

COURT ENFORCEABLE UNDERTAKING
Insurance Act 1973 (Cth)
Section 126

This court enforceable undertaking (**CEU**) is given by:

Allianz Australia Insurance Limited (ACN 000 122 850) of 2 Market Street, Sydney, New South Wales 2000 **(Allianz AU)**

AND IS ACCEPTED BY:

Australian Prudential Regulation Authority **(APRA)**
of 1 Martin Place, Sydney, New South Wales 2000

UNDER SECTION 126 of the *Insurance Act 1973 (Cth)* (the **Act**).

A copy of section 126 of the Act is set out in Schedule 1 of this CEU.

In addition to terms defined elsewhere in this CEU, capitalised terms are defined in Schedule 2 of this CEU.

RECITALS

- A. APRA is the prudential regulator of the Australian financial services industry.
- B. Allianz AU is authorised to conduct an insurance business in Australia and is regulated by APRA. Allianz SE is the ultimate parent company of Allianz AU.
- C. APRA has been investigating, and engaging with Allianz AU on past weaknesses in Allianz AU's risk culture, risk governance, and risk management which APRA views as persistent and serious.
- D. A number of these issues were considered as part of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (**Royal Commission**).
- E. This CEU has been accepted by APRA as a means of ensuring that Allianz AU and its offshore parent company Allianz SE acknowledge the seriousness of Allianz AU's past risk and compliance weaknesses, and to ensure that Allianz AU's Transformation Programs succeed and are fully implemented into Allianz AU's business.

BACKGROUND

APRA

1. Under section 126 of the Act, APRA may accept a written undertaking given by a person in connection with a matter in relation to which APRA has a power or function under the Act.
2. Under section 38 of the Act, the functions of APRA include:
 - a. collecting and analysing information on prudential matters concerning general insurers;

- b. encouraging and promoting the carrying out of sound practices in relation to prudential matters by general insurers; and
 - c. evaluating the effectiveness and carrying out of those practices.
3. Pursuant to section 3(1) of the Act, prudential matters include matters relating to the conduct of any part of the affairs of a general insurer with integrity, prudence, and professional skill.
4. Under section 32 of the Act, APRA has the power to determine Prudential Standards relating to prudential matters that general insurers like Allianz AU must comply with.

Allianz AU

5. Allianz AU has been authorised under the Act to carry on an insurance business in Australia since 2002. Allianz AU is a subsidiary of Allianz SE.
6. Allianz AU is one of the largest general insurers in Australia.
7. As a general insurer, Allianz AU must comply with the Act and the Prudential Standards.

Concerns with Allianz AU

8. APRA has been engaging with Allianz AU on weaknesses in its risk culture, risk governance, and its risk management since at least 2016.
9. In August 2019, following the submission of Allianz AU's Risk Governance Self-Assessment (**RGSA**), APRA applied an additional \$250 million capital requirement to Allianz AU to reflect the risk governance issues identified in the RGSA.
10. Some of APRA's concerns were reflected in the Royal Commission's case study into Allianz AU in 2018 which were subsequently the subject of breach notifications to APRA in 2019.
11. In its final report dated 4 February 2019, the Royal Commission concluded that:
 - a. prior to the commencement of Allianz AU's Risk Maturity and Compliance Transformation Program, Allianz AU's compliance systems were not adequate to meet the requirements of Prudential Standard CPS 220 – Risk Management;
 - b. Allianz AU had inadequate processes for monitoring and closing compliance incidents once they had been identified;
 - c. Allianz AU had inadequate processes for monitoring the content of its own website, and the websites of other companies that distributed its products;
 - d. Allianz AU was not taking its compliance obligations seriously or prioritising those obligations, particularly in relation to remedial action necessary after a compliance incident had been identified; and
 - e. Allianz AU sought to influence the content of external audit and consultant reports identifying weaknesses in its compliance and risk management frameworks, as opposed to addressing the issues identified.

ACKNOWLEDGMENT OF APRA'S CONCERNS

12. APRA is concerned, and Allianz AU acknowledges, that until 2018:
 - a. there were serious and persistent weaknesses in Allianz AU's risk management framework (**RMF**) (including its compliance function, processes, and systems), governance, and risk culture;
 - b. Allianz AU did not sufficiently identify and prioritise the resourcing of its risk and compliance function, systems, and processes in that respect;
 - c. there was a tendency for Allianz AU to take a legalistic and narrow view of compliance, which allowed deficiencies to persist despite APRA's engagement with Allianz AU on these issues;
 - d. Allianz AU had inadequate oversight and monitoring of certain of its outsourced providers which resulted in breaches of APRA's Prudential Standard CPS 231 – Outsourcing;
 - e. Allianz AU had inadequate processes to escalate and address compliance incidents and breaches; and
 - f. as a result of the weaknesses referred to in paragraph (a) above, there was a lack of awareness, and therefore lack of acknowledgement, from Allianz AU's Board and Senior Managers of these abovementioned failings.
13. Allianz SE:
 - a. acknowledges the concerns of APRA with regard to Allianz AU, as set out in paragraph 12 above; and
 - b. recognises that it did not meet APRA's expectations for robust oversight by an offshore parent of an APRA-regulated Australian insurance subsidiary.
14. Based on its frequent engagement with Allianz AU on these issues over the past two years, APRA has observed that Allianz AU and Allianz SE have recognised the need for genuine reform and are taking these concerns seriously. This has been reflected in:
 - a. wholesale changes to the personnel comprising Allianz AU's Board and Senior Management;
 - b. Allianz SE's support provided to Allianz AU's efforts to address the above issues, including the Chief Executive Officer of Allianz SE temporarily taking responsibility relating to Allianz AU within Allianz SE's board of management;
 - c. the commencement of, significant investment and progress in, implementing Transformation Programs, including the Risk Maturity and Compliance Transformation Program and the Conduct and Culture Transformation Program;
 - d. the elevation of, and significant investment in, Allianz AU's risk management, compliance, and corporate governance and conduct functions.
15. Allianz AU's progress in these areas underpinned APRA's decision in December 2020 to reduce the \$250 million additional capital requirement applied to Allianz AU to \$150 million (**Remaining Supervisory Adjustment**). Nevertheless, in APRA's view, the

effective implementation of the Transformation Programs, and the sustainability of their outcomes, will be integral to determining when the removal of the Remaining Supervisory Adjustment is appropriate.

16. APRA therefore accepts this CEU as a means of ensuring that Allianz SE and Allianz AU acknowledge the seriousness of Allianz AU's past risk and compliance weaknesses, and to ensure that Allianz AU's Transformation Programs succeed and become fully implemented into Allianz AU's business.

UNDERTAKINGS

17. Under section 126 of the Act:

- a. Allianz AU undertakes to complete the Transformation Programs within the timeframe(s) to be agreed with APRA. The timeframes must be agreed with APRA by 19 March 2021.
- b. Allianz AU undertakes to assign a Responsible Person(s) to be accountable for the successful completion of the Transformation Programs, and advise APRA accordingly.
- c. Following completion of each of the Transformation Programs, Allianz AU undertakes to provide to APRA written confirmation from the Board of Allianz AU that all components of the Transformation Programs have been fully completed.
- d. Allianz AU undertakes to appoint an Independent Reviewer to provide a written report to APRA and Allianz AU by 31 December 2021 outlining whether the outcomes of the Risk Maturity and Compliance Transformation Program are Operationally Effective and what further work Allianz AU may need to do to ensure that the outcomes are Operationally Effective (**Compliance Assessment**).
- e. Allianz AU undertakes to appoint an Independent Reviewer to provide a written report to APRA and Allianz AU by 31 August 2021 and 31 March 2022 on:
 - i. whether the Conduct and Culture Transformation Program has been Embedded; and
 - ii. what further work Allianz AU may need to do to ensure that the Conduct and Culture Transformation Program is Embedded,

(**Conduct and Culture Assessments**).

- f. Allianz AU undertakes not to seek to alter or influence the findings of the Compliance Assessment or the Conduct and Culture Assessment and instead undertakes to provide any comments jointly to APRA and the Independent Reviewer(s) on the contents and findings of the Assessments within one month of those Assessments being received.
- g. Allianz AU undertakes to complete any further work identified by the Independent Reviewer(s) and/or otherwise agreed with APRA to ensure that the outcomes of the Risk Maturity and Compliance Transformation Program are Operationally Effective and that the outcomes of the Conduct and Culture Transformation Program are Embedded. Allianz AU undertakes to complete any further work required under this paragraph within reasonable timeframe(s) to be agreed with APRA.

- h. Allianz AU undertakes to provide written reports which are confirmed and signed by the Relevant Responsible Person to APRA and the Independent Reviewer(s) as and when requested by APRA on the progress of the Transformation Programs and/or on the further work being undertaken on the Transformation Programs.
- i. Allianz AU undertakes to adequately consider and give significant weight to whether (i) the Risk Maturity and Compliance Transformation Program is complete and Operationally Effective; and (ii) the Conduct and Culture Transformation Program is complete and Embedded when determining the ongoing suitability of, and Variable Remuneration for, Responsible Persons (and other staff as relevant).

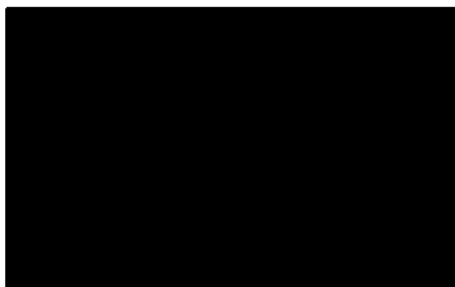
ACKNOWLEDGEMENTS

18. In giving the undertakings outlined in this CEU, Allianz AU acknowledges that:
- a. This CEU has no operative force until accepted by APRA and the date of commencement of this CEU is the date it is accepted by APRA.
 - b. This CEU is governed by the laws of the Commonwealth of Australia and each party agrees to submit to the exclusive jurisdiction of the Federal Court of Australia with respect to any matter in relation to this CEU.
 - c. This CEU does not affect APRA's power to take any other action necessary and arising from the circumstances set out in this CEU or any other circumstances regarding Allianz AU.
 - d. Upon any breach of the terms of this CEU, APRA may take regulatory action as it considers appropriate in the circumstances, including enforcement action under section 126 of the Act and other regulatory responses.
 - e. This CEU is given voluntarily and that Allianz AU has obtained legal advice in relation to its obligations under, and the effect of, this CEU.
 - f. This CEU in no way derogates from the rights and remedies available to any other person or entity arising from any conduct described in this CEU or arising from any other conduct.
 - g. APRA:
 - i. may from time to time refer publicly to this CEU;
 - ii. will make this CEU public and may publish it on APRA's website at <https://www.apra.gov.au/>; and
 - iii. will issue a media release on, and refer publicly to, the CEU referring to its terms and the reasons why APRA accepted the CEU.
 - h. If any part of this CEU is held invalid that such part shall be severed from this CEU and the remainder of this CEU will continue to be valid and enforceable.
 - i. The references to provisions of Commonwealth Acts of Parliament in this CEU shall include references to those provisions as amended from time to time and in the event of a repeal of any of them, any equivalent provision from time to time.

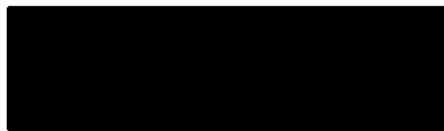
- j. For the purposes of this CEU, any correspondence may be sent to:
 - i. Allianz AU at 2 Market Street, Sydney, New South Wales 2000 and/or to the email of the Company Secretary; and
 - ii. APRA's office at Level 12, 1 Martin Place, Sydney, NSW 2000, to the email of the Executive Director of the Insurance Division of APRA and/or to the email of the General Manager of Insurance Branch 1.
- k. This CEU may be varied pursuant to section 126(2) of the Act. Any such variation must be made in writing and authorised by an APRA General Manager or above.

EXECUTION & ACCEPTANCE

Executed by **Allianz Australia Insurance Limited**)
 (**ACN 000 122 850**) in accordance with section 127)
 of the *Corporations Act 2001* (Cth))



Paula Dwyer
 Chairman



Katie Newton-John
 Company Secretary

Accepted by the **Australian Prudential**)
Regulation Authority under section 126 of the Act)
 by its delegate)



John Lonsdale
 Deputy Chair

Dated: 9/3/2021 .

SCHEDULE 1 - SECTION 126 OF THE INSURANCE ACT 1973 (CTH)

Section 126 Acceptance and enforcement of undertakings

- (1) APRA may accept a written undertaking given by a person in connection with a matter in relation to which APRA has a function or power under this Act.
- (2) The person may withdraw or vary the undertaking at any time, but only with APRA's consent.
- (3) If APRA considers that the person who gave the undertaking has breached any of its terms, APRA may apply to the Federal Court for an order under subsection (4).
- (4) If the Federal Court is satisfied that the person has breached a term of the undertaking, the Federal Court may make all or any of the following orders:
 - (a) an order directing the person to comply with that term of the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the Federal Court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the Federal Court considers appropriate.

SCHEDULE 2 - INTERPRETATION

For the purposes of this CEU:

Conduct and Culture Transformation Program means the program of work being undertaken by Allianz AU to remediate deficiencies identified following the submission of its RGSA.

Embedded means, in relation to the Conduct and Culture Transformation Program:

- a. all changes made by the Conduct and Culture Transformation Program to meet the Management and/or Board approved program outcomes have been implemented and operate as part of normal business operations;
- b. an accountable business owner has been appointed in relation to each implemented change under the Conduct and Culture Transformation Program;
- c. on-going assurance plans have been outlined by Allianz AU in relation to each implemented change under the Conduct and Culture Transformation Program and these plans will involve Allianz AU regularly assessing whether the changes remain fit for purpose.

Independent Reviewer means a person or persons with expertise to report on the matters required by paragraphs 17.d and/or 17.e of this CEU.

Operationally Effective means the extent to which the changes made by the Risk Maturity and Compliance Transformation Program:

- a. have been implemented and are meeting their defined criteria;
- b. are adequate for the size, business mix and complexity of Allianz AU's operation; and
- c. address the root causes of the weaknesses identified in paragraph 12 of this CEU.

Prudential Standard means a standard determined by APRA under section 32 of the Act.

Relevant Responsible Person means the Responsible Person nominated by Allianz AU under paragraph 17.b. of this CEU.

Responsible Person means a director or Senior Manager of Allianz AU.

Risk Maturity and Compliance Transformation Program means the program of work conducted by Allianz AU since late 2017 aimed at promoting a culture of integrity and compliance and preventing and detecting violations of laws and regulations.

Senior Manager means a person within the meaning of paragraph 25 of Prudential Standard CPS 520 – Fit and Proper.

Transformation Programs mean the Risk Maturity and Compliance Transformation Program and the Conduct and Culture Transformation Program.

Variable Remuneration means the proportion of total remuneration that is conditional on the achievement of objectives.