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PROPOSED REVISIONS TO PRUDENTIAL STANDARD SPS 250 INSURANCE IN SUPER

Thank you for the opportunity to provide feedback on the proposed changes to SPS 250.

AIA Australia (which includes Commlnsure Life) is supportive of APRA's work to address the recommendations of the Royal Commission, as well as ensure insurance in superannuation is operating in the best interests of members. Many of the measures proposed in SPS 250 are in the process of being implemented by industry already.

Our feedback focuses on those areas where we believe APRA may wish to consider further clarity, either through amended drafting in SPS 250, or in the associated Practice Guide.

1. Independent certification

The requirement at paragraph 24 for licensees to obtain "*independent certification*" does not clarify who can provide the independent certification. Paragraph 27 regarding the review of the insurance management framework refers to "*operationally independent, appropriately trained and competent persons.*" APRA may wish to adopt a similar approach to the proposed certification in paragraph 24.

Paragraph 24 could also be restructured for greater ease of understanding, as proposed below:

Where an insurance arrangement, or any other arrangement in relation to the provision of group insurance, entered into by an RSE licensee is with a related party insurer or gives priority or privilege to an insurer, the licensee must obtain certification from operationally independent, appropriately trained and competent persons. The certification must confirm that the arrangement:

- (a) is in the best interests of the beneficiaries; and*
- (b) otherwise satisfies all applicable legal and regulatory requirements.*

The requirement to certify that an arrangement "*satisfies all applicable legal and regulatory requirements*" is very broad. There are a wide range of legal obligations which can apply, not all of which could appropriately be addressed in the independent certification. We submit that this aspect requires further guidance to assist a party providing the required certification to understand what they should be turning their mind toward, perhaps even identifying the specific legal requirements that the certification should address.

APRA has noted that it would particularly welcome feedback on aspects of insurance arrangements that may give "priority or privilege" to an insurer. There is no definition or explanation as to what "priority or privilege"

means in the context of a group insurance arrangement. Taking the words of paragraph 24(d) on their ordinary meaning, we assume that “priority or privilege” means only where the trustee does not undertake a tender process when appointing or re-appointing an insurer or in circumstances where one insurer may not have to satisfy the same tender requirements as another insurer. However, where the trustee does undertake a tender process, then we would not expect this issue to be triggered. We also would not expect APRA to view as a “priority or privilege” a situation in which a contract between a trustee and insurer gives the insurer a right to review the policy terms in negotiation with the trustee, whereby if the parties cannot reach agreement then the trustee has the right to test the market.

We query the need for a “priority or privilege” test in any event. With reference to *Recommendation 4.14 – Additional scrutiny for related party engagements* in the Royal Commission Final Report (Volume 1), the relevant recommendation is directed to related parties rather than insurance arrangements that may give “priority or privilege” to an insurer.

However, if APRA elects to retain this section then an example of the insurance arrangement that paragraph 24(d) is targeting would be beneficial (in either SPS 250 or the associated Practice Guide) as its meaning is not known.

2. Right to terminate the insurance arrangement

Paragraph 18(n) allows RSE licensees to terminate the insurance arrangement should an independent certification be negative. This would potentially allow a licensee to terminate during a rate guarantee period (as independent certifications need to be provided every two years where an insurance arrangement is for a term of three years or more).

In many cases, rate guarantees apply for three years; three years is also the period for the review of the insurance management framework under paragraph 27. It is suggested that a consistent approach in line with industry practice would be practical:

If an insurance arrangement is for a term exceeding three years, the certification must be provided to APRA at least every three years.

APRA has requested details about the compliance impact of the proposed changes. In this instance, if certifications were required to be provided every two years, insurers would need to make provision for the risk that a licensee could terminate during a rate guarantee period; for example, by pricing for this potential outcome as part of the premium structure over the term of the contract, or limiting the term of the rate guarantee to two years. This could have the effect of increasing the upfront premiums to account for this uncertainty or could result in a ‘balloon’ payment as penalty for early termination within the rate guarantee, but would ultimately have an upward impact on premiums.

3. Fair and reasonable status attribution

Paragraph 19 requires any status attributed to a beneficiary to be fair and reasonable. The extent of this requirement needs further clarity, possibly through the associated Practice Guide.

We believe this is only intended to apply to statuses that are attributed by a trustee by default; for example, a member being defaulted to smoker status unless the member tells the trustee otherwise. In support of this view, we refer to the associated commentary on page 331 of the final report of the Royal Commission:


“Trustees must be required to make proper arrangements about the premiums that will be charged to default members. That can be achieved by APRA amending SPS 250 to require that any status attributed to default members (such as ‘blue-collar’, ‘smoker’, or other status affecting the premium to be charged for insurance) is fair and reasonable.”

We recommend that the Practice Guide make it clear that the “*fair and reasonable*” requirement applies only to statuses attributed by default by the trustee, to members who don’t otherwise choose their status.

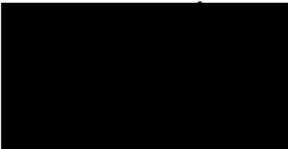
An insurer will attribute statuses such as age and gender to members, which we do not believe this requirement is intended to pick up. Furthermore, in the case of determining premium discounts available on insurance products, an insurer may consider a range of factors associated with the member’s “status” such as age,

gender, sum insured, insurance type, premium type or engagement in associated wellbeing programs. Paragraph 19 is clearly not intended to capture this data.

We further recommend that the Practice Guide make it clear that “*status*” is referring specifically to occupation class and type, and smoker status only. In the alternative, APRA may wish to provide more detail around what “*status*” does and does not capture.



Yours sincerely



CEO and Managing Director, Australia and New Zealand