

EXPLANATORY STATEMENT

Life Insurance Supervisory Levy Imposition Determination 2016

This determination relates to a levy imposed on life insurance entities by the *Life Insurance Supervisory Levy Imposition Act 1998* (the Act).

This determination commences on 1 July 2016 and relates to the 2016-17 financial year. The *Life Insurance Supervisory Levy Imposition Determination 2015* is repealed upon commencement of this determination. Consistent with section 7 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

The determination will commence before it is registered. Commencement prior to registration, however, does not disadvantageously affect the rights of any person as at the date of registration or impose any liability on any person in respect of anything done or omitted to be done before the date of registration. Commencement prior to registration is therefore consistent with subsections 12(2) and 12(3) of the *Legislation Act 2003*.

Subsection 7(3) of the Act requires the Treasurer, by legislative instrument, to determine:

- (a) the maximum restricted levy amount for each financial year;
- (b) the minimum restricted levy amount for each financial year;
- (c) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (d) how a life insurance company's levy base asset is to be worked out.

This determination provides that the restricted component of the 2016-17 levy will be calculated at 0.00419 per cent of assets held by the entity, subject to a minimum of \$5,000 and a maximum of \$1,320,000. The unrestricted component of the 2016-17 levy will be calculated at 0.004778 per cent of assets held by the entity.

Although this determination does not allude specifically to friendly societies, they are considered as leviable bodies, as they are registered under the *Life Insurance Act 1995* and consequently fall under the definition of 'life insurance company' of the *Financial Institutions Supervisory Levies Collection Act 1998*. As subsection 16C(1) of the *Life Insurance Act 1995* notes, item 11 of Schedule 8 to the *Financial Sector Reform (Amendments and Transitional Provisions) Act 1999* provided that friendly societies existing then are taken to be registered under the *Life Insurance Act 1995*.

The finance sector has been consulted on the 2016-17 supervisory levies through a Treasury and Australian Prudential Regulation Authority discussion paper released on the Treasury website on 6 May 2016. The paper discusses potential impacts of the levies on each industry sector and institution regulated by APRA. Eight submissions were received during the consultation process, and one submission specifically raised issues in relation to the *Life Insurance Supervisory Levy Imposition Determination 2016*.

The Office of Best Practice Regulation has previously advised that a Regulatory Impact Statement is not required as supervisory levies are considered *machinery-of-government* in nature.

This determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment 1.

Statement of Compatibility with Human Rights

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

Life Insurance Supervisory Levy Imposition Determination 2016

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

Overview of the Legislative Instrument

This determination relates to a levy imposed on life insurance entities by the *Life Insurance Supervisory Levy Imposition Act 1998*.

Subsection 7(3) allows the Minister to determine:

- (e) the maximum restricted levy amount for each financial year;
- (f) the minimum restricted levy amount for each financial year;
- (g) the restricted levy percentage for each financial year;
- (ca) the unrestricted levy percentage for each financial year; and
- (h) how a life insurance company's asset value is to be calculated.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.