

EXPLANATORY STATEMENT

Issued by the Australian Prudential Regulation Authority

Life Insurance Act 1995

Prudential Rules Number 38

Subsection 252(1) of the *Life Insurance Act 1995* (the “Act”) provides that the Australian Prudential Regulation Authority (“APRA”) may, in writing, make rules prescribing all matters required or permitted by the Act to be prescribed by Prudential Rules. Subsection 252(2) of the Act provides that such Prudential Rules are disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*.

Section 54 of the Act provides that Prudential Rules may deal with matters of a transitional, saving or application nature relating to:

- the transition from Division 3 of Part 4 of the Act (that is, sections 52 - 54 of the Act as they were before the transfer date), to this Division of the Act (that is, sections 52 - 54 on and after the transfer date); and
- the transition from the Friendly Societies Code to this Division (that is, sections 52 - 54 of the Act on and after the transfer date).

The provisions referred to above, as they existed before the transfer date, dealt with amalgamation and division of statutory funds of life companies, and restructure and termination of benefit funds of friendly societies, respectively. Rules 2 and 3 of this Prudential Rule enable APRA, from the transfer date, to treat things done under those “old rules” as if they were things done under sections 52 and 53 of the Act, and Prudential Rules Nos 36 and 37. These latter provisions are those which now deal with restructures and termination of statutory funds (which include approved benefit funds of friendly societies). These Prudential Rules therefore prevent life companies from having to re-apply for a restructure or termination of a statutory fund or funds under the new provisions of the Act that apply from the transfer date, where an application was in process at the transfer date.

Rule 4 of these Prudential Rules allows APRA to seek more information in relation to things done under rules 2 and 3. This is necessary because the “old rules” and the current requirements differ in minor ways, so further information may be required in order to properly assess an application for a restructure or termination of a statutory fund. It is necessary in these Prudential Rules to refer (for example, in rule 4) to “section 54 as amended by item 22 of Schedule 4 to the FSA (A&TP) Act” to make it clear that the reference is to section 54 of the Act as it exists after the transfer date (elsewhere section 54 is referred to as it exists prior to the transfer date).