



The following transitional Prudential Standard applies to Friendly Societies and is preserved by virtue of Regulation 33 of the Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999. This Prudential Standard was in force under section 28 of the Australian Financial Institutions Commission (AFIC) Code immediately before the transfer date.

6.4E Prudential Standard (Friendly Societies)

OVERSEAS TRADING

Objective

To protect and promote the financial integrity and efficiency of the state-based financial institutions scheme and to ensure that members of friendly society benefit funds are adequately protected from the risks that a friendly society incurs in its operations. Towards this end, to ensure that a society is not exposed to undue risk as a result of undertaking operations overseas.

General Background

International supervisors acknowledge that major problems may develop when a financial institution engages in operations in a foreign country. In particular it can be difficult for a financial institution to effectively manage and oversee the foreign operations due both to physical factors such as the remoteness from head office, different time zones (which can affect the compilation of reports showing a society's position) and cultural factors, such as differences in market practices, legal and regulatory environments.

The establishment of an overseas operation may also potentially affect the local operation if it results in a diversion of management time and effort, or of resources such as technology, accounting, audit and other controls.

SSA's will seek to ensure that the development of overseas operations is done at a measured pace, and in a way which will not stretch a society's capacity to continue to operate prudently in Australia.

Before a society can establish overseas operations it will need to obtain approval of its SSA. As well as needing to be satisfied that the society can address operational risks, an SSA will seek to ensure that the overseas operations are suitably quarantined from the society's domestic operations.

Where overseas operations are to be conducted through a subsidiary, this will generally be achieved by meeting the requirements of Prudential Standard 6.4 A. If an overseas establishment is to essentially act as a branch of the society then this would generally, at a minimum, require the establishment of a separate benefit fund.

In either case an SSA will seek to obtain an undertaking from the society that it will provide (subject to any limits imposed by overseas legislative restrictions) whatever information the SSA deems necessary to enable it to monitor the overseas operations, and that it will not object to the SSA conducting on-site examinations or other visits to the overseas operation.

The development of overseas operations can also lead to issues about the sharing of supervisory responsibility between the country of origin of the society and the host country for

the overseas operation. The level and intensity of supervision in the host country will be a relevant factor in determining the extent to which an SSA will need to monitor or even examine an overseas operation. A society will be required to give an undertaking that will enable its SSA and/or AFIC to provide information concerning the society to an overseas supervisor or regulator as required.

Where a society has existing overseas operations, it will be subject to a case-by-case review by the SSA to ensure compliance with the provisions of this Prudential Standard. Within a timeframe agreed by the SSA, the society is to provide the undertakings required by Prudential Standards 6.4.5.c, 6.4.5.d and 6.4.5.f; to provide the information required by Prudential Standard 6.4.5.e; and to satisfy the SSA of the matters set out in Prudential Standard 6.4.5.a.

Overseas Trading

6.4.5 Approval to Operate Overseas

6.4.5.a A society is to obtain approval from its SSA before it seeks to operate overseas. It is to demonstrate to the satisfaction of its SSA that:

- (i) it has adequate management and operational resources as well as control mechanisms to enable it to establish the overseas operation without any adverse impact on the domestic operations;
- (ii) the overseas operation will have adequate policies, systems and procedures in place to manage and control the risks arising from its activities;
- (iii) there are adequate reporting systems to enable the main office to monitor the overseas operation and its risk exposures;
- (iv) the overseas operation will be sufficiently distanced from the society's domestic operation, that any adverse developments in the overseas operations (eg losses) should not materially affect the society's domestic operations; and
- (v) it will be readily able to provide information that the SSA may require to monitor the overseas activity. The society is to identify any legislative or other restrictions which will affect the ability of the overseas operation to provide data to the SSA.

6.4.5.b Where a society establishes an overseas subsidiary, it will be required to meet all the requirements of Prudential Standard 6.4 A. If it establishes a branch or similar operation, unless specifically exempted by its SSA following consultation with AFIC, it will be required to maintain separate benefit funds for its domestic and overseas operations.

6.4.5.c A society establishing an overseas operation is to provide an undertaking to its SSA to provide (subject to legislative constraints) any information that the SSA may require from time-to-time to enable it to monitor the overseas operation. It is also to undertake to permit the SSA to conduct on-site examinations as well as any other form of visit to the overseas operation.

6.4.5.d A society will be required to undertake that, to the maximum extent possible under the law, it will seek to ensure that an overseas operation will comply with any directions made by an SSA.

6.4.5.e The information required by the society's SSA on an overseas operation will depend, in part, on the extent of supervision that the overseas entity is subject to. A society that wants to establish an operation overseas should provide to its SSA details on the legal framework under which it will operate, as well as the prudential supervision or regulatory arrangements (if any) it will be subject to.

6.4.5.f An SSA and/or AFIC may seek to establish a Memorandum of Understanding (MOU) with an overseas supervisor or regulator under which there is an exchange of supervisory information to facilitate the supervision of the overseas operation. A society is to undertake to allow its SSA and/or AFIC to discuss its conduct, status

and any other relevant issue with a supervisor or regulator of the overseas operation (whether pursuant to an MOU or not).