stlukeshealth

Head Office
17 The Quadrant Mall
Launceston 7250
p 1300 651 988
e general@stlukes.com.au
www.stlukes.com.au
ABN 81 009 479 618

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General Manager
Policy Development
Australian Prudential Regulation Authority
Email: insurance.policy@apra.gov.au

Dear Sir

Submission RE: Draft HPG 510 and Draft CPS 520

St Luke's Medical and Hospital Benefits Association Ltd (St.LukesHealth) welcomes the opportunity to provide feedback in relation to the proposed Governance, Fit and Proper and Audit and Disclosure requirements for private health insurers.

In general terms St.LukesHealth agrees that the introduction of CPS 510 Governance, HPG 510, CPS 520 Fit and Proper, HPG 510 Fit and Proper, HPS 310 Audit and the removal of HPS 350 will serve to improve the resilience of entities within the Private Health Insurance (PHI) industry.

However, we note some concerns with the following:

(i) Clauses 35, 36 and 37 of the Prudential Practice Guide HPG 510 Governance - references to a maximum tenure in relation to Board Renewal within HPG 510;

(ii) Clause 32 (b) of Prudential Standard CPS 520 when coupled with the requirement of clause 99 of Prudential Standard CPS 510.

The following details our concerns and our submissions in relation to them.

1. HPG 510 Governance

In relation to the first sentence in Clause 35:

> *"APRA expects a Board renewal policy would document the maximum tenure period for each director, including the circumstances where the private health insurer may deviate from the terms of its tenure policy"*

Whilst St.LukesHealth agrees that a documented Board Renewal Policy is a prudent measure we don't believe that a maximum tenure period should be defined in the Prudential Practice Guide (PPG). We also don't believe that "*there would be limited circumstances in which maximum tenure limits exceeding 12 years would be appropriate*" as stated in the second sentence in Clause 35.

Launceston 17 The Quadrant Mall Launceston 7250
Hobart 94 Liverpool Street Hobart 7000
Kingston Shop 28a, Channel Court Kingston 7050
Devonport 26 Rooke Street Devonport 7310
Burnie 27 Cattley Street Burnie 7320
Smithton 24 Smith Street Smithton 7330

In relation to Clause 36, St.LukesHealth agrees that a considered approach for assessing each director on the cessation of their term to determine whether it is appropriate for the individual to be reappointed, but does not believe that the reference to a maximum tenure period should be included in the clause.

In relation to Clause 37, St.LukesHealth does not believe that circumstances where a person is re-appointed as a director at the end of the private health insurer's maximum tenure period would be exceptional for smaller PHIs.

The above views are expressed with the following considerations in mind:

1. Whilst recognising that APRA has expressed the same view as clauses 35 to 37 in HPG 510, in SPG 510 for the superannuation industry, St.LukesHealth does not believe there is any greater need for APRA to hold a view regarding maximum tenure in the PHI industry than it does in the ADI, General Insurance, Life Insurance and Friendly Societies industries.

   APRA has not applied a maximum tenure period for Board Renewal to Authorised Deposit-taking Institutions, General Insurers or Life Insurers and Friendly Societies by way of APG 510, LPG 510 or CPG 510 and there are significant similarities between the credit union and friendly society industries and the PHI industry in that fundamentally, the industry is made up of many smaller entities which have specific industry or regional membership bases. These specific membership bases benefit significantly from the industry or region-specific knowledge and experience of long standing Board members from within those areas and such expertise is often difficult to replace within that specific industry or region.

2. Given that many of the industry or regionally based funds in fact benefit from having long standing Directors with extensive industry or region based knowledge and experience, funds should not need to treat that expertise as exceptional within the PHI industry, given that the PHI industry is made up of many smaller entities which have specific industry or regional membership bases.

3. Whilst having a mix of skills, knowledge and tenure within a Board is certainly appropriate, St.LukesHealth believes there is nothing to be gained in prudential terms by specifying an arbitrary 12 years maximum tenure as guidance and questions how a 12-year period is justified over a 10 or 15-year period or any other set term.

4. Similarly, it is difficult to determine what is to be gained by requiring PHIs to specify a maximum tenure period for each Director within a policy document other than to ensure consideration is given as to why a Director should be reappointed, which clause 36 of HPG 510 ensures is done each time the Director is reappointed in any case, without needing further reference to a maximum tenure. We note that the ASX Corporate Governance Principles also recognises the possibility that a long serving Director's capacity for independent judgement may be affected, but that it only refers to assessing whether a director who has served in a position for more than 10

years has become too close to management to be considered independent. It does not contemplate or suggest the application of a maximum tenure (see 5 below).

5. The ASX Corporate Governance Council in the 3 Edition of Corporate Governance Principles and Recommendations states on page 17:

> *"In relation to the last example in Box 2.3 (length of service as a director), the Council recognises that the interests of a listed entity and its security holders are likely to be well served by having a mix of directors, some with a longer tenure with a deep understanding of the entity and its business and some with a shorter tenure with fresh ideas and perspective. It also recognises that the chair of the board will frequently fall into the former category rather than the latter.*
>
> *The mere fact that a director has served on a board for a substantial period does not mean that he or she has become too close to management to be considered independent. However, the board should regularly assess whether that might be the case for any director who has served in that position for more than 10 years."*

This is a much less specific recommendation that the guidance APRA proposes in clauses 35 to 37 of HPG 510 and in our opinion more appropriately recognises that there are also benefits to having a mix of longer serving directors as well as those with a shorter tenure. This is consistent with our view that any policy on Board renewal should focus on an appropriate mix of skills, knowledge, expertise and tenure rather than impose an arbitrary maximum tenure.

6. PPGs are not subject to parliamentary review, are not legislative instruments and do not crate enforceable requirements. However, clauses 35 to 37 of HPG 510 attempt to introduce a firm tenure expectation of 12 years which would then need to be justified to APRA to be exceeded, as well as other arbitrary statements in relation to a maximum tenure that go significantly beyond the legal requirement that would be imposed by clause 45 of CPS 510 once approved.

Submission: As a result of these considerations, St.LukesHealth submits a request that all references to a maximum tenure be removed from HPG 510 – Governance.

2. CPS 520 – Fit and Proper

St.LukesHealth is concerned that Clause 32 (b) of CPS 520 may prove impossible to comply with for private health insurers in regional areas, when coupled with the requirements of clause 99 of CPS 510.

Often in regional areas, there are a limited number of individuals within an audit firm with a minimum of five years' relevant experience in the audit of APRA-regulated institutions in the PHI industry. In some instances, there is only one, or only one with less than 5 years' experience in the PHI industry.

Whilst we recognise that APRA wishes to harmonise both CPS 520 and CPS 510 across all its regulated industries, we believe the requirement in CPS 520, clause 32 (b), when coupled with CPS 510, clause 99,

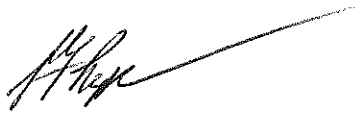
will give rise to quite a number of alternative arrangement requests from regional private health insurers. Therefore, we would like to make the following submission:

Submission: In relation to the above concerns, St.LukesHealth submits a request that CPS 520, clause 32 (b) be amended as follows: *"has a minimum of five years' relevant experience in the audit of APRA-regulated institutions. ~~in the industry within which they are working~~"*

Or, failing such amendment, that specific acknowledgement is made that an alternative arrangement request may be submitted where it is not possible for a private health insurer to satisfy the requirements of both CPS 520, clause 32 (b) and CPS 510 clause 99 due to a lack of auditors within the area the entity is based, with the required length of experience in the PHI industry.

Thank you for the opportunity to review the proposed draft documents. We appreciate your time in considering our submission.

Yours faithfully



Paul Lupo
Chief Executive Officer