

All substantive changes are highlighted in yellow



## Prudential Standard GPS 120

### Assets in Australia

#### Objective and key requirements of this Prudential Standard

The primary purpose of this Prudential Standard is to specify certain assets that are excluded as from being treated as “assets in Australia” for the purposes of section 28 of the *Insurance Act 1973*. The assets excluded are those which may not be held by a court to fall within the definition of “assets in Australia” or which APRA considers to have doubtful or no value to policyholders in Australia in the event of a general insurer becoming insolvent.

Section 28 requires all general insurers to maintain assets in Australia (excluding goodwill and other amounts excluded by this Prudential Standard) of a value that equals or exceeds the total amount of the general insurer’s liabilities in Australia. This requirement is designed to ensure that the total value of assets held within the jurisdictional reach of APRA and the Australian courts is sufficient to meet a general insurer’s liabilities in Australia for the purposes of subsection 116(3) of the *Insurance Act 1973*.

*Prudential Standard GPS 110 Capital Adequacy* requires that a Category C insurer (as defined in *Prudential Standard GPS 001 Definitions*) operating in Australia as a branch maintain assets in Australia, in excess of its liabilities in Australia (less technical provisions in excess of those required by *Prudential Standard 310 Audit and Actuarial Reporting and Valuation*), of an amount at least equal to its Minimum Capital Requirement. For the Minimum Capital Requirement, refer to *Prudential Standard GPS 110 Capital Adequacy*.

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## Authority

1. This Prudential Standard is made under section 32 of the *Insurance Act 1973* (**the Act**) for the purposes of paragraph 28(a) of the Act.<sup>1</sup>

## Application

2. Paragraphs 9 to 21 apply to all **general insurers (insurers)** other than **Category C insurers**. Paragraphs 22 to 33 apply to Category C insurers.<sup>2</sup> The remaining paragraphs apply to all insurers.
3. This Prudential Standard applies from [*date of release of standard*] (**effective date**), **except for provisions relating to corporate agents which apply from 1 July 2008.**<sup>3</sup>
4. **Subsection 116A(1) of the Act deems certain reinsurance assets to be assets in Australia. Subsection 116A(4) of the Act also deems certain amounts owed by a person outside Australia to be assets in Australia. In the event of any inconsistency between section 116A of the Act and the provisions of this Prudential Standard, section 116A of the Act prevails.**

## Interpretation

5. **Unless otherwise defined in this Prudential Standard, expressions in bold are defined in *Prudential Standard GPS 001 Definitions*.**

6. In this Prudential Standard:

**Austraclear** means the Central Securities Depository service operated by Austraclear Limited ACN 002 060 773.

**Australian depository** means Austraclear and CHESS and any similar facility in Australia for the holding and trading of securities (whether debt or equity).

**CHESS** means the service of that name operated by CHESS Depository Nominees Pty Limited ACN 071 346 506.

**Clearstream** means the International Securities Depository Service of Clearstream International S.A., a company domiciled in Luxembourg.

**custodian** means a body corporate that holds property for another person under a contractual arrangement, but excludes a **sub-custodian or** depository.

**depository** means an Australian depository or a foreign depository.

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1 The effect of this Prudential Standard is to exclude certain amounts from being counted as assets in Australia for the purposes of section 28 of the Act. This Prudential Standard does not, however, contain an exhaustive list of the circumstances in which assets will be excluded from being assets in Australia; **e.g. the common law may exclude certain assets from being assets in Australia.**

2 For the purposes of paragraph 26, Category C insurers should also consider paragraphs 9 to 21 **The amendments to the Act relating to corporate agents commence on 1 July 2008.**

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**Euroclear** means the International Central Securities Depository service of Euroclear Bank SA/NV, a company located in Belgium.

**external custody agreement** means any custody arrangement entered into by an insurer which covers assets being held by a party other than the insurer. This includes both intra-group and fully external custody arrangements.

**foreign depository** means Euroclear, Clearstream and any similar facility outside Australia for the holding and trading of securities (whether debt or equity).

**interest in a Special Purpose Vehicle (SPV)** means:

- (a) where the SPV is a company, a share **or similar interest**; and
- (b) where the SPV is a unit trust, a unit or similar interest.

**kangaroo bond** means a debt security issued for the purposes of the Australian market where the issuer does not reside in Australia.

**locally incorporated insurer** means an insurer that is incorporated in Australia or in a State or Territory of Australia, by or under a Commonwealth, State or Territory law. This refers to **Category A insurers, Category B insurers, Category D insurers and Category E insurers.**

**managed investment scheme** has the same meaning as in the *Corporations Act 2001* (Corporations Act).

**responsible entity** has the same meaning as in the Corporations Act.

**SPV** means:

- (a) a **subsidiary** of an insurer; or
- (b) a unit trust in which an insurer has invested

where the predominant function of the subsidiary or trust is to hold an investment or investments (whether directly or indirectly) for the insurer (or for the insurer and one or more related bodies corporate of the insurer), but excludes:

- (c) a managed investment scheme; and
- (d) a trust where the entire interest of the relevant insurer as beneficiary in the trust is a **proprietary interest in a particular asset or particular assets** (rather than, **for example, a mere** interest in the due administration of the trust).<sup>4</sup>

**sub-custodian** means:

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<sup>4</sup> APRA has power under paragraph 7 to make a determination that the predominant function of a particular entity is to hold investments (whether directly or indirectly) for an insurer. Where the beneficial interest is of a proprietary nature, paragraph 20 will be relevant.

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- (a) a person to whom a custodian has contractually delegated the task of holding property for a customer of the custodian; and
- (b) a person to whom a sub-custodian of the kind referred to in paragraph (a) has contractually delegated the task of holding such property, or to whom that task has been further contractually delegated

but does not include a depository.

- 7. APRA may determine in writing, for the purposes of the definition of SPV, that the predominant function of a subsidiary or unit trust is to hold investments (whether directly or indirectly) for an insurer (or for the insurer and one or more related bodies corporate of the insurer), but a subsidiary or trust may fall within that definition even if APRA does not make such a determination.
- 8. Where this Prudential Standard refers to an asset (however described) being excluded from being an asset in Australia, an amount on an insurer's balance sheet corresponding to the asset<sup>5</sup> is taken to be so excluded for the purposes of paragraph 28(a) of the Act.

### Locally incorporated insurers

#### *Intangibles and certain other assets*

- 9. Assets that must be deducted from a locally incorporated insurer's capital base under *Prudential Standard GPS 112 Capital Adequacy: Measurement of Capital (GPS 112)* are excluded from being assets in Australia.

#### *Chattels and real property*

- 10. A chattel or real property of a locally incorporated insurer is excluded from being an asset in Australia if it is located outside Australia.

#### *Loans and amounts due (including debentures)*

- 11. Subject to subsection 116A(1) and subsection 116A(5) of the Act, an asset of a locally incorporated insurer is excluded from being an asset in Australia if:

#### *Debt assets, not being debt assets held through a depository*

- (a) the asset is a debt owed by another person (including, but not limited to, a debenture or a bond), not being an asset that is held through a depository, and:
  - (i) the debt is payable outside Australia; or
  - (ii) the debt is not recoverable in an Australian court; or

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<sup>5</sup> "Asset" as recorded by the insurer according to reporting standards issued under the *Financial Sector (Collection of Data) Act 2001 (Collection of Data Act)*. APRA monitors compliance with section 28 of the Act through completed reporting forms submitted by insurers under the *Collection of Data Act*.

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- (iii) the debtor does not reside in Australia; or
- (iv) the debtor is a foreign government or foreign government authority; or
- (v) the debt is not readily transferable in Australia; or

*Interests held on Australian depositories*

- (b) the asset is an interest held on an Australian depository, being an interest that derives from, or relates to, an underlying asset that is in the nature of a debt owed by another person, and:
  - (i) the underlying asset would be excluded from being an asset in Australia under paragraph (a) if held directly by the locally incorporated insurer (rather than through a depository); and
  - (ii) APRA has not determined in writing to waive the exclusion of the asset or a class of assets of which the asset is a member; or

*Interests held on foreign depositories*

- (c) the asset is an interest held on a foreign depository, being an interest that derives from or relates to an asset in the nature of a debt owed by another person.

12. Paragraph 11 does not exclude an interest of a locally incorporated insurer in a kangaroo bond from being an asset in Australia if all the following conditions are satisfied:

- (a) the underlying bond is owned by Austraclear's nominee and is registered on Austraclear; and
- (b) the separate register recording the Austraclear nominee's ownership of the legal interest in the underlying bond is kept in Australia; and
- (c) the bond is created by a deed poll under seal and the deed poll is kept in Australia; and
- (d) the debt under the bond is expressed to be solely payable in Australia.

*Note: If there is a custodian between Austraclear and the locally incorporated insurer, the requirements of paragraph 16 and 17 will also have to be complied with in order for the interest in a kangaroo bond not to be excluded from being an asset in Australia.*

*Shares - general*

13. An asset of a locally incorporated insurer is excluded from being an asset in Australia if:

*Shares, not being shares held through a depository*

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- (a) the asset is a share, not being a share that is held through a depository, and:
- (i) the share is not readily transferable<sup>6</sup> in Australia; or
  - (ii) the share is not recorded on a register of members kept in Australia under section 169 of the Corporations Act; or

*Interests held on Australian depositories*

- (b) the asset is an interest held on an Australian depository, being an interest that derives from, or relates to, a share (**underlying share**), and:
- (i) the underlying share would be excluded from being an asset in Australia under paragraph (a) if held directly by the locally incorporated insurer (rather than through a depository); and
  - (ii) APRA has not determined in writing to waive the exclusion of the asset or an asset of that kind; or

*Shares held on foreign depositories*

- (c) the asset is an interest held on a foreign depository, being an interest that derives from or relates to a share.

*Interests in SPVs<sup>7</sup>*

14. If:

- (a) a locally incorporated insurer holds an interest in an SPV; and
- (b) the SPV holds (whether directly or indirectly) an investment that would not be an asset in Australia if held directly by the locally incorporated insurer (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act)

then an amount *A* is excluded from being an asset in Australia, where *A* is calculated as follows:

$$A = B/C \times D$$

where:

**B** means the fair value of the investment held by the SPV that would not be an asset in Australia if held directly by the locally incorporated insurer;

**C** means the fair value of all the interests in the SPV; and

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6 “Readily transferable” does not imply that there must be a liquid market for the share. Rather, it refers to the ability to transfer the share to a willing purchaser free of any procedural or other impediment upon sale of the share.

7 Note that paragraph 19 may also apply in relation to an SPV if the SPV is a trust.

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*D* means the fair value of the interests in the SPV held by the locally incorporated insurer.

15. For the purposes of paragraph 14, APRA may determine in writing that *B* has a specified value where APRA is satisfied that application of the formula would not fairly represent the underlying value to the locally incorporated insurer of the investment held by the SPV.<sup>8</sup>

*Assets held by custodians*

16. Paragraph 17 applies where a custodian holds:
- (a) the legal title to an asset or assets on bare trust; or
  - (b) an asset or assets under an agreement of a kind determined in writing by APRA for the purposes of this paragraph.
17. An asset held by a custodian for a locally incorporated insurer is excluded from being an asset in Australia if:
- (a) the custodian does not reside in Australia or the custodian's obligation to make payments or transfer assets to the locally incorporated insurer may be performed outside Australia; or
  - (b) the locally incorporated insurer cannot enforce its rights against the custodian in an Australian court; or
  - (c) the assets of the locally incorporated insurer are not kept distinct and separate from the custodian's own assets; or
  - (d) the external custody agreement entered into between the locally incorporated insurer and the custodian is not subject to the laws of a State or Territory of Australia; or
  - (e) the external custody agreement does not provide for liability on the part of the custodian arising from the acts or omissions on the part of the custodian, its agents or sub-custodians; or
  - (f) the external custody agreement does not describe the process by which the locally incorporated insurer provides authorised instructions to the custodian; or
  - (g) the external custody agreement does not describe the process by which the custodian provides periodic reports to the locally incorporated insurer; or

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<sup>8</sup> An interest in an SPV that is a subsidiary of an insurer may also be excluded from being an asset in Australia because of the application of paragraph 13 (irrespective of whether the subsidiary is part of the insurer's Extended Licensed Entity (ELE) or holds foreign assets). Refer to *Prudential Standard GPS 114 Capital Adequacy: Investment Risk Capital Charge* for the definition of and requirements relating to ELEs. Further, an interest in an SPV that is a trust may be excluded from being an asset in Australia because of the application of paragraph 19 (irrespective of whether the trust is part of the insurer's ELE or holds foreign assets).

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- (h) the external custody agreement does not provide for flexibility as to the rights and obligations of the parties to enable them to ensure compliance in the event of any changes to APRA's **prudential requirements** or other relevant legislation; or
- (i) the asset held by the custodian would not be an asset in Australia if it were held directly by the locally incorporated insurer (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act); or
- (j) the asset held by the custodian is an interest in, or in relation to, an asset held by a sub-custodian, and the sub-custodian does not reside in Australia or the sub-custodian's obligation to make payments or transfer assets to the locally incorporated insurer may be performed outside Australia; or
- (k) the asset held by the custodian is an interest in, or in relation to, an asset held by a sub-custodian, and the asset held by the sub-custodian would not be an asset in Australia if it were held directly by the locally incorporated insurer (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act); or
- (l) the custodian has the right to suspend or delay the transfer or realisation of the asset held by the custodian pending sale of any asset outside Australia.

#### *Interests in managed investment schemes*

18. An interest of a locally incorporated insurer in a managed investment scheme is excluded from being an asset in Australia if:
- (a) the responsible entity does not reside in Australia; or
  - (b) an agent holds the property of the scheme (**scheme property**) for the responsible entity and the agent does not reside in Australia; or
  - (c) under the scheme, the responsible entity or agent has the right to suspend or delay the redemption of the unit or **investor's entitlement** pending sale of any **scheme property** outside Australia; or
  - (d) **amounts payable to the locally incorporated insurer under the scheme are payable outside Australia;**
  - (e) the locally incorporated insurer cannot enforce its rights in relation to the managed investment scheme in an Australian court.

#### *Certain interests in trusts*

19. An equitable or a beneficial interest of a locally incorporated insurer in a trust (not being an interest arising where legal title is held by a custodian or an

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interest in a managed investment scheme) is excluded from being an asset in Australia if:

- (a) the trustee **does not reside in Australia**; or
  - (b) under the trust deed, the trustee has the right to suspend or delay the redemption of a unit or trust property pending sale of any of the trust's assets outside Australia; or
  - (c) **amounts payable to the locally incorporated insurer under the trust are payable outside Australia**; or
  - (d) the locally incorporated insurer cannot enforce its rights against the trustee in an Australian court.<sup>9</sup>
20. An **equitable or beneficial** interest of a locally incorporated insurer in a trust (not being an interest arising where legal title is held by a custodian) is also excluded from being an asset in Australia if:
- (a) the interest is a proprietary interest in a particular asset or particular assets (rather than merely an interest in the due administration of the trust); and
  - (b) the asset or each asset would not be an asset in Australia if it were held directly by the locally incorporated insurer (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act).<sup>10</sup>

*Other equitable interests*

21. An equitable interest of a locally incorporated insurer in an asset (not being an equitable interest in property held under a managed investment scheme, or property held by a custodian, or property otherwise held on trust) is excluded from being an asset in Australia if:
- (a) the legal owner of the asset (**legal owner**) **does not reside in Australia**;
  - (b) **amounts payable by the legal owner to the locally incorporated insurer in respect of the arrangement are payable outside Australia**; or
  - (c) the asset would not be an asset in Australia if it were held directly by the locally incorporated insurer (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act); or

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<sup>9</sup> This paragraph may apply in relation to an SPV if the SPV is a trust (as well as applying to certain other kinds of trusts).

<sup>10</sup> This paragraph will apply where, in a practical sense, the insurer might be said to 'own' the trust property; e.g. where the insurer can request that the trustee transfer the full legal and beneficial interest in the property to the insurer. This paragraph will not apply where, for example, the insurer's rights are merely to receive investment returns, or to request the redemption of units in the trust for cash. This paragraph generally will not apply to an SPV that is a unit trust.

All substantive changes are highlighted in yellow

- (d) the locally incorporated insurer cannot enforce its rights in relation to the asset in an Australian court.

### Category C insurers

*Assets must be held by Category C insurer's custodian or agent in Australia*

22. Subject to paragraph 24, an asset of a Category C insurer is excluded from being an asset in Australia unless it is held for the Category C insurer by either:
- (a) a custodian where:
    - (i) the legal title is held a way specified in paragraph 16(a) or (b); and
    - (ii) the conditions in paragraphs 17(a) to (l) are satisfied (subject to paragraphs 35 and 36); and
    - (iii) under the external custody agreement, only the agent in Australia of the Category C insurer may give directions (either directly or via a delegated authority to another person as provided for in paragraph 25) to the custodian to authorise any disposal of assets; or
  - (b) the Category C insurer's agent in Australia (on trust for the Category C insurer).
23. Nothing in paragraph 22(a)(iii) precludes a Category C insurer from requiring a co-signatory, who need not reside in Australia, to also authorise a direction to the custodian. However, where there is a co-signatory, the requirement in paragraph 22(a)(iii) will be taken to be met only if:
- (a) the agent in Australia maintains control of the assets in Australia through being the only entity with authority to deal with the custodian directly; and
  - (b) the requirement for a co-signatory is an arrangement agreed upon between the Category C insurer and the agent in Australia; and
  - (c) the contract of custody recognises only the authority of the agent in Australia to give directions to the custodian; and
  - (d) the agent in Australia does not delegate to the co-signatory its authority to give directions to the custodian; and
  - (e) the co-signatory:
    - (i) is appointed by the Category C insurer;
    - (ii) is not a disqualified person as defined in section 25 of the Act; and
    - (iii) meets the fitness and propriety criteria for responsible persons under *Prudential Standard GPS 520 Fit and Proper*.

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24. Paragraph 22 does not apply to the following assets of a Category C insurer:
- a) real property in Australia;
  - b) receivables due to the Category C insurer provided that any receivable outstanding for more than six months from the date of inception of the relevant policy under which the receivable arises is excluded from being an asset in Australia; and
  - c) cash held in the Category C insurer's bank account in Australia provided that any withdrawal from the bank account requires authorisation by the Category C insurer's agent in Australia.
25. For the purposes of paragraphs 22 to 24 and 26 to 33, an agent in Australia may delegate authority to carry out acts for a Category C insurer to one or more persons (**delegates**) provided that every delegate:
- a) is an individual who resides in Australia;
  - b) is not a disqualified person as defined in section 25 of the Act; and
  - c) meets the fitness and propriety criteria for responsible persons under *Prudential Standard GPS 520 Fit and Proper*.<sup>11</sup>

Any reference in this Prudential Standard to authorisation by an agent in Australia includes authorisation by a delegate.

*Assets must be of a kind that would not be excluded if held by a locally incorporated insurer*

26. An asset held for a Category C insurer in accordance with paragraph 22, or held under paragraph 24 is excluded from being an asset in Australia if it would not be an asset in Australia if it were held by **or for** a locally incorporated insurer (either because it was excluded under paragraphs 9 to 21 or 34 or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act).<sup>12</sup>
27. To facilitate the operation of paragraph 26, APRA may, where appropriate, exercise any power in the provisions of this Prudential Standard relating to locally incorporated insurers, as if an asset or assets held by a custodian or agent in Australia for a Category C insurer were instead held by or for a locally incorporated insurer.

*Minimum Capital Requirement for Category C insurers*

28. As noted in *Prudential Standard GPS 110 Capital Adequacy*, Category C insurers do not typically have capital instruments of the type specified in GPS

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<sup>11</sup> This is a requirement under the Act where the agent in Australia is a corporate agent and the delegate is a director or senior manager of the corporate agent.

<sup>12</sup> This means that essentially Category C insurers are in the same position as locally incorporated insurers except they must also comply with the requirements of this Prudential Standard that apply to Category C insurers.

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112. Category C insurers are nevertheless required to meet a variant of the Minimum Capital Requirement (MCR). Specifically, Category C insurers are required to maintain assets in Australia, which exceed their liabilities in Australia<sup>13</sup> (less technical provisions in excess of those required by GPS 310) by an amount that is greater than their MCR.

29. For the purposes of meeting this requirement, APRA will use the same criteria for assessing what is an asset in Australia as is used for complying with section 28 of the Act (including the criteria in paragraphs 22 to 27 and section 116A of the Act).

#### *Repatriation of assets*

30. Any expected repatriation of net assets in Australia by a Category C insurer out of the current year profits of its branch in Australia is excluded from being an asset in Australia.<sup>14</sup>

#### *Asset revaluation reserves*

31. An amount referred to in paragraph (a) or (b) is excluded from being an asset in Australia:

- (a) 55 per cent of pre-tax revaluation reserves of each of the following:<sup>15</sup>
- (i) property not held at fair value; and
  - (ii) investments of the Category C insurer in subsidiaries not held at fair value, other than subsidiaries that APRA deems part of an Extended Licensed Entity (ELE) (refer to *Prudential Standard GPS 114 Capital Adequacy: Investment Risk Capital Charge*)

(the amount recognised must be net of any fair value gains and losses and any gains or losses on hedges offsetting revaluations included in reserves); and

- (b) 55 per cent of the post-acquisition reserves of the Category C insurer's associates,<sup>16</sup> which includes, under equity accounting, the Category C insurer's share of undistributed profits, plus any share of asset revaluations in associates or any other revaluation of investments in

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13 In this context, "liabilities in Australia" are those:

- (a) within the meaning of subsections 116A(2) and (3) of the Act;
- (b) that would be a liability located in Australia under the common law; and
- (c) within the meaning of subsection 116A(4) of the Act that are, by operation of paragraph (a) or (b) of this footnote, a liability in Australia.

14 Such expected repatriations are akin to expected dividends out of the current year profits of a locally incorporated insurer.

15 This amount includes cumulative unrealised gains or losses on effective cash flow hedges. Where a revaluation is calculated net of hedges, the amount of hedges concerned must be excluded from assets in Australia, that is, the gains or losses on hedges must be deducted from or added back to assets in Australia.

16 "Associates" is a reference to associates as defined in the Australian Accounting Standards issued by the Australian Accounting Standards Board and is to be read as also applying to joint ventures.

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associates (the amount recognised must be net of fair value gains and losses and any gains or losses on hedges offsetting revaluations of investments in associates included in reserves)<sup>17</sup>

is excluded from being an asset in Australia.

32. An asset held under an agreement between a Category C insurer and a corporate agent is excluded from being an asset in Australia if the corporate agent engages in any business or commercial activity other than activities in its capacity as agent in Australia unless:

a) that activity is necessary or reasonably incidental to the corporate agent's activities as agent in Australia; or

b) that activity has been approved by APRA in writing.

33. APRA may give approval under paragraph 32(b) if satisfied that the corporate agent's conduct of that business or activity will not prejudice the efficient and proper discharge of the corporate agent's duties as an agent in Australia .

### Provisions applying to all insurers

#### *Other cases of foreign assets held through intermediate entities*

34. Where:

(a) but for this paragraph, an asset would be treated as an asset in Australia of an insurer; and

(b) that asset relates to an interest (**underlying interest**) which is held through one or more interposed entities (including, without limitation, trusts or companies, or a combination thereof); and

(c) the underlying interest would not be an asset in Australia (either because it was excluded under some other part of this Prudential Standard or because it would not otherwise be an asset in Australia within the meaning of paragraph 28(a) of the Act) if the underlying interest were held directly by the insurer (or, in the case of a Category C insurer, if held directly by the Category C insurer's custodian or agent in Australia)

then APRA may, having regard to the risk that the proceeds of the underlying interest may not be available in a winding up of the insurer in Australia, determine in writing that the amount is excluded from being an asset in Australia.

### Transition

35. Where an insurer has in place external custody agreements that:

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<sup>17</sup> This amount includes cumulative unrealised gains or losses on effective cash flow hedges. Where a revaluation is calculated net of hedges, the amount of hedges concerned must be excluded from assets in Australia, that is, the gains or losses on hedges must be deducted from or added back to assets in Australia.

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(a) pre-date the effective date of this Prudential Standard; and

(b) cannot be varied without undue difficulty,

it may apply to APRA to have these agreements treated as complying with paragraphs 17 (a) or (j). APRA may grant approval in writing in respect of such an application and may subject the approval to conditions.

36. Any transitional relief granted under *Prudential Standard GPS 120 Assets in Australia* made on 25 September 2006 continues in effect until the date of expiry specified in the relief.