



**10 August 2016**

**To: All private health insurers and other interested parties**

**Consultation on streamlining the process for varying restricted access groups**

### **Background and objectives**

On 1 July 2015, APRA assumed responsibility for the *Private Health Insurance (Registration) Rules 2015* (the Registration Rules). APRA is now seeking feedback on a proposal to streamline the content of the Registration Rules and provide guidance on the process by which an insurer can vary its restricted access group in the future.

Recently, APRA wrote to industry outlining the private health insurance prudential policy outlook.<sup>1</sup> That letter noted that operational amendments to rules may be necessary to ensure that the prudential framework operates as intended. The proposal outlined in this letter is one such operational amendment.

The Registration Rules perform two roles:

- they set out a number of matters relating to restricted access insurers, primarily to accommodate the existing restricted access groups of a number of insurers when the *Private Health Insurance Act 2007* (the PHI Act) came into effect<sup>2</sup>; and
- they set out criteria for applications for registration.

The proposals in Part A of this letter relate to the first of the roles and apply only to the 10 restricted access insurers. The objective is to simplify and clarify the process by which an insurer can vary its restricted access group.

The proposals in Part B of this letter relate to the second of the roles and are relevant to prospective private health insurer registrants. The objective is to clarify a number of provisions of the Registration Rules, to ensure that their operation is clear.

### **Part A - proposals relevant to restricted access insurers**

An insurer is responsible for its own financial soundness and compliance with relevant legislative requirements. APRA's view is that restricted access insurers should be able to update their restricted access groups providing they can demonstrate that the change is

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<sup>1</sup> Refer to letter from Geoff Summerhayes dated 4 August 2016.

<sup>2</sup> For example, many restricted access insurers permitted their own employees and contractors to be insured and many restricted access insurers had developed a practice of permitting various "extended family" members (other than partners and dependent children) to take up policies. These extensions would not be permissible under the PHI(PS) Act without the allowances set out in the Registration Rules.

compliant and the prudential implications have been assessed and are appropriately managed.

In particular, restricted access groups must demonstrate that they are compliant with:

- the definition of a restricted access group in section 15(4) of the *Private Health Insurance (Prudential Supervision) Act 2015* (the PHI(PS) Act);
- the requirements set out in the Registration Rules; and
- the principles of community rating and improper discrimination as set out in the PHI Act.

The PHI(PS) Act does not prescribe a process for varying a restricted access group<sup>3</sup>. Preliminary feedback received by APRA suggests that insurers would like guidance on how to engage with APRA about proposed changes to restricted access groups and what APRA requires to:

- ensure that the APRA website accurately reflects the current restricted access group of each insurer; and
- assess the prudential implications of the proposed change.

#### *Draft process for future changes*

APRA agrees that guidance would be appropriate. The following draft proposal is intended to form the basis for clear and consistent guidance which APRA will develop in consultation with the industry. The key steps are:

1. the insurer forms its own view, taking advice if necessary, on the compliance and risk aspects of the variation;
2. the insurer informs APRA of the proposal;
3. depending on the complexity of the variation, the information provided to APRA would typically include:
  - an explanation of the reason for the proposed change;
  - an explanation of how the proposed change aligns with the insurer's business strategy;
  - a summary of the changes to the Funds Rules and/or Constitution;
  - an explanation of how compliance with the legislative framework<sup>4</sup> is achieved;
  - a summary of the proposed timeline for the change;
  - an analysis of changes to the risk profile of the fund; and

<sup>3</sup> Refer to section 19 of the PHI(PS) Act.

<sup>4</sup> As set out in section 15(4) of the PHI(PS) Act; the Registration Rules and sections 55-5 and 66-1 of the PHI Act relating to community rating.

- an analysis of how financial and policy holder impacts are to be managed.
4. APRA consults with the Department of Health on compliance with the PHI Act and reviews the material for legislative compliance and prudential implications;
  5. APRA reverts to the insurer for more information or informs the insurer there are no objections to the change;
  6. After being notified that APRA has no objections, the insurer may:
    - take the necessary steps to implement the change in its Rules and/or Constitution;
    - update the entry on the Rules Application and Processing System administered by the Department of Health; and
    - provide APRA with details of the specific changes required to the insurer entry on the APRA website and the date the change comes into effect.
  7. APRA then implements the change to the register of private health insurers on its website.

### *Changes to the Registration Rules*

In order to give effect to the streamlined process proposed above, changes are necessary to the parts of the Registration Rules that relate to restricted access insurers. The current Registration Rules contain a Schedule which sets out the restricted access group of each restricted access insurer. This structure means that each time a restricted access group is changed, the Registration Rules have to be amended.

APRA proposes to amend the Registration Rules by deleting the Schedule.

APRA also proposes to amend the Registration Rules by replacing rule 5 with a new rule 7 that provides restricted access insurers the option to extend coverage<sup>5</sup> to a particular group of people referred to in rule 7 (a), (b), (c), (d), (e), (f) and (g).

This removes the need for insurers to seek an exemption if they do not offer cover any of the additional classes of people permitted by the Registration Rules<sup>6</sup>. Insurers have the discretion to cover a narrower restricted access group, but they may not have a group that would breach the PHI(PS) Act<sup>7</sup>.

The draft Registration Rules also delete the reference to the partners and dependent children of the principal insured as this extension is contained in the PHI(PS) Act<sup>8</sup> and is therefore not necessary in the Rules.

This proposal will simplify and expedite the process for insurers to change their restricted access groups, and give the Registration Rules more longevity by not requiring frequent

<sup>5</sup> Beyond section 15(4) of the PHI(PS) Act

<sup>6</sup> Such as contractors to the insurer or siblings, grandchildren and parents of existing policy holders.

<sup>7</sup> The effect of the present wording of rule 5(h) of the Registration Rules is that all extensions to the restricted access groups applies to all insurers unless explicitly stated otherwise.

<sup>8</sup> Refer to section 15(4) of the PHI(PS) Act.

updates to change insurer details. The proposal does not change the eligibility criteria or the obligations of insurers under the Registration Rules.

### **Part B - proposals relevant to prospective private health insurer registrants**

In addition to setting out requirements in relation to restricted access insurers, the Registration Rules set out criteria for registration as a private health insurer.

APRA has also taken the opportunity to clarify the Rules, to ensure that their operation is clear. In particular, to clarify that:

- an applicant must be able to comply with the obligations imposed on private health insurers by both the PHI(PS) Act and the PHI Act as a criteria for registration under the newly numbered Rule 6; and
- if an insurer describes its restricted access group in either its constitution or fund rules, it may only specify one restricted access group.

### **Next steps**

APRA expects these proposals to improve outcomes for private health insurers and therefore does not expect them to be controversial. If you consider that your insurer will not be able to operate in the same way as under the current arrangements please contact APRA as that is not the intended outcome.

APRA invites comments from all stakeholders on this proposal. Written submissions should be forwarded by 5 October 2016, preferably by email, to:

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Yours sincerely



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