

STATE OF WASHINGTON

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER

Phone: (360) 725-7000



FILED

**DECLARATION OF MAILING**

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to parties listed below  
DATED this 21<sup>st</sup> day of December, 2006 at Tumwater, Washington.

OFFICE OF  
INSURANCE COMMISSIONER

2006 DEC -8 P 4: 16

HEARINGS UNIT  
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Signed: Wendy Galloway

Patricia D. Petersen  
Chief Hearing Officer  
(360) 725-7105

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer  
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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the Proposed Acquisition of: )  
)  
)  
UNIGARD INSURANCE COMPANY, )  
UNIGARD INDEMNITY COMPANY, and )  
UNIGARD PACIFIC INSURANCE )  
COMPANY, Washington Insurers, by )  
AXA, a French Stock Corporation, and )  
AXA ASSURANCES VIE MUTUELLE, )  
AXA COURTAGE ASSURANCE )  
MUTUELLE, and AXA ASSURANCES )  
IARD, MUTUELLE, )  
French Mutual Insurers. )

Docket No. G2006-64  
  
FINAL ORDER APPROVING  
ACQUISITION OF  
CONTROL

TO: Daniel Rabinowitz, Esq.  
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## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 2

Anne B. Smith, Esq.  
Senior Vice President & General Counsel  
Unigard Insurance Company & Winterthur U.S. Holdings  
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Sun Prairie, WI 53596

Peter Christen, President and CEO  
Unigard Insurance Group  
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Bellevue, WA, 98008

John McPeak, CPA, Chief Administrative Officer  
Unigard Insurance Group  
15805 NE 24<sup>th</sup> Street  
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**COPY TO:** Mike Kreidler, Insurance Commissioner  
Michael G. Watson, Chief Deputy Insurance Commissioner  
James T. Odiome, Deputy Commissioner, Company Supervision Div.  
Andrea Philhower, Staff Attorney, Legal Affairs Division  
Ronald Pastuch, Holding Company Manager, Company Supervision  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

Pursuant to Chapter 48.04 RCW, Chapter 34.05 RCW, RCW 48.31B.015, and Chapter 284-18 WAC, and after notice to interested parties and persons, the above-entitled matter came on regularly for hearing before the Insurance Commissioner of the state of Washington ("Commissioner") commencing at 2:00 p.m. PST on December 4, 2006, in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA 98501. All persons to be affected by the above-entitled matter were given the right to be present at such hearing during the giving of testimony, and had reasonable opportunity to inspect all documentary evidence, to examine witnesses and present oral and written statements. The Commissioner was represented by Andrea L. Philhower, Staff Attorney in his Legal Affairs Division. AXA, AXA Assurances Vie Mutuelle, AXA Courtage Assurance Mutuelle, and AXA Assurances IARD Mutuelle were represented by Daniel Rabinowitz, Esq. of Sullivan & Cromwell LLP, New York and local counsel Timothy J. Parker, Esq. of Carney Badley Spellman PS, Seattle. Credit Suisse Group was represented by Jonathan J. Kelly, Esq., of Dewey Ballantine LLP, New York. Winterthur U.S. Holdings Inc. and Unigard Insurance Company were represented by Anne B. Smith, Esq. of Sun Prairie, WI, their Senior Vice President and General Counsel. Other individuals participating in the proceeding were Ronald J. Pastuch, Holding Company Manager in the Company Supervision Division of the Washington State Office of the Insurance Commissioner; George Stansfield, of Paris, France, Senior Vice President and Group General Counsel of AXA, AXA Assurances Vie Mutuelle, AXA Courtage Assurance Mutuelle, and AXA Assurances IARD Mutuelle; Peter Christen of Bellevue, WA,

## **ORDER APPROVING ACQUISITION OF CONTROL**

Docket No. G2006-64 - Page 3

President and CEO of Unigard Insurance Group; John McPeak, CPA, of Bellevue, WA, Chief Administrative Officer of Unigard Insurance Group; and Michael Smith, Esq. of Sun Prairie, WI, Corporate Counsel of Winterthur North America.

### **NATURE OF PROCEEDING**

By filing Form A (preacquisition notification and application pursuant to Chapter 48.31B, Revised Code of Washington for Approval of the Acquisition of Control of (1) Unigard Insurance Company, (2) Unigard Pacific Insurance Company, and (3) Unigard Indemnity Company) on July 25, 2006, AXA, AXA Assurances Vie Mutuelle, AXA Courtaige Assurance Mutuelle, and AXA Assurances IARD Mutuelle (together, the "Applicants") have applied for the Commissioner's approval of their proposed acquisition of control of Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company. Specifically, the Applicants propose to acquire all issued and outstanding shares of Winterthur Swiss Insurance Company, so that Winterthur Swiss Insurance Company would become a direct wholly-owned subsidiary of the Applicants. Further, as a result of this acquisition, all of the issued and outstanding shares of Winterthur U.S. Holdings, Inc., Winterthur U.S. Holdings, Inc.'s WUSH's wholly owned subsidiary Unigard Inc., and Unigard Inc.'s wholly owned subsidiaries Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company (the "Unigard Companies"), would then all become indirect wholly-owned subsidiaries of the Applicants. As part of the overall transaction, which involves a purchase price of approximately \$9 billion, the Applicants also propose to acquire General Casualty Company of Wisconsin and its six specified subsidiaries and Southern Guaranty Insurance Company of Wisconsin and its three specified subsidiaries. The portion of the proposed transaction which involves acquisition of these other companies is subject to the jurisdiction of the other domiciliary states involved and is therefore not the subject of the proceeding herein.

RCW 48.31B.015, part of the Washington Insurer Holding Company Act, requires that the Commissioner hold a adjudicative proceeding to examine the evidence and determine whether the proposed acquisition of control of the Unigard Companies satisfies the applicable statutory criteria and should be approved. The Applicants desire to complete the closing of this proposed acquisition on or before December 31, 2006.

### **FINDINGS OF FACT**

Having considered the oral evidence presented at the hearing and the documents on file herein, including the Form A and exhibits admitted in this proceeding, the undersigned finds as follows:

1. The Commissioner has duly and properly appointed the undersigned to conduct the adjudicative proceeding in this matter and to make the final decision herein. The hearing was duly and properly convened and all substantive and procedural requirements under the laws of the state of Washington have been satisfied.

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 4

2. The Applicants are AXA, AXA Assurances IARD Mutuelle, AXA Assurances Vie Mutuelle and AXA Courtage Assurance Mutuelle. The Applicants together propose to purchase all shares of Winterthur Swiss Insurance Company. [Testimony of George Stansfield; Ex. 2, Pre-Filed Testimony of George Stansfield; Ex. 1, Form A, Share Purchase Agreement dated June 13, 2006 by and between Credit Suisse Group and AXA.] The Applicants propose to acquire control over Winterthur Swiss Insurance Company by purchasing all of the issued and outstanding shares of Winterthur Swiss Insurance Company from its current owner, Credit Suisse Group. As a result, the Applicants would thereby acquire indirect control over the Unigard Companies. [Testimony of George Stansfield; Ex. 2, Pre-Filed Testimony of George Stansfield; Ex. 1, Form A, Share Purchase Agreement.]
3. Credit Suisse Group, the proposed seller, is a Swiss stock corporation with its headquarters in Zurich, Switzerland. Credit Suisse Group, with its affiliates, provides non-life insurance products and services, including motor vehicle, fire, property, general liability and collective accident insurance to private and corporate customers predominantly in Europe and the United States, and life insurance and pension products and services to private and corporate clients in Europe and selected Asian markets, and transacts other business operations worldwide. [Ex. 1, Form A, Share Purchase Agreement.]
4. Credit Suisse Group owns all issued and outstanding shares of Winterthur Swiss Insurance Company, a Swiss stock corporation. [Ex. 1, Form A, Share Purchase Agreement.] Winterthur Swiss Insurance Company is a Swiss insurance company which is not licensed in the United States. Winterthur Swiss Insurance Company owns all issued and outstanding shares of Winterthur U.S. Holdings, Inc., a Delaware corporation which acts as the holding company for Winterthur's U.S. Operations. Winterthur U.S. Holdings, Inc. owns all issued and outstanding shares of Unigard Inc. Unigard Inc., a Washington insurance holding company, owns all of the issued and outstanding shares of Unigard Insurance Company. Unigard Insurance Company, a Washington stock corporation and domestic insurer, owns all of the issued and outstanding shares of Unigard Indemnity Company, a Washington stock corporation and domestic insurer, and Unigard Pacific Insurance Company, a Washington stock corporation and domestic insurer. [Ex. 1, Form A, including abbreviated organizational chart of Winterthur Swiss Insurance Company and its related insurance subsidiaries.]
5. AXA is a global financial services provider with operations worldwide in the areas of financial protection and wealth management, with consolidated gross revenues of €71.7 billion (US \$90.64 billion; all non-dollar amounts herein are converted into dollars at the rate used in the Form A) for the year ended December 31, 2005 and total assets under management as of December 31, 2005 of €1,063.8 billion (US \$1,344.75 billion), including assets managed on behalf of third-party clients of €568.6 billion (US \$718.77 billion). [Ex. 1, Form A; Testimony of George Stansfield; Ex. 2, Pre-Filed Testimony of George Stansfield.] AXA operates primarily in Western

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 5

Europe, North America and the Asia Pacific region and, to a lesser extent, in other regions including the Middle East and Africa. AXA has five operating business segments: Life & Savings, Property & Casualty, International Insurance, Asset Management and Other Financial Services, including banks. In addition, various holding companies within the AXA Group conduct certain non-operating activities. AXA does business in the United States primarily through its subsidiary AXA Financial Inc., a Delaware corporation, conducting operations in the financial advisory and insurance segment and the investment management segment. AXA Financial Inc.'s financial advisory and insurance product businesses are conducted principally by its wholly-owned life insurance subsidiaries, AXA Equitable Life Insurance Company, MONY Life Insurance Company, MONY Life Insurance Company of America, and U.S Financial Life Insurance Company, AXA Network LLC, and its broker-dealers, AXA Advisors, LLC and AXA Distributors. [Ex. 1, Form A; Testimony of George Stansfield; Ex. 2, Pre-Filed Testimony of George Stansfield.]

6. AXA Assurances IARD Mutuelle, AXA Assurances Vie Mutuelle and AXA Courtage Assurance Mutuelle, as a group (the "Mutuelles AXA"), are the only persons known by AXA to control, directly or indirectly, more than 10% of AXA's outstanding ordinary shares. The Mutuelles AXA are three mutual insurance companies established under the laws of France that are engaged in the life and savings insurance business and property and casualty insurance business in France. [Testimony of George Stansfield; Form A; Ex. 2, Pre-filed Testimony of George Stansfield.]
7. On July 25, 2006, the Applicants, AXA, AXA Assurances IARD Mutuelle, AXA Assurances Vie Mutuelle and AXA Courtage Assurance Mutuelle, properly filed their Form A with the Commissioner. Said Form A, which, as later supplemented, was filed over 60 days prior to the proposed effective date of the acquisition, and includes substantial information and agreements concerning this proposed acquisition as required, including a copy of their Share Purchase Agreement dated June 13, 2006. The Applicants request that approval of this transaction be granted as soon as possible as it seeks to complete a closing of this proposed transaction on or before December 31, 2006. [Ex. 1, Form A, Statement Regarding the Acquisition of Control of a Domestic Insurer filed July 24, 2006 with attached Schedules; Testimony of George Stansfield; Ex. 2, Pre-Filed Testimony of George Stansfield.]
8. On November 13, 2006, both the Commissioner and the Applicants properly filed the subject Form A together with their requests with the undersigned for consideration and approval of this proposed transaction, together with Form A, and requested that the adjudicative proceeding in this matter be scheduled forthwith to accommodate their desired closing date of on or before December 31, 2006. [Ex. 1, Form A; Ex. 1, November 13, 2006, letter from the Commissioner to the undersigned and November 13, 2006, letter from the Applicants to the undersigned.]

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 6

9. The subject Form A was submitted in the form required by, and contains the information required by, the Commissioner and applicable statutes. [Testimony of Ronald J. Pastuch; Ex. 5, Affidavit of Ronald J. Pastuch.]
10. After the proposed change of control, the Unigard companies would be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which they are presently licensed. [Testimony of Ronald J. Pastuch.]
11. The effect of the proposed acquisition of control would not be substantially to lessen competition in insurance in Washington State and would not tend to create a monopoly in Washington State. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield; Ex. 2.] The Applicants to date have had no significant presence in the United States property and casualty insurance market.
12. The financial condition of the Applicants is not such as might jeopardize the financial stability of the Unigard Companies, or prejudice the interests of their policyholders. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield.] The Applicants could have financed this purchase solely through debt, but chose to make their purchase conservatively, paying through a combination of debt and equity. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield.]
13. The plans or proposals that the Applicants have to liquidate the Unigard Companies, sell their assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are not unfair or unreasonable to policyholders of the Unigard Companies and are not against the public interest. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield.] Although there has been significant interest in other entities in purchasing the Unigard Companies from the Applicants, there is currently no clear prospective purchaser in the forefront of any proposed purchase and, in any case, if the Applicants chose to accept another entity's offer to purchase the Unigard Companies, the Applicants would again expect that the future transaction would be subject to the same review by the Commissioner as is being conducted herein. [Testimony of George Stansfield.] At this time, the effects of this subject proposed acquisition should be transparent and seamless to the policyholders of the Unigard Companies, as the Applicants expect to make no substantial changes in their location or other aspects of the operations of the Unigard Companies which would significantly affect their policyholders. [Testimony of George Stansfield.]
14. The competence, experience, and integrity of those persons who would control the operation of the Unigard Companies after completion of this proposed transaction are not such that it would not be in the interest of the policyholders of the Unigard Companies or of the public to permit this proposed acquisition of control. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield.]
15. This proposed acquisition is not likely to be hazardous or prejudicial to the insurance buying public. [Testimony of Ronald J. Pastuch; Testimony of George Stansfield.]

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 7

16. After completion of this proposed acquisition, the Applicants will honor all rights and privileges of the Unigard Companies' policyholders, including, but not limited to, honoring all rights and privileges of the Unigard Companies' policyholders which are contained in their relevant insurance contracts. [Testimony of George Stansfield.]
17. The Notice of Hearing entered by the undersigned in this matter contains detailed information concerning this proposed acquisition and notification of the date, time and location of this adjudicative proceeding. Said Notice of Hearing further advises the public that any interested person should contact the undersigned with any comments, questions or concerns and advises that interested parties may request the opportunity to appear and present information at the adjudicative proceeding. [Ex. 1, Notice of Hearing.] A news release notifying the public of the location, date and time of the adjudicative proceeding herein, together with a copy of the entire Notice of Hearing, was published in its entirety on the Commissioner's website beginning on November 20, 2006, and remained published thereon through the scheduled day of the adjudicative proceeding. A news article notifying the public of the location, date and time of the adjudicative proceeding herein, together with a copy of the entire Notice of Hearing, was also published on the website of Insurance Journal on November 22, 2006. [Ex. 3, Affidavit of Publication by Ronald J. Pastuch.] It is here found that the Commissioner provided reasonable notice to the public in advance of this proceeding.
18. In response to notice given by the Commissioner to the public regarding the adjudicative proceeding herein considering this proposed transaction, the Commissioner received two communications: 1) one communicant asked whether the hearing transcript would be available upon the conclusion of the hearing herein and was directed to the Commissioner's public disclosure request form and procedures on the Commissioner's website; and 2) one person asked whether the Commissioner was aware of the strategic review provided to the Applicants for a possible future sale of the Winterthur U.S. Group which includes the Unigard Companies (addressed above). [Ex. 4, Affidavit of Communication by Ronald J. Pastuch; Testimony of Ronald J. Pastuch.] Neither Winterthur U.S. Holdings, Inc., nor Unigard Insurance Company received communications expressing any concerns from the public in response to publication of the Notice of Hearing described above. [Testimony of Anne B. Smith.] The undersigned received no communications about any concerns from the public in response to the notice. Although the Applicants received one single concern from a shareholder of Credit Suisse Group regarding the amount of the purchase price of this acquisition [Testimony of George Stansfield], it is here found that the Applicants received no significant reasonable concerns from the public in response to publication of the Notice of Hearing herein. Based upon this activity, it is here found that reasonable notice to the public was given concerning this proposed transaction and that no reasonable objection exists.
19. The sole witness who appeared on behalf of the Commissioner was Ronald J. Pastuch, Holding Company Manager, Company Supervision Division, of the Washington State

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 8

Office of the Insurance Commissioner. Mr. Pastuch was properly qualified to testify, and presented his testimony in a detailed and credible manner and exhibited no apparent biases.

20. The sole witness who appeared on behalf of the Applicants was George Stansfield, Esq., Senior Vice President and Group General Counsel of the Applicants. Mr. Stansfield was properly qualified to testify, and presented his testimony in a detailed and credible manner and exhibited no apparent biases.
21. Anne B. Smith, Esq., Senior Vice President and General Counsel of Winterthur U.S. Holdings, Inc. and Unigard Insurance Company, was called as a witness by the undersigned. Ms. Smith was properly qualified to testify, and presented her testimony in a detailed and credible manner and exhibited no apparent biases.
22. Based upon the above findings of facts, it is here found that the application of AXA, AXA Assurances Vie Mutuelle, AXA Courtage Assurance Mutuelle, and AXA Assurances IARD Mutuelle, for approval of their proposed acquisition of control of the Unigard Companies, through the Applicants' purchase of all issued and outstanding shares of Winterthur Swiss Insurance Company is reasonable under the circumstances and should be approved.

### CONCLUSIONS OF LAW

1. Pursuant to Chapter 48.31B RCW and RCW 48.04.010, and by virtue of the proper delegation of the Insurance Commissioner, the undersigned was properly delegated the authority to conduct the adjudicative proceeding and make the final decision in this matter, namely, whether the Applicants' application for approval of its proposed acquisition of the Unigard Companies should be approved, approved with modifications, or denied.
2. Based upon Findings of Fact Nos. 7, 8 and 9 above, on July 25, 2006, the Applicants properly filed its Form A (preacquisition notification and application pursuant to Chapter 48.31B, Revised Code of Washington for Approval of the Acquisition of Control of (1) Unigard Insurance Company, (2) Unigard Pacific Insurance Company, and (3) Unigard Indemnity Company). Said Form A included all pertinent information and contracts required by RCW 48.31B.015(1) and (2). Further, the Form A contained that information required to be included by RCW 48.31B.020(3)(a), and was filed over sixty days prior to the requested effective date of this proposed acquisition, as required by RCW 48.31B.015(1).
3. Based upon Finding of Fact No. 10 above, after the change of control, Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company will continue to satisfy the requirements of a certificate of authority to conduct property and casualty insurance business in the this state, as contemplated by RCW 48.31B(4)(a)(i).

## ORDER APPROVING ACQUISITION OF CONTROL

Docket No. G2006-64 - Page 9

4. Based upon Finding of Fact No. 11 above, the change in control of Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company will not substantially lessen competition in insurance in this state or tend to create a monopoly in this state, as contemplated by RCW 48.31B(4)(a)(ii) and RCW 48.31B020.
5. Based upon Finding of Fact No. 12 above, the financial condition of the Applicants is such that the financial stability of Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company will not be jeopardized by the proposed acquisition, and the interest of its policyholders will not be prejudiced, as contemplated by RCW 48.31B.015(4)(a)(iii).
6. Based upon Finding of Fact No. 13 above, there are no plans to liquidate Unigard Insurance Company, Unigard Indemnity Company or Unigard Pacific Insurance Company, sell their assets, consolidate or merge them with any person, or to make any other material change in their business or corporate structure or management, which would be unfair or unreasonable to policyholders of these carriers or which would be no in the public interest, as contemplated by RCW 48.31B.015(4)(a)(iv).
7. Based upon Finding of Fact No. 14 above, the competence, experience, and integrity of those persons who will control the operations of Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company are such that they would not be against the interest of Unigard Insurance Group's, Inc. policyholders or of the public, as contemplated by RCW 48.31B.015(4)(a)(v).
8. Based upon Finding of Fact No. 15 and 16 above, the acquisition of Unigard, Inc., Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company by the Applicants is not likely to be hazardous or prejudicial to the insurance buying public, as contemplated by RCW 48.31B.015(a)(vi).
9. Based upon Finding of Fact Nos. 17 and 18, reasonable and adequate notice to interested parties has been given, and no reasonable objection exists.
10. The provisions of the Insurance Code of the State of Washington, Chapter 48.31B RCW, and specifically RCW 48.31B.015 governing approval of acquisitions, have been met. Pursuant to Chapter 48.31 RCW, and specifically RCW 48.31B.015, the Applicants' request for approval of this proposed acquisition is granted.

### ORDER

On the basis of the foregoing Findings of Fact and Conclusions of Law, to the effect that the statutory criteria for approval of this proposed acquisition have been met, and to the effect that approval of this proposed acquisition should be approved,

**ORDER APPROVING ACQUISITION OF CONTROL**

Docket No. G2006-64 - Page 10

IT IS HEREBY ORDERED that the application of AXA, AXA Assurances Vie Mutuelle, AXA Courtage Assurance Mutuelle, and AXA Assurances IARD Mutuelle, for the Insurance Commissioner's approval of its proposed acquisition of Unigard Inc., Unigard Insurance Company, Unigard Indemnity Company and Unigard Pacific Insurance Company upon the terms included into evidence in this proceeding is APPROVED. This decision was the orally ruling of the undersigned entered on December 4, 2006 and was effective immediately. This written order is confirmation of the oral order of the undersigned and as required by Title 34 RCW.

This Order is entered pursuant to Title 48 RCW, and specifically RCW 48.31B.015, Title 34 RCW, and regulations applicable thereto.

**ENTERED** at Tumwater, Washington, this 8th day of December, 2006.



**PATRICIA D. PETERSEN**

Chief Hearing Officer

Presiding Officer