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Northern Territory of Australia

Motor Accidents (Compensation) Commission Act

Treasurer Determination 1/2017

I, Nicole Susan Manison, the Treasurer, pursuant to section 25 of the *Motor Accidents (Compensation) Commission Act 2014*, make the following determination.

Dated 8 August 2017

N. S. Manison
Treasurer

Northern Territory of Australia
Treasurer Determination 1/2017

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) Motor Accidents (Compensation) Commission Determination 1/2016 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.

“ASX 200 dividend yield” is the ASX 200 dividend yield determined using dividends for the 12 months prior to the reporting date and asset values at the reporting date.

“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.

“Catastrophic Risk Charge” means the net cost of 3 individual large claims as determined by the Appointed Actuary.

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

“Diversification Benefit” means 30%

“Economic Liability Margin” means the difference between the net outstanding claims liabilities from the financial accounts and the net outstanding claims provision estimated on an Economic Basis.

“Economic Basis” means the calculation of net outstanding claims provision using an interest rate equal to 2% above the assumed inflation rate, claims handling expenses without any additional contract loadings, and a risk margin which increases the probability of sufficiency of the liabilities from 75% to 90%.

“Gross Outstanding Claims” means the gross outstanding claims provision estimated on an economic basis.

“Gross Unearned Contributions” means the gross unearned contributions as recorded in the Motor Accidents (Compensation) Commission’s financial accounts.

“Growth Assets” means the value of total investments as recorded in the Motor Accidents (Compensation) Commission’s financial accounts, less those investments in fixed interest assets, bonds and cash.

“ICAAP” means Internal Capital Adequacy Assessment Process.

“Intangibles” means deferred acquisition costs, deferred tax assets, capitalised software and goodwill from the Motor Accidents (Compensation) Commission’s financial accounts.

“Investment Risk Charge” means the charge calculated using the following formula:

“Investment Risk Charge” means the charge calculated using the following formula:

$$\text{Growth Assets} \times \left(1 - \frac{\text{ASX200 Dividend Yield}}{\text{ASX200 Dividend Yield} + 1.5\%}\right) \times (1 - \text{Diversification Benefit})$$

“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.

“Net Assets” means the net assets from the financial accounts.

“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. The submission of a certificate or report by the Commission to the Under Treasurer qualifies as a submission of that report or certificate 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) Where an APRA standard requires an action to be done annually, it will be taken to have been done in compliance with the requirement if done at any time during a financial year, notwithstanding that more than 12 months may have elapsed since the action was last done.
- (xi) 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 of 110% to 150% as set out in Clause 3(b).
- (b) The target solvency range shall be determined using the ratio of capital over liabilities plus 100%, where the components of capital and liabilities are defined below.
 - (i) Capital is determined as:
 - (i) Net Assets; less
 - (ii) Intangibles; plus
 - (iii) Economic Liability Margin; less
 - (iv) Investment Risk Charge; less
 - (v) Catastrophe Risk Charge.
 - (ii) Liabilities is determined as:
 - (i) Gross Outstanding Claims; plus
 - (ii) Gross Unearned Contribution.
- (c) The target solvency range shall be 110% - 150%.
 - (i) If the solvency falls below 110%, or is expected to fall below 110% in the near future then:
 - (i) The Commissioner is required to inform the Minister at the earliest opportunity and outline the next steps.
 - (ii) The Commissioner is required, in consultation with the Department of Treasury and Finance, to develop and recommend to the Treasurer an action plan to return the scheme to within the target range within no more than five years.
 - (iii) The Treasurer is required to consider the Commissioner's recommendation and to agree with the Commissioner on an action plan.
 - (ii) If the solvency is above 150%, or is expected to rise above 150% in the near future then:
 - (i) The Commissioner is required to inform the Minister at the next regular report and outline the next steps.
 - (ii) The Commissioner is required, in consultation with the Department of Treasury and Finance, to develop and recommend to the Treasurer an action plan to return the scheme within the target range within no more than five years.

- (iii) The Treasurer is required to consider the Commissioner's recommendation and make a decision to act on any action to be taken.

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 Under Treasurer from time to time.
- (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.

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 Commission must adopt APRA Standard CPS 220, subject to the following qualifications:

- (a) The Commission is excluded from the following paragraphs:
1-7, 9-18, 24, 25, 32, 34-37, 41, 43, 45-48, 51, 55, 56, 57.
- (b) 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.