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CVR no. 33039018

13 April 2023  
File no. 1042774

Circular letter no. 6 under section 125(4) of the Danish Bankruptcy Act (*konkursloven*)

## Gefion Finans A/S under konkurs (*in bankruptcy*)

Name:	Gefion Finans A/S
Former name:	Gefion Insurance A/S
Address:	Sundkrogsgade 21, DK-2100 Copenhagen Ø Previously: Østergade 10, 2.-4., DK-1100 Copenhagen K
CVR no.:	36016493
VAT registration:	The bankruptcy estate is separately registered for VAT
Trustees:	Boris Frederiksen, Poul Schmith Søren Aamann Jensen, Accura Advokatpartnerselskab
Reference date:	4 June 2021
Date of bankruptcy order:	7 June 2021
Bankruptcy Court case no.:	The Danish Maritime and Commercial High Court, K 2157/21-A

As trustees of Gefion Finans A/S ("Gefion") under konkurs (*in bankruptcy*), we hereby send you a statement of the bankruptcy estate's affairs. Reference is also made to:

- *Circular letter no. 1 under section 124(1) of the Danish Bankruptcy Act, which was sent to all known creditors and the bankruptcy court on 9 June 2021.*
- *Circular letter no. 2 under section 125(1) of the Danish Bankruptcy Act, which was sent to all known creditors and the bankruptcy court on 28 June 2021.*
- *Circular letter no. 3 under section 125(2) of the Danish Bankruptcy Act, which was sent to all known creditors and the bankruptcy court on 8 October 2021.*
- *Circular letter no. 4 under section 125(4) of the Danish Bankruptcy Act, which was sent to all known creditors and the bankruptcy court on 8 April 2022.*
- *Circular letter no. 5 under section 125(4) of the Danish Bankruptcy Act, which was sent to all known creditors and the bankruptcy court on 7 October 2022.*

## **1 List of assets and liabilities**

The bankruptcy estate's assets and liabilities have been calculated at 31 December 2022 in EUR with a conversion rate to Danish kroner of 743.65. The statement of assets and liabilities is associated with considerable uncertainty as several estimates have been made in relation to future income and claims, including the statement of reinsurance receivables. In addition, the ability of certain debtors to pay remains unknown, and the trustees have identified a number of incorrectly booked receivables as booked receivables which were statute-barred prior to the date of the bankruptcy order.

### **1.1.1 Cash and cash equivalents**

On the date of the bankruptcy order, the deposits in Gefion's bank accounts amounted to DKK 41,395,657.72 (equal to EUR 5,568,267). At 30 June 2022, the bankruptcy estate's cash and cash equivalents amounted to EUR 16,426,797.08 and at 31 December 2022 to EUR 22,984,530. Accordingly, cash and cash equivalents have increased by EUR 6,557,733 since the last circular letter.

The increase in cash and cash equivalents is primarily due to payments from Gefion's reinsurance contracts in the total amount of EUR 8,503,556 as well as interest income, payments relating to

receivables from premiums, repaid claims payments and recourse payments in the total amount of EUR 632,162.

Gefion's cash and cash equivalents are affected by the current expenses related to the continuation of the bankruptcy estate's operations and the winding-up of the remaining claims portfolio. Since 30 June 2022, expenses have been incurred in relation to the continuation of the operations in the total amount of EUR 2,577,984 for salaries to employees and consultants, office supplies, IT operations and claims handling expenses, foreign exchange adjustments and reinsurance premium, by which cash and cash equivalents have been reduced.

Cash and cash equivalents are included at (calculated at 31 December 2022)

EUR 22,984,530

## 1.1.2 Funds from reinsurance

Gefion's asset in the form of reinsurance funds consists of (i) the reinsurance share of the technical reserve (expected receivable) and (ii) matured reinsurance receivables from reinsurers. On the date of the bankruptcy order, the total reinsurance funds amounted to EUR 161,303,059. At 30 June 2022, the total reinsurance funds amounted to EUR 146,238,472.13. At 31 December 2022, the total reinsurance funds amounted to EUR 129,526,595. The development in the total reinsurance funds is further described in paragraph 2.

- (i) The reinsurance share of the technical reserve (expected receivable)

On the date of the bankruptcy order, Gefion had an expected receivable of EUR 140,054,995, calculated for bookkeeping purposes as a share of the provisions for unearned premiums and claims outstanding (the technical reserves). At 30 June 2022, the expected receivable amounted to EUR 114,669,108.13. At 31 December 2022, the expected receivable was booked at EUR 97,965,458, equal to a reduction of EUR 16,703,650.13. This reduction is primarily due to (i) part of the expected receivable maturing as payments are made on fully processed claims from the local guarantee funds for non-life insurers and therefore being included in 1.1.2 and (ii) the development in the technical reserve

on the basis of which the expected receivable is calculated. The amount of the final receivable will vary depending on the level of the loss in relation to the claims reported and handled and may develop differently than expected.

(ii) Matured reinsurance receivables

On the date of the bankruptcy order, Gefion's matured receivables from reinsurers amounted to EUR 21,248,064, and at 30 June 2022 to EUR 31,569,364. At 31 December 2022, these receivables amounted to EUR 31,561,137 as a result of the estate's continued claims handling and claims payments made by the local guarantee funds for non-life insurers having realised a part of the expected receivables described in (i). As previously mentioned, EUR 8,503,556 has been paid to the bankruptcy estate since the last circular letter, which has been included in cash and cash equivalents. The development in the reinsurance receivables is further described in paragraph 2.

The total expected reinsurance funds are included at the booked value at 31 December 2022 totalling

EUR 129,526,595

### 1.1.3 Receivables

Debtors – policyholders

On the date of the bankruptcy order, Gefion's receivables from policyholders amounted to EUR 11,235,808, and at 30 June 2022 to EUR 14,698,678.37. At 31 December 2022, these booked receivables amounted to EUR 15,309,224. The increase in receivables from policyholders is due to a bookkeeping error which has not yet been corrected in the period. It should be noted that the booked receivables from policyholders are partly based on reporting from Gefion's agents which, in certain cases, has not been updated since the commencement of the bankruptcy proceedings and is therefore subject to material uncertainty. The expected development in the receivables is further described in paragraph 2.

EUR 15,309,224

The receivables are provisionally included at the booked value at 31 December 2022.

## Receivables from insurance agents/brokers

On the date of the bankruptcy order, Gefion's receivables from insurance agents/brokers amounted to EUR 25,549,297, and at 30 June 2022 to EUR 11,098,446.

At 31 December 2022, these receivables amounted to EUR 11,515,098.

As part of the administration of the estate, the trustees have examined the receivables and identified incorrectly included and statute-barred receivables resulting, at this time, in write-offs of EUR 13,100,000 in total, which have already been reflected in the reported receivables. The work is still ongoing, and the trustees expect to make additional write-offs of booked receivables. This is further described in paragraph 4.6. In connection with the trustees' ongoing collection of the bankruptcy estate's receivables, certain policyholders, agents and brokers have objected to the claims, and the bankruptcy estate has not yet received payments of any of these receivables. The trustees are currently assessing the objections and whether further attempts should be made to collect or recover these receivables, including, where appropriate, by filing civil lawsuits. Moreover, the development in the receivables is affected by the commission remuneration of the bankruptcy estate's insurance agents, which is performance-based. The expected development in the receivables is further described in paragraph 2.

The receivables are provisionally included at the booked value at 31 December 2022.

EUR 11,515,098

## Account receivable

At 31 December 2020, Gefion had a small receivable from Gefion GICA ApS of DKK 30,652.85, equal to approx. EUR 4,113.52. Gefion GICA ApS was dissolved by liquidation on 5 May 2021 without sufficient funds to pay creditors and/or Gefion as its sole

owner. The receivable has been written off as bad debt and is included at	EUR	0.00
1.1.4 Furniture, fixtures and equipment, IT and operating equipment		
<p>Gefion's furniture, fixtures and equipment mainly consisted of office furniture, office supplies and IT equipment. The furniture, fixtures and equipment were assessed while the company was in liquidation. During the liquidation, an agreement on the sale was also concluded against payment of DKK 515,500, equal to EUR 69,320, see also paragraph 4.5 of circular letter no 4.</p>	EUR	69,320.00
1.1.5 Furniture, fixtures and equipment in storage		
<p>Gefion kept old furniture, fixtures and equipment in storage. These items primarily comprised desks and older electronics. The trustees have sold the furniture, fixtures and equipment in an auction sale, which has resulted in proceeds for the estate of DKK 812.50, equal to EUR 109.26.</p>	EUR	109.26
1.1.6 Deposits		
<p>Gefion operated its business from leased premises located at Østergade 10, 2-4, DK-1100 Copenhagen K. At 31 May 2021, the rent deposit was booked at DKK 441,286.36. The lease agreement provided for a longer period of non-terminability and also imposed a repairing obligation on Gefion. The bankruptcy estate has vacated the leased premises without receiving payment of deposit, see paragraph 4.5 of circular letter no. 4 for further details. Accordingly, the deposit does not constitute an asset in the bankruptcy estate.</p>	EUR	0.00
1.1.7 Pending lawsuits		
<p>A number of lawsuits filed by/against Gefion prior to the bankruptcy are still pending, see paragraph 5.6. The trustees had chosen, inter alia, in concert with the bankruptcy estate of Qudos Insurance A/S to become a party to a major lawsuit involving a litigation value in the order of GBP 8,800,000. The lawsuit has been settled against the defendants' payment of GBP 2,400,000, of which the bankruptcy estate's share amounts to GBP 666,861.32 (approx. EUR 775,439.68). The trustees have also received repayment of</p>		

GBP 300,145.28 (approx. EUR 351,169.98) which had been paid to the court as security for costs of the hearing of the case, see also paragraph 5.6.6 and the preceding circular letters nos 3-5. The settlement amounts received have been included in the bankruptcy estate's cash and cash equivalents as described in paragraph 1.1.1. Moreover, the bankruptcy estate has filed for permission to appeal a decision by a court of second instance in Germany, involving a litigation value of approx. EUR 26,000,000. Since the last circular letter, the appeal filed by the bankruptcy estate has been dismissed. Accordingly, the lawsuit does not constitute an asset in the bankruptcy estate. The lawsuit is described in further detail in paragraph 5.6.3. The bankruptcy estate's pending lawsuits are included at a reminder value.

EUR 1.00

**Total assets (preliminary amount)**

**EUR 179,404,877.26**

It should be noted in relation to the above that the trustees have kept four of Gefion's previous bank accounts open as part of the continued operations. The bankruptcy estate regularly receives payments of receivables, including payment of receivables from premiums, receivables relating to subrogation, reinsurance receivables, etc., settlement amounts, reimbursements of expenses, etc., and also makes regular payments of costs related to continued operations. The deposits during the bankruptcy will, therefore, change regularly concurrently with such movements.

## 1.2 Liabilities

### 1.2.1 Pre-preferential claims under section 93 of the Danish Bankruptcy Act

Pre-preferential claims in the total amount of EUR 78,971.98 have been filed against the bankruptcy estate. The costs of the administration of the estate, including in particular salary payments to the employees and consultants, payments to external lawyers, claims handlers and expert assistance in connection with the claims handling, have been included in the statement of the estate's cash and cash equivalents.

EUR 78,971.98

### 1.2.2 Insurance claims filed under section 234 a(1) of the Danish Financial Business Act (*lov om finansiel virksomhed*)

EUR 1,159,760.71

### 1.2.3 Claims from employees under section 95 of the Danish Bankruptcy Act

EUR 60,738.24

### 1.2.4 Unsecured claims under section 97 of the Danish Bankruptcy Act

EUR 35,622,446.25

### 1.2.5 Deferred claims under section 98 of the Danish Bankruptcy Act

EUR 20,417,046.73

### **Total liabilities (preliminary amount)**

**EUR 57,338,963.91**

It should be noted that the above list of the bankruptcy estate's liabilities has been calculated at 31 December 2022. The list is preliminary and subject to significant uncertainty as claims continue to be filed against the bankruptcy estate. This includes claims filed by policyholders and injured parties whose claims have not yet been recorded in the bankruptcy estate's register of debts and claims, but which have been reserved as outstanding claims provisions (technical reserves).

The outstanding claims provisions (technical reserves) at 30 June 2022 amounted to EUR 240,659,770. At 31 December 2022, the technical reserves amounted to EUR 212,088,288. The technical reserves are actuarial calculations of the gross premiums and claims provisions solely for bookkeeping purposes as Gefion's final claims liabilities are not known until the claims handling of the remaining claims portfolio has been completed. The technical reserves are expected to be counterbalanced by corresponding claims against the bankruptcy estate as the estate's claims handling is completed. In addition to the technical reserves, payments on insurance claims from the local guarantee funds for non-life insurers totalling EUR 55,899,821



had been made at 30 June 2022, and at 31 December 2022, payments totalling EUR 85,460,579 had been made, equal to an increase of EUR 29,560,758. The bankruptcy estate has not yet received any notifications of subrogation claims from the guarantee funds for non-life insurers, which, therefore, have not been included in the list of liabilities.

Accordingly, once the claims handling has been completed, the bankruptcy estate's total liabilities are expected to amount to EUR 354,887,830.91. This means that there will be no dividends for claims from employees, unsecured claims or deferred claims.

## **2 Significant developments since the last circular letter**

The most material change in the bankruptcy estate's assets relates to its reinsurance assets.

The change in the bankruptcy estate's reinsurance assets consists in a reduction of the total receivable of EUR 16,711,877.13. The reduction is partly due to payments of EUR 8,503,556 being made and, therefore, included in the bankruptcy estate's cash and cash equivalents, and partly due to material changes in the exchange rate on the reinsurance part denominated in GBP and to the payment of outstanding XOL reinsurance premiums of EUR 865,568.

The total expected reinsurance receivable is also affected by the changes in the booked technical reserves (the expected value of claims under the insurance policies written), which develop in line with the ongoing claims handling and the final assessment of claims filed. The booked technical reserves have been reduced by EUR 28,574,483 since 30 June 2022. This reduction is partly counterbalanced by the guarantee fund payments made since 30 June 2022 totalling EUR 23,744,900.

Moreover, the trustees expect material changes in the booked receivables from agents and claims handlers and receivables from policyholders, booked at EUR 11,515,098 and EUR 15,309,224, respectively, at 31 December 2022.

Accordingly, as described in paragraph 4.6.2, the trustees have gone through the outstanding premium receivables from previous policyholders in Germany which AIS Wild (a German agent and claims handler) did not collect prior to its bankruptcy. Going through the underlying documentation for the individual receivables, the trustees identified claims that were incorrectly registered or statute-barred prior to the bankruptcy, which means that the receivables may in fact be considerably below the booked values. In addition, the application for permission to bring the judgment mentioned in paragraph 4.6.1.3 before a court of third instance was dismissed on 11 January 2023. This will result in considerable write-offs of up to a double-digit million EUR amount not yet calculated.

The calculation of Gefion's receivables from insurance agents/brokers is also subject to uncertainty. As described in paragraph 4.6, the trustees' work of calculating these receivables is still ongoing, and, at this time, the trustees have identified receivables which were probably incorrectly booked or statute-barred prior to the bankruptcy. Moreover, several of the receivables have been contested. These matters are expected to imply considerable write-offs.

### **3 Administration of estate and time spent**

The trustees have spent a substantial amount of time on the continued management of operational matters, including claims handling, discussions and correspondence with the national guarantee funds for non-life insurers and green card bureaus, management and negotiations concerning the reinsurance contracts and receivables, and continuous correspondence and discussions with contracting parties, ongoing management of employees and handling of continued lawsuits. Moreover, the trustees have spent a substantial amount of time on the general administration of the estate, including investigations of liability, and work relating to a major review and revision of Gefion's bookkeeping records, including, in particular, the booked insurance-related receivables. The work has been performed since the date of the bankruptcy order on 7 June 2021.

The total time spent in the period from 1 September 2022 to 28 February 2023 is approx. 6,660 hours. The hours spent have been distributed on the work described in paragraphs 4-6 below.

Generally, the work may be divided into two main categories, i.e. work relating to continued operations and the winding-up of the remaining claims portfolios and work relating to the general administration of the estate.

The work relating to operational matters primarily relates to i) the overall claims handling, ii) guarantee funds for non-life insurers, iii) GDPR and compliance, iv) audit of claims handling, v) reinsurance and vi) receivables.

The work relating to the general administration of the estate primarily concerns i) investigations of liability, ii) investigations of voidable transactions, iii) any criminal offences and notification to the police, iv) disqualification, v) handling of employees and consultants, vi) lawsuits, vii) planning of the procedures for filing claims against the bankruptcy estate and handling such claims against the bankruptcy estate, viii) enquiries relating to claims against the bankruptcy estate and other enquiries, ix) adjudication of claims and x) other administration of the estate, including work relating to the handling of the creditors' committee and drafting of circular letters, etc.

It should be noted that the investigations as to whether the former management acted grossly negligently under section 157(1) of the Danish Bankruptcy Act were completed at 7 April 2022

and, therefore, will not be mentioned in future circular letters, see paragraph 5.4 for further details.

## **4 Handling of operational matters**

### **4.1 Overall claims handling**

As described in the previous circular letters, prior to the bankruptcy, Gefion sold insurance products in several European countries, including Denmark, England, France, Ireland, Italy, Poland and Germany through external agents. The subsequent handling of claims filed under the policies was either undertaken by the external agents or by external claims handlers engaged through the agents or directly by Gefion.

To the extent possible, the trustees have continued the agreements with the existing claims handlers in the individual countries with the aim of limiting the bankruptcy estate's liabilities and the costs of claims handling and to secure the bankruptcy estate's assets in the form of reinsurance receivables.

In Poland, Germany and Italy, the claims handling has been taken over in part or in full by local, public guarantee funds for non-life insurers as a result of national legislation. In these countries, the trustees have concluded, or have attempted to conclude, agreements with the guarantee funds on reporting on their claims handling in order to secure reinsurance cover of the claims and, to the extent necessary, secure the underlying data in relation to claims handled by the guarantee funds.

When Gefion entered into liquidation on 13 July 2020 and the winding-up of the then existing insurance portfolio began, the company had approx. 425,000 active insurance policies. On the date of the bankruptcy order, 22,611 open claims had been reported across all jurisdictions, i.e. claims which had not yet been finally determined and assessed by a claims handler. However, a far greater number of claims have been filed subsequently than the number of open claims known on the date of the bankruptcy order. The actual number of open claims on the date of the bankruptcy order was therefore higher than 22,611.

The number of open claims is gradually reduced, and according to the latest computation at 31 January 2023, the number of open claims was approx. 10,000. The computation of open claims is subject to some uncertainty due to delayed reporting from claims handlers and guarantee funds as well as inadequate data quality.

In addition, another approx. 18,000 claims have been filed during the bankruptcy proceedings specifically related to the (now) closed lawsuit in Germany, see 5.6.3 below.

The bankruptcy estate continues to have extensive discussions, correspondence, negotiations and follow-ups with the claims handlers and guarantee funds in each jurisdiction on the continued claims handling, reporting towards reinsurers and handling of the claims filed and registered in the bankruptcy estate. The progress and status of the process in the individual jurisdictions are outlined below.

The time spent on managing the claims handling and the local guarantee funds for non-life insurers in the period is approx. 761 lawyer hours, divided between the seven jurisdictions as further described below in paragraphs 4.1.1-4.2.7.

#### 4.1.1 Denmark

The trustees in concert with the Danish Guarantee Fund for Non-life Insurers have continued discussions with the Danish claims handler, including on the process for the payment of eligible claims and reporting of approved claims to the bankruptcy estate.

It should be noted in this respect that several of the open claims are of such size and complexity that the trustees are assisting the Danish claims handler in handling the claims. In the previous circular letter, a total of 131 open claims had been registered in Denmark. The number of open claims at 28 February 2023 has been calculated at 133.

Moreover, discussions are ongoing with the Danish claims handler concerning the storage of documentation obtained in connection with the claims handling.

The trustees have also continued discussions with the Danish Motor Insurers' Bureau ("DFIM"), see paragraph 4.2.1.

#### 4.1.2 England

The trustees continue to have regular discussions with the English claims handlers in relation to the continued claims handling.

The discussions have concerned the claims handlers' management of the reporting process, including the payment of the eligible claims from the UK guarantee fund ("FSCS") and ensuring the reporting to the bankruptcy estate. Furthermore, the discussions have concerned the process for claims handling of specific claims and passing on enquiries etc.

Over the past period, the trustees faced challenges with respect to one of the English claims handlers who stated an intent to discontinue operations just before the turn of the year. The trustees and the FSCS have been in a close dialogue with said claims handler to ensure the best possible solution for the continued claims handling, including securing the underlying claims data. Moreover, the trustees have engaged local lawyers to assist with the ongoing

dialogue with the claims handler and to handle a number of practical matters. The discussions with the claims handler are still ongoing.

With respect to one of the other claims handlers, the trustees stated in circular letter no. 5 that, over the past six months, the bankruptcy estate had experienced a delay in the claims reporting to the bankruptcy estate. The dialogue with this claims handler was intensified over the past period. As a result, the claims handler resumed claims handling in August 2022, and, since then, the claims handling has been without delays.

Some of the ongoing enquiries from policyholders to the bankruptcy estate have primarily concerned questions about this claims handler's delayed claims handling. Therefore, the number of enquiries from policyholders to the bankruptcy estate has decreased compared to the period before the trustees' circular letter no. 5.

According to the latest computation of open claims, the number of open claims in England at 31 January 2023 totalled 4,385. Due to the irregular reporting from one of the claims handlers as described above, this number is subject to some uncertainty.

#### 4.1.3 France

As described in circular letters nos 3-5, Gefion's existing claims handlers undertake most of the claims handling of the French claims portfolio. However, the French guarantee fund for non-life insurers, Fonds de Garantie des Assurances Obligatoires de dommages ("FGAO"), handles certain large claims separately.

The trustees and the bankruptcy estate's employees are still in an ongoing dialogue with the bankruptcy estate's French claims handlers about the claims handling of the remaining French claims, the progress of claims handling and reporting of fully processed claims to the FGAO and the bankruptcy estate, respectively, depending on whether the individual claim is covered by the guarantee fund. Since the last circular letter, the trustees have held physical meetings with the FGAO and two of the bankruptcy estate's claims handlers to ensure full processing of the French claims portfolio.

The trustees' discussions with some claims handlers on bordereaux submissions to the bankruptcy estate to secure the reinsurance asset are also ongoing, and, in one case, the trustees have engaged local lawyers in order to procure the reporting in question, see also paragraph 4.6.1.2. In said case, the trustees have found it necessary to file a writ of summons against the claims handler, partly to reduce the risk of limitation of the bankruptcy estate's claims for repayment of commission under the agency agreement with the claims handler and partly to secure the necessary claims data. The trustees' discussions with this claims handler are being conducted concurrently with the filed writ of summons.

According to the latest computation of open claims, the number of open claims in France at 31 January 2023 totalled 3,387. Due to the incomplete reporting from two of the claims handlers, this number is to some extent based on information updated some time prior to 30 June 2022.

#### 4.1.4 Ireland

As described in the previous circular letters, Gefion's existing claims handlers and the claims handler engaged by the bankruptcy estate continue to undertake the claims handling of the Irish claims portfolio.

The trustees have been discussing with the Irish claims handlers the procedure for claims handling in Ireland and any changes thereto as a result of the commencement of the bankruptcy proceedings and national procedures and obligations in relation to coverage by the guarantee fund in Ireland determined under Irish law. Over the past period, the trustees have primarily worked on filing the first application for coverage by the guarantee fund of fully processed claims covered by the guarantee fund for non-life insurers with the president of the High Court of Ireland, who is required under Irish law to approve any payment from the Irish guarantee fund. The bankruptcy estate has engaged a local Irish lawyer to prepare the application, which has been prepared under the instructions of the Irish State Claims Agency ("SCA"). Assisted by the bankruptcy estate's employees and claims handlers, the SCA has conducted an audit of the individual claims comprised by the application and the underlying documentation of these claims. Based on this audit, the SCA has prepared its own audit report and affidavit for the purpose of the application.

The president of the High Court of Ireland had fixed the date of the hearing of the bankruptcy estate's first application to the Irish Compensation Fund ("ICF") for non-life insurers at 16 December 2022. However, due to outside events, the hearing was rescheduled. Consequently, the bankruptcy estate's first application to the ICF was heard on 10 February 2023, where the president of the High Court of Ireland approved the application. The ICF will make payments in respect of the claims comprised by the first application.

Under Irish law, the bankruptcy estate may only submit an application for coverage by the ICF to the Irish High Court four times a year.

According to the latest computation of open claims, the number of open claims in Ireland at 31 January 2023 totalled 553.

#### 4.1.5 Italy

As described in the previous circular letters, claims handling in Italy is undertaken by two different claims handlers who report regularly to the bankruptcy estate.

Over the past period, the trustees continued its discussions with the lawyer representing the Italian claims handlers concerning the ongoing claims handling and a number of challenges with making the claims handlers report the claims to the bankruptcy estate's register of debts and claims in the right reporting format.

Besides the pending lawsuit before the court in Trieste in relation to a claim under an insurance policy taken out with Gefion prior to the bankruptcy, the bankruptcy estate has been summoned in two other lawsuits before the courts in Grosseto and Nocera Inferiore, respectively. The cases are pending between the injured party, the party having caused the injury and, now, the bankruptcy estate. The trustees have been in a dialogue with the bankruptcy estate's local lawyer in Italy, who has handled the writs of summons on behalf of the bankruptcy estate by asserting to the involved parties that, under Danish bankruptcy law and the Solvency II Directive, a bankruptcy estate cannot be summoned, but must await the regular adjudication of claims in the bankruptcy estate.

According to the latest computation of open claims, the number of open claims in Italy at 31 January 2023 totalled 34.

#### 4.1.6 Poland

As described in circular letters nos 3-5, the Polish insurance guarantee fund for non-life insurers ("UFG") undertakes the claims handling of the part of the Polish claims portfolio that falls within the scope of cover of the UFG, i.e. primarily uncovered (unpaid) motor third party liability claims. The trustees have regular discussions and correspondence with the UFG concerning the fund's reporting on the claims handling to the bankruptcy estate, and the bankruptcy estate still receives monthly reports.

Moreover, the trustees are in an ongoing dialogue with the UFG concerning other exchange of information relating to claims handling, reporting to the reinsurers, payments, the status of pending lawsuits about claims handling and other matters.

Furthermore, the trustees have concluded an agreement with an external Polish lawyer about the claims handling with respect to the part of the open claims not falling within the scope of cover of the UFG, i.e. essentially comprehensive motor insurance claims and claims from the policyholders for costs relating to lawsuits. The trustees have drafted and revised the draft agreement with schedules, held several meetings with the lawyer, ensured the set-up of a data site for secure exchange of information about claims and reporting, etc. The process of handling these claims was then commenced in early 2023.

According to the latest computation of open claims, the number of open claims in Poland at 31 January 2023 totalled 904.

## 4.1.7 Germany

As described in circular letters nos 3-5, the German insurance guarantee fund for non-life insurers ("VOH") took over the claims handling of the part of the German claims portfolio that falls within the scope of cover of the fund, i.e. primarily uncovered motor third party liability claims. This claims handling is conducted by the guarantee fund's own claims handler and independently of the bankruptcy estate. The trustees have still not been able to obtain an agreement with the VOH's claims handlers or the VOH on their reporting on the claims handling to the bankruptcy estate.

The trustees have engaged one of the bankruptcy estate's existing consultants to handle the registration of claims from Germany and undertake the claims handling of the claims falling outside the scope of the VOH's cover and the bankruptcy estate's subrogation claims in Germany. The number of claims falling outside the scope of the VOH's cover is very limited. Due to the commutations made on the reinsurance contracts prior to the bankruptcy proceedings, only very limited reinsurance remains on the German portfolio. The trustees have decided that, until further notice, the claims handling should be maintained in order to ensure correct valuation of the German claims and to ensure reporting in respect of the remaining reinsurance.

At this time, the trustees' consultant is handling 128 claims, including subrogation claims and claims falling outside the scope of the VOH's cover, including approx. 78 fully processed claims.

Following lengthy negotiations with Gefion's former claims handler of the German claims portfolio, the trustees have received Gefion's claims data. The bankruptcy estate has made a full mirroring of the claims data. However, the claims handling is still obstructed by general lack of data and poor data quality due to bankruptcy proceedings that were commenced against Gefion's original agent and claims handler in Germany prior to Gefion's bankruptcy.

At an earlier stage of the bankruptcy proceedings, the bankruptcy estate received enquiries from former policyholders concerning the issuing of "no-claims bonus" confirmations for the purpose of proving to their new insurance companies that no claims had been reported under their previous policies with Gefion. The bankruptcy estate has not issued, and cannot issue, such confirmations.

According to the latest computation of open claims, the number of open claims in Germany at 31 December 2023 totalled 553. The number is subject to some uncertainty as the bankruptcy estate is not receiving any reporting from the German guarantee fund and therefore has limited insight into the number of claims handled. The number does not include the approx. 18,000 additional claims mentioned in paragraph 4.1.



## 4.2 *Guarantee funds*

The trustees have examined the guarantee funds for non-life insurers in the countries in which Gefion has conducted insurance business in order to determine the field of operation and the scope of cover of the funds. The scope of cover varies from one country to the next and has regularly been addressed on a country-by-country basis as further described in paragraphs 4.2.1-4.2.7.

The time spent on this work has been included above in paragraph 4.1.

### 4.2.1 Denmark

As described in circular letter no. 5, the trustees have regularly had discussions with the Danish Guarantee Fund for Non-life Insurers about the claims falling within the scope of cover of the fund. Discussions are ongoing.

The trustees have also had extensive discussions with the DFIM about its status as a creditor of the bankruptcy estate, including discussions about the process of payment of claims as well as the process and documentation requirements relating to the filing of claims against the bankruptcy estate.

### 4.2.2 England

The trustees continue to hold weekly conference calls with the FSCS about handling the claims within the scope of the FSCS's cover. The discussions with the FSCS still concern the establishment of the procedure and the flow of payments for payment of approved claims as well as the FSCS's proof of their subrogation claims against the bankruptcy estate.

As one of the English claims handlers stated just before the turn of the year that they would discontinue operations, the trustees and the FSCS have held several additional meetings on how to address the failing handling of the claims which are covered by FSCS. The discussions are still ongoing and are expected to continue for quite some time until a solution to the non-handling of claims has been found.

### 4.2.3 France

The French guarantee fund for non-life insurers, the FGAO, covers the injured parties' claims in connection with personal injury or property damage under French motor third party liability insurance, except for injury or damage caused to the driver of the insured motor vehicle.

In concert with the FGAO and some of Gefion's external claims handlers, the trustees have established a procedure for notification of fully processed claims to the FGAO to ensure payment of these claims and a procedure for reporting from the FGAO to the bankruptcy estate

on the payment of fully processed claims. The trustees have regular discussions with the FGAO about the general claims handling in France, the FGAO's independent handling of certain major claims and regular reporting to the bankruptcy estate in that connection. Moreover, the trustees have regular discussions with the FGAO about the lack of reporting from some of the bankruptcy estate's French claims handlers and the challenges this presents to the bankruptcy estate's recovery of reinsurance on the French claims portfolio.

#### 4.2.4 Ireland

The trustees have had regular discussions with the Irish State Claims Agency (SCA) who manages the Irish guarantee fund (ICF) in order to establish a process for handling the claims covered by the guarantee fund.

The ICF's payment of claims is governed by a statutory process under Irish law, meaning that all eligible claims must be notified to the SCA who then conducts an audit of the reported claims and underlying documentation. The audited claims are then to be presented to the High Court of Ireland who will make a final decision on the fund cover and payment in relation to the specific claims.

As part of the process, the trustees must deliver an affidavit concerning the claims and the bankruptcy estate's financial position. The trustees have engaged an external lawyer in Ireland who will assist the bankruptcy estate in drafting and submitting such affidavit and in representing the bankruptcy estate before the High Court of Ireland.

In cooperation with the estate's claims handlers, external lawyer and the SCA, the bankruptcy estate has filed the first application with the High Court of Ireland, which was considered on 10 February 2023. The High Court of Ireland approved the application, after which the ICF may make payments in respect of the claims comprised by the first application.

#### 4.2.5 Italy

As described in circular letter no. 5 and above in paragraph 4.1.5, the Italian Institute for the Supervision of Insurance (IVASS) has stated that there are no national guarantee funds in Italy. Therefore, the trustees have regular discussions with the IVASS about the claims handling. Discussions are still ongoing.

#### 4.2.6 Poland

As described in circular letters nos 3-5, the trustees are engaged in a dialogue with the UFG on the claims handling and with the Polish green card bureau the Polish Motor Insurers' Bureau ("PBUK").

The UFG covers and handles all claims notified by injured parties under motor third party liability insurance policies where the damage or injury was sustained in Poland between a Polish policyholder and a Polish injured party. The PBUK handles claims covered by the green card system, i.e. claims with a cross-border element. The PBUK is still reporting regularly to the bankruptcy estate's employees on the claims and the approval thereof, which will be included in the bankruptcy estate's further reporting to the reinsurance.

The trustees have regular correspondence and discussions with the UFG about the exchange of information, handling of claims etc. Furthermore, the trustees have discussions and correspondence concerning complaints about possible incorrect registrations in the public insurance register in Poland. The complaints are filed by policyholders vis-à-vis the UFG who will handle them and subsequently notify their position in respect of the complaints to a Polish lawyer externally engaged by the bankruptcy estate. In that connection, the trustees have discussions with the lawyer about whether the bankruptcy estate has any comments to such position.

Moreover, the trustees have been to Poland and have held meetings with the UFG and the PBUK to discuss the status of the claims handling, the possibility of performing an audit and reporting requirements from the bankruptcy estate with respect to the filing of claims against the bankruptcy estate and the status and handling of pending lawsuits on claims as well as the UFG's scope of cover. As regards the latter, the UFG has previously stated that it only guaranteed the payment of uncovered claims for the injured third party's loss, and only if the claims were filed directly by that third party. However, during the meeting, the UFG stated that it also covers claims filed by other parties than the injured third party, including, for example, if the claim is filed as a subrogation claim by another insurance company or is filed by a third party who has acquired the claim from the injured party.

The trustees and the UFG also discussed the handling of several of the lawsuits filed against Gefion prior to the bankruptcy, see paragraph 5.6.1 below, in which the court is expected to rule in favour of the injured party. In these cases, it is therefore unnecessary for the bankruptcy estate and/or the UFG to intervene in the lawsuits. If the defendant bankruptcy estate does not actively intervene in the lawsuit or, for example, pays the claims, Polish law implies that, to a large extent, the lawsuits will remain suspended before the Polish courts, i.e. continue as pending lawsuits indefinitely without any rulings in the cases. This is inappropriate out of consideration for the injured parties, for the UFG's claims handling and for the bankruptcy estate, which will remain a defendant in the pending, suspended lawsuits. However, at this time, no formal agreement has been made on the handling of the lawsuits.

As regards the PBUK, the meeting concerned in particular the bankruptcy proceedings and their status, the continued need for reporting and relevant contact persons and the reporting of major claims of which the bankruptcy estate must be notified quickly as well as the handling and the discussion of the handling of one particularly large claim.

Discussions with the UFG and the PBUK are ongoing.

#### 4.2.7 Germany

As described in circular letters nos 3-5, the German guarantee fund (VOH) has taken over the handling of claims within the scope of cover of the VOH. Consequently, the VOH currently handles injured parties' motor third party liability insurance claims where a third party has sustained property damage or personal injury or where the policyholder has sustained personal injury under the insurance policy.

However, the VOH does not cover claims involving the policyholder sustaining property damage under the insurance policy. These claims are handled by the estate's own consultant, see paragraph 4.1.7 for further details.

As previously described, the trustees have been in a dialogue with the VOH about the possibility of reporting on claims etc. to the bankruptcy estate, which the VOH has rejected so far.

#### 4.3 *GDPR and compliance*

As described above in paragraph 4.1, prior to the bankruptcy, Gefion sold insurance products and conducted insurance business in a large number of countries through local agents and claims handlers. It was therefore the agents and external claims handlers who wrote insurance policies with policyholders and/or handled claims notified under the policies on behalf of Gefion. In connection with these services, the agents/claims handlers have processed personal data and have been independent controllers to a large extent.

The trustees regularly assess the bankruptcy estate's, its third-party claims handlers' and the national guarantee funds' data processing, including whether there is a need for separate data processing agreements.

Furthermore, as a few national guarantee funds perform claims handling independently, the trustees regularly assess the need for separate data processing agreements in connection with the guarantee funds taking over claims data and, if necessary, prepare any contract documents required. The trustees have also entered into negotiations of a three-party agreement between a guarantee fund for non-life insurers, the bankruptcy estate and a claims handler. The compliance with this agreement is monitored regularly.

The bankruptcy estate regularly audits and updates the internal processes and guidelines, including determination of erasure policy, autoreply to creditors etc., as well as preparing and ensuring relevant GDPR documentation and also performs the required supervision of the contracting parties who perform work on behalf of the bankruptcy estate. As part of this work, since the last circular letter, the trustees have revised the approach to cookies and Gefion's

website, implemented new auto signatures on Gefion's email accounts, considered the bankruptcy estate's data processing and concluded a new data processing agreement with this supplier.

The trustees' above work is expected to continue until the bankruptcy estate has been wound up.

The time spent on this work is approximately 190 lawyer hours for the period.

#### 4.4 *Regular audit of claims handlers*

As described in the previous circular letters, the trustees and the bankruptcy estate's employees have initiated audits of the claims handling across jurisdictions. The audits are performed in addition to the regular checks and validations carried out by the estate's employees as part of the general day-to-day claims handling. The purpose of such audits is to ensure the continued priority to the winding-up of the remaining portfolio and to ensure that the claims handling continues at a professionally acceptable level.

Audits of the bankruptcy estate's British claims handlers are still performed, and the trustees are in a dialogue with an external audit resource on the planning of audits in France and Poland to address language barriers between claims handlers and the bankruptcy estate's English-speaking claims handling team. In addition, the bankruptcy estate expects to perform audits of the bankruptcy estate's Danish claims handler in concert with the bankruptcy estate's claims handling team. The bankruptcy estate's employees in concert with the SCA have performed an audit of the claims processed as part of the preparation for the first application for coverage by the Irish guarantee fund.

The trustees expect to perform periodic audits until all claim portfolios have been wound up.

The time spent on this work is approximately 4.5 lawyer hours for the period.

#### 4.5 *Reinsurance*

The bankruptcy estate's most significant asset is the receivables relating to the bankruptcy estate's reinsurance contracts, see paragraph 1.1.2 (ii).

As a result of the trustees' efforts relating to the collection of reinsurance receivables since the last circular letter no. 5, reinsurance receivables amounting to DKK 63,711,613.48 (approx. EUR 8,503,556) have been paid to the bankruptcy estate in the period from 1 July 2022 to 31 December 2022. A considerable number of the payments were received from two of the bankruptcy estate's reinsurers that had been withholding major overdue receivables for an extended period.

The total reinsurance receivable paid to the bankruptcy estate from the date of the bankruptcy order on 7 June 2021 until 31 December 2022 totals DKK 159,346,936.54 (approx. EUR 21,419,902).

The trustees are in an ongoing dialogue with the reinsurers to ensure the quality of the regular reporting. The reporting from the bankruptcy estate to the reinsurers is dependent on the data that the bankruptcy estate receives from its claims handlers and agents. To ensure the quality of the regular reporting to all reinsurers, the trustees have regular discussions with the agents and claims handlers supplying data to the bankruptcy estate, and have daily discussions with employees and consultants associated with the bankruptcy estate.

Although the trustees have successfully received payments of considerable reinsurance receivables to the bankruptcy estate, the issue of reporting to the reinsurers is still complex due to missing and/or inadequate data from a few claims handlers and agents, see specifically paragraphs 4.1.2 and 4.1.3.

In addition to the ongoing reporting, over the past period, the trustees have intensified their work on a number of major complex issues relating to the collection of the reinsurance receivables. As described in the previous circular letter no. 5, one of these issues relates to the fact that a few reinsurers still have not replied to the trustees' enquiries for an extended period and/or have been reluctant to pay overdue reinsurance receivables to the bankruptcy estate. Therefore, the trustees have sent regular reminders to the reinsurers and have held meetings with the relevant brokers to find a solution to the reinsurers' non-payment. Consequently, the reinsurance receivables relating to these reinsurers have increased gradually over the past period.

The trustees have also been in an ongoing dialogue with a reinsurer to resolve the issue of payment of claims handling costs. The dialogue has intensified over the past period, and the trustees have been assisted by a local lawyer in England. These discussions are still ongoing.

In addition, the trustees have worked on several issues relating to an English broker. These issues also existed prior to the date of the bankruptcy order, but had not been solved. The majority of these issues were addressed over the past period, and only a minor issue remains unresolved. The dialogue with the English broker has subsequently improved significantly, and the trustees and the broker now hold monthly meetings.

The major complex issues are assessed regularly and are handled in concert with the bankruptcy estate's employees and consultants and by involving brokers in a few cases. Where the contractual relationship is governed by foreign law, the trustees are assisted by local lawyers in the relevant jurisdictions.

Moreover, the trustees have issued half-yearly updates to brokers and reinsurers, most recently in March 2023, with updates on the bankruptcy estate's management of the reinsurance, status

on the regular claims reporting etc. and encouraging follow-up meetings between the trustees and the brokers and the reinsurers, respectively.

In addition, the trustees have answered various enquiries from brokers and reinsurers who wish to review data with a view to reconciliation of the account from time to time. The trustees have also been in a dialogue with one of the company's brokers about a number of questions on some of the reinsurance contracts which have been commuted prior to the bankruptcy. Discussions with the broker are still ongoing.

Finally, the trustees regularly assess the process of the bankruptcy estate's collection of reinsurance receivables considering the ongoing contractual relationships with the relevant reinsurers.

The time spent on this work is approximately 813 lawyer hours for the period.

#### 4.6 *Receivables/potential receivables*

At the commencement of the bankruptcy, Gefion had calculated its receivables from various contracting parties at approx. EUR 36,785,105. Gefion's receivables comprise partly the debtor receivables mentioned above in the list of assets in paragraph 1.1.3, and partly receivables from agents, claims handlers and business partners in general as well as receivables from liable persons having caused the losses (subrogation claims) etc.

The trustees in concert with the bankruptcy estate's employees and external consultants are going through the booked receivables in order to collect these and have found that, in this respect, the bookkeeping records cannot be considered completely up to date.

Currently, it cannot be estimated whether all receivables exist in full or in part and at what value as several of the receivables have been contested, are awaiting the outcome of pending lawsuits, outcome of negotiations, information about debtors' ability to pay, etc. Moreover, the trustees have found that certain receivables have previously been closed by settlement or written off without this being reflected in the bookkeeping records at the date of the bankruptcy order.

The work of examining the booked receivables is still ongoing, and the time spent on this work is approximately 377 lawyer hours for the period.

Certain of the known receivables/potential receivables and the work related thereto are described below in paragraphs 4.6.1-4.6.3.

## 4.6.1 Receivables from agents, claims handlers etc.

A number of the receivables are from agents, claims handlers and other contracting parties, including a receivable from an agent in Poland of approx. PLN 4,000,000, see paragraph 4.6.1.1 for further details, a receivable from a French agent and claims handler of approx. EUR 113,000, see paragraph 4.6.1.32, and receivables from a German agent and claims handler, see paragraph 4.6.1.3.

Furthermore, the bankruptcy estate has a receivable from a former agent based in Gibraltar of approx. GBP 4,940,000 in respect of received insurance premiums. On 25 November 2021, the parties entered into a settlement, according to which the agent pays a total of GBP 1,052,270 (approx. EUR 1,185,906) to the bankruptcy estate. The payment of the settlement amount of GBP 817,270 (approx. EUR 921,062) will be made over 60 months. The first instalment is due for payment on or before 1 October 2023.

### 4.6.1.1 Receivable from Polish agent

As stated in circular letters nos 3-5, the trustees have been unable to establish contact with a former Polish agent who wrote insurance for Gefion prior to the commencement of the bankruptcy proceedings. Accordingly, it has not been possible to obtain access to the data which the agent possesses in respect of the insurance written, and the bankruptcy estate also has not received payment of the bankruptcy estate's receivable of approx. PLN 4,000,000 (approx. EUR 854,387) which the agent has wrongfully withheld.

The trustees have made a number of attempts to collect the receivable and to procure the data through an external Polish lawyer.

As the receivable is of a not insignificant amount, and as the lack of insurance and claims data may impact the bankruptcy estate's validation of the claims handling in Poland, audit and reporting to the reinsurers, the trustees have filed a lawsuit against the agent and are awaiting service of writ of summons. In that connection, the trustees have gone through the contract documents, collection etc. and have drafted a writ of summons. For the purpose of serving the writ of summons, the necessary translation of the document has been made.

### 4.6.1.2 Receivable from French agent/claims handler

Two of the French claims handlers have refused to provide reporting to the bankruptcy estate on the claims handling on an ongoing basis. Moreover, one of the claims handlers, who was also Gefion's insurance agent, has refused to pay a receivable of approx. EUR 113,000. The claims handler has objected to the calculation of the receivable and has refused to provide reporting to the bankruptcy estate with reference to Gefion's bankruptcy.



Due to the lack of reporting, the bankruptcy estate is unable to report to the reinsurers on the claims processed by the claims handler, and, therefore, is unable to secure reinsurance funds for the claims, see also paragraph 4.5.

The bankruptcy estate has attempted to collect the receivable and to ensure the necessary reporting from the claims handler to the bankruptcy estate with the assistance of a French lawyer. At this time, the bankruptcy estate has not been successful in its attempts and has filed a writ of summons against the claims handler at the end of December 2022 to reduce the risk of limitation of the bankruptcy estate's receivable. The claims handler has denied the existence of the receivable but has entered into a dialogue with the bankruptcy estate on reporting.

#### 4.6.1.3 AIS Wild

At the commencement of the bankruptcy proceedings, Gefion had a receivable from a former agent and claims handler, AIS Wild, against whom insolvency proceedings had been commenced in Germany prior to Gefion's bankruptcy. The receivable consists of top-up funds of EUR 2,100,000 paid into a separate account with AIS Wild for the purpose of claims payments. Currently, the amount has been deposited with a German court as AIS Wild's German insolvency administrator has objected to the bankruptcy estate's receivable. The objections are based partly on an alleged set-off and partly on a tax claim from the German tax authorities concerning tax on insurance premiums collected by AIS Wild on behalf of Gefion prior to the bankruptcy for which Gefion (now in bankruptcy) has secondary liability to the extent that AIS Wild does not pay the tax claim.

Over the past period, the trustees have calculated Gefion's other potential receivables from AIS Wild. The trustees have identified a receivable in the form of an outstanding commission fee of EUR 323,860, of which the trustees have now filed with the insolvency administrator of AIS Wild.

The trustees' investigations into the possibilities of raising a claim for damages against AIS Wild in connection with the terminated agency relationship are still ongoing.

#### 4.6.1.4 Receivable from former agent in bankruptcy

The bankruptcy estate has filed a number of claims against a former agent of Gefion who is in liquidation (insolvency proceedings) in England. The claims filed amount to approx. GBP 17,891,254 in total and concern non-payment of commission and a claim for compensation for inefficient claims handling. The claims are handled by the bankruptcy estate's external English lawyers. At this time, the claims have not been formally adjudicated, and the amount of any dividend is unknown. However, the bankruptcy estate is not expected to receive dividends.

## 4.6.2 Receivables from premiums

The trustees have gone through the outstanding premium receivables from previous policyholders in Germany which AIS Wild did not collect prior to its bankruptcy. The trustees have engaged external lawyers to assist with the collection of unpaid receivables from premiums, and local lawyers have commenced a number of legal proceedings against policyholders before the German courts. The bankruptcy estate's German lawyers have informed the trustees that, at 1 March 2023, the lawyers are handling and collecting receivables from premiums totalling approx. EUR 4,993,815. Currently, receivables of approx. EUR 74,621 have been paid in this respect, which has been deposited in one of the lawyers' client account and will be included in the bankruptcy estate's cash and cash equivalents as the amounts are transferred to the bankruptcy estate.

Furthermore, over the past period, the trustees in concert with the German lawyer have concluded two suspension agreements concerning potential receivables from premiums whose final status is awaiting the outcome of the lawsuits described in paragraphs 5.6.3 and 5.6.4, and which would otherwise be statute-barred at 31 December 2022.

The trustees' work of going through receivables from premiums in the other jurisdictions is carried out concurrently with the trustees' review of Gefion's booked receivables from claims handlers and agents.

## 4.6.3 Subrogation in Poland

At the commencement of the bankruptcy proceedings, the estate had a number of existing and potential claims for contributions against liable persons which were handled by an external Polish lawyer. This lawyer still handles the collection of the subrogation claims and regularly informs the trustees of the status of collection, negotiations with debtors etc. The lawyer also makes regular enquiries of the trustees with respect to decisions on the future collection process. The lawyer is handling and collecting subrogation claims totalling approx. PLN 1,770,000. Currently, payments and settlements have been made and/or judgments achieved in the order of PLN 624,071, equal to approx. EUR 133,200. Recovered funds are transferred to the bankruptcy estate on a regular basis and are included in the statement of the bankruptcy estate's cash and cash equivalents.

## 5 General administration of estate

Since the last circular letter, the trustees' work has consisted in keeping the register of debts and claims, processing physical mail, management of the bankruptcy estate's email inbox, management of digital mail, correspondence with creditors and public authorities, investigations of liability, investigations of potential claims for repayment and/or criminal offences,

management of continuing agreements and investigations and work relating to disqualification proceedings, etc.

## 5.1 *Investigations of liability*

Initially, it should be noted that the investigations detailed in the following paragraphs 5.1.1-5.4 have been divided between the trustees. It is specified below which issues are investigated by attorney Boris Frederiksen, Poul Schmith, and which issues are investigated by attorney Søren Aamann Jensen, Accura Advokatpartnerselskab.

### 5.1.1 Management liability and auditor's liability

As described in the previous circular letters, early in the administration of the estate, trustee Boris Frederiksen identified several issues which gave rise to further investigations.

Since then, the trustees have worked to clarify and describe relevant factual circumstances in order to assess whether the identified issues may result in a claim for damages against the company's former management and/or the former external auditor.

Over the past period, trustee Boris Frederiksen has had further discussions with the company's former management and external auditor as well as other relevant individuals and companies associated with Gefion, including some of Gefion's former collaboration/business partners.

By way of a demand of 27 October 2022, trustee Boris Frederiksen raised a claim for damages of approx. DKK 13,500,000 against three individuals and a claim for damages of approx. DKK 39,100,000 against a fourth individual who have all been members of Gefion's management and/or ultimate owners or are otherwise associated with Gefion.

As the calculated claims for damages have not been paid despite the demand to this effect, trustee Boris Frederiksen will assess in the coming period which legal steps should be taken by the bankruptcy estate.

Furthermore, the investigations made into the bankruptcy estate uncovered that unwarrantable and incorrect recognition and valuation have been made of a number of assets, which has had a decisive effect on Gefion's financial ratios and solvency ratio. Over the past period, trustee Boris Frederiksen has therefore investigated whether Gefion continued operating after the point of no return resulting in additional losses to the creditors. As this is considered to be the case, it will be assessed in the coming period who may be held liable for this. The work of determining the amount of the loss has been commenced concurrently with the above investigation.

Due to the complexity and scope of the issues, a considerable number of lawyer hours was spent on this work.

The time spent on this work is approximately 1,841 lawyer hours for the period.

## 5.1.2 The Danish Commerce and Companies Appeals Board's decision

As stated in circular letter no. 4, the Danish Commerce and Companies Appeals Board made a decision on 3 February 2022 on the repeal of the Danish Financial Supervisory Authority's decision of 11 July 2019, which imposed a capital add-on requirement of DKK 39,200,000 on Gefion as a supplement to Gefion's solvency capital requirement. In that connection, the Danish Commerce and Companies Appeals Board found that the Danish Financial Supervisory Authority did not have the required authority to issue such a capital add-on requirement.

On the basis of this, trustee Søren Aamann Jensen has commenced investigations into the Danish Financial Supervisory Authority's decision and the Authority's regular supervision of Gefion.

The investigations are quite comprehensive and involve a review of extensive material, including more than 5,000 pages of documents and several email inboxes, and interviews with former Gefion employees. Concurrently with this work, the trustee has drafted a number of internal, confidential documents for the purpose of the investigation, including a timeline, internal overviews and an account of Gefion's circumstances in connection with the regular supervision and the material exchanged. The work is ongoing.

The time spent on this work is approximately 589 lawyer hours for the period.

## 5.2 *Claims for repayment*

As described in circular letter no. 5, trustee Boris Frederiksen has identified a number of potential claims for repayment against third parties and some of Gefion's former members of management and family members. For example, Gefion has paid several expenses of a sizeable amount for travels made by said individuals which, in the trustee's opinion, appear to be private expenses. The beneficiaries have admitted to this as regards some of the travelling expenses.

Moreover, the trustee ascertained that several former members of Gefion's management have used their company MasterCard for purposes which, in the trustee's opinion, appear to be private expenses.

These potential claims total a sizeable million DKK amount in the order of approx. DKK 5,000,000 - 6,000,000.

Over the past period, trustee Boris Frederiksen has been in a dialogue with the relevant parties/the parties' lawyers concerning the identified claims for repayment.

The work relating to the potential claims for repayment has not yet been completed.

The time spent on this work is approximately 366 lawyer hours for the period.

### 5.3 *Criminal offences, if applicable, and notification to the police*

In the context of the bankruptcy proceedings, trustee Boris Frederiksen has investigated whether there are any issues that form the basis for the trustee notifying the police under section 110(4) of the Danish Bankruptcy Act. The work is still ongoing.

The time spent on this work is approximately 95 lawyer hours for the period.

### 5.4 *Disqualification proceedings*

In connection with the bankruptcy estate's circular letter no. 4, the Danish Maritime and Commercial High Court has been separately informed of trustee Boris Frederiksen's investigations and assessment as to whether there is a basis for commencing disqualification proceedings. In his recommendation to the Danish Maritime and Commercial High Court of 7 April 2022, Boris Frederiksen recommended that disqualification proceedings be commenced against two of the former members of Gefion's management.

The proceedings are still pending before the Danish Maritime and Commercial High Court. The time spent on the cases after 7 April 2022 is not included in the general administration of the estate and, therefore, will not be included in future circular letters.

### 5.5 *Management of employees and consultants*

The bankruptcy estate still employs four employees and external consultants in Denmark and England. In addition, the bankruptcy estate engages a small number of external consultants on an ad hoc basis.

The trustees regularly review the employment terms and the contractual relationships to assess resource requirements of the bankruptcy estate relating to the winding-up of the remaining claims portfolio and related work.

Over the past period, the trustees have ensured the transfer of the actuarial function from the bankruptcy estate's former consultant in England to external consultants in Denmark.

In addition, the trustees regularly participate in meetings with the employees and consultants to ensure the progress and status of the work.

The time spent on this work is approximately 63 lawyer hours for the period.

## 5.6 *Lawsuits*

The bankruptcy estate has intervened in a number of lawsuits filed against Gefion prior to the date of the bankruptcy order. In addition, the bankruptcy estate has been sued in lawsuits brought after the date of the bankruptcy order.

The lawsuits filed against Gefion prior to the date of the bankruptcy order concern, to a large extent, rejected claims where the injured party did not agree with the decision made by the claims handler. The trustees regularly review and assess whether the bankruptcy estate should intervene in such lawsuits and have regular correspondence and discussions to that effect with the bankruptcy estate's lawyers in Germany and Poland in particular. In other jurisdictions, the lawsuits are primarily conducted by external lawyers through the respective claims handlers/agents in accordance with the agreements concluded between Gefion and them.

With respect to the lawsuits filed after the date of the bankruptcy order, the trustees monitor these lawsuits closely and are involved in the proceedings on an ongoing basis as the courts should generally dismiss the lawsuits.

In addition to the lawsuits related to rejected claims, two lawsuits were pending against Gefion on the date of the bankruptcy order in which car rental companies claimed that Gefion is liable to pay compensation on account of the fact that Gefion stopped writing insurance on 23 March 2020. In these lawsuits, Gefion has submitted a counterclaim in the form of premium claims. The lawsuits are/have been litigated by external lawyers in Germany where the lawsuits are pending. One of the two lawsuits is still pending in Germany, see paragraph 5.6.4 for further details. The other lawsuit has been closed as the bankruptcy estate's application for permission to appeal to a third instance has been dismissed, see paragraph 5.6.3 for further details.

In connection with the lawsuits, the trustees have spent time on discussions and meetings with claims handlers/agents and/or the external lawyers representing the bankruptcy estate in the pending lawsuits.

The time spent on this general work with lawsuits is approximately 32 lawyer hours for the period.

### 5.6.1 *Lawsuits in Poland*

At the time of commencement of the bankruptcy proceedings, approx. 580 lawsuits against Gefion were pending in Poland concerning insurance claims according to information from the estate's external lawyers.

However, after the commencement of the bankruptcy proceedings, the trustees have regularly received information about a considerable number of additional lawsuits against Gefion which

had been brought before the date of the bankruptcy order, but which the former claims handler had not previously referred to a lawyer. Moreover, eight lawsuits have been brought against Gefion (now in bankruptcy) after the date of the bankruptcy order. The Polish lawyers have informed the trustees that approx. 150 of the known pending lawsuits have been closed before the court, either by judgment or because the plaintiff has withdrawn the case.

Based on the overall information received from the Polish lawyers and through the continuous mail processing, approx. 530 lawsuits against Gefion are still pending in Poland. It should be noted with respect to the statement of pending lawsuits that, in certain cases, the lawsuits are registered under new case numbers with the courts when the courts reopen the hearing of the cases with (now) Gefion under konkurs (*in bankruptcy*) as a party. Therefore, such cases may appear twice in the records of pending lawsuits, but will only be heard once before the court.

The trustees receive regular reporting on the lawsuits and their status through the incoming mail and from the Polish lawyers as well as recommendations from the lawyers as to whether there is a basis for objections in the lawsuits. Moreover, the trustees regularly consider whether the bankruptcy estate should intervene in the lawsuits.

A substantial number of the lawsuits brought before the commencement of the bankruptcy proceedings have been suspended with reference to the provisions of Polish law of procedure. These rules stipulate that lawsuits concerning claims that are subject to bankruptcy proceedings are suspended until the trustee assigns a specific claim number to the claims and considers the claim in connection with the adjudication of claims. The lawsuit will be reopened before the Polish court only if the trustees reject the claim in connection with the adjudication of claims process. This is in conflict with Danish bankruptcy law because, as a main rule, a trustee cannot be ordered to carry out a formal adjudication of claims process in respect of claims which are not yet required to be adjudicated. Moreover, an actual lawsuit related to adjudication of claims may be heard only before the Danish bankruptcy court.

The trustees have had comprehensive correspondence and discussions with the external Polish lawyer on the handling of the matter and the interplay between the Polish civil law rules and Danish bankruptcy law. On this basis, the trustees will record in the register of debts and claims the claims comprised by the Polish suspended lawsuits to the extent that the Polish courts so require during the hearing of the lawsuits. In certain cases, the Polish courts have continued their proceedings based on the records and the trustee's account of Danish bankruptcy law, whereas, at this point, other courts maintain their claim that the insurance claim is to be subject to a formal adjudication of claims. The trustees continue to handle the issue on a case-by-case basis depending on the individual Polish court and whether the estate has chosen to intervene in the case.

As regards the lawsuits brought after the date of the bankruptcy order, the trustees are a party to such lawsuits and have asserted claims for dismissal of these cases. Currently, one single

lawsuit has been dismissed, whereas the other lawsuits are awaiting decisions by the Polish courts.

The time spent on this work is approximately 157 lawyer hours for the period.

## 5.6.2 Lawsuits in France

The lawsuits in France concerning French insurance claims are still handled to a large extent by the bankruptcy estate's external claims handlers in France.

However, in the period since the last circular letter, the bankruptcy estate has been sued in a number of additional lawsuits in France, where previously, the bankruptcy estate's insurance agents were the defendants in these cases. Consequently, the bankruptcy estate is the defendant in a total of 18 lawsuits in France. The trustees have engaged a local lawyer to represent the bankruptcy estate before the French courts and have regular correspondence and discussions with this lawyer on the lawsuits and management hereof.

The lawsuits are handled directly by the trustees as they have been brought against and served directly on Gefion under konkurs (*in bankruptcy*) without involving the local insurance agent/claims handler, or as the lawsuits have been brought against both Gefion under konkurs (*in bankruptcy*) and the local insurance agent/claims handler. The trustees review and revise submissions in the lawsuits on a regular basis adding supplementary factual information and accounting for Danish bankruptcy law.

A number of the lawsuits have been brought entirely after the date of the bankruptcy order, whereas the others have been brought against either Gefion or the insurance agent/claims handler representing Gefion before the date of the bankruptcy order. Moreover, the trustees are noting that lawsuits are still being filed against Gefion's claims handlers after the date of the bankruptcy order. In these lawsuits, the trustees are in an ongoing dialogue with the claims handlers about the scope of Danish bankruptcy law and the application of the Solvency II Directive.

The time spent on this work is approximately 116 lawyer hours for the period.

## 5.6.3 Charterline

On 11 January 2023, the German Bundesgerichtshof dismissed the bankruptcy estate's application for permission to bring Oberlandsgerichts Koblenz's judgment of 19 May 2021 before the Bundesgerichtshof. Consequently, the judgment of 19 May 2021 is final. As a result of the judgment, a considerable number of claims, estimated in circular letter no. 2 at approx. 18,000 claims, may potentially be claimed against the bankruptcy estate for a total double-digit million EUR amount not yet calculated.



During the hearing of the case at the court of first instance, it was submitted that the indirect discretionary value of the case was EUR 32,779,137.36. In connection with the ruling of 11 January 2023, the Bundesgerichtshof determined the indirect discretionary value at EUR 20,450,000. In the coming period, the trustees will look into the implications of the judgment and the amount of the potential total claims expected to be filed against the bankruptcy estate.

The time spent on this work is approximately 37 lawyer hours for the period.

#### 5.6.4 SIXT GmbH & Co Autovermietung KG

Over the past period, the trustees have been handling queries from the German court about obtaining an expert opinion on Danish law. The matter is now awaiting the submission of the expert opinion to the German court, which is the applicant.

The time spent on this work is approximately 15 lawyer hours for the period.

#### 5.6.5 Hermes Concept GmbH

As stated in circular letter no. 5, the final hearing of the court case against Hermes Concept GmbH took place in Berlin on 6 May 2022. The bankruptcy estate was successful in its claim for the amount of approx. EUR 5,900,000.

Subsequently, the trustees in concert with the bankruptcy estate's German lawyer have commenced attachment proceedings in Germany in respect of the debtor's (limited) means in a bank account, and attachment proceedings in respect of other assets are still pending.

The case has not yet been closed as the opposing party has firstly attempted to have the decision reversed (and the case reopened) and secondly attempted to set up a counterclaim against the bankruptcy estate. It remains uncertain to what extent the bankruptcy estate will be able to recover the full amount claimed.

The time spent on this work is approximately 14 lawyer hours for the period.

#### 5.6.6 Lawsuit before the High Court of Justice of England and Wales

As described in circular letters nos 3-5, at the commencement of the bankruptcy proceedings, a lawsuit was pending before the High Court of Justice of England and Wales, which had been filed against a former agent in England, a claims handler appointed by the agent, a sub-supplier of said claims handler and lastly the agent's liability insurance company (the "Defendants") for inefficient/inadequate claims handling in relation to an insurance portfolio taken out with Gefion or Qudos Insurance A/S, as the case may be, as the insurer. At the time of the filing of the lawsuit, the total value of the lawsuit was assessed to be no less than GBP 8,800,000, which,

in case of the court allowing all Qudos' and Gefion's claims, would be apportioned between Qudos and Gefion on the basis of a specifically agreed apportionment key.

The trustees decided to intervene in the case and continue the lawsuit. The lawsuit has subsequently been settled, and, in that connection, the bankruptcy estate received a payment of GBP 666,861.32 representing Gefion's share of the settlement amount. The trustees have also received a repayment of GBP 300,145.28, which had been paid to the court as security for the court costs of the case. In the period since the last circular letter, the trustees have had a discussions with the former lawyers about the closing of the settlement, the handling of a minor interest receivable paid by the court and the final settlement of the matter.

## 5.7 *Planning of the process for proving claims*

Over the past period, the trustees continued work on developing the bankruptcy estate's semi-automated register of debts and claims and the related reporting process in concert with external consultants.

In addition, the trustees continued work on planning the handling of approved claims for damages to be filed against the estate, complaints concerning rejected claims for damages as well as return of premium claims against the bankruptcy estate.

The trustees have been in an ongoing dialogue with the claims handlers engaged by the trustees to ensure uniform filing of claims against the bankruptcy estate by using the reporting format prepared by the bankruptcy estate and to ensure that the documentation enclosed is adequate for the purpose of the trustees' adjudication of the claims, if any.

The trustees have also spent time on drafting guidelines for the purpose of creditors' filing of claims against the bankruptcy estate and on discussions with a few of the bankruptcy estate's major creditors about the filing of claims flow.

The time spent on this work is approximately 151 lawyer hours for the period.

## 5.8 *Handling of enquiries received by the bankruptcy estate concerning claims and other enquiries*

The trustees regularly receive enquiries from public authorities etc., existing and former contracting parties, policyholders and injured parties about the administration of the estate, questions about the termination of insurance policies and questions about the status of injury already sustained, pending lawsuits, etc. In addition, the trustees regularly receive notification of new claims and regularly record filings of claims received from other creditors. The claims are filed by the respective guarantee funds, claims handlers and other policyholders who believe that they have a claim against the bankruptcy estate.

Moreover, the trustees receive a large number of enquiries from courts, particularly in Poland, about pending lawsuits and questions about the status of the administration of the estate and Danish bankruptcy law in general. The trustees also receive considerable volumes of physical and electronic mail with documents to be served.

The trustees have created separate email inboxes for the purpose of such enquiries. The trustees regularly receive and handle enquiries from England, Germany, France and Poland, in particular. The enquiries are regularly reviewed and submitted for entry into the register of debts and claims, passed on to the relevant claims handlers or answered directly by the trustees. Furthermore, in order to inform the parties involved as much as possible about the bankruptcy and its legal effects, the trustees update the bankruptcy estate's website regularly with information about the administration of the estate.

The trustees expect this work to continue to the same extent until the claims handling of the open claims portfolios has been finalised.

The time spent on this work is approximately 131 lawyer hours for the period.

## 5.9 *Adjudication of claims*

For the purpose of the adjudication of claims against the bankruptcy estate, the trustees have made investigations into certain claims from policyholders/injured parties, which have been passed on to third parties against payment to the policyholder/injured party. Such claims have subsequently been filed with the bankruptcy estate, and the trustees have carried out the above-mentioned investigations in order to clarify the ranking and admissibility of such claim under the Danish Bankruptcy Act and the Danish Financial Business Act.

For the purpose of the later adjudication of claims processes, the trustees have also performed investigations into the claims filed or expected to be filed by the guarantee funds against the bankruptcy estate in order to assess the ranking of such claims in the order of priority.

The time spent on this work is approximately 121 lawyer hours for the period.

## 5.10 *Administration of the estate in general*

In addition to the above work, the trustees handle a number of other tasks related to the administration of the estate, including tasks arising on a continuing basis after the date of the bankruptcy order. The work includes regular reporting to public authorities, ongoing payments and maintenance of bookkeeping records and financial reporting of the bankruptcy estate, trustees' meetings, handling of correspondence and dialogue about/with the creditors' committee, etc.

The time spent on this work is approximately 261 hours for the period.

## 5.10.1 Handling of tax and VAT matters

The trustees have entered into a dialogue with an accounting firm to assess a reopening of the bankruptcy estate's VAT and payroll tax returns. The work in that respect has primarily consisted in obtaining the material required for reviewing the issue as well as regular discussions and correspondence on this. Since the last circular letter, the trustees in concert with the accounting firm have examined in detail invoices for the expenses paid by the bankruptcy estate for the purpose of potentially reopening the bankruptcy estate's VAT returns for prior years. The work and discussions to that effect are still ongoing.

Since circular letter no. 5, the trustees have handled a larger preliminary assessment from the English tax authorities and a demand note for this amount received subsequently. The trustees in concert with the bankruptcy estate's employees and English lawyers have ensured that the amount was not imposed on the bankruptcy estate as tax payable. In this regard, the trustees have asked external lawyers in other jurisdictions to investigate Gefion's tax position after the commencement of the bankruptcy proceedings to ensure that the bankruptcy estate is to handle direct and indirect taxes only if they relate to the continuing operations of the bankruptcy estate, not to past registration issues. The trustees have held meetings with the lawyers and have concluded specific agreements on the assistance, and they have considered correspondence and information from the English authorities.

The time spent on this work is approximately 71 lawyer hours for the period.

## 5.10.2 The bankruptcy estate's IT and operation of website and establishment of data warehouse

The trustees regularly update the bankruptcy estate's website and assess the bankruptcy estate's IT requirements. Over the past period, work relating to data management in a partly new data warehouse was intensified. The work relates to, e.g., adjustments of the bankruptcy estate's data requirements and the maintenance and protection of Gefion's data, including in connection with the transfer and handling of new data. Over the past period, the trustees replaced the supplier of some of the bankruptcy estate's IT services to the effect that, in the future, they will be supplied by the IT supplier supplying the majority of Gefion's IT services. This included ensuring that Gefion's website was transferred to the trustees and that a correct SSL certificate was installed, ensuring secure access to Gefion's website.

Since circular letter no. 5, the trustees have worked on further developing an existing IT system in Gefion, which will imply that a number of processes relating to the validation of claims, the calculation of reinsurance and the preparation of bookkeeping records and financial statements may be automated. A kick-off meeting was held between the trustees' employees and an external consultant who has been engaged to develop the IT system, and weekly status meetings are held about the process, development and future steps. The development of the IT system is phased, meaning that the new functions are finalised one at a time.

The work relating to the above will be ongoing during the administration of the estate.

The time spent on this work is approximately 117 lawyer hours for the period.

## **6 Information about changes to the creditors' committee**

On 28 December 2022, the Danish Maritime and Commercial High Court held a creditors' meeting. The meeting was held without a prior notice convening the bankruptcy estate's creditors as the bankruptcy estate's creditors may request a new creditors' meeting, see details below. At the hearing, the bankruptcy court decided to allow attorney Preben Jakobsen to resign from the creditors' committee and to allow attorney Lars Skanvig to join the committee. The bankruptcy court decided that the change to the composition of the creditors' committee was to be published on the bankruptcy estate's website and in the next circular letter in accordance with section 125(4) of the Danish Bankruptcy Act.

The trustees note that the bankruptcy estate's creditors may request that a new election for the creditors' committee be conducted in accordance with section 117(4) of the Danish Bankruptcy Act or the principles therein. Any request by a creditor that the bankruptcy court convene a creditors' meeting to elect new members of the creditors' committee must be made in writing to the bankruptcy court of the Danish Maritime and Commercial High Court in accordance with section 116 of the Danish Bankruptcy Act.

The decision to change the composition of the creditors' committee was published on the bankruptcy estate's website in continuation of the bankruptcy court's decision.

Over the past period, the trustees have had regular discussions with the creditors' committee and its members.

The time spent on the work relating to the creditors' committee is approximately 27 lawyer hours for the period.

## **7 Next circular letter**

Circular letter no. 7 will be sent to the bankruptcy court and uploaded on the company's website on 7 October 2023.

The time spent on preparing circular letter no. 5 and translating it for the estate's English creditors and on preparing this circular letter no. 6 is approx. 268.5 lawyer hours.

## 8 Enquiries concerning the bankruptcy estate

Enquiries about the bankruptcy estate may be made to the trustees, attorney Søren Aamann Jensen and attorney Charlotte Damsbo Lose, Accura Advokatpartnerselskab, Tuborg Boulevard 1, DK-2900 Hellerup, on +45 3945 2800 or by email to [clo@accura.dk](mailto:clo@accura.dk) or to the estate administrator, Jeanette Hansen, on +45 3945 3954 or by email to [jhn@accura.dk](mailto:jhn@accura.dk) or to the trustee, attorney Boris Frederiksen and attorney Mathias Juul Holter, Poul Schmith, Kalvebod Brygge 32, DK-1560 Copenhagen V, by email to [bor@poulschmith.dk](mailto:bor@poulschmith.dk) or [mho@poulschmith.dk](mailto:mho@poulschmith.dk).

Enquiries relating to the filing of claims must be made to [gefion-claims@poulschmith.dk](mailto:gefion-claims@poulschmith.dk).

Yours faithfully

Boris Frederiksen  
Partner, Poul Schmith

Søren Aamann Jensen  
Partner, Accura Advokatpartnerselskab