



## Prudential Standard LPS 320

### Actuarial and Related Matters

#### **Objectives and key requirements of this Prudential Standard**

This Prudential Standard sets out the requirements for the roles and responsibilities of an Appointed Actuary.

The Appointed Actuary is responsible for providing impartial advice in relation to the life company's operations, financial condition, capital base, prescribed capital amount and policy liabilities. It is the ultimate responsibility of the Board of a life company to enable its Appointed Actuary to undertake his or her responsibilities.

The key requirements of this Prudential Standard are:

- the Appointed Actuary must provide an assessment of the overall financial condition of the life company on an annual basis. In particular, the Appointed Actuary must prepare a Financial Condition Report and provide this report to the company;
- a life company must submit the Financial Condition Report to APRA;
- the Appointed Actuary must provide advice to the life company on the methodology for calculating the prescribed capital amount, the capital base and the policy liabilities of the company and each of its funds;
- the Appointed Actuary must calculate values for the prescribed capital amount, the capital base and the policy liabilities of the life company and each of its funds on an annual basis and must advise these amounts in the Financial Condition Report;
- the Appointed Actuary may also be required to provide advice to the life company on certain life policies and reinsurance arrangements; and
- the Appointed Actuary may be required to conduct a special purpose review and provide a report to APRA and the life company.

### Authority

1. This Prudential Standard is made under paragraph 230A(1)(a) of the *Life Insurance Act 1995* (**the Act**).

### Application

2. This Prudential Standard applies to all life companies (including friendly societies) registered under the Act.<sup>1</sup>
3. This Prudential Standard includes requirements that apply to all actuaries appointed under the Act. These requirements are functions of an actuary for the purposes of subsection 97(1) of the Act.
4. This Prudential Standard applies to life companies from 1 January 2013 (**effective date**).

### Interpretation

5. Unless otherwise defined in this Prudential Standard, expressions in bold are defined in *Prudential Standard LPS 001 Definitions*.

6. Unless otherwise indicated:

(a) the term **statutory fund** will be used to refer to a statutory fund of a life company other than a friendly society, or a benefit fund of a friendly society, as relevant;

(b) the term **general fund** will be used to refer to the shareholders' fund of a life company other than a friendly society, or the management fund of a friendly society, as relevant; and

(c) the term **fund** will be used to refer to a statutory fund or a general fund, as relevant.

### Obligation of a life company to appoint an actuary

7. Under the Act, a life company must appoint an actuary (**Appointed Actuary**).<sup>2</sup>
8. A life company must ensure that its Appointed Actuary:
  - (a) satisfies the eligibility criteria in *Prudential Standard CPS 520 Fit and Proper* (**CPS 520**) applicable to an Appointed Actuary; and
  - (b) is a fit and proper person in accordance with the life company's fit and proper policy as required by CPS 520, including those requirements that apply specifically to the Appointed Actuary.

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<sup>1</sup> Refer to section 21 of the Act.

<sup>2</sup> Refer to subsection 93(1) of the Act.

9. A life company must ensure that its Appointed Actuary has access to all relevant data, information, reports and staff of the life company (and must take all reasonable steps to ensure access to contractors of the life company) that its Appointed Actuary reasonably believes are necessary to fulfil his or her responsibilities.<sup>3</sup> This will include access to the life company's Board<sup>4</sup>, Board Audit Committee and internal auditors as required.
10. A life company must ensure that its Appointed Actuary is fully informed of all prudential requirements applicable to the life company. **Prudential requirements** include requirements imposed by the Act, the *Life Insurance Regulations 1995*, prudential standards, the *Financial Sector (Collection of Data) Act 2001 (FSCODA)*, reporting standards made under FSCODA, authorisation conditions, directions and any other requirements lawfully imposed by APRA, in writing, in relation to the life company. In addition, the life company must ensure that the Appointed Actuary is provided with any other information APRA has provided to the life company that may assist the Appointed Actuary in fulfilling his or her role and responsibilities under this Prudential Standard.

### Financial Condition Report

11. A life company must arrange for its Appointed Actuary to:
  - (a) investigate the financial condition as at the end of the financial year of the company of:
    - (i) each of its statutory funds;
    - (ii) the general fund; and
    - (iii) the company as a whole; and
  - (b) give the company a written report of the results of the investigation.
12. The investigation required under paragraph 11 must be carried out with regard to all the prudential requirements applicable to the life company and include:
  - (a) advice to the life company regarding the valuation of the life company's policy liabilities, and the calculation of the **capital base** and **prescribed capital amount** as described in paragraph 22;
  - (b) an assessment of whether, over the financial year concerned, the life company has had in place systems and processes to ensure that the payment of surrender values results in payment of at least the amount calculated under *Prudential Standard LPS 360 Termination Values*,

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<sup>3</sup> Note that under subsection 97(2) of the Act a life company must make any arrangements necessary to enable the actuary to perform these functions.

<sup>4</sup> Or, in the case of an eligible foreign life insurance company (EFLIC), the Compliance Committee.

*Minimum Surrender Values and Paid-up Values* and that the requirements in respect of paid-up values have been complied with;<sup>5</sup>

(c) an assessment of the cost of any investment performance guarantees within the meaning of *Prudential Standard LPS 370 Cost of Investment Performance Guarantees* and whether the life company has complied with that Prudential Standard in respect of each relevant statutory fund during the financial year concerned;

(d) an assessment, in relation to:

(i) each statutory fund;

(ii) the general fund; and

(iii) the life company as a whole

of the extent to which the life company has complied, during the financial year concerned, with:

(iv) the requirements of *Prudential Standard LPS 110 Capital Adequacy (LPS 110)*, *Prudential Standard LPS 112 Capital Adequacy: Measurement of Capital Base (LPS 112)*, *Prudential Standard LPS 114 Capital Adequacy: Asset Risk Charge*, *Prudential Standard LPS 115 Capital Adequacy: Insurance Risk Charge* and *Prudential Standard LPS 118 Operational Risk Charge*; and

(v) any directions or conditions applicable to the life company under the Act;

(e) an assessment of the life company's approach to capital management; and

(f) an assessment of the suitability and adequacy of the risk management framework as required under *Prudential Standard LPS 220 Risk Management*.

13. To avoid doubt, if the life company is an eligible foreign life insurance company (**EFLIC**), the investigation need not cover the financial condition of the company to the extent that the financial condition relates to life insurance business carried on outside Australia by the company.<sup>6</sup>

14. Nothing in this Prudential Standard prevents a life company from having its Appointed Actuary also investigate the financial condition of the company as at a time other than the end of a financial year.

<sup>5</sup> Note that the Appointed Actuary is also required to give advice on the determination of surrender values as part of the advice on policies required in paragraph 24(a).

<sup>6</sup> Refer to section 16ZE of the Act.

15. A company must not make public the results of an investigation referred to in paragraph 14 unless:
  - (a) the investigation has been conducted in the manner in which an annual actuarial investigation is required to be conducted; and
  - (b) the Appointed Actuary has given the company a written report of the results of the investigation.
16. APRA may, by written notice given to a life company, require the life company to arrange for its Appointed Actuary to carry out an investigation of the financial condition of the company as at a time other than the end of a financial year. In this case:
  - (a) the investigation must be conducted in the manner in which an annual actuarial investigation is required to be conducted; and
  - (b) the life company must arrange for the Appointed Actuary to give the company a written report of the results of the investigation.
17. A life company must give to APRA a copy of a Financial Condition Report (FCR) prepared under this Prudential Standard within three months after the end of the period to which the report relates. In exceptional cases, a life company may apply to APRA to extend the time within which this report is to be provided to APRA.
18. In preparing an FCR, an Appointed Actuary must have regard to relevant professional standards issued by the Institute of Actuaries of Australia, to the extent that they are not inconsistent with the requirements of this Prudential Standard.

### **Advice on calculating the policy liabilities, capital base and prescribed capital amount**

19. Under LPS 110 and LPS 112, responsibility for calculating the capital base and prescribed capital amount for a statutory fund, general fund or life company rests with the life company and its Board.
20. Under *Prudential Standard LPS 340 Valuation of Policy Liabilities*, a life company is responsible for calculating the value of its policy liabilities.
21. Reporting to APRA under FSCODA must be made in accordance with a methodology which has been the subject of advice provided by the Appointed Actuary. The methodology must be documented, with a copy provided to APRA on request along with explanation of any areas in which the methodology materially departs from that advised by the Appointed Actuary.
22. A life company must arrange for its Appointed Actuary to calculate values for the policy liabilities, capital base and prescribed capital amount of the life company and each of its funds as at the end of every financial year and advise these amounts in the FCR. The Appointed Actuary must document in the FCR

details of the calculation processes and the assumptions used in determining the amounts.

23. If the life company adopts a value for the policy liabilities, capital base or prescribed capital amount that differs materially from the amounts advised by the Appointed Actuary, the life company must provide APRA with a written explanation of the differences on or before the day that the life company's annual regulatory financial statements are required to be submitted to APRA.

### Actuarial advice regarding policies and reinsurance

24. A life company must not issue or modify a policy unless either:<sup>7</sup>
- (a) the Appointed Actuary has given written advice about:
    - (i) the proposed terms and conditions on which it is to be issued or modified;
    - (ii) the proposed basis on which the surrender value is to be determined;
    - (iii) if the policy provides for benefits to be calculated by reference to units, the proposed means by which the unit values are to be determined;
    - (iv) if the life company is a friendly society, the proposed approved benefit fund rules or modification of the benefit fund rules; and whether the benefit fund rules will result in unfairness to any prospective or existing members of the benefit fund; and
    - (v) if the life company is a friendly society, any change to the investment management or strategy of an approved benefit fund beyond that disclosed in the approved benefit fund rules; or
  - (b) the proposed modification is assessed by the life company as not being material under the written policy approved by the Board for the purposes of paragraph 27 and the Appointed Actuary has been advised of the proposed modification and advises the life company that the modification is not material.
25. The Appointed Actuary's written advice may relate to a number of policies of a similar kind.
26. A life company must not enter into, modify or terminate a reinsurance arrangement unless the Appointed Actuary has given the company written advice as to the likely consequences of taking such action.

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<sup>7</sup> 'Policy' includes a life policy (section 9 of the Act), a sinking fund policy (referred to in section 11 of the Act) and a policy issued in respect of business declared to be life insurance business under section 12A or section 12B of the Act. For friendly societies 'policy' has the same meaning as in section 16F of the Act. Note that friendly societies also have obligations under *Prudential Standard LPS 700 Friendly Society Benefit Funds* to submit this advice to APRA.

27. A life company must have a written policy, approved by the Board, which:
- (a) sets out the situations where the Appointed Actuary's written advice may relate to more than one life policy under paragraph 25;
  - (b) enables the life company to decide whether any proposed modification to a policy is material or not for the purposes of paragraph 24(b) of this Prudential Standard, taking into account the likely impact of the modification on policy owners and the financial position of the life company; and
  - (c) sets out who must consider the advice under paragraph 24 or 26 and, in particular, the situations where the advice must be considered by the Board.

### **Special purpose review**

28. When requested to do so in writing by APRA, a life company must arrange for its Appointed Actuary to:
- (a) undertake a special purpose review of matters set out in writing by APRA relating to the life company's operations, risk management or financial affairs; and
  - (b) prepare a report in respect of that review.
29. A special purpose review may be conducted by an actuary other than the actuary appointed under paragraph 7 but only where this is agreed to by APRA and the actuary satisfies the criteria set out in paragraph 8.
30. The review must be completed in accordance with any relevant professional standards and guidance notes (as appropriate to the nature of the special purpose review), to the extent that they are not inconsistent with the requirements of this Prudential Standard. Where APRA considers, having regard to the nature of the life company's operations and the purpose of the special purpose review, that the review should not be completed in accordance with those professional standards and guidance notes, APRA may advise the life company in writing that an alternative standard must be used (which is not inconsistent with the requirements of this Prudential Standard and the Act).
31. The cost of a special purpose review will be borne by the life company.
32. The actuary must submit the final report to APRA and the life company simultaneously within three months of the review being commissioned, or such other period as APRA agrees.

### **Obligation to report to APRA under the Act**

33. The Act specifies certain circumstances where Appointed Actuaries are required to report to APRA where a life company or its directors may have

contravened the Act or any other law and the contravention may significantly prejudice the interests of the owners of policies issued by the life company.<sup>8</sup>

34. Where a report is made to APRA, the Appointed Actuary should not disclose this to the life company if the Appointed Actuary:
- (a) considers that by doing so the interests of policy owners may be jeopardised; or
  - (b) has lost confidence in or mistrusts the Board or senior management of the life company.

### **General requirements**

35. APRA liaison with an Appointed Actuary will normally be conducted under tripartite arrangements involving APRA, the life company and the Appointed Actuary. Notwithstanding the tripartite relationship, APRA and an Appointed Actuary may meet, at any time, on a bilateral basis at the request of either party.
36. All working papers and other documentation of an Appointed Actuary or an actuary appointed under paragraph 29, in relation to prudential requirements of the life company<sup>9</sup>, must be retained by the actuary's employer where the actuary is externally appointed, or by the life company where the actuary is employed by the life company, for a period of seven years. The person whose responsibility it is to hold the working papers must provide the working papers and other documentation to APRA where requested to do so in writing by APRA.
37. Persons involved in the provision of information should note that it is a serious offence under subsection 137.1 and 137.2 of the *Criminal Code 1995* to provide, whether directly or indirectly, false or misleading documents to a Commonwealth entity such as APRA.

### **Adjustments and Exclusions**

38. APRA may, by notice in writing to a life company, adjust or exclude a specific prudential requirement in this Prudential Standard in relation to that life company.

### **Determinations made under previous prudential standards**

39. An exercise of APRA's discretion (such as an approval, waiver or direction) under a previous version of this Prudential Standard continues to have effect as though exercised pursuant to a corresponding power (if any) exercisable by APRA under this Prudential Standard.

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<sup>8</sup> Refer to subsection 98(2) of the Act.

<sup>9</sup> 'Prudential requirements' is defined in paragraph 10 of this Prudential Standard.