Life insurance (prudential standard) determination No. 1 of 2019

Prudential Standard LPS 700 Friendly Society Benefit Funds

Life Insurance Act 1995

I, Pat Brennan, delegate of APRA:

(a) under subsection 230A(5) of the *Life Insurance Act 1995* (the Act) REVOKE Life Insurance (prudential standard) determination No. 16 of 2012, including *Prudential Standard LPS 700 Friendly Society Benefit Funds* made under that Determination; and

(b) under subsection 230A(1) of the Act DETERMINE *Prudential Standard LPS 700 Friendly Society Benefit Funds*, in the form set out in the Schedule, which applies to all life companies that are friendly societies.

This instrument takes effect on 1 July 2019.

Dated: 17 April 2019

[Signed]

Pat Brennan

Executive General Manager
Policy and Advice Division

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Interpretation

In this Determination:

APRA means the Australian Prudential Regulation Authority.

friendly society has the meaning given in section 16C of the Act.

life company has the meaning given in the Dictionary to the Act.

Schedule

Prudential Standard LPS 700 Friendly Society Benefit Funds comprises the 35 pages commencing on the following page.

Prudential Standard LPS 700

Friendly Society Benefit Funds

Objective and key requirements of this Prudential Standard

The ultimate responsibility for the establishment, structure and operation of a friendly society's approved benefit funds rests with the friendly society.

This Prudential Standard sets out the requirements for the establishment, structure and operation of an approved benefit fund of a friendly society so that it is fair and equitable for its members.

The key requirements of this Prudential Standard include:

- the content of benefit fund rules including, among other things, terms and conditions governing the rights and obligations of both the friendly society and the member under the benefit fund policy contract;
- the operation of approved benefit funds, including the allocation or distribution of approved benefit fund surplus, provision of seed capital and financial benefits, joint investments and permissible unsecured borrowings and the use of a single bank account;
- the approval and amendment of a friendly society's benefit fund rules and any consequential amendments to the friendly society's constitution including the approval and amendment of benefit fund rules and consequential amendments to a friendly society's constitution; and
- the restructure and termination of approved benefit funds including applications, notification of interested persons and documents required to be lodged with APRA.

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Authority

1. This Prudential Standard is made under paragraph 230A(1)(a) of the *Life Insurance Act 1995* (the Act).

Application

2. This Prudential Standard applies to **life companies** that are **friendly societies** pursuant to section 16A of the Act.[1]

3. This Prudential Standard applies to friendly societies from 1 July 2019.

Interpretation

4. Terms that are defined in *Prudential Standard LPS 001 Definitions* appear in bold the first time they are used in this Prudential Standard.

Content of approved benefit fund rules

General content

5. Subject to, and for the purposes of, the requirements of the Act as modified, a friendly society must have **approved benefit fund** rules that adequately provide for, amongst other things, the following matters with respect to each approved benefit fund:

   (a) the name of the approved benefit fund;

   (b) in addition to matters dealt with under the constitution of the company for the purposes of the *Corporations Act 2001*, terms and conditions governing the operation of the approved benefit fund and the rights and obligations of both the friendly society and a member of an approved benefit fund under the policy contract;

   (c) nature of the business to be carried out by the approved benefit fund;

   (d) contribution rates for benefits, including any minimum contributions;

   (e) method of determination of benefit payments under each possible contingency and any required notice period before the benefit is payable;

   (f) any guaranteed benefits;

   (g) membership of the approved benefit fund;

   (h) authorised investments of the approved benefit fund;

   (i) whether the fund is a defined contribution or defined benefit fund, as set out in this Prudential Standard;

[1] Refer to section 3(3) of the Act.

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(j) any costs or expenses which may be paid directly from the approved benefit fund;

(k) effect of taxation, including the method of calculation;

(l) whether the friendly society has the ability to make any transfers, by way of fees, transfer of surplus or otherwise, from the approved benefit fund to the management fund or other approved benefit funds of the friendly society; and

(m) whether the friendly society has the ability to allocate or distribute surplus.

Operational requirements

Classification of approved benefit funds

6. For the purposes of this Prudential Standard, a friendly society must classify an approved benefit fund as either 'defined contribution' or 'defined benefit'.

7. Subject to paragraphs 8 to 10:

(a) an approved benefit fund should be classified as defined contribution where the benefit is derived from contributions made by the member, in accordance with the approved benefit fund rules, together with the investment performance of the assets of the approved benefit fund; and

(b) an approved benefit fund should be classified as defined benefit where the amount of any benefit is specified in, or determined in accordance with, a formula set out in approved benefit fund rules and the amount of the benefit is not directly related to the assets of the approved benefit fund or the investment performance of those assets.

8. Where an approved benefit fund provides for a benefit which meets the characteristics of both paragraphs 7(a) and 7(b), then the approved benefit fund must be classified as either defined benefit or defined contribution according to the dominant characteristics of that benefit.

9. A friendly society may apply to APRA for a written determination of the classification of any approved benefit fund.

10. Notwithstanding any determination under paragraph 9, APRA may, by written notice, determine the classification of any approved benefit fund of a friendly society.

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Allocation or distribution of approved benefit fund surplus

11. The board of a friendly society must seek and consider the written advice of the **Appointed Actuary** prior to making any allocation or distribution of surplus under modified section 56 of the Act with respect to each approved benefit fund of the friendly society. The Appointed Actuary's advice must include, as applicable:

    (a) the effect of the proposal on the approved benefit fund's compliance with the requirements of *Prudential Standard LPS 110 Capital Adequacy* (LPS 110) and *Prudential Standard LPS 112 Capital Adequacy: Measurement of Capital* (LPS 112);

    (b) whether or not the proposed distribution is consistent with representations made to members;

    (c) the level of unallocated surplus after the proposed allocation or distribution, relative to the liabilities of the fund, and whether or not the level is unduly large;

    (d) the extent to which level of unallocated surplus may give rise to undue intergenerational inequity;

    (e) the extent to which the proposal is fair and equitable with regard to different members of the particular approved benefit fund and the general membership of the friendly society;

    (f) the extent to which the proposal would equitably reflect the relative contribution of different members to the creation of the surplus;

    (g) the extent to which the surplus has arisen due to management fund fees being less than the cost of servicing the approved benefit fund;

    (h) the possible and probable effects of the proposal on the finances of the approved benefit fund, and the friendly society more generally; and

    (i) the probable future course of surplus creation in the approved benefit fund and hence the probable future surplus available for allocation or distribution.

12. For the purposes of modified subsection 56(3) of the Act, a friendly society, with respect to a **defined contribution fund**:

    (a) must not distribute any surplus arising in that fund to the management fund or to another approved benefit fund;

    (b) must, in relation to any surplus in an approved benefit fund:

        (i) allocate or distribute the surplus to members of that approved benefit fund; or

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(ii) maintain the surplus as unallocated surplus of that approved benefit fund; and

(c) may make transfers (which exclude surplus, but may include any fees) from that fund to the management fund only if the approved benefit fund rules of the fund provide expressly for such transfers.

13. For the purposes of modified subsection 56(3) of the Act, a friendly society, with respect to a defined benefit fund may, in accordance with its approved benefit fund rules, allocate or distribute any surplus to one or more of the following:

(a) the members of the approved benefit fund; or

(b) the management fund; or

(c) another approved benefit fund of the society.

Seed capital

14. Subject to paragraph 15, a friendly society may transfer an amount from the management fund to an approved benefit fund with prior written approval from APRA. Such an amount is '**seed capital**' and may be included in the net assets of an approved benefit fund under LPS 112 for the purposes of meeting the requirements of LPS 110 for the approved benefit fund.

15. A friendly society must not repay seed capital from an approved benefit fund to the management fund:

(a) unless the approved benefit fund, after any such repayment, continues to meet the requirements of LPS 110 and LPS 112; and

(b) if any interest paid to the management fund in relation to the seed capital exceeds the earning rate of the approved benefit fund during the period when the seed capital forms part of the approved benefit fund.

16. Any seed capital that is a receivable from an approved benefit fund must be deducted from the net assets of the management fund in accordance with LPS 112.

Provision of financial benefits

17. Subject to paragraph 18, a friendly society must not pay, or provide for the payment of, amounts to which a member or any other person may be, or may become entitled to, because of contributions or payments made to the friendly society (whether by that member or person or by another person) unless the friendly society:

(a) maintains an approved benefit fund for the receipt of such contributions and payments; and

(b) pays those amounts as benefits from the approved benefit fund.

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18. Paragraph 17 does not apply to amounts payable by a friendly society:

    (a) in respect of shares of the friendly society; or

    (b) as trustee for a superannuation entity within the meaning of the *Superannuation Industry (Supervision) Act 1993*.

Joint investments of approved benefit funds

19. A friendly society may only invest assets of two or more approved benefit funds in a single 'joint investment' if it does so in accordance with subsection 16H(4A) of the Act and paragraphs 20 to 25.

20. In respect of a joint investment, a friendly society must:

    (a) establish a joint investment account in the records of each contributing fund that identifies each contributing fund's contribution;

    (b) keep a joint investment register that records all transactions of each joint investment and of each contributing fund's contribution in each separate joint investment; and

    (c) reconcile the aggregate of the joint investment accounts kept in the records of each contributing fund with the friendly society's joint investment register.

21. In respect of a joint investment, a friendly society must ensure that:

    (a) the investment is readily able to be liquefied; and

    (b) investment decisions in respect of one contributing fund do not directly affect the asset exposures of any other contributing fund.

22. In respect of a joint investment, a friendly society must allocate:

    (a) the income received from the joint investment to the contributing funds equitably in accordance with their respective contributions; and

    (b) any direct costs of redemption to the contributing funds in accordance with their respective contributions.

23. In respect of a joint investment, subject to paragraphs 24 to 25, a friendly society must reconcile the joint investment accounts kept in the register of each contributing fund with the friendly society's joint investment register at least once every seven days, or at such other time as permitted by APRA.

24. If a joint investment is an investment relating to unitised contracts, the friendly society must carry out the reconciliation referred to in paragraph 23 at least as frequently as the unit prices in relation to the relevant contract are quoted, but in any event, at least once every seven days or at such other time as permitted by APRA.

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25. In respect of a joint investment for which a friendly society conducts a mark to market exercise on a more frequent basis than once every seven days, the reconciliation referred to in paragraph 23 must be carried out at least as frequently as the mark to market exercise.

Single bank accounts for two or more approved benefit funds

26. A friendly society may only maintain a 'single bank account' for money that constitutes assets of two or more approved benefit funds, as allowed under subsection 16H(4) of the Act, where it complies with paragraphs 27 to 32.

27. In respect of a single bank account, a friendly society must:

    (a) establish a benefit fund account in the records of each approved benefit fund;

    (b) establish a control account in the records of the friendly society that records all the transactions in the bank account; and

    (c) reconcile the aggregate of the benefit fund accounts kept in the records of each approved benefit fund with the control account.

28. In respect of a single bank account, a friendly society must ensure that the benefit fund account records all drawings from, and receipts by, the bank account to the extent that they relate to the respective approved benefit funds.

29. In respect of a single bank account, a friendly society must allocate to the approved benefit funds:

    (a) income received from the bank account equitably in accordance with their interest in the bank account; and

    (b) any costs to the approved benefit funds in accordance with their interest in the bank account.

30. Subject to paragraphs 31 and 32 the balancing between benefit fund accounts and the control account must be reconciled at least once every seven days, or at such other time as permitted by APRA.

31. In respect of a single bank account relating to unitised contracts, a friendly society must carry out the reconciliation referred to in paragraph 30 at least as frequently as when the unit prices relevant to the contract concerned are quoted, but in any event, at least once every seven days or at such other time as permitted by APRA.

32. In the case of a single bank account investment in respect of which a friendly society conducts a mark to market exercise on a more frequent basis than once every seven days, the reconciliation referred to in paragraph 30 must be carried out as least as frequently as the mark to market exercise.

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Approval and amendment of benefit fund rules and consequential approval of a friendly society's constitution

Adequate adoption

33. In respect of the benefit fund rule approvals and benefit fund rule amendments dealt with in this Prudential Standard, a friendly society must comply with the adequate adoption requirements under subsection 16B(2) of the Act and in doing so must give effect to the requirements set out in paragraphs 34 and 35.

34. For the purpose of subsection 16B(2) of the Act, a friendly society adopting new benefit fund rules, or adopting amendments to existing approved benefit fund rules, may only do so by:

    (a) a special resolution of the members of the friendly society (or a class of members as determined by APRA) in accordance with section 9 of the *Corporations Act 2001*; or

    (b) subject to paragraph 35, a resolution of the friendly society's Board of directors.

35. In respect of a benefit fund rule amendment, a friendly society may make a resolution under subparagraph 34(b) if it provides reasons why adoption in this manner is appropriate and APRA is satisfied that:

    (a) the amendment is authorised or required by the Act or any other law; or

    (b) the amendment will not prejudice the rights of members who have an interest in the benefit fund; or

    (c) there is a patent error in the approved benefit fund rules, and the amendment is to correct that error; or

    (d) the amendment is in relation to a restructure or termination of an approved benefit fund or funds under sections 52 and 53 of the Act, made in accordance with the requirements of this Prudential Standard.

Approval of benefit fund rules

36. Benefit fund rules may be approved by APRA subject to the requirements set out in section 16L of the Act and in this Prudential Standard.

37. An application to APRA for approval of benefit fund rules made under subsection 16L(1) of the Act must be made using 'Form 1' in this Prudential Standard.

38. After a friendly society's benefit fund rules have been approved by APRA under subsection 16L(3) of the Act and have come into force under section 16N of the Act, the friendly society must give written notice to its members in accordance with the requirements set out in paragraphs 51 and 52.

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Approval of amendment of approved benefit fund rules on initiative of friendly society

39. On application by a friendly society, amendment of approved benefit fund rules may be approved by APRA subject to the requirements set out in section 16Q of the Act and in this Prudential Standard.

40. An application for APRA's approval to amend benefit fund rules pursuant to subsection 16Q(1) of the Act must be made using 'Form 2' in this Prudential Standard.

41. Subject to paragraph 42, after an amendment to a benefit fund's approved benefit fund rules has been approved by APRA under section 16Q(3) of the Act and has come into force under section 16T of the Act, the friendly society must give written notice to its members in accordance with the requirements set out in paragraphs 51 and 52.

42. For the purposes of paragraph 41, notice is not required where:

    (a) the approved benefit fund rules have been amended by a special resolution of the members in accordance with paragraph 34(a); or

    (b) the amendment of the approved benefit fund rules is as a result of a restructure pursuant to section 52 of the Act or a termination pursuant to section 53 of the Act in which case notice must be given in accordance the applicable requirements in this Prudential Standard for restructures and terminations.

Approval of amendment of approved benefit fund rules as required by APRA

43. APRA may require a friendly society to amend approved benefit fund rules, subject to the requirements set out in section 16R of the Act and in this Prudential Standard.

44. Where the amendment of approved benefit fund rules has been determined by APRA under subsection 16R(4) of the Act and has come into force under section 16T of the Act, the friendly society must give written notice to its members in accordance with the requirements set out in paragraphs 51 and 52.

Approval of consequential amendments of a friendly society's constitution on initiative of friendly society

45. On application by a friendly society, consequential amendments of a friendly society's constitution may be approved by APRA subject to the requirements set out under section 16U of the Act and in this Prudential Standard.

46. An application for APRA's approval of consequential amendments of a friendly society's constitution made under subsection 16U(1) of the Act must be made using 'Form 3' in this Prudential Standard.

47. After consequential amendments of a friendly society's constitution have been approved by APRA under subsection 16U(3) of the Act and have come into

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force under section 16X of the Act, the friendly society must give written notice to its members in accordance with the requirements set out in paragraphs 51 and 52.

Approval of consequential amendments of a friendly society's constitution as required by APRA

48. APRA may require consequential amendments to be made to a friendly society's constitution after adoption or amendment of benefit fund rules subject to the requirements set out in section 16V of the Act and in this Prudential Standard.

49. An application for APRA's approval of consequential amendments of a friendly society's constitution as required by APRA which is made under subsection 16V(3) of the Act must be made using 'Form 4' in this Prudential Standard.

50. After consequential amendments of a friendly society's constitution as required by APRA have been approved by APRA under section 16V(4) of the Act or APRA gives the friendly society notice of amendments of the friendly society's constitution that it has determined under section 16V(5) of the Act and the consequential amendments approved or determined by APRA have come into force under section 16X of the Act, the friendly society must give written notice to its members in accordance with the requirements set out in paragraphs 51 and 52.

Notice to members

51. Where notice to members is required in respect of matters dealt with in paragraphs 36 to 50, a friendly society must give written notice to its members, no later than the day on which notice is given of the next general meeting of the friendly society:

    (a) stating the date on which the new benefit fund rule or the change to the benefit fund rule or society constitution came into force; and

    (b) giving the text or a summary of the new benefit fund rule or of the change to the benefit fund rule or friendly society's constitution.

52. With APRA's prior approval, notice as referred to in paragraph 51, may be given to members by an advertisement published in a newspaper circulating generally in the area of each State or Territory in which the friendly society operates.

Restructure of approved benefit funds

53. Under section 52 of the Act, a friendly society may apply to APRA to restructure its approved benefit funds by making one or more policies that are referable to an approved benefit fund or benefit funds of the friendly society become referable to another benefit fund or benefit funds of the society (whether existing or proposed). An application for a restructure of an approved benefit fund under section 52 of the Act may only be made in accordance with

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this Prudential Standard.

54. An application for a restructure of a benefit under section 52 of the Act fund must:

    (a) be made using 'Form 5' in this Prudential Standard; and

    (b) be accompanied by the documents mentioned in the 'Schedule 1 to Form 5' in this Prudential Standard and be lodged with APRA at least 90 days, or such other period as APRA determines in writing, before the proposed date of restructure.

55. The applicant must, on request by APRA and within the time specified, produce to APRA a report by an independent actuary (being an actuary, other than the Appointed Actuary, who is approved by APRA in writing to perform duties as required by APRA and paid for by the friendly society for the purposes of this Prudential Standard) including statements on the same matters as those required of the Appointed Actuary.

Approval of application for restructure of approved benefit funds

56. Subject to this Prudential Standard, APRA may approve an application by a friendly society for a restructure of its approved benefit funds.

57. APRA may refuse to approve an application by a friendly society for a restructure of its approved benefit fund or benefit funds if it considers that immediately after the restructure:

    (a) a transferring fund; or

    (b) a receiving fund

    will not satisfy the requirements of LPS 110 and LPS 112.

58. In order for APRA to approve an application by a friendly society under paragraph 56, the friendly society must obtain consent for the restructure, in relation to each approved benefit fund that is involved in the restructure, by either:

    (a) a special resolution, in accordance with section 9 of the *Corporations Act 2001*, by the members (or a class of members as determined by APRA) of each approved benefit fund that is involved in the restructure; or

    (b) if APRA so determines, a resolution of the Board of directors of the friendly society.

59. A friendly society must, at least 21 days before a meeting of members to provide consent to a restructure under paragraph 58(a), give personally or by post to each member of the approved benefit fund:

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(a) a copy of the documents mentioned in items 1, 2 and 6 of Schedule 1 to Form 5, or a summary of those documents, that has been approved by APRA in writing; and

(b) a notice of the meeting and the proposed special resolution in accordance with paragraph 58(a).

60. If a proposed restructure is approved to in accordance with paragraph 56, the friendly society must within 30 days of that consent:

(a) provide APRA with a copy of the resolutions made under paragraph 58; and

(b) apply to APRA for approval of, whichever of the following is applicable:

(i) benefit fund rules in accordance with section 16L of the Act;

(ii) a proposed amendment of its approved benefit fund rules in accordance with section 16Q of the Act; and

(iii) a proposed amendment of its constitution in accordance with section 16U of the Act.

Transfer of assets

61. Paragraphs 62 to 64:

(a) apply to all friendly societies other than those specified in paragraph 61(b); and

(b) do not apply to a friendly society where the restructure consists only of a transfer of all assets and liabilities from a single transferring approved benefit fund to a single receiving fund.

62. A friendly society shall transfer assets from a transferring fund to a receiving fund as soon as practicable after the transfer of liabilities from the transferring fund to the receiving fund.

63. Assets that are transferred from a transferring fund to a receiving fund shall be treated as assets of a receiving fund on and from the date the restructure has effect.

64. The nature and value of assets to be transferred from a transferring fund to a receiving fund is to be determined by the Appointed Actuary using a method that:

(a) places a value on the liabilities that is consistent with the value being adopted for the assets;

(b) considers the nature and value of the assets in aggregate and also in respect of each particular class of assets;

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(c) in view of the nature of the liabilities to be transferred to a receiving fund and those to remain in a transferring fund, has the objectives of:

(i) facilitating the proper operation of the transferring fund and the receiving fund; and

(ii) protecting the interests of the owners of the policies referable to the transferring fund and the receiving fund; and

(d) is consistent with the method that was described in the Appointed Actuary's report that:

(i) was lodged with APRA in relation to the application in accordance with item 3 of Schedule 1 to Form 5; and

(ii) was approved by APRA as part of its approval under paragraph 56.

When restructure has effect

65. The restructure of approved benefit funds of a friendly society shall have effect when:

(a) benefit fund rules approved under section 16L of the Act come into force under section 16N of the Act to give effect to the restructure; and

(b) proposed amendments to the approved benefit fund rules of the friendly society under section 16Q of the Act to give effect to the restructure come into force under section 16T of the Act.

66. A friendly society to which paragraph 61(a) applies must comply with paragraphs 62 to 64 as soon as practicable after a restructure has taken effect under paragraph 65.

Effect of restructure

67. Upon a restructure of approved benefit funds of a friendly society having effect:

(a) a member of a transferring fund who is in a category specified in documents provided to APRA under paragraph 54(b) becomes a member of a receiving fund; and

(b) the assets and undertakings of, and liabilities referable to, the transferring fund become, to the extent specified in documents provided to APRA under paragraph 54(b), assets and undertakings of, and liabilities referable to, a receiving fund.

Notification of interested persons

68. A friendly society that restructures an approved benefit fund must, within six weeks of the restructure having effect, give written notice of the restructure of the fund to the owner of every policy referable to any of the funds involved in

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the restructure.

69. A notice under paragraph 68 must set out the following matters:

(a) the name and identifying details of the funds involved in the restructure;

(b) the date of the restructure;

(c) a statement, in relation to each fund affected by the restructure, whether the restructure affects the whole or part of the fund;

(d) a summary of how the restructure affects the interests of policy owners of each fund; and

(e) details of:

(i) any proposed new benefit fund rules;

(ii) any proposed amendments to approved benefit fund rules; and

(iii) any proposed consequential amendments to the constitution of the friendly society

in order to recognise the restructure.

70. A notice under paragraph 69 must be accompanied by a document:

(a) describing (in summary form) the reasons for the restructure; and

(b) containing relevant extracts from any report by the Appointed Actuary on the proposed restructure under item 3 of Schedule 1 to Form 5 which deals with implications for policy owners.

71. APRA may grant an exemption, subject to any conditions it thinks fit, from any of the requirements of paragraphs 68 to 70, if it considers that notification in accordance with those paragraphs is not necessary.

Information to be lodged with APRA following a restructure

72. A friendly society must lodge with APRA within three months, or such other period as APRA determines in writing, after a restructure takes effect:

(a) audited accounts, or accounts in a form approved by APRA in writing, for each fund involved in the restructure up to the date that the restructure takes effect; and

(b) such other information as APRA may require.

73. The accounts in paragraph 72 must include, if applicable:

(a) details of any bonuses paid by the friendly society from any fund involved in the restructure and of any reserves retained by the friendly society in a fund during the period to which the accounts relate; and

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(b) a statement of the manner in which the units of a transferring fund were converted to units of a receiving fund.

Termination of approved benefit funds

74. Under section 53 of the Act, a friendly society may apply to APRA to terminate an approved benefit fund of the friendly society. An application for a termination under section 53 of the Act may only be made in accordance with this Prudential Standard.

75. An application for the termination of an approved benefit fund must:

(a) be made using 'Form 6' in this Prudential Standard;

(b) except insofar as APRA otherwise determines in writing, be accompanied by the documents mentioned in 'Schedule 1 to Form 6' in this Prudential Standard; and

(c) be lodged with APRA at least 90 days, or such other period as APRA determines in writing, before the proposed date the termination is expected to take effect.

76. The applicant must, on request by APRA and within the time specified, produce to APRA a report by an independent actuary (being an actuary, other than the Appointed Actuary, who is approved by APRA in writing to perform duties as required by APRA and paid for by the friendly society for the purposes of this Prudential Standard) including statements on the same matters as those required of the Appointed Actuary.

77. Subject to this Prudential Standard, APRA may approve an application under paragraph 74 by a friendly society for a termination of any of its approved benefit funds.

78. Before APRA can approve an application by a friendly society under paragraph 74, the friendly society must obtain consent for the termination, by either:

(a) a special resolution, in accordance with section 9 of the *Corporations Act 2001*, by the members (or a class of members as determined by APRA) of the approved benefit fund that is proposed to be terminated; or

(b) if APRA so determines, a resolution of the Board of directors of the friendly society.

79. A friendly society must, at least 21 days before a meeting of members to provide consent to a termination under paragraph 78, give personally or by post to each member of the approved benefit fund:

(a) a copy of the documents mentioned in items 1, 2 and 6 of Schedule 1 to Form 6, or a summary of those documents, that has been approved by APRA in writing; and

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(b) a notice of the meeting and the proposed special resolution in accordance with paragraph 78.

80. If a proposed termination is approved to in accordance with paragraph 77, the friendly society must:

(a) cease to accept new members and any contributions from existing members in respect of the approved benefit fund; and

(b) distribute the assets of the approved benefit fund, within 12 months of that consent, in accordance with paragraph 81.

Distributions of assets of an approved benefit fund

81. The assets of an approved benefit fund must be applied in the following order:

(a) first:

(i) to pay benefits to any person entitled to a benefit from the approved benefit fund; or

(ii) as otherwise permitted by the Act or by the approved benefit fund rules;

(b) second:

(i) where the approved benefit fund rules of the approved benefit fund being terminated provide for the application of assets on the termination of the fund, in accordance with those approved benefit fund rules; or

(ii) in any other case, in satisfaction of any entitlements of members of the approved benefit fund as determined in writing by the Appointed Actuary; and

(c) third, if any assets remain after the application of paragraphs 81(a) and 81(b), by way of transfer to the management fund of the friendly society.

82. For the purposes of a determination under paragraph 81(b)(ii), the Appointed Actuary must take into account all the circumstances of the approved benefit fund, including:

(a) the requirements of the Act;

(b) the applicable approved benefit fund rules; and

(c) the history, performance and financial position of the fund during its existence, whether before or after it became an approved benefit fund under the Act.

Notification of members

83. A friendly society must, not later than the date of distribution of the assets of

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an approved benefit fund under paragraph 81, give written notice of the termination of the approved benefit fund to each member of the approved benefit fund.

84. A notice under paragraph 83 must include:

(a) the name of the approved benefit fund;

(b) the reasons for the termination of the approved benefit fund;

(c) details of the termination of the approved benefit fund;

(d) a summary of how the termination affects the interests of members of the fund; and

(e) details of the proposed amendment of the approved benefit fund rules and, if applicable, the constitution of the friendly society, to recognise the termination of the approved benefit fund.

85. APRA may grant an exemption, subject to any conditions it thinks fit, from any of the requirements of paragraphs 83 or 84, if it considers that full notification in accordance with those paragraphs is not necessary.

Amendment of rules and constitution

86. If a friendly society has distributed assets in accordance with paragraph 81, the Board of directors of the friendly society must within 30 days of that distribution:

(a) resolve to amend the approved benefit fund rules and, if applicable, the constitution of the friendly society, in the manner set out in the document required to be given to APRA under item 4 of Schedule 1 to Form 6, to give effect to the proposed termination of the approved benefit fund;

(b) provide APRA with a copy of the resolutions made under this paragraph and paragraph 78;

(c) apply to APRA for approval of a proposed amendment of its approved benefit fund rules in accordance with section 16Q of the Act; and

(d) if applicable, apply to APRA for approval of any proposed amendment of its constitution in accordance with section 16U of the Act.

Information to be provided to APRA following a termination

87. A friendly society must lodge with APRA, within three months or such other period as APRA determines, after the termination of an approved benefit fund takes effect:

(a) audited accounts, or accounts in a form approved by APRA, for the terminated fund up to the date on which the termination takes effect; and

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(b) such other information as APRA may require in writing.

88. The accounts referred to in paragraph 87 must include, if applicable:

(a) a statement of the distribution of the assets of the approved benefit fund; and

(b) details of any bonuses paid by the friendly society from the approved benefit fund during the period to which the accounts relate.

When termination has effect

89. A termination of an approved benefit fund of a friendly society has effect from when amendments to the approved benefit fund rules to give effect to the termination come into force under section 16T of the Act.

Unsecured borrowings of an approved benefit fund

90. For the purposes of subsection 38(4) of the Act, a friendly society must not borrow money by means of unsecured borrowing, for the purposes of the business of an approved benefit fund, if the result would be that the total amount of principal outstanding under all unsecured borrowing relating to the fund would exceed 50 per cent of the free assets of the fund.

In relation to an approved benefit fund, 'free assets' means the excess of the **capital base** over the **Prudential Capital Requirement** for the fund as defined in LPS 110 and LPS 112.

Adjustments and exclusions

91. APRA may, by notice in writing to a life company, adjust or exclude a specific requirement in this Prudential Standard in relation to that life company.

Determinations made under previous prudential standards

92. An exercise of APRA's discretion under a previous version of this Prudential Standard continues to have effect under this Prudential Standard.

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Forms for use in relation to friendly society matters dealt with in this Prudential Standard

Form 1: Approval of friendly society benefit fund rules

1. Name and Australian business number of friendly society

2. Name of proposed benefit fund

3. The items outlined below must be attached to this form:

   (a) particulars of projections of life insurance business to which the fund relates for:

      (i) whichever is the greater of the following periods:

         A. the period of the financing arrangements for that business; or

         B. 10 years; or

      (ii) the period approved, in writing, by APRA;

   (b) particulars of the proposed financing arrangements for the writing of new life insurance business to which the fund relates; and

   (c) a report by the Appointed Actuary on the establishment of the benefit fund and the proposed benefit fund rules, in accordance with Attachment B of *Prudential Standard CPS 320 Actuarial and Related Matters*.

4. Contact person

   Please provide the contact details for the person to whom enquiries relating to this application should be directed.

   Name

   Position title

   Phone

   Email address

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5. Address for correspondence

Please provide the address to which correspondence relating to this application should be mailed.

6. Certification

By signing this form the signatory certifies that:

(a) The procedural requirements for the passing of the resolution in accordance with this Prudential Standard were met. **Please attach a copy of the resolution.**

(b) The proposed benefit fund rules comply with the requirements of this Prudential Standard. **Please attach a copy of the proposed new benefit fund rule for approval.**

7. Signature

This form must be signed by either:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name	Position title
Signature	Date

Please send completed form and accompanying documents to your responsible supervisor.

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Form 2: Approval of amendment of approved benefit fund rules

1. Name and Australian business number of friendly society

2. Name of the approved benefit fund for which the approved benefit fund rules are proposed to be amended

3. Is actuarial advice in accordance *Prudential Standard CPS 320 Actuarial and Related Matters* required?

☐ Yes ☐ No

If yes, a copy of the actuary's advice must be attached to this form.

4. Contact person

Please provide the contact details for the person to whom enquiries relating to this application should be directed.

Name

Position title

Phone

Email address

5. Address for correspondence

Please provide the address to which correspondence relating to this application should be mailed.

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6. Certification

By signing this form the signatory certifies that:

(a) The procedural requirements for the passing of the resolution in accordance with this Prudential Standard were met. **Please attach a copy of the resolution.**

(b) The approved benefit fund rules, as proposed to be amended comply with the requirements of this Prudential Standard. **A copy of the proposed benefit fund rule amendments must be attached including a copy of the existing rules "marked up" to show the proposed changes.**

7. Signatures

This form must be signed by:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name	Position title
Signature	Date

Please send completed form and accompanying documents to your responsible supervisor.

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Form 3: Approval of consequential amendments of company's constitution on initiative of a friendly society

1. Name and Australian business number of friendly society

2. Reason/s for the consequential amendments to the constitution

Attach extra pages if insufficient space

3. This application must be accompanied by one of the following; please indicate as applicable:

☐ an application (Form 1) for approval of benefit fund rules under section 16L(2) of the *Life Insurance Act 1995* (the Act); or

☐ an application (Form 2) for approval of amendment of approved benefit fund rules under section 16Q(2) of the Act.

4. Contact person

Please provide the contact details for the person to whom enquiries relating to this application should be directed.

Name

Position title

Phone

Email address

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5. Address for correspondence

Please provide the address to which correspondence relating to this application should be mailed.

6. Signatures

This form must be signed by:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name

Position title

Signature

Date

Please send completed form and accompanying documents to your responsible supervisor.

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Form 4: Approval of consequential amendments of a company's constitution as required by APRA

1. Name and Australian business number of friendly society

2. Contact person

   Please provide the contact details for the person to whom enquiries relating to this application should be directed.

   Name

   Position title

   Phone

   Email address

3. Address for correspondence

   Please provide the address to which correspondence relating to this application should be mailed.

4. Certification

   By signing this form, the signatory certifies that the proposed consequential amendments rectify the deficiency referred to in the APRA notice given under section 16V(2) of the *Life Insurance Act 1995*.

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5. Signatures

This form must be signed by:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name	Position title
Signature	Date

Please send completed form and accompanying documents to your responsible supervisor.

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Form 5: Restructure of approved benefit funds

1. Name and Australian business number of friendly society

2. Date from which the restructure is proposed to have effect

3. Required documentation

   By indicating 'Yes' below, the signatory to this form confirms that the documents mentioned in Schedule 1 to this form have been attached.

   ☐ Yes ☐ No

4. Contact person

   Please provide the contact details for the person to whom enquiries relating to this application should be directed.

   Name

   Position title

   Phone

   Email address

5. Address for correspondence

   Please provide the address to which correspondence relating to this application should be mailed.

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6. Signatures

This form must be signed by:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name	Position title
Signature	Date

Please send completed form and accompanying documents to your responsible supervisor.

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Schedule 1 to Form 5

Specified documents required to be lodged with Form 5

1. A statement of the nature of the proposed restructure and terms and conditions on which the restructure is to take place. The statement must, unless otherwise advised by APRA, include the following information:

   (a) the name of each fund that is to be involved in the restructure, any proposed change in the name of any such fund and the proposed name of any new fund;

   (b) the date from which the restructure is proposed to have effect;

   (c) the reasons for the proposed restructure;

   (d) the effect of the proposed restructure on the interests of the members of each fund that is to be involved in the restructure;

   (e) the assets and undertakings of, and liabilities referable to, each transferring fund that will become assets and undertakings of and liabilities referable to a receiving fund, in accordance with the report of the Appointed Actuary given under item 3 of this Schedule;

   (f) the category or categories of members of each transferring fund that, under the restructure, will become members of a receiving fund;

   (g) any interest that any officer of the society has in the proposed restructure;

   (h) any compensation or other consideration proposed to be paid, or any other incentive proposed to be given, to any officer or member of the society in relation to the proposed restructure;

   (i) if applicable, an estimate of the rate of any bonuses payable from each fund up to the date on which it is proposed that the restructure will take effect;

   (j) in the case of a transfer of part of a fund, details of any reserves that the society proposes to retain in the fund in accordance with the recommendations of the Appointed Actuary;

   (k) whether there has been any material change to the financial position of the fund since the date at which the profit and loss statements or balance sheets were prepared under item 2 of this Schedule; and

   (l) such other information as APRA requires.

2. Unless APRA determines in writing that they are not required, the most recent audited:

   (a) profit and loss statement; and

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(b) balance sheet

prepared in accordance with the relevant reporting standards applicable to friendly societies made by APRA under paragraph 13(1)(a) of the *Financial Sector (Collection of Data) Act 2001* for each fund that is to be involved in the restructure, provided that they were prepared at a date no earlier than six months before the date of the application under paragraph 53 of this Prudential Standard.

3. A report by the Appointed Actuary on the proposed restructure, including:

   (a) in relation to a restructure that does not consist of a transfer of all the assets and liabilities from a single transferring fund to a single receiving fund:

      (i) a statement setting out the basis on which the nature and value of the assets to be transferred is to be determined; and

      (ii) a statement as to whether the assets to be transferred are appropriate to the liabilities to be transferred;

   (b) a statement as to whether the restructure will result in unfairness to the owners of the policies referable to any of the funds involved in the restructure; and

   (c) a statement as to whether, immediately after the restructure, a transferring fund and receiving fund will satisfy the requirements of LPS 110 and LPS 112.

4. A copy of:

   (a) any proposed new benefit fund rules;

   (b) any proposed amendments to approved benefit fund rules; and

   (c) any proposed consequential amendments to the constitution of the friendly society in order to recognise the restructure.

5. A copy of the notice proposed to be issued by the friendly society to notify members of each fund involved in the restructure, as required by paragraph 68 of this Prudential Standard.

6. A certificate signed by the directors of the friendly society certifying that, having regard to all matters relevant to the proposed restructure, the directors consider that the restructure would be in the interests of the members of each fund that is to be involved in the restructure.

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Form 6: Termination of approved benefit funds

1. Name and Australian business number of friendly society

2. Name of the approved benefit fund that the friendly society proposes to terminate

3. Date from which the approved benefit fund termination is proposed to take effect

4. Required documentation

   By indicating 'Yes' below, the signatory to this form confirms that the documents mentioned in Schedule 1 to this form have been attached.

   ☐ Yes ☐ No

5. Contact person

   Please provide the contact details for the person to whom enquiries relating to this application should be directed.

   Name

   Position title

   Phone

   Email address

6. Address for correspondence

   Please provide the address to which correspondence relating to this application should be mailed.

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7. Signatures

This form must be signed by:

(a) the principal executive officer of the friendly society; or

(b) an officer of the friendly society who has been authorised for that purpose by the principal executive officer, if the principal executive officer has notified APRA in writing of the authorisation.

Name	Position title
Signature	Date

Please send completed form and accompanying documents to your responsible supervisor.

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Schedule 1 to Form 6

Specified documents required to be lodged with Form 6

1. A statement of the nature of the proposed termination and the terms and conditions on which the termination is to take place. Unless otherwise advised by APRA in writing, the statement must include the following information:

   (a) the name of the approved benefit fund that is proposed to be terminated;

   (b) the date from which the termination is proposed to have effect;

   (c) the reasons for the proposed termination;

   (d) the manner in which the friendly society intends to distribute the assets of the approved benefit fund that is to be terminated;

   (e) the effect of the proposed termination on the interests of the members of the approved benefit fund;

   (f) any interest that any officer of the friendly society has in the proposed termination;

   (g) any compensation or other consideration proposed to be paid, or any other incentive proposed to be given, to any officer or member of the friendly society in relation to the proposed termination;

   (h) whether there has been any material change to the financial position of the approved benefit fund since the date at which the profit and loss statement or balance sheet were prepared under item 2 of this Schedule; and

   (i) such other information as APRA requires in writing.

2. Unless APRA determines in writing that they are not required, the most recent audited:

   (a) profit and loss statement; and

   (b) balance sheet

   prepared in accordance with the relevant reporting standards applicable to friendly societies made by APRA under paragraph 13(1)(a) of the *Financial Sector (Collection of Data) Act 2001* for each fund that is to be involved in the termination, provided that they were prepared at a date no earlier than six months before the date of the application under paragraph 74 of this Prudential Standard.

3. A certificate signed by the Appointed Actuary certifying that, having regard to all matters relevant to the proposed termination, the actuary considers that the termination would be in the interests of the members of the approved benefit fund.

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4. A copy of:

   (a) proposed amendments to the approved benefit fund rules; and

   (b) any proposed consequential amendments to the constitution of the friendly society

   in order to recognise the termination of the approved benefit fund.

5. A copy of the notice proposed to be issued by the friendly society to notify members of the approved benefit fund of the proposed termination of the approved benefit fund, as required by paragraph 83 of this Prudential Standard.

6. A certificate signed by the directors certifying that, having regard to all matters relevant to the proposed termination, the directors consider that the termination would be in the interests of the members of the approved benefit fund.

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