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Northern Territory of Australia

Motor Accidents (Compensation) Commission Act

Treasurer Determination 1/2016

I, David William Tollner, the Treasurer, pursuant to section 25 of the *Motor Accidents (Compensation) Commission Act 2014*, make the following determination.

Dated 11 July 2016

D. W. Tollner
Treasurer

Northern Territory of Australia
Treasurer Determination 1/2016

1 Application and Interpretation

- (a) The provisions of this Determination apply with effect immediately.
- (b) This Determination has been prepared by the Treasurer following consultation with the Motor Accidents (Compensation) Commission.
- (c) Territory Insurance Office Determination 1/2014 will cease to have effect on and from the commencement of this Determination.
- (d) In this Determination:

“Act” means the *Motor Accidents (Compensation) Commission Act 2014*.

“ADI” means an Approved Deposit-taking Institution

“APRA” means the Australian Prudential Regulation Authority.

“APRA Standards” means the Prudential Standards applied by APRA under the *Insurance Act 1973* and the *Banking Act 1959* as are amended and current from time to time.

“Commission” means the Motor Accidents (Compensation) Commission.

“ICAAP” means Internal Capital Adequacy Assessment Process.

“MAC Fund” means the Motor Accidents (Compensation) Commission Fund.

“MAC business” means the part of the business that relates to administration of the motor accident compensation scheme established by the *Motor Accidents (Compensation) Act*, the Motor Accidents (Compensation) Fund and any other related matters.

“Prudential Standards” means the prudential standards and requirements that must be applied by the Commission in relation to the MAC business or relate to the performance of the Commission’s functions in relation to the MAC business as set out in clauses 2-4 of this Determination (subject to the qualifications, modifications, clarifications and additions as set out in Schedule 1).

2 APRA Standards

- (a) Subject to this Determination, clause 2(b) below and qualifications, modifications, clarifications or additions as set out in Schedule 1, the following APRA Standards apply to the Commission:
- (i) GPS 110 Capital Adequacy;
 - (ii) GPS 230 Reinsurance Management;
 - (iii) GPS 310 Audit and Related matters;
 - (iv) GPS 320 Actuarial and Related matters;
 - (v) CPS 220 Risk management;
 - (vi) CPS 232 Business Continuity Management; and
 - (vii) CPS 520 Fit and Proper.
- (b) In applying the APRA Standards above, the Commission must have regard to the following matters:
- (i) References to, and obligations of, an ADI do not apply.
 - (ii) References to an insurer, a general insurer or a regulated institution are to be read as references to the Commission in its conduct of the MAC business to which the Standard applies.
 - (iii) References to APRA are to be read as references to the Treasurer.
 - (iv) References to directors of an insurer are to be read as references to the Commissioner of the Commission.
 - (v) References to the board (or Board) in relation to an insurer are to be read as references to the Commissioner of the Commission.
 - (vi) References to "Appointed Auditor" are to be read as references to the Auditor-General. For the purposes of the APRA Standards the Auditor-General is to be taken to be independent, to be fit and proper, and to have no conflict of interest. Any provision of the APRA Standards imposing obligations or requirements on the Appointed Auditor is not directly binding upon the Auditor-General, however the Commission must make the necessary arrangements with the Auditor-General to enable the Auditor-General to perform, and to ensure that the Auditor-General performs, the role and requirements contemplated by the APRA Standards to be undertaken and performed by the Appointed Auditor.

- (vii) References to "Appointed Actuary" are to be read as references to an actuary appointed by the Commission and approved by the Treasurer. Any provision of the APRA Standards imposing obligations or requirements on the Appointed Actuary is not directly binding upon the Appointed Actuary, however the Commission must make the necessary arrangements with the Appointed Actuary to enable the Appointed Actuary to perform, and to ensure that the Appointed Actuary performs, the role and requirements contemplated by the APRA Standards to be undertaken and performed by the Appointed Actuary.
- (viii) The Commission must submit to the Treasurer all certificates and reports required to be prepared by its Appointed Auditor and Appointed Actuary under the APRA Standards. Reports other than those relating to a special purpose review must be submitted on or before the day that the Commission's yearly statutory accounts are required to be given to the Treasurer.
- (ix) Where an APRA standard allows for the use of a standard approach for compliance, based on limited complexity or scale of the insurer, rather than a tailored approach, the Commission may utilise that standard approach and, where applicable, note such utilisation in the relevant internal policy.
- (x) To the extent of any inconsistency between the APRA Standards and the Act, the Regulations, this Determination or any other instrument of a legislative or administrative character made under the Act, the provisions of that instrument shall prevail.

3 Capital management and solvency

- (a) The Internal Capital Adequacy Assessment Process (ICAAP) summary prepared by the Commission under APRA Standard GPS 110 Capital Adequacy shall be based on a target solvency range as specified in writing by the Treasurer.
- (b) The target solvency range shall be based on a ratio of assets over liabilities, where the definition and measure of 'assets' and 'liabilities' is to be specified in writing by the Treasurer.
- (c) Where the Treasurer has not specified a target solvency range, the target solvency range shall be 100-160, based on a ratio of assets over liabilities, as recorded in the financial statements of the Commission.
- (d) If the solvency target range changes, the ICAAP summary must be amended, within three months of the change, to reflect the new solvency target range.

4 Reporting

- (a) The Commission shall, not later than 6 weeks after the last day of March, September and December of each year or such longer period as the Treasurer, in writing, permits, lodge a report with the Treasurer relating to the 3 months preceding the last day of that March, September or December, as the case may be.
- (b) The Commission shall, not later than 4 months after the last day of June of each financial year or such longer period as the Treasurer, in writing, permits, lodge a report with the Treasurer relating to the financial year preceding that last day of June, based on the audited financial information for that financial year.
- (c) Reports referred to in this clause 4(a)-(b) above must:
 - (i) contain details of the Commission's compliance with and performance with respect to the Prudential Standards applicable pursuant to this Determination; and
 - (ii) be in such format as approved by the Treasurer from time to time. The format of reports approved by the Treasurer pursuant to Territory Insurance Office Determination 2014/1 shall be taken as valid and shall continue to have effect as though approved in accordance with this Determination.
- (d) In relation to the annual reports at clause 4(b) above, if the financial reporting standards or requirements adopted for a measure are different to those set out in the Prudential Standards, the annual report must identify the financial reporting standard or requirement adopted, the reason for the adoption, and report the measure on the basis adopted as well as the basis set out in the Prudential Standards.
- (e) The Commission must conduct a triennial independent review of governance and risk management practices to ensure that objectives of the risk management framework are being met. A report of this review must be provided to the Treasurer within 10 business days of it being completed. The first report must be completed within three years of this Determination coming into effect.
- (f) The Commission must provide such other reports as and when required under the Prudential Standards, subject to any other direction or approval of the Treasurer.
- (g) The Commission must provide any additional ad-hoc reports requested by the Treasurer from time to time, in an accurate and timely manner, and in a format approved by the Treasurer.

- (h) The Commission must inform the Treasurer as soon as practicable of any material or significant events, transactions, breaches or other issues relating to the MAC business, compliance with the Prudential Standards and/or this Determination as soon as practicable.
- (i) Whenever the Commission is required to lodge a report with the Treasurer under this clause 4, the Commission must also lodge a copy of the return or report with the Under Treasurer.

5 Transitional arrangements

Matters and reports listed in Schedule 2 (Transition Schedule) that have been undertaken and/or provided since 1 January 2015 (unless otherwise stated) pursuant to the Territory Insurance Office Determination 1/2014 shall be taken to be valid and shall continue to have effect as though made in accordance with this Determination, subject to the following:

- (a) where a Prudential Standard requires a document to be reviewed, the applicable review period commences from the date that document was last reviewed; and
- (b) the ICAAP prepared by the Commission must be reviewed within 3 months of this Determination coming into effect.

Schedule 1 – Qualifications, modifications, clarifications or additions to APRA Standards

1 GPS 110 Capital Adequacy

Only provisions relating to the responsibility for capital management, internal capital adequacy assessment process and capital base, at paragraphs 1-19 of GPS 110, apply.

2 GPS 230 Reinsurance Management

- (a) References to the Insurance Concentration Risk Charge (ICRC) do not apply.
- (b) Reinsurance Management Strategy reviews are to be undertaken every three years, or in the circumstances of notable changes in business arrangements.
- (c) Provisions relating to monitoring and reviewing ICRC and catastrophe reinsurance program (at paragraphs 23(f)-(g) of GPS 230) are to apply such that the Commission must document reinsurance arrangements and tracking of reinstatements of cover during the policy year.

3 GPS 320 Actuarial and Related Matters

- (a) References to the Insurance Concentration Risk Charge (ICRC) determination or assessment shall be read as a determination or analysis of the annual frequency of claims that are in excess of the reinsurance retention.
- (b) The requirement to prepare a Financial Condition Report annually is modified to be every second year, unless:
 - (i) the capital of the MAC Fund is outside of the target range; or
 - (ii) there are significant changes in the MAC business.
- (c) The Treasurer may agree with the Commission to change the timing of the provision of all reports prepared by the Auditor-General under this Prudential Standard.
- (d) The requirement to disclose information regarding matters that materially prejudice the interests of policyholders (at paragraph 47 of GPS 320) applies such that reference to “as required under the Act” is removed.
- (e) The requirement to include an assessment of pricing in a Financial Condition Report (at (d) in Attachment B), is replaced with the requirement to include an annual pricing report, which is updated for any subsequent trends in experience if necessary.

4 CPS 220 Risk Management

The provision for alternative arrangements for risk management at paragraph 42 of CPS 220 does not apply.

5 CPS 232 Business Continuity Management

The application of this APRA Standard is in respect of the Business Continuity Plan of any third party that is contracted by the Commission to perform its MAC business operations.

6 CPS 520 Fit and Proper

The Commission must adopt APRA Standard CPS 520, subject to the following qualifications:

- (a) The Commissioner is excluded from the fit and proper policy and framework.
- (b) The Commissioner is required to make an annual declaration in relation to the Commissioner’s fitness and propriety, in a form as approved by the Treasurer.

Schedule 2 – Transition Schedule

The following matters and reports required pursuant to the Prudential Standards shall be taken to be valid, and shall continue to have effect, in accordance with clause 5 (Transitional Arrangements) of the Determination:

(a) GPS 110 Capital Adequacy

- (i) ICAAP Summary Statement, dated [*30 June 2015*]
- (ii) ICAAP Annual Report and Declaration, dated [*30 June 2015*]

(b) GPS 230 Reinsurance Management

- (i) Reinsurance Management Strategy, dated [*June 2015*]
- (ii) Reinsurance Statement, dated [*September 2015*]
- (iii) Reinsurance Declaration, dated [*September 2015*]

(c) CPS 220 Risk Management

- (i) Risk Management Strategy, dated [*June 2016*]
- (ii) Risk Appetite Statement, dated [*June 2016*]

(d) CPS 232 Business Continuity Management

- (i) Business Continuity Policy, dated [*June 2016*]

(e) CPS 520 Fit and Proper

- (i) Fit and Proper Policy, dated [*June 2016*]
- (ii) Annual declarations/assessments of each responsible person provided. In particular, prior annual declarations and assessments continue to be taken as valid.
- (iii) Statements and details of responsible persons provided in accordance with the requirements of paragraph 51 of CPS 520.