

Insurance Law Committee response to PRA Consultation Paper "*Capital extractions by run-off firms within the general insurance sector*" (CP7/13)

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The CLLS responds to a variety of consultations on issues of importance to its members through its 19 specialist committees. This response in respect of PRA Consultation Paper "*Capital extractions by run-off firms within the general insurance sector*" (CP7/13) has been prepared by the CLLS Insurance Law Committee.

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1. This Consultation Paper ("CP") is a helpful expansion of the PRA's thinking and the internal procedures it applies when considering a proposal for capital extraction.
 2. For the information of stakeholders, it would be helpful if the PRA were to clarify its view of the relationship between the setting of capital and solvency requirements and its expected capital buffers above these thresholds both in the ordinary course and in applications for capital extractions. Whilst there is a clear need for a firm to update and re-examine its ICA if it proposes to extract capital during the course of a year, it is not clear why, in doing so, the firm is required to apply a more onerous process than that which the PRA requires for the annual solvency and capital assessment, for example, independent valuation of the firm's analysis of its solvency position after the proposed extraction and the adequacy of policy records etc. Provided a firm is compliant with the PRA's own requirements regarding capital and solvency, it seems that any surplus above these thresholds should be available for distribution at the discretion of the firm's management.
 3. Paragraph 2.5 of the CP states that "*capital extractions throughout the life of a run off company inevitably weaken the level of protection for policyholders*". There is no clear basis for inevitability and there are many factors which may

result in at least equivalent or increased protection of policyholders during the period of run-off notwithstanding a capital extraction, for example non-materialisation of IBNR, settlement at a figure below the reserve for a claim and purchase of reinsurance.

4. It would be helpful for the PRA to clarify expectations around the timing of communications between the firm and the PRA. Paragraph 2.8 of the CP suggests that the Board should approve a proposal for capital extraction prior to requesting PRA consent but also requires the firm to engage with the PRA at an early stage of its proposals.

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**THE CITY OF LONDON LAW SOCIETY
INSURANCE LAW COMMITTEE**

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Richard Spiller – Holman Fenwick Willan LLP (Chair)

Michelle Bramley – Freshfields Bruckhaus Deringer LLP

Robert Carr – Greenwoods Solicitors

Beth Dobson – Slaughter and May

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Ken McKenzie – DAC Beachcroft LLP

Michael Mendelowitz – Norton Rose Fulbright LLP

Terry O'Neill

Jonathan Teacher

Christian Wells – Hogan Lovells International LLP

David Wilkinson – Kennedys Law LLP

Will Reddie (secretary) – Holman Fenwick Willan LLP

The following individuals were also involved in preparing this response:

Carol-Ann Burton – Holman Fenwick Willan LLP

Nick Stern – Freshfields Bruckhaus Deringer LLP