



14 March 2017

## **ABI Response to FCA CP17/3: Proposed Handbook changes to reflect the new regulatory framework for Insurance Linked Securities**

### **About the ABI:**

The Association of British Insurers (ABI) is the leading trade association for insurers and providers of long-term savings. Our 250 members include most household names and specialist providers who contribute £12bn in taxes and manage investments of £1.6 trillion.

### **Comments:**

We are supportive of HM Treasury, the PRA and the FCA's attempts to create a regulatory framework to attract Insurance Linked Security (ILS) business to the UK and are broadly supportive of the Handbook changes outlined by the FCA in CP17/3.

Although supportive, we have some concerns with the Handbook amendments proposed. We believe that failure to address these concerns may risk the commercial viability of a UK-based ILS market.

### **Bringing the offering and issuing of ILS within scope of the Financial Ombudsman Service's (FOS) jurisdiction**

The Consultation Paper proposes a rule in the FCA Dispute Resolution Complaints ("DISP") sourcebook, to bring offering and issuing of ILS within the scope of the FOS jurisdiction. If the FCA implements this proposal, persons claiming to be 'eligible complainants' should prove that they have invested directly in securities issued by the ISPV before any service complaint is considered to be within FOS jurisdiction. Furthermore, firms should be able to rely on confirmation by an investor at the time of the sale that they are not eligible to complain to FOS.

We believe that any complaints are likely to be highly complex, high value and commercial in nature, which may impact the resources and technical expertise needed by the FOS.

### **New cell notification for PCCs**

As outlined in our response to CP16-34: Authorisation and supervisions of ISPVs, we believe the FCA's and PRA's joint timescales for authorisations of new cells in MISPVs are unrealistic

and would damage the competitiveness of a UK ILS market, given the launch period for most typical ILS transactions.

- The FCA and PRA proposed 10-day timescale for approval of a new cell or contract within an MISPV is not compatible with the launch period of most typical ILS transactions in jurisdictions with which the UK ILS market will be in competition. If a UK ILS market is to flourish and compete with other established ILS jurisdictions, it is essential that the UK has an equivalent approach to regulation. We do not consider that there is anything within the Solvency II requirements that requires the PRA to pre-authorise a new cell or contract, once the core MISPV has been authorised. We therefore believe that the approach of other ILS jurisdictions of a post-launch notification process should be followed.

- We question whether either regulator would have sufficient resources to pre-approve the volume of new cells and contracts that might result from a successful UK ILS market. A post-launch notification process would therefore seem more appropriate, particularly as this will not detract from the PRA's and FCA's ability to supervise MISPVs effectively. Both the FCA and PRA would retain the ability to withdraw an MISPV's authorisation should any new cell not meet all of its expectations.

- If the PRA and FCA adopt a post-notification authorisation process it will no longer be necessary for firms to submit a separate notification to the FCA at the same time as the PRA as the same time-restraints will not apply. A single, post-launch notification form to the lead regulator (the PRA) would be therefore be preferable.

### **Proposal to make ISPVs subject to requirements of SYSC 3, rather than SYSC 4-10**

We agree with the FCA view that the requirement in SYSC 4-10 should not apply to ISPVs. However we believe that the FCA should reconsider whether it is appropriate to apply all of the requirements of SYSC 3 to ISPVs given that the risk transformation undertaken by an ISPV is different from pure reinsurance. The complexity of the business of an ISPV is different as, unless it is a PCC, it may only have one reinsurance contract. Many activities within the scope of SYSC 3, for example systems and controls in relation to compliance, financial crime and money laundering will also be outsourced to external parties who are themselves likely to be authorised persons.

### **Summary**

We support attempts to create a suitable regulatory framework for ILS and look forward to future engagement with the FCA to help establish an ILS market in the UK.