

19.04.2024

[REDACTED]
General Manager
GCRA, APRA

By email: far@apra.gov.au

Dear [REDACTED]

Consultation on the draft amendment instrument – Key functions for insurance and superannuation entities

We refer to APRA and ASIC's (*Regulators*) letter to all APRA-regulated insurance and superannuation entities dated 14 March 2024 (*Letter*). In particular, we refer to the Regulators' proposal to amend the *Financial Accountability Regime Act (Information for register) Regulator Rules 2024 (Regulator Rules)* to include a list of key functions for insurance and superannuation entities and the invitation to provide submissions in relation to the proposed changes by 19 April 2024.

Draft legislative instrument

We note that *Attachment C: Draft key functions descriptions (Attachment C)* to the Letter includes the following information in *Table 1: Insurance Key Functions*:

1. "Collections and enforcement (default, debt collections and recovery)" includes a reference to "credit contract or consumer lease";
2. "Product origination" includes a reference to "credit contracts/consumer leases", "responsible lending" and "financial products";
3. "Reinsurance management" includes a reference to "Reinsurance functions including reinsurance strategy, management and administration";
4. "Training and monitoring of relevant representatives and staff" includes a reference to "or engaging in credit activities on behalf of a licensee" and "financial products"; and
5. "Underwriting" includes a reference to "establishing, maintaining and developing underwriting manuals, policies and procedures including compliance; maintaining underwriting standards consistent with established policy; resourcing of the underwriting function; delegation and authorities; budgeting and forecasting".

We assume that it is intended that the meaning of 'financial products' has the same meaning given to that term in *Division 3 of Chapter 7 – Financial services and markets* of the *Corporations Act 2001* (Cth).

None of these references relate to functions conducted by a private health insurer. We are concerned that the current description of the insurance key functions does not sufficiently make it clear that certain aspects of those functions do not apply to a private health insurer. This lack of clarity is likely to cause additional administrative burden for private health insurers as well as the Regulators in complying with the *Financial Accountability Regime Act 2023* (Cth), as private health insurers will need continuously to specifically carve

out and explain why these functions (or aspects of the functions) do not apply to the accountable entity and the responsibilities of accountable persons.

We note that the *Financial Accountability Regime Regulator Rules Amendment Instrument No. 1 of 2024* (Draft Legislative Instrument) includes the following definition of Insurance Key Function:

“Insurance Key Function means each of the following key functions only if the Insurance Key Function Requirements apply to a particular key function:...” [underlining added for emphasis]

However, it is our view that the words “only if the Insurance Key Function Requirements apply” do not make it sufficiently clear that some aspects of the proposed insurance key functions do not apply to private health insurers.

As such, we respectfully submit that the Regulators consider either:

1. amending the tables in Attachment C to the Letter to include a new table which specifically sets out the key functions which apply to private health insurers; or in the alternative
2. including a clear statement in the draft legislative instrument which makes it clear that not all of the key functions or aspects of the key functions listed as insurance key functions apply to private health insurers.

Please let me know if you have any questions regarding this letter.

Yours sincerely



Hub Lead - Group Compliance
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