Australian Unity Limited
ABN 23 087 648 888

271 Spring Street
MELBOURNE VIC 3000

T 13 29 39 Australia Wide
F 03 8682 5555
W australianunity.com.au

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General Manager
Policy Development
Policy and Advice Division
Australian Prudential Regulation Authority

By email: PolicyDevelopment@apra.gov.au

Dear General Manager

Governance Review - Discussion Paper

Thank you for the opportunity to provide comment on the Discussion Paper with eight proposals to update requirements for bank, insurer and superannuation trustee governance (**Discussion Paper**).

Australian Unity

Established in 1840, Australian Unity is Australia's first wellbeing company, delivering positive impact through health, wealth and care services for our members and the community.

Australian Unity Limited (**AUL**) is the ultimate holding company of the Australian Unity Group (**Group**) and is registered as a non-operating holding company under section 28A of the *Life Insurance Act 1995* (Cth) (**NOHC**). AUL is a member-owned mutual entity, being a public company limited by guarantee and by shares. Its aggregate operations engage approximately 10,000 people serving the wellbeing needs of 750,000 customers including 350,000 members across the chosen areas of health, wealth and care.

Uniquely, the Group's parent entity is a NOHC and is regulated under APRA's insurance industry standards, in addition, there are subsidiaries regulated by APRA under insurance industry standards, private health insurance and banking industry standards, as well as subsidiaries not subject to APRA regulation (but extensive regulation from other industry requirements).

More specifically, the Group comprises:

(a) prudentially regulated entities: (1) Australian Unity Limited, the NOHC, which is the ultimate holding company for the Australian Unity Group; (2) Australian Unity Bank Limited*, an authorised deposit-taking institution; (3) Australian Unity Health Limited, a private health insurer; (4) Lifeplan Australia Friendly Society Limited, a friendly society authorised to provide life insurance products and investment bonds; and (5) Australian Unity Life Bonds Limited, a friendly society; and
(b) entities and businesses which are not regulated by APRA but operate in regulated sectors such as: residential aged care, in-home and community care services, mental health and allied health services, funds management, investments, property and infrastructure, trustee services and retirement village operations. These businesses each have their own governance and regulatory requirements unique to the business sectors in which they operate.

*Australian Unity Bank Limited has announced it expects to transfer its banking business to an external party in late 2025.

Executive summary

The Group supports APRA's aim of improving governance practices for the benefit of members, investors, the public and entities. The Group needs to achieve exemplary corporate governance and welcomes a review to ensure APRA requirements reflect appropriate governance standards, support a diverse, dynamic and resilient economy, and are suitable for all business structures, including mutuals.

In summary, this submission highlights the Group's support for proposals 1 (skills and capabilities) and 6 (role clarity), with the expectation that further guidance on these matters will be forthcoming. However, there are concerns that other proposals may have potential disproportionate impacts, particularly for diversified organisations like the Group.

The Group is uniquely positioned as, while its ultimate parent entity is APRA-regulated (as a NOHC), most of its diverse business areas are not APRA-regulated.

Applying proposals 2, 3, 4, 5, 7, and 8 across complex and cross-regulated organisations, like the Group, could introduce unnecessary complexity and burden, reduce governance efficiency, weaken confidentiality, require the release of sensitive information, and increase costs—which ultimately impact members and customers. Such an eventuality could be disproportionate to APRA's aims, including by virtue of the proposals having potential for inadvertent applicability beyond APRA's supervisory responsibilities.

At the same time, this submission does not advocate for a rigid separation between APRA-regulated and non-APRA-regulated corporate groups.

The evolving landscape of interconnected markets necessitates innovative, system-wide solutions that are readily able to adapt to emerging community needs and opportunities.

Healthcare exemplifies this dynamic—globally, and in Australia, demographic shifts, procedural technologies, and the rise of personalised treatments are driving concerns over financial sustainability. Technology in healthcare operates as both an accelerator and retardant on these costs. Addressing the growing burden of disease requires new care models and funding approaches. A disparity in innovation between financial and healthcare sectors is evident, and regulatory boundaries should not constrain adaptive responses, forcing industries into outdated structures. Likewise, regulatory mandates should avoid imposing the preferences of one sector (such as mandates appropriate to banking) onto another (such as private health insurance), supporting flexibility to navigate future challenges.

The proposals

<u>Proposal 1: Skills and capability</u>

Australian Unity supports this proposal, with the expectation that further guidance will be forthcoming.

<u>Proposal 2: Fitness and propriety</u>

Australian Unity welcomes more defined guidelines and expectations regarding fitness and propriety assessments, however, the Group recommends further consideration be given to:

(a) **Notification requirements**: To best align with fairness in the fitness and propriety assessment process, the Group advocates for APRA notifications to occur only after a negative determination has been made, ensuring proper due process and protecting individual rights. Alternatively, the Group proposes that notifications of positive determinations should only include the nature of the concern and details of the assessment process, omitting any personal information about the individual/s involved to allow for proper due process and protecting individual rights.

(b) **Proactive engagement on succession plans and potential responsible person appointments**: APRA holds a vital role in safeguarding Australia's financial system and safeguarding depositors, policyholders and superannuation fund members. The Group believes that any proactive involvement

by APRA in the execution of an entity's succession plan or potential responsible person appointment must respect the distinct roles of regulators when compared to boards.

Excessive regulatory involvement in succession planning may inadvertently stifle innovation by restricting corporate groups from leveraging multi-disciplinary skillsets across sectors. This constraint is particularly concerning in dynamic industries that rely on cross-sector expertise to develop new funding models, complementary systems, and integrated business strategies spanning care, delivery, and technology. Private health insurers, for example, have demonstrated the effectiveness of well-functioning succession arrangements, highlighting the importance of flexible governance structures. However, APRA's reliance on traditional industry standards—such as those designed for for-profit banking—risks imposing a rigid, 'one-size-fits-all' approach that fails to accommodate evolving business models and sector-specific needs. For example, on what skills, experience and information would APRA rely to make comment on a clinically skilled director to the Australian Unity Limited board (a NOHC)?

Furthermore, there is a risk associated with an encroachment on new categories of commercially sensitive and confidential information, particularly when collated together, as part of such oversight. A clear distinction should be maintained between regulatory oversight and the internal governance responsibilities of regulated entities.

The Group would welcome further detailed guidance on succession planning and fitness and propriety standards, however the independence of boards in these matters must be preserved.
Should this proposal progress, the Group believes it is crucial that APRA establish transparent and consultative processes to ensure supervision thresholds are fair, objective, and open to review.

(c) **Accountable person and responsible person reporting:** While the Group is not a significant financial institution (SFI) and is classified as a 'core' entity under the Financial Accountability Regime, it would welcome any effort that seeks to reduce the overlap and unnecessary administrative burden of accountable person and responsible person reporting.

Proposal 3: Conflicts management

Australian Unity supports the goal of more effective and consistent conflicts management across APRA-regulated entities while supporting transparent guidance tailored to the unique regulatory context of such entities; however, the Group recommends further consideration be given to:

(a) **Single cross-industry approach**: While recognising the benefits of a streamlined, cross-industry approach to conflicts management, the Group believes that there are some limitations to a 'one-size-fits-all' standard. Such an approach does not recognise the fundamental difference between the duties owed by a registrable superannuation entity (RSE) board and those of a bank or insurer board. Importantly, RSE Trustees are required to act in the best financial interests of members in accordance with the Superannuation Industry (Supervision) Act, whereas no comparable duty exists for bank or insurer boards. This may be the rationale for the more prescriptive requirements regarding conflicts management specified in SPS 521 which apply to RSEs, though it remains unclear why it should be imported onto entities that do not have such particular fiduciary duties. It also remains unclear as to how APRA proposes to specify in whose interest the board of a bank or insurer should act when seeking to balance the interests of shareholders, depositors, policyholders, beneficiaries, other customers, or the financial system more broadly. And will the guidance provided by APRA extend the perimeter of safe harbour provisions? If not, how can they be fully considered in governance decision making?

(b) **Public disclosure of registers of duties and interests:** While supportive of an approach that can strengthen shareholder protections, the Group believe the introduction of RSE licensee requirements across all entities could increase exposure of sensitive personal and commercial information through public disclosure of registers of duties and interests. Such disclosure could create challenges in attracting high-calibre individuals to director roles, which may, in turn, impact the effectiveness of

governance structures designed to serve stakeholders' best interests. The Group believes that, on balance, the risks associated with public disclosure outweighs the potential benefits to stakeholders.

(c) **Application to NOHCs**: With a parent entity that is a NOHC, and an overwhelming majority of subsidiaries that are outside APRA regulation, the Group believes that applying conflict management standards designed for RSE licensees would be disproportionate and unnecessary. Any application to NOHCs would inadvertently subject non-APRA regulated entities to alien governance requirements, overlapping with their own specific regulatory obligations. This would risk creating excessive administrative complexity and inefficiencies without demonstrable benefits to stakeholder protection.

(d) **Application to mutuals**: Mutual organisations, such as the Group, operate under a distinct governance structure compared to shareholder-based companies. Their primary objective is to serve the interests of their members, with decision-making processes and accountability mechanisms designed accordingly. As a result, conflicts between Group entities are inherently less likely to arise and, when they do, they are less likely to adversely impact members' interests.

(e) **Existing regulatory regimes regarding conflicts management**: Conflict management obligations apply broadly to all companies, alongside specific requirements for certain business areas and entities within the Group. These include:

- Existing APRA prudential standards
- Directors' duty to avoid conflicts of interest under the Corporations Act
- Obligations for Australian financial services licensees to manage conflicts and act in the best interests of members, as outlined in ASIC Regulatory Guide 181, and
- Conflict management requirements for 'registered provider' boards under the Aged Care Act.

Amending the existing APRA standards for the Group as a mutual entity would add regulatory complexity without addressing any new or unresolved conflicts of interest already covered by existing frameworks.

(f) **Australian financial services (AFS) licensees**: ASIC has issued a detailed regulatory guide (RG 181 Licensing: Managing conflicts of interests) outlining its expectations for AFS licensees in managing conflicts of interest. For AFS licensees, how will APRA ensure consistency in the application and address the practical implications of operating under two separate conflict management frameworks?

<u>Proposal 4: Independence (banking and insurance entities only)</u>

The parent company of the Group is a mutual, owned by its members, and is an insurance-industry NOHC registered under the *Life Insurance Act 1995* (Cth). However, as detailed above, only a limited number of the Group's entities are subject to APRA regulation.

With this unique perspective, the Group recommends further consideration be given to:

The proposal limiting directors from serving on other boards that requires at least two independent directors (including the chair) to not be members of any other board within the entity's group, specifically the:

(a) **Accountability to members and customers of mutual organisations**: Australian Unity's distinct status as a member governed mutual company means our primary stakeholders are our members, who are also customers of our products and services. These members view Australian Unity as a whole (rather than a group of entities) and as such expect consistency across the Group, particularly in corporate governance and accountability. Additionally, members expect that the Group will be managed efficiently, including in relation to board member fees, time and support. Allowing directors to serve on multiple boards within the Group strengthens this accountability and enables Australian Unity to demonstrate to its members that it operates as a unified whole.

(b) **Impact on efficiency, governance oversight and information flows within large corporate groups**: Multiple-board non-executive directors (NEDs) facilitate seamless information exchange, enable consistent governance oversight, and provide a holistic understanding of the corporate group—key elements of effective corporate governance that benefit members (and shareholders). This proposal introduces the risk of governance gaps across the Group, potentially undermining oversight and negatively affecting members and customers. Applying this proposal to large corporate groups will increase the number of NEDs needed to fill board roles. Not only will this increase the costs of director remuneration (ultimately paid by members and customers), but will also require additional internal resourcing to ensure all NEDs across the corporate group are sufficiently briefed and kept abreast of important strategic, operational and governance matters. To effectively respond to queries from an increased number of NEDs, increased time and resource requirements will be required of company secretaries and senior executives—whose primary role should be on the day-to-day operations of the business. In turn, this will undoubtedly require additional senior executives, again leading to an increased cost burden to members, customers and shareholders.

(c) **Application to NOHCs**: The Group believes that additional consideration is required to make this proposal suitable to similar insurance or banking industry NOHC entities, with a large and diverse group of subsidiaries. The parent entity of Australian Unity is an insurance-industry NOHC, and as such, the entity itself does not perform operations but it does govern and oversee the whole Australian Unity Group. Limiting the parent entity NEDs from being members on more than two Group entities effectively restricts the flexibility needed for efficient governance oversight of the Group as a whole, including the non-APRA-regulated businesses.

If this proposal were to apply to NOHCs, the Group may need to double its current number of independent directors to meet the directorship requirements of its insurance and banking entities. This increased capacity would ensure each independent director serves on no more than two Group entities. Additionally, more independent directors may be required to address governance gaps resulting from restrictions on NEDs serving multiple boards within the Group. These changes would increase corporate governance oversight risks while imposing excessive administrative burdens and multi-million-dollar costs, ultimately impacting the Group's competitiveness. The Group estimates these additional costs at over $2 million, which is equivalent to its current member-approved NED remuneration pool. And while current director fees are approved by members, APRA's proposal would impose a regulatory mandate that effectively doubles governance costs—passing the financial burden onto members through higher product costs and investors through lower investment returns, all without a member vote.

(d) **One-size-fits-all approach**: The Discussion Paper acknowledges that there are groups where no conflict of interest exists between the entities within a group. This may be more evident in member governed mutual organisations, like the Group. Applying a uniform standard to all groups with an APRA-regulated banking or insurance entity may overlook the nuanced realities of intra-group dynamics and the specific governance structures at play. To assume each entity can and should act in isolation of other group entities ignores the benefits of being a mutual and being able to offer a range of services and products to meet the needs of members and customers.

Further, a rigid approach risks stifling innovation by limiting the ability of corporate groups from harnessing diverse expertise across group boards. This concern is especially pronounced where cross-sector and multi-disciplinary skills drive advanced thinking and innovation in funding models, complementary systems, and integrated business strategies. If APRA continues to apply blanket regulatory frameworks—such as those tailored for for-profit banking—it may inadvertently impose a restrictive model that does not align with the evolving needs of modern business structures.

If this standard is necessary as a one-size-fits-all application (which the Group doesn't believe appropriate given the limitations and challenges outlined above), the Group suggest an exception whereby a corporate group is not required to have more NEDs in total on the operating APRA-regulated entities than the number of NEDs on the group's parent NOHC. Without this

exception, the Group may require over 16 independent directors which would have a direct multi-million-dollar cost; with this exception, the Group would require its current 8 NEDs.

The Group believes the issues that this proposal seeks to address may be integrated into Proposal 3 (Conflicts management), while ensuring the above factors remain uncompromised.

Requiring all subsidiaries to have a majority of independent directors:

The Group holds concerns regarding the application of this proposal:

(a) **Application to parent entity NOHCs and non-APRA-regulated entities**: The governance benefits of requiring all subsidiaries of an APRA-regulated parent to have a majority of independent directors remain unclear, particularly for organisations such as the Group. This proposal introduces inefficiencies, as executive boards currently oversee governance and operations for most non-APRA-regulated subsidiaries within large corporate groups like Australian Unity. Additionally, imposing these measures on non-APRA-regulated entities creates unintended restrictions with limited impact on addressing intra-group conflicts. Many subsidiaries, including those in aged care, funds management and retirement village operations, already comply with governance obligations under existing regulations, making the additional regulatory layer unnecessary and inconsistent with broader industry practices.

(b) **Risk balance**: The proposal raises concerns about how a corporate group with multiple overlapping board committees can effectively manage and take appropriate levels of positive risk. The duplication of governance structures may lead to overly cautious decision-making, potentially stifling innovation and strategic growth. It is unclear how this framework would ensure a well-calibrated risk appetite across the organisation, balancing prudence with the ability to seize opportunities that drive long-term success.

(c) **Non-executive director talent availability**: Applying this proposal to all corporate groups with an APRA-regulated parent entity will significantly increase demand for a larger NED talent pool—one that is currently insufficient in size. This shortage may prompt corporate groups to lower skill and experience requirements for new NED appointments, potentially undermining overall corporate governance standards amongst APRA-regulated entities and their related entities which are not subject to APRA regulation.

Due to these complexities, and when coupled with the proposed restriction on directors serving on multiple boards, the Group believe this measure imposes a disproportionately negative impact on the practical governance of mutual corporate groups as well as their running costs.

Material holding definition

The Discussion Paper did not outline a suggested definition of material holding. To avoid a company having to apply different definitions across regulatory regimes, the Group suggests using an existing definition (say, the definition of "Material Personal Interests" in section 191 of the Corporations Act).

<u>Proposal 5: Board performance review</u>

Australian Unity is not a significant financial institution (SFI) and, therefore, is not directly impacted by this proposal. However, the Group maintains a policy of conducting independent external board assessments every three years.

The Group believes that an 'opt in' approach would allow non-SFIs conducting triennial external reviews to adopt a more focused scope for the intervening annual performance assessments—primarily assessing progress on recommendations from the independent review. This approach would also allow entities, like the Group, to streamline their annual assessment processes while ensuring they can take a deeper, more targeted approach to areas of significance.

Proposal 6: Role clarity

Australian Unity supports this proposal, with the expectation that further guidance will be forthcoming.

Proposal 7: Board committees

Australian Unity welcomes the flexibility, as a non-SFI, to elect to have combined or separate risk and audit committees. The Group currently maintains separate risk and audit committees, which serve all Group entities to enhance efficiency, given that the Group operates as a unified whole for most risk and audit matters. An approach that is likely consistent within other complex entities. Consequently, the Group recommends further clarification and consideration be given to:

(a) **Voting members of committees:** Based on the Discussion Paper, APRA appears to be addressing the participation of non-group individuals (external parties) as voting members of committees. The Group seeks clarification that the prohibition against external advisors voting on committee matters does not extend to directors of related group entities.

(b) **Committee membership – directors of related group entities:** Due to the varying composition of Australian Unity Group boards, the membership of the Group's consolidated committees (including the risk committee, audit committee and remuneration committee) differs from the structure of each Group board. Consequently, a member of the committee is not a board member of all Group entities. The Group recognises that varying board interests may occasionally necessitate the application of its conflicts management policies—whether at the committee or board level—to facilitate decision-making on the relevant matter.

    If this proposal is implemented, the Group would not be able to maintain consolidated committees which serve the whole of Group. As the Group currently has five APRA entities it may require five times the number of committees that currently exist. It is unclear what benefits this requirement would bring to the Group or its members. The Group believes restricting a board committee from including a voting member who is not a director of all Group entities, though is a director of another group entity, would place a significant administrative and cost burdens on committee meetings and divert resources from managing effective risk and governance functions. Additionally, it would require directors and management staff to attend multiple sessions and present the same material to the same individuals across different committees, or the coordination of all group directors (which may be large numbers of directors to coordinate when considering Proposal 4 Independence) to be present at each board committee (effectively negating the benefit of having a board committee).

(c) **Application to mutuals**: The primary objective of a mutual organisation, such as the Group, is to serve its members' service interests. Given this focus, separating the Group's committees seems counterproductive, as their roles, responsibilities, and oversight are typically well aligned, ensuring cohesive governance.

The Group believes the concerns that APRA seeks to address could be managed through existing conflict management policies or by refining the definition of an external adviser to exclude directors of any other group entity.

Proposal 8: Director tenure and board renewal

The Group's board charter and renewal policy has long established a general maximum 12-year tenure for NEDs. The Group supports principles that require directors to act in the best interests of the company and is generally supportive of setting a tenure guideline on NEDs, without any prescriptive or externally mandated tenure limits, when considering:

(a) **Board effectiveness**: A mandated approach to individual director tenure risks disrupting the internal judgment crucial to effective board composition, particularly in multi-sector organisations. Maintaining an optimal balance of experience—measured by the collective average tenure across a

functionally sized board—provides greater stability and supports informed decision-making more effectively than rigid tenure limits. Imposing a 10-year cap may inadvertently reduce the board's collective expertise, weakening its ability to exercise sound, risk-aware judgment. Board effectiveness depends not only on individual tenure but on the continuity of experience across all members. For optimally sized boards—such as those with eight members—the premature departure of experienced directors could disrupt governance stability, diminishing long-term effectiveness.

To illustrate, a board with eight directors would require a director to resign approximately every 1.25 years under a 10-year tenure limit, or every 1.5 years under a 12-year limit. The table below highlights the impact of these tenure differences on board continuity and average experience, demonstrating that a 10-year maximum tenure results in significantly less institutional knowledge and depth of experience compared to a 12-year tenure:

Tenure	Director 1	Director 2	Director 3	Director 4	Director 5	Director 6	Director 7	Director 8	Max tenure yrs
Years	0	1.25	2.50	3.75	5.00	6.25	7.50	8.75	**10**
Years	0	1.5	3.0	4.5	6.0	7.5	9.0	10.5	**12**

50% of directors have less than 4 years tenure and an average for that cohort less than 2 years experience
50% of directors have less than 5 years tenure and an average for that cohort less than 2.5 years experience
Unless a Chair is selected as chair from outside the existing director cohort, max chair tenure is likely to be ~5-6 years

(b) **Loss of knowledge and experience**: Effective boards require chairs and deputy chairs to be well-established, possessing a thorough understanding of the organisation before assuming leadership roles. A compressed timeframe for leadership development adversely impacts orderly succession planning. Particularly for boards overseeing both APRA-regulated and non-APRA-regulated businesses, limiting tenure to 10 years could unnecessarily restrict the depth of expertise, particularly in sectors requiring specialised knowledge, such as healthcare.

(c) **Need for flexibility**: Mandating rigid tenure limits across industries where no heightened regulatory or governance concerns currently exist, could lead to the premature departure of high-performing directors. This is particularly problematic in industries that require a rare combination of clinical, financial, and strategic skills. Furthermore, directors may unexpectedly resign or become unavailable due to unforeseen circumstances (e.g., illness), disrupting an entity's succession planning. In such cases, it is essential to allow an experienced director to continue beyond their ordinary tenure limit, ensuring continuity in board oversight and preserving institutional knowledge critical to effectively serving member interests.

This need is especially pronounced in multi-sector organisations like the Group, where directors must possess deep, cross-sector expertise—knowledge that often develops through years of experience on the board. The impact is heightened when an unplanned director departure holds sought-after skills, such as expertise in clinical governance within aged and/or home-based care.

(d) **Diverting focus:** In alignment with the response to Proposal 4 (Independence), the Group believe imposing a 10-year cap could create undue burdens on boards, potentially diverting focus away from governance and strategy to succession planning and director recruitment.

(e) **Recruitment challenges**: Identifying and onboarding suitable director replacements is often a complex and time-consuming process. More frequent recruitment, if mandated, could disrupt board efficiency and effectiveness, particularly where specialised expertise is critical.

(f) **Three-year terms**: Standard Australian company constitutions and the ASX Listing Rules permit director appointments for three-year terms. Given members typically elect directors based on this cycle, a 10-year tenure limit does not align with the standard structure. A 12-year limit better accommodates the practical realities of director succession and governance continuity.

(g) **Implications for competition, startup firms and new industry participants**: Financiers and investors rely on director continuity over extended periods, making rigid tenure limits particularly detrimental

to new industry entrants. Such mandates create significant barriers to entry, stifling competition and effectively preventing the establishment of new firms.

In practice, the average resignation timeline of 1.25 years (as shown in the table above) raises critical concerns for newly formed boards. Without a staggered approach to director departures, all directors would reach their tenure limits simultaneously at the 10-year mark, requiring a full board replacement at once. This level of disruption presents an exceptional challenge for APRA-regulated entities, discouraging new participants from entering the market and weakening competition.

The Group recommends APRA consider implementing as guidance only:

(a) a presumption that a NED will lose independence after 12 years of tenure, unless assessed otherwise, and then an ongoing annual reassessment of independence. A NED that loses independence need not be obligated to resign as high-performing directors or those with specific skills or experience that may be hard to replace are key to a continual functioning board, and/or

(b) in the event a NED remains on a board after 12 years, annual re-elections be required (instead of the current three-year cycle). Such re-elections should be guided with certain mandatory disclosures by the NED and the entity, and

(c) with additional flexibility for startup firms and new industry participants.

The Group suggests this be a guidance only, as a corporate group or entity must be unconstrained to govern itself, within existing adequate regulatory and constitutional frameworks.

Conclusion

Australian Unity acknowledge the significant and important work APRA is doing through this review to strengthen governance practices. The Group welcome the opportunity provide feedback on the Discussion Paper and look forward to continuing to work with APRA as the review process progresses and during implementation of the review outcomes.

Yours sincerely

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Group Executive – Governance