

Bank of England PRA

Appendix 16: Draft amendments to SS8/17 – Authorisation and supervision of UK insurance special purpose vehicles

Supervisory statement | SS8/17

April 2024

Draft for consultation



Bank of England | Prudential Regulation Authority

Authorisation and supervision of UK insurance special purpose vehicles

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1: Introduction

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

1.2 This SS is relevant to parties who wish to apply for, or have obtained authorisation as, an UK ISPV. It is also relevant to insurers and reinsurers seeking to use UK ISPVs as risk mitigation in accordance with Solvency II.

1.3 In accordance with rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 2 of the Implementing Regulation,¹ an UK ISPV that takes on more than one contract for risk transfer from one or more 'cedants'² is referred to as a multi-arrangement insurance special purpose vehicle (UK MISPV).³ All references made to UK ISPVs in this SS are equally applicable to UK MISPVs, unless otherwise specified.

1.4 Chapters 2, 3, and 4 and 5 should be read in conjunction with the:

- Risk Transformation Regulations 2017 (SI 2017/1212) (RTR);
- Financial Services and Markets Act 2000 (FSMA) as modified by the RTR;
- Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544) (the RAO) as modified by the RTR;
- ~~Directive 2009/138/EC (Solvency II Directive);~~
- ~~Commission Delegated Regulation (EU) 2015/35 (Delegated Regulation);~~
- ~~Commission Implementing Regulation (EU) 2015/462 (Implementing Regulation);~~
- Fundamental Rules, Insurance Special Purpose Vehicles, Insurance – Fitness and Propriety, Insurance – Senior Management Functions, Insurance – Senior Managers Regime – Applications and Notifications, and the Key Function Holder – Notifications Parts of the PRA Rulebook;
- Financial Conduct Authority (FCA) Policy Statement 17/24 – authorising and supervising insurance special purpose vehicles;⁴ and

¹ ~~Commission Implementing Regulation (EU) 2015/462.~~

² References to 'cedant' in this SS mean the undertaking that transfers risk to the UK ISPV.

³ See also paragraph 3.29.

⁴ Available at: www.fca.org.uk/publications/policy-statements/ps17-24-handbook-changes-insurance-linked-securities.

- FCA Statement – authorising and supervising insurance special purpose vehicles.⁵

1.4A Attention is also drawn to information on the PRA’s website regarding UK ISPVs.⁶

1.5 In this SS, reference to ‘the regulators’ means the PRA and FCA.

2: Authorisation of UK insurance special purpose vehicles

Overview of authorisation process

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

2.2 The PRA will only grant authorisation in accordance with Part 4A of FSMA where the UK ISPV ~~demonstrates~~ satisfies each of the following that the conditions for authorisation: specified in Article 318 of the Delegated Regulation are satisfied.

1. The UK ISPV assumes risks from an undertaking through reinsurance contracts or assumes insurance risks through similar arrangements.
2. Where the UK ISPV assumes risks from more than one undertaking, the solvency of that UK ISPV is not adversely affected by winding-up proceedings of any one of those undertakings.
3. The contractual arrangements relating to the transfer of risk from an undertaking to the UK ISPV and the investment in assets by the UK ISPV fulfil the conditions set out in rules 2B.1-4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
4. The persons that effectively run the UK ISPV satisfy the requirements referred to in rules 2C.1-4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
5. All shareholders or members having a qualifying holding in the UK ISPV within the meaning in rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook are fit and proper, taking into account the criteria set out in rule 2C.5(1) to 2C.5(4) in the Insurance Special Purpose Vehicles Part of the PRA Rulebook and consistent with paragraph 3.8 below.
6. The UK ISPV has an effective system of governance and meets the requirements set out in rules 2C.8-10 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.

⁵ See above footnote.

⁶ Available at: www.bankofengland.co.uk/prudential-regulation/authorisations/insurance-special-purpose-vehicles.

7. The UK ISPV is capable of meeting the requirements referred to in Chapter 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.
8. The UK ISPV satisfies the requirements set out in Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook.

2.2A Therefore, any application for approval of a UK ISPV is expected to demonstrate, to the full satisfaction of the PRA, that the UK ISPV meets all the conditions as set out in the above list.

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

UK Multi-arrangement ISPVs

2.4 An UK MISPV is permitted within the Solvency UK framework for UK ISPVs provided that it complies with the requirements of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Articles 318 to 324, 326 and 327 of the Delegated Regulation and Article 7 of the Implementing Regulation (and is capable of meeting the requirements of Article 325 of the Delegated Regulation).

Pre-application discussions

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

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

Applications for authorisation of an UK ISPV

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

- an UK ISPV Application Form⁷ for the authorisation of the UK ISPV; and
- application forms for individuals (Senior Managers Regime, and FCA Controlled Functions (where applicable)) in line with paragraphs 3.1 to 3.5.

2.7B When applying for supervisory approval to establish, the applicant shall demonstrate that the requirements set out in the Insurance Special Purpose Vehicles Part of the PRA Rulebook are met and that the UK ISPV is capable of meeting the requirements of Part 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook by providing documentary evidence of that in its application. When submitting an application for authorisation, the applicant shall submit, at a minimum, the supporting documentation as set out in Appendix B. The documentation shall cover the structure of the special purpose vehicle, the risk to be assumed and the funding of that special purpose vehicle.

2.8 The material requested within the UK ISPV application form reflects the ~~requirements expectations~~ set out in ~~paragraph 2.7B Article 5 of the Implementing Regulation~~, which includes the documentation required in Appendix B Annex I to that Regulation.

Documentation requirements

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

2.9A Where the applicant considers that the complete set of documentation will not be available at the point of application, the PRA expects applicants to discuss this with it to explain what is likely to be available and how this might affect the timing of the application.

2.9B Where the application is for a 'live' transaction, the PRA understands that the transaction documents may not be legally executed until after approval, and therefore some specific commercial terms may remain outstanding until the transaction is executed. However, the PRA expects the applicant to identify where this will be the case in the documentation prior to approval being granted. If approval is granted before the transaction documents are legally executed, the PRA expects the UK ISPV to submit the final documents to the PRA as soon as possible once they are legally executed.

⁷ Available at: <https://www.bankofengland.co.uk/prudential-regulation/authorisations/insurance-special-purpose-vehicles>.

2.10 For a single-arrangement UK ISPV, the applicant should submit documentation that is specific to the proposed transaction. Details of the specific transaction should be in the application form, e.g., specific details on the risk transfer, funding structure and investment strategy of the deal.

2.11 For an UK MISPV, the applicant should include sufficient detail in relation to all known transactions, including future planned transactions. Where an application includes information given in relation to potential future transactions, the PRA expects the applicant to demonstrate how these arrangements will satisfy the applicable requirements upon being entered into. Further details are included in paragraph 2.15A below.

2.12 The PRA does not generally expect to request applicants to submit independent third-party opinions (e.g., legal, accountant, or actuarial) in every case (e.g., straightforward applications), although the PRA may request applicants to provide the PRA with third party opinions where necessary, for example where the PRA considers it would assist it in making an assessment against the conditions for authorisation. The PRA considers that such opinions may be useful to support demonstration of compliance with the Solvency ~~II~~UK requirements, in particular ~~Articles 319, 320 and 321 of the Delegated Regulation~~ rules 2B.1-4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, where the transaction contains complex or novel features, for example, including but not limited to:

- where a transaction includes complex connected transactions, e.g., complex trust or security arrangements, or any inter-cell arrangements; and/or
- the recognition and valuation of the UK ISPV's assets in accordance with Chapter 2 of the Valuation Part of the PRA Rulebook ~~Article 75 of the Solvency II Directive~~, where the UK ISPV invests in assets which are considered non-standard in nature.

2.12A Where contractual arrangements are material to the conditions for authorisation - in particular where contractual provisions are relied upon to meet ~~Articles 319, 320 and 321 of the Delegated Regulation~~ the requirements in Chapter 2B of the Insurance Special Purpose Vehicles Part of the PRA Rulebook - and those arrangements are subject to foreign law, the PRA may request a legal opinion on the effectiveness and enforceability of those arrangements under the relevant foreign law. In such circumstances the PRA may also request an English law opinion confirming that the operation of English law would not undermine the effect of the transaction and/or arrangements under the applicable foreign law. In general, where the arrangements are subject to foreign law, but the application is otherwise classified as standard, the PRA would not expect the applicant to provide such legal opinions.

Scope of Permission (SOP)

2.13 In line with Regulation 7 of the RTR, the PRA is required to exercise its discretion under Section 55F(4)(a) of FSMA. This requires the PRA to limit the scope of the regulated

activities which the UK ISPV may carry on. In exercising its discretion under Regulation 7(1) of the RTR, the limitation imposed by the PRA must be determined by reference to some or all of the activities described in the application for Part 4A of FSMA permission. The permission granted to the UK ISPV in accordance with the process in this paragraph is referred to in this SS as the UK ISPV's SOP.

2.14 A SOP is a key component of an UK ISPV's authorisation, as it defines the boundaries within which the UK ISPV may carry on the regulated activity of insurance risk transformation. Information referred to in ~~Article 5 of the Implementing Regulation~~ paragraph 2.7B will form the basis of the SOP granted by the PRA under Part 4A of FSMA.

2.15 The PRA expects applicants to provide sufficient information on each of the potential arrangements, structures, and/or mechanisms it wishes to form part of the SOP, so that the PRA can assess their compliance with the Solvency UK requirements for UK ISPVs. Where an UK ISPV contemplates a range of potential arrangements, structures or mechanisms (particularly in the case of UK MISPVs that intend to create different options for future cells) applicants should include sufficient information on each of these options in their application. The PRA expects the applicant to submit the contractual wording/arrangements which would govern these future arrangements, if it wishes these future arrangements to be included in the UK ISPV's initial SOP. This will enable the PRA to assess all of the potential options upfront and, where appropriate, to include each of these options in the initial SOP. Alternatively the applicant may choose to submit a narrower range of arrangements as part of the initial approval, and seek a variation of permission for a wider SOP at a later stage.

2.15A Where an application is submitted with no proposed 'live transaction', consistent with the approach above, the PRA will expect applicants to submit sufficient information in the application to enable the PRA to judge whether future arrangements will be compliant with applicable requirements. The PRA expects applicants to submit template contractual arrangements which would be used in these future arrangements. For an UK MISPV, this will be the case whether the applicant intends for the UK MISPV to enter into future arrangements with the same cedant or multiple cedants. Upon the UK MISPV executing a live transaction, and assuming a new risk, it must follow the notification process in accordance with rule 4.3 of the Insurance Special Purpose Vehicles ~~4.3~~ Part of the PRA Rulebook and outlined further in paragraph 2.27.

2.16 The PRA expects that in most cases the information in the table in the Appendix A will be particularly relevant for the purposes of defining the SOP. However, this is not an exhaustive list and all of the information referred to in ~~Article 5 of the Implementing Regulation~~ paragraph 2.7B will be relevant for the purposes of defining the SOP. Each application will be considered on a case-by-case basis.

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

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

Timelines for review of applications (including VOP applications)

2.19 Consistent with s55V of FSMA Article 4(1) of the Implementing Regulation, the PRA will determine complete applications for authorisation as an UK ISPV within six months of receipt. The PRA anticipates that UK ISPV applications will range in complexity. The PRA considers that where applications represent a relatively straightforward proposal, and are supported by good quality documentation this should allow a determination to be reached within 6-8 weeks. In addition, where effective pre-application engagement has taken place 6-8 weeks is more likely to be feasible. The PRA will process applications as quickly as possible and approval may be possible more quickly in some circumstances. For applications that are complex or novel, applicants should recognise the need for additional review time. The PRA will keep these matters under review as experience develops. Where applications are incomplete, a decision may take longer than 6 months, but in any event the PRA will determine an incomplete application in accordance with s55V of FSMA within 12 months beginning with the date on which it received the application.

2.19A Where an applicant proposes arrangements that are sufficiently similar to arrangements that have previously been assessed by the PRA in respect of the same applicant, such as a previous transaction with the same cedant and substantially the same transaction documentation, the PRA will consider all relevant factors but will aim to leverage (to the extent appropriate) any work done in the previous application, to minimise duplication. In such circumstances, the PRA expects applicants to discuss with the PRA the level of changes they envisage so that the review can be focused as much as possible on the key changes.

2.20 The statutory timeframe for determining an application for a VOP, as set out in FSMA, is six months for a complete application. The quality of the documentation and complexity of the proposed amendment will determine the time taken for the PRA to review the VOP application, as will the level of pre-application engagement where possible.

Submission of an application

2.21 The UK 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 as soon as it has reached a decision on the completeness of the application. The PRA will endeavour, where possible, to provide this within ten working days of receipt. Incomplete submissions will delay the final decision on applications for approval.

~~Consultation and ongoing cooperation with EEA supervisory authorities~~

~~2.22 Under Articles 8 and 9 of the Implementing Regulation, the supervisory authority in the jurisdiction of the ISPV is required to consult prior to authorisation and cooperate on an ongoing basis with the supervisory authority of cedants located in the European Economic Area (EEA).~~

~~2.23 The PRA encourages applicants, where possible, to confirm as part of its application that the supervisory authority of any EEA cedant has been notified of the proposed transaction, and supply details of the relevant contact for such supervisory authority. This will assist the PRA in its consultation with the cedant's supervisory authority.~~

~~2.24 Where possible, the PRA expects an MISPV to include within its application the proposed jurisdictions from which it expects to assume risks. Upon submission of the MISPV New Risk Assumption Notification Form,⁸ the MISPV is encouraged to include confirmation that the supervisory authority of any EEA cedant has been notified of the proposed transaction, and supply the details of the relevant contact for the supervisory authority.~~

Decisions

2.25 The PRA will lead in the assessment of the application, and will require the consent of the FCA before granting authorisation. If a decision is made to approve the application, the PRA will notify the applicant. 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 options open to the applicant to challenge the decision. In its decision to grant supervisory approval the PRA shall state the activities for which the UK ISPV is authorised and any terms and conditions relating to those activities, where relevant. Any decision to refuse an authorisation shall state full reasons and shall be communicated by the PRA to the applicant in accordance with Part 4A of FSMA. For UK MISPV applications, where the applicant is not able to provide sufficient supporting evidence in line with rules 4.5-

⁸ See Insurance Special Purpose Vehicles 6.1.

4.7 of the Insurance Special Purpose Vehicle Part of the PRA Rulebook, the PRA shall refuse the application of the UK MISPV.

2.26 Where an UK ISPV is considered compliant with all other applicable requirements the PRA expects it will be able to grant an approval that is effective prior to the date that funding is received, if the UK ISPV can demonstrate that it will receive the relevant funding before the risk transfer to the UK ISPV becomes effective. The PRA will expect the application to demonstrate that all expenses and operating costs will be met appropriately, whether or not they form part of the UK ISPV's Aggregate Maximum Risk Exposure (AMRE).⁹

UK MISPV notification process

2.27 Once authorised, an UK MISPV must notify the PRA within five working days of assuming a new risk (pursuant to Regulation 60 of the RTR). In accordance with rule 4.3 of the Insurance Special Purpose Vehicles 4.3 Part of the PRA Rulebook this post-transaction notification must be submitted using the UK MISPV New Risk Assumption Notification Form. The form requires UK MISPVs to provide details and documentation on the specific risk transfer arrangement to which it relates (including the documentation specified in the SOP), confirmation that it is in line with the UK MISPV's SOP, and a signed declaration by two directors that all information in the form is accurate. Additionally, the form requires the UK MISPV to provide summary details of all the current risk transfer arrangements, including the AMRE of each of the individual arrangements as well as the aggregate AMRE of the UK MISPV.

3: Requirements of UK ISPVs

PRA Senior Managers and Certification Regime (SM&CR) requirements

3.1 All individuals who are 'effectively running' the UK ISPV must satisfy the fit and proper criteria set out in the Insurance – Fitness and Propriety Part of the PRA Rulebook. Effectively running is described in paragraph 2.32 of SS35/15 'Strengthening individual accountability in insurance'¹⁰ and in ~~Solvency II European Insurance and Occupational Pensions Authority's guidelines~~.¹¹ It is expected to include all the members of the governing body, as well as the senior management of the UK ISPV (or any related insurance group) who are responsible for key decision making and for implementing the strategies and policies approved by the

⁹ As defined in the PRA Rulebook Glossary Article 1(44) of the Delegated Regulation.

¹⁰ February 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2015/strengthening-individual-accountability-in-insurance-ss>.

¹¹ EIOPA Guidelines of system of governance (EIOPA-BoS-14/253-EN), paragraph 1.21.

governing body. These individuals can be both Senior Management Function (SMF) roles and non-SMF roles.

3.2 The PRA requires applicants to nominate fit and proper individuals for approval by the PRA to occupy the following SMF roles for each UK ISPV.¹²

- Chief Executive (SMF1);
- Chief Finance (SMF2); and
- Chair of the Board (SMF9).

3.3 The PRA considers that each of these roles is important for the ongoing safety and soundness of the UK ISPV but, depending on its assessment of the particular case, an individual with the relevant skills and experience may be able to perform more than one of these roles. It is also acknowledged that provided there are no conflicts of interest, a SMF role or individual deemed to be effectively running the UK ISPV could be held by a suitably senior employee or director of a third party such as an outsourced service provider.

3.3A In general, for standard applications, one individual may hold more than one SMF role; including holding all three required SMF roles. For 'complex' applications, the PRA considers that the three SMF roles may need to be held by separate individuals. However, this would always be assessed on a case-by-case basis. Where the three SMF roles are to be held by one individual, the PRA expects the UK ISPV to propose contingency plans in the event that the individual is not able to continue in the role. Firms should consider any potential conflicts of interest and how they shall be addressed while appointing any SMFs.

3.4 The UK ISPV must complete the relevant application form (see Insurance – Senior Managers Regime – Applications and Notifications Part) for each of the individuals nominated for PRA approval to perform a SMF role at the UK ISPV. Once the UK ISPV is approved, if at any time an individual is appointed as a NED or key function holder,¹³ and this individual is not already a SMF holder, then following their appointment the UK ISPV must submit Form M (see Key Function Holder – Notifications Part) to the PRA.

3.5 The individuals who are effectively running the UK ISPV are expected to be responsible for providing oversight of the activities and key functions of the UK ISPV, including outsourced service providers, and for ensuring that the UK ISPV meets its regulatory requirements.

¹² Pursuant to Insurance – Senior Management Functions 2, and Insurance – Fitness and Propriety 2.

¹³ Individuals who perform key functions pursuant to the Key Function Holder – Notifications part of the PRA Rulebook.

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

3.6 ~~Article 323 of the Delegated Regulation~~ Rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires ~~fit and proper assessment~~ a UK ISPV to take reasonable steps to keep under assessment the fitness and propriety of shareholders or members with a qualifying holding in the UK ISPV. Rules 2C.6-7 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook requires UK ISPVs to notify the PRA of the identity of its shareholders or members with a qualifying holding, and notify the PRA as soon as it becomes aware that any shareholder or member with a qualifying holding may not be fit and proper. The term qualifying holding is defined in ~~Article 13(21) of the Solvency II Directive~~ rule 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook as a direct or indirect holding in an undertaking which represents 10% or more of the capital, or 10% or more of the voting rights, or which makes it possible to exercise a significant influence over the management of the undertaking.

3.7 The UK ISPV's own assessment under ~~Article 323(1)(a) to (d) of the Delegated Regulation~~ rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook can be proportionate to the fact that these shareholders or members will be expected to have little or no influence over the management of the UK ISPV. The PRA's ~~approach~~ review ~~when assessing compliance against this requirement~~ will be proportionate to the nature and level of influence any shareholder or member with a qualifying holding is expected to have on the UK ISPV, including any voting rights, or ability to exercise influence, and the extent of their financial commitments to the UK ISPV.

3.8 For both UK MISPVs and single-arrangement UK ISPVs, at the initial authorisation stage, the PRA will carry out a fit and proper assessment of shareholders or members who have a qualifying holding on the basis that they hold 10% or more of the voting rights in the UK ISPV, or have significant influence over the management of the UK ISPV. The PRA expects that a significant influence over the management of the UK ISPV is likely to arise where there is a holding representing 10% or more of the capital of the UK ISPV, and either: (i) at least some of those holdings include voting rights; or (ii) the arrangements of the UK ISPV are such that the shareholder or member may have a significant influence over the management of the UK ISPV. The PRA considers that these shareholders or members can control the UK ISPV, and for that reason they will form part of the UK ISPV's SOP, meaning that a change in these shareholders or members would require a VOP (and the PRA would consider the proposed change ~~in accordance with~~ taking into account the criteria in ~~Article 323(1)(a) to (d) of the Delegated Regulation~~ rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook).

3.9 A qualifying holding may arise where a holding represents 10% or more of capital, even where the shareholder or member does not have voting rights or a significant influence over

the management of the UK ISPV. In the case of single-arrangement UK ISPVs, the PRA expects them to have a framework in place for assessing these shareholders or members, which should consider all of the criteria in ~~Article 323(1)(a) to (d) of the Delegated Regulation~~ rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook, including any financial commitments to the UK ISPV. ~~The ISPV's assessment under Article 323(1)(a) to (d) of the Delegated Regulation can be proportionate to the fact that these shareholders or members will be expected to have little or no influence over the management of the ISPV.~~ The PRA will assess this framework at authorisation, and will expect the UK ISPV to demonstrate to the PRA that these shareholders or members will not have (or acquire) a significant influence over the management of the UK ISPV (otherwise, the PRA will consider these shareholders or members in line with the process described above).

3.10 The assessment required under ~~Article 323 of the Delegated Regulation~~ rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook also applies in respect of shareholders or members having a qualifying holding in the UK MISPV. Accordingly, the PRA expects that the assessment described in paragraph 3.8 will include holdings issued on behalf of the core of an UK MISPV, on the basis that these shareholders or members will exercise a significant influence over the management of the UK MISPV. As regards shareholders or members in the cells of a Protected Cell Company (PCC), the RTR specifies that only a holding issued on behalf the core of a PCC is to be treated as a holding in the PCC. Therefore one of the effects of the RTR is that the assessment under ~~Article 323 of the Delegated Regulation~~ rule 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook should not include holdings issued on behalf of a cell of a PCC. Furthermore, the PRA would not expect the governance arrangements of the PCC to enable holdings in cells to exercise significant influence over the UK MISPV.

3.11 The PRA expects all UK ISPVs to explain their proposed ownership structure in the application for authorisation, identifying, to the extent possible, any proposed shareholders or members that will have a qualifying holding (highlighting those for the PRA's assessment ~~under against the criteria in Article 323 of the Delegated Regulation~~ Chapter 2C.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook as described in paragraph 3.8 above). The application for authorisation should contain sufficient information to enable the PRA to perform its assessment of qualifying holding shareholders' or members' fitness and propriety (as described above), and (in the case of a single-arrangement UK ISPV) details of the proposed framework for the UK ISPV's assessment of other shareholders or members with a qualifying holding.

3.11A Where the UK ISPV is consolidated into a group the applicant must provide an assessment of the applicable accounting consolidation requirements of the UK ISPV into the group, in accordance with ~~Annex I of the Implementing Regulation~~ Appendix B. The PRA will assess the specific circumstances for consolidation against the relevant requirements.

The requirement for UK ISPVs to be fully funded

3.12 Solvency II requires all UK ISPVs to be fully funded. Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326 of the Delegated Regulation sets out the requirements that must be satisfied in order for an UK ISPV to be considered fully funded.

3.13 Chapter 2.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(1)(a) of the Delegated Regulation requires that the assets of the UK ISPV be valued in accordance with Chapter 2 of the Valuation Part of the PRA Rulebook Article 75 of the Solvency II Directive. For this purpose, the PRA expects the UK ISPV to recognise and value its assets in accordance with Chapter 4 of the Valuation Part of the PRA Rulebook Article 8 of the Delegated Regulation. 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. This will determine the extent to which assets may be recognised and taken into account for the purposes of satisfying the fully funded requirement.

3.14 Chapter 2.2.3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(1)(c) of the Delegated Regulation requires that the proceeds of the UK ISPV's debt issuance or other funding mechanism are fully paid-in. The PRA considers that to be fully paid-in an UK ISPV should have received the proceeds of the debt issuance or other mechanism by which it is financed. Therefore on the basis of rules 2.2.1-3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(1)(a) and (c) of the Delegated Regulation, the PRA expects UK ISPVs not to include contingent assets for the purposes of satisfying the fully funded requirement. Accordingly, UK ISPVs should not count legally binding commitments that could be treated as ancillary own funds by insurance or reinsurance undertakings under Chapters 2.3-4 of the Own Funds Part of the PRA Rulebook Article 89 of the Solvency II Directive, as assets for the purposes of satisfying the fully funded requirement.

3.15 The PRA expects UK ISPVs to recognise payments expected to be received from the cedant (e.g. funds withheld) as an asset only if all the requirements in rule 2.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(4) of the Delegated Regulation are met.

3.16 Rule 2.2(2) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(1)(b) of the Delegated Regulation requires that the UK ISPV must at all times have assets the value of which is equal to or exceeds its AMRE and that it is able to pay the amounts it is liable for as they fall due. The AMRE is defined in the PRA Rulebook Glossary Article 1(44) of the Delegated Regulation as the sum of the maximum payments including expenses that the UK ISPV may incur, although expenses that satisfy paragraphs (a) to (c) of the definition Article 1(44)(a) to (c) of the Delegated Regulation can be excluded. The PRA

considers that the AMRE must be an amount that is determinable at any given point in time, so that UK ISPVs and the PRA are able to assess whether the fully funded requirement is being met at that point in time. Consequently, the PRA expects the risk exposure taken on by the UK ISPV to either be a fixed amount that is specified in the contract, or to be an amount determinable in accordance with the terms of the contract with the cedant, eg the contractual limit is recalculated on a periodic basis with reference to the amount generated by a model as long as it is explicitly reflected in the contractual limit and the updated AMRE. In either case, consistent with rules 2B.2-3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook ~~Article 320 of the Delegated Regulation~~, the PRA expects an UK ISPV to ensure that the risk transfer (and the contractual provisions regarding any changes thereto) is clearly defined so that an UK ISPV's AMRE can be determined clearly at any point in time.

3.17 For a single-arrangement UK ISPV, there will be one AMRE that applies in respect of the entire risk exposure of the UK ISPV. For UK MISPVs, for the purposes of Chapter 4 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook ~~Article 7(3) of the Implementing Regulation~~, the AMRE should be determined and fully funded at the level of each individual cell, except that, in the case of a group of cells,¹⁴ the AMRE will apply at the level of the group of cells in accordance with Insurance Special Purpose Vehicles 2.2. For the purposes of this rule, the PRA expects the UK MISPV to demonstrate how the group of cells will satisfy the fully funded requirement, and also to consider any risks arising from the inter-cell arrangements in their system of governance.

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

3.19 Given that Solvency UK # does not envisage a gap between risks being transferred to and funding being received by the UK ISPV, the PRA expects an UK ISPV to ensure that the contractual provisions should be such that any increase in the AMRE during the life of the arrangement is only effective if and when the corresponding funds are paid-in. The PRA

¹⁴ A group of cells comprise the cells which form part of an arrangement between cells, referred to as an 'inter-cell arrangement'.

expects UK ISPVs to ensure that this is made clear in the contractual provisions. Where arrangements contain contractual features that could result in the AMRE decreasing, the conditions governing return of capital to investors should be such that the fully funded requirement is maintained. In general, the PRA expects that, unless clearly provided for in the terms of the contract with the cedant, injections or repayments of funds to match these kinds of contractual changes in the AMRE (as described above and in paragraph 3.16) should not take credit for increases in the value of assets already invested.

3.19A In light of paragraphs 3.18 and 3.19, where parties may wish to 'roll-over' funding from one risk transfer arrangement to the other, the same funds should not be used to meet the AMRE of two consecutive risk transfer arrangements at the same time. This means that the funds being held to meet the AMRE of an existing risk transfer arrangement should not, simultaneously, be counted to meet the AMRE of a new risk transfer arrangement. However, once the AMRE of the existing risk transfer is reduced and the funds equal to the value of such reduction are released, some or all of such funds can then be re-invested in the new risk transfer arrangement and be counted to meet the AMRE of the new risk transfer arrangement.

3.20 The PRA neither requires nor prohibits the use of limited recourse clauses that cap an UK ISPV's AMRE to a level no greater than its assets. The PRA does not expect limited recourse clauses to be relied upon by the UK ISPV as an alternative to having assets to at least the value of the AMRE as set out in rule 2.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 326(1) of the Delegated Regulation, or having a sound risk management framework (in accordance with rules 2C.8-10 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 324 of the Delegated Regulation) and investment strategy (in accordance with rule 2.6 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 327 of the Delegated Regulation). Nor should a limited recourse clause undermine the requirement that the risk transferred to the UK ISPV is effective at all times and incontrovertible. However, provided that, in line with rules 2C.8-10 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 324 of the Delegated Regulation, the UK ISPV has a sound risk management framework which includes policies to mitigate and manage the risk that the limited recourse clause is called upon, as well as an adequate investment strategy, the PRA considers that limited recourse clauses may be used as a means of mitigating the risk from a contractual perspective that the UK ISPV ceases to comply with the fully funded requirement on an ongoing basis.

3.21 In assessing the suitability of limited recourse clauses the PRA will expect an UK ISPV to demonstrate that its risk management framework is sound and its investment strategy is consistent with its risk profile.

3.22 The presence of other off-balance sheet support arrangements such as contingent assets (including guarantees, or other market or credit risk mitigation) could also be relevant

to the effectiveness of risk transfer and ensuring the UK ISPV is fully funded on an ongoing basis. However, as outlined in paragraph 3.14 such arrangements should not be considered as a substitute for paid in funds or justification to underfund the risk transfer.

3.23 It is the responsibility of the applicant to demonstrate that the UK ISPV will be fully funded at all times, consistent with the expectations set out in paragraph 2.2.H and the rules in Articles 318(h), Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook 326 and 327 of the Delegated Regulation. Consequently, the PRA expects that an UK ISPV should make clear in its application how the components referred to in (ii) and (iii) of ~~the~~ Appendix A of this SS, work together to ensure the UK ISPV will remain fully funded and maintain effective risk transfer throughout its existence.

Inter-cell arrangements

3.24 The RTR includes provisions for PCCs to make arrangements between cells within strictly confined parameters. HM Treasury has stated that, unless proposed arrangements between cells are included within the scope of the Part 4A permission granted by the PRA, inter-cell arrangements will not be available to a PCC. Accordingly the PRA, pursuant to the requirement imposed on the PRA under Regulation 7 of the RTR, will exercise its discretion to impose a limitation on the UK MISPV's permission with reference to the inter-cell arrangements specified in an UK MISPV's application for Part 4A permission.¹⁵

3.25 Therefore, if an UK MISPV proposes to use inter-cell arrangements, the PRA expects the UK MISPV to include a clear proposal for their use in its application, with the specific details of the arrangements, so that the PRA can assess the arrangements for inclusion within the UK MISPV's SOP (as outlined in paragraphs 2.13 to 2.18) at the time of authorisation. The PRA will expect the UK MISPV to describe clearly the approach to any proposed inter-cell arrangements, including how assets and AMRE will be allocated amongst the group of cells, the circumstances under which assets would move back to cell A (where cell A is the cedant-facing cell), details of how the group of cells will be fully funded at all times, and the investment strategy of the cells. This should also include the approach to any amendments or cancellations of inter-cell arrangements, and details of how the group of cells continue to meet their AMRE, or evidence that the obligations of the group of cells have been fully discharged.

3.26 The PRA expects UK MISPVs to ensure that arrangements between cells are used with care and are consistent with Solvency ~~II~~UK requirements.¹⁶ Accordingly, the PRA will consider the UK MISPV's explanation of how the proposed arrangements comply with

¹⁵ Paragraphs 3.19 and 3.21 of HM Treasury's response document, 'Regulations implementing a new regulatory and tax framework for Insurance Linked Securities: response to the consultation' July 2017: www.gov.uk/government/consultations/insurance-linked-securities-consultation.

¹⁶ Paragraphs 3.18 of HM Treasury's response document.

Solvency #UK, to ensure, for example, that the proposed arrangements will not undermine the Solvency #UK requirement that each contractual arrangement for risk transfer satisfies the fully funded requirement, that the claims of the investors are at all times subordinated to the reinsurance obligations of the UK ISPV, and that its solvency cannot be affected by the insolvency of any cedant.

3.27 If an UK MISPV does not propose to use inter-cell arrangements, the SOP shall preclude the use of inter-cell arrangements. Should an UK MISPV subsequently propose the use of inter-cell arrangements for the first time, or the use of inter-cell arrangements in a manner not specified within the UK MISPV's SOP, a subsequent application for a VOP should be submitted to the PRA in the manner described in paragraph 2.18.

Notification process

3.28 Where an UK MISPV makes use of an inter-cell arrangement in line with the approved approach in its SOP, the UK MISPV is required to notify the PRA within five working days of the arrangement being entered into, pursuant to Regulation 69(2)(a) of the RTR. This includes notification of any amendments or cancellations to a group of cells pursuant to Regulation 70(3) of the RTR. As set out in Insurance Special Purpose Vehicles 4.4, the UK MISPV must notify the PRA by submitting the Group of Cells Notification Form.¹⁷

Risk transfer requirements

3.29 A stand-alone UK ISPV may only take on a single contract for risk transfer from a single cedant. This follows from Chapter 1.2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 2 of the Implementing Regulation, which defines an UK MISPV. It may not take on a contract for risk transfer from multiple cedants, nor can it take on more than one contract for risk transfer from one cedant. Similarly, in line with Regulation 43(5) of the RTR, a single cell of a PCC may only take on a single contract for risk transfer from a single cedant.

3.29A However, the PRA may at its discretion accept that, where an otherwise standard application proposed the inclusion of multiple cedants, it should be treated as a single cedant ceding risk via a single contract. This would be subject to their meeting all the following criteria:

(i) they are part of the same insurance group (as per Solvency #UK or FSMA) or are Lloyd's syndicates managed by the same managing agent with a shared economic interest;¹⁸

¹⁷ See Insurance Special Purpose Vehicles 6.2.

¹⁸ For example, syndicates managed on a 'turnkey basis' by a managing agent would not be considered to have a shared economic interest with the other syndicates managed by the same managing agent.

(ii) they transfer risk via the same contract to an UK ISPV (or a single cell within an UK MISPV) with aligned economic interests (in particular, that no one cedant has preferential terms over another, especially in the receipt of claims from the UK ISPV/cell of UK MISPV). The contractual arrangements should set out how claims would be apportioned between the different cedants, including if there are sub limits per cedant within the contract, up to a pre-defined, fully paid-up limit to the value of the AMRE. However, the contractual arrangements should not allow for the claims of one cedant to be subordinated to that of another cedant;

(iii) they transfer risks which are short-tail, wholesale, and general insurance in nature; and

(iv) they are able to demonstrate that the inclusion of multiple cedants within the proposed arrangement does not undermine effective risk transfer, subordination of investor rights to all ceding parties, or fully funded requirements. Specifically, the presence of multiple cedants should never result in a situation where the UK ISPV (or cell of the UK MISPV) would be required to pay claims beyond the AMRE of the UK ISPV (or that cell of the UK MISPV), then the PRA may, at its discretion, accept that they should be treated as a single cedant ceding risk via a single contract to an UK ISPV (or single cell of an UK MISPV), in which case the PRA may include such arrangements in the Scope of Permission granted to the UK ISPV or UK MISPV.

3.29B The UK ISPV (or cell of UK ISPV) must at all times ensure that all the cedants to the UK ISPV (or cell of UK MISPV) remain part of the same insurance group. If there are changes to the group composition during the life of the arrangement resulting in the removal or addition of a cedant, the PRA expects the UK ISPV or UK MISPV to inform the PRA before making the change. The PRA expects that in facilitating or responding to any such changes, the UK ISPV or UK MISPV and cedant can demonstrate that all contractual arrangements continue to meet, at all times, the requirements of Solvency II UK and the PRA's expectations as set out in this SS.

3.30 The PRA recognises that UK ISPVs may assume risks through reinsurance contracts or assume insurance risks through 'similar arrangements' consistent with paragraph 2.2.A and rule 2A.1(1) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook ~~Article 318(a) of the Delegated Regulation~~. Regardless of the form of the risk transfer, the PRA expects applicants to demonstrate that their activity complies with Regulation 13A of the RAO and rule 2A.1(1) of the Insurance Special Purpose Vehicles Part of the PRA Rulebook ~~Article 318(a) of the Delegated Regulation~~, and that rules 2B.2 and 3 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook ~~Article 320 of the Delegated Regulation~~ is are met, including that the risk is effectively transferred from the cedant to the UK ISPV and from the UK ISPV to the providers of debt or other financing mechanism.

3.31 The PRA expects an applicant to describe clearly, in its application form, the details of the proposed risk transfer and demonstrate how the risk transfer complies with these requirements.

3.32 In the case of risk transfers that include non-indemnity triggers, the PRA expects applicants to include specific details of the structure of the trigger, eg any pay-out factors, geographic weightings, exposures vectors, relative experience ratios, or regular portfolio resets. In line with Appendix B Annex 1 of the Implementing Regulation, where basis risk exists, applicants must submit a basis risk analysis as part of their application.

Solvency requirements

3.33 Under the current requirements, the PRA's assessment of the solvency of the UK ISPV requires it to take into consideration the quantifiable risks of the special purpose vehicle.¹⁹

3.34 The PRA's assessment of quantifiable risk for standard applications would consider, at the least, insurance risk, market risk, operational risk, and asset risk which may exist in the UK ISPV. If requested by the PRA, an UK ISPV is expected to comment on these risks as a minimum, even if, in its consideration, this risk is considered to be of no significance. Notwithstanding the expectation that UK ISPVs consider these aforementioned risks at the minimum, the PRA expects that they would consider all relevant risks in assessing the quantifiable risk of the UK ISPV.

System of governance requirements

3.35 As per rule 2C.9.1 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook article 324 (2)(a) of the Delegated Regulation, an UK ISPV is required to have policies in a number of areas related to its system of governance. The PRA does not expect firms to submit, as a matter of routine, the full suite of written policies in place. Instead, the PRA would expect firms to provide a list of the policies in place. However, the PRA may request to see the written policies (or a sample thereof) on a case-by-case basis.

4: Ongoing supervision of UK ISPVs

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

4.2 In order to comply with the supervisory reporting requirements in Chapters 2 and 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Articles 325 and 326 of

¹⁹ Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook GDR Article 326 (2).

~~the Delegated Regulation~~, the PRA expects applicants to explain their procedures for how the UK ISPV intends to monitor the assets of the vehicle on an ongoing basis, including ensuring the UK ISPV at all times has assets the value of which is equal to or exceeds the AMRE.

4.3 Also, consistent with Chapters 2 and 5A of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Articles 325 and 326 of the Delegated Regulation and Articles 13 to 18 of the Implementing Regulation, UK ISPVs are required to provide both a qualitative and a quantitative report annually to the PRA, the latter of which requires completing the templates that are designed specifically for Special Purpose Vehicle reporting and are set out in Chapter 6 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Annexes II and III of the Implementing Regulation.

4.4 Consistent with rule 5A.5 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook Article 325(5) of the Delegated Regulation, the PRA expects UK ISPVs to notify the regulators immediately in the event of any changes which could affect its compliance with any applicable requirements, including any breach of the fully funded requirement. As explained in paragraph 2.18, any changes that would affect any components of the SOP require the UK ISPV to apply for a VOP before such changes can take effect.

5: Withdrawal of authorisation

5.1 The PRA may withdraw a UK ISPV's authorisation, in accordance with its powers under s55J of FSMA, where: (a) the UK ISPV no longer fulfils the original conditions under which the approval to establish that UK ISPV was granted; (b) the UK ISPV fails seriously in its obligations under the regulations to which it is subject.

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

5.3 Any decision to cancel a UK ISPV's Part 4A permission shall state the full reasons and shall be communicated to the UK ISPV without delay.

Appendix A - Selected information likely to be relevant for defining the SOP

SOP component
i) Key contractual provisions (excluding fully funded, see (iii) below) – contract wording relied upon for the <u>UK</u> ISPV to meet the Solvency II <u>UK</u> requirements, eg subordination clauses and insolvency clauses.
ii) Fully funded approach - the <u>UK</u> ISPV's approach to meeting the fully funded requirement, including:
<ul style="list-style-type: none"> • Specific contractual provisions or mechanisms relied upon for the <u>UK</u> ISPV to satisfy and continue to satisfy the fully funded requirement (eg capital release/distribution clauses, and limited recourse clauses).
<ul style="list-style-type: none"> • The <u>UK</u> ISPV's approach to the triggering, timing and determination or calculation of any changes to the amount of risk transfer and the AMRE throughout the life of the contract, including any contractual provisions that will be relied upon to meet the fully funded requirements (eg the approach, terms and conditions for ramp-ups).
<ul style="list-style-type: none"> • Details of all expense arrangements, both those included within the AMRE and those eligible for exclusion from the AMRE (and details of how they will be satisfied).
<ul style="list-style-type: none"> • Details of any contingency actions to avoid a breach of the fully funded requirement (eg contingent assets, top-ups, and limited recourse clauses).
<ul style="list-style-type: none"> • A clear description of the approach to risk transfer(s), and how they remain effective (ie do not revert back to the cedant) in all circumstances.
<ul style="list-style-type: none"> • Details of any connected transaction that may undermine the fully funded or effectiveness of the risk transfer requirements.
iii) Investment policy – a policy which outlines how the <u>UK</u> ISPV will satisfy all the requirements in <u>Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA Rulebook</u> the subparagraphs of Article 327 of the Delegated Regulation.
iv) Trigger mechanisms – the <u>UK</u> ISPV's approach to any loss event triggers (eg parametric, and index-linked trigger).
v) Type of business – details of the type of arrangements and nature and class of the underlying insurance risk proposed to be transferred.
vi) Qualifying holdings – the identity of any shareholders who meet the criteria of the qualifying holding definition as described in paragraphs 3.6 to 3.11.
vii) Sponsor of the <u>UK</u> ISPV – identity of the sponsor of the <u>UK</u> ISPV where this is not the cedant.
viii) Outsourced service provider of the <u>UK</u> ISPV – identity of any outsourced service provider where the outsourcing arrangement is considered critical, eg a management company carrying out the day-to-day management duties of the <u>UK</u> ISPV.
ix) Inter-cell arrangements (only applicable for <u>UK</u> MISPVs) – details of any proposed inter-cell arrangements, specifically: <ul style="list-style-type: none"> • the approach to allocating assets between the group of cells; • the approach to allocating AMRE between the group of cells; • the circumstances under which assets would move back to cell A, where cell A is the cedant-facing cell; • details of how the group of cells will be fully funded at all times; • the investment strategy of the cells; and • the approach to any amendments or cancellations of the arrangements.

Appendix B – Demonstration and documentation requirements

The supporting documentation referred to in paragraph 2.7B shall include the following:

1. a clear and profound presentation and analysis in an organisational chart identifying all the relevant parties involved in the transaction, including the undertakings involved, which are supervised by supervisory authorities other than the supervisory authority responsible for granting the special purpose vehicle's authorisation;

2. information about the identity and qualification of the originator or sponsor of the UK ISPV, where this party differs from the undertaking transferring risk to the UK ISPV;

3. information about the undertaking transferring risk to the UK ISPV;

4. identification and qualification of the persons who are, or will be, appointed to act as trustees, where applicable, of the UK ISPV's assets;

5. information about the identity and qualification of the persons who are, or will be, employees of the UK ISPV, including details of persons who effectively run the UK ISPV;

6. information about the identity and qualification of persons who have, or will be expected to have, qualifying holdings, directly or indirectly in the UK ISPV together with the amounts of those holdings;

7. information about the identity and qualification of the persons who are providing or will provide management and professional services, such as accounting to the UK ISPV;

8. the UK ISPV's memorandum and articles of association, or drafts thereof;

9. details of the undertakings' original insurance policies clearly detailing which risks were initially assumed by the undertaking and which will be transferred to the UK ISPV, including an assessment and a description of how the transfer of ceded risks and the retention of any residual risks will comply with the requirements of Chapter 2B of the Insurance Special Purpose Vehicles Part of the PRA rulebook;

10. details of the draft contractual arrangement relating to the transfer of risk between the UK ISPV and the undertaking including a description of how the contract will meet the requirements of rules 3G3 and 3G5 of the Solvency Capital Requirement – Standard Formula Part of the PRA Rulebook and Chapter 2B of the Insurance Special Purpose Vehicles Part of the PRA rulebook. The description shall include:

(a) any relevant triggering events or mechanisms under the contract;

(b) the maximum aggregate risk exposure of the contract;

11. an assessment outlining how the legal and governance structures of the special purpose vehicle are deemed to comply with the requirements of rule 3G3 of the Solvency Capital Requirement – Standard Formula Part of the PRA Rulebook, and Chapters 2, 2B and 2C of the Insurance Special Purpose Vehicles Part of the PRA rulebook. The review should also give an opinion on whether the legal structure chosen for the special purpose vehicle affords a legally enforceable protection of the assets of the UK ISPV, thereby ensuring that the solvency of the UK ISPV shall not be adversely affected in line with paragraph 2.2.B and the requirements of Chapters 2A and 2B of the Insurance Special Purpose Vehicles Part of the PRA rulebook. The assessment should include the following:

(a) an explanation of how the UK ISPV is, or will be, fully funded, 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;

(b) information on the UK ISPV's equity including size, growth, potential investor concentration, and on the UK ISPV's management share of that equity;

(c) details of the counterparties to the contractual arrangements relating to the transfer of risk from an undertaking to the UK ISPV, including details of all the roles of the UK ISPV and the undertaking, 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. This shall also include an assessment of the applicable accounting consolidation requirements of the UK ISPV into a group;

(d) information on quantifiable risks of the UK ISPV including details of the UK ISPV's liquidity risk and liquidity strategy;

(e) information on risk implications of the UK ISPV's proposed investment strategy;

(f) information on the UK ISPV's adherence to the solvency requirements according to Chapter 2 of the Insurance Special Purpose Vehicles Part of the PRA rulebook;

(g) details of the risk transfer, including assessment of material residual risks, including basis risk;

(h) details on, if any, the use and details of hedging instruments, such as interest rate swaps or currency contracts;

(i) details of any off-balance sheet commitments to support the UK ISPV, including guarantees or any other form of credit risk mitigation sold to or otherwise provided to the UK ISPV;

(j) financial projections over the expected life of the UK ISPV;

(k) an actuarial assessment of the insurance risks assumed;

(l) a draft plan outlining the UK ISPV's supervisory reporting procedures, designed to comply with the requirements of Chapters 2 and 5A of the Insurance Special Purpose Vehicles Part of the PRA rulebook, including specific reportable matters identified under Chapters 2 and 5A(2) of the Insurance Special Purpose Vehicles Part of the PRA rulebook and with regards to how material changes would be communicated to the supervisory authority;

12. transaction documentation, or drafts thereof, regarding the issue of debt or financial mechanisms, and risk transfer to providers of such debt or financing mechanisms, to explain how compliance with rules 3G3 and 3G5 of the Solvency Capital Requirement – Standard Formula Part of the PRA Rulebook, and Chapter 2B of the Insurance Special Purpose Vehicles Part of the PRA rulebook will be maintained. This documentation should include:

(a) prospectus or offering circular or private placement memorandum, or drafts thereof;

(b) rating assessment or credit rating agency's report prior to the issue of the funding instruments by the UK ISPV;

(c) details relating to the potential use of financial guarantors on any of the 'tranches' of notes to be issued;

(d) trustee agreement, where such an arrangement exists, or drafts thereof;

(e) with regard to the debt or financing mechanisms, details of the UK ISPV's liquidity strategy for the issued financial instruments, including the structure and tiering, types of positions, and note holder withdrawal rules;

(f) information on risk implications of the UK ISPV's investment strategy;

(g) contracts, or drafts thereof, and details of any hedging instrument, such as interest rate swaps or currency contracts;

(h) transaction documentation, or draft thereof, governing parts of the contractual arrangements relating to the transfer of risk from an undertaking to the UK ISPV, which may be understood as connected transaction according to rule 3G3 of the Solvency Capital Requirement – Standard Formula Part of the PRA Rulebook and Chapter 2B.2 of the Insurance Special Purpose Vehicles Part of the PRA rulebook. Where applicable, this may

include contracts with other participants to the transaction, as well as outsourcing and service contracts;

13. where an UK ISPV, which was authorised prior to 31 December 2015, commences any new activities after 31 December 2015, the UK ISPV shall report any relevant information on how the existing activity of the UK ISPV may impact on its aggregate risk exposure profile in relation to any new activity.

Appendix C – SS8/17 updates

This annex details the changes that have been made to this SS following its initial publication in December 2017:

2022

December 2022

This SS has been updated alongside the publication of Policy Statement (PS) 12/22 'Insurance special purpose vehicles: Further updates to authorisation and supervision',²⁰ Details of the PRA's feedback to the response are available in Chapter 2 of the PS.

The PRA amended the following sections of the SS

- the 'Documentation requirements' section to clarify the PRA's expectations regarding legal opinions;
- the 'SMCR requirements' section to clarify the PRA's expectations regarding the number of Senior Management Function (SMF) holders needed for an ISPV; and
- the 'Risk Transfer requirements' section to clarify its approach to multiple cedants ceding risk to a single cell via a single contract.

The PRA added the following sections to the SS:

- a section on 'Solvency requirements' to clarify its interpretation of 'quantifiable risk'; and
- a section on 'Systems of governance requirements' to clarify its requirements for written policies submitted for 'standard' applications.

The PRA has also corrected minor typographical errors.

²⁰ December 2022: <https://www.bankofengland.co.uk/prudential-regulation/publication/2022/december/insurance-special-purpose-vehicles-further-updates-to-authorisation-and-supervision>.

2020

May 2020

This SS has been updated alongside the publication of Policy Statement (PS) 13/20 'Insurance special purpose vehicles: Updates to authorisation and supervision'.²¹ Details of the PRA's feedback to the response are available in Chapter 2 of the PS.

The PRA amended the following sections of the SS:

- the 'documentation requirements' section to expand on (i) the PRA's expectations regarding the documentation to be submitted at the point of application; (ii) the PRA's expectations where outstanding commercial terms may only be finalised post-approval; and (iii) the PRA's expectations regarding independent-third party opinions (in particular legal opinions);
- the 'funding arrangements' section to elaborate on the PRA's expectations where there may be changes to the risk and/or funding of the ISPV (in particular 'roll-over' mechanisms);
- the 'risk transfer requirements' section which sets out its expectations on risk transfer requirements (in particular where a 'similar arrangement' is being contemplated); and
- other sections to improve readability and provide further detail, including: how the SOP may be used in practice; how the PRA will treat similar 'repeat' transactions; and a reminder to firms that the PRA may require an assessment of the accounting consolidation if an ISPV is consolidated into a group.

The PRA has also corrected references in paragraph 3.30 and corrected typographical errors.

2017

December 2017

The SS was updated to insert the statutory reference to the Risk Transformation Regulations 2017, and include a reference to the FCA Statement.

²¹ May 2020: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/UK-ISPVs-updates-to-authorisation-and-supervision>.