INSURANCE COUNCIL OF AUSTRALIA

Mrs Helen Rowell
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Australian Prudential Regulation Authority
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Dear Mrs Rowell

CONSOLIDATING PRUDENTIAL STANDARDS

The Insurance Council of Australia[1] (Insurance Council) welcomes the opportunity to comment on the ***Discussion Paper on Consolidating Prudential Standards: Outsourcing, Business Continuity Management Governance and Fit and Proper*** (the Discussion Paper). We have received positive feedback from members on the benefits that should flow from the harmonisation of standards across APRA-regulated industries.

As the draft standards released with the Discussion Paper largely reflect the current industry-specific standards, most of the comments which the Insurance Council has to make are relatively minor.

The Discussion Paper refers to APRA's intention to review the existing guidance material with a view to issuing cross-industry prudential practice guides at a later date. The Insurance Council would like to register the importance of involving industry members in the review and development of harmonised guidance.

DRAFT PRUDENTIAL STANDARD CPS 231 OUTSOURCING

Materiality

Paragraph 16: There has been a change in the definition of a "material business activity" from one which will have a "***significant***" impact on business operations/ ability to manage risks to one which will have a "***material***" effect.

Most requirements contained in the standard relate only to outsourcing of a material business activity. Whilst "significant and "material" are similar, the Insurance Council would

[1]The Insurance Council of Australia is the representative body of the general insurance industry in Australia. Our members represent more than 90 percent of total premium income written by private sector general insurers. Insurance Council members, both insurers and reinsurers, are a significant part of the financial services system. December 2010 Australian Prudential Regulation Authority statistics show that the private sector insurance industry generates gross written premium of $33.4 billion per annum and has total assets of $101.7 billion. The industry employs approx 60,000 people and on average pays out about $87 million in claims each working day.

Insurance Council members provide insurance products ranging from those usually purchased by individuals (such as home and contents insurance, travel insurance, motor vehicle insurance) to those purchased by small businesses and larger organisations (such as product and public liability insurance, professional indemnity insurance, commercial property, and directors and officers insurance).

appreciate APRA's clarification that this wording change is not intended to have any impact on insurers.

The role of the Board and senior management

Paragraph 21: A minor language change to this paragraph (deletion of word "such") has created an ambiguity as to whether the Outsourcing Policy must outline a detailed framework for managing all outsourcing arrangements or only those of a material business activity. Such a change may require revision of Outsourcing Policies. As the APRA discussion paper does not mention any intention to extend beyond 'material' outsourcing, the Insurance Council requests the word 'such' (or 'material') be added to remove any ambiguity.

Assessment of outsourcing options

Paragraph 25(d): The option for the Board to delegate the approval of an agreement to a senior manager appears to have been removed. The Insurance Council requests that the existing ability for approval by a senior manager delegated by the Board be carried over to the new CPS. Without this ability, issues will occur such as timings of Board meetings and burdening the Board with operational issues. The delegation provided by the Board will establish the thresholds that will require Board approval.

Notification requirement

Paragraph 35: The wording of this paragraph is ambiguous as to whether the requirement to notify applies to all outsourcing agreements or just those relating to a material business activity. For clarity, the Insurance Council suggests that the word "only" is inserted after "applies" in the final line.

Transitional Arrangements

Paragraph 45: As some of the language changes contained in the standard may require minor changes to policies and or contracts, the Insurance Council recommends that provision be made for a transition period of 12 months.

DRAFT PRUDENTIAL STANDARD CPS 232 BUSINESS CONTINUITY MANAGEMENT

Commencement and Transitional Arrangements

Paragraph 39: There are new requirements in the standard such as for the Board to approve a Business Continuity Management policy. However, the standard does not allow any transition period. The Insurance Council recommends that provision be made for a transition period of 12 months.

DRAFT PRUDENTIAL STANDARD CPS 510 GOVERNANCE

APRA –regulated entities that are part of a corporate group

Paragraph 41: This paragraph requires that the Board of an APRA regulated entity explicitly approve the use of both Group policies and Group functions. It is however questionable whether any transparency the requirement achieves counters the administrative burden and possible consequences. For example:

- The delay in application of Group policies this will cause. For example, the NOHC Board may meet in May but the entity Board may not meet for a month or two later. The Group policy would not be effective until all Boards had met and approved the policy.
- Whether this is to be retrospectively applied so that Boards from 1 July 2011 will have to review all policies and services derived from the Group and approved their use?

- Whether the approval of Group functions implies that the entity Boards would need to monitor performance of Group functions and even approve material changes to them?
- Whether APRA should be aligning this requirement to the Outsourcing Standard that already requires an assessment of outsourced activities to related parties and the subsequent approval of material activities (for services provided by both external and related parties)?

DRAFT PRUDENTIAL STANDARD CPS 520 FIT AND PROPER

Senior Managers

Paragraph 23: The reference to "general insurer" in the first sentence of this paragraph should be changed to "Category C insurer".

Additional criteria applying to auditors

Paragraph 27: As this paragraph only refers to '***auditor'***, it seems that the paragraph references to the Insurance Act in footnote 16 are wrong. Given the Insurance Act paragraphs 25A(3)(b) and 27(2)(b) only apply to directors and senior managers, these paragraph references should be removed and reference made to 39(3)(a).

Paragraph 28(**d):** It is suggested that the following additional sentence be added to the end of footnote 17: "***Also refer to the Insurance Act paragraphs 39(1), 39(2), 39(4) and 43 for additional requirements on the appointment and cessation of an Appointed Auditor.***"

Additional criteria applying to Appointed Actuaries and Reviewing Actuaries

Paragraph 30: In order to remove any possibility of confusion, it is suggested that ***"...of an Appointed Actuary, or of a Reviewing Actuary of a general insurer,...***" be changed to ***"...of an Appointed Actuary of a general insurer or life company, or of a Reviewing Actuary of a general insurer,..."***.

As paragraph 30 only refers to "***an Appointed Actuary, or of a Reviewing Actuary of a general insurer***", it seems that some of the paragraph references in footnote 20 are wrong (footnote 16 may have been copied to footnote 20 in error). We query whether it is relevant to refer to the Banking Act; also the footnote refers to a Life Insurance Act paragraph about auditors rather than actuaries.

Furthermore, the Insurance Act references talk about auditors rather than actuaries. As Insurance Act paragraphs 25A(3)(b) and 27(2)(b) only apply to directors and senior managers, it is suggested that reference to them be removed and a reference to 39(3)(a) should be included in the footnote.

Also this footnote should have the following details added: "***Also refer to the Insurance Act paragraphs 39(1), 39(2), 39(4) and 43 for additional requirements on the appointment and cessation of an Appointed Actuary.***"

The revised footnote would read:

"Refer to paragraph XXX of the Life Insurance Act in relation to an appointed actuary, paragraphs 39(3)(a), 43(2)(b) and 44(3)(b), and subparagraph 44(1)(a)(ii) of the Insurance Act in relation to an appointed actuary. Also refer to the Insurance Act paragraphs 39(1), 39(2), 39(4) and 43 for additional requirements on the appointment and cessation of an appointed actuary."

Paragraph31: In order to remove any possibility of confusion, it is suggested that ***"...as an Appointed Actuary, or as a Reviewing Actuary of a general insurer,..."*** be changed to ***"...as an Appointed Actuary of a general insurer or life company, or as a Reviewing Actuary of a general insurer,..."***.

<u>When a responsible person is not fit and proper</u>
Paragraph 52: Footnote 26 linked to this paragraph should refer to paragraph 37 rather than paragraph 36.

<u>Informing APRA</u>
Paragraph 54 and Paragraph 50: This is another pre-existing issue. Both of these paragraphs require revised information be provided to APRA within 28 days of any change or new appointment to any responsible person position. However, paragraph (46)(1)and (2) of the Insurance Act requires an insurer to notify APRA of the appointment/cessation of an auditor or actuary within 14 days. This conflicts with the 28 days in the Prudential Standards. The Insurance Council suggests that the Insurance Act be changed so that it also refers to 28 days.

If you require further information, please contact Mr John Anning, Insurance Council's General Manager Policy – Regulation Directorate Tel: 02 9253 5121 and Email: janning@insurancecouncil.com.au

Yours sincerely

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