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Australian Prudential Regulation Authority

# APRA Code of Conduct

A Determination made in accordance with Section 48AC of the  
*Australian Prudential Regulation Authority Act 1998*



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## 1. Introduction

APRA must at all times and in all of its dealings, internal and external, act to the highest standards of ethical and professional behaviour. APRA's standing in the Australian financial system and its reputation in the international community of prudential regulators critically depends on our ability to meet these standards of conduct.

The following deals with the standards of conduct set for APRA and you as an APRA staff member. It also deals with the consequences that you may face if you fail to observe the standards set.

Familiarise yourself with this Code and observe its provisions.

If you breach the standards of conduct detailed in this Code you may face misconduct action.

You will be advised of revisions, alterations or additions to the Code via the Staff Notices. If you have any queries you should raise them with your immediate manager as soon as possible and seek assistance in resolving them. If you are not able to reach your immediate manager in a reasonable timeframe you can raise your queries with the General Manager Human Resources who will take steps to provide you with assistance.

## 2. Why have a Code?

This Code of Conduct outlines the standard of behaviour expected of APRA staff. It is designed to help you understand your responsibilities and obligations, and provide guidance if you are faced with an ethical dilemma or conflict of interest in your work.

A code of conduct cannot cover every situation. If you are unsure of the appropriate action to take in a particular situation, discuss the matter with your colleagues, manager or other senior officer.

As a general guide, you should ask yourself whether your proposed response in a particular situation is something that you feel comfortable in defending, and your managers and APRA more generally are likely to be comfortable in defending. If you are not confident that the



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answer to these questions is “yes”, that should be taken as a sign that the matter needs to be discussed with a manager.

In the interests of pursuing and maintaining high levels of honesty and integrity in APRA, any dishonest behaviour will be met with firm misconduct action, including possible demotion or dismissal.



### 3. Standards of Conduct

APRA requires that you carry out your duties and responsibilities to the highest standards of behaviour.

You must act honestly, not only in the narrow sense of staying within the law, but also in the broader sense of exhibiting high ethical standards and integrity at all times.

The primary requirement of staff is honesty and integrity in all dealings. Among other things, this means thoroughness in following APRA's policies and procedures, and in carrying out instructions from managers and other authorised APRA staff. If you deal with the public you should do so openly and fairly; you should show no favour towards friends or relatives or in other ways misuse your position as a staff member of APRA.

If you have access to confidential or sensitive information you should respect that confidentiality/sensitivity. You should take care to follow correct procedures, to ensure that information is not released to any unauthorised parties, including those who could seek to benefit financially or in other ways from its disclosure. Your attention is drawn to sections 56 and 57 of the Australian Prudential Regulation Authority Act 1998 that relate to secrecy and to sections 70 and 79 of the Crimes Act 1914. Copies of the sections are available from the General Manager Human Resources.

You should be alert to any situations where your private interests could possibly conflict with your duty to APRA. This is particularly relevant to ownership of or interests in securities of institutions regulated by APRA. You should pay particular attention to the requirements of the section of this Code of Conduct that deals with this matter.

You should decline offers of sponsored travel and expensive gifts or hospitality. Offers of modest gifts or hospitality may be accepted where these come within the category of normal "relationship building". You should not receive payment for outside activities that are offered to you because of your position in APRA. Any outside employment that threatens to conflict with the interests and responsibilities of APRA should be drawn to the attention of relevant managers.



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You should be vigilant in safeguarding APRA's integrity and reputation through the identification and correction of errors by yourself or others that have the potential to cause loss or embarrassment. Instances of malpractice or dishonesty should be brought immediately to the attention of relevant managers.



## 4. Personal and Professional Behaviour

### 4.1 How should I serve APRA?

You have a principal responsibility to implement and administer the policies and procedures of APRA. You may hold views on particular matters that differ from those of APRA, but such views must not interfere with the performance of your duties.

### 4.2 How should I serve the public?

Treat all people with whom you have contact in the course of your work fairly, and with courtesy and sensitivity. Act with propriety and be able to demonstrate this in relation to any advice or service you give. You must be able to justify any decisions you make.

### 4.3 How should I treat colleagues?

Respect, and seek when necessary, the professional opinions of colleagues in their area of competence, and acknowledge their contribution.

Treat your staff fairly, involve them in decisions that affect them, and provide equal opportunity to develop their skills.

### 4.4 What is expected of me?

Perform your duties diligently, impartially and responsively, to the best of your ability. Only be absent from work with permission.

Observe APRA's policies and procedures.

Observe relevant occupational health and safety requirements, and act to remove or bring to the attention of your manager any situation that is, or may be, a health or safety hazard.

Your activities outside working hours must not diminish public confidence in APRA or your ability to perform your duties.



## 4.5 Unacceptable behaviour

To assist you in identifying unacceptable types of behaviour, this section provides some examples. The list is not intended to be exhaustive, and the examples range from obvious types of misconduct, which breach not only APRA standards but also State and Federal laws, to less obvious forms of behaviour which are not necessarily illegal but are unacceptable in APRA.

Unacceptable behaviour includes, but is not limited to:

- a) stealing money or other property (including intellectual property) belonging to APRA, or to another person on APRA premises;
- b) unauthorised use of APRA's assets, equipment, facilities and services, or permitting such use by others. This includes use of the Internet and APRA's Electronic Mail Systems for purposes unrelated to APRA's business;
- c) unauthorised use of APRA's name or facilities to acquire goods/service for own use;
- d) failure to obey a lawful and reasonable direction given by another APRA staff member who has authority to give it;
- e) negligence in the discharge of duties, including failure to observe instructions/procedures and exceeding delegated authorities and discretions;
- f) offensive behaviour, such as:
  - (i) harassment of another member of staff, client or member of the public on APRA premises or outside the workplace where it leads to damage to workplace relations or a loss of productivity;
  - (ii) circulation of obscene or otherwise offensive material to other staff members by electronic or other means and whether between consenting parties or not;
  - (iii) being under the influence of alcohol or drugs which adversely affect work performance;



- (iv) physical violence (actual or threatened);
  
- g) violation of the secrecy provisions set out in the APRA Act or in any Declaration signed on joining APRA;
  
- h) failure to provide correct personal information when reasonably sought for official purposes by APRA;
  
- i) failure to inform management of breaches of the Code of Conduct by other staff or known instances of what could reasonably be considered dishonest acts or discreditable practices by other staff involving APRA's name or assets. Harassment or discrimination by other staff against those who provide such information will be regarded as unacceptable behaviour;
  
- j) accepting gifts in certain circumstances - refer to Chairman's Finance Instruction 1.10 - Receiving Gifts for general guidance on accepting gifts;
  
- k) accepting sponsored travel - refer to Chairman's Finance Instruction 1.10 - Receiving Gifts for general guidance on accepting gifts and hospitality;
  
- l) accepting payment for outside activities (including giving talks, preparing papers or advice) which is offered because of a staff member's position with APRA. Where refusal of payment is likely to create difficulty or embarrassment it is to be passed to APRA. Under no circumstances should APRA staff retain the payment for their personal benefit;
  
- m) engaging, without approval, in outside employment, business interests or other activities which could interfere with APRA duties. Staff may obtain supplementary employment outside APRA, or hold honorary positions in clubs, charities, etc., provided the performance of APRA duties is not adversely affected and there is no conflict of interest (see later);
  
- n) use of one's position in APRA for financial gain for oneself, relatives or associates. This could include, among other things:
  - (i) using information obtained in the course of APRA employment to gain financially from an investment or trading in financial instruments;



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- (ii) obtaining a discount or other benefit from a company with which APRA is dealing;
- (iii) exchange or substitution of personal assets for APRA assets;
- o) contravention of directions issued by an APRA member;
- p) misuse of intellectual property belonging to APRA or to another party- refer to Chairman's Finance Instruction 3.7 Intellectual Property Management.



## 5. Staff holdings of Equity Investments in APRA Regulated Institutions

As a general principle, you should not be seen to have any conflict between your obligations to supervise regulated financial institutions in the public interest, and the holding of private financial interests in those institutions.

APRA recognises that the introduction of an absolute prohibition on equity holdings in regulated institutions:

- a) would disadvantage many staff with holdings which they had prior to the introduction of this policy or the establishment of APRA with its responsibilities wider than those of their former employers; and
- b) could preclude the employment of new staff who are desirable employees by reason of their connection with the financial sector and who have acquired personal interests in the financial sector because of that connection.

### 5.1 What should you do about holdings already held?

If you hold equity securities in APRA-regulated institutions (or close associates of regulated institutions) on joining APRA you may retain them. But you should not acquire additional such holdings, except as a direct consequence of demutualisations or the exercise of rights or pre-existing options.

### 5.2 Requirement to submit annual statement of holdings.

You will be required to submit annually a summary statement of any direct security holdings, and those of your immediate family. Senior management will review these statements. Management may request an updated statement at any time.

### 5.3 New investments

If you wish to make investments in APRA-regulated financial institutions (or their close associates) you can do so only through managed funds.



## 5.4 Conflicts of interest

If you believe that there exists, or there is the potential for, a conflict of interest between your obligations under the APRA Code of Conduct and any investment decision you wish to make you should notify your manager immediately.

If a conflict arises (or becomes apparent from a statement of interests), the relevant senior manager may re-assign you to a position not carrying the same conflict, or request that the investment be divested.

You may seek from an APRA member a review of any re-assignment decision or of any request to divest an investment(s).

## 5.5 What do I do if I wish to sell part or all of my holdings?

If you wish to sell part or all of your existing security holdings with a value in excess of \$5,000 you should consult in advance with your Executive General Manager (in the case of operational divisions) or with the Secretary (for the Corporate division). If your EGM or respectively, the Secretary, judges that such a sale is likely to create a problem of perceived conflict you may be requested not to proceed with the sale.

Breaking up an investment into components of less than \$5,000 to circumvent this provision would be regarded as a breach of this Code.

You may seek a review by an APRA member of any decision made by an EGM or the Secretary.

## 5.6 APRA will not be responsible for any financial loss.

APRA will not be responsible for financial loss if you divest, or refrain from divesting, holdings in accordance with requests under provisions of this section of the Code of Conduct that refer to conflict of interest or disposal of part or all of investment holdings with a value in excess of \$5,000



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## 5.7 Annual declaration of compliance

You are required to make an annual declaration that you have read again and understood this section of the Code of Conduct, and that you have complied with it in the previous year.



## 6. Discrimination and Harassment

APRA is subject to anti-discrimination laws. Any behaviour by staff members or any practice which, under these laws, could be regarded as discriminatory is completely unacceptable to APRA.

Harassment of another member of staff, client or member of the public is also unacceptable to APRA. This applies both to harassment on APRA premises, or outside the workplace where it leads to damage to workplace relations or a loss of productivity.

Complaints about discrimination or harassment should be made to your Executive General Manager, General Manager or Manager. Alternatively, complaints may be directed to the General Manager Human Resources. Complaints will be investigated confidentially and promptly and appropriate action taken.

There are five main Commonwealth anti-discrimination Acts relevant to APRA staff.

- a) *The Racial Discrimination Act 1975* covers all APRA staff members and makes it unlawful to discriminate on the grounds of race, colour, or national or ethnic origin in matters of employment.
- b) *The Sex Discrimination Act 1984* covers all APRA staff members and makes unlawful discrimination in employment on the grounds of sex, marital status or pregnancy and dismissal on the ground of family responsibilities. Sexual harassment in employment is also made unlawful. The Sex Discrimination Act defines sexual harassment as an unwelcome sexual advance or request or other unwelcome conduct of a sexual nature.
- c) *The Disability Discrimination Act 1992* covers all APRA staff members and makes unlawful discrimination in employment on the grounds of a disability. "Disabilities" include physical, intellectual, psychiatric, sensory, neurological or learning disabilities; physical disfigurement or medical condition (eg the HIV virus) is also covered. Exemptions apply where the person, because of his/her disability, is unable to perform the inherent requirements of the job, or where unjustifiable hardship would be caused to the employer by the provision of special services or facilities which are necessary for the person to do the work.



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- d) *The Human Rights and Equal Opportunity Commission* established under a 1986 Act is empowered to enquire into any act or practice that may constitute "discrimination" and to endeavour to resolve disputes. "Discrimination" includes a range of grounds covering physical characteristics such as race, disability and age, and personal preferences and beliefs such as religion, political opinion and sexual preference.
- e) *The Workplace Relations Act 1996* makes it unlawful to terminate the employment of an staff member on certain grounds, including race, colour, sex, sexual preference, age, disability, marital status, family responsibilities, pregnancy, and other personal preferences such as religion and political opinion.



## 7. Public Interest Disclosure - Whistle blowing

APRA's whistle blowing policy provides a mechanism whereby APRA staff with a genuine concern are able to make a complaint to someone who has no direct involvement with the issue and investigate the content of the complaint.

APRA is committed to ensuring that all its business activities are both ethical and compliant with legislation, regulation, internal policies and accepted community standards. With this in mind, and as part of APRA's culture of individual and corporate integrity, flexibility, openness and accountability, staff are encouraged to report any improper conduct they encounter.

APRA's whistle blowing policy, available on the APRAnet, outlines the procedures for reporting improper conduct and the ways in which APRA will protect those who make such reports.



## 8. Consequences of Breaches of Standards

Breaches of appropriate standards of conduct may lead to action by APRA. For example:

- a) Counselling or mediation will normally deal with a minor breach.
- b) More serious breaches, or on-going minor breaches, may involve sanctions which include a formal reprimand or warning, transfer from a position, suspension from duty, exclusion from a performance payment for the current reporting period, or reduction in pay and/or classification level.
- c) Major breaches or the failure to heed reprimands or warnings may result in dismissal.

In deciding whether or not to take misconduct action APRA will consider all relevant factors. Each case will be treated on its particular circumstances. It is not possible to specify the circumstances in which one sanction rather than another will be invoked.

No decisions about action, other than the issuing of formal warnings, are to be taken without reference to the relevant Executive General Manager and General Manager Human Resources.

A proposal to dismiss a staff member requires the approval of an APRA member. Other sanctions may be approved by the relevant EGM.

Prior to any decision about action being taken, there will be discussion with the staff member concerned who will be given the opportunity to respond to any allegations. Where a serious breach of conduct is involved the staff member may be required to attend a formal interview. Any person or organisation they choose may represent the staff member at this interview. In all cases, the decision reached is to be documented and the staff member informed of the outcome without undue delay.



## 9. Investigations of Serious or Major Breaches of the Code of Conduct

### 9.1 Internal Investigation

In some cases prior to a decision about misconduct being reached, a detailed investigation may be required to ascertain whether a serious or major breach has occurred and whether staff member(s) are involved. The following procedures are designed to ensure that a staff member under investigation is treated fairly and is given a reasonable opportunity to respond to allegations:

- a) Where misconduct is suspected, management in the relevant area may interview or seek written statements from staff whom it believes can assist the investigation. Investigation will not take place without sufficient cause.
- b) Where the information obtained points to a particular staff member, or where there is questioning of other staff members about the possible misconduct of another staff member, the staff member concerned will be informed as soon as practicable that his/her conduct is under investigation. If more than one staff member is to be investigated, each will be informed individually. The staff member(s) will be informed as fully as possible of the suspected misconduct and the nature of the investigation.
- c) Prior to questioning by APRA, a staff member whose conduct is under investigation will be:
  - (i) provided with a copy of these procedures and informed that APRA will permit the staff member to be accompanied/represented by a person or organisation of their choice during questioning;
  - (ii) afforded a reasonable period of clear notice to consider the implications of the pending investigation, with access during that period to a telephone in private. The staff member will also be permitted to meet and have discussions in private with his/her representative, if one has been appointed and if the staff member so desires.



- d) The investigation will be conducted as quickly as practicable and there will be a minimum of delay between the completion of investigations and the staff member being informed of the outcome. All steps in the investigation, including interviews, will be documented. The staff member will be provided with a copy of all documentation as it is produced; given an opportunity to consult with their representative, if one has been appointed and given an opportunity to correct any inaccuracies they believe exist in the official record.
- e) If APRA wishes to search the personal property of a staff member it will do so only with his/her prior consent.
- f) If APRA considers that the misconduct may be caused at least partially by a medical condition and/or that the staff member may be a danger to other staff or members of the public, the staff member may be required by the General Manager Human Resources to undertake a medical examination by a medical practitioner nominated by the General Manager Human Resources.
- g) If APRA believes it would not be appropriate for the staff member under investigation to continue his/her duties while the investigation proceeds, APRA may suspend the staff member with or without pay, or transfer the staff member to other suitable duties. Prior to initiating a temporary transfer, APRA will inform the staff member concerned of the reason for the action. The staff member will be given the opportunity to make a case why the transfer should not take place.

## 9.2 Reaching a decision

As soon as practicable after APRA has satisfied itself that a staff member has a case to answer, he/she will be interviewed and the allegations put to him/her, if this has not already been done. Interviewing officers will conduct the interview in a courteous manner. The staff member may be accompanied/represented by a person or organisation of their choice during the interview and will be given a reasonable opportunity to respond to the allegations.

A record of the interview will be prepared as soon as possible after completion of the interview and the staff member will be given the opportunity to correct any inaccuracies.



The staff member will be asked to confirm the correctness of the record of interview by signing it, and will be given a copy.

Where a serious breach of conduct appears to have occurred, as soon as practicable senior management of APRA not involved in the investigation, in consultation as necessary with the General Manager Human Resources, will determine a course of action on the basis of an objective assessment of the evidence. An interview, at which the staff member may be accompanied/represented by a person or organisation of his or her choice, will be held to communicate APRA's decision and course of action.

Access to records of investigation and interviews will be restricted to senior management and any staff member concerned. Unless action is being taken against a staff member, such records will not be placed on personal files and will be destroyed within five years following completion of investigation. Such records should not be a consideration in decisions affecting the staff member's career and will be kept under the control of the relevant Executive General Manager or the General Manager Human Resources who will arrange for destruction to occur.

### **9.3 Involvement of Police**

Where particular misconduct involves the likelihood of a criminal offence an Executive General Manager may decide that the involvement of the Australian Federal Police or State Police, as appropriate, is warranted. This may occur immediately an offence comes to light or after detailed internal investigation has been undertaken by APRA. Once the Police are called in, the manner in which their investigation is to be conducted is for their determination.

An APRA member is to be notified in advance of the Police being called in. All staff members likely to be involved in the police investigation will also be informed. APRA will endeavor to ensure that staff receive reasonable notice of any requirement to attend a police interview.



## 10. Declaration

At time of appointment all staff members will be required to sign a Declaration in which they undertake to:

- a) serve loyally and to the best of their ability;
- b) conduct themselves with honesty and due diligence;
- c) faithfully perform all services, acts, matters and things which APRA shall from time to time order, direct or require in or in connection with its affairs or business;
- d) fully observe and comply with APRA's policies and procedures; and
- e) maintain secrecy in relation to APRA affairs and clients and, in particular, not directly or indirectly divulge any information except with APRA's authority or unless required by law.

Existing staff members are expected to observe these requirements at all times during their APRA service as if they had signed individual undertakings.