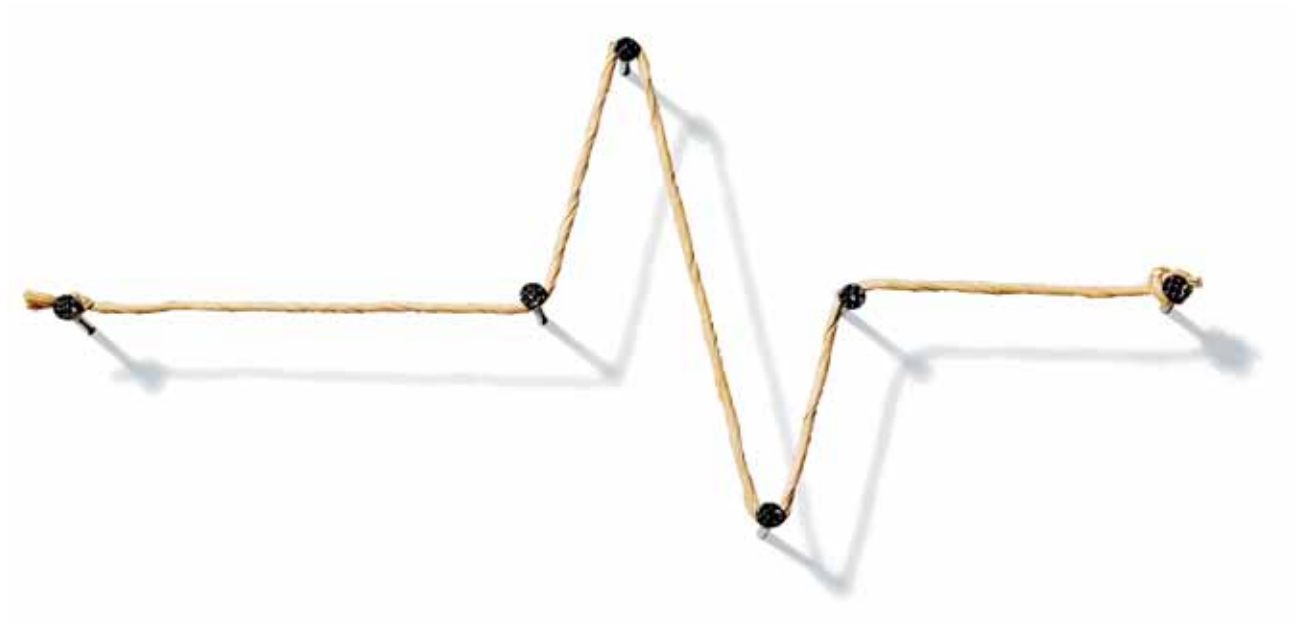




Guidelines

Guidelines on registration of life companies

27 May 2010



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Objectives

1. These guidelines apply to applicants seeking to register to carry on life insurance business in Australia under the *Life Insurance Act 1995* (the Act). They outline APRA's registration process for life companies including the minimum criteria to be addressed by applicants and the information and documents required to be submitted with an application.
2. Where a non-operating holding company (NOHC) of the applicant is also applying to be registered as a NOHC under the Act, reference should also be made to the 'Guidelines on registration of non-operating holding companies of life companies' on www.apra.gov.au.
3. Where an applicant seeks to be registered as a Friendly Society under the Act, reference should also be made to the additional requirements outlined in Part 2A of the Act. These will need to be addressed in addition to the requirements outlined in these guidelines.
4. APRA's registration process, as with its approach to supervision, is consultative and each applicant is assigned a responsible supervisor who is the main contact for the applicant on all APRA-related matters.
5. Where an applicant does not have current business operations in Australia, it is expected to build its resources and establish its core operations during the registration process, so that it is ready to commence writing life insurance business when it is registered.
6. The application involves the following steps:
 - (a) preliminary consultation between APRA and the prospective applicant to discuss the applicant's plans to carry on life insurance business in Australia. This discussion will assist in clarifying what matters need to be addressed 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 registration guidelines, along with the applicable fee; and
 - (c) APRA's review of the application. This will normally include meetings with senior officers and other responsible persons, as well as on-site reviews of facilities and systems proposed to be used by the applicant in carrying on its life insurance business in Australia.
7. A life company must appoint an actuary under s93 of the Act (the appointed actuary). APRA would expect the proposed appointed actuary to play a major role in the application. This includes involvement in the development of the business plans, review of the terms and conditions of life insurance policies to be issued by the company, and advice on the appropriateness of the proposed reinsurance arrangements.
8. Generally, the overall licensing process could take from 12 - 18 months. This will vary, for instance, depending on the complexity of the proposed arrangements and the extent to which the applicant can base its operations on an existing, well-established and sound business model (e.g. a model drawn from existing arrangements in another part of a corporate group).
9. Some common factors that can delay the registration process include:
 - (a) an initial application which contains incomplete or inadequate documentation;
 - (b) an applicant being unable or unwilling to comply with APRA's requirements (for example, being unable to raise the required level of capital); and
 - (c) delays in responding to APRA's requirements and requests.

10. APRA encourages all prospective applicants to contact it as early as possible during their planning process to outline and discuss their proposals. This should facilitate the orderly and prompt assessment of any later application for registration.

Background

11. These guidelines apply to an applicant seeking to register to carry on life insurance business in Australia. They set down the minimum criteria to be addressed by an applicant and detail the information and documents required to be submitted with an application. An extract from the Act relating to registration is at Attachment A.

12. Life insurance business is conducted through one or more statutory funds of a life company. Each fund must be created in the records of the life company so as to be separately identifiable from the shareholders fund. Part 4 of the Act deals with the requirements relating to statutory funds including, amongst other things, the company's duties in respect to each fund, restrictions on their operations, requirements in relation to financial accounting, the holding of capital and distribution of surplus. Each statutory fund is effectively a supervised entity in its own right and is subject to its own capital adequacy and solvency requirements. In addition there are management capital requirements applicable to the operation of the shareholders fund.

13. Division 2 of Part 4 of the Act places a specific duty on directors of a life company. In the event of a conflict of interest between policy owners and shareholders the directors must take reasonable care, and use due diligence, to see that the company gives priority to the interest of owners and prospective owners of those policies over the interests of shareholders.

14. 'Life insurance business' consists of the business of issuing life policies, the undertaking of liability under such policies and any business that relates to this business. There are some specified exemptions for particular types of business.¹ In addition APRA may declare certain business to be life insurance business under sections 12A and 12B of the Act. Under section 234, a life company must not intentionally carry on any insurance business other than life insurance business. Therefore an applicant needs to ensure that all its insurance business meets the definition of life insurance business or else obtain a suitable declaration from APRA. A company, other than a friendly society, registered to carry on life insurance business in Australia is referred to as a 'life company'.

15. The Act only allows life insurance business in Australia to be carried on by a company. Therefore, the Australian Prudential Regulation Authority (APRA) cannot consider applications from partnerships or unincorporated entities. Prospective applicants may refer to the Australian Securities & Investments Commission (ASIC) web site (www.asic.gov.au) for information on the requirements and procedures for registration of a company in Australia.

16. A foreign-incorporated applicant may seek to establish a locally incorporated subsidiary to carry on life insurance business in Australia. Alternatively, a foreign-incorporated life company may, if it is from a jurisdiction covered by the *Life Insurance Regulations 1995*² (the regulations), seek to operate in Australia through a branch as an Eligible Foreign Life Insurance Company (EFLIC). An EFLIC must maintain a Compliance Committee and the requirements on its composition, operation and duties and responsibilities are set out in Attachment B of Prudential Standard LPS 510 Governance. There are no special restrictions on the number, size or mix of operations of foreign-owned subsidiaries or EFLIC's operating in the Australian market.

¹ For details of exemptions refer to subsection 11(3) of the Act. Note that Life Policy is defined in s9 of the Act.

² Currently restricted to a body corporate incorporated in and authorised to conduct life insurance business in the United States of America.

17. Foreign-owned subsidiaries and EFLIC's are subject to similar legislative and prudential requirements to Australian-owned and incorporated life companies. The prime responsibility for oversight of the Australian operations of an EFLIC rests with its local management and Compliance Committee. While a foreign life company's home regulators will play a role in supervising the EFLIC, to protect the interests of Australian policyowners, an EFLIC is required to maintain statutory funds in relation to its life insurance business in Australia and have its local operations subject to APRA's prudential supervision.
18. A body corporate seeking registration to carry on life insurance business in Australia should apply in writing to APRA in accordance with the Act.³ An application should be signed by two directors of the applicant.
19. Where an applicant will be a subsidiary of a non-operating holding company (NOHC) that is not registered as a NOHC under the Act, APRA expects that the NOHC will apply to be registered. APRA also expects that the application for a NOHC registration will be submitted concurrently with the application for registration of the applicant as a life company.
20. Unless otherwise indicated, the registration criteria set out below are applicable to all applicants, including mutually owned applicants and foreign-incorporated applicants intending to establish EFLIC's or subsidiaries in Australia. These criteria represent the minimum requirements that an applicant will need to meet for registration under the Act and are not intended to represent an exhaustive list. APRA may refuse a registration on other prudential grounds not covered in these guidelines or impose additional requirements taking into account the circumstances of the particular applicant.
21. For the protection of policyowner interests, APRA will register only those applicants which have the capacity and commitment to conduct life insurance business on a continuing basis, with integrity, prudence and professional skill.
22. APRA expects all applicants to be able to comply with all of its prudential requirements, as set out in the Act, regulations, prudential rules and prudential standards, from the commencement of the applicant's life insurance business 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. A brief summary of the current prudential framework applying to life companies is included at Attachment B. Applicants should note that more prudent or stringent prudential requirements may be set on a case-by-case basis, e.g. for newly registered life companies in their formative years, or those specialising in particular business lines.
23. As examples, additional requirements of the kind referred to in the above paragraphs may include conditions which limit the range of business of the life company. Alternatively adjustments may be made to a life company's solvency, capital adequacy, risk management or governance requirements to take into account the special circumstances of that company.
24. Where documentation is being concurrently provided to APRA under another application been provided to APRA (e.g. as part of a concurrent application by a NOHC for registration under the Act), the application may refer to this material.

Registration criteria for life companies

3 Refer section 20 of the Act (attached).

Ownership

25. Ownership of life companies is governed by the *Financial Sector (Shareholdings) Act 1998* (FSSA). This limits the interests of an individual shareholder or group of associated shareholders in a life company to 15 per cent of the life company's voting shares, unless a higher percentage limit is approved by the Treasurer on national interest grounds.
26. An applicant must obtain approval under the FSSA where the 15 per cent limit will be exceeded.
27. 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 and such persons may be in a position to influence the affairs of the life company. APRA requires substantial shareholders to be able to demonstrate that their involvement in the life company 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 might be met.

Governance

28. An applicant must satisfy the requirements set out in *Prudential Standard LPS 510 Governance* with regard to the composition and functioning of its Board or Compliance Committee. The directors or compliance committee members and senior management must also satisfy APRA that they are fit and proper, in accordance with *Prudential Standard LPS 520 Fit and Proper*.

29. APRA may consult other regulators (domestic and overseas) regarding the suitability of personnel for the proposed life company. Where required by any relevant regulator, applicants will be expected to provide APRA with the authority to seek details in this regard.
30. An applicant must also appoint an auditor and actuary in accordance with the requirements of the Act.⁴ These experts must perform the duties set out in *Prudential Standard LPS 310 Audit and Related Matters* and *LPS 320 Actuarial and Related Matters*.

Capital and assets

31. Registered life companies are required to have in place sufficient capital to meet the minimum capital requirements under *Prudential Standard PS3 Prudential Capital Requirement* and *Prudential Standard LPS 6.03 Management Capital Standard* at all times. In addition each statutory fund will need sufficient assets (in excess of liabilities) to meet the requirements of *Prudential Standard LPS 2.04 Solvency Standard* and *Prudential Standard LPS 3.04 Capital Adequacy Standard* at all times.
32. APRA will assess the adequacy of start-up capital for an applicant on a case-by-case basis having regard to the size, business mix, complexity and risk profile of the business operations proposed in the business plan. However, APRA will not consider applications where the start-up capital or required assets for a statutory fund are less than the minimum required under the standards referred to in the preceding paragraph or are likely to fall below these levels in the future. APRA expects life companies to maintain a reasonable buffer above these minima. The appropriate scale of this buffer will be discussed with the applicant.

⁴ Refer Part 6 of the Act, *Prudential Standard LPS 310 Audit and Related Matters*, and *Prudential Standard LPS 320 Actuarial and Related Matters*.

Risk management framework

33. 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 life company from the commencement of operations (refer *Prudential Standard LPS 220 Risk Management*). This includes, in particular, the development, implementation and maintenance of policies and procedures to effectively monitor, manage and report on all material risks including, at the minimum:
- (a) asset and liability management risk;
 - (b) operational risk (requirements for outsourcing and business continuity management are set out in *Prudential Standard LPS 231 Outsourcing* and *Prudential Standard LPS 232 Business Continuity Management*);
 - (c) life insurance risk, including risk arising out of reinsurance arrangements (refer also to *Prudential Standard LPS 320 Actuarial and Related Matters* and *LPS 230 Reinsurance*); and
 - (d) strategic and tactical risks that arise out of the life company's business plan.
34. These arrangements must comply with *Prudential Standard LPS 220 Risk Management*, and be incorporated into a written business plan (which must be reviewed by the life company at least annually) and a documented Risk Management Strategy (RMS) that describes the key elements of the risk management framework, supporting policies and procedures and clearly defined managerial responsibilities and controls. LPS 220 sets out the approach APRA will use to assess the appropriateness, adequacy and effectiveness of an applicant's policies and procedures proposed for identifying, managing and monitoring risk.
35. An applicant is required to satisfy APRA on the adequacy of its internal audit arrangements. Requirements with respect to the Board Audit Committee and the internal audit function are set out in *Prudential Standard LPS 510 Governance*.

Compliance

36. An applicant must satisfy APRA that its processes and systems will ensure compliance with:
- (a) the Act and regulations;
 - (b) APRA's prudential standards and prudential rules;
 - (c) other Australian regulatory and legal requirements; and
 - (d) foreign regulatory requirements where applicable.
- This includes (but is not limited to) ensuring that systems are in place to satisfactorily fulfill the Risk Management Declaration requirements in *Prudential Standard LPS 220 Risk Management*.
37. 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.

Reinsurance management

38. Before entering into a reinsurance arrangement, a life company must obtain the appointed actuary's written advice on the likely consequences of the proposed arrangement under *Prudential Standard LPS 320 Actuarial and Related Matters*. In addition under *Prudential Standard LPS 230 Reinsurance* a life company must seek APRA prior approval for reinsurance arrangements possessing certain features (financial reinsurance).
39. Life companies are also required to submit to APRA, generally on an annual basis, a reinsurance report that details the company's reinsurance arrangements.

Information and accounting systems

40. Life companies are required to submit data to APRA in accordance with the reporting standards under the *Financial Sector (Collection of Data) Act 2001*.

41. 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 life company's financial condition and the risks to which it is exposed. This includes demonstrating to APRA that its systems will be capable of producing all required statutory (including the requirements of Division 5 of Part 4 and Division 2 of Part 6 of the Act) and prudential information in an accurate and timely manner from the commencement of operations, including information needed by the appointed actuary to perform their statutory functions.
42. Most statistical data from life companies is required to be submitted to APRA using D2A. D2A is an electronic data submission system that allows organisations to download APRA forms, complete them and submit them to APRA electronically and securely. Further detailed information on D2A is available from www.apra.gov.au/statistics/Lodging>Returns-Life-Insurers.cfm. Applicants should liaise with APRA's Statistics staff at an early stage regarding their reporting obligations.
43. 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 (refer *Prudential Standard LPS 232 Business Continuity Management*). Outsourcing of material data processing must satisfy the outsourcing requirements set out in *Prudential Standard LPS 231 Outsourcing*.
44. A foreign life company applicant must be an authorised life company in its home country and have received any necessary consent from its home supervisor for the establishment of the proposed life insurance business in Australia. The home supervisor will also need to confirm that the life company is of good financial standing.
45. In assessing applications to establish a foreign-owned subsidiary or an EFLIC, APRA will consider the level and scope of prudential supervision of the foreign owner or life company in its home country. In doing so, APRA will have regard to the Insurance Core Principles promulgated by the International Association of Insurance Supervisors.
46. Where a corporate group has multiple businesses, it should have policies addressing how intra-group transactions are to be conducted. Generally, APRA expects that any transactions between a registered life company and related parties will be at arm's length.
47. Life companies will be permitted to share premises with related entities. 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 LPS 231 Outsourcing* sets out the minimum prudential requirements in relation to outsourcing, including to related parties.

Intra-group transactions and arrangements

Application procedures

Preliminary consultation

48. Prospective applicants for registration as a life company are encouraged to contact APRA to discuss their plans and indicative timing prior to submitting an application. This assists APRA in identifying any matters which might affect the proposal and to advise on the formal requirements for submitting an application. APRA will review and comment on well-developed drafts of an application. Submission of drafts in electronic format is encouraged.

49. APRA is funded by levies payable by authorised institutions. It also applies charges for certain functions, including applications for life company registration. The application fee must be paid when the draft application is first lodged with APRA. The fee is not refundable unless a special circumstance applies. The applicable fees and levies can be found on the APRA website under www.apra.gov.au/Life/Levies.cfm.
54. Approval of the application may be contingent on other relevant approvals being granted. For example, this may include approvals under the FSSA, the *Foreign Acquisitions and Takeovers Act 1975*, or the grant of an Australian Financial Services Licence under the *Corporations Act 2001*.

Information required to be submitted on application

50. A list of information and supporting documents required to be submitted by an applicant for registration as a life company, either to operate as a locally incorporated life company or as an EFLIC, is set out in Attachments C and D. 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.
51. APRA may seek any additional information from an applicant it considers necessary to assess the application. This will include discussions with relevant responsible persons and may also include on-site prudential reviews.
55. Registration takes effect from the time specified in the instrument of registration signed by the APRA delegate under section 21 of the Act. APRA may impose conditions on the registration and may impose, vary or revoke conditions on registration any time thereafter.
56. Applicants registered to carry on life insurance business in Australia will be notified in writing. All applicants registered to carry on life insurance business will be listed on APRA's website in the list of registered life insurance companies. Any conditions placed on an authority may also be published on APRA's website.

Submission of application

52. 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, should be submitted to APRA. Submission of the second copy in electronic format is encouraged.

Processing and notification

53. 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.

Attachment A – Extract from the Life Insurance Act 1995 on registration

17 When registration is required

- (1) A person other than a company registered under section 21 must not intentionally:
 - (a) issue a life policy; or
 - (b) undertake liability under a life policy.
- (2) Subsection (1) does not prohibit a person from:
 - (a) acting as agent of a company registered under section 21; or
 - (b) entering into, or undertaking liability under, a contract referred to in subsection (3) if the particular contract is not a contract of insurance.
- (3) Paragraph (2)(b) applies to the following contracts:
 - (a) an investment account contract;
 - (b) an investment-linked contract.
- (4) If a declaration is in force under section 12A or 12B in relation to business carried on or proposed to be carried on by a company, the company must not intentionally carry on that business unless the company is registered under section 21.

18 Certain activities not regarded as carrying on life business

A person is not taken to be carrying on life business merely because the person:

- (a) collects premiums under a policy issued outside Australia to a person who was resident outside Australia at the time of issue of the policy; or
- (b) makes payments due under such a policy.

19 Certain persons taken to carry on life business etc.

- (1) For the purposes of this Part, a person who publishes or distributes, or procures the publication or distribution of, a statement relating to the willingness of the person to do something that constitutes the carrying on of life business is taken to carry on that business.
- (2) For the purposes of this Part, a person is taken to carry on life business in Australia if:
 - (a) business that, under this Act, would constitute life business is carried on by another person outside Australia; and
 - (b) the first-mentioned person acts, in Australia, as the agent of that other person in relation to the business carried on outside Australia.

20 Application for registration

- (1) A company may apply in writing to APRA for registration under section 21.
- (2) The application must:
 - (a) be in the form (if any) approved by APRA; and
 - (b) be accompanied by any information requested by APRA; and
 - (c) nominate for the purposes of this Act:
 - (i) the person who is to be the principal executive officer of the life company; and
 - (ii) the period that is to be the financial year of the life company.
- (3) For the purposes of determining an application, APRA may by written notice require an applicant to provide information specified in the notice, before the end of the period specified in the notice.

- (4) If the applicant does not provide the specified information before the end of the specified period or any longer period agreed to in writing by APRA, the application is taken to be withdrawn.
- (5) A notice under subsection (3) must include a statement about the effect of subsection (4).

21 Decision on application for registration

- (1) APRA must, in writing, register a company that applies for registration under section 20, unless APRA is satisfied that a ground for refusal specified in subsection (3) exists.
- (3) The following are the grounds on which APRA may refuse to register a company:
 - (d) that the company is not able, or is unlikely to be able, to meet its obligations, including obligations in respect of business other than life insurance business;
 - (e) that the company is not able, or is unlikely to be able, to comply with the provisions of this Act or the *Financial Sector (Collection of Data) Act 2001*;
 - (f) that the name of the company so closely resembles the name of a company already registered under this section as to be likely to deceive;
 - (g) in the case of a company that carries on, or proposes to carry on, some other form of business in addition to life insurance business, that the carrying on of that other form of business in addition to insurance business would be contrary to the public interest;
 - (h) that the company is a subsidiary of a NOHC that is not a registered NOHC.

22 Conditions of registration

- (1) APRA may, at any time, impose conditions on the registration of a company.
- (1A) Without limiting the conditions that APRA may impose on the registration, APRA may make the registration conditional on a body corporate, of which the company is a subsidiary, being a registered NOHC.
- (2) APRA imposes conditions by giving the company concerned written notice of the imposition of the conditions and of their terms.
- (3) If APRA thinks that a particular condition is no longer required or should be varied, APRA must, by written notice given to the company, revoke or vary the condition.
- (4) If a company asks APRA, in writing, to revoke or vary a condition, APRA must act as follows:
 - (a) if APRA thinks the condition is no longer necessary or should be varied, APRA must revoke or vary the condition accordingly;
 - (b) in any other case, APRA must refuse to revoke or vary the condition.
- (5) APRA must give a company written notice of a decision under subsection (4).

26 Cancellation of registration: defunct company

- (1) If:
 - (a) a company has been registered under section 21 for at least 12 months; and
 - (b) there are reasonable grounds for believing that the company is not carrying on life insurance business in Australia;

APRA may give the company a written notice requiring the company, within one month after the notice is given, to satisfy APRA that the company is carrying on life insurance business in Australia.

- (2) If:
- (a) APRA has given a notice to a company under subsection (1); and
 - (b) a period of one month has elapsed since the notice was given; and
 - (c) APRA is not satisfied that the company is carrying on life insurance business in Australia;

APRA may cancel (under this section) the registration under section 21 of the company by giving the company written notice of cancellation.

- (3) Cancellation under this section of the registration of a company takes effect at the end of 7 days after APRA gives the company written notice of cancellation.

27 Voluntary deregistration

- (1) If:
- (a) a company gives APRA a written request that its registration under section 21 be cancelled; and
 - (b) APRA is satisfied that:
 - (i) no policies issued by the company remain in force; and
 - (ii) the company is not subject to any outstanding policy liabilities;

APRA may cancel (under this section) the registration under section 21 of the company by giving the company written notice of cancellation.

- (2) Cancellation under this section of the registration of a company takes effect when APRA gives the company written notice of cancellation.

Attachment B – Summary of APRA’s life insurance prudential framework

1. APRA’s prudential framework comprises the Act, regulations, life insurance prudential standards, prudential rules, prudential practice guides, registration guidelines and reporting standards. The following provides a high level summary of the prudential framework. For further details, applicants should refer to the life insurance prudential and reporting standards on the APRA website (www.apra.gov.au).
2. APRA has a policy initiative underway on the review of capital standards for general insurers and life insurers. This is likely to lead, in due course, to a substantial restructure of a number of the standards below. The latest information on the proposals is available on the APRA website (www.apra.gov.au).

General standard (LPS 7.02)

3. Provides a broad outline of APRA’s actuarial prudential standards including the definition of key terms referred to in Life Insurance prudential standards LPS 1.04, 2.04, 3.04, 4.02, 5.02 and 6.03.

Valuation of policy liabilities (LPS 1.04)

4. Provides guidance on the determination (at a related product group level) of the best estimate liability (value of future benefit payments + value of future expenses – value of expected future receipts) and the value of the expected future profit which are added together to give the policy liability. Australia adopts a margin-on-services approach under which the future profit is released over time on the basis of profit carriers and the standard also offers guidance on the identification of appropriate profit carriers.

Solvency standard (LPS 2.04) and Capital adequacy standard (LPS 3.04)

5. Each statutory fund is required to meet the requirements of both the solvency standard (LPS 2.04) and the capital adequacy standard (LPS 3.04). Both requirements have the same basic building blocks, though each has a different basis of calculation. Essentially the components are added together, to give the required amount of reserves, which are compared to the total assets of the statutory fund. In addition the aggregate capital adequacy requirement is required to be at least equal to the solvency requirement for a statutory fund.
6. The basic building blocks are:
 - policy liability component – the best estimate liabilities for policy liabilities (determined under LPS 1.04) are recalculated using alternative (less favourable) assumptions. The recalculated liabilities are then subject to various floors (at a related product group and/or all policy level) based on minimum termination values and current termination values; plus
 - other liabilities; plus
 - an inadmissible asset reserve – an adjustment to reduce the value of certain assets. Includes adjustments for related party assets, intangibility, double gearing and excessive asset and reinsurance recovery concentrations; plus
 - a resilience reserve – allows for the impact of specified shocks in asset yields on the asset and liability mismatch position.
7. In addition for capital adequacy a new business reserve may also be required.

Minimum surrender values and paid-up values (LPS 4.02)

8. The Act contains provisions regarding the surrender of policies (s. 207) and the conversion of a policy to a paid-up policy (s. 209). This standard provides guidance on the minimum value of a life insurance policy were it to be surrendered or made paid up at a date prior to its full term. Schedule 2 of the *Life Insurance Regulations 1995* also amends the operation of the Act for certain specified policy types.

Cost of investment performance guarantees (LPS 5.02)

9. The Act requires separate statutory funds for Australian investment-linked business and the other life business of a company. It is, however, possible to structure investment linked contracts that offer guarantees in relation to investment performance. In order to reinforce the separation, s. 42 of the Act limits the extent of the performance guarantee offered by an investment linked fund to 5 per cent of the policy liabilities of the fund. LPS 5.02 deals with the calculation of the investment performance guarantee.

Management capital standard (LPS 6.03)

10. LPS 6.03 is a risk based management capital requirement for the business of a life company conducted outside its statutory funds. It utilises the same basic building blocks as the solvency and capital adequacy requirements though there is no allowance for policy liabilities (as these must be written in a statutory fund).

Prudential capital requirement (PS 3)

11. PS 3 sets out the life company's minimum shareholders' fund requirement of \$10 million dollars as well as setting requirements on the composition of this requirement. It applies in addition to LPS 6.03.

Governance (LPS 510)

12. This standard applies to both life companies and from 1 July 2010 to registered NOHCs. The board of a company bears ultimate responsibility for the sound and prudent management of the company. This Standard imposes requirements relating to the composition of the board, the role of the board remuneration committee, the role of the board audit committee, the internal audit function, external auditor independence and the appointed actuary's and appointed auditor's access to the board.
13. An EFLIC is not required to maintain a board in Australia but must have a compliance committee which effectively performs the role of the Board. Attachment B details the role of the committee, requirements on its composition, its processes and its duties and responsibilities. The compliance committee does not absolve the directors of the EFLIC from their special duty in relation to statutory funds arising under s. 48 of the Act.

Fit and Proper (LPS 520)

14. This standard applies to both life companies and from 1 July 2010 to registered NOHCs. It requires the board of a life company (compliance committee for an EFLIC) or a registered NOHC to have a policy to ensure the fitness and propriety of individuals who hold positions of responsibility within the company. This includes directors, senior officers, the appointed auditor and the appointed actuary.

Risk management (LPS 220)

15. A life company is required to have a risk management framework and a dedicated risk management function. This risk management framework is to be described in a high-level risk management strategy.

Reinsurance (LPS 230)

16. A life company is required to provide APRA with an annual reinsurance report outlining details of its reinsurance arrangements. A life company is also required to obtain APRA's prior approval for certain (financial) reinsurance arrangements.

Outsourcing (LPS 231)

17. All outsourcing arrangements of material business activities must be documented in the form of written contracts except for some intra-group arrangements. A life company must consult with APRA prior to entering into offshoring arrangements. Life companies are also required to maintain a policy relating to outsourcing which ensures there is sufficient monitoring of the outsourced activities.

Business continuity management (LPS 232)

18. A life company is required to implement a whole-of-business approach to business continuity management appropriate to the nature and scale of its operations.

Audit and related matters (LPS 310)

19. All life companies must appoint an auditor. The auditor must prepare a report in relation to the reporting statements submitted by a life company annually to APRA before the statements are submitted (attesting to their accuracy) and prepare a report annually about the systems, procedures and controls within the life company.

Actuarial and related matters (LPS 320)

20. All life companies must appoint an actuary who meets the eligibility requirements outlined in LPS 520. The actuary must produce an annual Financial Condition Report (FCR) as well as provide advice to the Board on policies the life company proposes to issue as well as proposed reinsurance arrangements.

Consolidation of prudential rules nos. 15, 17, 18, 22, 27 and 28 (LPS 900)

21. This standard outlines requirements in relation to the transfer of policies between statutory funds, the maintenance of a single bank account for statutory funds, the identification of non-participating benefits, the determination of starting amounts and the distribution of shareholders retained profit for Australian participating business.

Reporting framework

22. APRA requires life companies to submit quarterly returns and annual audited returns. APRA's prudential reporting requirements are broadly consistent with the financial reporting required under accounting standards issued by the Australian Accounting Standards Board (AASB). The major differences are outlined in LPS 350 Contract classification for the purposes of prudential reporting.

Attachment C – Supporting information required for an application to register as a life company – Locally incorporated life 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 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 the address(es) of where the life insurance business will be conducted from.
- (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, curricula vitae, statements regarding the fitness and propriety of the directors, and charters of the board and relevant committees (refer *Prudential Standard LPS 510 Governance* and *Prudential Standard LPS 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 LPS 510 Governance* and *Prudential Standard LPS 520 Fit and Proper*.)
- (g) Proposed initial capital (including amount and composition) and management capital adequacy (refer to *Prudential Standard PS 3 Prudential Capital Requirement* and *Prudential Standard LPS 6.03 Management Capital Standard*).
- (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 7 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 life company represents a long-term commitment.

2. Auditors and actuaries

- (a) Details of the auditor proposed to be appointed under section 83 of the Act – the appointed auditor (also refer *Prudential Standard LPS 520 Fit and Proper* and *Prudential Standard LPS 510 Governance*).
- (b) Details of the actuary proposed to be appointed under section 93 of the Act – the appointed actuary (also refer *Prudential Standard LPS 520 Fit and Proper* and *Prudential Standard LPS 510 Governance*).

3. Business plan

The business plan submitted should incorporate the goals of the first three years of operation 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 also include:

Structure of the business

- (a) an outline of the proposed activities and scale of operations, including details of the proposed types of life insurance business to be written, relevant expertise, and any plans to outsource operations. This should also include the proposed operations of any related businesses in Australia, and any intended business relationships with the applicant;
- (b) for each statutory fund, detailed information

consistent with that outlined in regulation 4.00 of the *Life Insurance Regulations 1995*;

- (c) the location of head office and an outline of the branch network envisaged and the timeframe over which the network will be established;
- (d) other intended means of product distribution;
- (e) an estimate of total staff complement;
- (f) the proposed date for commencement of operations; and

Financial projections

- (g) projections (including sensitivity analysis⁵) of the following:
 - (i) detailed balance sheet (showing both tangible and intangible components), off-balance sheet business, cash flow and earnings (including assumptions);
 - (ii) key financial and prudential ratios (e.g. solvency, capital adequacy and management capital coverage ratios) for the applicant; and
 - (iii) key financial and prudential ratios for the applicant and its subsidiaries on a consolidated basis.

APRA would normally expect the life company's proposed appointed actuary to be involved in the development of these business plans.

4. Risk and information management

- (a) An outline of proposed reinsurance arrangements (including any proposed limited risk transfer arrangements), including the information requested under Attachment A and Attachment B (as relevant) of *Prudential Standard LPS 230 Reinsurance*, and evidence that reinsurers are willing to provide the proposed cover should also be included.
- (b) A Risk Management Strategy (RMS) (in accordance with *Prudential Standard LPS*

220 Risk Management) that describes the key elements of the risk management framework including risk appetite, policies, procedures, management responsibilities and controls. This should cover both domestic and offshore operations of the applicant and any business conducted outside of the statutory funds. The RMS must include a description of the life company's approach to management of capital. This would be expected to outline levels of target capital and actions that would be taken if capital falls below these levels.

- (c) Details of information and accounting systems (including any outsourcing of data processing and other back office functions).
- (d) 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, including information required by the appointed actuary. This will normally require verification by the proposed appointed actuary and appointed auditor.
- (e) Details of outsourcing policy and arrangements (refer *Prudential Standard LPS 231 Outsourcing*).
- (f) Arrangements for business continuity management (refer *Prudential Standard LPS 232 Business Continuity Management*).
- (g) Internal audit arrangements (refer *Prudential Standard LPS 510 Governance*).
- (h) Policies setting out fit and proper requirements and other selection policies (e.g. independence, board renewal) for responsible persons (refer *Prudential Standard LPS 510 Governance* and *Prudential Standard LPS 520 Fit and Proper*.)

⁵ 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. Subsidiaries and associates and other related companies

- (a) Details of existing or proposed subsidiaries and associates, including details of their board and senior management (and their associations with the proposed life company), the nature and scale of their business, financial ratings, and their proposed business relationship with the proposed life company. This can be illustrated with a structure chart. Details of any other related companies in Australia (e.g. Australian subsidiaries of a foreign member of the same corporate group) should also be included.
- (b) Details of the involvement of other regulatory agencies. 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 life company.
- (d) Details of investments, finance and other support provided by the proposed life company and between subsidiaries to identify levels of exposure within the group. This should include details of off-balance sheet activities.

6. Other

- (a) A certificate of incorporation of the applicant.
- (b) A copy of the Constitution of the applicant, certified to be current.
- (c) An auditor's certificate (from the proposed auditor) verifying the level of shareholders capital and compliance with the requirements of *Prudential Standard PS 3 Prudential Capital Requirement* and *Prudential Standard LPS 6.03 Management Capital Standard* of the applicant as well as the solvency and capital adequacy position of the statutory funds.

- (d) An actuary's advice (from the proposed appointed actuary) to the Board regarding policies and reinsurance arrangements in accordance with the requirements of *Prudential Standard LPS 320 Actuarial and Related Matters*.

7. Life companies 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 foreign-owned subsidiary in Australia; and
 - (ii) the supervisor is willing to co-operate with APRA where necessary in the supervision of the applicant.

8. 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).
- (d) 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).
- (e) A written undertaking by the applicant to consult with APRA prior to the establishment or acquisition of additional businesses, either domestically or overseas.
- (f) Evidence that arrangements have been established for each of the applicant's proposed auditor and actuary (where applicable) to carry out their duties in accordance with the Act and Prudential Standards.

Attachment D – Supporting information required for an application to register as a life company – eligible foreign life insurance company (EFLIC)

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 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 head office, the address of the main office in Australia and an address for service in Australia.
- (c) A brief history of the applicant and an outline of its operations.
- (d) Names of substantial shareholders (direct and ultimate) and their respective shareholdings and details of any related entities in Australia.
- (e) Board structure, including names of directors, their principal business associations and curricula vitae, and details of relevant senior management.
- (f) Details of the Compliance Committee which has the responsibility for overseeing the Australian operation and has delegated authority from the board for this purpose, including the members' names, their principal business associations, curricula vitae, and a statement regarding the fitness and propriety of the members and copies of charters of the compliance committee, relevant committees and delegation instrument from the EFLIC's Board (refer *Prudential Standard LPS 510 Governance* and *Prudential Standard LPS 520 Fit and Proper*).
- (g) An outline of the proposed organisational framework, including the names, responsibilities and curricula vitae of senior management of the Australian operations, and statements regarding their fitness and propriety (refer *Prudential Standard LPS 510 Governance* and *Prudential Standard LPS 520 Fit and Proper*).

- (h) An outline of the proposed reporting lines from the Australian operations to head office.
- (i) Other information necessary to demonstrate the standing and substance of the applicant and its substantial shareholders. This should include balance sheet, profit and loss and off-balance sheet business data for the foreign life company itself, and where applicable for its holding company or other substantial shareholders, for the last three years (plus any available current year data) and information on solvency and capital ratios.

2. Auditors and actuaries

- (a) Details of the auditor proposed to be appointed under section 83 of the Act – the appointed auditor (refer *Act* and *Prudential Standard LPS 520 Fit and Proper* and *Prudential Standard LPS 510 Governance*).
- (b) Details of the actuary proposed to be appointed under section 93 of the Act – the appointed actuary (refer *Prudential Standard LPS 520 Fit and Proper* and *Prudential Standard LPS 510 Governance*).

3. Business plan

The business plan submitted should incorporate the goals of the first three years of operations of the applicant. The business plan should also include:

Structure of the business

- (a) an outline of the proposed activities and scale of operations in Australia, including details of the proposed types of life insurance business to be written, relevant expertise, and of any plans to outsource operations. This should also include the proposed operations of any related businesses in Australia, and any intended business relationships with the applicant;
- (b) for each statutory fund, detailed information consistent with that outlined in regulation 4.00 of the *Life Insurance Regulations 1995*;

- (c) the location of the head office in Australia and an outline of the branch network envisaged and the timeframe over which the network will be established;
- (d) other intended means of product distribution;
- (e) an estimate of total staff complement in Australia;
- (f) the proposed date for commencement of operations in Australia; and

Financial projections

- (g) projections for the Australian business (including sensitivity analysis⁶) of the following:
 - (i) detailed balance sheet, cash flow and earnings (including assumptions); and
 - (ii) key financial and prudential ratios (e.g. the solvency and capital adequacy coverage ratios).

APRA would normally expect the life company's proposed Appointed Actuary to be involved in the development of these business plans.

4. Risk and information management

- (a) An outline of proposed reinsurance arrangements (including any proposed limited risk transfer arrangements), including the information requested under Attachment A and Attachment B (as relevant) of *LPS 230 Reinsurance* and evidence that reinsurers are willing to provide the proposed cover should also be included.
- (b) A Risk Management Strategy (RMS) (in accordance with *Prudential Standard LPS 220 Risk Management*) that describes the key elements of the risk management framework including risk appetite, policies, procedures, management responsibilities and controls in relation to the operations of the applicant. The RMS must include a description of the life company's approach to management of capital. This would be expected to outline levels of target capital for statutory funds and actions that would be taken if capital falls below these levels.
- (c) Details of information and accounting systems (including any outsourcing of data processing and other back office functions).
- (d) 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, including information required by the appointed actuary. This will normally require verification by each of the applicant's proposed appointed actuary and appointed auditor.
- (e) Details of outsourcing policy and arrangements (refer *Prudential Standard LPS 231 Outsourcing*).
- (f) Arrangements for business continuity management (refer *Prudential Standard LPS 232 Business Continuity Management*).
- (g) Internal audit arrangements (refer *Prudential Standard LPS 510 Governance*).
- (h) Policies setting out fit and proper requirements and other selection policies for responsible persons (refer *Prudential Standard LPS 510 Governance* and *Prudential Standard LPS 520 Fit and Proper*.)

⁶ 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. Associates

- (a) Details of existing or proposed subsidiaries and associates, including details of their board and senior management (and their associations with the proposed life company), the nature and scale of their business, financial ratings, and their proposed business relationship with the proposed life company. This can be illustrated with a structure chart.
- (b) Details of the involvement of other regulatory agencies. 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 any business or assets from subsidiaries and associates in Australia to the applicant.
- (d) Details of investments, finance and other support provided by the proposed life company and between subsidiaries to identify levels of exposure within the group. This should include details of off-balance sheet activities.
- (e) An undertaking by the applicant to keep APRA apprised of developments in its subsidiaries and associates in Australia.

6. Other

- (a) A certificate of incorporation of the applicant and its authorisation to carry on an life insurance business in its home country and evidence of registration with the Australian Securities and Investments Commission as a foreign company (including its ARBN).
- (b) A copy of the Constitution of the applicant or equivalent document, certified to be current.
- (c) An outline of the supervisory arrangements to which the applicant is subject to in its home country.

- (d) A statement from the applicant's home supervisor:
 - (i) consenting to the application to establish a branch in Australia;
 - (ii) confirming the applicant is of good financial standing; and
 - (iii) agreeing to co-operate with APRA where necessary in the supervision of the applicant.
- (e) Details on where the head office carries on life insurance business outside Australia and whether it is complying with the law of that place relating to the carrying on of life insurance business and has complied during the preceding 5 years.
- (f) An undertaking by the applicant 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).
- (g) An auditor's certificate (from the proposed appointed auditor) verifying the solvency and capital adequacy position of the statutory funds.
- (h) An actuary's advice (from the proposed appointed actuary) to the company regarding policies and reinsurance arrangements in accordance with the requirements of *Prudential Standard LPS 320 Actuarial and Related Matters*.

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 the prudential supervision of the applicant.
- (b) An acknowledgement by the applicant that APRA may discuss the conduct of the Australian operations with its head office and its home supervisor(s).
- (c) An acknowledgement from the directors of the applicant that they are aware of their duty in relation to statutory funds under s. 48 of the Act and that this duty can be carried out, without conflicting with any other duty they are subject to in their home or other relevant jurisdiction.
- (d) Evidence that arrangements have been established for each of the applicant's proposed appointed auditor and appointed actuary (where applicable) to carry out their duties under the Act and Prudential Standards.



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