



# Discussion Paper

## Proposed prudential and reporting framework for APRA's supervision of private health insurers in Australia

March 2015

## **Disclaimer and Copyright**

While APRA endeavours to ensure the quality of this publication, it does not accept any responsibility for the accuracy, completeness or currency of the material included in this publication and will not be liable for any loss or damage arising out of any use of, or reliance on, this publication.

© Australian Prudential Regulation Authority (APRA)

This work is licensed under the Creative Commons Attribution 3.0 Australia Licence (CCBY 3.0). This licence allows you to copy, distribute and adapt this work, provided you attribute the work and do not suggest that APRA endorses you or your work. To view a full copy of the terms of this licence, visit [www.creativecommons.org/licenses/by/3.0/au/](http://www.creativecommons.org/licenses/by/3.0/au/).

# Table of contents

|  |    |
|--|----|
| Executive summary and introduction   | 4  |
| Chapter 1 – APRA’s proposed prudential standards for private health insurers | 7  |
| Chapter 2 – Other APRA Rules for private health insurers                     | 11 |
| Chapter 3 – APRA’s proposed reporting framework for private health insurers  | 16 |
| Chapter 4 – Confidentiality of data submitted to APRA under FSCODA           | 19 |
| Chapter 5 – Next steps   | 21 |
| Chapter 6 – Cost-benefit analysis information                                | 22 |
| Attachment A – Mapping of existing and new instruments                       | 23 |
| Attachment B – Mapping of existing and new provisions                        | 25 |

## Executive summary and introduction

In the 2014/15 Budget, the Government announced that the majority of the Private Health Insurance Administration Council's (PHIAC's) functions in respect of the prudential regulation of private health insurers would transfer to APRA on 1 July 2015. Legislation is required to give effect to the transfer of the relevant PHIAC functions to APRA. Accordingly, the Government has consulted on the *Private Health Insurance (Prudential Supervision) Bill 2015* (the PHI(PS) Bill)<sup>1</sup> which facilitates prudential supervision by APRA of the private health insurance industry.

This discussion paper sets out proposals for the structure of the prudential and reporting framework that will apply for the supervision of private health insurers when the transfer of responsibilities to APRA takes effect. APRA's key objective is to provide for a seamless transition of current requirements administered by PHIAC, so that the same requirements continue to have effect in substance following the transfer of responsibilities to APRA.

Importantly, while there are some minor and technical amendments which are necessary in order to take into account the changes proposed in the PHI(PS) Bill, APRA does not intend that the substance of any existing obligations of private health insurers will change at 1 July 2015 following the transfer to APRA.

PHIAC's current framework for the prudential regulation of private health insurers includes both capital adequacy and solvency standards covering the health benefits funds conducted by private health insurers and prudential standards<sup>2</sup> (covering prudential matters other than solvency and capital adequacy). All these standards are included in Rules issued by PHIAC and are together referred to by PHIAC as 'industry standards'. Both PHIAC and the Minister for Health also make Rules addressing a range of other matters. In this paper, the term

'PHI Rules' is used to refer only to those Rules which are made under the *Private Health Insurance Act 2007* (PHI Act) and which will become the responsibility of APRA following the transfer<sup>3</sup>. Reporting requirements for private health insurers are contained in approved forms and are required under various provisions of the PHI Act and Rules.

### APRA's proposed prudential standards for private health insurers

As noted above, the Government has consulted on the PHI(PS) Bill which facilitates prudential supervision by APRA of the private health insurance industry. The PHI(PS) Bill proposes to replace the existing capital adequacy, solvency and prudential standards making powers of PHIAC with a single prudential standards making power to be exercised by APRA. This streamlined prudential standards making power is consistent with other legislation administered by APRA.

The re-making of the industry standards as APRA prudential standards is necessary so that they effectively continue under the PHI(PS) Act. APRA therefore proposes to use its prudential standards-making power to make a series of prudential standards replicating the existing capital adequacy, solvency and prudential standards for private health insurers.

The net result is that the obligations of private health insurers under the re-made prudential standards will be substantively unchanged from those under the existing capital, solvency and prudential standards contained in the Rules issued by PHIAC.

1 <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2015/Private-Health-Insurance-Bill-2015>

2 Existing prudential standards are the Governance Standard, Outsourcing Standard, Appointed Actuaries Standard and Disclosure Standard.

3 Specifically, the matters contained in the *Private Health Insurance (Health Benefits Fund) Administration Rules 2007* (other than rules setting risk equalisation jurisdictions), the *Private Health Insurance (Insurer Obligations) Rules 2009*, the *Private Health Insurance (Registration) Rules 2009* No. 2, the *Private Health Insurance (Health Benefits Fund Enforcement) Rules 2007* and the *Private Health Insurance (Risk Equalisation Administration) Rules 2007*.

APRA's proposals in relation to the prudential standards are detailed in Chapter 1.

## Other APRA Rules for private health insurers

A range of other procedural/administrative matters currently dealt with under Rules issued by both PHIAC and the Minister for Health will, as a result of the proposed PHI(PS) Bill, in future be addressed through Rules issued by APRA.<sup>4</sup> APRA proposes to reissue the existing Rules made by PHIAC (other than requirements that will be transferred to the re-made prudential standards or the reporting standards<sup>5</sup> as mentioned above and discussed in Chapters 1 and 3) in substantively the same form, to ensure that they continue to have effect following the transfer of responsibility to APRA. The operation of the remaining Rules and the obligations of private health insurers will remain unchanged under the proposed APRA Rules.

APRA's proposals in relation to the APRA Rules are detailed in Chapter 2.

## APRA's proposed reporting framework for private health insurers

The Government has also proposed to amend the *Australian Prudential Regulation Authority Act 1998* (APRA Act) such that private health insurers will be included as 'body regulated by APRA' within the meaning of subsection 3(2) of that Act. As a result, APRA will have the ability to make reporting standards applicable to private health insurers under section 13 of the *Financial Sector (Collection of Data) Act 2002* (FSCODA). This legislation also applies to all other industries regulated by APRA and APRA makes reporting standards for those industries.

- 4 For example, Rules made by APRA will address matters relating to transfers, restructures, mergers and acquisitions of health benefits funds, registration and restricted access groups, enforcement, record keeping in relation to risk equalisation and expenditure and application of health benefits funds.
- 5 Reporting standards are the legal mechanism to be used by APRA to collect data from private health insurers. They are discussed further in Chapter 3.

The power to make reporting standards consolidates a range of existing powers used by PHIAC to impose obligations to report data into a single legislative power.

APRA proposes to use this power to re-make the existing reporting obligations of private health insurers as a series of reporting standards that replicate the reporting currently required by PHIAC. The issuance of reporting standards is necessary so that the reporting obligations of private health insurers continue to operate as intended following the transfer of prudential supervision responsibilities to APRA. Importantly, the reporting obligations and methods of reporting will remain unchanged as a result of the proposals.

APRA's proposals in relation to reporting arrangements are detailed in Chapter 3.

## Confidentiality of data submitted to APRA under FSCODA

Under section 56 of the APRA Act, data submitted to APRA under FSCODA is protected information. It therefore cannot be released by APRA unless:

- APRA determines it to be non-confidential (under the process outlined in section 57 of the APRA Act); or
- the release falls squarely within another exception under section 56 of that Act.

These section 56 protections will apply to all data submitted to APRA under the reporting standards discussed in Chapter 3.

Data collected on the PHIAC 1 and PHIAC 2 returns is currently distributed and published through a number of mechanisms. In some cases, the data is released at an aggregate industry level. In other cases, the data released is individual entity level data. This entity level data is protected information under the APRA Act. Distribution and

publication would not be able to continue unchanged post-transition without further action from APRA due to section 56 of the APRA Act. This is not a result of a decision or exercise of discretion by APRA; it is a function of the law under which APRA operates.

APRA is proposing to declare certain data non-confidential under section 57 of the APRA Act to facilitate the continued release and publication of PHIAC 1 and PHIAC 2 data. Submissions are welcome and will assist APRA in reaching its decision regarding confidentiality of data.

Chapter 4 discusses APRA's proposals for the confidentiality of data.

### Other feedback received

In response to an earlier consultation process initiated by the Department of Health, industry raised proposals to streamline the current PHI Rules in order to generate regulatory cost savings and aid useability of the Rules. In some cases, these proposals involve substantive change to the current arrangements. Given the very tight timeframes involved in finalising the proposals in this paper, the importance of having appropriate arrangements in place for 1 July 2015 and the need for APRA to fully consider and consult broadly on any proposed changes, these industry proposals have not been included in the proposals in this paper. APRA will consider and, where appropriate, consult on these issues the next time the prudential standards, reporting standards or Rules (as relevant) are reviewed. APRA's ordinary practice is to periodically review the prudential and reporting frameworks to ensure their ongoing appropriateness. The frequency of such review depends on a number of factors, including the extent to which submissions have been received relating to particular aspects of the framework.

### APRA's future approach to prudential regulation

As noted above, APRA intends to continue the existing prudential requirements and reporting arrangements currently administered by PHIAC without substantive change following the transfer of responsibility for prudential regulation to APRA on 1 July 2015.

APRA will not make any changes to the existing capital adequacy and solvency standards for private health insurers before 1 July 2016. APRA will not make changes to the prudential framework or reporting requirements for private health insurers at any time without following its normal consultation processes. APRA's approach to consultation is discussed further in Chapter 5.

Over time, APRA will begin to review the prudential standards. Periodic review is consistent with APRA's approach in other regulated industries, is consistent with PHIAC's current approach and is good regulatory practice. APRA has not made any decisions about the timing or scope of future reviews.

### Next steps

APRA requests feedback on the proposals in this paper. Further detail on the approach to providing submissions is included in Chapter 5.

Written submissions on this package should be sent to [privatehealthinsurance@apra.gov.au](mailto:privatehealthinsurance@apra.gov.au) by 18 May 2015 and addressed to:

Mr Pat Brennan  
General Manager, Policy Development  
Policy, Statistics and International  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001

# Chapter 1 – APRA’s proposed prudential standards for private health insurers

## Background

As noted above, the Government has consulted on the *Private Health Insurance (Prudential Supervision) Bill 2015* (the PHI(PS) Bill) which is intended to facilitate prudential supervision by APRA of the private health insurance industry from 1 July 2015. Importantly, under section 91 of the Bill, APRA will have the power to make prudential standards applicable to private health insurers.

The proposed prudential standards-making power combines PHIAC’s existing standards making powers into a form that is consistent with other legislation administered by APRA<sup>6</sup> and replaces the existing capital adequacy, solvency and prudential standards making powers of PHIAC<sup>7</sup> with a single prudential standards-making power<sup>8</sup>. Prudential standards are a key component of the prudential framework used by APRA in its prudential supervision of each of its regulated industries.

Prudential standards are legal instruments with which APRA-regulated institutions must comply. Each prudential standard sets out the purpose for which the requirements exist, the legal authority under which it is enforced, the institutions that the requirements apply to, and the specific prudential requirements with which they must comply.

APRA proposes to adopt PHIAC’s current prudential requirements. APRA will not change the substance of the current PHIAC prudential standards in the instruments that will come into force with effect from 1 July 2015, subject to the minor and technical changes necessary in order to align with the new legislation. These minor and technical changes are described further below.

## The proposed prudential standards

Using the prudential standards making power in the PHI(PS) Act, APRA proposes to replace the existing PHIAC industry standards in the PHI Rules by determining the following seven separate private health insurance prudential standards:

1. *Prudential Standard HPS 001 Definitions* (HPS 001), a new standard setting out key definitions used in other prudential standards (discussed further below);
2. *Prudential Standard HPS 100 Solvency Standard* (HPS 100), replicating the existing solvency and liquidity management requirements in the PHI Rules, created to ensure, as far as practicable, that at any time the financial position of a health benefits fund conducted by a private health insurer is such that the private health insurer will be able to meet, out of the fund’s assets, all liabilities that are referable to the fund, as those liabilities become due;
3. *Prudential Standard HPS 110 Capital Adequacy* (HPS 110), replicating the existing capital adequacy and capital management requirements in the PHI Rules, created to ensure, as far as practicable, that there are sufficient assets in a health benefits fund conducted by a private health insurer to provide adequate capital for the conduct of the health benefits fund;
4. *Prudential Standard HPS 231 Outsourcing* (HPS 231), replicating the existing requirement in the PHI Rules, created to ensure reasonable, risk-based business judgements and monitoring with respect to outsourcing arrangements;

6 Section 11CA of the *Banking Act 1959*, section 230A of the *Life Insurance Act 1995*, section 34C of the *Superannuation Industry (Supervision) Act 1993* and section 32 of the *Insurance Act 1973*.

7 Sections 140-5, 143-5 and 163-1 of the PHI Act.

8 Section 91 of the PHI(PS) Bill.

5. *Prudential Standard HPS 320 Actuarial and Related Matters* (HPS 320), replicating the existing requirements in the PHI Rules (subject to certain changes discussed below for consistency with the new legislation), created to specify certain eligibility criteria for the appointment of a private health insurer's Appointed Actuary and other requirements of the Appointed Actuary;
6. *Prudential Standard HPS 350 Disclosure to APRA* (HPS 350), replicating the existing requirements in the PHI Rules, created to specify copies of certain documents that must be provided to APRA and specific issues APRA must be notified of; and
7. *Prudential Standard HPS 510 Governance* (HPS 510), replicating the existing requirements in the PHI Rules, created to specify requirements with respect to board size and composition, board renewal and procedures for assessing board performance, and the establishment of a board audit committee.

A mapping of the existing and proposed prudential requirements can be found in Attachment A. The proposed prudential standards are also attached to this discussion paper.

Readers will notice the terminology 'HPS' for each prudential standard. This refers to 'Health Prudential Standard'. The numbering of each standard aligns with other prudential frameworks administered by APRA and is a convenient method for providing a unique name and clear reference for each standard.

### Minor and technical changes to the existing PHIAC standards to align to the new legislation

In order to ensure the continued operation of the current prudential requirements as intended, a number of minor technical changes are necessary. They include:

- updating references to PHIAC or the Council to become references to APRA;
- updating references to relevant legislation in order to align with the PHI(PS) Bill;

- removing material that relates to provisions of the current PHI Act which have not been adopted in the PHI(PS) Bill, for example material relating to the cessation of appointed actuaries discussed below;
- removing redundant definitions and spent provisions, for example removing spent transitional provisions from the Disclosure Standard and Outsourcing Standard; and
- adopting certain formatting and structural approaches used by APRA in its other regulated industries.

APRA does not intend that any of these amendments will change the substance of the current requirements.

### Consolidated definitions prudential standard

APRA proposes to make HPS 001, which will define key terms referred to in other prudential standards and which will serve as a central repository for key terms used in the prudential standards and their legal definitions. The wording for these definitions will largely replicate definitions contained in the PHI Rules. This approach of using a separate prudential standard containing relevant definitions has been used by APRA in its other regulated industries. APRA does not intend that adopting the structure of a separate definitions standard will result in any changes to the prudential requirements for private health insurers.

### Definition of 'senior management responsibilities' for the purposes of the PHI(PS) Act

Draft HPS 001 includes a definition of 'senior management responsibilities'. A definition of 'senior management responsibilities' is necessary in order that relevant provisions of the PHI(PS) Act<sup>9</sup> have effect as intended. As there is no current equivalent definition under the PHI Rules,

<sup>9</sup> An officer of a private health insurer is defined in section 4 as including a person who exercises senior management responsibilities as defined in the prudential standards. The definition of 'officer', in turn, drives a number of other provisions.

APRA proposes to adapt the definition of ‘officer’ previously used in the PHI Act for this purpose:

**Senior management responsibilities** for the purpose of the definition of ‘officer’ in section 4 of the PHI(PS) Act, means the responsibilities of making, or participating in making, decisions that affect the whole, or a substantial part, of the business of the private health insurer.

As a result of this proposal, the existing definition of ‘officer’ will continue to operate unchanged following the transition to the PHI(PS) Act.

### Adjustments and exclusions power

A paragraph allowing APRA to make ‘adjustments and exclusions’ to relevant prudential requirements has been added into HPS 100, HPS 110 and HPS 510. The relevant paragraph is: ‘APRA may, by notice in writing to a private health insurer, adjust or exclude a specific requirement in this Prudential Standard in relation to that private health insurer’. APRA adopts this approach in its prudential standards applying to other regulated industries and it is a valuable tool to ensure flexibility in, and proportionate application of, the prudential framework. This paragraph was not added into HPS 231, HPS 320 and HPS 350 as there is an existing section titled ‘exemptions and modifications’ that has been replicated from the PHI Rules for these Prudential Standards which achieves a similar outcome. Additionally, under the PHI Act, PHIAC has the ability to declare that the solvency standard or capital adequacy standard does not apply to a particular private health insurer.<sup>10</sup> This declaration is subject to such conditions as imposed by PHIAC. In that way, PHIAC has the legal authority to adjust or exclude prudential requirements in the solvency and capital adequacy standards. The new paragraphs in HPS 100 and HPS 110 will enable APRA to achieve similar outcomes to those currently achievable by PHIAC.

<sup>10</sup> Refer to subsections 140-15(2) and (3) and 143-15(2) and (3) of the PHI Act.

### Review of APRA decisions

Under the proposed legislation, a number of decisions made under the prudential standards are no longer reviewable by the Administrative Appeals Tribunal (AAT). Changes to the relevant prudential standards are therefore necessary in order to align the standards with the legislation. Accordingly, the proposed prudential standards do not include material from the previous standards which related to review of certain PHIAC decisions to the AAT. Specifically, paragraphs allowing for:

- review, under subclause 6(4) of the Solvency Standard, of a solvency supervisory adjustment amount, determined by PHIAC under subclause 6(1);
- review, under subclause 12(5) of the Capital Adequacy Standard, of a capital adequacy supervisory adjustment amount, determined by PHIAC under subclause 12(1); and
- review, under section 14 of the Governance Standard, of a determination by PHIAC not to approve a person as an independent director or not to approve a person as chairperson of a board.

Note that, under the proposed framework of APRA prudential standards, a private health insurer may apply for internal reconsideration of such decisions under an established APRA process. A private health insurer will also continue to be able to apply for judicial review in certain circumstances. These review processes are consistent with the position in other APRA-regulated industries.<sup>11</sup>

### The Appointed Actuaries standard

There are also some minor changes proposed for HPS 320 which replaces Schedule 2 - Appointed Actuaries Standard in the *Private Health Insurance (Insurer Obligations) Rules 2009*:

- Part 1, Section 4 concerns declarations by the Council. It is proposed that this entire section is removed from the prudential standard as

<sup>11</sup> Note that under section 167 of the PHI(PS) Act, a decision to issue an individual prudential standard for a particular entity will be reviewable.

these matters will be captured in section 114 of the PHI(PS) Act;

- Part 1, Section 5 relates to notifications of appointment. Subsections (1) and (4) both set a 28 day timeframe to provide written notification of the appointment and cessation of the Appointed Actuary respectively. It is proposed that '28 days' is changed to '14 days' for consistency with subsections 107(2) and (4) of the PHI(PS) Bill; and
- Part 1, Section 6 discusses cessation of appointment for the purposes of section 160-15 of the PHI Act. Under the PHI(PS) Bill, there is no corresponding requirement as the provisions relating to appointed actuaries have been restructured. Accordingly, Part 1, Section 6 has not been replicated in HPS 320.
- Paragraph 10(b) of Part 1 requires that financial condition reports be prepared 'in accordance with *Professional Standard 600: Financial Condition Reports for Private Health Insurers*, made by the Institute of Actuaries of Australia in June 2011'. It is proposed that 'in June 2011' be removed from this paragraph to mitigate the need to update APRA's Prudential Standards in future, should the Actuaries Institute update Professional Standard 600. Note this does not change the requirements for Appointed Actuaries as the June 2011 version remains the current version of Professional Standard 600.

### **Breach reporting obligations**

The existing Capital Adequacy Standard and Solvency Standard include requirements to notify PHIAC immediately, in writing, if the private health insurer becomes aware that it does not comply with the relevant standard. Under the PHI(PS) Bill, private health insurers have breach reporting obligations under section 94. The obligations in HPS 100 and HPS 110 have been updated to refer to the obligation in section 94.

### **Next steps for the prudential standards**

On transition to the re-made requirements, any approvals, transition arrangements or other exercises of discretion by PHIAC prior to the transfer date will continue to have effect. A section has been inserted in each prudential standard to allow for this.

Transitional arrangements from the existing Disclosure Standard and Outsourcing Standard in Schedules 3 and 4 of the *Private Health Insurance (Insurer Obligations) Rules 2009* have not been transferred to the re-made prudential standards. APRA understands that these transitional arrangements have expired and thus have no continuing effect.

Given the very limited changes to the prudential standards being proposed under this paper, APRA does not consider that any further formal transitional arrangements are necessary merely due to the fact that responsibilities will transfer to APRA. APRA requests feedback from industry as to whether there are areas of the prudential standards that need to be subject to transitional arrangements.

APRA intends that the re-made prudential standards will apply from 1 July 2015.

APRA requests feedback from interested parties regarding whether the minor changes outlined in this Chapter will give rise to any unintended consequences. APRA also requests feedback regarding any errors or omissions made in the process of transferring the existing requirements into the proposed framework.

## Chapter 2 – Other APRA Rules for private health insurers

### Background

Under the PHI(PS) Bill, it is proposed that APRA would make two types of legislative instruments, prudential standards dealing with prudential matters (as discussed in Chapter 1) and APRA Rules. APRA Rules will be used to set requirements for a range of procedural and administrative matters.

APRA proposes to exercise its power to make APRA Rules to the extent necessary to ensure that matters currently dealt with in Rules made under the existing PHI Act continue to have effect following the transition (to the extent that they have not already been addressed in the proposed prudential standards or reporting standards). No substantive changes are proposed to the Rules.

The PHI(PS) Bill also proposes to empower APRA to make Rules on a number of matters that have not previously been the subject of Rules made by PHIAC or the Minister for Health. APRA does not propose to exercise the power to make Rules in those areas at this time.

### The existing Rules

The following tables set out the future application of the various Rules currently made by PHIAC and certain Rules currently made by the Minister for Health under the PHI Act. Only those Rules which are proposed to become the responsibility of APRA following transition are discussed.

#### ***Private Health Insurance (Health Benefits Fund Administration) Rules 2007*** currently made by PHIAC

| Subject   | New location  | Changes   |
|---|---|---|
| Definitions   | Definitions used in the proposed PHI(PS) Rules) will remain set out in those Rules; definitions used in the prudential standards will be set out in HPS 001, HPS 100 or HPS 110 as relevant | No substantive change   |
| Setting Rules relating to the expenditure and application of health benefit funds | Proposed PHI(PS) Rules  | No substantive change   |
| Setting Rules relating to restructure of health benefit funds                     | Proposed PHI(PS) Rules  | No substantive change   |
| Setting Rules relating to mergers and acquisitions of health benefit funds        | Proposed PHI(PS) Rules  | No substantive change. Rule 12A has been removed as it was a transitional provision with no ongoing effect. |
| Setting Rules relating to risk equalisation jurisdictions                         | No APRA Rule. Rules will in the future be made by the Minister for Health   | No substantive change.  |

***Private Health Insurance (Health Benefits Fund Administration) Rules 2007***  
currently made by PHIAC

| Subject                               | New location     | Changes            |
|---------------------------------------|------------------|--------------------|
| Setting the capital adequacy standard | Proposed HPS 110 | Refer to Chapter 1 |
| Setting the solvency standard         | Proposed HPS 100 | Refer to Chapter 1 |

***Private Health Insurance (Risk Equalisation Administration) Rules 2007*** currently made by PHIAC

These Rules will continue to be made under the *Private Health Insurance Act 2007* but will be made by APRA as the *Private Health Insurance (Risk Equalisation Administration) Rules 2015*. Amendments include updating reference to the Council to references to APRA and moving the reporting requirements to a reporting standard (as discussed below).

Note also that the Risk Equalisation Trust Fund will in future be referred to as the Risk Equalisation Special Account to align with the revised PHI Act. This change in terminology has been reflected in the prudential standards, reporting standards and Rules. It has no substantive effect.

| Subject                                    | New location   | Changes               |
|--|--|-----------------------|
| Definitions                                | Definitions that will continue to be used in the <i>Private Health Insurance (Risk Equalisation Administration) Rules 2015</i> will be set out in those Rules. Definitions that will be used in relation to the reporting standards will be set out in the reporting standards | No substantive change |
| Setting requirements for record keeping    | To remain in the <i>Private Health Insurance (Risk Equalisation Administration) Rules 2015</i>   | No substantive change |
| Setting requirements for quarterly returns | To be transferred to HRS 601 (discussed in Chapter 3)  | No substantive change |

***Private Health Insurance (Registration) Rules 2009 (No. 2)*** currently made by the Minister for Health

| Subject   | New location   | Changes   |
|---|--|---|
| Setting various requirements relating to applications for registration and restricted access insurers | <i>Private Health Insurance (Registration) Rules 2015</i> (to be made by APRA) | No substantive change - refer below for minor technical changes |

**Private Health Insurance (Insurer Obligations) Rules 2009 currently made by PHIAC**

| Subject                                      | New location  | Changes               |
|--|---|-----------------------|
| Definitions                                  | Definitions that will now be used in the PHI(PS) Rules will be set out in those Rules. Definitions to be used in other prudential standards will be set out in HPS 001 or the standard relating to that subject matter. | No substantive change |
| Reporting and notification requirements      | To be transferred to the PHI(PS) Rules for the purposes of section 123 of the PHI(PS) Act. <sup>12</sup>  | No substantive change |
| Setting the governance standard              | To be transferred to HPS 510. Requirement to notify of changes in directors to be transferred to PHI(PS) Rules for the purposes of section 124 of the PHI(PS) Act. <sup>13</sup>  | Refer to Chapter 1    |
| Setting the Appointed Actuaries standard     | To be transferred to HPS 320.   | Refer to Chapter 1    |
| Setting the standard for disclosures to APRA | To be transferred to HPS 350.   | Refer to Chapter 1    |
| Setting the outsourcing standard             | To be transferred to HPS 231.   | Refer to Chapter 1    |

**Private Health Insurance (Health Benefits Fund Enforcement) Rules 2007 currently made by the Minister for Health**

| Subject   | New location  | Changes   |
|---|---|---|
| Sets Rules relating to enforcement matters (in particular, providing for the modified application of elements of Part 5.3A of the <i>Corporations Act 2001</i> for the purposes of external management of health benefits funds). | To be transferred to the proposed <i>Private Health Insurance (Health Benefits Fund Enforcement) Rules 2015</i> . | No substantive change (some correction of out of date references) |

<sup>12</sup> This section provides for APRA to be given copies of reports to policy holders that are specified in the Rules.

<sup>13</sup> This section provides for APRA to be notified of the names and contact details of officers of the insurer.

## Requirements for registration and restricted access insurers

Under section 14 of the PHI(PS) Bill, APRA will set criteria to be met in order to be registered, rather than matters to be taken into account by PHIAC in assessing an application for registration.

Accordingly, change is necessary to the relevant Rules to align with the revised legislative structure. These changes are intended to preserve the status quo with respect to registration requirements and are included in the draft Rules.

The draft Rules also continue the effect of provisions of the PHI Act which have not been replicated in the PHI(PS) Bill. These include provisions relating to improper discrimination (subsection 126-20(4) of the PHI Act) in relation to the applicant's complying health insurance policies and notification of the name and contact details of the applicant's Chief Executive Officer (from subsection 169-15(2) of the PHI Act as discussed further below).

## Notification requirements

Under subsection 169-15(2) of the existing PHI Act, a private health insurer must notify the Council of any change to the name or contact details of its Chief Executive Officer. As noted above, under section 14 of the PHI(PS) Bill, APRA is empowered to establish criteria for registration. Under section 124 of the PHI(PS) Bill, APRA is empowered to make APRA Rules regarding notification of the names and contact details of the officers of a private health insurer. APRA proposes to include a requirement in the *Private Health Insurance (Registration) Rules* to notify APRA of the name or contact details of the Chief Executive Officer on application for registration. APRA further proposes to include a requirement in the *Private Health Insurance (Prudential Supervision) Rules* to notify APRA within 28 days of any change to the name or contact details of the CEO. The requirement to give notification of changes in directors has been moved from the Governance Standard to the *Private Health Insurance (Prudential Supervision) Rules 2015*. Together, these amendments ensure that the existing obligations continue unchanged after the transfer date and that similar

requirements relating to notification of officers are contained together in the Rules.

These amendments do not change the substance of requirements applicable to private health insurers.

## The proposed Rules framework

As a result of these changes, APRA will implement four sets of Rules, covering matters in relation to which APRA will be empowered to make Rules under the PHI(PS) Bill:

- *Private Health Insurance (Prudential Supervision) Rules 2015* - setting Rules in relation to the expenditure and application of health benefit funds, restructure of health benefit funds, mergers and acquisitions of health benefit funds and reporting and notification requirements.
- *Private Health Insurance (Registration) Rules 2015* - setting Rules in relation to applications for registration and restricted access insurers.
- *Private Health Insurance (Risk Equalisation Administration) Rules 2015* - setting Rules in relation to record keeping for risk equalisation purposes.
- *Private Health Insurance (Health Benefits Fund Enforcement) Rules 2015* - setting Rules in relation to various enforcement matters.

APRA considered combining these Rules into a smaller number of instruments, with the aim of enhancing the usability and readability of the Rules. APRA decided that the structure above best serves the balance between minimising the number of instruments and ensuring the usability of the Rules. Usability may not be served by lengthy Rules covering topics that do not logically relate to one another. The proposed approach (generally maintaining discrete sets of Rules) also limits the extent of change to arrangements with which private health insurers are already familiar.

## Next steps for the APRA rules

On transition to the re-made requirements, any approvals or other exercises of discretion by PHIAC prior to the transfer date will continue to have effect. A section has been inserted in each Rule to allow for this.

Given the very limited changes proposed to the Rules, APRA does not consider that any further formal transitional arrangements are necessary merely due to the transfer of responsibility from PHIAC to APRA. APRA requests feedback from industry as to whether there are areas of the revised Rules that need to be subject to transitional arrangements.

APRA intends that the re-made Rules will apply from 1 July 2015.

APRA requests feedback from interested parties regarding whether the minor changes discussed in this Chapter will give rise to any unintended consequences. APRA also requests feedback regarding any errors or omissions made in the process of transferring the existing requirements into the proposed framework.

# Chapter 3 – APRA’s proposed reporting framework for private health insurers

## Background

PHIAC currently collects data through a series of approved forms. APRA proposes to adopt PHIAC’s existing reporting arrangements, including the content of the reporting and the timeframes and methods of submission.

As noted above, the Government has proposed to amend the APRA Act such that private health insurers will be included as “a body regulated by APRA” within the meaning of subsection 3(2) of that Act. As a result, APRA will be empowered to make reporting standards applicable to private health insurers under section 13 of FSCODA. This legislation also applies to all other industries regulated by APRA. The power to make reporting standards consolidates a range of existing powers used by PHIAC to impose obligations to report data into a single legislative power.

A reporting standard is a legislative instrument. Under FSCODA, regulated institutions must comply with reporting standards. Each reporting standard sets out:

- the purpose for which data is being collected;
- the legal authority under which it is collected;
- that specified data in an attached form is to be provided according to prescribed instructions;
- the method and timing for submission;
- the required approach to auditing and quality control; and
- who can authorise the submission of data on behalf of a private health insurer.

Each reporting standard specifies the information that must be provided, and attaches the related instructions specifying how the form is to be completed.

## The proposed reporting standards

APRA proposes to use the power under section 13 of FSCODA to make a series of reporting standards applying to private health insurers that replicate the existing reporting requirements:

- *Reporting Standard HRS 601 Statistical Data*, which would replicate the existing PHIAC 1 form and collect on a quarterly basis:
  - *Reporting Form HRF 601.0 Statistical Data- Cover Page; and*
  - *Reporting Form HRF 601.1 Statistical Data - by State<sup>14</sup>.*

Information collected under this reporting standard will be used for purposes of prudential supervision and collection of data for the calculation of the risk equalisation fund and various levies. Parts of the data are also included in publications.

- *Reporting Standard HRS 602 Financial and Capital Data*, which would replicate the existing PHIAC 2 form and collect on both a quarterly and annual basis:
  - *Reporting Form HRF 602.0 Financial and Capital Data - Cover Page;*
  - *Reporting Form HRF 602.1 Financial and Capital Data - CA Forecasts;*
  - *Reporting Form HRF 602.2 Financial and Capital Data - Solvency Forecasts;*
  - *Reporting Form HRF 602.3 Financial and Capital Data - Revenue;*
  - *Reporting Form HRF 602.4 Financial and Capital Data - Expenses;*
  - *Reporting Form HRF 602.5 Financial and Capital Data - Capital Transfers;*

<sup>14</sup> To be completed in respect of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory.

- *Reporting Form HRF 602.6 Financial and Capital Data - Assets;*
- *Reporting Form HRF 602.7 Financial and Capital Data - Liabilities;*
- *Reporting Form HRF 602.8 Financial and Capital Data - Related Party Disclosures; and*
- *Reporting Form HRF 602.9 Financial and Capital Data - Claims Data.*

Information collected under this reporting standard will be used for purposes of prudential supervision. Parts of the data are also included in publications.

- *Reporting Standard HRS 603 Statistical Data on Prosthetic Benefits*, which would replicate the existing PHIAC 3 form and collect on a quarterly basis:
  - *Reporting Form HRF 603.0 Statistical Data on Prosthetic Benefits by State*<sup>15</sup>.

Information collected under this reporting standard will be used for purposes of assisting the Department of Health in performing its functions. Parts of the data are also included in publications.

- *Reporting Standard HRS 604 Medical Specialty Block Grouping Information*, which would replicate the existing PHIAC 4 form and collect on a quarterly basis:
  - *Reporting Form HRF 604.0 Medical Specialty Block Grouping Information by State*<sup>16</sup>.

Information collected under this reporting standard will be used for purposes of assisting the Department of Health in performing its functions. Parts of the data are also included in publications.

Each of these draft reporting standards is attached to this paper and incorporates existing PHIAC

guidance material relevant to the forms as relevant.

The issuance of these reporting standards is necessary so that the reporting obligations of private health insurers continue to operate as intended following the transfer of functions to APRA. Importantly, while the format of the relevant legal instruments will be different to the current PHIAC arrangements, the reporting obligations and methods of reporting will remain unchanged as a result of the proposals. APRA does not intend that private health insurers will be required to change any substantive aspect of their current approach to reporting. The forms to be completed, and the instructions thereto, will remain substantively unchanged.

### Minor technical changes

In order to ensure the continued operation of the existing reporting arrangements as intended, a number of minor technical changes are necessary. They include:

- updating references to PHIAC or the Council to become references to APRA; and
- updating references to relevant legislation in order to align with the PHI(PS) Bill and the re-made prudential standards and APRA Rules.

Reflecting the fact that the reporting requirements are now being made as reporting standards under FSCODA, APRA has adopted certain formatting and structural approaches used in reporting standards applicable to other regulated industries. These changes do not alter the substantive reporting arrangements for private health insurers.

Requirements relating to the audit of the submitted data have been incorporated into each reporting standard, continuing the current approach to audit set out in PHIAC's Circular 14/06.<sup>17</sup>

<sup>15</sup> To be completed in respect of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory.

<sup>16</sup> To be completed in respect of New South Wales, Victoria, Queensland, South Australia, Western Australia, Tasmania, the Australian Capital Territory and the Northern Territory.

<sup>17</sup> <http://phiac.gov.au/circular/2013-14-end-of-year-reporting-requirements/>

It is proposed that the reporting standards will include a provision giving APRA power to require revisions to the historical data that PHIAC has collected in the past, and subsequently APRA may publish any necessary revisions. This provision is needed to allow for the correction of any errors that may be identified in prior reporting, in order to facilitate appropriate data quality. For example, this may be necessary in respect of incorrect risk equalisation data.

process of transferring the existing reporting arrangements into the proposed reporting structure.

APRA also proposes to insert provisions in each reporting standard to:

- facilitate the submission of information for the period ending 30 June 2015 to APRA instead of PHIAC; and
- to require the submission of any overdue forms to APRA instead of PHIAC.

## Next steps for the reporting standards

On transition, any approvals, transition arrangements or other exercises of discretion by PHIAC prior to the transfer date will continue to have effect under the new requirements. Provisions have been included in each reporting standard to allow for this.

Given the very limited changes proposed to the reporting arrangements, APRA does not consider that any further formal transitional arrangements are necessary merely due to the transfer of responsibility from PHIAC to APRA. APRA requests feedback from industry as to whether there are areas of the revised framework that need to be subject to transitional arrangements.

APRA intends that the reporting standards will apply to reporting periods ending post 1 July 2015 (subject to the transitional provisions outlined above that address reporting for the period ending 30 June 2015).

APRA requests feedback from interested parties regarding whether the minor changes discussed in this Chapter will give rise to any unintended consequences. APRA also requests feedback regarding any errors or omissions made in the

# Chapter 4 – Confidentiality of data submitted to APRA under FSCODA

## Background

Under section 56 of the APRA Act, data submitted to APRA under FSCODA is protected information. The data is generally not able to be released at an entity level unless APRA determines the data to be non-confidential (under the process outlined in section 57 of the APRA Act) or the release falls squarely within another exception under section 56 of that Act. Aggregate data is generally able to be released without restriction. The section 56 protection will apply to all data submitted to APRA under the reporting standards discussed in Chapter 3.

## PHIAC 1 and PHIAC 2 data

Data collected on the PHIAC 1 and PHIAC 2 returns is distributed and published through a number of mechanisms. In some cases, the data is released at an aggregate industry level. In other cases, the data is released or published at individual entity level data. This entity level data is protected information under the APRA Act and distribution and publication would not be able to continue unchanged post-transition without further action from APRA. Private health insurers have indicated that they wish the status quo in respect of the collection and provision of this data to continue following transition.

## PHIAC 3 and PHIAC 4 data

Individual institution level data collected on the PHIAC 3 and 4 returns is released to the Department of Health to assist it with its functions. Parts of the data are also published at aggregate level. In future, APRA will continue to release that data to the Department of Health. This is permissible as the Department of Health is listed in the *Australian Prudential Regulation Authority Regulations 1998* as an agency to which APRA may disclose protected information in accordance with paragraph 56(5)(a) of the APRA Act.

## Proposal for continued distribution and publication of data

APRA intends to maintain the status quo for the distribution and publication of data as far as possible. Accordingly, APRA proposes to determine, following consultation, that the data specified below to be collected under HRS 601 and 602 is non-confidential under section 57 of the APRA Act. Under this proposal, APRA could then continue to publish the current PHIAC publications and release the data to the Private Health Insurance Ombudsman consistent with the current approach.

APRA could also continue to release data from PHIAC 1 to each private health insurer as has been PHIAC's current approach. APRA would not publish this data (beyond the publications currently prepared by PHIAC) without further consultation (and has no present intention to undertake such a consultation). Under this approach, all such data would also become available for a third party to make a request under the *Freedom of Information Act 1982* (FOI Act) because the data would have been declared non-confidential generally. APRA would then be obliged to release the data in accordance with that Act. Similar situations currently exist in other industries regulated by APRA where data is non-confidential but not published. In practice, this has not been problematic to date.

The specific data which would need to be determined non-confidential under the proposed approach is:

- for data collected under HRS 601 - all the data; and
- for data collected under HRS 602:
  - HRF 602.3 Revenue - all sections;
  - HRF 602.4 Expenses - all sections;
  - HRF 602.6 Assets - sections 1, 2, 3; and
  - HRF 602.7 Liabilities - Sections 1 and 2.

The *Privacy Act 1988* requires that, where APRA has possession or control of a record that contains personal information, it shall not disclose that information to a person, body or agency (other than the individual concerned) except under specific circumstances. In the case of private health insurer data, this applies to health insurer information that allows the identification of individual member data.

APRA considered alternative approaches available under the APRA Act to continue the current distribution and publication of the relevant data. For example, under subsection 56(4) of the APRA Act, it is not an offence for APRA to release protected information when 'the person to whose affairs the information or document relates has agreed in writing to the disclosure or production'. Using this approach to the release of the relevant data to private health insurers would require each private health insurer to authorise the release in writing before that data was disclosed for the first time and to not subsequently withdraw that consent. Clearly such an authorisation would then be necessary by any new entrants to the industry. A refusal to authorise the release by any one insurer would result in APRA not being able to release that insurer's data. Less than complete agreement could therefore frustrate the purpose for which the data is being released. APRA sees significant practical difficulties in pursuing this option and has experienced difficulties in practice when using this approach with other industries. These difficulties include the administrative burden on both APRA and private health insurers of ensuring that all consents are in place at each relevant time. For these reasons, APRA is proposing to adopt the section 57 approach, as adopted by APRA to address similar issues in other industries, rather than any alternative approach.

## Next steps in relation to confidentiality of data

The process for determining data to be non-confidential requires APRA to assess whether the benefit to the public from the disclosure of the relevant information, outweighs any detriment to commercial interests that the disclosure may cause.<sup>18</sup>

To assist APRA in making its decision about the data to be determined non-confidential<sup>19</sup>, submissions from private health insurers and other interested parties should include:

- specific details of any data items that should not be declared non-confidential;
- specific information on how the disclosure of that information would lead to detriment to policy holder interests, and the extent to which that could occur; and/or
- specific information on how the disclosure of certain information might lead to detriment to private health insurers' or other parties' commercial interests.

APRA also seeks specific feedback on the public benefit that would be associated with declaring relevant data non-confidential and the balance between that benefit and any detriment to policy holder interests or commercial interests that the disclosure may cause.

<sup>18</sup> Refer to subsection 57(4) of the APRA Act.

<sup>19</sup> In relation to option 1 for PHIAC 1 data and also in relation to PHIAC 2 data.

## Chapter 5 – Next steps

APRA requests feedback on the proposals in this paper, in particular, whether the proposed changes will give rise to any unintended effects and whether there is a need for any transitional arrangements. APRA anticipates that feedback on the remainder of the proposals is likely to be limited to any errors and omissions made in the process of transferring the existing requirements into APRA requirements. APRA does not intend to reconsider previous policy decisions made by PHIAC during this process. Submissions containing representations relating to the substance of existing PHIAC requirements will be noted for consideration by APRA when the prudential and reporting standards are subsequently reviewed by APRA in due course.

APRA also requests specific feedback on the options presented in Chapter 4 relating to confidentiality of data.

Written submissions on this package should be sent to [privatehealthinsurance@apra.gov.au](mailto:privatehealthinsurance@apra.gov.au) by 19 May 2015 and addressed to:

Mr Pat Brennan  
General Manager, Policy Development  
Policy, Statistics and International  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001

Following the completion of consultation, APRA will carefully consider all submissions, update the proposed approach as appropriate and release a paper responding to submissions together with the final requirements. The response to submissions and final requirements will be released ahead of 1 July 2015. The prudential standards and Rules will have effect from 1 July 2015. The reporting standards will have effect for reporting periods commencing post-1 July 2015.

## Chapter 6 – Cost-benefit analysis information

To improve the quality of regulation, the Australian Government requires all proposals to undergo a preliminary assessment to establish whether it is likely that there will be business compliance costs. Through that process, APRA assessed that compliance costs would not be expected to materially increase as a result of the proposals in this paper. The proposals presented are intended to ensure a seamless transition from existing requirements to re-made requirements without substantive change. Notwithstanding this, if a respondent considers that compliance costs will increase as a result of the proposals in this paper, APRA requests that they provide an assessment of the impact on compliance costs. Compliance costs are defined as direct costs to businesses of performing activities associated with complying with Government regulation.

Consistent with the Government's requirement, APRA will use the methodology behind the Regulatory Burden Measurement Framework to assess any increase in compliance costs identified by respondents. This framework is designed to capture the relevant costs in a structured way, including a separate assessment of upfront costs and ongoing costs. Further information is available at: <http://www.dpmc.gov.au/office-best-practice-regulation/publication/regulatory-burden-measurement-framework-guidance-note>

Respondents are requested to use this methodology to estimate any increase in compliance costs to ensure that the data supplied to APRA can be aggregated and used in an industry-wide assessment. When submitting their cost assessment to APRA, respondents are asked to include any assumptions made and, where relevant, any limitations inherent in their assessment. Feedback should address the additional costs incurred as a result of complying with APRA's requirements or expectations, not activities that institutions would undertake regardless of regulatory requirements in their ordinary course of business.

## Attachment A – Mapping of existing and new instruments

| Prudential standards and Rules   |  |
|--|--|
| Old standards and Rules  | New standards and Rules  |
| Various definitions contained in Rules made by PHIAC   | Prudential Standard HPS 001 Definitions  |
| Private Health Insurance (Health Benefits Fund Administration) Rules 2007 <sup>20</sup><br>Part 2 - Setting Rules relating to the expenditure and application of health benefit funds<br>Part 3 - Setting Rules relating to restructure of health benefit funds<br>Part 4 - Setting Rules relating to mergers and acquisitions of health benefit funds<br>Schedule 2 - Solvency standard<br>Schedule 3 - Capital adequacy standard | Private Health Insurance (Prudential Supervision) Rules 2015<br><br>Prudential Standard HPS 100 Solvency Standard<br>Prudential Standard HPS 110 Capital Adequacy  |
| Private Health Insurance (Insurer Obligations) Rules 2009<br>Part 2 - Reporting and notification requirements<br>Schedule 1 - Governance Standard<br>Schedule 2 - Appointed Actuaries Standard<br>Schedule 3 - Disclosure Standard<br>Schedule 4 - Outsourcing Standard  | Private Health Insurance (Prudential Supervision) Rules 2015<br>Prudential Standard HPS 510 Governance<br>Prudential Standard HPS 320 Actuarial and Related Matters<br>Prudential Standard HPS 350 Disclosure to APRA<br>Prudential Standard HPS 231 Outsourcing |
| Private Health Insurance (Registration) Rules 2009 (No. 2)   | Private Health Insurance (Registration) Rules 2015   |
| Private Health Insurance (Risk Equalisation Administration) Rules 2007   | Private Health Insurance (Risk Equalisation Administration) Rules 2015   |
| Private Health Insurance (Health Benefits Fund Enforcement) Rules 2007   | Private Health Insurance (Health Benefits Fund Enforcement) Rules 2015   |

<sup>20</sup> Setting Rules relating to Part 5 - Risk equalisation jurisdictions, previously contained in *Private Health Insurance (Health Benefits Fund Administration) Rules 2007*, will be set out in new rules to be made by the Minister for Health.

## Reporting standards

| Old standards and Rules   | New standards and Rules   |
|---|---|
| PHIAC 1 Return - Statistical data on memberships, claims, benefits paid and risk equalisation | Reporting Standard HRS 601 Statistical Data by State                    |
| PHIAC 2 Return - Financial and Capital Data   | Reporting Standard HRS 602 Financial and Capital Data                   |
| PHIAC 3 Return - Statistical data on prosthetic <sup>21</sup> benefits                        | Reporting Standard HRS 603 Statistical Data on Prosthetic Benefits      |
| PHIAC 4 Return - Medical specialty block grouping information <sup>22</sup>                   | Reporting Standard HRS 604 Medical Specialty Block Grouping Information |

<sup>21</sup> Subject to consultation on the continued operation of PHIAC 3 and PHIAC 4.

<sup>22</sup> Subject to consultation on the continued operation of PHIAC 3 and PHIAC 4.

## Attachment B – Mapping of existing and new provisions

| Topic  | Section   | PHIAC standard                                 | Section        | APRA standard                     |
|--|---|--|----------------|-----------------------------------|
| <b>Definitions</b>   |   |  |                |                                   |
| <b>Standard APRA paragraphs:</b><br>Authority, Application   | NA  |  | Paragraphs 1-3 | HPS 001                           |
| <b>Definition of ‘senior management responsibilities’</b>  | Adapted from the definition of ‘officer’ in the PHI Act 2007  |  | Paragraph 4    | HPS 001                           |
| <b>Definition of ‘single equivalent units’</b>   | Rule 4  | Risk Equalisation Policy Rules 2007            | Paragraph 4    | HPS 001                           |
| <b>Further definitions</b>   | From various definitions contained in Rules made by PHIAC. These defined terms are set out in the sections below. |  | Paragraph 4    | HPS 001                           |
| <b>Health Benefits Fund Administration Rules 2007</b>  |   |  |                |                                   |
| <b>Name of Rules, Commencement</b>   | Rules 1-2   | Health Benefits Fund Administration Rules 2007 | Rules 1-2      | Prudential Supervision Rules 2015 |
| <b>Definitions of key terms:</b> <ul style="list-style-type: none"> <li>• Australian Accounting Standards</li> <li>• Authorised deposit-taking institution</li> <li>• Billed risk equalisation trust fund liability</li> <li>• Cash</li> <li>• Central estimate</li> <li>• Constructive obligation</li> <li>• Financial interdependency</li> <li>• Group of related counterparties</li> <li>• Health business revenue estimate</li> <li>• Previously approved subordinated debt</li> <li>• Probability of adequacy</li> <li>• Related party</li> <li>• Relevant day</li> <li>• Size margin</li> <li>• Subordinated debt</li> </ul> | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 4    | HPS 001                           |

| Topic   | Section | PHIAC standard                                 | Section      | APRA standard                     |
|---|---------|--|--------------|-----------------------------------|
| <b>Definitions of key terms:</b> <ul style="list-style-type: none"> <li>• Act</li> <li>• borrowings</li> <li>• capital adequacy direction</li> <li>• capital adequacy standard</li> <li>• regulations</li> <li>• solvency direction</li> <li>• solvency standard</li> </ul> | Rule 3  | Health Benefits Fund Administration Rules 2007 | Rule 3       | Prudential Supervision Rules 2015 |
| <b>Definitions of key terms:</b> <ul style="list-style-type: none"> <li>• APRA</li> <li>• PHI Act</li> <li>• PHIAC</li> </ul>   | NA      |  | Rule 3       | Prudential Supervision Rules 2015 |
| Definition of 'billed risk equalisation trust fund liability'   | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 17 | HPS 110                           |
| Definition of 'future claims liability'   | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 16 | HPS 110                           |
| Definition of 'maximum default loss'  | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 32 | HPS 110                           |
| Definition of 'outstanding claims liability'  | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 14 | HPS 110                           |
| Definition of 'premium income estimate'   | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 20 | HPS 110                           |
| Definition of 'stressed net cash outflow amount'  | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 16 | HPS 100                           |
| Definition of 'unbilled calculated deficit'   | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 17 | HPS 110                           |
| Definition of 'unbilled gross deficit'  | Rule 3  | Health Benefits Fund Administration Rules 2007 | Paragraph 17 | HPS 110                           |

| Topic   | Section                                  | PHIAC standard                                 | Section                                | APRA standard                     |
|---|--|--|--|-----------------------------------|
| Definition of 'uncompensated loss'                        | Rule 3                                   | Health Benefits Fund Administration Rules 2007 | Paragraph 32                           | HPS 110                           |
| Definition of 'unexpired risk liability'                  | Rule 3                                   | Health Benefits Fund Administration Rules 2007 | Paragraph 21                           | HPS 110                           |
| Definition of 'xth percentile'                            | Rule 3                                   | Health Benefits Fund Administration Rules 2007 | Paragraph 25                           | HPS 110                           |
| Definition of 'approved loss absorbing subordinated debt' | Rule 3A                                  | Health Benefits Fund Administration Rules 2007 | Paragraph 4                            | HPS 001                           |
| Expenditure and application of health benefits funds      | Rules 4-5                                | Health Benefits Fund Administration Rules 2007 | Rules 4-5                              | Prudential Supervision Rules 2015 |
| Restructure of health benefits funds                      | Rules 6-10                               | Health Benefits Fund Administration Rules 2007 | Rules 6-10                             | Prudential Supervision Rules 2015 |
| Merger and acquisition of health benefits funds           | Rules 10A-12 and 13-15                   | Health Benefits Fund Administration Rules 2007 | Rules 10A-15                           | Prudential Supervision Rules 2015 |
| Transfers from an incorporated association                | Rule 12A                                 | Health Benefits Fund Administration Rules 2007 | Removed - spent provision              |                                   |
| Notification of current CEO                               | Subsection 169-15(2) of the PHI Act 2007 |  | Rule 16                                | Prudential Supervision Rules 2015 |
|   |  |  | Rule 4(b)                              | Registration Rules 2015           |
| Standard APRA paragraph: Transition                       | NA                                       |  | Rule 17                                | Prudential Supervision Rules 2015 |
| Risk equalisation jurisdictions                           | Rules 16-17                              | Health Benefits Fund Administration Rules 2007 | To be made by the Department of Health |                                   |
| Solvency and capital adequacy standards                   | Rules 18-19                              | Health Benefits Fund Administration Rules 2007 | Superseded by standard APRA paragraphs |                                   |

| Topic   | Section                           | PHIAC standard                                 | Section  | APRA standard                     |
|---|-----------------------------------|--|--|-----------------------------------|
| Mergers and acquisitions  | Schedule 1                        | Health Benefits Fund Administration Rules 2007 | Schedule 1                                       | Prudential Supervision Rules 2015 |
| <b>Schedule 2 - Solvency</b>  |                                   |  |  |                                   |
| Purpose of solvency standard  | Schedule 2, Rule 1(1)-(4)         | Health Benefits Fund Administration Rules 2007 | Grey box   | HPS 100                           |
| Standard APRA paragraphs:<br>Authority, Application, Interpretation, Transition, Adjustments and exclusions | NA                                |  | Paragraphs 1-7, 21, 22                           | HPS 100                           |
| The role of the board   | Schedule 2, Rule 1(5)             | Health Benefits Fund Administration Rules 2007 | Paragraph 8                                      | HPS 100                           |
| Solvency requirement  | Schedule 2, Rules 2-3, 4(2) - (5) | Health Benefits Fund Administration Rules 2007 | Paragraph 9-14                                   | HPS 100                           |
| Compliance with the solvency requirement  | Schedule 2, Rule 4(1)             | Health Benefits Fund Administration Rules 2007 | Superseded by standard APRA paragraphs           |                                   |
| Reporting on solvency   | Schedule 2, Rule 4(6)             | Health Benefits Fund Administration Rules 2007 | Superseded by APRA reporting standards - HRS 602 |                                   |
| Notification requirements   | Schedule 2, Rule 4(7)             | Health Benefits Fund Administration Rules 2007 | Paragraph 20                                     | HPS 100                           |
| Cash management amount  | Schedule 2, Rule 5                | Health Benefits Fund Administration Rules 2007 | Paragraph 15                                     | HPS 100                           |
| Solvency supervisory adjustment amount  | Schedule 2, Rule 6(1)-(3)         | Health Benefits Fund Administration Rules 2007 | Paragraphs 17-19                                 | HPS 100                           |
| Applying to the AAT for review  | Schedule 2, Rules 6(3)(e) and (4) | Health Benefits Fund Administration Rules 2007 | Removed - to align with proposed legislation     |                                   |

| Topic  | Section                     | PHIAC standard                                 | Section   | APRA standard |
|--|-----------------------------|--|---|---------------|
| <b>Schedule 3 - Capital adequacy</b>   |                             |  |   |               |
| <b>Standard APRA paragraphs:</b><br>Authority, Application, Interpretation, Transition, Adjustments and exclusions | NA                          |  | Paragraphs 1-7, 41-42                           | HPS 110       |
| <b>Objective/Purpose</b>   | Schedule 3, Rule 1(1)-(3)   | Health Benefits Fund Administration Rules 2007 | Grey box  | HPS 110       |
| <b>The role of the board</b>   | Schedule 3, Rule 1(4)       | Health Benefits Fund Administration Rules 2007 | Paragraph 8                                     | HPS 110       |
| <b>Capital adequacy requirement</b>  | Schedule 3, Rule 2, 3, 4(2) | Health Benefits Fund Administration Rules 2007 | Paragraphs 9-11                                 | HPS 110       |
| <b>Compliance with capital adequacy requirement</b>  | Schedule 3, Rule 4(1)       | Health Benefits Fund Administration Rules 2007 | Superseded by standard APRA paragraphs          |               |
| <b>Reporting on capital adequacy</b>   | Schedule 3, Rule 4(3)       | Health Benefits Fund Administration Rules 2007 | Superseded by APRA reporting standard - HRS 602 |               |
| <b>Notification requirements</b>   | Schedule 3, Rule 4(4)       | Health Benefits Fund Administration Rules 2007 | Paragraph 40                                    | HPS 110       |
| <b>Prudent Liabilities Amount</b>  | Schedule 3, Rules 5-9       | Health Benefits Fund Administration Rules 2007 | Paragraphs 12, 13, 15, 17, 18                   | HPS 110       |
| <b>Stress Test Amount</b>  | Schedule 3, Rule 10         | Health Benefits Fund Administration Rules 2007 | Paragraphs 19-20, 22-24                         | HPS 110       |
| <b>Operational risk amount</b>   | Schedule 3, Rule 11         | Health Benefits Fund Administration Rules 2007 | Paragraph 26                                    | HPS 110       |
| <b>Capital adequacy supervisory adjustment amount</b>  | Schedule 3, Rule 12(1)-(4)  | Health Benefits Fund Administration Rules 2007 | Paragraphs 27-30                                | HPS 110       |

| Topic  | Section                           | PHIAC standard                                 | Section                                      | APRA standard |
|--|-----------------------------------|--|--|---------------|
| Applying to the AAT for review   | Schedule 3, Rule 12(4)(e) and (5) | Health Benefits Fund Administration Rules 2007 | Removed - to align with proposed legislation |               |
| Capital adequacy maximum default loss amount   | Schedule 3, Rule 13               | Health Benefits Fund Administration Rules 2007 | Paragraph 31                                 | HPS 110       |
| Transition - previously approved subordinated debt   | Schedule 3, Rule 14               | Health Benefits Fund Administration Rules 2007 | Paragraphs 38-39                             | HPS 110       |
| Capital Management Policy  | Schedule 3, Rule 15               | Health Benefits Fund Administration Rules 2007 | Paragraphs 33-37                             | HPS 110       |
| <b>Insurer Obligations Rules 2009</b>  |                                   |  |  |               |
| Preliminary  | Rules 1-3                         | Insurer Obligations Rules 2009                 | Removed - no longer required                 |               |
| <b>Definition of key terms:</b> <ul style="list-style-type: none"> <li>• Act</li> <li>• ASIC</li> <li>• Associate</li> <li>• Board</li> <li>• Chief executive officer</li> <li>• Company</li> <li>• product</li> <li>• Constitutional corporation</li> <li>• Corporate governance</li> <li>• Corporate group</li> <li>• Corporate legislation</li> <li>• Director</li> <li>• Executive director</li> <li>• Financial condition report</li> <li>• Health benefits fund</li> <li>• New product</li> <li>• Non-executive director</li> <li>• Officer</li> <li>• Policy holder</li> <li>• Private health insurer</li> <li>• Substantial shareholder</li> </ul> | Rule 4                            | Insurer Obligations Rules 2009                 | Paragraph 4                                  | HPS 001       |

| Topic  | Section                           | PHIAC standard                 | Section                            | APRA standard                     |
|--|-----------------------------------|--------------------------------|------------------------------------|-----------------------------------|
| Definition of 'independent director'   | Rule 4                            | Insurer Obligations Rules 2009 | Attachment A                       | HPS 510                           |
| Definition of 'Related Person'   | Rule 4                            | Insurer Obligations Rules 2009 | Paragraph 18                       | HPS 320                           |
| Standard paragraphs: Authority, Application, Interpretation  | NA                                |                                | Paragraphs 1-7                     | HPS 231                           |
| Definition of 'outsourcing arrangement'  | Rule 4A                           | Insurer Obligations Rules 2009 | Paragraphs 12-15                   | HPS 231                           |
| Copies of reports to policy holders must be given to the Council on request                              | Rule 5                            | Insurer Obligations Rules 2009 | Rule 16B                           | Prudential Supervision Rules 2015 |
| Establishment of prudential standards  | Rules 8-13                        | Insurer Obligations Rules 2009 | Section 91 of the PHI(PS) Act 2015 |                                   |
| <b>Schedule 1 - Governance standard</b>  |                                   |                                |                                    |                                   |
| Standard APRA paragraphs: Authority, Application, Interpretation, Transition, Adjustments and exclusions | NA                                |                                | Paragraphs 1-8, 45-46              | HPS 510                           |
| Board composition  | Schedule 1, Rule 1(1)-(5) and (7) | Insurer Obligations Rules 2009 | Paragraphs 9-14                    | HPS 510                           |
| Notification re changes in board membership  | Schedule 1, Rule 1(6)             | Insurer Obligations Rules 2009 | Rule 16A                           | Prudential Supervision Rules 2015 |
| Chairperson  | Schedule 1, Rule 2                | Insurer Obligations Rules 2009 | Paragraphs 15-19                   | HPS 510                           |
| Residency of directors   | Schedule 1, Rule 3                | Insurer Obligations Rules 2009 | Paragraphs 20-21                   | HPS 510                           |
| Directors—associates of shareholders   | Schedule 1, Rule 4                | Insurer Obligations Rules 2009 | Paragraph 22                       | HPS 510                           |
| Board charter  | Schedule 1, Rule 5                | Insurer Obligations Rules 2009 | Paragraph 23                       | HPS 510                           |
| Delegation   | Schedule 1, Rule 6                | Insurer Obligations Rules 2009 | Paragraphs 24-26                   | HPS 510                           |

| Topic   | Section               | PHIAC standard                 | Section   | APRA standard |
|---|-----------------------|--------------------------------|---|---------------|
| Board policies  | Schedule 1, Rule 7    | Insurer Obligations Rules 2009 | Paragraphs 27-28                                  | HPS 510       |
| Board performance   | Schedule 1, Rule 8    | Insurer Obligations Rules 2009 | Paragraphs 29-32                                  | HPS 510       |
| Board renewal   | Schedule 1, Rule 9    | Insurer Obligations Rules 2009 | Paragraph 33                                      | HPS 510       |
| Board audit committee   | Schedule 1, Rule 10   | Insurer Obligations Rules 2009 | Paragraphs 34-42                                  | HPS 510       |
| Internal audit  | Schedule 1, Rule 11   | Insurer Obligations Rules 2009 | Paragraphs 43-44                                  | HPS 510       |
| Applying to the AAT for review  | Schedule 1, Rule 14   | Insurer Obligations Rules 2009 | Removed - to align with proposed legislation      |               |
| <b>Schedule 2 - Appointed actuaries standard</b>                                |                       |                                |   |               |
| Standard APRA paragraphs:<br>Authority, Application, Interpretation, Transition | NA                    |                                | Paragraphs 1-7, 29-30                             | HPS 320       |
| Insurers to notify appointed actuaries of certain circumstances                 | Schedule 2, Rule 1    | Insurer Obligations Rules 2009 | Paragraphs 8-10                                   | HPS 320       |
| Insurers to prepare financial condition report                                  | Schedule 2, Rule 2    | Insurer Obligations Rules 2009 | Paragraph 11                                      | HPS 320       |
| Eligibility for appointment   | Schedule 2, Rule 3    | Insurer Obligations Rules 2009 | Paragraph 12                                      | HPS 320       |
| Declaration by the Council  | Schedule 2, Rule 4    | Insurer Obligations Rules 2009 | Superseded by section 114 of the PHI(PS) Act 2015 |               |
| Notification of appointment   | Schedule 2, Rule 5    | Insurer Obligations Rules 2009 | Paragraphs 13 - 17                                | HPS 320       |
| Cessation of appointment  | Schedule 2, Rule 6    | Insurer Obligations Rules 2009 | Removed - to align with proposed legislation      |               |
| Duties of appointed actuaries   | Schedule 2, Rule 7-10 | Insurer Obligations Rules 2009 | Paragraphs 19-20                                  | HPS 320       |
| Application of skill and diligence  | Schedule 2, Rule 8    | Insurer Obligations Rules 2009 | Paragraph 21                                      | HPS 320       |

| Topic  | Section             | PHIAC standard                 | Section                                | APRA standard |
|--|---------------------|--------------------------------|--|---------------|
| Notifiable circumstances   | Schedule 2, Rule 9  | Insurer Obligations Rules 2009 | Paragraphs 22-27                       | HPS 320       |
| Financial condition report   | Schedule 2, Rule 10 | Insurer Obligations Rules 2009 | Paragraph 28                           | HPS 320       |
| Exemptions and modifications by APRA   | Schedule 2, Rule 11 | Insurer Obligations Rules 2009 | Paragraph 31                           | HPS 320       |
| <b>Schedule 3 - Disclosure standard</b>  |                     |                                |  |               |
| Standard paragraphs: Authority, Application, Interpretation, Transition              | NA                  |                                | Paragraphs 1-7, 23                     | HPS 350       |
| Insurers must give copies of certain forms lodged with ASIC to APRA                  | Schedule 3, Rule 1  | Insurer Obligations Rules 2009 | Paragraphs 8-10                        | HPS 350       |
| Insurers to give copies of notice of meetings of members to APRA                     | Schedule 3, Rule 2  | Insurer Obligations Rules 2009 | Paragraphs 11-12                       | HPS 350       |
| Insurers to notify APRA of resolution to remove director                             | Schedule 3, Rule 3  | Insurer Obligations Rules 2009 | Paragraphs 13-14                       | HPS 350       |
| Insurers to notify APRA of termination of person's complying health insurance policy | Schedule 3, Rule 4  | Insurer Obligations Rules 2009 | Paragraphs 15-16                       | HPS 350       |
| Insurers to notify APRA of investigation of insurer or officer of insurer            | Schedule 3, Rule 5  | Insurer Obligations Rules 2009 | Paragraphs 17-20                       | HPS 350       |
| Insurer must notify APRA of unusual incidents or circumstances                       | Schedule 3, Rule 6  | Insurer Obligations Rules 2009 | Paragraphs 21-22                       | HPS 350       |
| Exemptions and modifications by APRA   | Schedule 3, Rule 7  | Insurer Obligations Rules 2009 | Paragraph 24                           | HPS 350       |
| Transition   | Schedule 3, Rule 8  | Insurer Obligations Rules 2009 | Superseded by standard APRA paragraphs |               |

| Topic  | Section            | PHIAC standard                              | Section          | APRA standard                               |
|--|--------------------|---|------------------|---|
| <b>Schedule 4 - Outsourcing standard</b>                               |                    |   |                  |   |
| <b>Standard paragraphs:</b><br>Authority, Application, Interpretation  | NA                 |   | Paragraphs 1-7   | HPS 231                                     |
| <b>Outsourcing policy</b>  | Schedule 4, Rule 1 | Insurer Obligations Rules 2009              | Paragraphs 8-11  | HPS 231                                     |
| <b>Risk management</b>   | Schedule 4, Rule 2 | Insurer Obligations Rules 2009              | Paragraphs 16-17 | HPS 231                                     |
| <b>Monitoring arrangements</b>   | Schedule 4, Rule 3 | Insurer Obligations Rules 2009              | Paragraphs 18-19 | HPS 231                                     |
| <b>APRA access to information held by outsourced service providers</b> | Schedule 4, Rule 4 | Insurer Obligations Rules 2009              | Paragraphs 20-24 | HPS 231                                     |
| <b>Offshore outsourcing</b>  | Schedule 4, Rule 5 | Insurer Obligations Rules 2009              | Paragraphs 25-26 | HPS 231                                     |
| <b>Disclosure requirements</b>   | Schedule 4, Rule 6 | Insurer Obligations Rules 2009              | Paragraphs 27-29 | HPS 231                                     |
| <b>Exemptions and modifications by APRA</b>                            | Schedule 4, Rule 7 | Insurer Obligations Rules 2009              | Paragraphs 30    | HPS 231                                     |
| <b>Transition arrangements</b>   | Schedule 4, Rule 8 | Insurer Obligations Rules 2009              | Paragraphs 31-32 | HPS 231                                     |
| <b>Health Benefits Fund Enforcement Rules 2007</b>                     |                    |   |                  |   |
| <b>Preliminary</b>   | Rules 1-3          | Health Benefits Fund Enforcement Rules 2007 | Rules 1-3        | Health Benefits Fund Enforcement Rules 2015 |
| <b>Procedure relating to voluntary deeds of arrangement</b>            | Rules 4-10         | Health Benefits Fund Enforcement Rules 2007 | Rules 4-10       | Health Benefits Fund Enforcement Rules 2015 |
| <b>Modifications of terms in applied Corporations Act provisions</b>   | Rules 11-12        | Health Benefits Fund Enforcement Rules 2007 | Rules 11-12      | Health Benefits Fund Enforcement Rules 2015 |
| <b>Modifications of Part 5.3A and Division 7A of Part 5.6</b>          | Rules 13-64        | Health Benefits Fund Enforcement Rules 2007 | Rules 13-64      | Health Benefits Fund Enforcement Rules 2015 |
| <b>Modifications of sections 128 and 129</b>                           | Rules 65-70        | Health Benefits Fund                        | Rules 65-70      | Health Benefits Fund                        |

| Topic   | Section      | PHIAC standard                              | Section   | APRA standard                               |
|---|--------------|---|---|---|
|   |              | Enforcement Rules 2007                      |   | Enforcement Rules 2015                      |
| Standard APRA paragraph: Transition   | NA           |   | Part 5  | Health Benefits Fund Enforcement Rules 2015 |
| <b>Registration Rules 2009 (No. 2)</b>  |              |   |   |   |
| Preliminary   | Rules 1-2, 4 | Registration Rules 2009 (No. 2)             | Rules 1-3                                       | Registration Rules 2015                     |
| Effect of the rules   | Rule 3       | Registration Rules 2009 (No. 2)             | Removed - no longer required                    |   |
| Criteria for registration   | Rule 5       | Registration Rules 2009 (No. 2)             | Rule 4  | Registration Rules 2015                     |
| Restricted access insurers  | Rules 6-7    | Registration Rules 2009 (No. 2)             | Rules 5-6                                       | Registration Rules 2015                     |
| Standard APRA paragraph: Transition   | NA           |   | Rule 7  | Registration Rules 2015                     |
| Schedule - restricted access groups for certain insurers  | Schedule     | Registration Rules 2009 (No. 2)             | Schedule  | Registration Rules 2015                     |
| <b>Risk Equalisation Administration Rules 2007</b>  |              |   |   |   |
| Preliminary   | Rules 1-2    | Risk Equalisation Administration Rules 2007 | Rules 1-2                                       | Risk Equalisation Administration Rules 2015 |
| Interpretation  | Rule 3       | Risk Equalisation Administration Rules 2007 | Rule 3  | Risk Equalisation Administration Rules 2015 |
| Definitions of key terms: <ul style="list-style-type: none"> <li>• Adult</li> <li>• general treatment</li> <li>• hospital cover</li> <li>• hospital-substitute treatment</li> <li>• hospital treatment</li> <li>• Medicare benefit</li> <li>• quarterly return</li> </ul> | NA           |   | Rule 3  | Risk Equalisation Administration Rules 2015 |
| Requirement for records to be kept  | Rules 4-5    | Risk Equalisation Administration Rules 2007 | Rules 4-5                                       | Risk Equalisation Administration Rules 2015 |
| Quarterly returns   | Rules 6-7    | Risk Equalisation Administration Rules 2007 | Superseded by APRA reporting standard - HRS 601 |   |
| Standard APRA paragraph: Transition   | NA           |   | Rule 6  | Risk Equalisation Administration Rules 2015 |



Telephone  
1300 55 88 49

Email  
[info@apra.gov.au](mailto:info@apra.gov.au)

Website  
[www.apra.gov.au](http://www.apra.gov.au)

Mail  
GPO Box 9836  
in all capital cities  
(except Hobart and Darwin)