S in bankruptcy, Qudos Insurance A/S in bankruptcy and Gefion Finans A/S in bankruptcy, see also paragraph 1.3, item 11 above.

The trustee's work also included re-invoicing the time that the bankruptcy estate's employees have spent on the estate administration of Alpha Insurance A/S in bankruptcy and Gefion Finans A/S in bankruptcy as such costs are to be paid by Alpha Insurance A/S in bankruptcy and Gefion Finans A/S in bankruptcy respectively. The costs are re-invoiced every quarter, and the work is therefore ongoing and will continue in future.

Approximately 15 hours have been spent by lawyers on such work since the most recent report.

### *6.1.4.3 The bankruptcy estate's employees*

The trustee's work has included dealing with the bankruptcy estate's employees on an ongoing basis including usual employee matters such as sick notes, resignations/dismissals, hiring, employee performance reviews, etc.

The trustee is regularly assessing the bankruptcy estate's staff, including whether there is any need for adjusting the resources in the bankruptcy estate or hiring new employees.

Approximately 25 hours have been spent by lawyers on such work since the most recent report.

### *6.1.4.4 Talks with guarantee funds*

The trustee continued to have regular talks with the Guarantee Fund for Non-life Insurers and its administration company, Topdanmark Forsikring A/S, green card agencies, including the Danish Motor Insurers' Bureau (DFIM) and other national guarantee fund schemes.

The talks have primarily been about the payment of the policyholders'/the claimants' claims, including the procedure for exchanging insurance claims/claims for return premium between the various guarantee funds and the bankruptcy estate, talks about the calculation of the policyholders' claim for return premium and the process of notifying the bankruptcy estate of insurance claims/claims for return premium.

It is noted that the guarantee funds mentioned above are still examining and paying out insurance claims/claims for return premium to the policyholders/claimants, and the trustee is involved on an ongoing basis in the guarantee funds' processing and payouts of the notified insurance claims/claims for return premium.

The trustee has also had talks with the guarantee funds and public authorities in other European countries. The trustee's talks and coordination with the various guarantee funds are still taking place and will take place as long as there are open insurance claims in the jurisdictions of the various guarantee fund schemes.

Approximately 63 hours have been spent by lawyers on such work since the most recent report.

### *6.1.4.5 Correspondence with policyholders and claimants*

The trustee has regular correspondence with policyholders in different countries about their insurance products, including their possible claims for return premium and claims for compensation against the bankruptcy estate.

Since the issue of the bankruptcy order and until 31 August 2023 the trustee was contacted 8,379 times by policyholders and claimants in the inbox set up separately by the trustee in respect of Qudos Insurance A/S in bankruptcy. To this should be added an additional number of inquiries that the trustee has received in other ways, for example by telephone or inquiries in person. The trustee is dealing with these inquiries on an ongoing basis.

In order to provide information about the bankruptcy and its legal effects to the affected parties, the trustee is regularly updating the bankruptcy estate's website with relevant information which the policyholders and claimants could need in connection with the handling of their possible claims against the bankruptcy estate.

Approximately 30 hours have been spent by lawyers on such work since the most recent report.

#### *6.1.4.6 Legal actions to which the bankruptcy estate has become a party or which have been brought by the bankruptcy estate*

After the issue of the bankruptcy order the trustee became a party to a number of legal actions that primarily are about rejected claims and which were already being handled by external lawyers on behalf of Qudos Insurance A/S (now in bankruptcy).

The legal actions are still being handled primarily by external lawyers. The trustee has corresponded and has had discussions with the lawyers about the cases.

The legal actions that Qudos Insurance A/S (now in bankruptcy) previously handled directly are now being handled by the trustee. The same predominantly applies to actions brought after the bankruptcy.

The legal actions to which the bankruptcy estate has either become a party or which have been brought by the bankruptcy estate are described in general below.

#### Legal action brought against a coverholder:

As also written in a previous report, the bankruptcy estate lodged a writ of summons against a coverholder by which the bankruptcy estate had raised a claim for payment of DKK 1,868,578.49. The coverholder was ordered to pay DKK 1,868,578.49 to the bankruptcy estate which was upheld by the Danish Western High Court on 10 February 2022. Bankruptcy proceedings were subsequently commenced against the coverholder and the trustee has filed a claim against the bankruptcy estate.

#### Legal actions about subrogation etc:

Three legal actions are currently pending concerning subrogation.

One of the legal actions was heard by the Court of Sønderborg on 9 and 10 May. The trustee has spent time on preparing the trial bundle and the case summary and preparing for the trial hearing.

The Court of Sønderborg delivered its judgment in the case on 7 June 2023 and the bankruptcy estate was successful in its claim. The opposing party subsequently appealed the case to the Danish Western High Court. The case is currently pending the appeal proceedings. The trustee's deadline for filing the reply is 3 November 2023.

The trustee has lodged a writ of summons in one of the other cases and has spent time on preparing the case, drafting the writ of summons and going through the opposing party's defence. The case is currently pending on the bankruptcy estate's drafting of the reply and on a date to be fixed for the trial hearing.

The trustee has spent time on settlement negotiations in the latter of the cases. After the cut-off date for this report the case was settled on 16 September 2023 when the trustee received a settlement amount of DKK 250,000.

The trustee also refers to previous reports in which the trustee gave an account of the work in connection with the legal actions about subrogation etc.

It means that since the most recent report approximately 220 hours have been spent by lawyers on the legal actions brought by the bankruptcy estate or to which the bankruptcy estate has become a party and which relate to the registered assets.

#### *6.1.4.7 Legal actions brought against the bankruptcy estate*

The trustee spent time on the legal actions brought against Qudos Insurance A/S in bankruptcy after the issue of the bankruptcy order. The legal actions are primarily being handled by external lawyers. The trustee has had many discussions with the external lawyers about the cases and has instructed them to make a plea of no case to answer in the cases in compliance with section 141 of the Bankruptcy Act.

The legal actions are pending in several European countries including Spain and Italy, but due to the EU law in the area, uniform claims are being raised in all cases.

Moreover, the trustee has continued the work on the legal actions brought against the bankruptcy estate with a request for the taking of evidence out of court. Five legal actions are currently pending concerning the taking of evidence out of court.

In connection with the cases the trustee has spent time on going through the request for the taking of evidence out of court with exhibits, including the questions. The trustee has also had discussions with the expert and the opposing party and in some of the cases the trustee has also participated in settlement negotiations. Finally, the trustee has spent time on drafting a submission with comments on the opposing party's request for the taking of evidence out of court as well as drafting his own questions to the expert.

In one case the trustee received DKK 91,218.75 on 31 March 2023 in compliance with an order for costs.

Approximately 112 hours have been spent by lawyers on the work relating to the legal actions brought against the bankruptcy estate since the most recent report.

#### *6.1.4.8 Compliance, GDPR and audits*

The trustee determines on an ongoing basis the agreements with the company's business partners including the coverholders and claims examiners that require a data processing agreement. The work of making sure that Qudos Insurance A/S in bankruptcy is wound up in compliance with the GDPR to the widest extent possible is still extensive.

The trustee's additional work has included determining the need for entering into or updating data processing agreements with the attached insurance brokers and claims examiners and taking a decision on the exchange of personal data in connection with various legal actions and investigations, etc.

The trustee also carried out audits of several of the bankruptcy estate's attached claims examiners. It is important for the ongoing claims handling including the relationship with the reinsurers that the claims examiners are audited on a regular basis to ensure the quality of the work performed.

The trustee also refers to previous reports containing accounts of the work relating to compliance, GDPR and audits.

Approximately 171 hours have been spent by lawyers on such work since the most recent report.

#### *6.1.4.9 Audit and bookkeeping*

The trustee previously took on external accounting assistance that continues to assist the bankruptcy estate.

The trustee has previously asked for the VAT and payroll tax for 2019 and 2020 to be reopened as the bankruptcy estate had received a binding assessment notice from the Danish Tax Agency concerning the conditions for calculating the company's VAT and payroll tax, which entail that the bankruptcy estate's reporting of VAT and payroll tax should be adjusted. The trustee has gone through vouchers and has had

ongoing discussions with the bankruptcy estate's employees concerning the request for reopening. Discussions and meetings have also been held on an ongoing basis with the external auditors about the matters.

It is also noted in respect of the bookkeeping and the declaration of direct and indirect taxes that the trustee's own employees are assisting with the bookkeeping of the day-to-day running of the bankruptcy estate, approving all payments by the bank and declaring direct and indirect taxes on a regular basis. The consequence is that the trustee's employees are also at the company in person on a regular basis.

Approximately 136 hours have been spent on such work since the most recent report of which 80 hours have been spent by the trustee's employee skilled in accounts.

#### **6.1.5      *General work on planning the notification process and the examination of claims process***

The trustee continues to spend time on the bankruptcy estate's register of debts and claims, including concerning the registration of the claims under the registered assets such as for example the policyholders' claims for return premium and the claimants' insurance claims against the bankruptcy estate. It is noted that if needed the bankruptcy estate hires external consultancy assistance from IT developers in this regard. IT experts from the trustee's office also provide assistance.

The trustee's work has also included the initial steps concerning the planning of the examination of the claims filed under the registered assets including work relating to the practical completion of the many claims and the formal completion of the claims. This work is still taking place.

It is noted that at this point in time 38,987 claims in total have been registered in the bankruptcy estate's register of debts and claims under the registered assets. The filed claims include filed claims for return premium and insurance claims, complaints and other claims filed under the registered assets.

Please see paragraphs 6.1.5.1 to 6.1.5.3 below for more details about the work.

##### **6.1.5.1      *Web form, repayments of premium (claims for return premium)***

The trustee continued to spend time on processing and handling the claims for return of premiums against the bankruptcy estate and the Guarantee Fund for Non-life Insurers filed via the web form designed by the bankruptcy estate in collaboration with the Guarantee Fund for Non-life Insurers and its administration company Topdanmark Forsikring A/S. The trustee's expects that the web form will be closed down in December 2023, but until then the form will be kept available for any new claims.

As at 31 August 2023, 38,022 claims for return premium had been filed by using the return premium form. Add to this the filing of claims for return premium through mass reporting (for example a claim for an entire insurance portfolio) so-called bulks.

The trustee continued to have in-depth discussions with Topdanmark Forsikring A/S about the transfer of data from the web form to the bankruptcy estate's register of debts and claims. It is noted that the trustee has prepared a specific format for the loading so that it is ensured that the trustee has the necessary information for the future examination of claims, including a calculation of the amount of the claim for return premium, whether the foreign funds and/or the Guarantee Fund for Non-life Insurers have provided cover, the status of the processing of the claim, etc. The work in this connection is still taking place.

Approximately 57 hours have been spent by lawyers on such work since the most recent report.

#### *6.1.5.2 Notification of claims from claims examiners*

The trustee continued to spend time on dealing with the procedure for the notification of the accepted insurance claims from the various claims examiners not covered by guarantee funds to the bankruptcy estate.

The trustee held meetings with the claims examiners about the status for filing approved insurance claims with the bankruptcy estate. Several claims examiners have informed the trustee in this connection that the number of insurance claims not covered by the guarantee funds is limited, which is why the claims examiners only expect to file a limited number of losses for registration in the register of debts and claims. The trustee is currently in the process of verifying whether this is correct which entails going through the information in the claims bordereaux received from the claims examiners. This work is still taking place.

389 insurance claims had been notified as at 31 August 2023, but the trustee still expects a significant number of proofs of claim in future and has therefore intensified the focus on the reporting from the respective claims examiners.

Approximately 50 hours have been spent by lawyers on such work since the most recent report.

#### *6.1.5.3 Web form for complaints*

As previously stated, the trustee has designed a web form to handle complaints. The claimant can give notice of a complaint claim by using the form if the claims examiner has rejected the claim if, for example, it is a claim under a terminated insurance policy (loss suffered after 28 March 2019) and/or if the claimant disagrees with the claims examiner about the compensation that has been awarded.

As at 31 August 2023, a total of 35 complaints had been made against the bankruptcy estate by using the complaint form.

The trustee has started to examine the complaints, see also paragraph 6.1.6.

Approximately 50 hours have been spent by lawyers on such work since the most recent report.

## **6.1.6 Examination of claims**

The trustee has started examining the filed complaint claims and has drafted preliminary recommendations.

It is noted that several claims were reclassified in connection with the examination of claims as the claims were actually claims filed for return of premium. An examination of claims meeting before the bankruptcy court has not yet been convened. A detailed account of the complaints is provided in paragraph 6.1.5.3 above.

The work has also included general planning of the examination of claims, including dealing with the many foreign creditors and carrying out (future) mass examination of claims.

The trustee expects to convene the first examination of claims meeting during 2024 as the practical matters relating to the examination of claims are still unclarified.

Approximately 431 hours have been spent by lawyers on such work since the most recent report.

## **6.1.7 The creditors' special status, if any, in relation to receivables from reinsurers and other assets**

### **6.1.7.1 The Danish Guarantee Fund for Non-life Insurers**

The trustee had talks and corresponded with the Guarantee Fund for Non-life Insurers about whether the Guarantee Fund for Non-life Insurers has a special legal status in the bankruptcy estate.

Essentially, the issue is whether the Guarantee Fund for Non-life Insurers has a right of priority/a right as a secured creditor to the amounts that have already been paid out or which will be paid out in future through the reinsurance programme of Qudos Insurance A/S in bankruptcy in relation to the losses where the Guarantee Fund for Non-life Insurers has paid or will pay compensation to policyholders or claimants in future.



The Guarantee Fund has presented a corresponding point of view in Alpha Insurance A/S in bankruptcy. Against this background, the trustee examined the claim filed by the Guarantee Fund for Non-life Insurers against Alpha Insurance A/S in bankruptcy, and the trustee dismissed that the Guarantee Fund for Non-life Insurers should have a right of priority/a right as a secured creditor. It is therefore the trustee's opinion that the Guarantee Fund for Non-life Insurers is to be treated the same way as the other insurance creditors. The examination of claims meeting was held on 5 October 2022 when the trustee of Alpha Insurance A/S in bankruptcy maintained the rejection of the claim.

On 1 November 2022, the Guarantee Fund for Non-life Insurers lodged a writ of summons against Alpha Insurance A/S in bankruptcy. Pleadings have been exchanged in the case and most recently the trustee filed a rejoinder in the case on 26 June 2023.

It is the trustee's opinion that the pending legal action between the Guarantee Fund for Non-life Insurers and Alpha Insurance A/S in bankruptcy could have a big financial impact on Qudos Insurance A/S in bankruptcy, which is why the trustee is following the development in the case closely.

This issue is still the subject of discussions and correspondence between the parties.

#### 6.1.7.2 *The EFTA Court*

As written in previous reports, the trustee learned that a court in Liechtenstein had asked the EFTA Court for an advisory opinion about the interpretation of the Solvency II Directive, including the issue of whether claims for return premium raised after the commencement of the bankruptcy proceedings should be deemed to be a preferential claim within the meaning of the Directive. The EFTA Court delivered its decision in the case on 10 March 2020.

The EFTA Court ruled in its decision that claims for return premium raised after liquidation has started (the bankruptcy proceedings) are not covered by the definition of an insurance claim of the Solvency II Directive (Article 268(1)(g)).

The trustee has continued to study the scope of the decision, including in respect of the importance of the decision to the bankruptcy proceedings of Qudos and the legal position of the creditors. The work in this connection is still going on.

Approximately 30 hours have been spent by lawyers on the above work since the most recent report.

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It means that approximately 3,232 hours in total have been spent on work relating to the registered assets of which 80 hours have been spent by the trustee's employees skilled in accounts.

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## 6.2 Time spent on the unencumbered assets

The trustee's work relating to the unencumbered assets in the period since 1 March 2023 and up to 31 August 2023 has focused on the following tasks:

## 6.3 Rent deposit - Købmagergade 22

Qudos Insurance A/S had a lease on Købmagergade 22, 1250 Copenhagen K, Denmark before it went bankrupt. In connection with vacating the premises the landlord originally raised a claim for DKK 1,097,731.15 exclusive of VAT concerning rent owed for Q4 2018 and a claim for DKK 1,053,700 exclusive of VAT concerning repair costs. The landlord set off the claims against the deposit of DKK 2,103,006.88.

In the trustee's opinion, the matter between the bankruptcy estate and the former landlord was to be handled by an ad-hoc trustee. According to information received, the ad-hoc trustee has had discussions with the landlord about the claim calculated by the landlord in respect of rent owed and repair costs.

After the bankruptcy estate had vacated the premises, the landlord entered into an agreement with a third party on the third party taking over the leases from the bankruptcy estate. There has subsequently been extensive correspondence between the bankruptcy estate and the landlord, particularly in respect of the obligations that the third party had perhaps taken over from the bankruptcy estate and about the landlord being able to demand payment from the third party for the same repair costs for which the landlord raised a claim against the bankruptcy estate.

In connection with the expiry of the fixed-term lease between the landlord and the third party the landlord made a final calculation of the repair costs concerning the leased premises whereby the repair costs were distributed proportionally between the period when the bankruptcy estate had occupied the leased premises and the period when the third party had occupied the leased premises. The result was that the landlord reduced its claim for repair costs against the bankruptcy estate to DKK 83,883.56 exclusive of VAT. On 5 September 2023, after the cut-off date of this report, the landlord repaid DKK 786,239.61 of the paid deposit to the bankruptcy estate.

The ad-hoc trustee has assessed the contractual basis with the landlord, the contractual basis between the third party and the landlord and the other circumstances concerning the bankruptcy estate's lease and has concluded on such basis that the bankruptcy estate does not have any further claims against the landlord in respect of the lease entered into concerning the premises situated at Købmagergade 22, 1250 Copenhagen K, Denmark.

The ad-hoc trustee has spent approximately 49 hours on the estate administration.

#### **6.4 Litigation regarding claims for avoidance and recovery and claims for compensation**

As previously stated, the trustee has brought a number of legal actions regarding claims for avoidance and recovery.

The individual cases are described below.

##### ***6.4.1 Legal action regarding claim for compensation against two members of the former management of Qudos Insurance A/S***

As previously stated, the bankruptcy estate brought a legal action on 26 November 2021 against two members of the former management of Qudos Insurance A/S before the Copenhagen City Court concerning a claim for compensation of DKK 25,800,000 relating to the participation by the two former members of the management in a transaction from which the bankruptcy estate's claim for recovery and/or avoidance against the foreign company arose.

The bankruptcy estate also notified the other members of the former management of Qudos Insurance A/S, and the bankruptcy estate reserved the right to raise a claim for compensation against the former members of the management if the claim for compensation cannot be raised in the legal actions that have been brought and/or the defendant parties, including the foreign company, do not have the required ability to pay.

The defendants in the court case before the Copenhagen City Court pleaded a defence on the points of law that the case should be dismissed by referring to an arbitration clause in the contracts of the members of the management with Qudos Insurance A/S. The issue of the points of law was pleaded and tried separately, and the trial in part took place on 6 February 2023.

The Copenhagen City Court gave a ruling on the subdivided claim on 6 March 2023 where the court found that in respect of the legal action the bankruptcy estate was not bound by the arbitration clause and that the defendants' plea of no case to answer was therefore not allowed.

The defendants subsequently applied to the Danish Appeals Permission Board for leave to appeal against the ruling by the Copenhagen City Court of 6 March 2023 to the Danish Eastern High Court and requested at the same time that the preparation of the merits of the case before the Copenhagen City Court was stayed. The Copenhagen City Court found by the court records of 28 March 2023 that the defendants' request for a stay on the decision by the Danish Appeals Permission Board and perhaps the decision by the Danish Eastern High Court was not to be allowed, but on the contrary the matter was to be proceed with.

The defendants were granted leave from the Danish Appeals Permission Board on 22 May 2023 to appeal against the ruling on the merits of the case by the Copenhagen City Court of 6 March 2023 to the Danish Eastern High Court. The defendants subsequently requested the Copenhagen City Court again to stay the case before the Copenhagen City Court until the decision in the appeal proceedings by the Danish Eastern High Court.

The Copenhagen City Court found by the court records of 8 June 2023 that the case was still to be proceeded with, which is why the request for a stay was not allowed. The substantive question before the Copenhagen City Court and the appeal on the merits of the case before the Danish Eastern High Court are consequently still pending in parallel.

The defendants have requested oral proceedings in the appeal proceedings before the Danish Eastern High Court, but a trial hearing has not yet been scheduled. The bankruptcy estate filed the respondent's notice on 25 August 2023 and is currently waiting to be summoned to a preparatory hearing over the telephone where it is expected that the appeal proceedings will be scheduled.

The bankruptcy estate's work has included exchanging pleadings in both the appeal proceedings before the Danish Eastern High Court and exchanging pleadings about the substantive issue before the Copenhagen City Court. The bankruptcy estate's work in the appeal proceedings has included reading the defendants' notice of appeal and drafting the respondent's notice. In the case before the Copenhagen City Court on the substantive issue, the bankruptcy estate's work has included reading the defendants' defence, examinations and drafting the rejoinder. In addition, the bankruptcy estate has submitted several notices to the court in the two pending legal actions.

The exchange of pleadings in the case and the work performed are characterised by complex issues. Moreover, the issues claimed in the case are being examined concurrently with the exchange of pleadings.

In addition to the work mentioned above, the bankruptcy estate's work has included following up on the forwarded notifications of third parties in the case.

Approximately 218 hours in total have been spent by lawyers on the above work since the most recent report.

#### ***6.4.2 Legal action about claims for recovery and compensation against Qudos Insurance A/S's parent company and other consolidated companies about illegal funds generated from operations***

On 22 December 2020, the bankruptcy estate brought a legal action against Qudos Insurance A/S's ultimate parent company and two other consolidated companies claiming payment of DKK 52,825,500 to

the bankruptcy estate plus interest under the Danish Interest Act and section 215(1) of the Danish Companies Act.

The subject-matter of the case is the bankruptcy estate's claim for recovery/compensation in relation to financial funds that Qudos Insurance A/S made available for the acquisition of Qudos Insurance A/S by Qudos Insurance A/S's ultimate parent company from Echelon Financial Holding Inc. on 7 March 2017 that in the trustee's opinion is contrary to the prohibition against funds generated from operations laid down in section 206(1) of the Danish Companies Act.

At the same time as bringing the legal action, the bankruptcy estate sent notices of the action to the entire former management of Qudos Insurance A/S as section 215(2) of the Danish Companies Act stipulates that there is secondary strict liability for "*the persons who have agreed to or maintained any transactions*" in conflict with the prohibition against financing using funds generated from operations if it is not otherwise possible to claim back the amounts/loss from the defendant companies.

The bankruptcy estate has requested an expert survey and appraisal in the case which was granted by the Copenhagen City Court by a ruling of 1 February 2022. Many pleadings were subsequently exchanged regarding the expert survey and appraisal, including about the questions, the expert and the appendices that the expert could receive. The exchange of pleadings resulted in the Copenhagen City Court giving two rulings on 4 April 2022 and on 9 August 2022 about the process of appointing an expert and the appendices that the expert could receive. The bankruptcy estate was successful in both rulings.

The defendants subsequently asked the Danish Appeals Permission Board for leave to appeal against both rulings to the Danish Eastern High Court where in connection with the hearing of the defendants' requests for leave to appeal the bankruptcy estate submitted comments to the Danish Appeals Permission Board.

On 16 June 2022 and 1 November 2022 respectively, the Danish Appeals Permission Board informed the parties that the defendants were not granted leave to appeal against the rulings of 4 April 2022 or of 9 August 2022 of the Copenhagen City Court, which is why the rulings in favour of the bankruptcy estate were final.

By the authority of the court the bankruptcy estate has contacted the trade organisation FSR - Danske Revisorer and asked FSR - Danske Revisorer to propose a suitable expert including by contacting Nordisk Revisor Forbund.

However, after a long process FSR - Danske Revisorer informed the parties in the spring of 2023 that it was not possible for FSR - Danske Revisorer to find a suitable expert in Denmark who did not have any conflict of interest in respect of the parties to the case. The bankruptcy estate is now looking into the

possibility of finding and appointing a suitable expert from Sweden and/or Norway who does not have any conflict of interest.

The bankruptcy estate, the defendants and the Copenhagen City Court and others had and still have extensive correspondence about the process of the expert survey and appraisal.

A trial hearing in the case before the Copenhagen City Court has been scheduled for June 2023. As the expert survey and appraisal has not yet been carried out due to the practical challenges of appointing a qualified expert, the Copenhagen City Court decided on 18 April 2023 to cancel the scheduled trial hearing in June 2023 and reschedule the trial hearing.

The Copenhagen City Court has not yet fixed any new dates for the trial hearing.

In addition to the work mentioned above, the bankruptcy estate's work has included following up on the forwarded notifications of third parties in the case.

Approximately 140 hours in total have been spent by lawyers on the above work since the most recent report.

#### **6.4.3 *Claims for avoidance, repayment and compensation against a person with a connection to Qudos Insurance A/S and this person's company***

On 20 December 2019, the bankruptcy estate brought a legal action against a person attached to Qudos Insurance A/S and this person's company. The claim amounted to DKK 16,870,385 in total.

The District Court of Lyngby delivered its judgment in the case on 30 June 2021 by which the defendant person and this person's company were ordered to pay DKK 15,640,942 plus statutory interest from 20 December 2019 and the legal costs of the case of DKK 633,000 to the bankruptcy estate.

The defendant person appealed against the judgment by the District Court of Lyngby of 30 June 2021 to the Danish Eastern High Court, and the bankruptcy estate cross-appealed against a claim in part of DKK 500,000 in which the bankruptcy estate was unsuccessful before the District Court.

The final hearing before the Danish Eastern High Court was held on 6, 8 and 9 September 2022.

On 7 October 2022, the Danish Eastern High Court passed a judgment in the appeal proceedings where the High Court upheld the judgment by the District Court with the amendment that the defendants were ordered to pay an additional DKK 500,000 to the bankruptcy estate plus statutory interest from 20 December 2019 as well as legal costs of DKK 1,000,000.

The bankruptcy estate consequently succeeded in its entire claim in the appeal proceedings, and the defendants were to pay DKK 16,140,942 plus statutory interest from 20 December 2019 and legal costs before both courts of DKK 1,000,000 in total to the bankruptcy estate, ie approximately DKK 20.5 million, within two weeks from the passing of the judgment.

As previously stated, the bankruptcy estate notified the other members of the former management of Qudos Insurance A/S in this connection. A right was reserved in the notifications to make these parties personally liable in damages if recovery/avoidance and/or compensation were impossible in respect of the defendants or if the defendants do not have the required ability to pay.

On 11 October 2022, the defendants applied to the Danish Appeals Permission Board for leave to appeal the judgment by the Danish Eastern High Court to the Danish Supreme Court.

As the defendants had not paid the amount owed to the bankruptcy estate on expiry of the time allowed for payment the bankruptcy estate filed a petition in bankruptcy against the defendant company. It is noted that according to the facts of the case the person in question lives abroad, but a subsequent collection has not been ruled out.

The petition in bankruptcy was considered at a meeting at the Bankruptcy Division of the Danish Maritime and Commercial High Court on 28 November 2022 when the case was stayed pending an exchange of pleadings and legal arguments.

On 21 December 2022, a bankruptcy court hearing was held before the Danish Maritime and Commercial High Court where the bankruptcy court found that the conditions for commencing bankruptcy proceedings against the company had been fulfilled, see section 17 of the Danish Bankruptcy Act. A bankruptcy order was subsequently issued and I, Boris Frederiksen, was appointed as the trustee.

The defendant company appealed against the bankruptcy order of 21 December 2022 to the Danish Eastern High Court when a stay of execution of the appeal was also requested. The request for a stay of execution was not honoured, neither by the Danish Maritime and Commercial High Court nor by the Danish Eastern High Court.

On 10 February 2023, the Danish Eastern High Court upheld the ruling of 21 December 2022 of the Danish Maritime and Commercial High Court after which the bankruptcy order became final.

The Danish Appeals Permission Board decided on 22 May 2023 that there was no basis for granting leave to appeal to a third instance.

The judgment delivered by the Danish Eastern High Court on 7 October 2022 is therefore final.

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The bankruptcy estate of Qudos Insurance A/S was contacted by the attorney representing the defendants after the decision by the Danish Appeals Permission Board about the possibility of one or several third parties repaying and consequently assuming the claim of the bankruptcy estate of approximately DKK 21.5 million with the consequence that the (now bankrupt) company was to be released to the shareholder under section 144 of the Danish Bankruptcy Act in connection with repayment and/or obtaining consent from all the creditors against the bankruptcy estate.

A process for releasing the company under section 144 of the Danish Bankruptcy Act was started in July 2023 following prolonged discussions. Qudos Insurance A/S in bankruptcy received DKK 21,586,388.75 in that connection on 4 July 2023.

The bankruptcy estate has had additional work concerning the process under section 144. The bankruptcy court gave a ruling on 7 August 2023 which resulted, according to its wording, in a release of the assets but not the company to the shareholder.

The Danish Eastern High Court remitted the case by a decision of 29 September 2023 to the bankruptcy court for another hearing and the trustee is currently waiting for these proceedings.

119 hours in total have been spent by lawyers on the above work since the most recent report.

#### **6.4.4 *Claims for avoidance and recovery against a third party and a consolidated company***

On 20 December 2019, the bankruptcy estate brought a legal action about a claim for avoidance, recovery and/or compensation of DKK 5,000,000 against a third party and a consolidated company.

The case was argued before the Copenhagen City Court on 27, 28 and 29 October 2021. The Copenhagen City Court delivered its judgment in the case on 26 November 2021. The bankruptcy estate was successful in its claim, and the third party and the consolidated company were consequently ordered jointly and severally to pay Qudos Insurance A/S in bankruptcy DKK 5,000,000 plus statutory interest.

So far the bankruptcy estate has received DKK 5,000,000.

The bankruptcy estate notified the members of the former management of Qudos Insurance A/S. A right is reserved in the notifications to make these parties personally liable in damages if it is not possible to enforce the claim or recover the remaining amounts from the defendant parties.

The defendants have appealed against the judgment by the Copenhagen City Court to the Danish Eastern High Court where the appeals are now being tried together.



The appeal proceedings had been scheduled for trial before the Danish Eastern High Court on 27 and 28 February 2023. However, three days before the final hearing, on 24 February 2023, the consolidated company requested that the case be rescheduled as a summoned witness was unable to appear in court and make a statement.

The Danish Eastern High Court consequently decided to reschedule the case for 28-29 and 30 October 2024.

Time has been spent on following up on the forwarded notifications of third parties in the case.

Approximately 10 hours in total have been spent by lawyers on the above work since the most recent report.

## **6.5 Case regarding liability in damages against the former management and external auditor of Qudos Insurance A/S**

The bankruptcy estate lodged a writ of summons on 3 May 2021 against the members of the former management of Qudos Insurance A/S and the external auditor, claiming payment of DKK 110,000,000.

The reason why was the trustee's assessment based on the examinations of the bankruptcy estate's affairs that there was a basis for raising a claim for damages against the entire former management of Qudos Insurance A/S and the company's former external auditor.

The legal action was brought before the District Court of Lyngby where the case is currently pending.

A preliminary hearing was held before the District Court of Lyngby on 31 January 2022 where the final hearing in the case was scheduled for February-March 2024.

By the bankruptcy estate's reply of 2 May 2022, the bankruptcy estate requested two expert surveys and appraisals, including of the 2017 annual report of Qudos Insurance A/S, the solvency ratio and the statement of loss. The bankruptcy estate also requested discovery of the working papers of the former auditor of Qudos Insurance A/S and other audit documentation.

A lot of pleadings in the case were exchanged in the period from May 2022 to February 2023 about the framework of the expert survey and appraisal including the questions for the expert, the appointment of an expert and the expert's qualifications, the exhibits in the case and the bankruptcy estate's request for discovery against the former auditor of Qudos Insurance A/S.

After a long process FSR - Danske Revisorer informed the parties in the spring of 2023 that it was not possible for FSR - Danske Revisorer to find a suitable expert in Denmark who does not have any conflict of interest in respect of the parties to the case.

A hearing before the District Court of Lyngby was held over the telephone on 13 April 2023 to discuss the further preparation of the case including the completion of an expert survey and appraisal and the time and date of the trial hearing. The District Court of Lyngby decided after the hearing over the telephone that the trial hearing scheduled for February, March and April 2024 was to be rescheduled as the expert survey and appraisal had not yet been completed and that the possibility of appointing a suitable expert from Sweden or Norway was to be clarified.

The bankruptcy estate is now looking into the possibility of finding and appointing a suitable expert from Sweden and/or Norway who does not have any conflict of interest. The bankruptcy estate, the defendants and the District Court of Lyngby still have extensive correspondence about the process of the expert survey and appraisal.

The District Court of Lyngby has not yet fixed any new dates for the trial hearing.

On 19 October 2022, the District Court of Lyngby gave a ruling in respect of the request for discovery made by the bankruptcy estate against the former auditor of Qudos Insurance A/S which was partly honoured.

The District Court of Lyngby ordered by the ruling the former auditor of Qudos Insurance A/S to hand over his working papers relating to specific matters in the 2017 annual report of Qudos Insurance A/S, which the bankruptcy estate has claimed are incorrect accounting and/or recognised in terms of the solvency. But the bankruptcy estate's request for discovery in respect of the other audit documentation was not honoured.

The former auditor of Qudos Insurance A/S asked the Danish Appeals Permission Board on 2 November 2022 for leave to partly appeal against the ruling of 19 October 2022 of the District Court of Lyngby on the auditor's working papers to the Danish Eastern High Court, and on 2 November 2022 the bankruptcy estate also asked the Danish Appeals Permission Board for leave to partly appeal against the ruling of 19 October 2022 of the District Court of Lyngby on the other audit documentation to the Danish Eastern High Court.

The Danish Appeals Permission Board announced on 9 June 2023 and 12 June 2023 respectively that the request of the bankruptcy estate and the former auditor of Qudos Insurance A/S for leave to partly appeal against the ruling on discovery of 19 October 2022 by the District Court of Lyngby to the Danish Eastern High Court had not been granted.

The ruling on discovery of 19 October 2022 by the District Court Lyngby was consequently final, which is why the bankruptcy estate has again asked the former auditor of Qudos Insurance A/S to surrender the working papers ordered by the disclosure by litigants.

The former external auditor of Qudos Insurance A/S has not yet surrendered the working papers ordered by the discovery according to the ruling of 19 October 2022 by the District Court of Lyngby.

The exchange of pleadings in the case and the work performed are characterised by complex issues and an extensive amount of material in the case. Moreover, the issues claimed in the case are being examined concurrently with the exchange of pleadings.

The District Court of Lyngby decided at the interim hearing on 31 January 2022 that any evidence claimed in the case that is not in Danish, Swedish or Norwegian must be translated into Danish.

The work is extensive as approximately 5,000 pages of exhibits are to be translated. The translations are made partly by an internal translator with the trustee and by an external translation agency with which the bankruptcy estate has entered into an agreement.

The trustee's work has continued to include going through the exhibits in the case and deciding which to translate as well as coordinating the translation process with the external translation agency.

A confidentiality agreement and a data processing agreement on the information in the case and documents were entered into in connection with the conclusion of the cooperation agreement with the external translation agency.

The bankruptcy estate will pay the costs of the external translation agency from the bankruptcy estate's unencumbered assets. The costs will be sought covered in connection with the calculation of the legal costs of the case.

The work regarding the case involving liability in damages against the former management and external auditor of Qudos Insurance A/S is still taking place.

Approximately 458 hours have been spent by lawyers on such work since the most recent report.

267 hours have been spent by lawyers and approximately 377 hours have been spent by the bankruptcy estate's internal translator on coordinating the translations and on translating the exhibits of the case.

### **6.5.1 Complaint before the Danish Disciplinary Board on Auditors (Revisornævnet)**

On 29 April 2022, the bankruptcy estate filed an extensive complaint with the Danish Disciplinary Board on Auditors.

The bankruptcy estate requested in the complaint the position of the Danish Disciplinary Board on Auditors on whether the former external auditor's actions in connection with the auditing of the 2017 annual report of Qudos Insurance A/S were contrary to generally accepted auditing standards.

In respect of the basis for the complaint, the trustee has thoroughly examined and assessed the relevant auditing rules, including international auditing and accounting standards, in relation to the facts of the case. The issues are complex, technical auditing issues with extensive case documents.

The former external auditor of Qudos Insurance A/S filed a rejoinder in the case before the Danish Disciplinary Board on Auditors on 15 May 2023. In addition, the parties subsequently filed a comprehensive case summary with the Danish Disciplinary Board on Auditors.

The hearing before the Danish Disciplinary Board on Auditors was held on 3 October 2023, which was after the cut-off date of this report.

As a consequence, the bankruptcy estate has had work in the previous period with drafting an extensive comprehensive case summary and preparing for attending in person the hearing before the Danish Disciplinary Board on Auditors.

The work relating to the complaint before the Danish Disciplinary Board on Auditors is still being performed.

Approximately 192 hours have been spent by lawyers on such work since the most recent report.

### **6.6 Other costs paid by Qudos Insurance A/S contrary to the rules on illegal funds generated from operations**

On 11 December 2019, the bankruptcy estate entered into a suspension agreement with the parent company and two other consolidated companies of Qudos Insurance A/S regarding a claim for advisor costs paid by Qudos Insurance A/S relating to the acquisition of shares in Qudos Insurance A/S by the parent company in March 2017. The total claim amounted to DKK 17,619,500.

On several occasions, the consolidated companies have presented extensive material consisting of reports, analyses, etc which the trustee has studied and assessed.

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The trustee is still in dialogue with the consolidated companies about the claim raised.

Approximately 27 hours have been spent by lawyers on such work since the most recent report.

## **6.7 Other estate administration**

Approximately 183 hours have been spent by lawyers on the general estate administration since the most recent report, including corresponding with the creditors relating to the operations and the bankruptcy court, registering the proofs of claim in the register of debts and claims of the bankruptcy estate and on preparing this report under section 125(4) of the Bankruptcy Act.

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It means that 1,990 hours in total have been spent on the unencumbered assets.

## **7. SUMMARY OF THE TIME SPENT**

It means that approximately 5,222 hours in total have been spent on the estate administration, including approximately 3,232 hours on work relating to the registered assets, see paragraph 6.1, and approximately 1,990 hours relating to the unencumbered assets, see paragraph 6.2, in the period from 1 March 2023 and up to 31 August 2023.

## **8. FUTURE ESTATE ADMINISTRATION AND THE WINDING-UP OF THE ESTATE**

The estate administration in the next period will continue to focus on the operations of the bankruptcy estate as the continuation of the operations is necessary to secure the bankruptcy estate's assets and limit its liabilities.

As a consequence of the many estimates relating to both the calculation of the assets and the liabilities, it is still not yet possible to estimate the expected dividend in the bankruptcy estate, including the cover from the registered assets and the unencumbered assets. It is also not possible to estimate when it can be expected that the bankruptcy estate will be wound up.

## **9. INTERIM FEE**

The trustee has not requested or received any interim fee since the most recent report.

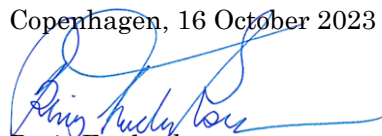
## **10. OTHER INFORMATION**

You can find additional contact information on the website [www.gudosinsurance.dk](http://www.gudosinsurance.dk) which is regularly updated with relevant information about the estate administration.

## 11. NEXT CREDITOR INFORMATION

The next creditor information with a report under section 125(4) of the Bankruptcy Act will be sent on 16 April 2024 at the latest to the bankruptcy court and the creditors.

Copenhagen, 16 October 2023



Boris Frederiksen

Partner, Attorney