



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY



Consultation Paper | PRA CP42/16
| FCA CP16-34

Authorisation and supervision of insurance special purpose vehicles

November 2016

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Responses are requested by Thursday 23 February 2017.

Please address any comments or enquiries to PRA at CP42_16@bankofengland.co.uk by the response deadlines for the chapters as set out above.

The Financial Conduct Authority (FCA) makes all responses to formal consultation available for public inspection unless the respondent requests otherwise. The FCA will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

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Responses are requested by Thursday 23 February 2017.

You can address any comments or enquiries to the FCA in writing or email to:

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1 Overview

1.1 This Consultation Paper (CP), which is issued jointly by the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA), introduces a draft PRA supervisory statement, a draft FCA statement, proposed amendments to the PRA Rulebook, and draft application form in relation to the authorisation and supervision of insurance special purpose vehicles (ISPVs). A draft notification form is also included for firms to use when they propose to add new cells to a multi-arrangement ISPV (MISPV). The joint consultation reflects the views of each regulator insofar as is applicable to each regulator's objectives.

1.2 The CP should be read in conjunction with:

- the Financial Services and Markets Act 2000 ('FSMA');¹
- Directive 2009/138/EC ('Solvency II Directive');²
- the Commission Delegated Regulation (EU) 2015/35 ('the Delegated Regulation');³
- the Commission Implementing Regulation (EU) 2015/462 ('the Implementing Regulations');⁴
- the consultation document issued by HM Treasury on 23 November 2016 entitled 'Regulations implementing a new regulatory and tax framework for Insurance Linked Securities';⁵ and
- the proposed Financial Services and Markets - The Risk Transformation Regulations 2017⁶ ('the Risk Transformation Regulations') which proposes a number of new provisions, including some amendments to the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the 'RAO').⁷

1.3 In this CP, reference to 'the regulators' and 'we' means the PRA and the FCA.

1.4 This policy has been designed in the context of the current UK and EU regulatory framework. We will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework, including those arising once any new arrangements with the European Union take effect.

Background

1.5 As part of the March 2015 Budget, HM Treasury signalled an intention to work with the London insurance market to design a new framework which would attract Insurance Linked Securities (ILS) business to the United Kingdom. The regulators also committed to work with HM Treasury to examine what steps might be taken, within the constraints of the Solvency II regime, to address any obstacles within the regulatory framework for ILS business.

1 Available at www.legislation.gov.uk/ukpga/2000/8/pdfs/ukpga_20000008_en.pdf.

2 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009L0138-20140523&from=EN>.

3 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2015:012:TOC>.

4 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0462&from=EN>.

5 Available at www.gov.uk/government/consultations/regulations-implementing-a-new-regulatory-and-tax-framework-for-insurance-linked-securities.

6 Available at www.gov.uk/government/consultations/regulations-implementing-a-new-regulatory-and-tax-framework-for-insurance-linked-securities.

7 Available at www.legislation.gov.uk/uksi/2001/544/pdfs/uksi_20010544_en.pdf.

1.6 Subsequently, in March 2016, HM Treasury released a consultation document in which it sought views on the regulatory, tax and corporate structure framework for ILS business in the United Kingdom. As part of that consultation, comment was also invited on the authorisation and supervision of ISPVs. HM Treasury released a second consultation document on Wednesday 23 November 2016 setting out further details of its proposed approach.

1.7 This joint CP sets out more detail on the regulators' proposed authorisation and supervision regime for ISPVs in the United Kingdom and should be read alongside HM Treasury's consultation document.

1.8 The authorisation and supervision framework for ILS structures within the United Kingdom will be governed by FSMA, the Risk Transformation Regulations and the Solvency II Directive (including the associated Delegated Regulation and Implementing Regulations) which together set out requirements for ISPVs. The proposals described in the CP, the text proposed in the draft supervisory statement and rules, and the draft FCA statement are consistent with the requirements of Solvency II.

Purpose

1.9 This CP sets out the regulators' approach and expectations in relation to the authorisation and supervision of ISPVs. It is relevant to all parties who wish to apply to the PRA for, or have obtained authorisation as, an ISPV. It is also relevant to parties who wish to apply to the FCA for registration of a Protected Cell Company (PCC), and to insurers seeking to use UK ISPVs as risk mitigation in accordance with Solvency II.

1.10 The regulators are consulting to allow all parties the opportunity to provide feedback and highlight any issues or concerns.

Responses and next steps

1.11 This consultation closes on Thursday 23 February 2017. The regulators invite feedback on the proposals set out in this consultation. Views are sought on the draft amendments to the PRA Rulebook, the draft PRA supervisory statement, the draft application form, the draft notification form for new cells in a multi-arrangement ISPV (MISPV), and the draft FCA statement.

1.12 Please address any comments or enquiries to both regulators - the PRA by email to CP42_16@bankofengland.co.uk, and the FCA by writing to the address on page 2 or by emailing cp16-34@fca.org.uk.

1.13 To incorporate the new regulated activity of insurance risk transformation (which is proposed by HM Treasury in its 23 November 2016 consultation document) into the FCA Handbook, the FCA expects to consult on consequential changes in early 2017. The FCA anticipates that this consultation will consider, among other things, whether further changes are needed to the regulatory framework, and the appropriate fees for the registration of PCCs. This will be followed by a Policy Statement finalising the changes the FCA intends to make, with the FCA's expectation being that any rules and guidance would take effect from April 2017.

1.14 The ILS market may continue to develop as experience of operating in the UK regulated environment grows. The regulators will keep their rules and guidance under review and assess whether any amendments to the regulatory approach may be needed as the market matures.

2 Proposals

2.1 The PRA supervisory statement (which should be read alongside the material listed in paragraph 1.2) describes the PRA's expectations in relation to both the content and quality of ISPV applications, and ongoing compliance with the applicable regulatory requirements following authorisation. It sets out the circumstances in which the PRA believes that a streamlined authorisation timetable could be achieved, and how applicants might interact with the PRA during such a period. It also highlights the PRA's expectations of some of the factors that firms should consider when assessing whether ISPVs will meet the relevant criteria for authorisation, such as the requirement to be fully funded. It describes the PRA's expectations of how the Senior Insurance Managers Regime might operate for an ISPV, and describes how the PRA would expect firms to consider the fitness and propriety of members or investors with qualifying holdings. Finally, the statement, together with the draft rules, proposes a notification process that firms should follow when seeking to establish a new cell within an MISPV.

2.2 The application form describes the information and supporting documentation the PRA requires to be provided with an ISPV application. The material requested within the proposed ISPV application form reflects the requirements of Article 5 of the Implementing Regulation, and includes the documentation required in Annex I to that Regulation.

2.3 The PRA would not expect ISPVs to accept any risks until funding is received, and for this reason has included paragraph 2.29 in the draft supervisory statement. The PRA is still giving consideration to the timing issues and how this will be implemented in practice.

2.4 Further to paragraph 2.1, draft PRA Rulebook amendments are proposed to require MISPVs to notify the PRA when establishing new cells. This includes submission of specific transactional documents in relation to the proposed new cell, and showing how the new cell is compliant with the regulatory requirements and consistent with the Regulatory Business Plan (RBP). Where the MISPV is proposing an extension of the RBP, the draft rule requires firms to highlight this and to provide the relevant documentation and analysis, in order that the PRA can assess the new structure against the regulatory requirements.

2.5 The PRA intends that the notification outlined in paragraph 2.4 is carried out via submission of a notification form. The draft rules propose a requirement on firms to submit to the PRA the notification form 10 working days prior to the proposed effective date for establishing a new cell, to give the PRA an opportunity to raise any concerns.

2.6 The draft FCA statement sets out the approach and expectations of the FCA in relation to the authorisation and supervision of ISPVs and PCCs. The statement is relevant to all parties that wish to apply for authorisation or have obtained authorisation as an ISPV.

2.7 In its consultation document released on Wednesday 23 November 2016, HM Treasury has explained that it intends to introduce legislation to implement the new ISPV regime early in 2017. Assuming HM Treasury's proposals are implemented as expected, from this date the regulators would expect to be able to accept applications for the authorisation of ISPVs in accordance with the provisions set out in the final PRA supervisory statement and FCA statement following consultation.

3 The PRA's statutory obligations

3.1 When consulting on amendments to the PRA Rulebook the PRA must meet the requirements of Section 138J of FSMA. When consulting on its general policies and practices, the PRA must fulfil several statutory and public law obligations, as set out in this chapter.

3.2 In discharging its general functions, the PRA must, so far as is reasonably possible, act in a way which advances its general objective of promoting the safety and soundness of PRA- authorised persons¹ and, in relation to insurance, which is compatible with its insurance objective of contributing to the securing of an appropriate degree of protection for those who are or may become policyholders.² The proposals in this CP are intended to provide clarity on the PRA's expectations with regards to the authorisation and supervision of ISPVs under Solvency II and the Risk Transformation Regulations. By providing this information, the PRA is seeking to support good governance, systems and processes, which will promote the safety and soundness of firms and contribute to the protection of policyholders.

3.3 When making general policy, the PRA is required, in so far as is reasonably possible, to facilitate effective competition in the markets for services provided by PRA- authorised persons in carrying on regulated activities.³ The PRA has assessed whether the proposals in this CP facilitate effective competition. The PRA's expectations in relation to authorisation and supervision of ISPVs clarify how the relevant regulatory requirements may be met. To that extent, the proposals could help facilitate effective competition through a better understanding the requirements.

Regulatory principles

3.4 In developing the proposals in this CP, the PRA has had regard to the regulatory principles. The principles of most relevance are those of proportionality and transparency. When setting out expectations of firms in relation to Solvency II and other regulatory requirements, the PRA has assessed that the proposals within this CP are compatible with the proportionality principle. The existing PRA application forms required as part of an ISPV application have been revised to be consistent with Solvency II, to focus on the specific information required for ISPVs and to accommodate PCCs. The application process includes provision for pre-application engagement which should help to ensure that applications are of good quality and support an efficient assessment. The transparency principle is met through publishing the draft supervisory statements alongside the draft rules and draft application form, in order to provide greater clarity for firms about its supervisory expectations.

Cost benefit analysis

3.5 This analysis discusses the incremental costs and benefits that would arise as a direct result from the proposals set out in this consultation.

3.6 The PRA proposes amendments to the Insurance Special Purpose Vehicles Part as set out in Appendix 3. The proposed rules will allow the PRA to meet its obligations under Solvency II in light of the Risk Transformation Regulations. Central to the proposal to require pre-notification of additional cells is the requirement on the PRA to supervise ISPVs' compliance with the relevant provisions set out in the Delegated Regulation. The information requested from the MISPV under the proposed rules, including that shown in the RBP, obtained through the pre-notification of a proposed new cell, gives the PRA the information required for this

1 Section 2B of FSMA.

2 Section 2C of FSMA.

3 Section 2H(1)(b) of FSMA.

purpose and gives the regulators the opportunity to raise any concerns about the establishment of a new cell where the requirements are not met. This approach should provide more certainty for MISPVs and their proposed cedants, and mitigate the risk that arrangements must subsequently be amended or unwound.

3.7 The PRA does not anticipate that the routine costs are likely to be substantial or disproportionate as the information required should be at the firm's disposal.

3.8 The regulators' fees for ISPV authorisations and ongoing fees are set out in the Fees Part of the PRA Rulebook and the Fees Manual section of the FCA Handbook. These are unaffected by this proposal. The PRA may in the future update its fee structure in light of experience gained with the ISPV regime. Any proposals to amend the proposed approach in future would be subject to separate consultation.

Costs

3.9 The PRA anticipates the additional costs of meeting the proposals in relation to the authorisation and supervision of ISPVs, as set out in this CP, do not create additional requirements to those set out in the Delegated Regulation and Implementing Technical Standards and discharge its obligations under the Risk Transformation Regulations.

3.10 The proposed rule that requires MISPVs to notify the PRA when establishing new cells stems from Solvency II requirements and enables the PRA to ensure that MISPVs comply with applicable requirements.

Benefits

3.11 The proposed PRA supervisory statement aims to ensure that there is a clear and consistent understanding of the framework for the authorisation and supervision of ISPVs under Solvency II.

3.12 By setting out the PRA's expectations in a clear and transparent manner, and by noting the opportunity in the authorisation process for ISPVs to be streamlined in certain situations, the proposals in this CP aim to help ensure that the quality of applications is satisfactory, and therefore help to make the ISPV authorisation and supervision process more efficient.

Impact on mutuals

3.13 The PRA has considered the impact of the proposals on mutual firms. In the PRA's opinion, the impact of the proposed rule changes on mutuals is expected to be no different from the impact on other firms.

Equality and diversity

3.14 The PRA may not act in an unlawfully discriminatory manner. It is required, under the Equalities Act 2010, to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions.¹ To meet this requirement, the PRA has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

¹ Section 149 (1) Equalities Act 2010.

4 Compatibility with FCA's general duties

4.1 This section sets out the FCA's view on how the FCA's consultation proposals are compatible with FCA's general duties and its regulatory objectives.

The FCA's objectives and regulatory principles

4.2 In discharging its general functions, the FCA's duty is, as far as is reasonably possible, to act in a way that is compatible with its strategic objective, to ensure that the relevant markets function well, and to advance one or more of its operational objectives.

4.3 The FCA must also discharge its general functions in a way which promotes effective competition in the interests of consumers (section 1B(4) of FSMA). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

4.4 In preparing the proposals set out in this CP, the FCA has had regard to the regulatory principles set out in section 3B of FSMA.

4.5 The proposals set out in this CP will mainly advance the FCA's operational objectives of:

- Enhancing market integrity — protecting and enhancing the integrity of the UK financial system; and
- Building competitive markets — promoting effective competition in the interests of consumers.

Enhancing market integrity

4.6 In enhancing market integrity, the FCA will be concerned with a number of things, including:

- the soundness, stability and resilience of the financial markets;
- combating market abuse; and
- the orderly operation of the financial markets.

4.7 To ensure that the relevant markets work well, the FCA focuses on delivering good market conduct.

4.8 The FCA aims to ensure that market infrastructure is sound and well-run. To perform this role, the FCA looks at a wide range of behaviour that damages trust in the integrity of markets and may become involved where it sees poor behaviour by the parties concerned.

Promoting competition in the interests of consumers

4.9 Under the FCA's competition remit the FCA must look to achieve its desired outcomes using solutions that promote competition. As a matter of policy the FCA will normally choose the most pro-competitive measure open to it provided that is compatible with the FCA duties as a whole.

4.10 The FCA's competition remit also extends beyond its regulatory perimeter to include competition issues that may affect the markets which the FCA regulates and addressing them by working in collaboration with UK and EU competition authorities when appropriate.

4.11 In assessing competition the FCA considers market features that could inhibit or distort competition, including but not necessarily limited to:

- Market power held by suppliers — where rivalry is impacted because of new requirements, strategic behaviour by established firms, or their reputation.
- Problems in the flow of information — where consumers cannot obtain the information they require on the services available.
- Problems in the way firms make decisions — resulting in situations where the unrequired behaviours of suppliers is not adequately constrained.

4.12 The FCA thinks that the proposed changes are likely to have a positive impact on its competition objectives, as setting out clearly how it will authorise and supervise ISPVs will reduce barriers to entry. It is the FCA's aim to work with the PRA to ensure that for applications where the proposal is clear and straight-forward, and there is good engagement at pre-application stage a determination can be made in a 6-8 week period.

FCA regulatory principles

4.13 In considering the proposals set out in this consultation, the FCA has considered the eight regulatory principles set out in section 3B of FSMA.

Regulatory principle	Compatibility
1. Efficiency and economy The need to use FCA resources in the most efficient and economical way.	The assessment of ISPVs will fall to the Authorisation Division, which has existing processes and procedures that will be adapted to the authorisation of ISPVs and the ILS regime.
2. Proportionality A burden or restriction should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction.	The FCA has an existing application pack and process for the authorisation of ISPVs and this is being modified to accept applications from PCCs.
3. Sustainable growth The desirability of sustainable growth in the UK economy in the medium or long term.	The outcome of these changes should be providing clarity of process for new businesses seeking to set up in the United Kingdom, which may help growth in the UK economy in the medium or long term.
4. Consumer responsibility Consumers should take responsibility for their decisions.	These proposals do not affect this principle.
5. Senior management responsibility The responsibilities of senior management or persons subject to requirements imposed by or under FSMA, including those affecting consumers, in relation to compliance with those requirements.	These proposals should not affect the proper behaviour of firm's senior management in line with the interests of its customers. The fitness and propriety of senior staff will be assessed as part of any application for authorisation.
6. Recognising the differences in the businesses carried on by different regulated persons The desirability of exercising the FCA's function that recognises differences in the nature of the businesses carried on by different persons the FCA regulates.	The tailored approach to the authorisation of ISPVs will support this principle.
7. Openness and disclosure The desirability of publishing information relating to persons.	The FCA expects to publish details of ISPVs on the Financial Services Register, which will support this principle.
8. Transparency The FCA should exercise its functions as transparently as possible	The FCA has engaged with an industry working group and HM Treasury throughout this process in relation to the FCA's approach to establishment of the new ISPV regime. It is currently expected that the FCA will publish details of ISPVs on the Financial Services Register.

Expected effect on mutual societies

4.14 The FCA does not expect the proposals in this paper to have an impact on mutual societies.

Equality and diversity

4.15 The FCA may not act in an unlawfully discriminatory manner. It is also required under the Equality Act 2010 to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions. As part of this the FCA assesses the equality and diversity implications of any new policy proposals. It is the FCA's assessment that the proposals in this CP do not give rise to equality and diversity implications, but comments on this are welcomed nonetheless.

Costs and benefits

4.16 The intention is that the statement will improve the quality of applications and the authorisation process. The statement does not create additional requirements and so the FCA expects costs to be minimal.

Appendices

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- 1** **Draft PRA supervisory statement 'Authorisation and supervision of insurance special purpose vehicles'**

 - 2** **Draft 'FCA statement - authorising and supervising Insurance Special Purpose Vehicles'**

 - 3** **Draft PRA Rulebook: Transformer Vehicles Instrument [YEAR]**

 - 4** **Draft application form for insurance special purpose vehicles (ISPVs)**

 - 5** **Draft MISPV new cell notification form**

Appendix 1: Draft PRA supervisory statement ‘Authorisation and supervision of insurance special purpose vehicles’

Contents

1	Introduction
2	Authorisation of insurance special purpose vehicles
3	Authorisation and supervision of multi-arrangement insurance special purpose vehicles
4	Supervision of insurance special purpose vehicles

1 Introduction

1.1 The purpose of this supervisory statement is to set out the approach and expectations of the Prudential Regulation Authority (PRA) in relation to the authorisation and supervision of insurance special purpose vehicles (ISPVs).

1.2 The supervisory statement is relevant to parties who wish to apply for, or have obtained authorisation as, an ISPV.

1.3 The requirements for an applicant seeking to become an ISPV also apply to an applicant seeking to become a multi arrangement ISPV (MISPV). In addition, an MISPV must complete its Regulatory Business Plan (RBP), take on the legal form of a Protected Cell Company (PCC) and comply with any rules applicable to MISPVs and PCCs. All references made to 'ISPV' in this statement are therefore equally applicable to MISPVs.

1.4 Chapters 2, 3 and 4 should be read in conjunction with:

- the Financial Services and Markets Act 2000 ('FSMA');¹
- the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the 'RAO');²
- Directive 2009/138/EC (the 'Solvency II Directive');³
- the Commission Delegated Regulation (EU) 2015/35 ('the Delegated Regulation');⁴
- the Commission Implementing Regulation (EU) 2015/462 ('the Implementing Regulations');⁵
- the [Financial Services and Markets Act - The Risk Transformation Regulations 2017/[0000] ('the Risk Transformation Regulations')];⁶
- the PRA Rulebook: Transformer Vehicles Instrument 2017 - Insurance Special Purpose Vehicles; and
- the FCA statement – authorising and supervising Insurance Special Purpose Vehicles ('the FCA statement').

1.5 In this supervisory statement, reference to 'the regulators' means the PRA and the Financial Conduct Authority (FCA).

1 Available at www.legislation.gov.uk/ukpga/2000/8/pdfs/ukpga_20000008_en.pdf.

2 Available at www.legislation.gov.uk/uksi/2001/544/pdfs/uksi_20010544_en.pdf.

3 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009L0138-20140523&from=EN>.

4 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2015:012:TOC>.

5 Available at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0462&from=EN>.

6 Available at www.gov.uk/government/consultations/regulations-implementing-a-new-regulatory-and-tax-framework-for-insurance-linked-securities.

2 Authorisation of insurance special purpose vehicles

Overview of authorisation process

2.1 Anyone wishing to operate in the United Kingdom as an 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.

2.2 The PRA will only grant authorisation where the ISPV demonstrates that the conditions specified in Article 318 have been met.

2.3 For dual regulated ISPVs, applications will be jointly reviewed by the regulators. The PRA will lead the authorisation process and require the FCA's consent before granting approval.

2.4 Applicants should not apply speculatively. Applications should be made at the time when they include sufficient information for the PRA to make an assessment. However, applicants may contact the PRA to discuss well-developed applications prior to formal submission in order to improve the quality of the application.

Pre-application discussions

2.5 Given the potentially time-sensitive nature of Insurance Linked Securities (ILS) transactions, the PRA will offer a facility for prospective ISPV applicants to discuss their proposals prior to application. Engagement prior to the application gives applicants the opportunity to receive early feedback from the regulators regarding their plans, highlighting any potential concerns. This should enable the applicant to submit as complete an application as possible. The PRA would therefore encourage applicants to make use of a pre-application stage.

2.6 The pre-application stage can be beneficial for both the regulators and applicant as it allows constructive discussion on matters such as the scope and structure of the intended ISPV, the type of risk transfer and how the requirement to be fully funded is met as well as the timing of a submission. The pre-application stage will also allow applicants to share details of controllers and individuals identified for controlled functions (the Senior Insurance Managers Regime (SIMR) for the PRA, and the Approved Persons Regime for the FCA).

Applications for authorisation of an ISPV

2.7 Applications for ISPV approval should be made through submission of:

- a bespoke ISPV application form for the legal entity; and
- application forms for individuals (SIMR, Key Function Notification (where applicable) and FCA Controlled Functions (where applicable)).

The material requested within the proposed ISPV application form reflects the requirements set out in Article 5 of the Implementing Regulation, and includes the documentation required in Annex I to that Regulation.

PRA Senior Insurance Manager Regime (SIMR) requirements

2.8 The PRA expects applicants to nominate individuals to occupy the following PRA SIMR roles for each ISPV:

- Chief Executive (SIMF1);
- Chief Finance (SIMF2); and

- Chairman (SIMF9).

2.9 Where an ISPV has someone fulfilling an additional SIMR function that is applicable to ISPVs pursuant to Senior Insurance Management Functions (SIMF), pre-approval of that individual will also be required.

2.10 The PRA expects each of the three mandatory roles in paragraph 2.8 above to be held by a separate individual, and that each of the nominated individuals for a SIMF role will complete a relevant application form (see Senior Insurance Managers Regime – Applications and Notifications). Similarly, all the individuals who are effectively running the ISPV and are not also SIMF holders must complete a Form M. Each of the individuals (including SIMFs) who are effectively running the firm is then expected to be responsible for providing oversight of the activities and key functions of the ISPV, regardless of whether these are in-house or outsourced.

Documentation requirements

2.11 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 on the condition that only minor amendments are envisaged prior to the finalisation of the transaction. The PRA does not expect changes to be made during the submission phase where this could affect the applicant meeting the relevant requirements. If such changes are made, the PRA expects the applicant to submit an analysis of the changes and their impact on the relevant requirements, together with the notification required by the Insurance Special Purpose Vehicles Part. Substantive changes following submission of the application are likely to extend the assessment.

2.12 The PRA will only authorise the ISPV where it meets the requirements that are set out in Article 318 of the Delegated Regulation. One of these conditions is that the contractual arrangements are consistent with Articles 319-321 of the Delegated Regulation. The PRA considers that independent legal opinions may be a useful tool to use when applicants are considering how to demonstrate that the key contractual features of the transaction documents, including the RBPs for MISPVs, are consistent with these regulatory requirements. In addition, the PRA will expect a legal opinion confirming an ISPV's liabilities have been extinguished prior to being de-authorised.

Fit and proper requirements for shareholders or members with a qualifying holding

2.13 Pursuant to the Risk Transformation Regulations, the FSMA Controller Regime does not apply in respect of ISPVs. However, the PRA expects applicants to ensure the fitness and propriety of shareholders or members with a 'qualifying holdings'¹ in the ISPV. This is consistent with Article 323 of the Delegated Regulations.

2.14 The PRA expects ISPVs to carry out an assessment of all qualifying holding investors in the vehicle. Again this is consistent with Article 323 of the Delegated Regulation; the PRA will assess the robustness of the ISPV's framework for assessing fitness and propriety of these investors as part of authorisation. Additionally, the PRA will carry out a proportionate assessment of investors where they hold a qualifying holding in the vehicle.

¹ A qualifying holding is 'a direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking'.

Fully funded

2.15 The PRA expects all ISPVs to be fully funded. This is consistent with Article 13(26) of the Solvency II Directive and Article 326 of the Delegated Regulation sets out the requirements that must be satisfied in order for an ISPV to be considered fully funded.

2.16 Article 326(1)(a) requires that the assets of the ISPV be valued in accordance with Article 75 of the Solvency II Directive. For this purpose, the PRA expects the ISPV to recognise and value its assets in accordance with Article 8 of the Delegated Regulation. In particular, this means that, unless provided otherwise, assets must be recognised in conformity with the international accounting standards adopted by the European Commission in accordance with Regulation (EC) No 1606/2002.¹ This will determine the extent to which assets may be recognised and taken into account for the purposes of satisfying the fully funded principle. On this basis, the PRA does not expect contingent assets to be counted for the purposes of satisfying the fully funded requirement. Accordingly, ISPVs should not count legally binding commitments that could be treated as ancillary own funds by insurance or reinsurance undertakings under Article 89 of the Solvency II Directive, as assets for the purposes of satisfying the fully funded requirement.

2.17 Related to this, Article 326(1)(c) of the Delegated Regulation requires that the proceeds of the ISPV's debt issuance or other funding mechanism are fully paid-in. The PRA considers that to be fully paid-in an ISPV should have actually received the proceeds of the debt issuance or other mechanism by which it is financed.

2.18 Although contingent assets cannot be taken into account for the purposes of satisfying the fully funded requirement, they may (when paid-in) mitigate the risk that an ISPV fails to satisfy the fully funded requirement at all times, taking into account (among other things) the risks referred to in Article 326(2) of the Delegated Regulation.

2.19 Article 326(1)(b) of the Delegated Regulation requires that the ISPV must at all times have assets the value of which is equal to or exceeds its aggregate maximum risk exposure and that it is able to pay the amounts it is liable for as they fall due. Connected to this requirement, and consistent with Article 320 of the Delegated Regulation, the PRA expects the risk transfer to be clearly defined and incontrovertible from the point of authorisation (or, in relation to an MISPV, registration of the relevant cell) so that an ISPV's aggregate maximum risk exposure can be determined clearly.

2.20 It is the responsibility of the applicant to demonstrate that the ISPV is fully funded and will continue to be so at all times, consistent with Article 318(h) and Article 326 of the Delegated Regulation. Consequently, the ISPV application should make clear how the following factors work together to ensure the ISPV will remain fully-funded and achieve effective risk transfer throughout its existence:

- the contractual arrangements;
- the ISPV's funding arrangements;
- the ISPV's investment strategy;
- any off-balance sheet support arrangements such as guarantees or other forms of market/credit risk mitigation;

¹ Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:243:0001:0004:en:PDF>

- the ISPV's risk management framework including stress testing, liquidity risk, and all other quantifiable risks; and
- any other relevant factors.

2.21 Limited recourse clauses that cap an ISPV's aggregate maximum risk exposure to a level no greater than its assets are a common feature of ISPV arrangements. These types of contractual features may provide a simple solution to the problem of ensuring an ISPV can be considered fully funded at all times from a contractual perspective, consistent with Article 319 of the Delegated Regulation. When used in the context of a sound risk management framework, a prudent and conservative investment strategy and appropriate off-balance sheet support arrangements such as guarantees or other market or credit risk mitigation, they can form a useful backstop for ensuring the ISPV remains meaningfully fully funded. However, if imprudently relied upon in place of a sound risk management or a conservative investment strategy they can undermine the effective risk transfer to an ISPV. Consequently, limited recourse clauses will be irrelevant to the PRA's initial assessment of whether the ISPV is fully funded for the purposes of authorisation, and the applicant will need to make a credible case that the presence of a limited recourse clause will not undermine effective risk transfer beyond the point of authorisation in order for the PRA to authorise the ISPV.

Submission of an application

2.22 The ISPV application form referred to in paragraph 2.7 details the information to be submitted for an application. The PRA expects applicants to review this in detail prior to submission. The PRA will notify the applicant within ten working days of receipt, if the submission is not complete. Incomplete submissions will delay the final decision on applications for approval.

Timelines for review of applications

2.23 Consistent with the Implementing Regulation, the PRA will determine complete applications for authorisation as an ISPV within six months of receipt. However, the PRA will endeavour to determine applications more quickly where this is possible. Where the application is straightforward and the pre-application process has not given rise to significant issues, an accelerated assessment may be achievable. For applications that are complex or precedent-setting, applicants should recognise the need for additional review time within this six month period.

2.24 The PRA anticipates that ISPV applications will range in complexity. The PRA believes that where applications represent a relatively straight-forward proposal, are supported by good quality documentation and allow for an appropriate level of pre-application engagement, this should allow a determination to be reached within a 6-8 week period.

Prior consultation with the cedant's supervisory authority

2.25 As indicated in the Implementing Regulations, the supervisory authority of the jurisdiction in which the ISPV is authorised is required to cooperate on an ongoing basis with the supervisory authority of cedants located in the EEA.

2.26 The PRA encourages applicants, where possible, to confirm as part of its application that the supervisory authority of any non-UK EEA cedant has been notified of the proposed transaction, and supply the contact details for the supervisory authority. This should assist the PRA in its consultation with the cedant's supervisory authority.

2.27 The ongoing cooperation between the PRA and the supervisory authority of the non-UK EEA cedant will be as per the requirements set out in Articles 8, 10, 11 & 12 of the Implementing Regulation.

Decisions

2.28 The PRA will lead in the assessment of the application, but will require the consent of the FCA before granting authorisation. If a decision is made to approve the application, the PRA will notify the firm. If the decision is that the application is not successful and the PRA and/or the FCA proposes to refuse it, the PRA will inform the applicant about the procedure and the various options open to the applicant to challenge the decision.

2.29 The PRA would not expect to grant approvals that are effective prior to the date that funding is received.

3 Authorisation and supervision of multi-arrangement insurance special purpose vehicles

3.1 An ISPV that will take on more than one contract for risk transfer from one or more cedants is referred to as an MISPV. The concept of an MISPV is permitted within the Solvency II framework provided that it complies with the requirements of Articles 318-324 and 326-327 of the Delegated Regulation (and is capable of meeting the requirements of Article 325 of the Delegated Regulation).

3.2 Pursuant to the Risk Transformation Regulations, a PCC is a corporate structure for applicants to use to set up an MISPV. The PCC structure is intended to allow each contract for risk transfer to be established as a separate cell, with each cell having its own segregated pool of assets and liabilities and which is insolvency remote from other cells and the core.

3.3 The PRA therefore expects that an MISPV will have at its core an administrative and management function, which manages each of the individual cells that sit within it, and is responsible for entering into transactions on behalf of the cells.

Overview of the authorisation process for an MISPV

3.4 In addition to satisfying the requirements that apply to all ISPVs, the PRA expects MISPVs to meet the requirements set out in Article 7 of the Implementing Regulations.

3.5 In order to assess an MISPV application the PRA anticipates that the applicant will propose that at least one cell will be established upon authorisation. Additional cells can be placed within an authorised MISPV at a later date, following the notification process outlined below.

MISPV authorisation

3.6 The PRA expects an MISPV's scope of administrative and management responsibility to extend to any additional contracts of risk transfer that might be added in the future. The applicant will need to demonstrate, therefore, that the governance, internal control and risk management framework will be able to meet both the immediate and projected RBP of the MISPV.

3.7 When submitting an application for authorisation of the MISPV, the PRA expects that the applicant will set out its RBP in a manner that describes how the business will develop and remain compliant with requirements.

3.8 The PRA expects an MISPV applicant, as part of its RBP, to identify key features in respect of the:

- maximum number of cells permitted;
- maximum aggregate risk exposure;
- classes of business;
- nature and location of cedant;
- loss trigger type;
- method by which the requirement to be fully funded will be achieved at the outset and maintained;
- eligible collateral criteria;
- structure and key terms of the collateral and trustee arrangements; and
- key clauses in the reinsurance or similar risk transfer agreement and shareholder/note purchase agreement which are needed to assess risk transfer (this may be by reference to a section of the application or a specific document).

3.9 The PRA also expects applicants, to the extent possible given their knowledge about future transactions and business of the MISPV, to demonstrate how the MISPV will continue to meet requirements that are set out in Articles 319-327 as new cells are added. This will include, to the extent possible and as relevant, information, assessments and draft documentation in respect of the future transactions, funding arrangements (including if applicable the different forms of fully funded) and the governance framework.

3.10 Where the MISPV subsequently proposes a cell on a basis which is inconsistent with the activities and operation identified in the RBP at the initial authorisation stage, the PRA will expect firms to demonstrate in more detail how the MISPV will remain compliant with the applicable requirements.

3.11 Although the PRA expects firms to identify all substantive inconsistencies, the PRA's review of such changes will be proportionate and risk-based. The PRA expects firms to highlight in particular those changes that are material. The PRA considers that changes are likely to be material where they may affect how the MISPV meets the requirements set out in Solvency II, and this may include, but is not limited to, any of the features identified in paragraph 3.8. In assessing whether the MISPV remains compliant with requirements set out in Solvency II, the PRA will consider what changes the MISPV proposes to make to its governance framework, operations or other aspects.

3.12 MISPVs are advised to engage with the PRA as soon as they contemplate a new cell that will give rise to a change to its RBP, as these changes will require appropriate review time.

Notification of additional cells in an MISPV

3.13 The requirements of the Delegated Regulation do not deal explicitly with the PCC structure; however the PRA expects that each of the cells of an MISPV will meet the same requirements as appear in the Delegated Regulation, including Articles 319, 320, 321, 326 and 327, in respect to being fully funded, having an effective transfer of risk, and ensuring that the rights of the providers of debt or financing mechanisms are at all times subordinated to the obligations of the ISPV to its cedants. The PRA expects that the MISPV and its funding and contractual arrangements will be set up so as to ensure that there is robust ring-fencing

between the assets and liabilities of the MISPV and all of its cells such that none can be affected by the insolvency or winding-up proceedings of the other.

3.14 In accordance with the Insurance Special Purpose Vehicles Part in the PRA Rulebook, an MISPV must notify the PRA prior to establishing new cells and submit, pre-transaction, an MISPV new cell notification form.

3.15 The PRA will consider the notification of the new cell in consultation with the FCA.

3.16 As per Insurance Special Purpose Vehicles Part, firms should not proceed to establish the new cell until either the PRA has confirmed its non-objection in writing or 10 working days have expired since the notification was submitted to the PRA, provided neither regulator has raised any objections during that period. Where the new cell is straightforward and consistent with the RBP discussed at the initial authorisation stage it is less likely that the regulators will have concerns. However, where a new cell is proposed which is not in line with the previous RBP it is likely that the PRA will require additional time to ensure that the relevant requirements have been met. The PRA recommends that firms engage with the regulators as early as possible where they are considering a new structure.

4 Supervision of insurance special purpose vehicles

4.1 ISPVs will be subject to ongoing supervision by the PRA and will need to comply with the relevant Threshold Conditions on an ongoing basis. The PRA's ongoing assessment will be proportionate and risk-based, in line with the risks that the ISPV poses to the objectives and in accordance with applicable requirements.

4.2 The PRA expects ISPVs to notify the PRA immediately in the event of any changes which could affect its compliance with any applicable requirements.

4.3 Consistent with Article 325 of the Delegated Regulation and Articles 13-18 of the Implementing Regulations, ISPVs should report annually to the PRA using the templates that are designed for Special Purpose Vehicle reporting and are set out in Annex II of the Implementing Regulations.

Financial Conduct Authority



Appendix 2 - DRAFT FCA Statement

FCA Statement – authorising and supervising Insurance Special Purpose Vehicles

November 2016

Contents

Abbreviations used in this document

- 1** Introduction
- 2** Authorisation of ISPVs, Multi-arrangement Insurance Special Purpose Vehicles (MISPVs) and Protected Cell Companies (PCC's)
- 3** Registration of MISPVs as PCCs
- 4** Supervision of Insurance Special Purpose Vehicles

Abbreviations used in this document

Acronym	Description
CF	FCA controlled function
FCA	Financial Conduct Authority
ISPV	Insurance Special Purpose Vehicle
MISPV	Multi-arrangement ISPV
PCC	Protected Cell Company
PRA	Prudential Regulation Authority
SIMR	Senior Insurance Manager Regime

1 Introduction

- 1.1 In this Statement the Financial Conduct Authority (FCA) sets out its approach and expectations when authorising and supervising Insurance Special Purpose Vehicles (ISPVs) in line with the FCA's objectives and Threshold Conditions.
- 1.2 This is relevant to parties who wish to apply to the Prudential Regulation Authority (PRA) for, or have obtained, authorisation as, an ISPV. You should read it in conjunction with the PRA Supervisory Statement, which addresses ISPVs.

2 Authorisation of ISPVs and Protected Cell Companies (PCCs)

- 2.1 ISPVs are used to facilitate the transfer of risk from an insurer or reinsurer to the capital markets via the issuance of insurance linked securities. ISPVs can take different forms. They can be created for the purpose of a single contract of risk transfer; or an ISPV may concurrently take on more than one contract of risk transfer from one or more cedants (referred to as a Multi-arrangement ISPV (MISPV)). The concept of an MISPV is permitted within the Solvency II framework provided that it complies with the requirements of Articles 318-324 and 326-327 of the Delegated Regulation (and is capable of meeting the requirements of Article 325 of the Delegated Regulation).
- 2.2 A single contract ISPV may use existing corporate structures. However, in accordance with The Risk Transformation Regulations 2017, the Treasury has provided for a new corporate structure, the protected cell company (PCC), to facilitate MISPV business.
- 2.3 A PCC allows each contract for risk transfer to be established as a separate cell, with each cell having its own pool of assets and liabilities which are segregated and insolvency remote from the other cells, and the core, which administers the PCC. The cells and core do not have legal personality distinct from the PCC.

Authorisation process

- 2.4 ISPVs will be subject to dual regulation by the PRA and FCA; the PRA will lead the authorisation process but will require the FCA's consent before granting approval.
- 2.5 The FCA will assess each application against its Threshold Conditions as set out in the FCA Handbook¹. We expect the application of the FCA's Threshold Conditions to ISPVs to be consistent with the requirements on ISPVs in the Solvency II framework.
- 2.6 In summary, the Threshold Conditions are:

- **Cond 2.3 Effective supervision**

It is a requirement that an entity must be capable of being effectively supervised by the FCA. This includes consideration of the nature of its business, complexity of products, how business is organised and whether membership of a group affects supervision.

- **Cond 2.4 Appropriate resources**

The resources of a firm must be appropriate in relation to the regulated activities that it carries on or seeks to carry on, for example, staff, systems, and outsourcing.

- **Cond 2.5 Suitability**

¹ <https://www.handbook.fca.org.uk/handbook/COND/2>

The entity must be a fit and proper person, having regard to the FCA objectives in relation to adequate skills and experience on the Board, appropriate governance and internal controls over such areas as risk management and money laundering.

• **Cond 2.7 Business Model**

The strategy of the firm for doing business must be suitable for a person carrying on the stated regulated activities. Such activities have to be conducted in a sound and prudent manner, in the interest of consumers and maintain integrity of the UK financial system.

Pre-application

- 2.7 The FCA will participate with the PRA in any pre-application discussions with firms to facilitate early engagement and feedback in order to help applicants provide complete, good-quality applications.

Applications for authorising an ISPV/MISPV

- 2.8 The PRA will be the lead regulator when authorising ISPVs and MISPVs but will carry out any assessment alongside the FCA with particular regard to each regulator's individual Threshold Conditions. Once satisfied that the firm meets Threshold Conditions the FCA will give the PRA consent for its authorisation. The PRA will be responsible for communicating the decision to the firm.

Controlled functions

- 2.9 The FCA and PRA require individuals who perform certain governance functions within a firm to be approved prior to taking up a role. Such roles are referred to as Controlled Functions (CF) by the FCA and the roles that arise from the Senior Insurance Manager Regime (SIMR) are referred to as Senior Insurance Management Functions (SIMFs) by the PRA. ISPVs will have three mandatory PRA SIMR roles and there are also FCA controlled functions that could apply depending on the type of business undertaken and size of the board.
- 2.10 For simple structures, where business is restricted to general insurance, firms should be able to organise their governance arrangements so they do not need to apply for approval for any additional FCA controlled functions. Life insurance 'transformation' ISPVs may need to seek approval for a money laundering reporting officer (CF11) and a compliance function (CF10).
- 2.11 Additional FCA controlled functions may be required in certain circumstances, for example Director (CF1) if the firm has directors who are not approved as PRA SIMFs. The systems and controls (CF28) and senior management (CF29) roles may also be relevant depending on how the firm proposes to allocate its governance arrangements.

3 Registering of MISPVs as PCCs

- 3.1 Under the Companies Act 2006, most companies are required to apply directly to Companies House for registration and incorporation. However, the FCA intends to be responsible for registering PCCs in order to provide a more streamlined process. The FCA also intends to register new cells and record details of any cells that are dissolved. The FCA will work with Companies House to ensure that limited details are recorded on the Companies House website with full details on the FCA website; www.fca.org.uk.
- 3.2 The FCA's responsibilities for the registration of PCCs will be set out in the Financial Services and Markets - The Risk Transformation Regulations 2017 (currently in draft). In summary, once the FCA has decided that the company satisfies requirements for registration, the FCA will:
- inform the PRA
 - register the documents delivered to it
 - issue a certificate that the PCC is incorporated
- 3.3 Authorisation of the PCC as an MISPV by the PRA will be dependent on the FCA registering it, but in practice the FCA and PRA will co-ordinate the two processes.

Amending registration details

- 3.4 A PCC must give the FCA written notice of a proposed amendment to its instrument of incorporation. The Risk Transformation Regulations 2017 allow the FCA to rely on a statement signed by the solicitor for the PCC confirming that the proposed change does not affect the PCC's compliance with the regulations.

Cells

- 3.5 To create cells, the information that the firms are required to provide will be set out in The Risk Transformation Regulations 2017 but will include:
- a) the names or numbers of the cells which have been created by the PCC;
 - b) for each cell, the date on which it was created;
 - c) if a cell has been dissolved, the date on which it was dissolved
- 3.6 An MISPV must notify the PRA before establishing new cells and submit a pre-transaction notification template, attached in Appendix 5 to PRA CP42/16, FCA CP16-34. The PRA will consider the notification of the new cell in consultation with the FCA. As stated in the PRA supervisory statement, firms should not establish the new cell until either the PRA has confirmed in writing that it has no objection or ten working days have expired since the notification was provided to the PRA, and neither regulator has raised any objections during this period.

Fit and proper requirements for shareholders or members with a qualifying holding

- 3.7 Pursuant to the Financial Services and Markets – The Risk Transformation Regulations 2017, the FSMA Controller Regime will not apply to ISPVs; Part 12 of FSMA (control over authorised persons) does not apply in relation to a person who decides to acquire or increase control, or reduce or cease control, over an undertaking carrying out the activity specified in Article 13A of the RAO. However, the FCA will work with the PRA in assessing whether the ISPV complies with Article 323 of Commission Delegated Regulation (EU) 2015/35.

Timelines

- 3.8 The FCA will work with the PRA to ensure that applications are assessed in a robust and timely manner. We believe that it will be possible to determine applications that represent a relatively straight-forward proposal and are supported by good quality documentation within a 6-8 week period. We recommend that applicants engage with the PRA/FCA at an early stage as it may not be possible to meet this timeframe without a pre-application stage.

Decisions

- 3.9 The PRA will lead in assessing the application, but will require the consent of the FCA before granting authorisation.

4 Supervision of Insurance Special Purpose Vehicles

4.1 ISPVs will be supervised by the PRA and FCA and will need to comply with the FCA's Threshold Conditions on an ongoing basis. The FCA's supervisory approach will be proportionate and risk-based, in line with the risks that the ISPV poses to the FCAs objectives. This is designed to support the FCA's judgement based and pre-emptive approach. The model involves building the FCA's supervision around three clear pillars, each of which has a distinct purpose:

- **Pillar I. Proactive Firm Supervision (Firm Systematic Framework)**

The purpose of the Firm Systematic Framework is to assess whether the firm is being run, currently and prospectively, in a way that results in the fair treatment of customers, minimises risks to market integrity, and does not impede effective competition.

- **Pillar II. Event-driven work**

The purpose of event-driven supervision is to deal with issues that are emerging or have happened and are unforeseen in their nature.

- **Pillar III. Issues and products**

The purpose of issues and products work, or thematic supervision, is to allow the FCA to address its key conduct priorities at the issue and product level.

4.2 The supervision of ISPVs is likely to include aspects of each or all of the Pillars, dependent on the risk to the FCA's objectives arising from each individual firm.

Appendix 3: Draft PRA Rulebook: Transformer Vehicles Instrument [YEAR]

PRA RULEBOOK: TRANSFORMER VEHICLES INSTRUMENT [YEAR]

Powers exercised

A. The Prudential Regulation Authority (“PRA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

- (1) section 137G (The PRA’s general rules); and
- (2) section 137T (General supplementary powers).

The PRA also makes this instrument in the exercise of the powers and related provisions in section [7] of the [Financial Services and Markets Act 2000 (The Risk Transformation Regulations) 2017 (SI 2017/0000)].

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Transformer Vehicles Instrument [YEAR]

D. The PRA makes the rules in Annex A, Annex B and Annex C to this instrument.

Commencement

E. This instrument comes into force on [DATE].

Citation

F. This instrument may be cited as the PRA Rulebook: Transformer Vehicles Instrument [Year].

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex A

Amendments to the Glossary

In this Annex, new text is underlined and deleted text is struck through.

...

insurance risk transformation

means the *regulated activity* specified in article 13A of the *Regulated Activities Order* (Transformer vehicles: insurance risk transformation).

...

insurance undertaking

means an *undertaking* ~~(except for an ISPV)~~ or a *member*, that carries on *insurance business*, whether or not an *insurer*.

...

insurer

means a *firm* with *permission* to *effect contracts of insurance* or *carry out contracts of insurance* ~~(other than an ISPV).~~

...

ISPV

means:

- (1) a UK ISPV; or
- (2) ~~any other~~ *undertaking*, whether incorporated or not, other than a *Solvency II undertaking*, which has received authorisation in accordance with Article 211(1) or (3) of the *Solvency II Directive* and which:
 - (1a) assumes risks from *Solvency II undertakings*; and
 - (2b) fully funds its exposures to such risks through the proceeds of a debt issuance or some other financing mechanism where the repayment rights of the providers of such debt or other financing mechanism are subordinated to the undertaking's obligations to the *Solvency II undertaking* in respect of the risks referred to in (1a).

...

non-directive insurer

means a *firm* with a *Part 4A permission* to *effect contracts of insurance* or *carry out contracts of insurance*, other than:

- (1) a UK *Solvency II firm*; and

~~(2)~~ a UK ISPV; and

~~(3)~~ a third country branch undertaking.

...

UK ISPV

means an ~~ISPV undertaking~~ with a Part 4A permission to ~~effect contracts of insurance or~~
~~carry out contracts of insurance~~ carry on the activity of insurance risk transformation.

...

Annex B

In this Annex new text is underlined and deleted text is struck through.

Part

INSURANCE SPECIAL PURPOSE VEHICLES

Chapter content

1. APPLICATION AND DEFINITIONS
2. GENERAL PROVISIONS
3. SOLVENCY II REGULATIONS~~SUK ISPVS WITH PART 4A PERMISSION~~
4. MULTI-ARRANGEMENT ISPVS
5. RESTRICTION OF ACTIVITIES
6. FORMS

Links

1 APPLICATION AND DEFINITIONS

1.1 Unless otherwise stated, this Part applies to a *UK ISPV*.

1.2 In this Part, the following definitions shall apply:

aggregate maximum risk exposure

has the meaning given in Article 1(44) of the *Solvency II Regulations*.

cell

means a cell of a *UK protected cell company*.

MISPV cell notification form

means Form [x]¹.

multi-arrangement special purpose vehicle

has the meaning given in Article 2 of the Commission Implementing Regulation (EU) 2015/462.

non-Solvency 2 transformer vehicle

has the meaning given in regulation [7(1)] of the [Financial Services and Markets Act 2000 (The Risk Transformation Regulations) 2017 (SI 2017/0000)].

regulatory business plan

means the regulatory business plan referred to in 4.3.

special purpose vehicle

has the meaning given in Article 13(26) of the *Solvency II Directive*.

UK multi-arrangement ISPV

means:

- (1) a *UK ISPV* that is a *multi-arrangement special purpose vehicle*; and
- (2) a *UK ISPV* that is a *non-Solvency 2 transformer vehicle* which assumes risks under more than one separate contractual arrangement from one or more *undertaking(s)*.

UK protected cell company

means a protected cell company formed under the [Financial Services and Markets Act 2000 (The Risk Transformation Regulations) 2017 (SI 2017/0000)].

2 GENERAL PROVISIONS

2.1 A *UK ISPV* must ensure that at all times it is fully funded.

¹ This proposed form is included in Annex 5 of this consultation paper.

3 SOLVENCY II REGULATIONS UK ISPVs WITH PART 4A PERMISSION

3.1 Where a UK ISPV has a Part 4A permission to effect contracts of insurance or carry out contracts of insurance as an ISPV in force prior to 1 January 2016, that Part 4A permission shall continue to have effect thereafter provided that the UK ISPV satisfies the requirements of the Solvency II Regulations that are relevant to ISPVs on that date.

3.1A A UK ISPV that is a non-Solvency 2 transformer vehicle must apply any relevant provision of the Solvency II Regulations as at 1 January 2016 in order to achieve the same effect as that provision of the Solvency II Regulations would have (that is, conforming with the requirements of the relevant provision) when applied to a special purpose vehicle.

4 MULTI-ARRANGEMENT ISPVs

4.1 This Chapter only applies to a UK multi-arrangement ISPV.

4.2 A UK multi-arrangement ISPV must be established as a UK protected cell company.

4.3 A UK multi-arrangement ISPV must have a regulatory business plan setting out:

- (1) for each cell that has been registered:
 - (a) the value of the assets held by the protected cell company on behalf of that cell; and
 - (b) the aggregate maximum risk exposure attributable to that cell;
- (2) the number of cells proposed to be registered in the future and, for each proposed future cell:
 - (a) the value of the assets proposed to be held by the protected cell company on behalf of that cell; and
 - (b) the aggregate maximum risk exposure proposed for that cell;
- (3) the types of risk accepted by each registered cell and proposed to be accepted by each proposed future cell;
- (4) details of each cedant in respect of each registered cell and each proposed cedant in respect of each proposed future cell, including:
 - (a) whether the cedant is a Solvency II undertaking or a third country insurance undertaking;
 - (b) the place of the cedant's registered office (or, if it has no registered office, its head office); and
 - (c) the type of business the cedant carries on;
- (5) details of the contractual arrangements in respect of each registered cell and proposed contractual arrangements for each proposed future cell; and
- (6) details of how each registered cell satisfies, and how each proposed future cell will satisfy:
 - (a) 2.1; and

(b) the requirements of the *Solvency II Regulations*.

4.4 A UK multi-arrangement ISPV must ensure that it has provided a copy of its *regulatory business plan* to the *PRA* before it begins to carry on *insurance risk transformation*.

4.5 A UK multi-arrangement ISPV must notify the *PRA* of a proposal to register any new *cell*.

4.6 The notice referred to in 4.5 must:

- (1) be made in writing using the *MISPV cell notification form*;
- (2) include confirmation of whether the proposal is consistent with the last version of the *regulatory business plan* provided to the *PRA* and, if it is not, an explanation of how it differs;
- (3) include an updated *regulatory business plan* showing the proposed changes; and
- (4) be made at least ten *working days* before the proposal takes effect.

4.7 A UK multi-arrangement ISPV shall notify the *PRA* in writing of any proposed change to any of the information provided to the *PRA* in accordance with 4.5 without delay.

4.8 A UK multi-arrangement ISPV may not put into effect the proposal notified to the *PRA* in accordance with 4.5 (or, if relevant, 4.7) until either:

- (1) the *PRA* confirms in writing that it has no objection; or
- (2) ten *working days* have expired since the notification was provided to the *PRA* in accordance with 4.5 (or, if relevant, 4.7), provided the *FCA* and the *PRA* have not raised any objections during that period,

whichever is earlier.

5 RESTRICTION OF ACTIVITIES

5.1 A UK ISPV must not engage in any activities other than *insurance risk transformation* and activities directly arising from *insurance risk transformation*.

6 FORMS

6.1 The *MISPV cell notification form* can be found **here**.

Annex C

Amendments to the Change in Control Part

In this Annex new text is underlined and deleted text is struck through.

1 APPLICATION AND DEFINITIONS

1.1 (1) Unless otherwise stated, this Part applies to every *firm* except:

(a) an *incoming firm*;

(b) a *non-directive friendly society*; and

(c) a UK ISPV.

...



Appendix 4: Draft application form for insurance special purpose vehicles (ISPVs)

Note: This application form is being consulted on as part of PRA Consultation Paper 42/16 and FCA Consultation Paper 16-34 issued on Wednesday 23 November 2016; available at www.bankofengland.co.uk/pr/Pages/publications/cp/2016/cp4216.aspx.

Application for Authorisation

Application Form for insurance special purpose vehicles (ISPVs)

Full name of applicant firm

Important information you should read before completing this form

Please keep a copy of the forms you complete and the supporting documents that you include with this application pack for your future reference.

For the purposes of complying with the Data Protection Act 1998, please note that any personal information provided to us will be used to discharge our statutory functions under the Financial Services and Markets Act 2000 (FSMA) and other relevant legislation and may be disclosed to third parties for those purposes.

It is important that you provide accurate and complete information and disclose all relevant information. If you do not, it will call into question your suitability to be authorised, and you may be committing a criminal offence and could face prosecution under section 398A of the FSMA regardless of the status of your application.

Terms in this application pack

In this application pack we use the following terms:

- 'you' refers to the person(s) signing the form on behalf of the applicant firm;
- 'the applicant firm' refers to the firm applying for authorisation;
- 'we', 'us' or 'our' refers to the appropriate regulator;
- 'the FCA' refers to the Financial Conduct Authority;
- 'the PRA' refers to the Prudential Regulation Authority; and
- FSMA refers to the Financial Services and Markets Act 2000.

Purpose of this pack

We will only authorise a firm if we are satisfied that it meets conditions known as the threshold conditions. The information in this pack is required to enable us to assess whether the applicant firm satisfies the threshold conditions.

Filling in the form

1. Please submit the information requested identifying which supporting documents, including any PRA/FCA forms, are attached.
2. Please indicate in the boxes provided on the left hand side of the application form where the requested information can be found in your submission (i.e. the corresponding sections or page numbers in your documentation.)
3. If you think an information request is not relevant to you, write 'not applicable' and explain why.
4. If you leave an information request blank, do not sign the declaration or do not attach the required supporting information without telling us why, we will have to treat the application as incomplete. This will increase the time taken to assess your application.
5. The requirements that an applicant must meet to become an ISPV also apply to an applicant seeking to become a Multi-arrangement ISPV (MISPV), though in addition an MISPV must obtain approval for its Regulatory Business Plan, take on the legal form of a Protected Cell Company (PCC) and comply with any rules applicable to MISPVs and PCCs. Unless otherwise indicated, therefore, all references made to "ISPV" in this form are therefore equally applicable to MISPVs.

Submit the application consisting of:

- the standard form (which includes the checklist and declaration form);
- any additional PRA/FCA forms you need to complete;
- supporting documents; and
- the application fee (£5,000),

to the PRA at:

The Prudential Regulation Authority
Authorisations
20 Moorgate
London
EC2R 6DA

1

Core Details

Why we request the information in this section

We need to know this information to contact you during our assessment, to enable efficient processing of your application and so that we can update the Financial Services Register, the public record of authorised firms.

1.1 Contact for this application

1.1.1 Contact details of the person we will get in touch with about this application.

This must be someone who works for the applicant firm, and not a professional adviser.

Title	
First names	
Surname	
Job title	
Business address	
Postcode	
Phone number (including STD code)	
Mobile number (optional)	
Fax number (including STD code)	
Email address	

1.2 Details of professional advisers

1.2.1 Have you used a professional adviser to help with this application?

- No
 Yes ▶ You must fill in the rest of section 1.2.

1.2.2 Name of professional adviser's firm

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1.2.3 Name and contact details of professional adviser

Title	
First names	
Surname	
Business address	
Postcode	
Phone number (including STD code)	
Fax number (including STD code)	
Mobile number (optional)	
Email address	

1.2.4 Do you want us to copy all correspondence to the professional adviser?

- No
 Yes

1.3 Timings for this application

1.3.1 Does the applicant firm have a proposed date for authorisation they would like us to consider?

We cannot guarantee to authorise an applicant firm by a specific date but we will try to take into account any timings when assessing your application.

1.3.2 Principal place of business of applicant firm

Principal place of business address	
Postcode	
Phone number (including STD code)	
Fax number (including STD code)	
Email address	

- authorisation;
- registration;
- notification;
- membership;
- other permission granted by a regulatory body?

No

Yes

1.7.3 If the answer to any of the questions above is yes, please give a full explanation of the relevant events below.

Make sure this includes:

- the question number the event refers to;
- the date of the event;
- any amounts involved;
- the outcome; and
- an explanation of the circumstances.

1.7.4 Provide a detailed organisational chart identifying all parties involved in the proposed transaction.

1.8 Communication with the supervisory authority of the cedant

Provide contact details of the supervisory authority responsible for the cedant.

Provide a copy of the correspondence that notifies the supervisory authority of any EEA cedant concerning the intention to transfer risk to an ISPV.

2

Scope of Permission

Why we request the information in this section

If we grant authorisation to the applicant firm, we will issue a Scope of Permission notice. This sets out:

- the regulated activity the applicant firm is authorised to carry on;
- any limitations attaching to it; and
- any requirements on the applicant firm.

2.1 Type of ISPV

2.1.1 For which type of entity is the applicant seeking authorisation?

- Insurance Special Purpose Vehicle (ISPV)
- Multi-Arrangement Insurance Special Purpose Vehicle (MISPV)

2.2 Regulated Activities

2.2.1 You must confirm that the applicant firm is seeking permission to carry on the regulated activity

- Insurance risk transformation

2.2.2 Is the applicant firm proposing to carry on any incidental, consequential or supplemental activities? If yes, briefly describe the nature of these intended ancillary activities, how they will be carried out, whether they could include the carrying on of regulated activities in their own right and how they will contribute to the activity of insurance risk transformation

2.3 Agreeing to carry on a regulated activity

Under the permission regime, 'agreeing to carry on a regulated activity' is a regulated activity in its own right.

2.3.1 You must confirm whether the applicant firm requests permission to carry on the regulated activity of 'Agreeing to carry on a regulated activity':

- Yes
- N/A

3

Risk Transfer

Why we request the information in this section

All ISPVs must meet the applicable requirements concerning the transfer of risk.

3.1 Risk transfer

3.1.1 Describe the purpose for which the applicant firm has been established, including the following:

- the value and nature of the liabilities that the applicant firm is proposing to take on from the cedant under each contract of insurance risk transformation. This will include details of the risks being transferred by the cedant, clearly detailing which risks were initially assumed by the cedant and which will be transferred to the ISPV;
- a description of the terms and conditions for payments between the cedant and ISPV as set out under each contract;
- the length of time for which the ISPV is intended to operate; and
- any plans for winding down the ISPV, once the purpose for which it was established has been served.

3.2 Regulatory compliancy assessment

Provide an assessment outlining how the legal structures and intended activities of the ISPV are deemed to comply with the applicable requirements set out in Articles 210, 211, 318, 319, 320, 326 of Delegated Regulation (EU) 2015/35 in respect of the risk transfer from cedant to ISPV.

3.2.1 In relation to this assessment, provide details on the following:

- counterparties to the contractual arrangements relating to the transfer of risk from a cedant to the ISPV, including details of all the roles of the ISPV and the cedant, as well as the roles and identities of other participants, including, but not limited to, note holders, shareholders, account managers and account servicing managers, custodians and trusts, asset managers, underwriters and sponsors to the transaction;
- the applicable accounting consolidation requirements of the ISPV into a group;
- how the contract will meet the applicable requirements set out in Articles 210, 211, 318, 319, 320 and 326 of the Delegated Regulation (EU) 2015/35, including:
 - any relevant triggering events of mechanisms under the contract, including how the loss will be calculated and the role of the cedant in determining the loss;
 - the maximum aggregate risk exposure of the contract; and
 - transfer of ceded risks and the retention of any residual risks, including basis risk; and
- an actuarial assessment of the insurance risks assumed.

3.2.2 Provide transaction documentation, or draft thereof, governing parts of the contractual arrangements relating to the transfer of risk from the cedant to the ISPV, which may be understood as connected transaction according to Articles

210 and 320(2) of Delegated Regulation (EU) 2015/35. Where applicable, this may include contracts with other participants to the transaction, as well as outsourcing and service contracts.

4

Funding and Investment Management

Why we request the information in this section

We must be satisfied that the ISPV will be fully-funded, both at the date of authorisation, and on an ongoing basis.

4.1 Specify the stage that the applicant firm has reached in identifying the sources of finance to fund the ISPV.

4.2 Regulatory compliance assessment

Provide an assessment outlining how the legal structures and intended activities of the ISPV are deemed to comply with the applicable requirements set out in Articles 210, 211, 318, 319, 320, 321, 324, 326 and 327 of Delegated Regulation (EU) 2015/35 in respect of the transfer of risk from the ISPV to the providers of debt, shareholder or other type of financing.

4.2.1 In relation to this assessment, provide details on the following

- an explanation of how the ISPV is, or will be, fully funded, at inception and on an ongoing basis;
- the ISPV's equity including size, growth, potential investor concentration, and on the ISPV's management share of that equity;
- quantifiable risks of the ISPV including details of the ISPV's liquidity risk and liquidity strategy;
- a forecast opening balance sheet and a forecast balance sheet as at the end of the duration of the vehicle;
- information on the ISPV's adherence to the solvency requirements set out in Articles 326 and 327 of Delegated Regulation (EU) 2015/35;
- details on, if any, the use and details of hedging instruments, such as interest rate swaps or currency contracts;
- details of any off-balance sheet commitments to support the ISPV, including guarantees or any other form of credit risk mitigation sold to or otherwise provided to the ISPV;
- details of any intended use of limited recourse clauses, and how the ISPV will ensure these do not undermine effective risk transfer; and
- financial projections over the expected life of the ISPV;
- information on risk implications of the ISPV's proposed investment strategy;
- details of any custodian arrangement and details of any due diligence undertaken; and
- details of numbers of staff and internal controls over investment management processes.

4.2.2 The assessment should also give an opinion on whether the legal structure chosen for the ISPV affords a legally enforceable protection of the assets of the ISPV, thereby ensuring that the solvency of the ISPV shall not be adversely affected in line with the requirements set out in Articles 318(b) and Article 321 of Delegated Regulation (EU) 2015/35.

4.2.3 Provide transaction documentation, or drafts thereof, regarding the issue of debt or other financing mechanisms, and risk transfer to providers of such debt or financing mechanisms, to explain how compliance with the applicable requirements set out in Articles 210, 211, 318, 319, 320, 321, 324, 326 and 327 of Delegated Regulation (EU) 2015/35 will be maintained. This documentation should include:

- prospectus or offering circular or private placement memorandum, or drafts thereof;
- rating assessment or credit rating agency's report prior to the issue of the funding instruments by the ISPV;
- details relating to the potential use of financial guarantors on any of the 'tranches' of notes to be issued;
- with regard to the debt or financing mechanisms, details of the ISPV's liquidity strategy for the issued financial instruments, including the structure and tiering, types of positions, and note holder withdrawal rules;
- details of how investor interests are subordinated to the liability of the ISPV to the cedant; and
- trustee agreement, where such an arrangement exists, or drafts thereof.

5

Regulatory Business Plan for MISPV

Why we request the information in this section

We need the applicant firm to demonstrate how future transactions and activities of the MISPV, as described in the Regulatory Business Plan, will continue to comply with requirements

5.1 Regulatory Business Plan (RBP) for an MISPV

5.1.1 Provide details on the projected RBP for the MISPV, including, but not limited to the following:

- maximum number of cells permitted;
- maximum aggregate risk exposure;
- classes of business;
- nature and location of cedant;
- location of risks;
- types of risk;
- loss trigger types;
- method by which fully funded will be achieved at the outset and maintained;
- eligible collateral criteria;
- structure and key terms of the collateral and trustee arrangements; and
- key clauses in the reinsurance or similar risk transfer agreement and shareholder/note purchase agreement which are needed to assess risk transfer (this may be by reference to a section of the application or a specific document).

5.2 Regulatory compliance assessment for Regulatory Business Plan

5.2.1 To the extent possible, given current knowledge about future transactions and business of the MISPV, provide the following information in respect of the Regulatory Business Plan

- the assessments and draft documentation requested in Section 3, Risk Transfer;
- the assessments and draft documentation requested in Section 4, Funding and Investment Management; and
- a description of how the governance, internal control and risk management framework of the MISPV under its RBP will continue to comply with requirements.

Where the applicant envisages the possibility of using more than one approach with regard to the structuring of future cells (e.g. different methods for achieving fully funded, different types of risk transfer, different investment strategies, different contractual terms etc.), each of these should be clearly described and include sufficient information in order to demonstrate how they meet regulatory requirements.

6

Governance, Systems and Controls, and Personnel

Why we request the information in this section

We must be satisfied that the applicant firm has appropriate staff, governance and systems and controls to meet regulatory obligations.

6.1 Corporate governance

6.1.1 Describe the governance framework for the ISPV, including:

- details of the proposed board composition together with terms of references, job descriptions for each board member and expected frequency of meetings;
- a description of how the ISPV will be managed on an ongoing basis, including the roles and responsibilities allocated to individuals and how key functions will be carried out (where key functions are deemed applicable);
- an organogram showing all the functions and available resources that will be required to conduct the proposed business;
- the responsibilities and reporting lines for the key functions, including details of resource allocated as well as procedures and controls that will be implemented;
- a description of the ISPV's risk management framework, including relevant tests such as stress and scenario tests, and how these will be used to determine if the fully funded requirement has been complied with and how the status will be maintained;
- how the ISPV proposes to manage any potential conflicts that have been identified;
- information about the identity and qualifications of the persons who are providing or will provide management and professional services, such as accounting, to the ISPV;
- information about the identity and qualifications of all persons who have, or will be, employees of the ISPV;
- information about the identity and qualification of the persons who are, or will be, appointed to as trustees, where applicable, of the ISPV's assets; and
- information about the identity and qualifications of the originator or sponsor of the ISPV, where this party differs from the cedant transferring risk to the ISPV.

6.2 Regulatory compliance assessment

Provide an assessment outlining how the governance structures of the ISPV will allow it to comply with the applicable requirements as set out in Articles 210, 211, 318, 319, 320, 322, 323, 324, 326 and 327 of Delegated Regulation (EU) 2015/35.

6.3 Qualifying holdings and close links

6.3.1 Provide a structure chart of the applicant firm's ownership and of any close links.

If there are any close links, indicate whether they might prevent our effective supervision of the applicant firm.

6.3.2 Provide details on members or shareholders that have qualifying holdings, including name, address, legal status, percentage ownership, and any voting rights held.

6.3.3 Outline what due diligence has been undertaken to ascertain that members or shareholders who have qualifying holdings in the ISPV meet the fit and proper requirements of Article 323 of Delegated Regulation (EU) 2015/35.

6.3.4 Provide information about the applicant firm's policies and procedures for ensuring that members or shareholders who have qualifying holdings in the ISPV meet the fit and proper requirements of Article 323 of Delegated Regulation (EU) 2015/35.

6.3.5 Are there any associations that exist or will exist between a director or a member or shareholder with a qualifying holding in the applicant firm and any person who will undertake material contracts with the applicant firm?

No ▶

Yes ▶ Please provide details clarifying the relationship.

6.4 Senior Insurance Manager Regime (SIMR) / FCA Controlled Functions

6.4.1 List the names of the individuals who will perform the SIMR functions required of an ISPV (SIMF1, SIMF2, SIMF9), as well as those performing any other applicable SIMR functions.

Name	SIMR function	Where will the individual be based?

6.4.2 Where the applicant requires additional FCA Controlled Functions please list the names of the individuals.

Name	Controlled function	Where will the individual be based?

6.4.3 Please fill in a 'Form A - Application to perform SIMF or controlled functions' for each individual who will be performing a controlled function that you have listed above

6.4.4 How many 'Form A - Applications to perform a SIMF or controlled function' are being sent with this application?

6.5 Key functions

6.5.1 Where other key function holder responsibilities exist please provide the names of the individuals who will be responsible for each identified 'key function' (other

6.7.4 Provide details of the IT business continuity and the disaster recovery plans the applicant firm will put in place to ensure business continuity.

6.8 Reporting

In relation to the assessment of regulatory compliance, provide a draft plan outlining the ISPV's supervisory reporting procedures, designed to comply with the requirements set out in Articles 325 to 327 of Delegated Regulation (EU) 2015/35, the reporting templates set out in Annexes II and III of the Implementing Regulation (EU) 2015/462, and the specific reportable matters identified under Article 325(2) and Article 326(1) and (2) of Delegated Regulation (EU) 2015/35 and with regards to how material changes would be communicated to the PRA.

7

Compliance Arrangements

The applicant firm must have appropriate compliance arrangements in place.

7.1 Compliance procedures

7.1.2 You are not required to send compliance procedures with this application but the applicant firm must be able to produce a copy at any time while the PRA and FCA are assessing the application, or in the future.

7.1.3 The applicant firm must ensure that it establishes and adopts compliance procedures to comply with the relevant rules in the PRA Rulebook, FCA Handbook and with relevant provisions in legislation including the Financial Services and Markets Act 2000 - The Risk Transformation Regulations 2017 or under general law that apply to the type of business it is proposing to carry on. Each compliance procedure should identify and address the applicant firm's obligations in the PRA Rulebook and FCA Handbook.

7.1.4 You must confirm the applicant firm has in place documented compliance procedures that relate specifically to the regulated business for which it is seeking permission.

Yes

No - The applicant firm's documented compliance procedures are not in place at the time of submission of this application, but will be in place prior to authorisation.

7.2 Compliance monitoring programme

7.2.1 You must confirm the applicant firm has in place a documented compliance monitoring programme that relates specifically to its compliance procedures manual.

Yes

No - The applicant firm's documented compliance monitoring programme is not in place at the time of submission of this application, but will be in place prior to authorisation.

7.3 Financial crime

7.3.1 ISPVs should have appropriate policies and procedures to prevent financial crime.

7.3.2 Please describe the steps the applicant firm has put in place to counter the risks that it might be used by others to further financial crime (this includes any offence involving a) fraud or dishonesty; b) misconduct in, or misuse of information relating to, financial markets; or c) handling the proceeds of crime).

8

Documents submitted with this application

You must list which forms and documents you have attached.

8.1 Supporting documents you are sending with this application

8.1.1 You must list below all the documents you are sending with this application.

8.1.2 Please provide any comments on supporting documents if necessary.

8.2 Other information

8.2.1 If there is anything else you would like to tell us about this application please give details below.

9

Application fee

You must send a cheque for the appropriate application fee in full with this application, otherwise the application will not be processed.

How much is my application fee?

The application fee for an ISPV is £5,000.

You must pay the full application fee by cheque. **It is not refundable** (even if the applicant firm decides to withdraw its application).

How to pay

- 1 Make the cheque payable to the Financial Conduct Authority. We cannot accept post-dated cheques.
- 2 Write the name of the applicant firm on the back of the cheque.
- 3 Write 'Application for authorisation' on the back of the cheque.
- 4 Send the cheque with the application pack.
- 5 Send the cheque with the application pack that should consist of **two** manual copies and two electronic copies (on CD) of the forms and supporting documents to PRA Authorisations, Prudential Regulation Authority, 20 Moorgate, London EC2R 6DA.

10 Declaration

Declaration

It is a criminal offence to – knowingly or recklessly – give PRA or FCA information that is false, misleading or deceptive.

If any information is inaccurate or incomplete this application may take longer to be processed.

You must notify us immediately of any significant change to the information provided. If you do not, the application may take longer to be processed. It could also call into question the applicant firm's suitability to be authorised.

- D1** I am authorised to make this application for authorisation on behalf of the applicant firm named on the front of this form.
- D2** I attach the documents listed in 8.1.1 and I have taken all reasonable steps to ensure they are correct.
- D3** I confirm that the documents listed in 8.1.1 have been prepared to an appropriate standard and are available for immediate inspection by the PRA and FCA.
- D4** I confirm that the information in this application is accurate and complete to the best of my knowledge and belief.
- D5** I authorise the PRA and FCA to make such enquiries and to seek such further information as it thinks appropriate to verify the information given on this form.
- D6** I understand that the PRA and FCA may require the applicant firm to provide further information or documents at any time after I have sent this application and before the applicant firm has been authorised.

Who must sign the declaration?

This declaration must be signed by the person who is responsible for making this application on behalf of the applicant firm. The appropriate person(s) depends on the applicant firm's type:

Type of applicant firm	Who must sign
A company with one director	The director
A company with more than one director	Two directors
Other	Two persons authorised to sign on behalf of the applicant firm (supported by a resolution of the committee of management or equivalent) Please use a separate sheet if necessary

Signature one		Signature two	
Name			
Position			
Signature			
Date	dd/mm/yy		dd/mm/yy



Appendix 5: Draft MISPV new cell notification form

Note: This notification form is being consulted on as part of PRA Consultation Paper 42/16 and FCA Consultation Paper 16-34 issued on Wednesday 23 November 2016; available at www.bankofengland.co.uk/pru/Pages/publications/cp/2016/cp4216.aspx.

MISPV New Cell Notification Form

Please provide, as applicable, a clear reference to where the requested information can be found within your supporting documentation.

		Reference
A	Core Details	
1	An organisational chart identifying all the relevant parties involved in the transaction.	
2	Background information about the cedant transferring risk to the cell.	
3	Contact details of the supervisory authority responsible for the cedant.	
4	A copy of the correspondence that notifies the supervisory authority of any EEA cedant concerning the intention to transfer risk to the cell.	
B	Risk Transfer	
1	Details of the value and nature of the liabilities that the cell is proposing to take on from the cedant under the contract of insurance risk transformation. This will include details of the risk being transferred by the cedant, clearly detailing the risk initially assumed by the cedant and which will be transferred to the cell, including an assessment and a description of how the transfer of ceded risk will comply with the requirements set out in Article 320 of Delegated Regulation (EU) 2015/35.	
2	A description of the terms and conditions for payments between the cedant and cell as set out under the contract.	
3	The length of time for which the cell is intended to operate.	
4	Details of any plans for winding down the cell once the purpose for which it was established has been served.	
5	Details of all the counterparties to the contractual arrangements relating to the transfer of risk from the cedant to the cell.	
6	Details of all the roles of the cell's management and the cedant, as well as the roles and identities of other participants, including, but not limited to, note holders, account managers and account servicing managers, custodians and trusts, asset managers, underwriters and sponsors to the transaction.	



7	A copy of the contractual arrangements, together with a summary of the key terms; this should include a description of how the contract will meet the applicable requirements set out in Articles 210, 211, 318, 319, 320 and 326 of Delegated Regulation (EU) 2015/35, including (a) any relevant triggering events or mechanisms under the contract, including how the loss will be calculated and the role of the cedant in determining the loss; (b) the maximum aggregate risk exposure of the cell under the arrangements; (c) transfer of ceded risk including assessment of retention of any residual risks, including basis risk.	
8	An actuarial assessment of the insurance risk assumed.	
9	Transaction documentation governing parts of the contractual arrangements relating to the transfer of risk from a cedant to the cell, which may be understood as connected transactions according to Articles 210 and 320(2) of Delegated Regulation (EU) 2015/35. Where applicable, this may include contracts with other participants to the transaction, as well as outsourcing and service contracts.	
C	Funding and investment management	
1	Information on quantifiable risks of the cell including details of the cell's liquidity risk and liquidity strategy.	
2	Forecast balance sheets as at the opening and as at the end of the duration of the cell.	
3	Details on any use of hedging instruments, such as interest rate swaps or currency contracts.	
4	Details of any off-balance sheet commitments to support the cell, including guarantees or any other form of credit risk mitigation sold to or otherwise provided to the cell.	
5	Financial projections over the expected life of the cell.	
6	Transaction documentation regarding the issue of debt or financial mechanisms, and risk transfer to providers of such debt or financing mechanisms, to explain how compliance with the applicable requirements set out in Articles 210, 211, 318, 319, 320, 321, 324, 326 and 327 of Delegated Regulation (EU) 2015/35 will be maintained.	
7	Prospectus or offering circular or private placement memorandum.	
8	Rating assessment or credit rating agency's report on the cell.	
9	Details relating to the potential use of financial guarantors on any of the 'tranches' of notes to be issued.	



10	With regard to the debt or financing mechanisms, details of the cell's liquidity strategy for the issued financial instruments, including the structure and tiering, types of positions, and note holder withdrawal rules.	
11	Information about the identity and qualification of the persons who are, or will be, appointed to act as trustees, where applicable, of the cells' assets.	

Please confirm (✓) whether the following is consistent with the latest version of the Regulatory Business Plan (RBP) notified to the PRA and, if it is not, provide an updated version of the RBP showing the proposed changes. Please include references where the features of the cell structure can be found in the RBP.

		Reference
D	Funding and investment management	
1	The legal and governance structures, and intended activities of the cell maintain compliance with the applicable requirements set out in Articles 210, 211, 318, 319, 320, 322, 323, 324, 326 and 327 of Delegated Regulation (EU) 2015/35 in line with the approach outlined in the RBP.	
2	The legal structure chosen for the cell affords a legally enforceable protection of the assets of the cell, in line with the approach outlined in the RBP, thereby ensuring that the solvency of the cell shall not be adversely affected in line with the requirements set out in Articles 318(b) and Article 321 of Delegated Regulation (EU) 2015/35.	
3	The cell is, or will be, fully funded at inception and on an ongoing basis, in line with the approach outlined in the RBP (including relevant tests, such as stress and scenario tests, to determine if the fully funded requirement has been complied with and how the status will be maintained).	
4	The MISPV's policies and procedures for ensuring that members or shareholders who have qualifying holdings in the vehicle, are in line with the approach outlined in the RBP, and continue to meet the fit and proper requirements set out in Article 323 of the Delegated Regulation (EU) 2015/35.	
5	The cell's adherence to the solvency requirements set out in to Article 327 of Delegated Regulation (EU) 2015/35 is in line with the approach outlined in the RBP.	
6	The cell's proposed investment strategy/strategies, and risk implications thereof, are in line with the approach outlined in the RBP.	
E	Governance, Systems and Controls, and Personnel	
1	The MISPV's governance framework including outsourcing arrangements, are in line with the approach outlined in the RBP.	
2	The identity and qualification of the persons who are providing or will provide management and professional services, such as accounting to the cell are the same as those outlined in the RBP.	



3	The identity and qualification of the persons who are, or will be, employees of the MISPV, including those persons who effectively run the MISPV are the same as those outlined in the RBP.	
4	There have been no changes to the close links of the MISPV.	
5	The planned regulatory reporting procedures in respect of the cell, designed to comply with the requirements set out in Articles 325 to 327 of Delegated Regulation (EU) 2015/35, the reporting templates set out in Annexes II and III of the Implementing Regulation (EU) 2015/462, the specific reportable matters identified under Article 325(2) and Article 326(1) and (2) of Delegated Regulation (EU) 2015/35 and with regards to how material changes would be communicated to the supervisory authority, are in line with those outlined in the RBP.	
6	There have been no changes to the identity and qualification of persons who have qualifying holdings in the MISPV.	
Please confirm that there have been no other changes to the RBP.		



Declaration

It is a criminal offence to – knowingly or recklessly – give the PRA or FCA information that is false, misleading or deceptive. If any information is inaccurate or incomplete this notification may take longer to be processed.

You must notify the regulators immediately of any significant change to the information provided. If you do not, the notification may take longer to be processed. It could also call into question the applicant firm's suitability to be authorised.

- 1 I am authorised to make this notification for authorisation on behalf of the applicant firm named on the front of this form.
- 2 I attach the documents listed in Sections A, B and C and I have taken all reasonable steps to ensure they are correct.
- 3 I confirm that the documents listed in Sections A, B and C have been prepared to an appropriate standard and are available for immediate inspection by the PRA and FCA
- 4 I confirm that the information in this notification is accurate and complete to the best of my knowledge and belief.
- 5 I authorise the PRA and FCA to make such enquiries and to seek such further information as it thinks appropriate to verify the information given on this form.
- 6 I understand that the PRA and FCA may require the applicant firm to provide further information or documents at any time after I have sent this notification and before the applicant firm has been authorised.

Who must sign the declaration?

This declaration must be signed by two directors that are proposed to be PRA approved persons (Senior Insurance Managers) and who are responsible for making this notification on behalf of the applicant firm.

Signature one

Signature two

Name		
Position		
Signature		
Date	dd/mm/yy	dd/mm/yy