



Review of the Private Health Insurance Capital Framework

Submission to the Australian Prudential Regulation Authority

31 March 2022

Gideon Holland
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Australian Prudential Regulation Authority

Via email: insurance.policy@apra.gov.au

Dear Mr Holland,

The Business Council of Co-operatives and Mutuals (BCCM) welcomes the opportunity to make a submission in response to APRA's draft standards and Response Paper published as part of the Private Health Insurance Capital Standards Review.

The BCCM is the national peak body for co-operative and mutual enterprises (CMEs) in Australia. It is a member driven and funded organisation representing CMEs operating in all industries including insurance, agriculture, banking, mobility, housing, retail, wholesale, health and community services.

The members of the BCCM collectively have 11.5 million members. They represent the leading co-operative and mutual firms operating in the Australian economy. The BCCM advocates for recognition of the sector and for measures that create a level playing field between CMEs and other business models, including implementation of the recommendations of the Senate Economics References Committee report into "Co-operative, mutual and member-owned firms", and the Hammond Review recommendations to improve access to capital for co-ops and mutuals. From 2016–2019 the BCCM coordinated industry action to work with Government to bring forward the first enabling legislation for co-operatives and mutuals in 18 years.

The BCCM does not support APRA's proposed approach to prudential capital for mutual private health insurers (PHIs) as outlined on page 29 of the Response Paper because it would prevent mutual PHIs from being able to effectively plan for and carry out an issuance of Mutual Capital Instruments to raise Common Equity Tier One capital.

The Explanatory Memorandum to the Treasury Laws Amendment (Mutual Reforms) Bill 2019 noted that the intention of introducing Mutual Capital Instruments into the Corporations Act was to (as recommended by the Hammond Review): *'expressly permit mutual entities registered under the Corporations Act to issue equity capital without risking their mutual structure or status.'*

For this reason, the *Treasury Laws Amendment (Mutual Reforms) Act 2019* included amendments to taxation legislation to clarify that an issuance of Mutual Capital Instruments (MCIs) does not impact the tax treatment of a mutual. In our view, it is consistent with the policy objectives of this legislation that mutuals across all industries and structures, including mutual PHIs that rely on section 50-30 of the *Income Tax Assessment Act 1997*, should be able to issue MCIs without impact on their tax status.

We therefore recommend that APRA continue to work with industry, policymakers and other regulators to establish a prudential capital framework for mutual PHIs that has the practical outcome of allowing them to raise Common Equity Tier One capital by way of Mutual Capital Instruments. This would facilitate the spirit and intent of the *Treasury Laws Amendment (Mutual Reforms) Act 2019*, ensuring parity between business models operating in the PHI industry, market competition and consumer choice.

We would be pleased to provide further information on any matters raised in this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Melina Morrison', written in a cursive style.

Melina Morrison
Chief Executive Officer

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