

**Life Insurance (prudential standards) determination
No. 1 of 2018**

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority

Life Insurance Act 1995, section 230A

APRA may, in writing, determine, vary or revoke a prudential standard that applies to an institution regulated by APRA under subsections 230A(1) and (5) of the *Life Insurance Act 1995* (Life Insurance Act), in relation to life companies, friendly societies, registered non-operating holding companies (registered life NOHCs), and subsidiaries of life companies and registered life NOHCs.

On 6 March 2018, APRA made the following determination (the instrument):

Life Insurance (prudential standards) determination No. 1 of 2018, which revokes *Prudential Standard LPS 230 Reinsurance* (previous LPS 230) made under Life Insurance (prudential standard) determination No. 12 of 2007, and determines a new *Prudential Standard LPS 230 Reinsurance Management* (new LPS 230).

The instrument commences on 1 April 2018.

1. Background

APRA's mandate is to ensure the safety and soundness of prudentially regulated financial institutions, including life companies, so that they can meet their financial promises to depositors, policyholders and fund members within a stable, efficient and competitive financial system.

APRA carries out this mandate through a multi-layered prudential framework that encompasses licensing and supervision of institutions. APRA is empowered under the Life Insurance Act to issue legally binding prudential standards that set out specific prudential requirements with which APRA-regulated life companies must comply.

LPS 230 forms part of the prudential framework, and is designed to promote sound practices in relation to the use of reinsurance by life companies.

2. Purpose of the instrument

The purpose of the instrument is to continue to promote sound reinsurance management practices in life companies by applying the new LPS 230 to those institutions. The previous LPS 230 would otherwise lapse on 1 April 2018 by operation of the sunseting regime.

3. Operation of the instrument

Key aspects of LPS 230 are that a life company must:

- report on prescribed matters in relation to its reinsurance arrangements annually;
- not enter into certain types of reinsurance arrangements unless prior written approval has been granted by APRA; and
- comply with any conditions imposed by APRA in relation to an approval.

The new LPS 230 made under the instrument continues to impose substantively the same requirements as the previous LPS 230, but includes a number of refinements to enhance and streamline its operation. Primarily, new LPS 230 takes a more principles based approach to the specification of reinsurance arrangements where approval is required, whereas the previous LPS 230 adopted a prescriptive approach. The changes are expected to:

- allow for clearer focus on the economic substance of reinsurance arrangements;
- support better quality discussions between life insurers and APRA supervisors regarding the key prudential issues in reinsurance arrangements; and
- be more responsive to developments in the reinsurance market.

APRA will issue guidance to assist life companies to comply with the new LPS 230.

In LPS 230, unless the contrary intention appears, a reference to an Act, Regulations or Prudential Standard is a reference to the Act, Regulations or Prudential Standard as in force from time to time.

4. Consultation

APRA consulted with life companies and other stakeholders for 7 weeks commencing from 3 November 2017. Three submissions were received and were supportive of the overall approach. A number of questions and comments were made and have been taken into account in LPS 230 and the APRA response letter accompanying the release of the final prudential standard. Additionally, submissions noted that additional guidance from APRA would assist in interpretation of the new standard. APRA will prepare and issue such guidance to assist life companies and other stakeholders.

5. Regulation Impact Statement

The Office of Best Practice Regulation advised that a Regulation Impact Statement was not required for this determination.

6. Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

A Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided at Attachment A to this Explanatory Statement.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Life Insurance (prudential standards) determination No. 1 of 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

Overview of the Legislative Instrument

The legislative instrument revokes *Prudential Standard LPS 230 Reinsurance Management* (LPS 230) made under Life Insurance (prudential standards) determination No. 12 of 2007 and replaces it with a new LPS 230. The instrument imposes substantively the same requirements as the previous LPS 230, but includes a number of refinements to enhance and streamline its operation.

Human rights implications

APRA has assessed this Legislative Instrument and is of the view that it does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the HRPS Act. Accordingly, in APRA's assessment, the instrument is compatible with human rights.

Conclusion

Prudential Standard LPS 230 Reinsurance Management is compatible with human rights as it does not raise any human rights issues.