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## APRA's Governance Review Discussion Paper (March 2025)

Dear General Manager,

As the representatives of over 300,000 professional accountants, Chartered Accountants Australia and New Zealand (**CA ANZ**) and CPA Australia thank you for the opportunity to provide feedback in response to the Australian Prudential Regulation Authority's (**APRA**) Governance Review Discussion Paper (the "Discussion Paper") released in March 2025. We make this submission on behalf of our members and in the public interest.

Please find attached our submission, which outlines our views on the eight proposals presented in the discussion paper. Our response reflects practical insights from the experience of our combined membership, with particular attention to proportionality, implementation feasibility, and alignment with existing regulatory frameworks including the *Superannuation Industry (Supervision) Act 1993* (the '**SIS Act**') and relevant prudential standards. Whilst we have specifically intended to respond in the main to the impact on Registrable Superannuation Entities (**RSEs**), we have also provided comment in relation to impacts elsewhere, including where the obligations of prudentially regulated entities are impacted by other requirements including listing obligations.

CPA Australia and CA ANZ are committed to strengthening governance across the financial services sector and support the intent to enhance clarity, accountability, and board effectiveness. We believe that our submission will contribute constructively to the ongoing consultation process.

Should you require any further information or clarification, please do not hesitate to contact [REDACTED], [REDACTED] at CPA Australia or [REDACTED].

Yours sincerely,

[REDACTED]  
[REDACTED]  
**CPA Australia**

[REDACTED]  
[REDACTED]  
**Chartered Accountants Australia and New Zealand**

# Submission

## Introduction

We welcome the opportunity to respond to the Discussion Paper. CPA Australia and CA ANZ supports APRA's objective of strengthening governance across regulated entities and endorse the focused direction on proportionality, clarity, and alignment with international standards.

This submission reflects our analysis of the proposals, informed by practical experience, sector-specific considerations, and alignment with existing prudential standards and legislation such as the SIS Act.

## Response to proposals

### Proposal 1 – Skills and Capabilities

*Require regulated entities to:*

- a. *identify and document the skills and capabilities necessary for the board overall, and for each individual director*
- b. *evaluate existing skills and capabilities of boards and individual directors*
- c. *take active steps to address gaps through professional development, succession planning and appointments.*

CPA Australia and CA ANZ supports the intent to align board skills with the organisational strategy of regulated entities. However, we recommend:

- **Clarification of “appropriate skills”:** APRA should provide new guidance or examples of good practice to assist entities, particularly smaller ones, to identify, define and document appropriate skills.
- **Proportionality:** Smaller entities may face challenges balancing skills, diversity, and availability of talent. APRA should consider a tiered approach to expectations in respect of maintaining adequate mixes of skills together with representation requirements in the presence of limited availability of potential directors. APRA should also consider the possibility of policy committees to advise the board in cases where the pool of available directors is limited. Additionally, expert advisory panels may be useful for entities when specialist knowledge and skills are needed at a specific time.
- **Avoid duplication:** Many entities already disclose board composition under the *ASX Corporate Governance Code* or voluntary frameworks including best practice disclosure. APRA should avoid duplicative reporting.

We also note that the SIS Act at s.52(2)(h) already implies this level of governance capability for RSEs through the duty to act in members' best financial interests. We raise the question of whether, given this duty, this should be prescribed in prudential standards when additions to existing prudential guidance (such as *Prudential Practice Guide SPG 510: Guidance*) may be sufficient.

## Proposal 2 – Fitness and Propriety

*Require regulated entities to meet higher minimum requirements to ensure fitness and propriety of their responsible persons.*

*Require SFIs [significant financial institutions], and non-SFIs under heightened supervision, to engage proactively with APRA on potential appointments.*

We support strengthening fitness and propriety assessments but raise the following concerns:

- Definition of “outcomes”: It is unclear whether at regulated entities such as RSEs, the linkage between compliance and outcomes implies the reputational damage, and in turn the reduction in financial interests of stakeholders such as an RSE’s members, should a director not act in a fit and proper manner. Greater clarity is needed on whether reputational damage linked to director conduct constitutes a breach.
- Time commitment: APRA should define what constitutes “sufficient time” and clarify thresholds for multiple board roles where these include regulated entities.
- Privacy concerns: The requirement to disclose personal circumstances that may pose reputational risk (e.g. divorce) is problematic and may conflict with privacy laws.
- APRA involvement: APRA should provide more details on the proposal to involve itself in the board appointment process (e.g. candidate interviews) as part of non-binding guidance only. We would like to understand where APRA might have used such a process in the past, to alleviate our concerns.

We recommend that APRA:

- Works to align reporting obligations with the Financial Accountability Regime (FAR) to reduce duplication.
- Provides clearer guidance on triggers for fit and proper reassessments as well as APRA’s engagement.

## Proposal 3 – Conflicts Management

*Extend current RSE licensee conflict management requirements to banks and insurers so they are also required to:*

- proactively identify actual and potential conflicts of interest and duty*
- avoid or prudently manage conflicts*
- take remedial action when conflicts are not disclosed or managed properly.*

*Require regulated entities to consider perceived conflicts, in addition to actual and potential conflicts.*

We support harmonising conflict management requirements across industries. However:

- Oversight: Operational responsibility for conflict frameworks should rest with General Counsel (or equivalent), while the board retains accountability. We note that this reflects existing practice.
- Perceived conflicts: While important, perceived conflicts are subjective. APRA should provide examples together with the context and audience to guide implementation. We note the ASX

Corporate Governance Principles Recommendation 1.2 refers to matters which might 'reasonably be perceived to influence'.

- Disclosure: Public disclosure of registers may raise privacy and commercial sensitivity concerns. We recommend limiting this to material conflicts.

We recommend that APRA's guidelines around director conflicts aligns as closely as possible to s.191 of the Corporations Act 2001, as well as the ASX Corporate Governance Council recommendation 1.2 which clarifies in commentary that:

*...details of any interest, position or relationship that might influence, or **reasonably be perceived to influence**, in a material respect their capacity to bring an independent judgement to bear on issues before the board and to act in the best interests of the entity as a whole rather than in the interests of an individual security holder or other party...*

be considered as part of this proposal.

## Proposal 4 – Independence (Banks and Insurers Only)

*Strengthen independence on regulated entity boards by:*

- requiring that at least two of their independent directors (including the chair) are not members of any other board within the entity's group*
- making minor amendments to the independence criteria, including extending the prohibition on directors who are substantial shareholders in a regulated entity or group from being considered independent, to include material holdings of any type of security*
- extending the current requirement for bank and insurer boards to have a majority of independent directors to include boards of entities with a parent that is regulated by APRA or an overseas equivalent.*

We support strengthening independence but seek clarification on:

- Director benefits: APRA should define thresholds for "material" benefits and consider benchmarking director fees to industry norms and highlighting where these diverge excessively.
- Multi-jurisdictional boards: Clarify how independence is assessed where directors serve on boards of subsidiaries in different jurisdictions. Will consolidation rules apply?
- Non-conflicted boards: Clarify how the independence requirements do not necessarily restrict board candidates from the entity where boards in one group are not in conflict.

We support the requirement for at least two independent directors (as defined in CPS 510) (including the chair) not to serve on other group boards, as a pragmatic compromise.

## Proposal 5 – Board Performance Review

*Require SFIs to commission a qualified independent third-party performance assessment at least every three years which covers the board, committees and individual directors.*

We support triennial independent reviews for SFIs but raise the following:

- Disclosure: Clarification needs to be provided around whether individual director assessments must be disclosed publicly or only to APRA.

- Scope: Reviews should focus on effectiveness and strategic alignment, not just compliance. APRA should provide guidance on qualifications and independence criteria for independent third party performance assessors.
- Non-SFIs: Should be encouraged, but not required, to conduct external reviews.

## Proposal 6 – Role Clarity

*Define APRA's core expectations of the board, the chair and senior management.*

*Provide additional guidance on which APRA requirements may be delegated to board committees and senior management.*

We strongly support clearer delineation of board and management responsibilities for APRA requirements. We recommend:

- Succinct and decision-relevant briefings: APRA should emphasise the need for concise, strategic information to support board decision-making.
- Delegation guidance: APRA should explicitly list responsibilities that may be delegated to committees or management to reduce board overload.

## Proposal 7 – Board Committees

*Extend the current requirement for bank and insurer boards to have separate risk and audit committees, to apply to SFI RSE licensees as well. Repeal this requirement for non-SFI banks and insurers, allowing flexibility for smaller entities.*

*Mandate that only full board members can be voting members of APRA-required board committees.*

We support flexibility for non-SFIs and the requirement for SFIs to have separate audit and risk committees. However:

- Voting rights: Only board members should vote on committees, but external advisers should be permitted to attend and advise.
- Talent constraints: Smaller entities may struggle to staff multiple committees. APRA should provide transitional support or exemptions.

## Proposal 8 – Director Tenure and Board Renewal

*Impose a lifetime default tenure limit of 10 years for non-executive directors at a regulated entity.*

*Require regulated entities to establish a robust, forward-looking process for board renewal.*

We support the introduction of a 10-year tenure limit, with the following considerations:

- Cognitive capacity: While sensitive, APRA should acknowledge that tenure limits alone may not address age-related decline. Fit and proper assessments should include cognitive capability where appropriate.
- Transitional arrangements: Entities should be given sufficient time to implement changes and manage succession planning.

- **Merger resets:** APRA should clarify how tenure is calculated post-merger to avoid artificial resets.

We also support the requirement for a robust, forward-looking process for board renewal.

### **General Comments on Implementation and Proportionality**

We support APRA's commitment to proportionality and recommend:

- **Transitional periods:** Non-SFIs should be granted extended timelines to comply with new requirements.
- **Guidance materials:** APRA should publish examples, templates, and FAQs to support implementation and includes these in Prudential Practice Guides wherever possible.
- **Avoid duplication:** Where possible, APRA should align with existing ASX, FAR, SIS Act and Corporations Act requirements to reduce regulatory burden.