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Proposed revisions to Prudential Standard SPS 250 Insurance in Superannuation

I refer to APRA's letter to superannuation trustees of 25 November 2019, in which APRA proposes modifications to *Superannuation Prudential Standard SPS 250 Insurance in Superannuation* (the **Standard**) and invites submissions on the proposed modifications.

MetLife Insurance Limited (**MetLife**) is a specialist provider of life insurance to advisers, superannuation funds and employers in Australia.

We are currently the third largest issuer of group life insurance in Australia, protecting some 2.6 million people.

[REDACTED]

Yours sincerely

[REDACTED]

Chief Executive Officer

MetLife Submission to APRA regarding proposed revisions to SPS 250

MetLife welcomes APRA's proposed revisions to the Standard which will introduce more rigour into the market for group life insurance in superannuation. We do have some concerns in relation to striking the right balance between ensuring that life insurance is in the best interests of members and ensuring that the market for life insurance remains competitive and sustainable. Our detailed comments are set out below.

Status attribution

We support the proposed change in paragraph 19 in relation to attribution of status being fair and reasonable, as this reflects existing fiduciary duties. We also believe that status attribution should be transparent to members and suggest this be reflected in the Standard.

Data requirements

APRA proposes that paragraph 14 of the Standard be amended to stipulate that a trustee must maintain records of sufficient detail to comply with its obligations under the prudential framework.

It would be helpful for insurance purposes if trustees could provide claims-related data beyond the five years that is currently stipulated in the Standard.

It would also be helpful if trustees could retain records in relation to withdrawn claims and other data points recommended by the Australian Securities and Investments Commission (**ASIC**) in its recent Report 633 dealing with TPD claims, and to make this data available to insurers.

We therefore recommend that paragraph 14 of the Standard be amended to:

- (a) extend the timeframe for claims records to be kept from five years to 10 years; and
- (b) require trustees to have record keeping arrangements in relation to withdrawn claims that meet ASIC's expectations and to make those records available to insurers on a regular basis.

Independent certification

Paragraph 24 provides that the trustee must obtain independent certification in relation to certain matters. We note that insurers have ongoing prudential requirements designed to support the ability of insurers to pay claims many years into the future. There is a natural tension between the requirement that insurance arrangements be in the best interests of members and the policy principle that life insurance is sustainable in the long term. There should be recognition that a best interests certificate can make allowance for market conditions and the ability to obtain insurance terms that are consistent with insurers' risk appetites.

In relation to the requirement that the trustee should obtain certification that the insurance arrangements are "in the best interests of the beneficiaries", we anticipate a practical difficulty in that consultants may not be able to express a view on this matter, which is properly in the domain of the trustee. For example, a law firm may be able to provide a view that the terms of the insurance policy are not inconsistent with the best interests of members when viewed from a legal perspective, but the law firm will not be able to opine on the pricing of the policy. Conversely, an actuary will be able to form a view on the appropriateness of the pricing of the policy, but will not be able to provide legal advice on the terms of the policy. Only the trustee can form a view on whether the proposed policy is overall in the best interests of members, taking into account independent advice. We therefore suggest that 24(a) is worded in such a way that consultants are able to opine that the proposed arrangement "is not inconsistent with the best interests of members" or similar.

It would also be helpful if APRA could provide guidance on what actions the trustee may take if such a certification is not forthcoming. For example, if the trustee has conducted a competitive tender and yet is not able to obtain the certification, should it maintain the existing insurance arrangement?

We have a number of specific comments in relation to the drafting of proposed revisions which are set out below.

- APRA has proposed a new paragraph 18(n) which provides that insurance policies contain a term that the policy will be terminated if an independent certification is 'negative'. In practice, nearly all group insurance policies contain a general termination provision which may be exercised by the trustee at any time during the term of the policy. If the policy contains a general termination right, the provision proposed by APRA would be redundant. We therefore suggest that 18(n) be amended as show below:

“the RSE licensee's right to terminate the insurance arrangement, should an independent certification received under paragraph 24(5) be negative, *unless the insurance arrangement includes a general right for the RSE licensee to terminate the arrangement*”

- In relation to paragraphs 24(c) and (d), we recommend that APRA clarify the intent of the wording of paragraph (d) and what giving 'a priority or privilege' means. It is not clear whether this is intended to capture all group insurance contracts or only those that grant a special priority or privilege which puts the insurer in effectively the same position as a related party insurer. Some examples may assist in this regard.
- In relation to paragraph 25(a) and the requirement that the certification be obtained prior to “entering into a new insurance arrangement” we recommend that this be amended to “prior to the commencement of a new insurance arrangement”. This change would allow trustees and insurers to enter into contractual arrangements which would only commence after the certification has been obtained.

Transitional arrangements

The drafting of the transitional arrangements is not ideally clear. Our interpretation of them is as follows:

- If an insurance arrangement is entered into:
 - Prior to the registration date (expected to be 1 July 2020) and with a term expected to extend after 1 January 2021, the trustee must use reasonable endeavours to ensure that the arrangement contains a termination provision consistent with paragraph 18. In this instance, the trustee must obtain an independent certification on a biennial basis if the term of the policy exceeds three years, in other words, a certification must be obtained by 1 January 2023;
 - On and from the registration date but prior to 1 January 2021, the new insurance arrangement must contain a termination provision consistent with paragraph 18. The trustee must obtain an independent certification by 1 January 2023, if the term of the policy equals or exceeds three years;
 - From 1 January 2021, the trustee must obtain independent certification prior to entering into the new arrangement and on a biennial basis thereafter, if the term of the policy equals or exceeds three years.

It would be helpful if APRA provides guidance on how the transitional arrangement are intended to operate.

Life Prudential Practice Guide LPG 270 Group Insurance Arrangements (LPG 270)

APRA states in its letter that it will consult on a revised proposes to amend Superannuation Prudential Practice Guide SPG 250 Insurance in Superannuation in the first quarter of . We recommend that APRA also consider whether LPG 270 needs to be amended.