

Darwin Professional Underwriters Inc  
Form PREM14A  
August 08, 2008

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**SCHEDULE 14A**

**Proxy Statement Pursuant to Section 14(a) of the  
Securities Exchange Act of 1934**

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material Under Rule 14a-12

**DARWIN PROFESSIONAL UNDERWRITERS, INC.**  
(Name of Registrant as Specified in Its Charter)

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

Common Stock, par value \$0.01 per share (the Common Stock )

(2) Aggregate number of securities to which transaction applies:

17,017,881 shares of Common Stock (including 125,554 restricted shares of Common Stock); 404,414 options to purchase shares of Common Stock with an exercise price of less than \$32.00 per share; and 27,044 director share units.

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

The maximum aggregate value was determined based upon the sum of (A) 17,017,881 shares of Common Stock (including 125,554 restricted shares of Common Stock) multiplied by \$32.00 per share; (B) options to purchase 404,414 shares of Common Stock multiplied by \$10.90 (which is the difference between \$32.00 and the weighted average exercise price of \$21.10 per share); and (C) 27,044 director share units multiplied by \$32.00 per share. In

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accordance with Section 14(g) of the Securities Exchange Act of 1934, as amended, the filing fee was determined by multiplying 0.0000393 by the sum of the preceding sentence.

(4) Proposed maximum aggregate value of transaction: \$549,845,712.60

(5) Total fee paid: \$21,608.94

o Fee paid previously with preliminary materials.

o Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount previously paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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**DARWIN PROFESSIONAL UNDERWRITERS, INC.**

9 Farm Springs Road  
Farmington, CT 06032

[ 1 ], 2008

Dear Stockholder:

On behalf of the board of directors of Darwin Professional Underwriters, Inc. ( Darwin ), I cordially invite you to a special meeting of stockholders of Darwin, to be held on [ 1 ], 2008, at [ 1 ] a.m. local time, located at [ 1 ].

At the special meeting, you will be asked to consider and vote on (i) a proposal to adopt the Agreement and Plan of Merger, dated as of June 27, 2008, by and among Darwin, Allied World Assurance Company Holdings, Ltd ( Allied World ), and Allied World Merger Company, an indirect wholly owned subsidiary of Allied World, and (ii) a proposal to approve the adjournment of the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement. If the merger is consummated, Darwin, as the surviving corporation, will become an indirect wholly owned subsidiary of Allied World and you will be entitled to receive the merger consideration of \$32.00 per share in cash, without interest and less any applicable withholding taxes, for each share of our common stock that you own at the consummation of the merger, as more fully described in the enclosed proxy statement. The consideration you will receive is subject to a potential downward price adjustment in the event that certain representations by Darwin in the merger agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the merger would otherwise be increased by more than \$1,000,000.

After careful consideration, our board of directors, acting upon the unanimous recommendation of a special committee of the board of directors consisting of four independent directors, approved the merger agreement and determined that the merger and the other transactions contemplated by the merger agreement are in the best interests of Darwin and its stockholders. **Our board of directors recommends that you vote FOR the adoption of the merger agreement and FOR the adjournment of the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the merger agreement.**

The accompanying proxy statement provides you with information about the special meeting, the merger agreement, the merger and the other transactions contemplated by the merger agreement. A copy of the merger agreement is attached as Annex A to the proxy statement. We encourage you to read the entire proxy statement and the merger agreement carefully. You may also obtain more information about Darwin from documents we have filed with the Securities and Exchange Commission.

**Your vote is very important.** We cannot complete the merger unless the majority of the outstanding shares of common stock entitled to be cast at the special meeting are voted FOR the adoption of the merger agreement. The failure of any stockholder to vote on the proposal to adopt the merger agreement will have the same effect as a vote against the adoption of the merger agreement. As more fully described in Voting Agreement beginning on page 56, Alleghany Insurance Holdings LLC, a wholly owned subsidiary of Alleghany Corporation, which owns approximately 55% of Darwin's outstanding common stock, has agreed to, among other things, vote a number of shares equal to 40% of Darwin's outstanding voting stock in favor of adoption of the merger agreement, subject to certain limitations and the occurrence of certain events, pursuant to the terms of a voting agreement entered into with Allied World.

**Whether or not you plan to attend the special meeting, please complete, date, sign and return, as promptly as possible, the enclosed proxy in the accompanying reply envelope, or submit your proxy by telephone or the Internet, using the telephone number or Internet voting instructions printed on your proxy card prior to the special meeting to ensure that your shares will be represented at the special meeting if you are unable to attend. If you have Internet access, we encourage you to record your vote via the Internet.** If you return your signed proxy card, but do not mark the boxes showing how you wish to vote, all of your shares of

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common stock will be voted FOR the proposal to adopt the merger agreement and FOR the proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special meeting to adopt the merger agreement. If you attend the special meeting and vote in person, your vote by ballot will revoke any proxy previously submitted.

Thank you in advance for your cooperation and continued support.

Sincerely,

Mark I. Rosen  
*Executive Vice President, General Counsel  
and Secretary*

**Neither the Securities and Exchange Commission nor any state securities regulatory agency has approved or disapproved the merger, passed upon the merits or fairness of the merger or passed upon the adequacy or accuracy of the disclosure in this document. Any representation to the contrary is a criminal offense.**

The proxy statement is dated [ I ], 2008, and is first being mailed to stockholders on or about [ I ], 2008.

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**DARWIN PROFESSIONAL UNDERWRITERS, INC.**

9 Farm Springs Road  
Farmington, CT 06032

**NOTICE OF SPECIAL MEETING OF STOCKHOLDERS**

**To Be Held On [ 1 ], 2008**

Dear Stockholder:

A special meeting of stockholders of Darwin Professional Underwriters, Inc., a Delaware corporation ( Darwin ), will be held on [ 1 ], 2008, at [ 1 ] a.m. local time, located at [ 1 ], for the following purposes:

1. To consider and vote on a proposal to adopt the Agreement and Plan of Merger, dated as of June 27, 2008 (the Merger Agreement ), by and among Darwin, Allied World Assurance Company Holdings, Ltd, a Bermuda company ( Allied World ), and Allied World Merger Company, a Delaware corporation and an indirect wholly owned subsidiary of Allied World ( MergerCo ). A copy of the Merger Agreement is attached as Annex A to the accompanying proxy statement. Pursuant to the terms of the Merger Agreement, MergerCo will merge with and into Darwin (the Merger ), with Darwin as the surviving corporation. If the Merger is consummated, Darwin will become an indirect wholly owned subsidiary of Allied World and you will be entitled to receive the merger consideration of \$32.00 per share in cash, without interest and less any applicable withholding taxes, for each share of our common stock that you own at the consummation of the Merger (unless you properly exercise appraisal rights under Delaware law), as more fully described in the enclosed proxy statement. The consideration you will receive is subject to a potential downward price adjustment in the event that certain representations by Darwin in the Merger Agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the Merger would otherwise be increased by more than \$1,000,000.
2. To consider and vote on the adjournment of the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the meeting to adopt the Merger Agreement.
3. To consider and vote on any other business that may properly come before the special meeting.

Our board of directors has specified [ 1 ], 2008, as the record date for the purpose of determining the stockholders who are entitled to receive notice of, and to vote at (in person or by proxy), the special meeting. Only stockholders of record at the close of business on the record date are entitled to notice of, and to vote at (in person or by proxy), the special meeting and at any adjournment or postponement thereof. Each stockholder is entitled to one vote for each share of our common stock held on the record date.

The adoption of the Merger Agreement requires that a majority of the outstanding shares of our common stock entitled to be cast at the special meeting be voted FOR the adoption of the Merger Agreement. **Even if you plan to attend the special meeting in person, we request that you complete, sign, date and return the enclosed proxy in the accompanying reply envelope or submit your proxy by telephone or the Internet, using the telephone number or Internet voting instructions printed on your proxy card, prior to the special meeting to ensure that your shares will be represented at the special meeting if you are unable to attend.** If you have Internet access, we encourage you to record your vote via the Internet. If you return your signed proxy card, but do not mark the boxes showing how you wish to vote, all of your shares of common stock will be voted FOR the proposal to adopt the Merger Agreement and FOR the proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies in the event there are insufficient votes at the time of the special

meeting to adopt the Merger Agreement. If you fail to return your proxy card or fail to submit your proxy by phone or the Internet, your shares will not be counted for purposes of determining whether a quorum is present at the meeting and will have the same effect as a vote against the adoption of the Merger Agreement, but will not affect the outcome of the vote regarding the adjournment proposal. If you are a stockholder of record, voting in person at the



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meeting will revoke any proxy previously submitted. If you hold your shares through a bank, broker or other custodian, you must obtain a legal proxy from such custodian in order to vote in person at the meeting.

After careful consideration, our board of directors, acting upon the unanimous recommendation of a special committee of the board of directors consisting of four independent directors, approved the Merger Agreement and determined that the Merger and the other transactions contemplated by the Merger Agreement are advisable and fair to, and in the best interests of, Darwin and its stockholders. **Our board of directors recommends that you vote FOR the adoption of the Merger Agreement and FOR the adjournment of the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the Merger Agreement.**

Please note that space limitations make it necessary to limit attendance at the special meeting to stockholders as of the record date (or their authorized representatives) holding admission tickets or other evidence of ownership. The admission ticket is detachable from your proxy card. If your shares are held by a bank or broker, please bring to the special meeting a statement evidencing your beneficial ownership of our common stock and photo identification.

Stockholders of Darwin who do not vote in favor of the adoption of the Merger Agreement will have the right to seek appraisal of the fair value of their shares of common stock if they deliver a demand for appraisal before the vote is taken on the Merger Agreement and comply with all requirements of Delaware law, which are summarized in the accompanying proxy statement.

**For more information about the Merger and the other transactions contemplated by the Merger Agreement, please review the accompanying proxy statement and the Merger Agreement attached to it as Annex A. The proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies in the event that there are insufficient votes at the time of the special meeting to adopt the Merger Agreement is also described in the accompanying proxy statement.**

**Please do not send your stock certificates at this time. If the Merger is completed, you will be sent instructions regarding the surrender of your stock certificates.**

By Order of the Board of Directors,

Mark I. Rosen  
*Executive Vice President, General Counsel and Secretary*

Farmington, Connecticut  
[ 1 ], 2008

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**SUMMARY**

*The following summary highlights selected information in this proxy statement and may not contain all the information that may be important to you. Accordingly, we encourage you to read carefully this entire proxy statement, its annexes and the documents referred to or incorporated by reference in this proxy statement. Each item in this summary includes a page reference directing you to a more complete description of that topic. See *Where You Can Find More Information* beginning on page 61. References to Darwin, the Company, Surviving Corporation, we, our or us in this proxy statement refer to Darwin Professional Underwriters, Inc. and its subsidiaries unless otherwise indicated by the context. We refer to Allied World Assurance Company Holdings, Ltd as *Allied World* or *Parent*, and Allied World Merger Company as *MergerCo*.*

**The Parties to the Merger (Page 15)**

***Darwin Professional Underwriters, Inc.***

Darwin was initially formed in March 2003 and became a publicly traded company on May 19, 2006. We are a holding company, the subsidiaries of which are engaged in insurance underwriting and distribution across a spectrum of the specialty commercial property-casualty insurance market. Darwin is focused on the professional liability insurance market and underwrites directors and officers liability for public and private companies, errors and omissions liability insurance, medical malpractice liability insurance, and other specialty coverages. Darwin member companies include Darwin Professional Underwriters, Inc., Darwin National Assurance Company and Darwin Select Insurance Company. Darwin's majority stockholder, Alleghany Corporation ( *Alleghany* ), through its wholly owned subsidiary, Alleghany Insurance Holdings LLC ( *AIHL* ), owns approximately 55% of Darwin's issued and outstanding common stock.

***Allied World Assurance Company Holdings, Ltd***

Allied World Assurance Company Holdings, Ltd is a Bermuda-based specialty insurance and reinsurance holding company and its subsidiaries underwrite a global, diversified portfolio of property and casualty insurance and reinsurance lines of business. Allied World was initially formed in November 2001 and became a publicly traded company on the New York Stock Exchange on July 11, 2006 under the symbol *AWH*. Allied World writes direct property and casualty insurance as well as reinsurance through its operations in Bermuda, the United States, Ireland and the United Kingdom. Allied World has three business segments: property insurance, casualty insurance and reinsurance. The property segment provides direct coverage of physical property and business interruption coverage for commercial property and energy-related risks. The casualty segment specializes in insurance products providing coverage for general and product liability, professional liability and healthcare liability risks. The reinsurance segment includes the reinsurance of property, general casualty, professional liability, specialty lines and property catastrophe coverages written by other insurance companies. For more information about Allied World, please visit its website at [www.awac.com](http://www.awac.com). Allied World's website address is provided as an inactive textual reference only. The information provided on this website is not part of this proxy statement, and therefore is not incorporated by reference.

***Allied World Merger Company***

Allied World Merger Company, which we refer to as *MergerCo*, is a Delaware corporation that was formed solely for the purpose of completing the proposed Merger (as defined below). *MergerCo* is an indirect wholly owned subsidiary of Allied World and has not engaged in any business except for activities incidental to its formation and as contemplated by the Agreement and Plan of Merger (the *Merger Agreement* ). Upon consummation of the proposed

Merger, MergerCo will cease to exist and Darwin will continue as the surviving corporation, as an indirect wholly owned subsidiary of Allied World.

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**The Merger (Page 19)**

The Merger Agreement provides as follows:

MergerCo will merge with and into Darwin (the Merger ); and

Darwin will be the surviving corporation in the Merger (the Surviving Corporation ) and will continue to do business as Darwin Professional Underwriters, Inc. following the Merger.

Each outstanding share of Darwin capital stock consisting of common stock, par value \$0.01 per share (the Common Stock ) (other than shares of Common Stock owned by Darwin, its subsidiaries, Allied World, MergerCo or any of their wholly owned subsidiaries or any stockholders who properly exercise appraisal rights under Delaware law, as described in this proxy statement), will be converted into the right to receive \$32.00 in cash, without interest and less any applicable withholding tax, and subject to the potential downward price adjustment described below, which we refer to in this proxy statement as the merger consideration.

**Effects of the Merger (Page 42)**

If the Merger is completed, you will be entitled to receive the merger consideration of \$32.00 per share in cash, without interest and less any applicable withholding taxes, for each share of Common Stock owned by you, unless you have exercised your statutory appraisal rights with respect to the Merger. Such cash payment is subject to a potential downward price adjustment in the event that certain representations by Darwin in the Merger Agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the Merger would otherwise be increased by more than \$1,000,000 (see The Merger Agreement Potential Downward Purchase Price Adjustment beginning on page 43). As a result of the Merger, Darwin will cease to be an independent, publicly traded company and our Common Stock will cease to be listed on any stock exchange or quotation system. You will not own any shares of or other interest in the Surviving Corporation.

**The Special Meeting (Page 16)**

***Time, Place and Date (Page 16)***

The special meeting will be held on [ I ], starting at [ I ] a.m. local time, and located at [ I ].

***Purpose (Page 16)***

You will be asked to consider and vote on (i) the adoption of the Merger Agreement, pursuant to which MergerCo will merge with and into Darwin, (ii) the adjournment of the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are not sufficient votes at the time of the special meeting to adopt the Merger Agreement and (iii) any other business that may properly come before the special meeting.

***Record Date and Quorum (Page 16)***

You are entitled to vote at the special meeting if you owned shares of Common Stock at the close of business on [ I ], 2008, the record date for the special meeting. You will have one vote for each share of Common Stock that you owned on the record date. As of the record date, there were [ I ] shares of Common Stock outstanding and entitled to vote. The presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at the special meeting constitutes a quorum for the purpose of considering the proposals.

***Vote Required (Page 16)***

The adoption of the Merger Agreement requires that a majority of the outstanding shares of Common Stock entitled to be cast at the special meeting be voted FOR the adoption of the Merger Agreement. Approval of the proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies, if there are insufficient votes at the time of the special meeting to adopt the Merger Agreement,



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requires the affirmative vote of a majority of the votes present and entitled to be cast at the special meeting, whether or not a quorum is present.

As more fully described in Voting Agreement beginning on page 56, AIHL, which owns approximately 55% of Darwin's outstanding Common Stock, has agreed to, among other things, vote a number of shares of Common Stock equal to 40% of Darwin's outstanding voting stock in favor of the adoption of the Merger Agreement, subject to certain limitations and the occurrence of certain events, pursuant to the terms of a voting agreement entered into with Allied World and MergerCo (the Voting Agreement). The Voting Agreement is attached hereto as Annex D.

As of the record date, the directors and executive officers of Darwin held in the aggregate approximately [ ]% of the shares of Common Stock entitled to vote at the special meeting. In the aggregate, these shares of Common Stock represent [ ]% of the votes necessary to adopt the Merger Agreement at the special meeting. All of our directors and executive officers have advised us that they plan to vote all of their shares of Common Stock in favor of the adoption of the Merger Agreement.

***Voting and Proxies (Page 16)***

Any stockholder of record entitled to vote at the special meeting may submit a proxy by telephone, the Internet, by returning the enclosed proxy card by mail, or may vote in person at the special meeting. If you intend to submit your proxy by telephone or the Internet you must do so no later than [ ], on [ ], 2008. If you do not return your proxy card, submit your proxy by phone or the Internet or attend the special meeting, your shares of Common Stock will not be voted, which will have the same effect as a vote AGAINST the adoption of the Merger Agreement. Even if you plan to attend the special meeting, if you hold your shares of Common Stock in your own name as the stockholder of record, please vote your shares of Common Stock by completing, signing, dating and returning the enclosed proxy card or by using the telephone number printed on your proxy card or by using the Internet voting instructions printed on your proxy card.

If you return your signed proxy card, but do not mark the boxes showing how you wish to vote, all of your shares of Common Stock will be voted FOR the proposal to adopt the Merger Agreement and FOR the proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes at the time of the special meeting to adopt the Merger Agreement.

If your shares of Common Stock are held in street name by your broker, bank or nominee, you should instruct your broker, bank or nominee on how to vote your shares of Common Stock using the instructions provided by your broker, bank or nominee. In the absence of specific instructions by you on how to vote, your broker, bank or nominee will not be entitled to vote your shares of Common Stock. Because the adoption of the Merger Agreement requires that a majority of the outstanding shares of Common Stock entitled to be cast at the special meeting be voted FOR the adoption of the Merger Agreement, the failure to provide your broker, bank or nominee with voting instructions will have the same effect as a vote AGAINST the proposal to adopt the Merger Agreement. Because the proposal to adjourn the special meeting, if Darwin deems such adjournment to be necessary or appropriate, to solicit additional proxies if there are insufficient votes as the time of the special meeting to adopt the Merger Agreement requires the affirmative vote of a majority of the votes present and entitled to be cast at the special meeting, whether or not a quorum is present, and because your broker, bank or nominee does not have discretionary authority to vote on that proposal, the failure to provide your broker, bank or nominee with voting instructions on how to vote your shares of Common Stock will have no effect on the approval of that proposal.

***Revocability of Proxy (Page 17)***

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Any stockholder of record who executes and returns a proxy card (or submits a proxy via telephone or the Internet) may revoke the proxy at any time before the polls close at the special meeting in any one of the following ways:

by notifying us in a signed written revocation, bearing a date later than the date of the proxy, addressed and delivered to our Executive Vice President, General Counsel and Secretary, Mark I. Rosen, 9 Farm Springs Road, Farmington, CT 06032;

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by attending the special meeting and voting in person (your attendance at the meeting will not, by itself, revoke your proxy; you must vote in person at the meeting); or

by submitting a later-dated proxy (including by telephone or the Internet) relating to the same shares of Common Stock.

If you have instructed a broker, bank or other nominee to vote your shares of Common Stock, you must follow the directions received from your broker, bank or other nominee to change those instructions.

### **Treatment of Options and Other Awards (Page 43)**

***Stock Options.*** Immediately prior to the effective time of the Merger, all outstanding options to acquire shares of Common Stock under Darwin's equity incentive plans ( "Stock Options" ) will become fully vested. All such Stock Options not exercised prior to the Merger will be cancelled upon the consummation of the Merger and converted into the right to receive a cash payment equal to the number of shares of Common Stock underlying the Stock Options multiplied by the amount (if any) by which the merger consideration of \$32.00 per share in cash exceeds the exercise price, without interest and less any applicable withholding taxes. Such cash payment is subject to a potential downward price adjustment in the event that certain representations by Darwin in the Merger Agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the Merger would otherwise be increased by more than \$1,000,000.

***Restricted Shares.*** Immediately prior to the effective time of the Merger, all outstanding restricted shares of Common Stock shall vest and become free of all restrictions and, upon the consummation of the Merger, shall be cancelled, retired and shall cease to exist and shall be converted into the right to receive a cash payment equal to the number of restricted shares of Common Stock multiplied by the merger consideration of \$32.00 per share in cash, without interest and less any applicable withholding taxes. Such cash payment is subject to a potential downward price adjustment in the event that certain representations by Darwin in the Merger Agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the Merger would otherwise be increased by more than \$1,000,000.

***Director Share Units.*** Upon the consummation of the Merger, each director share unit that is outstanding immediately prior to the Merger will be converted into the right to receive an amount in cash equal to the merger consideration of \$32.00 per share unit in cash. Such cash payment is subject to a potential downward price adjustment in the event that certain representations by Darwin in the Merger Agreement with respect to its capitalization prove to be inaccurate and, as a result of such inaccuracy, the aggregate consideration payable by Allied World in the Merger would otherwise be increased by more than \$1,000,000.

### **Recommendation of the Special Committee and Our Board of Directors (Page 25)**

***Special Committee.*** Our board of directors (the "Board" ) formed a committee of four independent directors on February 28, 2008 (the "Special Committee" ) for the purposes of, among other things, evaluating potential strategic alternatives for Darwin. The Special Committee unanimously (i) determined that the Merger Agreement and the transactions contemplated thereby, including the Merger, are advisable and fair to, and in the best interests of, Darwin and its stockholders and (ii) resolved to recommend to the Board that it approve and declare advisable the Merger Agreement and the transactions contemplated thereby, including the Merger.

***Board of Directors.*** The Board, acting upon the unanimous recommendation of the Special Committee, has (i) determined that the Merger Agreement and the transactions contemplated thereby, including the Merger, are

advisable and fair to, and in the best interests of, Darwin and its stockholders, (ii) approved and declared advisable the Merger Agreement and the transactions contemplated thereby, including the Merger, (iii) resolved to recommend that Darwin's stockholders adopt the Merger Agreement and (iv) directed that the Merger Agreement be submitted to Darwin's stockholders for their adoption.

**The Voting Agreement (Page 56)**

Concurrently with the execution of the Merger Agreement, AIHL, which owns shares of Common Stock representing approximately 55% of Darwin's outstanding Common Stock, entered into the Voting Agreement.

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Under the terms of the Voting Agreement, AIHL agreed to, among other things, and subject to certain limitations and the occurrence of certain events, (i) vote a number of shares of Common Stock equal to 40% of Darwin's outstanding voting stock in favor of the adoption of the Merger Agreement and (ii) vote all of the shares of Common Stock it holds against any other proposal or action that may hinder the consummation of the Merger. In addition, AIHL agreed not to transfer or encumber any of its shares of Common Stock.

AIHL's obligations under the Voting Agreement will terminate upon the first to occur of (i) the effective time of the Merger, (ii) the date upon which the Merger Agreement is terminated in accordance with its terms, (iii) the date upon which the Board withdraws (or amends or modifies in a manner adverse to Allied World) or publicly proposes to withdraw (or amend or modify in a manner adverse to Allied World), its approval, recommendation or declaration of advisability of the Merger Agreement, the Merger or the other transactions contemplated by the Merger Agreement, or recommends, adopts or approves, or proposes publicly to recommend, adopt or approve, any company acquisition proposal (as defined under The Merger Agreement Restrictions on Solicitations of Other Offers beginning on page 49) and (iv) unless consented to by AIHL, the date of any amendment to the Merger Agreement that is materially adverse to Darwin, its stockholders or AIHL (including, without limitation, any decrease in or change in the form of the consideration to be paid to Darwin's stockholders or the addition of any material obligation or liability on the part of Darwin or its stockholders).

**Interests of Darwin's Directors and Executive Officers in the Merger (Page 33)**

In considering the recommendation of the Board that you vote to adopt the Merger Agreement, you should be aware that our directors and executive officers may have interests in the Merger that are different from, or in addition to, your interests as a stockholder, and that may present actual or potential conflicts of interest. For example:

certain of our executive officers and members of our Board hold Stock Options which, whether vested or unvested, will be cancelled and entitle such holders (and all other holders of Stock Options) to receive in cash the excess, if any, of the merger consideration of \$32.00 per share over the option exercise price for each share of Common Stock subject to the Stock Option, less any applicable withholding taxes, without interest and subject to the potential downward price adjustment;

certain of our executive officers and members of our Board hold restricted shares of Common Stock which will vest and become free of all restrictions and which will be cancelled and converted into the right to receive a cash payment equal to the number of restricted shares of Common Stock multiplied by the merger consideration of \$32.00 per share in cash, plus any declared and unpaid dividends, less any applicable withholding taxes, without interest and subject to the potential downward price adjustment;

certain members of our Board hold director share units which will be converted into the right to receive an amount in cash equal to the merger consideration of \$32.00 per unit in cash, and subject to the potential downward price adjustment;

certain of our executive officers have interests in Darwin's Long Term Incentive Plan (the LTIP) and each such participant's vested percentage in his respective portion of the LTIP profit pools for fiscal years 2003 through 2008 shall be 100% upon the consummation of the Merger, subject to forfeiture for termination for Cause (as defined in the LTIP);

our current and former directors and officers will continue to be indemnified after the completion of the Merger and will have the benefit of liability insurance for six years after completion of the Merger;

certain of our executive officers may be entitled to severance benefits if, following the Merger, Darwin terminates such executive's employment for any reason other than for cause or such executive terminates his employment for good reason;

certain members of our management team entered into employment agreements with Darwin in connection with the Merger, which provide for their continued employment effective as of the closing of the Merger, subject to the terms and conditions set forth in each employment agreement; and

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our chief executive officer entered into an amendment to his employment agreement, pursuant to which he will retire upon the closing of the Merger, be entitled to certain payments and benefits, and be subject to certain restrictive covenants for two years following the closing of the Merger.

The Special Committee and the Board were aware of these potential conflicts of interest and considered them, among other matters, in reaching their decisions to approve the Merger Agreement and the Merger and the recommendations that our stockholders vote in favor of adopting the Merger Agreement.

### **Opinion of UBS Securities LLC (Page 27)**

In connection with the Merger, UBS Securities LLC ( UBS ) delivered to each of the Special Committee and the Board a written opinion dated June 27, 2008, addressed to each of the Special Committee and the Board, to the effect that, as of that date and based upon and subject to various assumptions, matters considered and limitations described in its opinion, the merger consideration of \$32.00 per share in cash to be received in the Merger by the holders of shares of Common Stock (other than Alleghany, AIHL or any of their respective affiliates) was fair, from a financial point of view, to such holders.

The full text of UBS written opinion, dated June 27, 2008, is attached to this proxy statement as Annex B. **UBS opinion was provided for the benefit of the Special Committee and the Board in connection with, and for the purpose of, their evaluation of the merger consideration of \$32.00 per share in cash from a financial point of view and does not address any other aspect of the Merger. The opinion does not address the relative merits of the Merger as compared to other business strategies or transactions that might be available with respect to Darwin or Darwin's underlying business decision to effect the Merger. The opinion does not constitute a recommendation to any stockholder as to how to vote or act with respect to the Merger.** Holders of shares of Common Stock are encouraged to read UBS opinion carefully in its entirety for a description of the assumptions made, procedures followed, matters considered and limitations on the review undertaken by UBS.

### **Financing (Page 33)**

The Merger is not conditioned upon Allied World or MergerCo obtaining financing. Allied World and MergerCo estimate that the total amount of cash funds necessary to consummate the Merger and related transactions will be approximately \$550 million. Allied World has informed us that it expects that its cash on hand will be sufficient to complete the acquisition.

### **Regulatory Approvals (Page 40)**

Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the HSR Act ), and the rules promulgated thereunder by the Federal Trade Commission ( FTC ), the Merger may not be completed until notification and report forms have been filed with the FTC and the Antitrust Division of the Department of Justice ( DOJ ), and the applicable waiting period has expired or been terminated. Darwin and Allied World filed notification and report forms under the HSR Act with the FTC and the Antitrust Division of the DOJ on July 14, 2008. Darwin and Allied World received notice that the waiting period under the HSR Act was terminated as of July 21, 2008. The Merger is also subject to review by the governmental authorities of various states under the antitrust laws of those states.

State insurance laws generally require that, prior to the acquisition of control of an insurance company, the acquiring party must obtain approval from the insurance commissioner of the insurance company's state of domicile and any state in which the insurance company is commercially domiciled. Accordingly, Allied World has made the necessary applications with the insurance commissioners of Delaware and Arkansas, which are the states of domicile of Darwin's

insurance company subsidiaries. As of the date of this proxy statement, Allied World has not yet obtained the approvals under the applicable state insurance laws that may be required to complete the Merger. There can be no assurance that the insurance commissioners will provide the approvals under the applicable state insurance laws. Subject to the terms and conditions provided in the Merger Agreement, as promptly as practicable, each of Allied World and Darwin has agreed to use reasonable best efforts to take, or cause to be taken, all actions and do, or cause to be done, all things necessary or appropriate to consummate the Merger as soon as practicable,



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including obtaining the termination of any waiting period under the HSR Act and seeking the receipt of governmental consents (including the consents of insurance regulators).

In addition, the insurance laws and regulations of certain states in the United States require that, prior to an acquisition of control of an insurance company doing business in that state or licensed by that state (or the acquisition of its holding company), a notice filing disclosing certain market share data in the applicable jurisdiction must be made and an applicable waiting period must expire or be terminated. These notice filings have been made in the applicable jurisdictions.

### **Material U.S. Federal Income Tax Consequences (Page 39)**

Generally, the exchange of shares of Common Stock for cash merger consideration will be a taxable transaction for U.S. federal income tax purposes, and it may also be a taxable transaction under applicable state, local, foreign or other tax laws.

**Tax matters can be complicated, and the tax consequences of the Merger to you will depend on the facts of your own situation. You should consult your tax advisor about the particular tax consequences of the Merger to you.**

### **Conditions to the Merger (Page 48)**

Completion of the Merger depends on a number of conditions being satisfied or waived, including the following:

*Conditions to Each Party's Obligations.* Each party's obligation to complete the Merger is subject to the satisfaction or waiver of the following conditions:

the majority of the outstanding shares of Common Stock entitled to be cast at the special meeting shall have been voted FOR the adoption of the Merger Agreement;

any applicable waiting period under the HSR Act shall have expired or been terminated;

no order, injunction, decree or ruling (whether temporary, preliminary or permanent) by any governmental authority of competent jurisdiction that renders illegal or prohibits consummation of the Merger shall be in effect; and

certain specified approvals or filings under all applicable state laws regulating the business of insurance shall have been obtained or filed.

*Conditions to Allied World's and MergerCo's Obligations.* The obligation of Allied World and MergerCo to complete the Merger is subject to the satisfaction or waiver of the following additional conditions:

our representations and warranties that (i) are not made as of a specific date must be true and correct as of the date of the Merger Agreement and as of the closing of the Merger and (ii) are made as of a specific date must be true and correct as of such date, in each case, except where the failure of such representations or warranties to be true and correct (without giving effect to any qualification as to materiality or material adverse effect set forth in such representations and warranties) has not had and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (as defined under The Merger Agreement Representations and Warranties beginning on page 44); provided, however, that our representations and warranties with respect to corporate status, corporate authority and the absence of certain events since March 31, 2008 that have had or would reasonably be expected to have a Material Adverse Effect must be true

and correct in all respects, in each case, as of the date of the Merger Agreement and as of the closing of the Merger;

we must have performed, in all material respects, our obligations and complied with, in all material respects, our agreements and covenants under the Merger Agreement; and

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we must have delivered to Allied World and MergerCo a certificate signed by an executive officer of Darwin with respect to the satisfaction of the conditions relating to our representations, warranties, obligations, covenants and agreements.

*Conditions to Darwin's Obligations.* Our obligation to complete the Merger is subject to the satisfaction or waiver of the following further conditions:

Allied World's and MergerCo's representations and warranties that (i) are not made as of a specific date must be true and correct as of the date of the Merger Agreement and as of the closing of the Merger and (ii) are made as of a specific date must be true and correct as of such date, in each case, except where the failure of such representations or warranties to be true and correct (without giving effect to any qualification as to materiality or parent material adverse effect set forth in such representations and warranties) has not had and would not reasonably be expected to have, individually or in the aggregate, an effect, event, development or change that would reasonably be expected to prevent or materially hinder or delay Allied World or MergerCo from consummating the Merger;

Allied World and MergerCo must have, in all material respects, performed all of their obligations and complied with, in all material respects, their agreements and covenants under the Merger Agreement; and

Allied World must deliver to Darwin an officer's certificate with respect to the satisfaction of the conditions relating to its representations, warranties, obligations, covenants and agreements.

## **Termination of the Merger Agreement and Termination Fees and Expenses (Pages 51 and 52)**

The Merger Agreement may be terminated by mutual written consent of Darwin and Allied World or by either Darwin or Allied World under certain specified circumstances as more fully described in "The Merger Agreement - Termination of the Merger Agreement" beginning on page 51. Upon termination of the Merger Agreement under certain circumstances, Darwin may be required to pay to Allied World a termination fee of \$16.5 million as more fully described in "The Merger Agreement - Termination Fees and Expenses" beginning on page 52.

## **Restrictions on Solicitations and Other Offers (Page 49)**

During the term of the Merger Agreement, we have agreed not to:

initiate, solicit, knowingly encourage or knowingly facilitate any inquiries or the making of any proposal or other action that constitutes, or may reasonably be expected to lead to, any company acquisition proposal;

enter into discussions or negotiate with any person in furtherance of such inquiries or to obtain a company acquisition proposal; or

enter into an agreement with respect to a company acquisition proposal.

Notwithstanding the foregoing restrictions, at any time prior to obtaining the approval of the Merger Agreement by our stockholders, if we receive a company acquisition proposal that was not received in breach of the foregoing restrictions, we may contact the potential acquiror to determine whether the company acquisition proposal is, or is reasonably likely to lead to, a company superior proposal. If our Board or the Special Committee determines in good faith after consultation with its legal and financial advisors that such company acquisition proposal is, or is reasonably likely to lead to, a company superior proposal, then we are permitted to furnish information to or engage in

discussions or negotiations with the potential acquiror if we provide Allied World with notice within 36 hours of any such furnishing of information and the same information has been previously or is currently provided to Allied World.