

6 June 2025

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

Via email: PolicyDevelopment@apra.gov.au

Submission on APRA's Governance Review – Discussion Paper

Dear General Manager, Policy Development

Thank you for the opportunity to provide feedback on APRA's *Governance Review Discussion Paper* (March 2025). Miga supports APRA's objective of strengthening governance standards across the financial services sector and welcome the emphasis on consistency, accountability and improved risk oversight. Miga is broadly supportive of the proposed reforms however we have concerns on some elements of the proposals which Miga believes introduces unnecessary complexity and regulatory burden, particularly for smaller, non-SFI mutual entities such as ours.

About Miga

Miga is a mono-line insurer comprising two trading entities being Medical Defence Association of South Australia Ltd (MDASA) and Medical Insurance Australia Pty Ltd (MIA). Together they operate to provide support and protection to our members - medical and healthcare professionals - so that they can practise safely and confidently, delivering quality care to the Australian community.

Miga is a mutual organisation, which has provided this support and protection to our members for over 125 years without the conflicts that arise from shareholder profit motives. As a medical defence organisation (MDO), Miga is also subject to additional layer of regulatory obligations under the Medical Indemnity Act.

- MDASA provides member benefits which includes risk education and professional development resources to members.
- MIA is Miga's licensed insurer which is subject to additional regulatory and legislative requirements as a insurer, including Medical indemnity requirements.
- As a mono-line, non-SFI insurer, our risk profile is relatively low, and we do not face the product or structural conflicts that Proposal 4 *Independence* appears designed to address.

Uniqueness of medical indemnity insurance

Medical Indemnity Insurance (MII) is the only professional indemnity insurance (PII) product classified as a retail insurance product. It was classified as a retail product almost 20 years ago, when medical practitioners were first required to have MII cover. Previously they had generally relied on discretionary assistance and benefits through membership of medical defence organisations to respond to medical negligence claims and disciplinary matters .

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Over time the medical profession has evolved into a sophisticated PII market, comparable to other PII markets where retail insurance requirements appropriately do not apply.

MII's unique features amongst retail general insurance products include

- **A high degree of regulation**
 - o A bespoke Federal Government legislative scheme – this includes the *Medical Indemnity Act 2002* (Cth) and *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* (Cth)
 - o The degree of MII regulation parallels compulsory third party or workers' compensation insurance, but neither of those lines of insurance have retail obligations.
- **A small, sophisticated consumer market**
 - o Mandatory PII requirements for medical practitioners have been in place for many years - see s 129, *Health Practitioner Regulation (National Law)*
 - o There is significant engagement by professional groups with MII issues.
 - o Mandatory minimum product standards meaning there is significant consistency in the scope of products offered by MII providers.
- **Long-tail third party claims and regulatory legal advice**
 - o MII provides protection to medical practitioners in relation to:
 - Claims by third parties arising from actual or alleged negligence
 - Responding to professional regulatory matters, investigations and administrative processes
 - o By contrast other lines of retail insurance focus on 'consumer' (i.e. non-professional / non-business) insurance covering first party risks, not a broad range of third party liabilities and processes
 - o MII operates on a claims made policy basis, rather than a claims incurred basis. When a MII claim is declined, it is often because the insured no longer holds a current policy, or the claim is outside the terms of the policy
 - o Although MII is very similar to other types of PII, they are considered wholesale products
 - o MII is the only PII retail product. Medical practitioners are less than 20% of registered health practitioners who have minimum PII requirements, but the only practitioners who are classified as retail clients under the *Corporations Act 2001* (Cth).

Given these unique features, the structure of the entities and the relationships between the boards governing those entities has been established to provide synergies that enable a focused, bespoke approach to ensure members are supported and regulatory requirements are maintained.

Impact of the Proposals

Strengthening Governance

Miga supports the intent to improve governance consistency across regulated entities. Miga already maintains strong governance practices, including:

- A 9-year tenure limit for directors, with the option of a fourth term (up to 3 years) by unanimous Board decision. Miga supports that the tenure for directors, with appropriate director renewal planning, should remain the decision of the entity (as set out in Proposal 8).
- All directors appointed to MDASA are required to meet fit and proper requirements, ensuring alignment with APRA's expectations which is reassessed on an annual basis.

Concerns with Proposal 4

Proposal 4 would require separate board members between MDASA and MIA which will:

- **Add unnecessary complexity** to our governance structure, which already operates effectively and without conflict given mono-line insurance offering.
- **Increase costs** by requiring the appointment of at least one, potentially two, additional directors.
- **Create inefficiencies** in governance staff workload, particularly in managing overlapping strategic planning and documentation across both entities which are currently aligned with a joint member-based focus. While we already maintain separate minutes, the preparation of Board papers and coordination of meetings would become more burdensome.

Regulatory Burden and Practical Implications

While Miga acknowledges the potential benefit of applying a different lens to each entity, in practice, this has not been an issue for Miga. As a mutual, our focus is singular being the support and protection of our members. We have not experienced conflicts between MDASA and MIA that we see would justify the structural changes proposed.

Instead, Proposal 4 risks introducing superfluous governance layers that do not enhance outcomes but do increase cost and complexity.

Closing Statement

As a member of the Business Council of Co-operatives and Mutuals (BCCM), Miga has contributed to and supports their submission.

Miga is aware of submissions put in by other governance bodies such as the Australian Institute of Company Directors (AICD) and the Insurance Council of Australia (ICA).

We respectfully request that APRA:

- Exclude mutual, mono-line, non-SFI entities from the scope of Proposal 4, or
- Allow flexibility for such entities to demonstrate effective governance through existing practices and potentially enhanced disclosure, rather than prescriptive structural requirements.

Miga would welcome the opportunity of meeting with APRA or otherwise engaging on the issues raised in this submission.

If you have any questions or would like to discuss, please contact [REDACTED]

Yours sincerely

[REDACTED]

CEO

[REDACTED]

Head of Risk & Corporate Governance