

Bank of England PRA

The Prudential Regulation Authority's approach to authorising and supervising UK insurance special purpose vehicles

Statement of policy

November 2024

Draft for consultation



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1: Introduction

1.1 This statement of policy (SoP) sets out the Prudential Regulation Authority's (PRA) approach in relation to the authorisation and supervision of UK insurance special purpose vehicles.

1.2 A Special Purpose Vehicle (SPV) is authorised to securitise insurance risk. (Re)insurers transfer insurance risk to the SPV, which in turn issues an instrument (an Insurance Linked security (ILS)) which allows investors from the capital markets to fund the risk exposure. SPVs are used by (re)insurers as an alternative to traditional reinsurance methods.

1.3 In this SoP and the appendices, UK ISPV refers to special purpose vehicles, as defined in the PRA Rulebook Glossary, which are authorised and operate in the UK. The term special purpose vehicle (SPV) refers to special purpose vehicles, as defined in the PRA Rulebook Glossary, whether authorised in the UK or outside the UK.

1.4 This SoP is relevant to all parties who wish to apply for or have obtained authorisation as a UK ISPV. It is also relevant to (re)insurers that transfer risks to UK ISPVs.

1.5 In accordance with rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, a UK ISPV that takes on more than one contract for risk transfer from one or more undertakings (cedants) is referred to as a multi-arrangement insurance special purpose vehicle (UK MISPV).

1.6 This SoP should be read in conjunction with the:

- Risk Transformation Regulations 2017 (SI 2017/1212) (RTR);
- Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the RAO);
- PRA Rulebook, in particular: Fundamental Rules, Insurance Special Purpose Vehicles, Insurance – Fitness and Propriety, Insurance – Senior Management Functions, Insurance – Senior Managers Regime – Applications and Notifications, and the Key Function Holder – Notifications Parts of the PRA Rulebook;
- Financial Conduct Authority (FCA) Policy Statement (PS)17/24 – authorising and supervising insurance special purpose vehicles;¹
- FCA Statement – authorising and supervising insurance special purpose vehicles¹; and
- Supervisory Statement 11/24 – Prudential considerations for insurance and reinsurance undertakings when transferring risk to special purpose vehicles.

1.7 Attention is also drawn to information on the Bank of England's website regarding UK ISPVs.²

¹ www.fca.org.uk/publications/policy-statements/ps17-24-handbook-changes-insurance-linked-securities.

² www.bankofengland.co.uk/prudential-regulation/authorisations/insurance-special-purpose-vehicles

2: Authorisation process

2.1 The Insurance Special Purpose Vehicles Part of the PRA Rulebook together with other applicable requirements, such as the PRA's fundamental rules and the applicable threshold conditions contained in the Financial Services and Markets Act 2000 (FSMA)) set out the requirements that UK ISPVs must comply with to be authorised. More details on the authorisation requirements are provided in section 3. This section sets out the PRA's approach in relation to the authorisation process, including the handling of Variation of Permission (VoP) applications.

Pre-application discussions

2.2 Given the often time sensitive nature of UK ISPV transactions, the PRA offers the opportunity for prospective UK ISPV applicants to discuss their proposals prior to application. Although this is not a requirement the PRA encourages applicants to make use of this pre-application stage. Engagement prior to the application gives applicants the opportunity to receive early feedback from the PRA regarding their plans, highlighting any potential concerns in good time and informs the PRA when they should expect to receive an application.

2.3 The pre-application process can be beneficial for both the PRA and the applicant as it provides a forum for constructive discussion on matters such as the scope and structure of the intended UK ISPV, the type and effectiveness of the risk transfer, the shareholder structure of the vehicle, the proposed investment strategy, and how the requirement to be fully funded will be met. The pre-application stage will also allow applicants to share details of individuals identified for controlled functions as part of the Senior Managers and Certification Regime (SM&CR). This should help applicants to submit a complete application.

Timelines for review of applications (including VoP applications)

2.4 The PRA will confirm receipt of a firm's application.

2.5 The PRA will inform the firm of the status of the application and whether it is complete or incomplete. The PRA will endeavour, where possible, to provide this within ten working days of receipt. Where the PRA determines that an application is incomplete it will specify the reasons. Incomplete submissions are likely to delay the final decisions on applications.

2.6 Where the PRA has confirmed an application to be complete this will not prevent the PRA from requesting additional information necessary for carrying out its assessment. The PRA will specify any additional information required and the reasons for the request.

2.7 The PRA anticipates that UK ISPV applications will range in complexity. The PRA will process applications as quickly as possible. The PRA considers that where applications represent a relatively straightforward proposal and are supported by good quality documentation this should allow a determination to be reached within 4–6 weeks. In addition, where effective pre-application engagement has taken place 4–6 weeks is more likely to be feasible.

2.8 Where an application meets the criteria as set out in paragraphs 2.37-2.38 the PRA will consider applications and, where satisfied, issue approvals for such UK ISPVs within 10 working days through the ‘accelerated pathway’ process.

2.9 Where an applicant proposes arrangements that are sufficiently similar to arrangements that have previously been assessed by the PRA in respect of the same applicant, eg a previous transaction with the same cedant and substantially the same transaction documentation, the PRA will consider all relevant factors but will aim to leverage (to the extent appropriate) any work done in the previous application. In such circumstances, the PRA expects applicants to discuss with the PRA the level of changes they envisage so that the review can be focused as much as possible on the key changes.

2.10 For applications that are complex or novel applicants should recognise the need for additional review time. In any case the statutory timeframe for determining a complete application (as set out in FSMA) is six months. The quality of the documentation and complexity of the proposal will determine the time taken for the PRA to review any application as will the level of pre-application engagement where possible.

Submission of applications for authorisations of a UK ISPV

2.11 Applications for UK ISPV authorisation should be made through submission of:

- a UK ISPV Application Form³ for the authorisation of the UK ISPV; and
- application forms for individual(s) (Senior Managers Regime, and FCA Controlled Functions (where applicable)) in line with paragraphs 3.27 to 3.29.

2.12 The UK ISPV application form referred to in paragraph 2.11 details the information to be submitted for an application. The PRA expects applicants to review this in detail prior to submission.

2.13 When applying for authorisation the prospective UK ISPV is expected to demonstrate that it would satisfy the requirements set out in the Insurance Special Purpose Vehicles Part of the PRA Rulebook if authorised and be able to continue to satisfy them on an ongoing

³ <https://www.bankofengland.co.uk/prudential-regulation/authorisations/insurance-special-purpose-vehicles>.

basis. Appendix 1 of this SoP sets out a list of supporting documentation that applicants may look to provide to demonstrate compliance with those requirements. The list of documents in Appendix 1 is indicative and the PRA does not require that all the documents to be submitted for every application. It is generally for applicants to determine what constitutes sufficient supporting documentation, recognising the PRA may request further documents, if it deems an application to have provided insufficient information to reach a decision. The applicant can discuss what might constitute sufficient supporting documentation with the PRA as part of any pre-application process.

2.14 The material requested within the UK ISPV application form reflects the expectations set out in paragraph 2.13 which includes the indicative list of documents in Appendix 1 of this SoP.

Documentation

2.15 Appendix 2 provides an indicative list of 'key contractual terms and conditions' which the PRA considers would be relevant in demonstrating that an applicant would meet the PRA's requirements and so would typically expect to see in most applications. Applicants should consider structuring transaction documents such that that the PRA can easily identify, distinguish, and review the parts of the documents containing the details of the 'key contractual terms and conditions'. The PRA expects that its review will be focused on those 'key contractual terms and conditions'.

2.16 The use of 'key contractual terms and conditions' which contain all the terms of relevance to the PRA will allow greater flexibility in the operation of UK ISPVs. For example, a UK Protected Cell Company (PCC) could, for commercial reasons, amend other parts of its contracts when creating new cells or renewing contracts without requiring PRA and FCA approval as long as it continued to meet the PRA's rules and remained within its Scope of Permissions, contained within the 'key contractual terms and conditions'. Similarly, a UK ISPV which was repeating a similar transaction, such as a new instance of a catastrophe bond (cat bond), could re-use the 'key contractual terms and conditions', thereby accelerating any review needed by the PRA and FCA. In all such cases it remains the responsibility of the persons managing the UK ISPV to ensure compliance with the authorisation conditions and its Scope of Permissions. If any amendment or change to the contracts were of a nature which amended the 'key contractual terms and conditions' or in general were such that they were not reflected within the UK ISPV's Scope of Permissions, then such a change is likely to require the firm to apply for a Variation of Permission.

2.17 The PRA considers that the use of 'key contractual terms and conditions' would be compatible with a wide range of insurance risk transformation structures, including common structures such as catastrophe bonds, sidecars, and collateralised reinsurance.

2.18 Where an application is submitted with no proposed live transaction⁴, consistent with the approach above, the PRA will expect applicants to submit sufficient information in the application demonstrating that their future arrangements will be compliant with applicable requirements, including appropriate 'key contractual terms and conditions' for possible future arrangement(s) where applicable. For a UK MISPV that is a PCC this will be the case, whether the applicant intends for the UK MISPV to enter into future arrangements with the same cedant or multiple cedants. Upon any UK ISPV executing a live transaction and assuming a new risk, it must follow the notification process in accordance with Chapter 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook and outlined further in paragraph 2.36 of this SoP.

2.19 The PRA expects final documentation to be submitted with applications where possible. In the case where final transaction documentation is not available at the point of application, draft transaction documentation will be accepted. The PRA does not expect changes to be made during the submission phase where this could impact how the relevant requirements are proposed to be met. If such changes are made, the PRA expects the applicant to submit an analysis of the changes and their impact on the relevant requirements at the first opportunity. Substantive changes following submission of the application are likely to extend the PRA's assessment period.

2.20 It may be the case in some circumstances that the complete set of documentation, whether final or draft, is not available at the point of application (eg because of ongoing commercial negotiations). In such cases the PRA will discuss this with the applicant to understand what evidence is likely to be available and when and how this might affect the timing of the application.

2.21 Where the application is for a live transaction, the PRA understands that the transaction documents may not be executed until after authorisation of the UK ISPV, and therefore some specific commercial terms may remain outstanding until the transaction is executed. However, the PRA expects the applicant to identify where this will be the case in the documentation prior to approval being granted. If approval is granted before the transaction documents are legally executed the PRA expects the UK ISPV to submit the final documents to the PRA as soon as possible once they are legally executed.

2.22 Where possible applicants should submit documentation that is specific to the proposed transaction. Details of the specific transaction should be in the application form, eg specific details on the risk transfer, funding structure and investment strategy of the deal.

2.23 Where there are future or multiple transactions already planned (such as in a contractual arrangement with multiple risk transformation transactions), the applicant should

⁴ A transaction that is ready to be marketed and executed as soon as the UK ISPV gets authorised.

include sufficient detail in relation to all known transactions including future planned transactions. Where an application includes information given in relation to potential future transactions the PRA expects the applicant to demonstrate how these arrangements will satisfy the applicable requirements upon being entered into. Further details are included in paragraph 2.18.

2.24 The PRA does not generally expect to request applicants to submit independent third-party opinions (eg legal, accountant, or actuarial) in every case (ie straightforward applications). However, the PRA may request applicants to provide third party opinions where necessary. For example, where the PRA considers it would assist it in making an assessment against the conditions for authorisation. The PRA considers that such opinions may be useful to support demonstration of compliance with the requirements. In particular, rules 2B.1–4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, where the transaction contains complex or novel features, including but not limited to:

- where a transaction includes complex connected transactions, eg complex trust or security arrangements, or any inter-cell arrangements; and/or
- the recognition and valuation of the UK ISPV's assets in accordance with Chapter 2 of the Valuation Part of the PRA Rulebook, where the UK ISPV invests in assets which are considered non-standard in nature.

2.25 The PRA recognises that the contractual arrangements that are material to the conditions for authorisation (specifically where relied upon to meet Chapter 2B of the Insurance Special Purpose Vehicles Part of the PRA Rulebook) may be subject to foreign law. In general, the PRA will not expect the applicant to provide a legal opinion as part of its application in connection with any contractual documentation which is governed by foreign law. However, the PRA retains the right to request a legal opinion on the effectiveness and enforceability of those arrangements under the relevant foreign law. It also retains the right to request an English law opinion confirming that the operation of English law would not undermine the effect of the transaction and/or arrangements under the applicable foreign law.

Scope of Permission (SOP)

2.26 In line with Regulation 7 of the RTR, the PRA is required to exercise its discretion under Section 55F(4)(a) of FSMA. This requires the PRA to limit the scope of the regulated activities which the UK ISPV may carry on. In exercising its discretion under Regulation 7(1) of the RTR the limitation imposed by the PRA must be determined by reference to some or all the activities described in the application for Part 4A of FSMA permission. The permission granted to the UK ISPV in accordance with the process in this paragraph is referred to in this Statement of Policy as the UK ISPV's SOP.

2.27 A SOP is a key component of a UK ISPV's authorisation as it defines the boundaries within which the UK ISPV may carry on the regulated activity of insurance risk transformation. Information referred to in paragraph 2.13 will form the basis of the SOP granted by the PRA under Part 4A of FSMA.

2.28 Applicants should provide sufficient information on each of the potential arrangements, structures, and/or mechanisms it wishes to form part of the SOP, to demonstrate that they comply with the PRA's requirements. Where a UK ISPV contemplates a range of potential arrangements, structures, or mechanisms (particularly in the case of UK PCCs that intend to create different options for future cells) applicants should include sufficient information on each of these options in their application.

2.29 If a new future transaction relied on terms which were not part of the original key contractual terms and conditions, or were not within the SOP of the UK ISPV, then an application for a VoP may be required, as set out in section 55I of FSMA.

2.30 The PRA anticipates that in most cases the information in the table in Appendix 2 of this SoP will be particularly relevant for the purposes of defining the SOP. However, this is not an exhaustive list. Each application will be considered on a case-by-case basis.

2.31 Consistent with Part 4A of FSMA, the UK ISPV may not act outside its SOP. This means that in the case of a UK MISPV future arrangements must fall within the SOP.

2.32 Where a UK ISPV contemplates activities that are outside its SOP it must apply to the PRA for VoP. Upon granting a VoP a new limitation will be placed on the scope of the UK ISPV's permission which will form an updated SOP. Applications for a VoP will require a reasonable timeframe for the PRA to review and more complex changes will require greater scrutiny.

Decisions

2.33 The PRA will lead in the assessment of the application and will require the consent of the FCA before granting authorisation. Once a decision is made on the application the PRA will notify the applicant. If the decision is to grant supervisory approval the PRA will state the activities for which the UK ISPV is authorised and any terms and conditions relating to those activities where relevant.

2.34 A requirement for authorisation is that the UK ISPV has to be fully funded, subject to any applicable grace period. Where a UK ISPV is considered compliant with all other applicable requirements the PRA expects it will be able to grant an approval that is effective prior to the date that funding is received, if the UK ISPV can demonstrate that it will receive the relevant funding before the risk transfer to the UK ISPV becomes effective. Such prior approval will be granted either if:

a) the UK ISPV can demonstrate that it will receive the relevant funding before the risk transfer to the UK ISPV becomes effective; or

a) the relevant contracts envisage the use of a grace period as set out in rule 2.1A and the UK ISPV can demonstrate that it will receive the relevant funding by the end of the grace period. In such cases the PRA expects to be able to grant an approval that is effective from day 1 of the arrangement (when the risk transfer to the UK ISPV becomes effective). The vehicle will then have a maximum of 30 business days from day 1 of the arrangement to receive funding.

2.35 The PRA will expect the application to demonstrate that all expenses and operating costs will be met appropriately, whether or not they form part of the UK ISPV's Aggregate Maximum Risk Exposure (AMRE).⁵

UK ISPV post-transaction notification

2.36 In some circumstances it is necessary for UK ISPVs to provide post-authorisation notifications. In particular, the PRA notes that once authorised a UK PCC must notify the PRA within five working days of assuming any new risk (pursuant to Regulation 60 of the RTR). In accordance with rules 4.3 and 5A.13–14 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook a post-transaction notification must be submitted by all UK ISPVs using the New Risk Assumption Notification Form. The form requires UK ISPVs to provide details and documentation on the specific risk transfer arrangement to which it relates (including the documentation specified in the SOP), confirmation that it is in line with the UK ISPV's SOP, and a signed declaration by two directors that all information in the form is accurate. The PRA expects that all other ISPVs which are not PCCs must submit the New Risk Assumption Notification Form within 15 working days of assuming any new risk.

Accelerated pathway authorisation process for specific UK ISPVs

2.37 The PRA considers there to be types of UK ISPVs that the PRA can approve to a quicker timeline based on standardised structure and the common use of contractual terms that the PRA is familiar with. This will apply to vehicles which meet the following criteria:

- a) The risk transferred is:
- non-life insurance; and

⁵ As defined in the PRA Rulebook Glossary

- has a clearly defined loss trigger⁶ as per market standards, which makes it clear when a loss has occurred.
- b) The vehicle is limited to a maximum 15-year life, at which point the vehicle will have to be terminated and all outstanding claims commuted.
- c) The funding for securities arises from a syndicated placement marketed via one or more investment banks or broker dealers to a range of Qualified Investors⁷, with the investment bank or broker dealer underwriting the issuance on a best effort basis.
- d) The funding for the UK ISPV's obligations from assuming insurance risk from a cedant is obtained from debt securities and not equities.
- e) A legal opinion is prepared for the UK ISPV and other relevant stakeholders to the effect that (a) the transaction documents conform in all material respects to their description in the offering circular; and (b) the transaction documents that are core to the instrument's structure are enforceable; and such legal opinion is shared with the PRA as part of the application documentation.

2.38 Where an application meets the above criteria the PRA will consider and, where satisfied, issue approval for such a UK ISPV within 10 working days ('accelerated pathway') if it also has the following features:

- a) Any cash proceeds received from sale of the debt securities must be placed in a collateral trust with a legally enforceable security interest in those assets and with clearly defined priority of payments under an indenture and a deed of charge (or similar arrangements) where any claims of the cedant and other secured creditors precede any re payments to noteholders.
- b) Agreements are in place with appropriate third party service providers for necessary procedures to be carried out for the duration of the risk transfer. This must include independent management provided by one or more external service providers (such as trustees and custodians), one of which must be an ILS administrator.
- c) The planned UK ISPV is not a PCC or a cell within a PCC.
- d) The planned UK ISPV is held under an orphan structure, enhancing the vehicle's 'bankruptcy remote' status.

⁶ The loss trigger, for example, could be a cedant's actual losses from a named peril (indemnity), an industry loss index, a modelling loss index, wind speed, earthquake intensity, level of rainfall, level of loss ratio or other objective criteria. Triggers should not be based on internal models which are not open to external inspection.

⁷ As defined in the Risk Transformation Regulations 2017 (RTR).

2.39 The 10 working days would begin after the applicant submitted a 'complete' application. For an application to be 'complete', the applicant must:

- a) Make the application by correctly filling out a 'standardised accelerated pathway application form'.
- b) Submit all documentation as set out in the 'standardised accelerated pathway application form'.
- c) Consent to a standardised Scope of Permissions (SOP; which will list the key contractual terms and conditions (see Appendix 2 of this SoP) to be included in the above documentation.
- d) Perform all background checks on Senior Management Function (SMF) applicants and share details with the PRA at the time of submission of the application.

2.40 The PRA expects that a Rule 144A cat bond would typically meet the criteria set out in 2.37 and 2.38. However, it would be for any applicant to ensure that any specific bonds in question did in fact meet these criteria before it could be eligible for the accelerated pathway.

2.41 Where an application met all the criteria for the 'accelerated pathway', the following key similarities and differences would apply from the standard authorisation process:

- a) Overview of authorisation process – 2.1 would continue to apply.
- b) Pre application discussions – the PRA would remain open to pre-application discussions, as set out in 2.2 and 2.3. However, given the standardised nature of the 'accelerated pathway', the PRA expects that most cases will not benefit significantly from pre-application, other than confirming the eligibility for the 'accelerated pathway'.
- c) Timelines for review of applications – the PRA will consider applications and, where satisfied, issue approvals within 10 working days of receiving a completed application. However, notwithstanding the aspiration to approve such applications within 10 working days, the statutory time frames, as set out in 2.10 will continue to apply.
- d) Submission of applications for authorisation – the expectations set out in 2.11 to 2.14 will not apply in the case of 'accelerated pathway' applications. Instead, the applicant will have to make sure that the relevant application needs to be complete and the conditions in 2.37 to 2.39 met.

- e) Documentation – the expectations set out in 2.15 to 2.20 will not apply in the case of ‘accelerated pathway’ applications. Instead, the documentation requirements are set out in the application form for the accelerated pathway, which the applicant will have to meet. As per 2.25 the PRA retains the right to request for a legal opinion if it considers it appropriate. It should be noted that as per 2.37 any legal opinion prepared for the ISPV as part of the process must be shared with the PRA as part of the application.
- f) Scope of Permission – the applicant will be expected to use a standardised SOP as set out in 2.39c).
- g) Decisions – the process set out in 2.33 and 2.35 continue to apply.
- h) Notification process – the process set out in 2.36 would continue to apply.

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3: Requirements of UK ISPVs

Authorisation requirements

3.1 Entities wishing to operate in the United Kingdom as a UK ISPV will need to apply to the PRA for permission to perform the regulated activity of insurance risk transformation set out in Regulation 13A of the RAO.

3.2 The Threshold Conditions are the minimum requirements that all firms regulated by the PRA must meet on an ongoing basis and are defined within Schedule 6 of FSMA. The UK ISPV must meet the Threshold Conditions at authorisation and on an ongoing basis in order to be permitted to carry on regulated activities in the UK.⁸ PRA–authorised firms need to meet both the PRA–specific and the FCA–specific Threshold Conditions. This section discusses the PRA–specific Threshold Conditions as applied to UK ISPVs.

3.3 The PRA Threshold Conditions as applied to UK ISPVs are set out in FSMA.

- (a) Legal status
- (b) Location of offices
- (c) Prudent conduct of business
- (d) Suitability
- (e) Effective supervision

3.4 A UK ISPV would need to meet the Threshold Conditions and satisfy the requirements in Chapters 2 – 2D of the Insurance Special Purpose Vehicles Part of the PRA Rulebook in order to be authorised. The PRA considers that a UK ISPV is unlikely to satisfy the Threshold Conditions that are applicable to a UK ISPV unless it satisfies these requirements. The PRA considers that to meet the Threshold Conditions an applicant would need to demonstrate, to the full satisfaction of the PRA, that it satisfies each of the following conditions for authorisation:

1. The UK ISPV assumes risks from an undertaking through reinsurance contracts or assumes insurance risks through similar arrangements.
2. Where the UK ISPV assumes risks from more than one undertaking the solvency of that UK ISPV is not adversely affected by winding up proceedings of any one of those undertakings.

⁸ The Threshold Conditions for UK ISPVs apply as amended by the RTR.

3. The contractual arrangements relating to the transfer of risk from an undertaking to the UK ISPV and the investment in assets by the UK ISPV fulfil the conditions set out in rules 2B.1–4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
4. The persons that effectively run the UK ISPV satisfy the requirements referred to in rules 2C.1–4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
5. All shareholders or members having a qualifying holding in the UK ISPV within the meaning in rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook are fit and proper, taking into account the criteria set out in rule 2C.5(1) to 2C.5(4) in the Insurance Special Purpose Vehicles Part of the PRA Rulebook and consistent with paragraphs 3.30–3.36 below.
6. The UK ISPV has an effective system of governance and meets the requirements set out in rules 2D.1 – 3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
7. The UK ISPV is capable of meeting the requirements referred to in Chapter 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
8. The UK ISPV satisfies the requirements set out in Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.

3.5 Table 1 sets out a high level guide on which areas of the Insurance Special Purpose Vehicles Chapter of the PRA Rulebook relate to the Threshold Conditions and highlights where additional relevant information can be found in this SoP.

Table 1: Indicative relation between Threshold Conditions and UK ISPV requirements in the PRA Rulebook

| Threshold condition | Relevant rules in Rulebook | Additional information |
|---|---|---|
| (a) Legal status | N/A | Covered through the UK ISPV Application Form |
| (b) Location of offices | N/A | Covered through the UK ISPV Application Form |
| (c) Prudent conduct of business – financial resources | rules 2A.1(1) and 2A.1(2) – general conditions 2.2 – fully funded 2B.2 and 2B.3 – effective risk transfer 2B.4 – rights of the providers of debt or financing mechanism 2.2A, 2.3-2.6 – solvency requirements | See: <ul style="list-style-type: none"> • paragraphs 3.7 to 3.19 on fully funded; • paragraphs 3.20 to 3.25 on risk transfer; • paragraphs 3.37 to 3.41 on inter-cell arrangements; and • paragraphs 3.42 to 3.43 on solvency requirements. |

| | | |
|---|---|--|
| (c) Prudent conduct of business – non-financial resources | 2D – system of governance and risk management 5A – supervisory reporting | See: <ul style="list-style-type: none"> • paragraph 3.44 on system of governance; • paragraphs 4.1 to 4.4 on supervisory reporting; and • paragraphs 3.30 to 3.36 on fit and proper requirements for shareholders or members with a qualifying holding. |
| (d) Suitability | 2D – system of governance | In addition, the PRA will also consider compliance with the SM&CR. See paragraphs 3.26 to 3.29. |
| (e) Effective supervision | N/A | N/A |

3.6 All UK ISPVs are dual regulated by the PRA and FCA ('the regulators'), and applications will be reviewed jointly by the regulators. As for other dual-regulated firms the PRA will lead the authorisation process and require the FCA's consent before granting authorisation.

Fully funded at all times

3.7 Rule 2.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires all UK ISPVs to be fully funded. Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook sets out the requirements that must be satisfied for a UK ISPV to be considered fully funded.

3.8 Rule 2.2(3) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires that the proceeds of the UK ISPV's debt issuance or other funding mechanism are fully paid in. The PRA considers that to be fully paid-in a UK ISPV should have received the proceeds of the debt issuance or other mechanism by which it is financed. Therefore, based on rules 2.2(1) – (3) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook the PRA expects UK ISPVs not to include contingent assets for the purposes of satisfying the fully funded requirement. Accordingly, UK ISPVs should not count legally binding commitments that could be treated as ancillary own funds by undertakings under 2.3–2.4 of the Own Funds Part of the PRA Rulebook, as assets for the purposes of satisfying the fully funded requirement.

3.9 Rule 2.2(2) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires that the UK ISPV must at all times have assets the value of which is equal to or exceeds its AMRE and that it is able to pay the amounts it is liable for as they fall due. The AMRE is defined in the PRA Rulebook Glossary. The PRA considers that the AMRE must be an

amount that is determinable at any given point in time so that UK ISPVs and the PRA are able to assess whether the fully funded requirement is being met at that point in time. Consequently, the PRA expects the risk exposure taken on by the UK ISPV to either be a fixed amount that is specified in the contract, or to be an amount determinable in accordance with the terms of the contract with the cedant (see 3.12). In either case, consistent with rules 2B.2–3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, the PRA expects an UK ISPV to ensure that the risk transfer (and the contractual provisions regarding any changes thereto) is clearly defined so that a UK ISPV's AMRE can be determined clearly at any point in time.

3.10 For the purposes of Chapter 4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook the PRA expects UK PCCs to demonstrate how the group of cells will satisfy the fully funded requirement, and also consider any risks arising from the inter-cell arrangements in their system of governance. For a UK ISPV that is not a UK MISPV there will be one AMRE that applies in respect of the entire risk exposure of the UK ISPV.

3.11 While the AMRE should be fully funded at all times, the AMRE can change over the life of the arrangement. At the outset the AMRE might consist only of initial expense costs. At the point risk is transferred to the UK ISPV the AMRE will increase in parallel to the amount of the risk transfer. Any claims paid may result in the AMRE decreasing in parallel to the amount paid out and thereafter the AMRE will reflect any remaining risk exposure. Where the contractual provisions envisage changes to the risk transferred and/or to the funding of the UK ISPV (eg reinstatements, stepped increases or decreases to the risk transfer, deferral of premium payments, funding top-ups, delayed risk period inception, or mechanisms that allow the roll-over of funding between two consecutive risk transfer arrangements) the PRA expects a UK ISPV to ensure that the contractual provisions clearly set out how and when the risk transfer and funding, and consequently the AMRE may change.

3.12 Where the risk transfer arrangement covers a number of years, the contractual provisions may provide that the vehicle can retain investment returns during the period of the arrangement and that the AMRE of the vehicle may increase accordingly at the point that those returns are realised. Rule 2.6 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook sets out requirements on how a UK ISPV must invest its assets. In general, the PRA would not expect that the increase in the AMRE (due to increase in funds) would exceed the increase in funds expected to arise from a strategy that invests annually in the Solvency II basic risk-free forward rate. In any case the AMRE cannot increase without a corresponding increase in the amount of funds within the vehicle, since, as defined in rule 2.1, a UK ISPV must continue to meet its funding requirements at all times, with no form of 'discounting' permitted. Further, the PRA does not expect that the AMRE is increased in a given year due to an increase in funds from investment returns, more than 7 times during the life of the vehicle. The PRA considers that where the UK ISPV expects the AMRE of the vehicle to change to reflect the investment performance of the funds in the vehicle, the

contractual provisions should clearly set out how the AMRE will change. It should also set out the mechanism for changes in AMRE when claims are paid by the vehicle, including the possible need for a top up by investors. The PRA also expects that at the end of every year during the arrangement, the UK ISPV would set out what the AMRE is at that point in time and how the AMRE will increase every year during the remainder of the arrangement.

3.13 Rule 2.2 of the Insurance Special Purpose Vehicles Part of the Rulebook requires that a UK ISPV is fully funded at all times, and on this basis the PRA expects a UK ISPV to ensure that the contractual provisions should be such that any increase in the AMRE during the life of the arrangement is only effective if and when the corresponding funds are paid in. The PRA expects UK ISPVs to ensure that this is made clear in the contractual provisions. Where arrangements contain contractual features that could result in the AMRE decreasing the conditions governing return of capital to investors should be such that the fully funded requirement is maintained. In general, the PRA expects that unless clearly provided for in the terms of the contract with the cedant, injections or repayments of funds to match these kinds of contractual changes in the AMRE (as described in paragraph 3.12) should not take credit for increases in the value of assets already invested.

3.14 The PRA is aware of the practice of using limited recourse clauses within reinsurance or similar arrangements that cap a UK ISPV's AMRE to a level no greater than its assets. The PRA neither requires nor prohibits the use of such clauses, although as set out in paragraph 3.16, it does expect them in certain scenarios. When entering into risk transformation transactions the PRA does not expect that such a clause would be relied on in order to comply with the fully funded requirement at the inception of the transaction. However, the PRA recognises that such clauses can be used to comply with the fully funded requirement on an ongoing basis. The presence of a limited recourse clause cannot be a substitute for having a sound risk management framework and investment strategy (in accordance with Chapter 2D of the Insurance Special Purpose Vehicles Part of the PRA Rulebook) nor should it undermine the requirement that the risk transfer to the ISPV is effective, enforceable, clearly defined and incontrovertible. In assessing the suitability of limited recourse clauses the PRA will expect a UK ISPV to demonstrate that its risk management framework is sound, and its investment strategy is consistent with its risk profile. In the absence of a sound risk management framework and an appropriate investment strategy, the presence of a limited recourse clause is unlikely to be sufficient to demonstrate that the UK ISPV will meet the applicable regulatory requirements, such that the PRA would be in a position to authorise it.

3.15 In respect of paragraphs 3.11 and 3.12, where parties may wish to roll-over funding from one risk transfer transaction to the other, the same funds should not be used to meet the AMRE of two consecutive risk transfer arrangements at the same time. This means that the funds being held to meet the AMRE of an existing risk transfer arrangement should not, simultaneously be counted to meet the AMRE of a new risk transfer arrangement. However, once the AMRE of the existing risk transfer is reduced and the funds equal to the value of

such reduction are released, some or all of such funds can then be re-invested in the new risk transfer arrangement and be counted to meet the AMRE of the new risk transfer arrangement.

3.16 However, as set out in rule 2.1A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, a UK ISPV is not required to meet the fully funded requirement in a grace period subject to the requirements in 2.1B being met. This allows the use of a grace period to ascertain the extent of funds which can be rolled over from one risk transfer arrangement to another at renewal. Rule 2.1B of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires that both parties are in contractual agreement to use such grace periods; and that there exists a funding agreement to fund the ISPV if claims occur in both contracts during the grace period. The PRA will also expect the necessary inclusion of a limited recourse clause in both arrangements where a grace period is used during a renewal.

3.17 Similarly, if the grace period is being used in the first 30 days of a new arrangement, a contractual provision specifying the details of the grace period and a funding agreement would be needed from day 1 of the arrangement. In addition, the PRA expects that such an arrangement necessarily includes a limited recourse clause.

3.18 As set out in rule 2.1A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook the grace period must not exceed 30 business days. The PRA expects that within 30 business days the level of existing funding that can be rolled over to count towards the AMRE of the next period and how much additional funds the investor will be required to put into the vehicle will be determined. If further funding is not received beyond 30 business days then the AMRE of the new contract must be immediately reduced until the funds are released from the original risk transfer, at which point they can be re-invested in the new risk transfer arrangement and used to increase the AMRE of the new risk transfer arrangement. Similarly, where a new arrangement is being initiated, the UK ISPV has 30 days in which to receive sufficient funds to meet the AMRE.

3.19 It is the responsibility of the applicant to demonstrate that the UK ISPV will be fully funded at all times, consistent with the expectations set out in the rules in Chapter 2 of the ISPVs Part of the PRA Rulebook and paragraph 3.8. Consequently, the PRA expects that a UK ISPV should make clear in its application how the components referred to in 1 and 4(a) of Appendix 2 of this SoP, work together to ensure the UK ISPV will remain fully funded and maintain effective risk transfer throughout its existence.

Risk transfer

3.20 When determining whether an application satisfies the requirements relating to effective risk transfer the PRA will seek to establish that the risk transfer occurs from a single insurance or reinsurance undertaking via a single contractual arrangement, in the absence of

connected transactions that could undermine the effective transfer of risk. The contractual arrangement may consist of one or more risk transformation transactions as defined in rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook. The transfer should be effective and enforceable and the extent of the risk transfer should be clearly defined and incontrovertible.

3.21 Where a contractual arrangement consists of more than one risk transformation transaction, parties must segregate assets and liabilities related to each risk transformation transaction. In some cases, there may be further segregation at greater levels of granularity such as within different investors in a risk transformation transaction. It is a decision for the parties involved as to when and how to undertake such segregation. The PRA expects that where such segregation of assets and liabilities occurs it is implemented in a manner that does not undermine either effective risk transfer or subordination of investors.

3.22 There may be situations where multiple cedants could be treated as a single undertaking for a risk transformation transaction in which case the PRA may include such arrangements in the Scope of Permission granted to the UK ISPV or UK PCC. This would be subject to meeting all the following criteria:

- a) all the cedants are part of the same group (as per the Group Supervision Part of the PRA Rulebook) or are Lloyd's syndicates managed by the same managing agent with a shared economic interest;⁹
- b) they transfer risk via the same contract to a UK ISPV (or a single cell within a UK PCC) with aligned economic interests (in particular, that no one cedant has preferential terms over another especially in the receipt of claims from the UK ISPV or cell of the UK PCC). The contractual documentation should set out how claims would be apportioned between the different cedants, including if there are sub limits per cedant within the contract, up to a pre-defined, fully paid up limit to the value of the AMRE. However, the contractual documentation should not allow for the claims of one cedant to be subordinated to that of another cedant;
- c) they transfer risks which are short-tail, wholesale, and general insurance in nature; and
- d) they are able to demonstrate that the inclusion of multiple cedants within the proposed arrangement does not undermine effective risk transfer, subordination of investor rights to all ceding parties, or fully funded requirements. Specifically, the presence of multiple cedants should never result in a situation where the UK ISPV (or cell of the UK PCC) would be required to pay claims beyond the AMRE of the UK ISPV (or that cell of the UK PCC);

⁹ For example, syndicates managed on a turnkey basis by a managing agent would not be considered to have a shared economic interest with the other syndicates managed by the same managing agent.

3.23 The UK ISPV (or cell of the UK PCC) must, at all times, ensure that all the cedants to the UK ISPV (or cell of the UK PCC) remain part of the same group. If there are changes to the group composition during the life of the arrangement resulting in the removal or addition of a cedant the PRA expects the UK ISPV to inform the PRA before making the change. The PRA expects that in facilitating or responding to any such changes the UK ISPV and cedant can demonstrate that all requirements of the contract continue to meet, at all times, the PRA's requirements set out in the Insurance Special Purpose Vehicles Part of the PRA Rulebook and the PRA's expectations as set out in this SoP.

3.24 The PRA recognises that UK ISPVs may assume risks through reinsurance contracts or assume insurance risks through similar arrangements consistent with paragraph 3.4 and rule 2A.1(1) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook. Any references to reinsurance within this SoP would also apply to any similar arrangements. Regardless of the form of the risk transfer the PRA expects applicants to demonstrate that their activity complies with Regulation 13A of the RAO and rule 2A.1(1) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, and that rules 2B.2 and 3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook are met, including that the risk is effectively transferred from the cedant to the UK ISPV and from the UK ISPV to the providers of debt or other financing mechanism. Applicants should use the ISPV Application Form to provide a clear description of the risk transfer and how the risk transfer complies with the requirements.

3.25 In the case of risk transfers that include non-indemnity triggers, the PRA expects applicants to include specific details of the structure of the trigger, eg any pay out factors, geographic weightings, exposures vectors, relative experience ratios, or regular portfolio resets. Non-indemnity triggers also have a potential to introduce basis risk for cedants. In the extreme, the PRA believes this could undermine the effectiveness of the risk transfer and, as such, will consider requesting a basis risk analysis from applicants on a case-by-case basis.

PRA Senior Managers and Certification Regime (SM&CR)

3.26 All individuals who are effectively running the UK ISPV must satisfy the fit and proper criteria set out in the Insurance – Fitness and Propriety Part of the PRA Rulebook. Effectively running is described in paragraph 2.32 of supervisory statement 35/15 – Strengthening individual accountability in insurance.¹⁰ It is expected to include all the members of the governing body as well as the senior management of the UK ISPV (or any related insurance group) who are responsible for key decision making and for implementing the strategies and

¹⁰ <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/strengthening-individual-accountability-in-insurance-ss>.

policies approved by the governing body. These individuals can be both SMF roles and non SMF roles.

3.27 The PRA requires applicants to nominate a fit and proper individual for approval by the PRA to occupy the Chief Executive function (ISPV SMF1) role for each UK ISPV.¹¹ In the context of a UK ISPV, an SMF 1 role is defined in rule 12.3 of the Insurance Senior Management Functions Part of the PRA Rulebook. The PRA recognises that the role of the person at the helm of a UK ISPV is of different nature compared to CEO roles in other types of regulated firms in view of the ISPVs specific and narrow business model. For UK ISPVs, the Chief Executive function is defined as the function of having responsibility for:

- a) the conduct of all activities of the UK ISPV that are subject to the regulatory system; and
- b) where the UK ISPV has a services provider, the conduct of all activities of the services provider that are subject to the regulatory system.

3.28 In general, the PRA would expect only one individual to hold the ISPV SMF1 role. However, the PRA recognises that in the case of certain complex structures, there may be a need for more than one person to hold the ISPV SMF1 role, and expects that firms appoint more than one ISPV SMF1 only where appropriate and justified. Where two or more individuals perform the ISPV SMF1 each will be deemed fully accountable for all the responsibilities inherent in or allocated to that function. It may also be appropriate in some cases to appoint an SMF 3 (executive director), such as in a complex structure.

3.29 The PRA considers that the ISPV SMF1 role is important for the ongoing safety and soundness of the UK ISPV. An SMF role or individual deemed to be effectively running the UK ISPV could be held by a suitably senior employee or director of a third party such as an outsourced service provider. The PRA expects the UK ISPV to propose contingency plans if any SMF is not able to continue in the role. Firms should consider any potential conflicts of interest and how they shall be addressed while appointing any SMFs.

Shareholders or members with a qualifying holding

3.30 Rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires a UK ISPV to take reasonable steps to keep under assessment the fitness and propriety of shareholders or members with a qualifying holding in the UK ISPV. Rules 2C.6–7 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires UK ISPVs to notify the PRA of the identity of its shareholders or members with a qualifying holding (and any changes) and notify the PRA as soon as it becomes aware that any shareholder or member with a qualifying holding may not be fit and proper. The term qualifying holding is

¹¹ Pursuant to Insurance – Senior Management Functions 2, and Insurance – Fitness and Propriety 2.

defined in rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook as a direct or indirect holding in an undertaking which represents 10% or more of the capital, or 10% or more of the voting rights, or which makes it possible to exercise a significant influence over the management of the undertaking.

3.31 The UK ISPV's own assessment under rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook can be proportionate to the nature and level of influence any shareholder or member with a qualifying holding is expected to have on the UK ISPV. The PRA's review at the point of authorisation will be proportionate to the nature and level of influence any shareholder or member with a qualifying holding is expected to have on the UK ISPV, including any voting rights, or ability to exercise influence, and the extent of their financial commitments to the UK ISPV.

3.32 As defined in rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, for all UK ISPVs, at the initial authorisation stage, the PRA will carry out a fit and proper assessment of shareholders or members who have a qualifying holding on the basis that they hold 10% or more of the voting rights in the UK ISPV, or have significant influence over the management of the UK ISPV. The PRA expects that a significant influence over the management of the UK ISPV is likely to arise where there is a holding representing 10% or more of the capital of the UK ISPV, and either: (a) at least some of those holdings include voting rights; or (b) the arrangements of the UK ISPV are such that the shareholder or member may have a significant influence over the management of the UK ISPV. The PRA considers that these shareholders or members can control the UK ISPV, and for that reason they will form part of the UK ISPV's SOP, meaning that a change in these shareholders or members would require a VoP (and the PRA would consider the proposed change taking into account the criteria in rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook).

3.33 A qualifying holding may arise where a holding represents 10% or more of capital even where the shareholder or member does not have voting rights or a significant influence over the management of the UK ISPV. The PRA expects UK ISPVs to have a framework in place for assessing these shareholders or members, which should consider all the criteria in rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, including any financial commitments to the UK ISPV. The PRA will assess this framework at authorisation and will expect the UK ISPV to demonstrate to the PRA that these shareholders or members will not have, or acquire, a significant influence over the management of the UK ISPV (otherwise, the PRA will consider these shareholders or members in line with the process described above).

3.34 The assessment required under rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook also applies in respect of shareholders or members having a qualifying holding in a UK PCC. Accordingly, the PRA expects that the assessment described

in paragraph 3.31 will include holdings issued on behalf of the core of a UK PCC, on the basis that these shareholders or members will exercise a significant influence over the management of the UK PCC. In regards to shareholders or members in the cells of a PCC, the RTR specifies that only a holding issued on behalf of the core of a PCC is to be treated as a holding in the PCC. The PRA therefore considers that the assessment under rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook should not include holdings issued on behalf of a cell of a PCC. Furthermore, the PRA would not expect the governance arrangements of the PCC to enable holdings in cells to exercise significant influence over the UK PCC.

3.35 The PRA expects all UK ISPVs to explain their proposed ownership structure in the application for authorisation, identifying, to the extent possible, any proposed shareholders or members that will have a qualifying holding (highlighting those for the PRA's assessment against the criteria in Chapter 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook as described in paragraph 3.31 above). The application for authorisation should contain sufficient information to enable the PRA to perform its assessment of qualifying holding shareholders' or members' fitness and propriety (as described in paragraph 3.32 above). In the case of a single-arrangement UK ISPV the application for authorisation should contain sufficient details of the proposed framework for the UK ISPV's assessment of other shareholders or members with a qualifying holding.

3.36 Where the UK ISPV is consolidated into a group the applicant must provide an assessment of the applicable accounting consolidation requirements of the UK ISPV in accordance with Appendix 2. The PRA will assess the specific circumstances for consolidation against the relevant requirements.

Inter-cell arrangements

3.37 The RTR includes provisions for PCCs to make arrangements between cells within strictly confined parameters. The PRA, pursuant to the requirement imposed on the PRA under Regulation 7 of the RTR, will exercise its discretion to impose a limitation via the SOP on the UK PCC's permission with reference to the inter-cell arrangements specified in a UK PCC's application for Part 4A permission.¹²

3.38 Therefore, if a UK PCC proposes to use inter-cell arrangements, the PRA expects the UK PCC to include a clear proposal for their use in its application, with the specific details of the arrangements, so that the PRA can assess the arrangements for inclusion within the UK PCC's SOP (as outlined in paragraphs 2.26 to 2.32) at the time of authorisation. The PRA will expect the UK PCC to describe how assets and AMRE will be allocated amongst the group of

¹² Paragraphs 3.19 and 3.21 of HM Treasury's response document, 'Regulations implementing a new regulatory and tax framework for Insurance Linked Securities: response to the consultation' July 2017: www.gov.uk/government/consultations/insurance-linked-securities-consultation.

cells, the circumstances under which assets would move back to cell A (where cell A is the cedant-facing cell), details of how the group of cells will be fully funded at all times, and the investment strategy of the cells. This should also include the approach to any amendments or cancellations of inter-cell arrangements, and details of how the group of cells continue to meet their AMRE, or evidence that the obligations of the group of cells have been fully discharged.

3.39 The PRA expects that, where relevant, UK PCCs ensure that arrangements between cells are used with care and are consistent with the applicable PRA rules. The PRA will consider the UK PCC's explanation of how the proposed arrangements are compliant to ensure, for example, that the proposed arrangements will not undermine the requirement that each risk transfer transaction satisfies the fully funded requirement, that the claims of the investors are at all times subordinated to the reinsurance obligations of the UK ISPV, and that its solvency cannot be affected by the insolvency of any cedant.

3.40 If a UK PCC does not propose to use inter-cell arrangements, the SOP shall preclude the use of inter-cell arrangements. Should a UK PCC subsequently propose the use of inter-cell arrangements for the first time, or the use of inter-cell arrangements in a manner not specified within the UK PCC's SOP, an application for a VoP should be submitted to the PRA in the manner described in paragraph 2.32 of this SoP.

3.41 Where a UK PCC makes use of an inter-cell arrangement in line with the approved approach in its SOP, the UK PCC is required to notify the PRA within five working days of the arrangement being entered into, in accordance with Regulation 69(2)(a) of the RTR. This includes notification of any amendments or cancellations to a group of cells pursuant to Regulation 70(3) of the RTR. As set out in rule 4.4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook the UK PCC must notify the PRA by submitting the Group of Cells Notification Form.¹³

Solvency requirements

3.42 A UK ISPV must take into account its quantifiable risks when satisfying the fully funded requirement.¹⁴

3.43 The PRA's assessment of quantifiable risk for standard applications would consider, at the least, insurance risk, market risk, operational risk, and asset risk which may exist in the UK ISPV. If requested by the PRA a UK ISPV is expected to comment on these risks at a minimum even if, in its consideration, this risk is considered to be of no significance. The

¹³ See Insurance Special Purpose Vehicles 6.2.

¹⁴ Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook

PRA expects that they would consider all relevant risks in assessing the quantifiable risk of the UK ISPV.

System of governance requirements

3.44 As per rule 2C.9.1 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, a UK ISPV is required to have policies in a number of areas related to its system of governance. The PRA does not expect firms to submit as a matter of routine the full suite of written policies in place. Instead the PRA would expect firms to provide a list of the policies in place. However, the PRA may request to see the written policies, or a sample of, on a case-by-case basis.

Draft for consultation

4: Ongoing supervision of UK ISPVs

4.1 UK ISPVs will be subject to ongoing supervision by the PRA and will need to comply with the relevant Threshold Conditions and the relevant PRA rules, including the rules in the Insurance Special Purpose Vehicles Part of the PRA Rulebook, on an ongoing basis. The PRA's ongoing assessment will be proportionate and risk based, in line with the risks that the UK ISPV poses to the PRA objectives and in accordance with applicable requirements.

4.2 In complying with the supervisory reporting requirements in Chapters 2 and 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, the PRA expects applicants to explain their procedures for how the UK ISPV intends to monitor the assets of the vehicle on an ongoing basis, including ensuring the UK ISPV at all times has assets the value of which is equal to or exceeds the AMRE.

4.3 Consistent with Chapters 2 and 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, UK ISPVs are required to provide both a qualitative and a quantitative report annually to the PRA, the latter of which requires completing the templates that are designed specifically for SPV reporting and are set out in Chapter 6 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.

4.4 Consistent with rule 2A.3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook and Fundamental Rule 7, the PRA expects UK ISPVs to notify the PRA immediately in the event of any changes which could affect its compliance with any applicable requirements, including any breach of the fully funded requirement. As explained in paragraph 2.32, any changes that would affect any components of the SOP require the UK ISPV to apply for a VoP before such changes can take effect.

5: Withdrawal of authorisation

5.1 The PRA may consider withdrawing a UK ISPV's authorisation, using its powers under section 55J of FSMA, where: (a) the UK ISPV no longer fulfils the original conditions under which the approval to establish that UK ISPV was granted; or (b) the UK ISPV fails seriously in its obligations under the requirements to which it is subject.

5.2 In the case referred to in paragraph 5.1(b) of this SoP, the PRA shall consider the UK ISPV to have committed a serious failure where it does not comply with the requirement to remain fully funded and the PRA considers that the UK ISPV cannot restore its compliance within a reasonable timeframe.

Draft for consultation

6: Ongoing cooperation between supervisory authorities

6.1 The PRA shall exchange information with the FCA relevant to the exercise of supervisory tasks in line with the PRA and FCA's Memorandum of Understanding.

6.2 The PRA expects applicants, where possible, to confirm as part of its application that the supervisory authority of any cedant has been notified of the proposed transaction.

6.3 Similarly, the PRA expects authorised PCCs to confirm that the supervisory authority of any cedant has been notified of proposed transactions upon submission of the New Risk Assumption Notification Form.

Draft for consultation

Appendices

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- 1 **Appendix 1: Supporting documentation**
 - 2 **Appendix 2: Selected information likely to be relevant for defining the SOP**
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Draft for consultation

Appendix 1: Supporting documentation

The supporting documentation referred to in paragraph 2.13 may include the following:

- (a) a clear organisational chart giving details of relevant parties in the transaction;
- (b) details of the applicant of the UK ISPV, and (if different from applicant) the undertaking transferring risk to the UK ISPV;
- (c) details of trustees of the UK ISPV's assets;
- (d) details of persons who effectively run the UK ISPV;
- (e) details of persons having (directly or indirectly) qualifying holdings in the UK ISPV;
- (f) details of the persons providing management and professional services to the UK ISPV;
- (g) the ISPV's draft memorandum and articles of association;
- (h) details of risks to be transferred to the UK ISPV, including the relevant counterparties;
- (i) details of contracts related to the transfer of risk to the UK ISPV including details of triggers and the contract's AMRE;
- (j) details of how the UK ISPV complies with the PRA Rulebook, including (where relevant):
 - how it is fully funded; including details of expense arrangements within and outside of the AMRE, and details of contingency actions to avoid breach of this requirement;
 - how it ensures effective risk transfer, taking account of any connected transactions;
 - how it ensures that investor rights are subordinated to the cedant's right to be paid any claims;
 - details of the UK ISPV's equity;
 - information on quantifiable risks of the UK ISPV;
 - risk implications of the proposed investment strategy; including the use of hedging instruments and off-balance sheet commitments, if any;
 - financial projections over the life of the UK ISPV; including any actuarial assessment undertaken of the risks assumed; and
 - the UK ISPV's reporting procedures;
- (k) risk transformation transaction documentation – indicative only, to be tailored to the application:
 - a risk transfer agreement ('Risk Transfer Agreement');
 - an investment agreement (e.g. a Subscription Agreement or a Note Purchase Agreement) and/or a private placement memorandum ('PPM');
 - an Offering Circular (OC) or a Private Placement Memorandum (PPM); and
 - a trust agreement and/or a custody agreement (Collateral Agreement);
- (l) other transaction documentation (In respect of relevant arrangements only):
 - an insurance manager agreement;
 - a corporate services agreement;

- an account bank agreement; and
- a deed of charge and/or trust deed or similar arrangement under applicable foreign law, or indenture or similar arrangement(s) under applicable foreign law.

Draft for consultation

Appendix 2: Selected information likely to be relevant for defining the SOP

A SOP is likely to cover the following areas for which information may be needed to be provided by the applicant. The PRA expects that most standard transactions can utilize a broadly standardized SoP.

1. How the UK ISPV will meet the requirements related to effective risk transfer, fully funded and subordination

This may include:

- a. specific contractual provisions or mechanisms relied upon to satisfy ‘fully funded at all times’;
- b. Contingency actions to avoid a breach of the fully funded requirement;
- c. the ISPV’s approach to the triggering, timing and determination or calculation of any changes to the amount of risk transfer and the AMRE throughout the life of the contract;
- d. details of all expense arrangements and how they will be funded;
- e. a clear description of how the risk transfer will remain effective (ie do not revert to the cedant) in all circumstances; and details of any connected transaction that may undermine the fully funded or effectiveness of the risk transfer requirements.

2. Details of transaction documents used to facilitate the transaction.

These are set out in Annex 1 paragraphs (k) and (l) and where relevant should be included in the SOP.

3. Key contractual provisions or terms and conditions

The PRA would expect that key contractual terms and conditions relevant to a UK ISPV are evidenced either through relevant clauses of the transaction documents listed above or through other relevant documentation. Such ‘key contractual terms and conditions’ could include (where relevant to the transaction):

- a. Setting out the Collateral Structure (including release and expenses);
- b. Setting out a Risk Limit;
- c. Defining and setting out the Business covered;
- d. Limited Recourse Provisions;
- e. Non-Petition Provisions;

- f. Settlement Arrangements;
- g. Termination, including early termination clauses;
- h. Term and Annual Endorsement;
- i. Payment Priority;
- j. Dispute Resolution;
- k. Extensions; and
- l. Conditions precedent to liability

The PRA shall maintain an updated list of key contractual terms and conditions within the FAQs of the ISPV section of the website. The PRA encourages applicants to explicitly point out where these clauses are present in the submitted documentation, eg by providing a mapping of these clauses to the relevant areas of the documents submitted.

4. Other areas to be covered, where relevant to the UK ISPV

- a. Investment policy – outlining how the requirements of Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook are met;
- b. Trigger mechanisms – for any loss event (eg indemnity, parametric, modelled loss and industry loss indexes);
- c. Type of business – details of the type of arrangements and nature and class of the underlying insurance risk proposed to be transferred;
- d. Qualifying holdings – the identity of any shareholders who meet the criteria of the qualifying holding definition as described in paragraphs 3.30 to 3.36;
- e. Applicant of the UK ISPV – where this is not the cedant;
- f. Outsourced service provider of the UK ISPV – where the outsourcing arrangement is considered critical;
- g. Inter-cell arrangements (only applicable for PCCs) – specifically:
 - the approach to allocating assets between the group of cells;
 - the approach to allocating AMRE between the group of cells;
 - the circumstances under which assets would move back to cell A, where cell A is the cedant-facing cell;
 - details of how the group of cells will be fully funded at all times;
 - the investment strategy of the cells; and
 - the approach to any amendments or cancellations of the arrangements.
- h. Confirmation that no changes will be made to the documentation such that the UK ISPV would no longer meet its regulatory requirements.