



PFS Consulting

**General Manager,
Policy Development
Australian Prudential
Regulation Authority**

Via email:
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Dear Sir/Madam

Thank you for the opportunity to provide feedback on APRA's Governance Review – Discussion Paper (March 2025).

PFS Consulting is a boutique consulting firm with a track record of advising APRA regulated institutions on governance, risk and compliance matters including conducting independent board performance assessments and risk culture assessments.

We support APRA's continued efforts to improve governance standards across prudentially regulated entities and welcome the opportunity to provide feedback on the proposed reforms. In our view, the reforms represent an opportunity to further strengthen APRA's approach to governance.

As set out below, we suggest additional clarity is needed on some specific elements of the proposals, and how they will be implemented and enforced. In our view, further consideration should be given as to when it might be appropriate to provide more prescription in certain areas.

This submission responds to five of APRA's eight proposals, with specific attention to:

- Proposal 1: Skills and Capabilities
- Proposal 2: Fitness and Propriety
- Proposal 5: Board Performance Review
- Proposal 6: Role Clarity
- Proposal 7: Board Committees

We have no specific comments on Proposals 3, 4, and 8 which we believe are consistent with the intent to improve governance standards. We do also raise several important additional matters which were not explicitly addressed in the consultation package.

Proposal 1: Skills and Capabilities

APRA's own observations indicate that many entities adopt "vague or narrow" definitions of board skills and fail to establish verifiable standards or monitor development plans. The concept of "capabilities" remains undefined and open to interpretation which could compound this issue.

This proposal would benefit from clearer guidance on:

- What is meant by "capabilities" as distinct from skills.



- The types of capabilities that are expected (e.g. industry specific, behavioural, personal qualities, or others).
- How capabilities should be measured and validated (e.g. via structured interviews or independent assessment or something else entirely).

We also suggest that an appetite to develop new skills and the ability to do so is itself a capability.

This additional clarity will improve consistency across entities and help reduce reliance on self-assessments, which APRA has identified as a weakness.

Proposal 2: Fitness and Propriety

As APRA has noted, fit and proper assessments are often process-oriented rather than outcome-focussed, and many entities fail to consider conduct, capacity, or reputational risks. Heightened fit and proper requirements are likely to be a positive development, especially if targeted at issues of concern and designed in such a way as to complement FAR.

Uncertainty remains however as to whether the fitness and propriety assessment should be a high or low bar. Should the fit and proper process reflect desired attributes, or merely the absence of disqualifying factors?

If the former, there is the risk that this duplicates the capabilities assessment process.

We suggest this proposal would benefit from clearer guidance on:

- Whether all court judgments (civil and criminal), regulatory actions, and reputational issues should be disclosed and potentially render an individual either unfit and/or improper.
- Require entities to assess directors' time capacity to serve effectively, particularly in cases of multiple board roles, particularly where those entities have the same financial year-end and potentially clashing workloads at critical times of the annual cycle.
- Clarify the interaction with the Financial Accountability Regime (FAR). Should fit and proper requirements govern who can be appointed, while FAR covers how those individuals perform? Can the timeframes for registration of an accountable person better align with the fit & proper assessment?
- Does the proposed consultation process give APRA de facto power to decide on the suitability of a potential Board member? Among industry leaders we consulted with, there was a degree of discomfort with this possibility, noting that APRA is not seeking direct power in this regard.

In our view this proposal would benefit from APRA providing additional clarity regarding how the consultation is expected to operate and the timing for engagement between APRA & the regulated entity in relation to potential Board appointments.



Proposal 5: Board Performance Review

APRA has identified that existing Board performance review practices often lack depth, fail to assess individual directors, and are not acted upon effectively. We support Board Performance Reviews being thorough, rigorous and forward-looking.

We suggest this proposal would benefit from:

- Mandating inclusion of structured interviews with the CEO and senior management to assess Board-management dynamics.
- Requiring observation of Board and committee meetings to evaluate real-time decision-making.
- Ensuring the review examines both strategic oversight and Board culture, not just procedural compliance.
- Clarifying the appropriate qualifications for expert third-party providers of independent board performance reviews.
- Highlighting that strong internal board assessments must be reconciled with prudential performance. It should not be possible for an entity under supervisory stress to internally rate itself "5/5" for governance.

Proposal 6: Role Clarity

APRA's observation that many boards spend less than 30% of their time on forward-looking strategy and risk oversight is significant. We agree there is a need to clarify the respective roles of the board, chair, and senior management. This is especially important given APRA's concern about the "150 requirements" currently imposed on boards.

We suggest this proposal would benefit from:

- Ensuring that any role definitions provided in prudential standards distinguish between what must remain with the Board, what may be delegated, and what is unacceptable to delegate, particularly under FAR.
- Consider adopting a principles-based approach over detailed prescription, allowing for proportionality while holding boards accountable for outcomes.
- Reinforce that delegation of responsibility under APRA standards must not dilute or confuse accountability, especially in the context of accountable person obligations under FAR.

Proposal 7: Board Committees

We support repealing the requirement for non-SFI banks and insurers to have separate risk and audit committees in line with non-SFI RSEs although we support entities having the option of separate committees if this is effective for them.

We also support APRA's proposal to prevent non-directors from voting on board committees. This responds directly to APRA's concern about the erosion



of board accountability due to the use of external advisers as voting members.

We suggest this proposal would benefit from:

- Codifying the distinction between advisory and voting roles.
- Discouraging excessive reliance on external committee members to compensate for skills gaps, except as a short-term measure. These gaps should be addressed in the medium to longer term through board composition and ongoing professional development.
- Reinforce that only duly appointed Directors, accountable to shareholders or members, may exercise voting rights.

We note that among industry leaders we consulted with, there were varying degrees of support for this proposal.

Additional Matters for Consideration

Several governance issues of relevance were not addressed in the discussion paper:

a. CEO Tenure

While Director tenure is addressed (Proposal 8), CEO tenure is not. Long-serving CEOs can entrench organisational culture and limit Board effectiveness. APRA may wish to consider whether additional oversight of CEO tenure and succession planning is appropriate, for example by mandating term limits and the number of terms a CEO can serve – as is commonplace in ASX listed companies.

b. APRA Attendance at Board Meetings

In the past, APRA has attended Board meetings as an observer in some cases. The paper does not indicate whether this practice will continue or be formalised. If APRA anticipates continuing Board attendance, we suggest clarifying the circumstances in which this would occur and how it would be undertaken.

c. Guidance for Appointing Bodies and Elected Directors

Directors in many regulated entities are appointed by third-party stakeholders or elected by members (e.g. in mutual banks, RSEs, or entities with a significant shareholder). These appointors or membership cohorts typically have limited or no awareness or appreciation for the APRA standards and governance requirements with which the regulated entity must comply.

We suggest APRA should consider issuing tailored guidance for regulated entities in this situation to provide to appointing bodies, significant shareholders, and directors seeking election to drive better governance outcomes.



Conclusion

We appreciate the depth and ambition of APRA's proposals. We support the intent to strengthen board accountability, improve capability, and ensure regulated entities are governed by Directors and Boards with the necessary integrity and skills to protect member interests, policyholder interests and depositors' interests.

We welcome further engagement on the proposals as part of the consultation process and are happy to elaborate on any of the points raised.

Please contact us on [REDACTED] or [REDACTED] for further discussion.

Yours faithfully,

Chairman

Director & Head of Risk Advisory