

RECTOR & ASSOCIATES, INC.

**REPORT TO THE
LOUISIANA DEPARTMENT OF INSURANCE
REGARDING LOUISIANA HEALTH
SERVICE & INDEMNITY COMPANY (D/B/A/
BLUE CROSS AND BLUE SHIELD OF
LOUISIANA**

**Plan of Reorganization Regarding the
Conversion from a Mutual Insurance Company
to a Stock Insurance Company and Purchase of
Louisiana Health Service & Indemnity Company
(d/b/a) Blue Cross and Blue Shield of Louisiana
Common Stock**

August 14, 2023

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Rector & Associates, Inc. (“**R&A**”) is pleased to present the Report of its findings and recommendations to the Louisiana Department of Insurance (“**Department**”) with respect to the services requested by the Department in connection with the following:

- The Plan of Reorganization Regarding the Conversion from a Mutual Insurance Company to a Stock Insurance Company with respect to Louisiana Health Service & Indemnity Company (D/B/A/ Blue Cross And Blue Shield of Louisiana) (“**Plan of Reorganization**”); and
- The acquisition of 100% of the outstanding shares of capital stock of BCBSLA (BCBSLA Purchase) (“**BCBSLA Acquisition**”).

The following describes the actions that have been taken and the proposed actions to be taken to effectuate the Plan of Reorganization and the BCBSLA Acquisition (collectively, the “**Transactions**”):

First, the Board of Directors of Louisiana Health Service & Indemnity Company (D/B/A/ Blue Cross and Blue Shield of Louisiana) (“**BCBSLA**”) approved the Plan of Reorganization pursuant to Board resolutions that were adopted on and effective as of January 23, 2023. The transactions contemplated by the Plan of Reorganization would result in the reorganization of BCBSLA from a mutual insurance company to a stock insurance company in accordance with LSA-R.S. § 22:72, LSA-R.S. § 22:236 et seq. and the other applicable provisions of the Louisiana Insurance Code (collectively, the “**Demutualization Statutes**”).

In addition, an Agreement and Plan of Acquisition (“**Acquisition Agreement**”) was entered into effective January 23, 2023 by and among BCBSLA, Elevance Health, Inc., an Indiana corporation (“**Elevance**”), ATH Holding Company, LLC, an Indiana limited liability company and wholly owned subsidiary of Elevance (“**Purchaser**”), and The Accelerate Louisiana Initiative, Inc., a newly established Delaware nonprofit nonstock corporation organized by BCBSLA to work to improve the health and lives of the people of the State of Louisiana and intended to qualify as an Internal Revenue Code Section 501(c)(4) social welfare organization (“**Foundation**”). (BCBSLA, Elevance, Purchaser and the Foundation are, collectively, the “**Parties**”).

At or shortly following the effectiveness of the Transactions (the “**Closing Date**”), the following would occur: Elevance would indirectly acquire 100% of the BCBSLA issued and outstanding shares of capital stock (“**BCBSLA Shares**”), subject to the terms and conditions set forth in the Transactions. In addition, eligible members of BCBSLA, as determined by BCBSLA and approved by the Louisiana Commissioner of Insurance (“**Eligible Members**”) would receive Eligible Member Payments as consideration for the extinguishment of the Eligible Members’ rights and interests as BCBSLA policyholders and members of BCBSLA. Finally, BCBSLA would make payments to the Foundation to fund its future operations.

I. EXECUTIVE SUMMARY

A. Summary of Key Economic Aspects of the Transactions

The following is a high-level summary of the key economic aspects of the Transactions. This summary was prepared using dollar estimates developed by BCBSLA based on data on or approximately as of 12/31/2022. The amounts below are general, informational estimates only. The actual amounts would be based on BCBSLA's financial statements as of the Closing Date.

1. Elevance (through Purchaser) is to make the following payments, totaling \$2.746 billion:
 - \$307 million paid to the Eligible Members (via a paying agent) (\$3,027 per policy);
 - \$2.435 billion contributed to the Foundation (via BCBSLA); and
 - \$4 million paid to cover various indebtedness and transaction expenses.
2. In addition to the amounts above (which are to be funded by Elevance), BCBSLA is to contribute \$667 million to the Foundation from its existing funds.
 - Following this contribution and the other aspects of the Transactions, BCBSLA would have statutory surplus of approximately \$1 billion (compared to \$1.652 billion as of 12/31/2022) and an Authorized Control Level Risk-Based Capital (“**ACL RBC**”) ratio of 500% (compared to 838% as of 12/31/2022);
3. Following the Transactions, it is estimated that the Foundation would have assets of \$3.102 billion, consisting of:
 - the \$2.435 billion payment originating with Elevance (Item 1 above, second bullet), and
 - the \$667 million payment originating with BCBSLA (Item 2 above).
4. For purposes of determining the amount of consideration to be paid to Eligible Members, the “value of” BCBSLA¹ was determined by the Parties to be \$3.413 billion.²
 - As noted in Item 1 above, first bullet, the payment to Eligible Members would be \$307 million, which is approximately 9% of BCBSLA's \$3.413 billion valuation.

B. Benefits of the Transactions

In the Plan of Reorganization—and especially in clauses “C” and “D” of the section titled “Affirmations Related to the Proposed Reorganization”—BCBSLA describes many of the benefits it believes the Transactions would provide to BCBSLA and its members and other customers. Those benefits include such things as improving BCBSLA's access to capital, improving the delivery of health care digitally, and allowing BCBSLA to use Elevance's wide-ranging portfolios of whole health solutions. Although it is outside of the scope of our engagement to perform more than a general review of these various anticipated benefits, the benefits of the Transactions claimed

¹ Within the meaning of La. Rev. Stat. 22:236.3.A.

² This consists of the base purchase price of BCBSLA on a debt-free basis assuming an ACL RBC of 375% (\$2.5 billion) plus BCBSLA's surplus above an ACL RBC ratio of 375% (\$913 million) (i.e., \$2.5 billion + \$913 million = \$3.413 billion).

by BCBSLA appear to us to be reasonable and to be the types of benefits we anticipate transactions such as those contemplated here would provide.

In addition to the anticipated benefits to BCBSLA's members and other customers, the funding of the Foundation should also benefit residents of Louisiana more broadly—even those who are not members or other customers of BCBSLA—since the stated mission of the Foundation is “to improve the health and lives of the people of Louisiana.”

C. Items Requiring Particular Consideration by the Department

To be balanced against these many benefits are two items arising from our analyses and conclusions that we believe the Department should give particular consideration to as it decides whether to approve the Transactions. These items are in addition to any that may be raised by the other Department-contracted specialists or advisors.

1. *Very little of substance is currently known about how the Foundation would operate or how it would use the more than \$3 billion it would receive as part of the Transactions.*

- The expectation is that the Foundation would benefit Louisianians since its mission is “to improve the health and lives of the people of Louisiana.” These benefits should inure not only to BCBSLA's members and other customers, but, also, to Louisianians more broadly. However, very little is currently known about what the Foundation would actually do to accomplish its mission. Currently, the Foundation's expressed plans are quite general in nature. For example, one of the responses provided to our questions about the Foundation's plans was, “[t]he Board [of the Foundation] has had many discussions about the many areas of need within the state, intends to conduct a needs assessment for health and the social determinants of health in Louisiana to assist in narrowing its focus and identify and develop specific projects and initiatives that potentially will be transformational within the state.” In other words, the Foundation plans to study the issue and to make decisions later about what problems to address and how to address them. Other descriptions provided by the Parties as to the Foundation's plans are set out in the body of our report below. Those descriptions are similarly general in nature.
- Questions also remain regarding who the officers and directors of the Foundation would be. Currently, the board of directors of the Foundation consists of four initial directors (all currently board members of BCBSLA). The Foundation intends to add more directors as well as (presumably) officers and other staff, but it is not currently known who those persons would be.
- Another somewhat open question pertains to the activities of the Foundation relative to its planned operation as a social welfare organization that is tax-exempt pursuant to section 501(c)(4) of the Internal Revenue Code. The Parties indicated that the Foundation is expected to satisfy the requirements needed to be such an organization; however, the Foundation does not plan to seek a “determination letter” from the Internal Revenue Service (“IRS”) to confirm that status until after the Closing Date. Also, as discussed further in the body of the report, 501(c)(4) social welfare organizations (unlike 501(c)(3) charitable organizations) are allowed to engage in wide-ranging political activity, including lobbying and engaging in political campaigns on behalf of or in opposition to candidates

for public office.³ As discussed in the body of our report, the Foundation's Certificate of Incorporation prohibits the Foundation from engaging in such political activity—restricting its activities in this area to those permitted of a 501(c)(3) organization. However, it would be possible for the Foundation to amend its Certificate of Incorporation in the future to modify or remove this restriction so long as the amendment has the approval of two-thirds (2/3) of the total number of directors then in office.

- In some ways, it is understandable that specifics about the Foundation's plans are not yet known. The Foundation is in its early stages, and (understandably, and responsibly) it would like to take a methodical approach to fulfilling its mission. However, this is probably the only opportunity for the Department and the Eligible Members to evaluate the Foundation's plans. Once/if the Transactions are approved, the Department and the Eligible Members would likely not have any jurisdictional oversight of the Foundation, its operations, or its use of the funds being contributed to it. Accordingly, the Department and the Eligible Members are being asked to approve Transactions that would include the contribution to the Foundation of approximately \$667 million of BCBSLA's current assets, in addition to the contribution through BCBSLA of approximately \$2.435 billion in assets funded by Elevance, even though very little of substance is known as to what the Foundation would do with the funds it would receive or as to who would control the decisions to be made regarding them.
- **Recommendations:**
 - We recommend that the Department decide whether additional information pertaining to the Foundation's plans is needed before the Department and the Eligible Members can make an informed decision regarding the Transactions.
 - We recommend that the Department consider whether the Foundation's current limitation as to its engagement in political activity is sufficient (given that it may be removed from the Foundation's Certificate of Incorporation with the vote of 2/3 of the total number of directors at the time of the vote) or whether further steps are needed to assure that the Foundation will not engage in political activity at some point in the future.
- **Conclusion:** We have no conclusions regarding this matter separate from our recommendations.

2. *The Transactions would cause BCBSLA's liquid assets⁴ to go from 116% of its liabilities as of 12/31/2022 to 53% of its projected liabilities as of 12/31/2023.*

- In addition to the impact such a reduction in liquidity would have on BCBSLA's financial condition generally, there is a concern it could also impact decisions made at BCBSLA in the future as to whether, when, how often, and by how much to increase rates to its customers.
- The Parties have identified a number of protections relative to this reduction in liquidity: (1) BCBSLA would become part of Elevance, a publicly-traded Fortune 500 company and

³ According to the IRS, 501(c)(4) organizations "may engage in an unlimited amount of lobbying, provided that the lobbying is related to the organization's exempt purpose," and "may engage in political campaigns on behalf of or in opposition to candidates for public office provided that such intervention does not constitute the organization's primary activity." See *Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations*, by John Francis Reilly and Barbara A. Braig Allen, p. L-2. <https://www.irs.gov/pub/irs-tege/eotopic103.pdf>.

⁴ Investments in cash, bonds, and non-affiliated common stocks.

financially strong health insurer and provider group, (2) BCBSLA has developed and submitted cash flow projections that show it having positive cash flow through at least the period of the projections (the end of calendar year 2026), (3) Elevance intends to provide a form of financial guarantee to protect the “customers” of BCBSLA and HMO Louisiana, Inc.⁵ (“**HMO Louisiana**”) in the event of financial insolvency at either entity, (4) Elevance has indicated that it is willing to commit to the Department that it will maintain ACL RBC ratio levels of at least 375% at both BCBSLA and HMO Louisiana, and (5) BCBSLA has stated that it will not need to increase rates due to any aspect of the Transactions, including its reduced liquidity.

- **Recommendations:** We recommend the following as conditions to any approval of the Transactions by the Department:
 - That the Department ensure that Elevance issues the referenced forms of guarantee that protect the “customers” of BCBSLA and HMO Louisiana;
 - That the Department require Elevance to formally document that it will ensure that BCBSLA and HMO Louisiana each maintain an ACL RBC ratio of at least 375% (as it has committed to do);
 - That the Department require BCBSLA to agree not to pay any shareholder dividends (whether “ordinary” or “extraordinary” dividends) without prior Department approval prior to 2027, which is consistent with the cash flow projections submitted by BCBSLA (which show no dividends through 2026); and
 - That the Department carefully monitor BCBSLA’s adherence to the submitted cash flow projections.
- **Conclusion:** We would be concerned by the reduction in BCBSLA’s liquidity if it occurred in a vacuum, without any countervailing protections. However, we believe the protections identified by the Parties, coupled with the implementation of our recommendations, would adequately address the concerns presented by the reduction in liquidity.

⁵ HMO Louisiana, Inc. is a Louisiana domestic HMO that is a wholly-owned subsidiary of BCBSLA.

II. SCOPE OF WORK

In connection with our engagement by the Department, we were asked to perform the following services and analyses:

R&A will review various documents filed in connection with the Transactions and provide comments to the Department, Randall Stevenson⁶ and Butler Snow LLP (“**Butler Snow**”)⁷, as appropriate, regarding matters R&A believes would be relevant as the Department decides whether to approve the Transactions. R&A will focus on certain financial and regulatory issues. In particular, R&A will:

1. Review documents filed with the Department for the purpose of identifying key “big picture” financial issues R&A believes the Department should consider as it decides whether to approve the Transactions.
2. Assist Mr. Stevenson in his review in several ways, including:
 - Asking the Parties generally about the process used by BCBSLA/Elevance in determining what they believe to be “the value of” BCBSLA for the purposes of determining what consideration to pay to Eligible Members, reviewing (along with Mr. Stevenson) the December 22, 2022 correspondence from Cain Brothers (a Division of KeyBanc Capital Markets) (“**Cain Brothers**”) to the BCBSLA Board of Directors relative to that determination of “value” (the “**Cain Brothers Opinion**”) and providing comments regarding such matters that it believes the Department should consider as it decides whether to approve the Transactions.
 - Sharing thoughts and comments R&A has regarding the January 12, 2023 correspondence from Chaffe & Associates, Inc. to the Board of Directors (the “**Chaffe Opinion**”) and the January 12, 2023 Deloitte Consulting LLP Statement of Actuarial Opinion – Allocation of Policyholder Consideration for Proposed Demutualization, as issued by Brian M. Collender, FSA, MAAA (the “**Deloitte Opinion**”), as well as asking the Parties general questions R&A has regarding the Chaffe Opinion and the Deloitte Opinion.
 - Sharing other thoughts/comments/questions/concerns that R&A believes Mr. Stevenson should consider as he performs his work.
3. Evaluate, generally, whether R&A believes the Transactions would leave BCBSLA in a financial position that should be of concern to the Department as it decides whether to approve the Transactions.
4. Ask the Parties various questions pertaining to the Foundation, including questions about proposed compensation to officers and board members of BCBSLA.

⁶ Randall A. Stevenson, ASA MAAA MSc, is the President of & Consulting Actuary with Hause Actuarial Consulting, Inc. (“**HAC**”). It is our understanding that HAC and Mr. Stevenson were engaged by the Department to perform actuarial, valuation, and related services in connection with the Department’s review of the Transactions.

⁷ Butler Snow LLP is a law firm that we understand was engaged by the Department to perform legal services in connection with the Department’s review of the Transactions.

5. Ask the Parties questions regarding their proposed compliance with La. Rev. Stat. 22:236.3.D. pertaining to dividend expectations and protections.
6. Determine whether and how BCBSLA's current board members and executive officers would financially benefit if the Transactions are approved.
7. Provide any additional comments/thoughts R&A has after reviewing the documents and communicating with the Parties to the extent R&A believes such thoughts/comments would be helpful to the Department as it decides whether to approve the Transactions.

For sake of clarity, among the things R&A was not tasked with doing are the following:

- Determining what is an appropriate "value" of BCBSLA;
- Evaluating whether the consideration BCBSLA proposes to pay to Eligible Members—whether in the aggregate or in the allocation of that aggregate amount among Eligible Members—constitutes amounts equal to Eligible Members' "equitable share" of BCBSLA's value; or
- Determining whether BCBSLA's decisions as to who are and who are not Eligible Members are appropriate.

As part of our services and analyses, R&A requested information and documents from the Parties in the form of correspondence to Ronnie L. Johnson, Esq. of the McGlinchey Stafford PLLC law firm, legal counsel for BCBSLA. We requested information and documents in correspondence dated June 22, 2023, July 10, 2023, July 20, 2023, August 7, 2023, August 11, 2023, and August 13, 2023 (collectively, the **"R&A Requests for Information"**). Mr. Johnson responded to the R&A Requests for Information in the form of correspondence to R&A dated July 7, 2023, July 17, 2023, August 2, 2023, August 7, 2023, and August 13, 2023 (collectively, the **"Responses"**).

III. ANALYSIS AND RECOMMENDATIONS

Following this list is a description of our work and findings relative to each of the tasks.

A. Task 1 – Document Review and Identification of Key “Big Picture” Financial Issues

Task: Review the documents filed with the Department for the purpose of identifying key “big picture” financial issues that R&A believes the Department should consider as it decides whether to approve the Transactions.

We reviewed the documents filed in connection with the Transactions, focusing on those that most impacted the specific tasks we were asked to perform. Although there are numerous issues presented by transactions as complex as these, we identified three “big picture” financial issues that we believe are the most critical ones for the Department to consider as it decides whether to approve the Transactions. Those issues, and a brief discussion as to how they have been dealt with, are as follows:

1. “Big Picture” Financial Issue # 1: What is “the value of” BCBSLA?

Analysis: La. Rev. Stat. 22:236.3.A provides, in part, that “each eligible member shall be entitled to consideration in an amount equal to his or its equitable share of the value of the reorganizing mutual...” (emphasis added). A key part of the analysis, therefore, is for there to be a determination of what constitutes “the value of” BCBSLA. As noted above, we were not tasked with determining “the value of” BCBSLA. However, we were tasked with assisting Mr. Stevenson in his analysis of that issue.

It was not easy to ascertain from the documents themselves the amounts that are to be paid by the Parties in connection with the Transactions or how those payment amounts might relate to “the value of” BCBSLA.⁸ Accordingly, part of our work pertained to sorting through the complexity in the documents and working with BCBSLA to obtain estimates of the various amounts to be paid in connection with the Transactions. A further part of our work was presenting that information in an understandable format, such as in Section I.A. – Executive Summary, Summary of Key Economic Aspects of the Transactions, above.

⁸ For example, the largest payment to be made by Elevance, via Purchaser, is set out in Section 1.6(f) of the Acquisition Agreement, which requires Purchaser to contribute to BCBSLA, and to cause BCBSLA to contribute to the Foundation, something called the “Note Amount.” The “Note Amount” is defined in the Acquisition Agreement as “an amount equal to the Closing Foundation Amount.” The “Closing Foundation Amount” is defined as “an amount equal to (i) the Foundation Amount, plus (ii) the Estimated Closing Surplus (which may be a negative number), minus (iii) the Estimated Company Transaction Expenses to the extent not included in the calculation of the Estimated Closing Surplus, minus (iv) the Estimated Closing Indebtedness to the extent not included in the calculation of the Estimated Closing Surplus.” Each of those capitalized terms is further defined in the Acquisition Agreement. The most important of those terms relative to the analysis here is the “Foundation Amount,” which is defined as “an amount equal to (i) the Base Purchase Price, minus (ii) the Eligible Member Payment. The Base Purchase Price is defined as \$2.5 billion.

A related complication was that the documents contained differing amounts that appeared, at first blush, to be what the Parties had determined to be “the value of” BCBSLA. For example, the Acquisition Agreement references a “Base Purchase Price” of \$2.5 billion. An initial reaction, therefore, was that Elevance would be paying an amount close to the \$2.5 billion Base Purchase Price and that what Elevance would pay was approximately “the value of” BCBSLA. However, Exhibit E – Eligible Member Payment Methodology – of the Plan of Reorganization listed the “Transaction Valuation” at \$3.413 billion.

In response to questions posed, we learned that the “Base Purchase Price” (\$2.5 billion) was what the Parties believed the debt-free value of BCBSLA would be if BCBSLA only had enough surplus to support an ACL RBC ratio of 375%. BCBSLA’s ACL RBC ratio as of 12/31/2022 was actually 838%, though, well above the 375% ACL RBC level used to determine the \$2.5 billion Base Purchase Price valuation. Accordingly, the Parties determined “the value of” BCBSLA to be \$3.413 billion, as follows: the \$2.5 billion Base Purchase Price (the debt-free value of BCBSLA as of 12/31/2022 up to a 375% ACL RBC level) + \$913 million (the amount of statutory surplus BCBSLA actually had as of 12/31/2022 that exceeded the 375% ACL RBC level) = \$3.413 billion.

It should be noted that, although the total value of BCBSLA is deemed to be \$3.413 billion, Elevance would be paying only \$2.746 billion,⁹ which is \$667 million less than the total valuation. The reason for this difference is the \$667 million contribution that would be made by BCBSLA to the Foundation. After that contribution, the value of BCBSLA would be \$2.746 billion (\$3.413 billion - \$667 million), which is the amount that would be paid by Elevance in connection with the Transactions.

In connection with our work relative to “the value of” BCBSLA, we also reviewed the Cain Brothers Opinion, which concluded that, as of the date thereof, “the Base Purchase Price is fair, from a financial point of view, to [BCBSLA].” Our review included a review of the financial projections and selected other materials relied on by Cain Brothers in issuing the Cain Brothers Opinion.

Conclusion: Consistent with the scope of our task, we performed various review procedures to assist Mr. Stevenson in determining “the value of” BCBSLA, including a review of the Cain Brothers Opinion and the projections underlying it, and we shared our thoughts and observations regarding these matters with Mr. Stevenson.

Recommendations: None.

2. “Big Picture” Financial Issue # 2: Assuming the claimed “value of” BCBSLA is appropriate, are the Eligible Members receiving their equitable share of the overall amount?

Analysis: As noted above, we were not tasked with evaluating whether the consideration BCBSLA proposes to pay to Eligible Members—whether in the aggregate or in the allocation

⁹ See Section 1.A – Executive Summary, Summary of Key Economic Aspects of the Transactions, Item 1, second bullet.

of that aggregate amount among Eligible Members—constitutes amounts equal to the Eligible Members’ “equitable share” of BCBSLA’s value. We also were not tasked with determining whether BCBSLA’s decisions as to who are and who are not Eligible Members are appropriate. However, we were tasked with assisting Mr. Stevenson in his analysis relative to these issues.

As part of our work, we explored with BCBSLA various factual matters and BCBSLA’s reasoning in connection with a number of items, including such things as (1) why consideration to Eligible Members should consist solely of a “fixed” payment in exchange for the Eligible Members’ governance (voting) rights and not also a “variable” payment in exchange for any economic rights they might have, (2) why it is “equitable” (within the meaning of La. Rev. Stat. 22:236.3.A) for Eligible Members, who hold 100% of the governance rights, to receive only 9% of what the Parties believe “the value of” BCBSLA to be, and (3) why the Parties selected the methodologies they did in determining the amount of consideration to be paid to Eligible Members.

The Parties’ decisions regarding these matters were incorporated into the analyses that led to the Chaffe Opinion (pertaining to the methodology pursuant to which the aggregate amount of consideration to be paid to the Eligible Members as a group was determined) and the Deloitte Opinion (pertaining to the methodology pursuant to which the aggregate consideration is to be allocated among Eligible Members). We also reviewed and asked questions pertaining to those opinions.

Conclusion: Consistent with the scope of our task, we performed various review procedures to assist Mr. Stevenson in determining whether the Eligible Members are receiving their “equitable share” of the value of BCBSLA, including a review of the Chaffe Opinion and the Deloitte Opinion, and we shared our thoughts and observations regarding these matters with Mr. Stevenson.

Recommendations: None.

3. “Big Picture” Financial Issue # 3: Would BCBSLA, post-Transactions, have sufficient funds to be able to be a financially strong and viable company?

Analysis: Our work here consisted of a number of items, including reviewing BCBSLA’s financial statements, reviewing materials pertaining to the financial condition of Elevance, reviewing financial projections pertaining to BCBSLA’s financial condition post-Transactions, and reviewing and evaluating the Responses.

As set out above in Section I.C – Executive Summary, Items Requiring Particular Department Consideration, the Transactions would have several negative financial impacts on BCBSLA. Most significantly, BCBSLA’s investment in cash, bonds and non-affiliated stocks is projected to decline from approximately 116% of its liabilities as of 12/31/2022¹⁰ to approximately 53%

¹⁰ As of 12/31/2022, BCBSLA reported approximately \$1.246 billion in common stocks (of which \$736 million consisted of “affiliated” common stocks), plus approximately \$665 million in bonds, plus approximately \$209 million in cash, for a total of \$1.384 billion (excluding “affiliated” common stocks), or 116.7% of its total liabilities of \$1.185 billion.

of its projected liabilities as of 12/31/2023.¹¹ Further, BCBSLA's statutory surplus is projected to decline from \$1.652 billion as of 12/31/2022 to approximately \$1 billion as of the Closing Date. BCBSLA's ACL RBC ratio is also projected to decline, going from 838% as of 12/31/2022 to approximately 500% as of the Closing Date. In addition to how such matters would impact BCBSLA's financial condition generally, there is also a concern they could impact decisions made at BCBSLA in the future as to whether, when, how often, and by how much to increase rates to its customers. These negative impacts result, in significant part, from the plan for BCBSLA to contribute approximately \$667 million of its existing assets to help fund the Foundation.

Notwithstanding these negative impacts, BCBSLA (post-Transactions) would have a number of strengths pertaining to its financial condition. For example, the Transactions would cause BCBSLA to become a member of a financially strong and viable group with access to capital.¹² The Transactions would also allow both BCBSLA and HMO Louisiana to have parental guarantees and other commitments as to maintenance of specified ACL RBC ratio levels to support those entities financially should they need such support. (BCBSLA and HMO Louisiana do not have either of these protections currently.) Further, even without the support of Elevance or without parental guarantees/ACL RBC ratio maintenance commitments, BCBSLA would continue to have approximately \$1 billion in statutory surplus and an ACL RBC ratio of approximately 500%, both of which significantly exceed Louisiana required amounts.¹³

Of the negative impacts described above, the one that gives us the greatest pause is the projected reduction in BCBSLA's liquidity. However, BCBSLA provided various materials regarding how it plans to manage its liquidity risk post-Transactions, including cash-flow projections through calendar year 2026. Its plans in this regard appear to be reasonable and consistent with past historical experience. Further, the existence of the proposed financial guarantees and of the ACL RBC ratio maintenance commitments from Elevance provide additional comfort that BCBSLA (and HMO Louisiana) would be able to access additional

¹¹ As of 12/31/2023, BCBSLA projects approximately \$744 million in common stocks (of which \$736 million would be a reasonable estimation of "affiliated" common stocks), plus approximately \$509 million in bonds, plus approximately \$122 million in cash, for a total of \$639 million (excluding "affiliated" common stocks), or approximately 53% of the projected 12/31/2023 total liabilities of \$1.199 billion.

¹² Elevance is a publicly-traded Fortune 500 health managed care company. According to its Audited Consolidated Financial Statements as of 12/31/22 (as contained in its SEC Form 10-K as of 12/31/22 and 12/31/21), the Elevance group had \$6.02 billion of net income; \$155.66 billion of total operating revenue; \$102.77 billion of total assets; and \$36.39 billion of total equity. According to Elevance's Form A Statement, Elevance's financial strength ratings as of January 23, 2023 were:

- Standard & Poor's Rating Services: AA- (Very Strong)
- A.A. Best Company: A (Excellent)
- Moody's Investor Services, Inc.: A2 (Good)
- Fitch, Inc.: A+ (Strong)

¹³ A Louisiana domestic insurer with similar licensing attributes as BCBSLA is required to maintain a minimum of \$3.0 million in capital and surplus. See La. Rev. Stat. 22:82.A. As to RBC, a Louisiana domestic insurer would be required to submit to the Department a risk-based capital plan if its ACL RBC ratio falls below 200% (or below 300%, if certain "trend tests" are also triggered). The consequences to the insurer potentially become greater if its ACL RBC ratio drops further below 200%. See La. Rev. Stat. 22:611 et. seq.

capital, if needed.¹⁴ It should be noted that the ACL RBC ratio maintenance commitment relative to BCBSLA is of particular importance, and that it indirectly covers all of the companies directly or indirectly owned by BCBSLA, because BCBSLA's ACL RBC ratio would be negatively impacted by poor results arising from any of those other companies.

Although the Transactions would result in a number of items that would enable BCBSLA to be a financially strong and viable company, we recommend several items below to further protect customers and other creditors.

Conclusion: The Transactions would have some negative financial impacts on BCBSLA (with the reduction in BCBSLA's projected liquidity giving us the greatest pause). However, if our recommendations to the Department are implemented, we believe those protections, coupled with the protections identified by the Parties, would be sufficient to allow BCBSLA to continue to be a financially strong and viable company post-Transactions, including that it should have access to additional capital to support operations and to protect customers and other potential creditors, if needed.

Recommendations: We recommend the following as conditions to any approval of the Transactions by the Department:

- a. BCBSLA has developed and submitted materials as to how it will manage its liquidity risk post-Transactions, including providing cash-flow projections.

We recommend that the Department carefully monitor BCBSLA's adherence to the submitted cash-flow projections.

- b. Elevance has indicated it intends to provide a form of financial guarantee to protect the "customers" of BCBSLA and HMO Louisiana in the event of financial insolvency at either entity. We note, however, that those documents do not provide direct protection for creditors of the entities other than those entities' "customers" (policyholders, certificate holders, administrative-only clients, etc.). Further, those documents do not guarantee that BCBSLA will maintain capital equal to any specified ACL RBC ratio level. Accordingly, in response to questions raised in the R&A Requests for Information, Elevance expressed a willingness in the Responses to commit to the Department that it will maintain an ACL RBC ratio of at least 375% in both BCBSLA and HMO Louisiana.

We recommend that the Department ensure that Elevance issues the referenced forms of guarantee that protect the "customers" of BCBSLA and HMO Louisiana.

We recommend that the Department require Elevance to formally document that it will ensure that BCBSLA and HMO Louisiana will each maintain an ACL RBC ratio of at least 375%.

¹⁴ Additional sources of capital might also be available should a liquidity event occur. For example, the Notes to the BCBSLA Financial Statement indicate that BCBSLA could borrow up to \$200 million from the Federal Home Loan Bank of Dallas.

- c. The submitted cash-flow projections do not show any dividends being paid by BCBSLA through at least 2026.

We recommend that the Department require BCBSLA to agree not to pay any shareholder dividends (whether “ordinary” or “extraordinary” dividends) prior to 2027, unless it receives prior approval from the Department to allow such dividends to be paid.

B. Task 2 – Assistance with Stevenson Review and Analysis

Task: Assist Mr. Stevenson in his review in several ways, including:

- Asking the Parties generally about the process used by BCBSLA/Elevance in determining what they believe to be “the value of” BCBSLA for the purposes of determining what consideration to pay to Eligible Members, reviewing (along with Mr. Stevenson) the Cain Brothers Opinion and providing comments regarding such matters that it believes the Department should consider as it decides whether to approve the Transactions.
- Sharing thoughts and comments R&A has regarding the Chaffe Opinion and the Deloitte Opinion, as well as asking the Parties general questions R&A has regarding the Chaffe Opinion and the Deloitte Opinion.
- Sharing other thoughts/comments/questions/concerns that R&A believes Mr. Stevenson should consider as he performs his work.

The work we performed relative to these items is described above, in connection with Section III.A. – Analysis and Recommendations, Task 1 – Document Review and Identification of Key “Big Picture” Financial Issues with respect to the first two “big picture” financial issues.

C. Task 3 – Evaluation of BCBSLA Financial Position After Occurrence of the Transactions

Task: Evaluate, generally, whether R&A believes the Transactions would leave BCBSLA in a financial position that should be of concern to the Department as it decides whether to approve the Transactions.

The work we performed relative to this item is described above, in connection with Section III.A. – Analysis and Recommendations, Task 1 – Document Review and Identification of Key “Big Picture” Financial Issues with respect to the third “big picture” financial issue.

D. Task 4 – Requests for Information Regarding the Foundation and BCBSLA Management Compensation

Task: Ask the Parties various questions pertaining to the Foundation, including questions about proposed compensation to officers and board members of BCBSLA.

Analysis: In the R&A Requests for Information, we asked BCBSLA a number of questions pertaining to the Foundation.

The Responses indicated that the Foundation is a nonprofit nonstock corporation formed for social welfare purposes within the meaning of Section 501(c)(4) of the Internal Revenue Code and that its mission is “to improve the health and lives of the people of Louisiana.” The Responses indicated that the Foundation meets the eligibility requirements of a 501(c)(4) entity. However, the Responses also indicated that the Foundation “does not plan to file for a determination letter from the Internal Revenue Service until after the [Transactions].”

Many of the questions we asked in the R&A Requests for Information pertained to how the Foundation planned to use the more than \$3 billion it would receive as part of the Transactions. The answers we were provided in the Responses were general in nature, evidencing that few of the specifics about these matters appear to be currently known. Rather than providing specifics, the Responses indicated that the Foundation plans to study the issue and to make decisions later about what problems to address and how to address them.

For example, as noted in Section I.C.1. – Executive Summary, Items Requiring Particular Consideration by the Department, the Responses included the following in response to our questions about the Foundation’s plans:

The Board [of the Foundation] has had many discussions about the many areas of need within the state, intends to conduct a needs assessment for health and the social determinants of health in Louisiana to assist in narrowing its focus and identify and develop specific projects and initiatives that potentially will be transformational within the state.¹⁵

Examples of other descriptions in the Responses of the Foundation’s anticipated activities were:

The Foundation’s principal activity will be making grants to fund programs and activities that will further its mission of improving the health and lives of the people of Louisiana. The Foundation anticipates that a significant portion of these grants will be focused on searching for innovative and scalable solutions to address the healthcare needs of residents of the state, including access to care and the social determinants of health, as well as more general issues such as poverty and education. The Foundation may also engage in direct charitable programs and activities, although this may not occur during the first few years of its operation.

¹⁵ The Responses further described this anticipated process as follows: “the Board [of the Foundation] intends to commence a robust ‘Needs Assessment’ executed by a world-class firm to achieve the following expected objectives:

- Comprehensive understanding of state performance across health outcomes and their underlying drivers (e.g., SDoH);
- Identification of potential root causes of performance, cross-walking outcomes to potential drivers (and therefore creating visibility into how to potentially address underlying issues) for prioritized areas;
- Qualitative view to provide additional context and perspective (while also creating an inclusive process that enables Louisiana voices to be heard);
- Inventory of existing philanthropy and not-for-profit landscape of efforts and focus across the state (both LA- and non-LA-based);
- case study profiles identifying how other foundations have attempted [to] address similar outcomes and root causes, including lessons learned from successes and failures;
- initial perspective of balancing feasibility and impact across various challenges; and
- an initial view of potential gaps to prioritize (as an input to subsequent strategy development).”

and

The Foundation's mission is to improve the health and lives of the people of Louisiana, which the Foundation plans to pursue by addressing the health inequities and strengthening local communities, focusing both on issues relating directly to healthcare and on more holistic community issues such as poverty, education, and the social determinants of health. ... Upon the closing of the [Transactions], the Foundation expects to be funded with a significant investment portfolio that will allow it to devote critically needed support to projects concerning health, education, poverty, and other social welfare issues affecting the residents of Louisiana.

In the R&A Requests for Information, we also inquired regarding the officer and board structure at the Foundation, including asking questions about the proposed compensation of such officers and directors. The answers provided were similarly general, also evidencing that not many specifics are known yet about these matters.

In response to our inquiries, BCBSLA indicated that four members of BCBSLA's current board currently comprise the board of the Foundation and are expected to remain on the Foundation's board. Those four initial members of the board of directors of the Foundation are:

- Jerome Greig
- C. Richard Atkins, DDS
- Charles "Brent" McCoy
- Thomas A. Barfield, Jr.

The Responses indicated that these are the members of the board of BCBSLA "who had the interest and made the commitment to serve as the founding Board of Directors of the Foundation and lead its start-up and operational phases. These Board members volunteered for this role and have passion for the mission of the Foundation."

The Responses further indicated that:

"[d]uring the start-up phase, the expectation is for additional directors to be elected by the Board [of the Foundation]. The Board intends to conduct a national search for exceptional additional directors who have the background, experience, and proficiency in strategy and planning to help advise the Foundation during its critical start-up phase and when it becomes fully operational."

The Responses further described the planned engagement of a national search firm to help identify and select candidates for additional board members, indicating that it is in the final stages of selecting the search firm it will use. Further, "[w]hile the search for Board members will be nationwide to identify the widest pool of candidates available and there is no requirement that Board members be residents of Louisiana, the Board will be looking for directors who have connection to the state and who are familiar with the needs and concerns of Louisianians and expects that a majority of the Board members will be residents of Louisiana."

As to compensation, BCBSLA indicated that the initial (current) directors are serving without compensation. However, the expanded board is expected to consider whether compensation is appropriate. To help it sort through these issues, “the Board [of the Foundation] has engaged a compensation consultant to recommend a level of compensation that meets the applicable legal requirements for organizations described in Sections 501(c)(3) and 501(c)(4) of the [Internal Revenue Code] (i.e., the compensation must be reasonable based on comparable market data for board compensation at comparably-sized foundations).”

The Responses further provide that “[n]o person shall receive compensation in multiple capacities as no member serving on the Advisory Board [of BCBSLA] may serve on the Foundation’s board.” And “[t]here are no arrangements to offer BCBSLA Board members or executive officers of BCBSLA compensated roles as executive officers of or advisors to the Foundation.”

As mentioned in the Executive Summary, another somewhat open question pertains to the activities of the Foundation relative to its planned operation as a social welfare organization that is tax-exempt pursuant to section 501(c)(4) of the Internal Revenue Code. The Responses indicated that the Foundation is expected to satisfy the requirements needed to be such an organization. However, the Responses further indicated that the Foundation does not plan to seek a “determination letter” from the IRS to confirm that status until after the Closing Date. Accordingly, we do not have available to us how the Foundation would describe itself and its planned activities to the IRS when seeking tax-exempt status.

Another item we questioned pertained to the fact that 501(c)(4) social welfare organizations (unlike 501(c)(3) charitable organizations) are allowed to engage in a wide range of political activity, including to engage in “an unlimited amount of lobbying, provided the lobbying is related to the organization’s exempt purpose,” and “in political campaigns on behalf of or in opposition to candidates for political office provided that such intervention does not constitute the organization’s primary activity.”¹⁶ Although the Foundation is intended to be a 501(c)(4) organization—and, thus, would typically have the ability to engage in political activity¹⁷—the Foundation’s Certificate of Incorporation restricts that ability and imposes limits pertaining to political activity that would be the same as if the Foundation were a 501(c)(3) organization. In this regard, Article “Sixth” of the Foundation’s Certificate of Incorporation provides:

“Restrictions. Provisions for the regulation of the activities and affairs of the [Foundation], are as follows:

...

(b) The [Foundation] shall be subject to the restrictions that apply to Section 501(c)(3) public charities with respect to influencing legislation and participating in political campaign activity. Accordingly, no substantial part of the activities of the [Foundation]

¹⁶ See, Political Campaign and Lobbying Activities of IRC 501(c)(4), (c)(5), and (c)(6) Organizations, by John Francis Reilly and Barbara A. Braig Allen, p. L-2. <https://www.irs.gov/pub/irs-tege/eotopic103.pdf>

¹⁷ Examples of well-known 501(c)(4) organizations include AARP, the American Cancer Society Cancer Action Network, the American Civil Liberties Union (ACLU), the National Association for the Reform of Marijuana Laws (NORML), the National Rifle Association (NRA), No Labels, Planned Parenthood Action Fund, and Tea Party Patriots.

shall be the carrying on of propaganda, or otherwise attempting, to influence legislation. The bylaws of the [Foundation] may set forth additional restrictions regarding lobbying activity by the [Foundation]. Additionally, the [Foundation] shall not participate or intervene in (including the publication or distribution of statements concerning) any political campaign on behalf of or in opposition to any candidate for public office.”

We note that it would be possible for the Foundation to amend its Certificate of Incorporation in the future to modify or remove this restriction, although doing so would require the vote of two-thirds (2/3) of the total number of directors then in office.¹⁸ However, it appears that the intention of the Foundation is not to engage in political activities. The Responses indicated “there are no plans to engage in lobbying or political campaigns even to the extent as would be permitted for a 501(c)(3) organization.”

To summarize:

- The funding of the Foundation is a significant part of the Transactions. Not only would the vast majority of what Elevarance would pay be used to fund the Foundation, but, in addition, a substantial amount of BCBSLA’s current assets (approximately \$667 million) would be contributed to the Foundation. As described above,¹⁹ these payments would have a negative financial impact on BCBSLA, including causing a reduction in BCBSLA’s liquidity.
- Notwithstanding the very substantial role of the Foundation in the Transactions, very little of substance is currently known about how the Foundation would operate, including such things as how the Foundation would use the more than \$3 billion it would receive as part of the Transactions, who would constitute its officers and directors, and how those officers and directors would be compensated. It should also be noted that, once/if the Transactions are approved, the Department and the Eligible Members would likely no longer have any jurisdictional oversight of the Foundation, its operations, or its use of the funds being contributed to it.

Conclusion: In some ways, it is understandable that specifics about the Foundation’s plans are not yet known. The Foundation is in its early stages, and (understandably, and responsibly) it would like to take a methodical approach to fulfilling its mission. However, this is probably the only opportunity for the Department and the Eligible Members to evaluate the Foundation’s plans. Once/if the Transactions are approved, the Department and the Eligible Members would likely not have any jurisdictional oversight of the Foundation, its operations, or its use of the funds being contributed to it. Accordingly, the Department and the Eligible Members are being asked to approve the Transactions, which include the contribution to the Foundation of approximately \$667

¹⁸ Article “Eighth” of the Foundation’s Certificate of Incorporation provides as follows:

“Amendment of Certificate of Incorporation and Bylaws. In furtherance and not in limitation of the powers of the members conferred by law, subject to any limitations contained elsewhere in this certificate of incorporation or the bylaws, the board of directors is authorized to make, repeal, alter, amend or rescind the bylaws of the [Foundation] or to amend this certificate of incorporation; provided, however, that an amendment to section (b) of Article Sixth of this certificate of incorporation shall require a two-thirds (2/3) vote of the total number of directors then in office.”

¹⁹ Section III.A. – Analysis and Recommendations, Task 1 – Document Review and Identification of Key “Big Picture” Financial Issues with respect to the third “big picture” financial issue.

million of BCBSLA's current assets (in addition to the contribution through BCBSLA of approximately \$2.435 billion in assets funded by Elevance), even though very little of substance is currently known as to what the Foundation would do with the funds it would receive.

Recommendations:

We recommend that the Department decide whether additional information pertaining to the Foundation's plans is needed before the Department and the Eligible Members can make an informed decision regarding the Transactions.

We recommend that the Department consider whether the Foundation's current limitation as to its engagement in political activity is sufficient (given that it may be removed from the Foundation's Certificate of Incorporation with the vote of 2/3 of the total number of directors at the time of the vote) or whether further steps are needed to assure that the Foundation will not engage in political activity at some point in the future.

E. Task 5 – Questions Regarding Dividend Expectations and Protections

Task: Ask the Parties regarding proposed compliance with La. Rev. Stat. 22:236.3.D. pertaining to dividend expectations and protections.

Analysis: Although the task of asking the question presented was within our scope, the task of analyzing the response and determining whether or how the matter should impact the Department's decision pertaining to the Transactions was not. Rather, the substantive analysis of these issues was within the scope of other Department-contracted specialists and advisors.

Conclusion: We asked BCBSLA questions pertaining to the task and relayed the responses to the Department, Mr. Stevenson, and Butler Snow.

Recommendations: None.

F. Task 6 – Determination of Financial Benefits to BCBSLA Management from the Transactions

Task: Determine whether and how BCBSLA's current board members and executive officers would financially benefit if the Transactions are approved.

Analysis: In response to the R&A Requests for Information, we obtained information regarding the anticipated employment and compensation arrangements, post-Transactions, relative to each of the current members of BCBSLA's board of directors and relative to each of BCBSLA's "Officers" (its five most senior executive officers), both categories as listed on the Jurat page of BCBSLA's Financial Statements.

BCBSLA's Current Board of Directors: BCBSLA currently has 12 board members. Only one of the current board members—Dr. Steven Udvarhelyi—is expected to remain on BCBSLA's board after the Closing Date. Of the other 11 board members, seven are to become

members of the BCBSLA “Advisory Board”; the other four are the initial members of the board of directors of the Foundation. Accordingly, all 12 of the existing members of the BCBSLA board of directors are expected to have continuing association with entities that are part of the Transactions (either BCBSLA or the Foundation).

The following are the seven members of BCBSLA’s existing board who are expected to become members of BCBSLA’s “Advisory Board”:

- Michael B. Bruno
- Stephanie A. Finley
- Robert T. Lalka
- Carl Luikart, MD
- Joseph Kevin McCotter
- Judy Price Miller
- Thad Minaldi

The purpose of the Advisory Board would be to advise BCBSLA and Elevance as to various matters in the years ahead. According to the Advisory Board’s Charter, the following are to be its principal duties and responsibilities:

“(a) Review and advise upon strategies relevant to [BCBSLA], an affiliate of Elevance.

(b) Review and consult with [BCBSLA] and Elevance management regarding materials provided from time to time to the Advisory Board, including but not limited to, (i) strategic plans, (ii) financial performance, (iii) operational performance reports (iv) customer satisfaction reports, (v) provider satisfaction reports, (vi) employee engagement satisfaction reports, and (vii) status reports on adherence to the commitments made in the Plan of Reorganization Regarding the Conversion from a Mutual Insurance Company to a Stock Insurance Company governing [BCBSLA’s] demutualization approved by the Louisiana Department of Insurance on [●], 2023 and the Form A (Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer) filed by [BCBSLA] on [●], 2023.

(c) Perform such other functions and duties as may reasonably be delegated to the Advisory Board by Elevance from time to time.

(d) Provide [BCBSLA] and Elevance management with market information, stakeholder input and feedback (including from members/policyholders, providers, members of the community, public officials, etc.) and other information regarding the performance, market position, market perception, competitive landscape, community relations, government relations and other relevant matters affecting [BCBSLA].

(e) Provide additional guidance as requested by Elevance.”

Consistent with its name, the Advisory Board would give advice only; it would not have the power to take action. The Advisory Board’s Charter specifically provides that “the Advisory Board will not have any power or authority to bind, act for or on behalf of [BCBSLA],

Elevance or their respective affiliates and no Advisory Board Member shall have any such power or authority as a result of being an Advisory Board Member.”

The Responses indicated that Elevance has agreed that each member of the Advisory Board would receive “an annual retainer of not less than \$105,000” (the Chair of the Advisory Board would receive “an additional amount of not less than \$25,000 per year” for the years served as Chair). Elevance has further agreed that the Advisory Board would “remain intact for a period of at least 10 years” from the Closing Date.

The annual compensation for board members currently ranges from approximately \$119,000 - \$165,000 (not including that of Dr. Steven Udvarhelyi, who is BCBSLA’s President and Chief Executive Officer as well as a member of BCBSLA’s board of directors). As such, the anticipated compensation for members of the Advisory Board would be less than, but similar to, their current compensation as members of the board of BCBSLA. However, their participation on the Advisory Board would also guarantee that compensation for at least 10 years (if the person wished to remain with the Advisory Board for that period of time). Of course, no such guarantee of board membership or compensation exists currently for the members of the board of BCBSLA. Further, the members of the Advisory Board would receive that income for providing “advice” rather than for being in positions of authority that could require them to take action after making difficult decisions.

We noted that the agreement as to the compensation for the members of the Advisory Board describes the annual retainer of \$105,000 as a “not less than” amount. In response to questions posed in the R&A Requests for Information, the Responses indicated that “there have been no discussions, agreements or understandings regarding increases in compensation above the ‘not less than amounts.’” Similarly, we noted that the agreement indicates that the Advisory Board would continue for “at least” 10 years. In response to our questions as to whether the duration might be extended, the Responses indicated that “there have been no ... discussions, agreements, or understandings regarding the existence of the Advisory Board past its 10th anniversary date.”

To summarize as to the Advisory Board:

- Seven existing members of the board of directors of BCBSLA plan to serve on the BCBSLA Advisory Board;
- Those persons would receive an annual retainer of “at least” \$105,000 (with the Advisory Board Chair receiving “at least” \$125,000 annually);
- The amounts specified (\$105,000 and \$125,000) are less than, but similar to, the compensation currently paid to members of the board of BCBSLA;
- The Advisory Board would continue in existence for “at least” 10 years;
- The Responses indicated that there have been no discussions, agreements or understandings about either increasing the compensation paid to members of the Advisory Board or extending the duration of the Advisory Board beyond the 10 years discussed.

As noted above, the other four board members of BCBSLA are the initial members of the board of directors of the Foundation. As discussed above in connection with Task # 4, these persons

are currently serving in an unpaid capacity. However, as also noted there, we were told that the board of the Foundation “has engaged a compensation consultant to recommend a level of compensation that meets the applicable legal requirements for organizations described in Sections 501(c)(3) and 501(c)(4) of the [Internal Revenue Code] (i.e., the compensation must be reasonable based on comparable market data for board compensation at comparably-sized foundations).” Accordingly, it cannot currently be known how the compensation (if any) of the members of the board of the Foundation would compare to their current compensation as members of the board of BCBSLA.

BCBSLA’s Five Most Senior Executive Officers: Following are the five senior executive officers listed as “Officers” on the Jurat page of the BCBSLA Financial Statement as of March 31, 2023:

- Dr. Steven Udvarhelyi, President and Chief Executive Officer
- Adam Short, Senior Vice President, Chief Financial Officer
- Bryan Camerlinck, Executive Vice President, Chief Operating Officer
- Louis Patalano, Senior Vice President, Chief Legal Officer
- Korey Harvey, Vice President, Deputy General Counsel

It is anticipated that each of these five persons will remain with BCBSLA in their existing capacities (or in similar capacities). It is also anticipated that their compensation arrangements post-Transactions will not materially differ from their existing compensation arrangements. However, three items should be noted.

First, these executive officers (and others), except for Mr. Patalano, have retention agreements with BCBSLA. The Responses indicated that these agreements are currently in effect, regardless of the Transactions.

- The retention agreements for Messrs. Short and Harvey provide that lump sum payments will be paid upon the earlier of: (a) a vote by BCBSLA’s board of directors not to pursue a transaction like the Transactions, (b) the date final regulatory approvals for a transaction like the Transactions are not granted, (c) the date a transaction like the Transactions closes, or (d) December 31, 2024. In other words, if the employee stays with BCBSLA through the triggering date, that employee will receive the lump sum retention agreement payment even if the Transactions are not effectuated. The lump sum payments to be paid pursuant to these retention agreements range from \$50,000-\$200,000.
- The Responses indicated that retention agreements for Dr. Udvarhelyi and Mr. Camerlinck were executed in 2020, before any consideration of a transaction like the Transactions. Payments pursuant to those agreements are to be made on fixed dates if the executive continues to be employed by BCBSLA through the specified dates. The Responses indicated that, under their retention agreements, there is no provision for payment related to any events associated with a transaction like the Transactions.

Second, these executive officers (and others) have severance agreements with BCBSLA. The Responses indicated that these agreements are also currently in effect, regardless of the Transactions. The severance agreements would provide severance pay and benefits if a

specified termination of employment²⁰ occurs within two years of the Closing Date. The specifics as to how much compensation is to be provided depends on the position of the executive. The range of such compensation is between 52-104 weeks of base pay plus other items (for example, the target amount of the executive's participation in BCBSLA's incentive plan, a year's worth of COBRA premium, etc.) The Responses indicated that there are no understandings or expectations as to whether any terminations that would trigger the severance agreements would occur.

Third, if BCBSLA is acquired by Elevance, BCBSLA's executive management would be eligible to participate in Elevance's "Total Rewards" benefits program, which includes equity-based rewards (stock options) as well as other forms of compensation. The Responses indicated that the Elevance Total Rewards program would replace BCBSLA's existing long-term incentive compensation program (which is cash-based), that eligibility in the Total Rewards program would be based on the existing provisions of the Total Rewards program, and that eligibility or rewards under the Total Rewards program would not be related to or contingent on any executive management team member's involvement in the Transactions. The Responses also indicated that Elevance plans to have the total amount of compensation paid pursuant to the Total Rewards program be approximately equal to the amounts currently paid under BCBSLA's cash-based long-term incentive plan. In the words of the Responses, "[t]he effect of this is not additional compensation as a result of the [Transactions], but rather a different form (i.e., equity v. cash) as Elevance ... will largely target long-term incentive compensation consistent with that provided by BCBSLA prior to the Closing [Date]."

Conclusion:

Directors: All of the existing directors of BCBSLA are expected to have continuing association with entities that are part of the Transactions (either BCBSLA or the Foundation). Dr. Steven Udvarhelyi is expected to remain on BCBSLA's board. Of the other 11 existing directors, seven are expected to become members of BCBSLA's Advisory Board; the other four are the initial members of the board of directors of the Foundation. The Advisory Board members would receive compensation that, at least initially, would be less than (but similar to) their existing compensation. However, unlike now, the members of the Advisory Board would be guaranteed that compensation for at least 10 years. Moreover, the amount and/or duration of the payments could increase (although the Responses indicated that there are no plans or agreements to do so). Further, they would receive that income for providing "advice" rather than for being in positions of authority that could require them to take action after making difficult decisions. The members of the board of the Foundation are not currently compensated. However, the Foundation has engaged a compensation consultant to recommend a level of compensation to be paid to the members of the Foundation's board. It is not known how the level of compensation (if any) to be paid to the Foundation board members would compare to the compensation they currently receive as members of BCBSLA's board.

Senior Executive Officers: The senior executive officers of BCBSLA are expected to remain with BCBSLA in their same (or similar) capacities. Although the form of some aspects of

²⁰ An involuntary termination by BCBSLA without cause or a termination by the executive for what is defined in the severance agreement as a "good reason" (such as a material diminution of the executive's duties or compensation).

their compensation would change from cash to equity if the Transactions are effectuated, it is anticipated that the amount of their compensation would not materially differ from what they receive under their existing compensation arrangements (subject to standard increases over time, etc.).

Recommendations: None.

G. Task 7 – Additional Analysis and Comments

Task: Provide any additional comments/thoughts R&A has after reviewing the documents, communicating with the Parties, etc. to the extent R&A believes such thoughts/comments would be helpful to the Department as it decides whether to approve the Transactions.

Analysis: Throughout the course of our work, we relayed various thoughts and comments to the Department and to the other Department-contracted specialists and advisors. The bulk of that work, and those thoughts and comments, pertained to the various issues identified above.

However, one item as to which we performed some work but that is not discussed above pertains to the possible impact of the Transactions on Elevance. As noted above,²¹ the Elevance group is a strong, viable and highly rated group. Elevance indicated in its Form A Statement that it expects to be able to pay the consideration pursuant to the Transactions with available cash on hand and amounts available under its existing credit facility and commercial paper program and that none of the payments would be contingent on the issuance of new debt or other new financing arrangements. Nevertheless, \$2.746 billion is a significant amount of money, even for a group of the size of Elevance.

We brought this issue to the attention of the Department and recommended that the Department contact the lead insurance regulator for the Elevance group to discuss the issue with them and to make sure that the lead regulator would not be concerned by the Transactions (should they be effectuated) or by their financial impact on the Elevance group. It is our understanding that the Department has done so.

Conclusion: Consistent with our tasks, we provided thoughts and comments regarding a number of matters to the Department and to the other Department-contracted specialists and advisors, including identifying the issue of the impact of the Transactions on Elevance's financial condition.

Recommendations: None (other than the recommendation already made that the Department contact the lead regulator of the Elevance group to discuss the Transactions with that regulator).

²¹ See, e.g., Footnote 12 above.