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Charles Littrell
Executive General Manager
Policy, Statistics and International
Australian Prudential Regulation Authority
GPO Box 9836
SYDNEY NSW 2001

Email: Insurance.Policy@apra.gov.au

Dear Mr Littrell,

Consultation on Draft LPG 270 – Group Insurance Arrangements

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in relation to draft Prudential Practice Guide LPG 270 – *Group Insurance Arrangements* released by the Australian Prudential Regulation Authority (APRA) on 10 December 2013.

We note that, as with the other prudential practice guides that APRA has released, the intent of LPG 270 is to include practical guidance from the Regulator on matters regarding insurance provided to a Registrable Superannuation Entity (RSE) licensee as well as discussing the implications for insurers of Prudential Standard SPS 250 – *Insurance in Superannuation*. In that context, it is understood that LPG 270 is intended to provide guidance on APRA's view of sound practice in this area and does not create enforceable obligations or requirements.

ASFA has consulted with its members and reviewed draft LPG 270. Our comments are set out in this submission.

About ASFA

ASFA is a non-profit, non-politically aligned national organisation. We are the peak policy and research body for the superannuation sector. Our mandate is to develop and advocate policy in the best long-term interest of fund members. Our membership, which includes corporate, public sector, industry and retail superannuation funds, plus self-managed superannuation funds and small APRA funds through its service provider membership, represent over 90% of the 12 million Australians with superannuation.

General comments

As an overall comment, ASFA is broadly comfortable with the contents of draft LPG 270 based on the fact that it is a guide and is designed “to assist institutions by providing targeted guidance in relation to requirements in APRA prudential standards”.

We believe it represents a good opportunity to align terminology and quotation processes to make it easier for RSE licensees and their administrators to understand what information they need to supply to insurers when obtaining quotations. For example, at present not all insurers provide the full list of claims information needed, particularly for income protection policies. To improve the consistency of data provided by RSE licensees to insurers as part of a tender process, and thereby enable insurers to quote accurately for the business, ASFA believes it would be helpful for LPG 270 to provide guidance to insurers on the information they should be requesting from RSE licensees (eg. with respect to claims information, information such as: claim type, cause of claim, date ceased work, date notified/registered, date of initial claim payment, total benefit paid to date, status of claim etc).

Also, we note that draft LPG 270 uses the terminology “APRA expects” in a number of places. ASFA’s view is that, given the fact that prudential practice guides do not contain enforceable requirements, where an insurer’s process does not accord with APRA’s expectation, it should be sufficient for an insurer to evidence:

- an awareness and consideration of the APRA expectation; and
- an alternative justifiable position.

Specific comments

We have identified some specific issues with the contents of draft LPG 270 and provide our feedback/recommendations below for your consideration.

Paragraph 2 – Income protection

Paragraph 2 states that “[a]n RSE licensee can also make certain types of insured benefits, including income protection, available to choice members”. ASFA notes that income protection is available to many MySuper members, not just choice members.

ASFA suggests that this paragraph should be amended to reflect this.

Paragraphs 4 and 5 – Risk management framework

Paragraph 4 discusses the various risks specific to group insurance that, if material, should be identified within the insurer’s risk management framework and taken into account in pricing and in the assessment of capital adequacy. One of these risks (item 4(g)) relates to “high aggregate exposures

to individuals who obtain insurance under several policies” and the potential inability of insurers to monitor or reinsure these exposures if it has inadequate data on the individual members of group policies.

ASFA notes the limited capability of insurers to identify these ‘high aggregate exposures’ with respect to group insurance policies held by RSE licensees and questions whether it would be practical or indeed possible to do so (i.e. obtain sufficient ‘adequate’ data on individual members of the RSE).

Paragraph 6 – Insurance tenders

Paragraph 6 lists the issues which APRA expects a potential insurer to address in its response to a tender. ASFA’s view is that item 6(b) should be amended to state “These include **but are not limited to...**” and should include a reference to occupational loadings.

In addition, ASFA suggests that it may be helpful to include in item 6(e) the rights of the insurer to review comprehensively the administration of the insurance by the RSE licensee or its administrator on a regular basis.

Paragraph 9 – Claims philosophy

Paragraph 9 outlines the various ‘indicators’ that APRA considers that it would be good practice for insurers to include in the articulation of their claims philosophy.

ASFA’s view is that 9(a) should be omitted on the basis that the insurer’s rate of rejection of claims is based on historical data and, without the context of the insurer’s specific policies, reveals little about the insurer’s claims philosophy. Rejection rates are generally dictated by the nature of the claims received (eg. an insurer may have a higher rate of rejection of claims due to an increased volume of spurious claims received) – they are not controlled by, or a reflection of, the insurer’s claims handling approach or philosophy.

Paragraph 10 – Terms and conditions

Paragraph 10 outlines the various terms and conditions that an insurance contract with an RSE licensee must, at a minimum, address in order to satisfy the requirements of SPS 250.

ASFA believes that item 10(e), which relates to the beneficiaries’ eligibility for, cessation of, and any reinstatement of entitlements to insured benefits, should also make reference to the commencement of cover. ASFA considers that this is critical information that should be included in the terms and conditions of any insurance contract.

Paragraphs 11 and 13 – Sustainability

Paragraph 11 states that “APRA expects an insurer’s response to a tender to discuss the potential for future changes to the premium rates and the other terms and conditions. This is particularly important if there is a significant likelihood that future changes will have a materially adverse impact on beneficiaries”.

It is unclear how far into the future APRA expects such discussions of future changes to encompass. ASFA considers that any suggestion that an insurer’s response to a tender should discuss the sustainability of the premium rates and policy terms beyond the guarantee period is unreasonable. With the exception of the premium rates, the policy terms are usually guaranteed for the term of the policy. Given the volatility of the business, insurers reserve the right to re-price the risk and cannot readily predict risks that may arise in the future. Any forecast by the insurer in this regard would potentially expose it to claims for negligence or misleading and deceptive conduct if the forecasts turn out to be inaccurate or incomplete. Additionally, such a disclosure could limit or negate the insurer’s right to re-rate the risk under the terms of the policy, which could potentially have an impact on reinsurance arrangements. If the insurer is unable to re-price (where doing so would go against forecasts previously provided to policy owners) this potentially could leave the insurer in a precarious position of not being able to pass on to policy owners rate increases imposed on it by the reinsurer. Also if, as is often the case, the premiums payable under the reinsurance treaty are tied to the premiums the insurer charges its policy owners, a fetter on the insurer’s ability to re-price may adversely affect the profitability of the reinsurer under the treaty and accordingly its pricing.

Paragraph 13 lists the factors that affect the level of uncertainty around future experience, which impacts on the amount of capital required by the insurer when taking on a new insurance arrangement.

ASFA considers that “eligibility for cover” is sufficiently significant to be added to the list of factors. Also, we believe that item (i) should be amended from “the rate guaranteed period” to “rate guarantee terms”.

Paragraphs 17 and 18 – Service agreements

Paragraph 17 on dispute resolution outlines APRA’s expectations with respect to the management of disputes between the RSE licensee, the insurer and any other parties such as an administrator.

ASFA suggests that it may be helpful if this paragraph were amended to clarify that if the administrator referred to is an appointee of the RSE licensee, then any dispute arising in respect of the administration should be managed between the RSE licensee, as principal, and the insurer, not the insurer and the administrator as appointee. If, on the other hand, the insurer has outsourced its administration to an administrator, then any dispute would be between the insurer and its appointed administrator.

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Item 18(h) discusses APRA's expectation that the insurer and the RSE licensee would have documented profit-sharing arrangements and experience commission terms, including ensuring their consistency with the requirement under section 29SAC of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) not to charge MySuper members for payment of conflicted remuneration. ASFA contends that it should not be the insurer's responsibility to determine whether profit-sharing arrangements and experience commission terms are consistent with the RSE licensee's SIS Act undertaking to its members. This responsibility rests solely with the RSE licensee, as the policy owner, to ensure that this occurs. ASFA suggests that it would be useful to clarify this point in item 18(h).

Paragraphs 23 - 24 – Monitoring the RSE licensee and other relationships

Paragraphs 23 and 24 deal with reporting between the insurer, the RSE licensee and other parties (such as an administrator) involved in the management of the insured benefits. ASFA believes that it would be helpful if the information provided by the insurer to the RSE licensee, as agreed under the service level agreement, included the number of claims paid out based on the full TPD definition and the number paid out under an ancillary TPD definition. In due course, this may help the RSE licensee to determine the most appropriate definition for its membership, based on their occupation profile, employment status etc.

Paragraph 37 – Data management

Paragraph 37 refers to the importance of maintaining a membership history. ASFA considers that paragraph 37(b) should make reference to mergers and de-mergers as well as to successor fund transfers, as not all insurance arrangements are transferred to a new fund under a successor fund arrangement.

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I trust that the information contained in this submission is of value. If you have any queries or comments regarding the contents of our submission, please contact ASFA's Senior Policy Adviser, Jon Echevarria, on (02) 8079 0859 or by email jechevarria@superannuation.asn.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Fiona Galbraith', is written over a light blue rectangular background.

Fiona Galbraith
Director, Policy