



Guidelines

Guidelines on Authorisation of Non-Operating Holding Companies of General Insurers

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Contents

Objectives	4
Background	4
Authorisation criteria for NOHCs	5
Ownership	5
Governance	6
Capital	6
Risk management systems	6
Compliance	6
Information and accounting systems	7
Supervision by home supervisor	7
Intra-group transactions	7
Application procedures	7
Preliminary consultation	7
Information required to be submitted on application	8
Submission of application	8
Processing and notification	8
Attachment A – Activities of a non-operating holding company of a general insurer	9
Attachment B – Extract from the Insurance Act 1973 on Authorisation	10
Attachment C – Supporting information required for an application to be authorised as a non-operating holding company	12

Objectives

1. These Guidelines apply to applicants seeking to be authorised as a non-operating holding company (NOHC) of an insurance company or insurance companies under the *Insurance Act 1973* (the Act). They outline APRA's authorisation process for NOHCs, the minimum criteria to be addressed by applicants and the necessary information and documents to be submitted with an application.
2. Where a subsidiary of the applicant is also applying for an authority to carry on insurance business in Australia under the Act, reference should also be made to the "Guidelines on Authorisation of General Insurers" on www.apra.gov.au.
3. APRA's authorisation process, as with its approach to supervision, is consultative and each applicant is assigned a responsible supervisor who is the main contact for the entity on all APRA-related matters.
4. Where an applicant (and/or its subsidiary insurance companies) does not have an existing operation in Australia, it is expected to build its resources and establish its functions during the authorisation process, so that it is ready to commence activity when it is granted authorisation.
5. The application process involves the following steps:
 - (a) preliminary consultation between APRA and the prospective applicant to discuss the applicant's business plans in Australia. This discussion will assist in agreeing on the format and content required in an application, and also in identifying any matters which might adversely affect the proposal;
 - (b) submission of a draft application and relevant information, as detailed in these authorisation guidelines, along with any applicable fee; and
 - (c) APRA's review of the application. This will normally include meetings with senior officers and other responsible persons, and may involve on-site prudential reviews.
6. Generally, the overall licensing process could take from 12 - 18 months. This may depend on the complexity of the proposed business, and whether a related application for an authority to carry on insurance business is being assessed at the same time.
7. Some common factors that can delay the authorisation process include:
 - (a) an initial application which contains incomplete or inadequate documentation;
 - (b) an entity being unable or unwilling to comply with APRA's requirements; and
 - (c) delays in responding to APRA's requirements and requests.
8. APRA encourages all prospective applicants to contact it as early as possible during their planning process to discuss their intent (or likely intent) to apply for an authorisation.

Background

9. These guidelines apply to an applicant seeking to be authorised as a NOHC of a general insurer or subsidiary general insurers under section 18 of the Act. They set down the minimum criteria to be addressed by an applicant and necessary information and documents to be submitted with an application.
10. NOHCs must be incorporated in Australia, and must not carry on a business (other than a business consisting of the ownership or control of other bodies corporate).¹ Attachment A sets out APRA's expectations on the activities that a NOHC may and may not conduct. Attachment B provides an extract from the Act relating to authorisation of NOHCs.

¹ Refer section 3 of the Act.

11. A body corporate seeking to be authorised as a NOHC should apply in writing to APRA in accordance with the Act.² An application should be signed by two directors of the applicant.
12. Where a general insurer will be a subsidiary of a NOHC that does not hold a NOHC authority under the Act, APRA expects that the NOHC will apply to be authorised. For new applicants for an authority to carry on insurance business, APRA normally expects that the application for a NOHC authority will be submitted concurrently with the application to be authorised as a general insurer.
15. APRA expects all NOHC applicants to be able to comply with all of its regulatory and prudential requirements, as set out in the Act and prudential standards (including new requirements which may be introduced or amended from time to time), from the commencement of authorisation in Australia and continuously thereafter. Prospective applicants should familiarise themselves with these requirements and be able to demonstrate to APRA adequate compliance processes and systems.³ It should be noted that more prudent or stringent prudential requirements may be set on a case-by-case basis.

Authorisation Criteria for NOHCs

13. Unless otherwise indicated, the authorisation criteria set out below are applicable to all NOHC applicants (whether Australian or foreign-owned). These criteria represent the minimum requirements that an applicant will need to meet for authorisation under the Act and are not intended to represent an exhaustive list. APRA may refuse an application on other prudential grounds not covered in these guidelines or impose additional requirements taking into account the circumstances of the particular applicant.
14. For the protection of policyholder interests, APRA will authorise only those applicants which have the capacity and commitment to be long-term investors in an insurance business, and to ensure that business in subsidiary companies is conducted on a continuing basis with integrity, prudence and professional skill.

16. Where relevant and current documentation has otherwise been provided to APRA (e.g. as part of a concurrent application to be authorised as a general insurer), the application may refer to this material.

Ownership

17. Ownership of NOHCs is governed by the *Financial Sector (Shareholdings) Act 1998* (FSSA). This generally limits the interests of an individual shareholder or group of associated shareholders in a NOHC to 15 percent of the NOHC's voting shares. A higher percentage limit may be approved by the Treasurer on national interest grounds.
18. An applicant must obtain approval under the FSSA where the 15 percent limit will be exceeded.

² Refer section 18 of the Act (attached).

³ Currently, the only prudential standards applying to NOHCs are *Prudential Standard GPS 510 Governance* and *Prudential Standard GPS 520 Fit and Proper*. APRA is developing a framework for the prudential supervision of corporate groups that include one or more Australian authorised general insurers. It is expected that this will expand the range of prudential standards applying to NOHCs and to corporate groups that include insurers.

19. The substantial shareholders of an applicant are required to demonstrate to APRA that they are well-established and financially sound entities or individuals of standing and substance. APRA may seek comparable information in relation to substantial indirect shareholders, where this appears relevant. APRA requires substantial shareholders to be able to demonstrate that their involvement in the NOHC will be a long-term commitment and that they will be able and willing to contribute additional capital, if required. Where there are a number of substantial shareholders, the applicant should discuss with APRA how these requirements should be met.

Governance

20. An applicant must satisfy the requirements set out in *Prudential Standard GPS 510 Governance* with regard to the composition and functioning of its board. The directors and senior management must also satisfy APRA that they are fit and proper to hold the key positions within the NOHC, in accordance with *Prudential Standard GPS 520 Fit and Proper*.
21. APRA may consult other regulators (domestic and overseas) regarding the suitability of personnel for the proposed NOHC. Where required by any relevant regulators, applicants will be expected to provide APRA with the authority to seek details in this regard.

Capital

22. A NOHC applicant must demonstrate to APRA's satisfaction that it is a shareholder of substantial worth and commitment. In particular, the NOHC should be able to demonstrate that it will be in a position to ensure its subsidiary general insurer will be able to meet the capital requirements under *Prudential Standard GPS 110 Capital Adequacy* at all times.

Risk Management Systems

23. An applicant must satisfy APRA that its proposed (or existing) risk management and control framework is adequate and appropriate to monitor and limit risk exposures in relation to the domestic and, where relevant, offshore operations of the NOHC and its subsidiaries. This includes, in particular, the development, implementation and maintenance of policies and procedures at a group level to effectively monitor, manage and report on:
 - (a) balance sheet and market risk;
 - (b) credit risk;
 - (c) operational risk (including in relation to outsourcing and business continuity management)
 - (d) insurance risk;
 - (e) risks arising out of reinsurance arrangements;
 - (f) concentration risks, including risk type, counterparty, geographical, and industry concentration risks which may arise as a result of any of the above-listed risk categories;
 - (g) strategic and tactical risks that arise out of their business plan; and
 - (h) capital management risks.

This includes arrangements for reporting both to the board and to any parent entity.

24. An applicant must satisfy APRA on the adequacy of its internal audit arrangements.

Compliance

25. An applicant must satisfy APRA that its processes and systems will ensure compliance with:
 - (a) APRA's prudential standards;
 - (b) other Australian regulatory and legal requirements; and
 - (c) foreign regulatory requirements where applicable.

26. In assessing whether the compliance processes and systems are appropriate to the applicant's operations, APRA will have regard to the size, nature and complexity of those operations.

Information and Accounting Systems

27. An applicant must satisfy APRA that its information and accounting systems are adequate for maintaining up-to-date records of all business undertaken, so as to keep management continuously and accurately informed of the insurer's condition and the risks to which it is exposed.
28. In assessing the overall adequacy of the information and accounting systems, APRA will have regard to the integrity and security of the systems and arrangements for business continuity management. Outsourcing of material data processing must satisfy APRA's outsourcing requirements.

Supervision by Home Supervisor

29. A foreign-owned applicant whose parent company is prudentially regulated in its home jurisdiction must demonstrate that any necessary consent from the home supervisor for the establishment of a NOHC in Australia has been received. The home supervisor will also need to confirm that the prudentially regulated parent company is of good financial standing.

Intra-group Transactions

30. A NOHC should have policies addressing how intra-group transactions should be conducted. Generally, APRA expects that any transactions between the NOHC and related parties will be at arm's length.

31. The NOHC and other entities within the corporate group will be permitted to share the same premises. In addition, joint functional support services, such as personnel and financial control will be permitted, although clear arrangements for accountability and oversight must exist. *Prudential Standard GPS 231 Outsourcing* sets out the minimum prudential requirements in relation to outsourcing affecting a subsidiary authorised general insurer, including with related parties.

Application Procedures

Preliminary Consultation

32. Prospective applicants for authorisation as a NOHC in Australia are encouraged to contact APRA to discuss their plans and indicative timing prior to submitting an application. This assists APRA in identifying any matters that might affect the proposal and to advise on the format and content required of an application. APRA will review and comment on well-developed drafts of an application. Submission of drafts in electronic format is encouraged.
33. APRA is funded by levies payable by authorised institutions and applies charges for certain functions, including applications for authorisation. Any application fee would need to be paid when the draft application is first lodged with APRA. The fee would not be refundable unless a special circumstance applies. The current applicable fees and levies can be found on the [APRA website](#).

Information Required to be Submitted on Application

34. A list of information and supporting documents required to be submitted by an applicant on application for a NOHC authority is set out in Attachment C. If there is any material change to the information and documents provided, before the applicant has been notified of a decision on the application, the applicant should notify APRA in writing as soon as practicable.
35. APRA may seek additional information from an applicant as is necessary to assess the application. This will include discussions with relevant responsible persons and may also include on-site prudential reviews.
39. An authority may be granted to take effect when signed or from some nominated date. APRA may also grant an authority which is subject to conditions and may impose, vary or revoke conditions on an authority thereafter.
40. Applicants granted an authority as a NOHC will be notified in writing. A notice will also be published in the *Gazette*. APRA may also publish these details by other means. All applicants granted an authority as a NOHC will be listed on APRA's website in the list of authorised NOHCs. Any conditions placed on an authority will similarly be published on APRA's website.

Submission of Application

36. Two copies of the final application, with at least one signed by two directors of the applicant, including all the required information and supporting documents (as appropriate) should be submitted to APRA. Submission of the second copy in electronic format is encouraged.

Processing and Notification

37. All applications will be processed within a reasonable time, having regard to the particular circumstances of each application, including the accuracy and completeness of information and documents submitted to APRA by the applicant.
38. Approval of the application may be contingent on other relevant approvals being granted. For example, this may include approvals under the FSSA, and the *Foreign Acquisitions and Takeovers Act 1975*.

Attachment A – Activities of a Non-Operating Holding Company of a General Insurer

The following is derived from Chapter 4 of APRA's "Response Paper: Prudential Supervision of General Insurance Groups", 4 October 2006.

The operations of the authorised NOHC heading a consolidated insurance group are expected to be limited to:

- providing executive leadership across the consolidated insurance group;
- holding investments in subsidiaries;
- holding properties used by consolidated insurance group members;
- raising funds to invest in, or to provide support to, subsidiaries;
- raising funds to conduct its own limited activities;
- investing funds (i.e. surplus capital) on behalf of the consolidated insurance group;
- conducting the financial activities required for its own limited functions; and
- providing administrative, risk management and financial services to support the operation of the consolidated insurance group (subject to statutory or prudential restrictions).

In addition, an authorised NOHC would not be permitted to:

- trade in financial instruments (other than for hedging purposes for itself and the consolidated insurance group, and managing its costs of capital and funding);
- engage in general insurance or reinsurance activities;
- guarantee the obligations of corporate group entities outside the consolidated insurance group without the approval of APRA;
- utilise its investments in subsidiaries as security without the approval of APRA; or
- conduct any other business not ancillary to its core role as holding company for investments in consolidated insurance group companies.

Attachment B – Extract from the Insurance Act 1973 on Authorisation

Division 4—Authorisation to be a NOHC of a general insurer

18 Authorisation to be a NOHC

- (1) A body corporate may apply in writing to APRA for an authorisation (a *NOHC authorisation*) under this section. The authorisation operates as an authorisation in relation to the body corporate and any general insurers that are subsidiaries of the body corporate from time to time.

Note 1: The body corporate may want the authority because APRA may refuse to grant a subsidiary of the body corporate a section 12 authorisation unless the body corporate holds a NOHC authorisation (see subsection 12(3)).

Note 2: The body corporate may also need to consider the implications of the *Foreign Acquisitions and Takeovers Act 1975*, the *Financial Sector (Shareholdings) Act 1998* and the *Insurance Acquisitions and Takeovers Act 1991*.

- (2) APRA may require the body corporate to provide a statutory declaration in relation to information or documents provided in relation to the application.
- (3) APRA may authorise an applicant if it considers it is appropriate to do so. The authorisation must be in writing.
- (4) If APRA authorises an applicant, APRA must:
- (a) give written notice to the applicant; and
 - (b) ensure that notice of the authorisation is published in the *Gazette*.
- (5) The taking of an action is not invalid merely because of a failure to comply with subsection (4).

- (6) Part VI applies to a refusal of APRA to authorise an applicant under this section.

19 Conditions on a NOHC authorisation

- (1) APRA may, at any time, by giving written notice to an authorised NOHC:
- (a) impose conditions, or additional conditions, on the NOHC authorisation; and
 - (b) vary or revoke conditions imposed on the NOHC authorisation.
- The conditions must relate to prudential matters.
- (2) A condition may be expressed to have effect despite anything in the prudential standards.
- (3) If APRA imposes, varies or revokes the conditions on a NOHC authorisation, APRA must:
- (a) give written notice to the authorised NOHC; and
 - (b) ensure that notice of the imposition, variation or revocation of the conditions is published in the *Gazette*.
- (4) The taking of an action is not invalid merely because of a failure to comply with subsection (3).

20 Breach of conditions on a NOHC authorisation

- (1) An authorised NOHC commits an offence if:
- (a) the NOHC does an act or fails to do an act; and
 - (b) doing the act or failing to do the act results in a contravention of a condition of the NOHC authorisation; and
 - (c) there is no determination in force under subsection 7(1) that this subsection does not apply to the NOHC.
- Maximum penalty: 300 penalty units.

(1A) If an individual:

- (a) commits an offence against subsection (1) because of Part 2.4 of the *Criminal Code*; or
- (b) commits an offence under Part 2.4 of the *Criminal Code* in relation to an offence against subsection (1);

he or she is punishable, on conviction, by a fine not exceeding 60 penalty units.

(2) An offence against this section is an offence of strict liability.

Note 1: For *strict liability*, see section 6.1 of the *Criminal Code*.

Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note that provisions relating to the revocation of an authority are in sections 21 and 22 of the Act.

Attachment C – Supporting information required for an application to be authorised as a non-operating holding company

Some of the information requested below may have already been provided to APRA as part of the authorisation application for another regulated entity within the same corporate group. Where this information is the same, the NOHC application may simply refer to that other information.

1. Ownership, Board and Management

- (a) Name of the applicant and date and place of incorporation.
- (b) The address of the registered office and operational office.
- (c) A brief history of the applicant and an outline of existing operations (where relevant).
- (d) Names of substantial shareholders (direct and ultimate) and their respective shareholdings and details of any related entities in Australia.
- (e) Board and committee structure, including names of directors, their principal business associations and curricula vitae, statements regarding the fitness and propriety of the directors, and charters of the board and relevant committees (refer *Prudential Standard GPS 510 Governance* and *Prudential Standard GPS 520 Fit and Proper*).
- (f) An outline of the proposed organisational framework, including the names, responsibilities and curricula vitae of senior management and statements regarding their fitness and propriety (refer *Prudential Standard GPS 510 Governance* and *Prudential Standard GPS 520 Fit and Proper*).
- (g) Proposed initial capital (including amount and composition) of the NOHC (calculated in accordance with *Prudential Standard GPS 110 Capital Adequacy*).

- (h) Information necessary to demonstrate the standing and substance of any substantial shareholders. This should include information about their history, operations, shareholders and directors, balance sheet, profit and loss, and off-balance sheet business data (see also section 6 below).
- (i) A written undertaking by substantial shareholders (including any foreign parents) to provide additional capital, if required, and to confirm that their investment in the NOHC represents a long-term commitment.

2. Three-Year Business Plan

The business plan submitted should incorporate the goals of the first three years of operations of the applicant on a stand alone basis, and also of the applicant and its corporate group. This should include both subsidiaries that are or will be APRA regulated, and other businesses. The business plan should include a description of the NOHC's approach to capital management. This would include levels of target capital and the actions that would be taken if capital falls below these levels. A clear description of how the NOHC would access additional capital or modify its growth plans to deal with such a situation is required.

The business plan should include:

Structure of the Business

- (a) an outline of the proposed business of the NOHC and its group;
- (b) an outline of the nature and scale of services to be provided at group level for other parts of the organisation, and between group entities, and any plans to outsource operations;
- (c) details of proposed activities of the NOHC itself (including funding, lending, and off-balance sheet activities);
- (d) if relevant, the proposed date for commencement of operations; and

Financial Projections

- (e) projections (including sensitivity analysis⁴) of the NOHC and group for the following:
- (i) balance sheet (showing both tangible and intangible components), off-balance sheet business, cash flow and earnings;
 - (ii) key financial and (if applicable) prudential ratios for the applicant; and
 - (iii) key financial and (if applicable) prudential ratios for the applicant and its subsidiaries on a consolidated basis.

Whilst group projections are expected to build on the detailed projections prepared for regulated subsidiaries, the extent to which financial information and stress testing is incorporated for other activities should be commensurate with the materiality of these other activities.

3. Risk and Information Management

- (a) Details of the risk management systems and procedures to be used to monitor and control risks in relation to the operations of the NOHC and of the group as a whole, including:
- (i) means of identifying, controlling, managing, monitoring and reporting risks and compliance issues up to group level (including both insurance and other activities);
 - (ii) a risk profile of the entity and its subsidiaries including quantification of risk(s) types which group members are exposed to;
 - (iii) sources of risk contagion (e.g. financial and operational interdependence, badging and product distribution arrangements, sharing of premises and services, risk profile of related entities) or strength across the group, and mechanisms in place to monitor and contain the former;
 - (iv) policies on concentrations of risk (e.g. counterparty, geographic, industrial, business line) across the group;

- (v) policy on loans and other exposures to, and other dealings with, related entities, shareholders, directors and associated interests, including:
 - policies on exposures and other dealings between entities within the group;
 - policies on support for members of the group;
 - policies and methodologies by which capital requirements and gearing levels are determined, concentrations of capital within individual entities, and any restrictions on transferability of capital within the group;⁵
 - (vi) details of group information and accounting systems (including any outsourcing of data processing and other back office functions);
 - (vii) evidence that, from the commencement of operations, information and other systems will be capable of producing all required statutory accounts and reporting forms in an accurate and timely manner;
 - (viii) details of outsourcing policy and arrangements;
 - (ix) arrangements for business continuity management (including disaster recovery) plans relating to activities at group level;
 - (x) policies setting out fit and proper requirements, and other selection policies (e.g. independence, board renewal) for directors and senior management of the NOHC and subsidiaries. This would normally be expected to be the same as that applicable to any regulated subsidiaries (Refer *Prudential Standard GPS 510 Governance* and *Prudential Standard GPS 520 Fit and Proper*).
- (b) Details of internal and external audit arrangements.

⁴ The expected assumptions would be those that the applicant sees as appropriate for the business. Other projections should be on the basis of an adverse move in one of the material assumptions and an adverse move in two of the material assumptions. APRA would also expect to see that up side and down side scenarios have been analysed for each significant major assumption.

⁵ This should consider the impact of tax on the capital position.

4. Subsidiaries and Associates

- (a) Details of existing or proposed subsidiaries and associates, including details of their boards and senior management (and their associations with the NOHC), the nature and scale of their business, financial ratings, and their proposed business relationship with the proposed NOHC. This can be illustrated with a structure chart.
- (b) Details of the involvement of other regulatory agencies (excluding ASIC). This should include an outline of regulatory requirements and details of any material legal or regulatory actions outstanding or pending (at the time of application) involving the subsidiary or associate.
- (c) Details of any plans to transfer assets from subsidiaries and associates to the proposed NOHC.
- (d) Details of investments, finance and other support provided by the NOHC and between subsidiaries to identify levels of exposure within the group. This should include details of off-balance sheet activities.

5. Other

- (a) A certificate of incorporation of the applicant.
- (b) Certified copies of the constitution.
- (c) An auditor's certificate verifying the level of capital of the applicant.

6. NOHCs which are part of a corporate group or joint venture

Where the applicant is a subsidiary of another corporation or is a joint venture, the parent(s) should provide:

- (a) a brief history and an outline of their operations, substantial shareholders (direct and ultimate) and directors (including principal business associations);
- (b) balance sheet, profit and loss and off-balance sheet business data for the last three years (plus any available current year data);
- (c) an outline of the reporting lines proposed from the applicant to its parents;

- (d) an undertaking to co-operate in the supervision of the applicant, including the provision of information required by APRA to supervise the applicant;
- (e) an undertaking to keep APRA informed of any significant developments adversely affecting its financial soundness and/or reputation globally, and to provide promptly to APRA copies of its published financial accounts and any significant media releases (with translations where appropriate);
- (f) if a parent is foreign, an outline of any prudential supervision arrangements to which it is subject in its home country; and
- (g) a statement from any foreign parent's home supervisor that:
 - (i) the foreign parent is of good financial standing and has the supervisor's consent to apply for an authority to operate a NOHC in Australia; and
 - (ii) the supervisor is willing to co-operate with APRA where necessary in the supervision of the applicant.

7. Prudential Supervision by APRA

- (a) A written undertaking by the applicant to:
 - (i) adhere to APRA's prudential requirements at all times;
 - (ii) consult and be guided by APRA on prudential matters, including in respect of new business initiatives; and
 - (iii) provide APRA with any information which may be required for prudential supervision of itself (and its consolidated group).
- (b) For a foreign-owned applicant, an acknowledgement by the applicant that APRA may discuss the applicant's conduct and status with its parent and its parent's home supervisor(s).
- (c) A written undertaking by the applicant to consult with APRA prior to the establishment or acquisition of additional businesses, either domestically or overseas.



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