



Insurance (prudential standard) determination No. 2 of 2011

Prudential Standard GPS 001 Definitions

Insurance Act 1973

I, Ian Laughlin, a delegate of APRA:

- (a) under subsection 32(4) of the *Insurance Act 1973* (the Act), REVOKE *Prudential Standard GPS 001 Definitions* made by Insurance (prudential standard) determination No. 3 of 2010; and
- (b) under subsection 32(1) of the Act, DETERMINE *Prudential Standard GPS 001 Definitions* in the form set out in the Schedule, which applies to:
 - (i) all general insurers and authorised NOHCs; and
 - (ii) a subsidiary of a general insurer or authorised NOHC, where that subsidiary is a parent entity of a Level 2 insurance group.

This determination takes effect from 1 December 2011.

Dated 23 September 2011

[Signed]

Ian Laughlin
Member

Interpretation

In this instrument:

APRA means the Australian Prudential Regulation Authority.

authorised NOHC has the meaning given in section 3 of the Act.

general insurer has the meaning given in section 11 of the Act.

Level 2 insurance group has the meaning given in paragraphs 6 to 12 as set out in the Schedule.

parent entity has the meaning given in paragraph 10 (which is affected by paragraph 11) as set out in the Schedule.

subsidiary has the meaning given in paragraph 13 set out in the Schedule.

Schedule

Prudential Standard GPS 001 Definitions comprises the 13 pages commencing on the following page.



Prudential Standard GPS 001

Definitions

Objective and key requirements of this Prudential Standard

The purpose of this Prudential Standard is to define key terms referred to in other Prudential Standards applicable to general insurers and Level 2 insurance groups. All Prudential Standards applicable to general insurers and Level 2 insurance groups must be read in conjunction with this Prudential Standard.

Authority

1. This Prudential Standard is made under section 32 of the *Insurance Act 1973* (the Act).

Application

2. This Prudential Standard takes effect from 1 December 2011.
3. Unless the contrary intention appears, definitions in this Prudential Standard apply to this Prudential Standard and all other Prudential Standards made under section 32 of the Act (collectively **GI Prudential Standards**) and to all prudential practice guides relating to general insurance made by APRA.

Interpretation

4. Certain terms referred to in the GI Prudential Standards are defined in the Act. By operation of subsection 13(1) of the *Legislative Instruments Act 2003*, terms not defined in the GI Prudential Standards but which are defined in the Act have the same meaning as in the Act.

Categories of insurers:

5. The different categories of insurers referred to in the GI Prudential Standards are defined as follows:

Category A insurer means an insurer incorporated in Australia. This category excludes all insurers falling within any of the other categories. For the purposes of clarification, wholly owned subsidiaries of corporate groups that are not insurance groups fall into this category where they do not already fall into another category of insurer under this Prudential Standard. Category A insurers could be mutual companies or shareholder companies.

Category B insurer means an insurer that is:

- (a) incorporated in Australia; and
- (b) a subsidiary of a local or a foreign insurance group.

Category B insurers are part of a local or foreign insurance group. They could be subsidiaries of mutual or shareholder companies. An insurance group captive is not a Category B insurer.

Category C insurer means a ‘foreign general insurer’ defined under subsection 3(1) of the Act. A Category C insurer is a foreign insurer operating as a foreign branch in Australia and could be a branch of a foreign mutual or shareholder company.

Category D insurer means an insurer incorporated in Australia that:

- (a) is owned by an industry or a professional association, or by the members of the industry or professional association or a combination of both; and
- (b) only underwrites business risks of the members of the association or those who are eligible, under the articles of association or constitution of the association, to become members of the association; but
- (c) is not a medical indemnity insurer as defined under the *Medical Indemnity Act 2002*.

Category D insurers are often referred to as ‘association captives’ and could be mutual companies or shareholder companies.

Category E insurer means an insurer incorporated in Australia that is a:

- (a) corporate captive; or
- (b) partnership captive.

Category E insurers, often referred to as ‘sole parent captives’, will generally be shareholder companies.

Corporate captive means an insurer that:

- (a) is owned by a single company or a group of related bodies corporate; and
- (b) exists for the purpose of underwriting risks of the parent company or members of a group of related companies, which may include the risks of joint venture partners and contractors of members of the group of companies.

Corporate captives include insurance group captives.

Insurance group captive is an insurer that:

- (a) is a subsidiary of an insurer or an authorised NOHC; and
- (b) exists for the purpose of reinsuring the risks of the insurer or members of the insurance group, which may include the risks of joint venture partners of the members of the insurance group.

Partnership captive means an insurer that:

- (a) is owned by a partnership; and
- (b) exists for the purpose of underwriting the business risks of the partners and/or the partnership.

Level 2 insurance group has the meaning given in paragraphs 6 to 12:

6. A Level 2 insurance group is:
 - (a) where there is no authorised NOHC and an insurer has controlled entities, the consolidation of the insurer and its controlled entities, subject to paragraphs 7 to 9 (inclusive); or
 - (b) where there is an authorised NOHC, the consolidation of the authorised NOHC and its controlled entities, subject to paragraphs 7 to 9 (inclusive); or
 - (c) where there is no authorised NOHC and an insurer does not have controlled entities, the consolidation of the insurer and any entity that meets the following criteria:
 - (i) the entity is subject to control by an entity or group of related entities that are the same or very similar to the entity or group of related entities that control the insurer; and
 - (ii) the entity conducts insurance business or business related to insurance business¹; and
 - (iii) APRA determines, in writing, that the entity is to be consolidated.

However, APRA may, in writing, determine that a group that meets subparagraph (a) or (b) is not to be treated as a Level 2 insurance group.

7. For the purposes of the prudential supervision of insurance groups at Level 2, all entities conducting insurance business (subject to paragraphs 8 and 9), both regulated and unregulated, within the insurance group must be consolidated. Consolidation at Level 2 must be in accordance with the requirements of Australian Accounting Standards for the production of consolidated financial statements except where APRA determines under paragraph 8 that an additional entity is to be consolidated or where an entity is to be treated as a non-consolidated subsidiary under paragraph 9.
8. APRA may, in writing, determine that an entity is to be consolidated, despite that entity not being a controlled entity of the insurer or authorised NOHC, if:
 - (a) the entity is subject to control by an entity or group of related entities that are the same or very similar to the entity or group of related entities that control other members of the Level 2 insurance group; and
 - (b) it conducts insurance business or business related to insurance business.²

¹ This includes controlled entities which provide a financing role to the insurance business, insurance intermediaries and service companies.

² This includes controlled entities which provide a financing role to the insurance business, insurance intermediaries and service companies.

9. The following types of controlled entities are to be treated as **non-consolidated subsidiaries**³ (unless APRA, in writing, determines otherwise):
 - (a) prudentially regulated entities that are neither insurers nor entities carrying on **international business**;
 - (b) entities acting as manager, responsible entity, approved trustee, trustee or similar role in relation to funds management (including superannuation or pension fund business);
 - (c) entities involved in non-financial (commercial) operations;
 - (d) securitisation special purpose vehicles to which assets and/or liabilities have been transferred in accordance with any Prudential Standard made under section 32 of the Act; and
 - (e) an entity which APRA has determined, in writing, is to be deconsolidated because APRA is satisfied that its principal business is not related to any insurance business of the group or is immaterial to the group's total business.
10. Subject to paragraph 11, the **parent entity** of a Level 2 insurance group is:
 - (a) where the Level 2 insurance group is headed by an authorised NOHC, the authorised NOHC; and
 - (b) where the Level 2 insurance group is headed by an insurer, the insurer.

Note: 'authorised NOHC' does not refer to the holding company of a wider corporate group which includes the Level 2 insurance group where the holding company has not been authorised under the Act as a NOHC.

11. APRA may, in writing, determine that a different entity within a Level 2 insurance group (which must be an insurer, authorised NOHC or a subsidiary of an insurer or authorised NOHC) is the parent entity of that group.
12. APRA may apply transition arrangements to a Level 2 insurance group in respect of entities which would otherwise be consolidated within the group. APRA may agree, in writing, upon these arrangements with such Level 2 insurance groups on a case-by-case basis to allow a transition period before these entities are required to be consolidated within a Level 2 insurance group.

Other key terms:

13. Other key terms referred to in the GI Prudential Standards are defined as follows:

Accounts of a Level 2 insurance group, for the purposes of the prudential standards applicable to Level 2 insurance groups, refers to accounts constituting reporting documents required to be prepared by the parent entity of the group in

³ However, any entity specified in subparagraphs (a), (b), (c) and (d) which is not material may be consolidated.

compliance with reporting standards made under the *Financial Sector (Collection of Data) Act 2001* (**Collection of Data Act**) and includes both annual accounts and half-yearly accounts required under such reporting standards.

Agent in Australia has the same meaning as in the Act.

Annual accounts, in relation to a Level 2 insurance group, means the reporting documents that are required by reporting standards made under the Collection of Data Act to be lodged with APRA in respect of a financial year of a Level 2 insurance group.

Appointed Actuary means an actuary appointed under paragraph 39(1)(b) of the Act.

Appointed Auditor means an auditor appointed under paragraph 39(1)(a) of the Act.

APRA-authorised reinsurer means an insurer carrying on reinsurance business. For the purposes of this definition, a Lloyd's underwriter as defined under the Act is an APRA-authorised reinsurer if it carries on reinsurance business.

Auditing and Assurance Standards is a reference to the Auditing and Assurance Standards issued by the Auditing and Assurance Standards Board (**AUASB**) as may be amended from time to time.

Australian Accounting Standards is a reference to the Australian Accounting Standards issued by the Australian Accounting Standards Board (**AASB**) as may be amended from time to time.

Australian business of a Level 2 insurance group, for the purposes of the prudential standards applicable to Level 2 insurance groups, means insurance business carried on (whether in Australia or elsewhere) by any Level 1 insurer within the group.

Authorised deposit-taking institution has the same meaning as in the *Banking Act 1959*.

Authorised NOHC has the same meaning as in the Act.

Business day has the same meaning as in the Act.

Capital standards refers collectively to prudential standards relating to capital adequacy.

Controlled entity of a NOHC or insurer, for the purposes of the prudential standards applicable to Level 2 insurance groups, means a subsidiary as defined in Australian Accounting Standards for the purposes of determining the entities included in consolidated general purpose financial statements.

Corporate agent has the same meaning as in the Act.

Corporate group is a group of companies comprising two or more companies that are related bodies corporate within the meaning of section 50 of the *Corporations Act 2001* (**Corporations Act**).

Deferred reinsurance expense (DRE) represents the amount of reinsurance expense which is capitalised as an asset over the life of the reinsurance contract in accordance with *GPS 310 Audit and Actuarial Reporting and Valuation*.

Director has the same meaning as in the Act.

Expected reinsurance recoveries means any amounts due to an insurer, or to an entity that carries on international business within a Level 2 insurance group, from a reinsurer that arise from the recognition of Premiums Liabilities referred to in the capital standards and *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation*. This is distinguished from reinsurance recoverables.

Financial year, in relation to a Level 2 insurance group, means the financial year (within the meaning of the *Corporations Act 2001*) of the parent entity of the Level 2 insurance group.

General insurer has the same meaning as in the Act.

Insurance business has the same meaning as in the Act.

Insurance group means a group of companies comprising:

- (a) a company that is either:
 - (i) an insurer; or
 - (ii) an authorised non-operating holding company of an insurer; and
- (b) one or more subsidiary companies or parent companies of the company referred to in subparagraph (a)

within a corporate group. There may be more than one insurance group within a corporate group. An insurance group includes but is not necessarily limited to a Level 2 insurance group as defined in this Prudential Standard.

Insurer means a general insurer as defined in the Act.

International business of a Level 2 insurance group means, for the purposes of the prudential standards applicable to Level 2 insurance groups, insurance business carried on by any entity within the group that is not authorised under the Act.

Lenders mortgage insurance has its ordinary commercial meaning and includes insurance under a policy which protects a lender from losses in the event of borrower default on a loan secured by a mortgage over residential or other property.

Lenders mortgage insurer means an insurer that has written or reinsured, or proposes to write or reinsure, policies of lenders mortgage insurance.

Level 1 insurer, for the purposes of the prudential standards applicable to Level 2 insurance groups, means an individual insurer that is authorised under the Act and is part of a Level 2 insurance group.

Limited assurance is as defined according to *Framework for Assurance Engagements* issued by the AUASB as may be amended from time to time.

Minimum capital requirement (MCR) is as defined in *Prudential Standard GPS 110 Capital Adequacy*. For the purposes of a Level 2 insurance group, MCR is as defined in *Prudential Standard GPS 111 Capital Adequacy*.

Non-APRA-authorised reinsurer means any reinsurer that is not an APRA-authorised reinsurer.

Non-operating holding company (NOHC) has the same meaning as in the Act.

Prudential matters has the same meaning as in the Act.

Prudential requirements includes requirements imposed by the Act, prudential standards, the Collection of Data Act, reporting standards, conditions on the insurer's authorisation and any other requirements imposed by APRA in writing.

Reinsurance includes retrocession and **reinsurer** includes retrocessionaire.

Reinsurance assets in relation to an insurer or an entity that carries on international business within a Level 2 group comprises:

- (a) reinsurance recoverables; and
- (b) deferred reinsurance expense.

Reinsurance recoverables means any amounts due to an insurer, or to an entity that carries on international business within a Level 2 insurance group, from a reinsurer that arise from the recognition of Outstanding Claims Liabilities referred to in the capital standards and *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation* and *Prudential Standard GPS 311 Audit and Actuarial Reporting and Valuation: Level 2 Insurance Groups*. This is distinguished from expected reinsurance recoveries and forms part of reinsurance assets.

Related body corporate, or **related company**, has the same meaning as in section 50 of the Corporations Act.

Related firms, in the context of Appointed Auditors, Appointed Actuaries and Reviewing Actuaries, means either two or more firms, or a firm and a body corporate, that have common ownership or management, or where one has a substantial shareholding in the other.

Responsible auditor is as defined in *Prudential Standard GPS 520 Fit and Proper*.

Reviewing Actuary means an actuary appointed by an insurer for the purpose of reviewing the Insurance Liability Valuation Report under *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation*.

Run-off insurer means an insurer that is closed to new business and has not written renewal business for a period of at least 12 months.

Senior manager has the same meaning as in the Act.

Small insurer means an insurer that satisfies the following criteria:

- (a) the gross insurance liabilities of the insurer are less than \$20 million when valued in accordance with *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation*; and
- (b) the gross insurance liabilities of the insurer do not include a material amount in respect of long-tail business (comprising classes of business where the claims are typically settled more than one year after the date of occurrence of the event that gives rise to the claim).

Subsidiary means a subsidiary as defined under the Corporations Act.

Yearly statutory accounts has the same meaning as in the Act.

14. Classes of business referred to in prudential standards are defined as follows:

Direct Business

The classes of business are as follows:

- (a) **Houseowners/Householders (H & H)**

This class covers the common H & H policies inclusive of:

- Contents;
- Personal property;
- Arson; and
- Burglary.

Public liability normally attaching to these products is to be separated and included in the Public and Product Liability class of business – item (l).

(b) **Commercial Motor Vehicle**

Motor vehicle insurance (including third party property damage) other than insurance covering vehicles defined below under Domestic Motor Vehicle. It includes long and medium haul trucks, cranes and special vehicles and policies covering fleets.

(c) **Domestic Motor Vehicle**

Motor vehicle insurance (including third party property damage) covering private use motor vehicles including utilities and lorries, motor cycles, private caravans, box and boat trailers and other vehicles not normally covered by business or commercial policies.

(d) **Travel**

Insurance against losses associated with travel including loss of baggage and personal effects, losses on flight cancellations and overseas medical costs.

(e) **Fire and Industrial Special Risks (ISR)**

Fire

Includes all policies normally classified as 'Fire' and includes:

- sprinkler leakage;
- subsidence;
- windstorm;
- hailstone;
- crop;
- arson; and
- loss of profits and any extraneous risk normally covered under fire policies, e.g. flood.

ISR

Standard policy wordings exist for this type of policy. All policies which contain such standard wordings or where the wording is substantially similar are to be classified as ISR.

(f) **Marine**

Includes Marine Hull (including pleasure craft) and Marine Cargo (including sea and inland transit insurance).

(g) **Aviation**

Aviation (including aircraft hull and aircraft liability).

(h) **Mortgage**

Insurance against losses arising from the failure of debtors to meet financial obligations to creditors or under which payment of debts is guaranteed. It includes lease guarantees.

(i) **Consumer Credit (CCI)**

Insurance to protect a consumer's ability to meet the loan repayments on personal loans and credit card finance in the event of death or loss of income due to injury, illness or unemployment.

(j) **Other Accident**

Includes the following types of insurance:

- Miscellaneous accident (involving cash in transit, theft, loss of money);
- All risks (baggage, sporting equipment, guns);
- Engineering when not part of ISR or Fire policy;
- Plate glass when not part of packaged policy (e.g. houseowners /householders);
- Live Stock;
- Pluvius; and
- Sickness and Accident which by the terms of the policy provides benefits for no more than 3 years.
- **Other**

All other insurance business not specifically mentioned elsewhere. It includes, for example:

- Trade Credit;
- Extended Warranty (includes insurance by a third party for a period in excess of the manufacturer's or seller's normal warranty;
- Kidnap and Ransom; and
- Contingency.

(k) **Compulsory Third Party Motor Vehicle (CTP)**

This class consists only of CTP business.

(l) **Public and Product Liability**

- Public Liability covers legal liability to the public in respect of bodily injury or property damage arising out of the operation of the insured's business. Product Liability includes policies that provide for compensation for loss and or injury caused by, or as a result of, the use of goods and environmental clean-up caused by pollution spills where not covered by Fire and ISR policies.
- Includes builders warranty insurance.
- Includes public liability attaching to H & H policies.

(m) **Professional Indemnity (PI)**

- PI covers professionals against liability incurred as a result of errors and omissions in performing professional services which has resulted in economic losses suffered by third parties.
- Includes Directors' and Officers' liability insurance plus legal expense insurance. Cover for legal expenses is generally included in this type of policy.

(n) **Employers' Liability (EL)**

Includes:

- Workers' compensation;
- Seamen's compensation; and
- Domestic workers compensation.

(o) **Reinsurance Business**

The classes of business for companies that provide reinsurance are as follows:

Treaty Proportional: This refers to all forms of quota share and surplus reinsurance written on a treaty reinsurance arrangement basis where the reinsurer is bound to accept all business ceded by the reinsured subject to the terms and conditions of the pre-agreed treaty wording, and shares in the same proportion of premium and losses of the reinsured.

Treaty Excess of Loss: This refers to all reinsurance arrangements where the reinsurer is bound to accept all business ceded by the reinsured and the reinsurer pays losses only above an agreed predetermined limit (retention) up to an agreed maximum amount.

Facultative Proportional: This refers to non-treaty arrangements where each reinsurance contract is on an individual offer and acceptance basis and the reinsurer shares in the same proportion of premium and losses of the reinsured.

Facultative Excess of Loss: This refers to non-treaty arrangements where each reinsurance contract is on an individual offer and acceptance basis. The reinsurer pays losses only above an agreed predetermined limit (retention) up to an agreed maximum amount.

Reinsurance non-split: This line item classification disclosed under Reinsurance class of business is to be used where it is not possible for the insurer to separately split out all the classes of reinsurance businesses.

Determinations made under previous prudential standards

15. An exercise of APRA's discretion (such as an approval, waiver or direction) under a previous version of this Prudential Standard continues to have effect as though exercised pursuant to a corresponding power (if any) exercisable by APRA under this Prudential Standard. For the purposes of this paragraph, 'a previous version of this Prudential Standard' includes:
 - (a) *Prudential Standard GPS 001 Definitions (GPS 001)* made on 23 June 2008;
 - (b) GPS 001 made on 17 December 2008;
 - (c) GPS 001 made on 15 December 2009; and
 - (d) GPS 001 made on 18 June 2010.