

Statutory report

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Statutory reporting requirements

APRA reports in accordance with the following Commonwealth legislation and other requirements:

- *Australian Prudential Regulation Authority Act 1998*;
- *Commonwealth Authorities and Companies Act 1997*;
- *Environment Protection and Biodiversity Conservation Act 1999*;
- *Equal Employment Opportunity (Commonwealth Authorities) Act 1987*;
- *Freedom of Information Act 1982*;
- *Occupational Health and Safety (Commonwealth Employment) Act 1991*; and
- *Commonwealth Fraud Control Guidelines* and Department of the Prime Minister and Cabinet guidelines.

Australian Prudential Regulation Authority Act 1998 (APRA Act)

Report under section 59

Section 59 of the APRA Act requires APRA to report on:

- the activities of ADI statutory managers within the meaning of the *Banking Act 1959* and persons conducting investigations under Division 2 of Part II and section 61 of that Act; and
- the exercise during the year of APRA's powers under Part 15 of the *Retirement Savings Accounts Act 1997* (RSA Act) and Part 29 of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

APRA did not appoint any ADI statutory managers or persons to conduct an investigation under Division 2 of Part II or section 61 of the *Banking Act 1959* during 2006/07. There were no continuing appointments during the year.

APRA exercised its powers under Part 15 of the RSA Act and under Part 29 of the SIS Act as set out below:

Exemption number	Date	Provision of SIS Act/regulations exempted
A61 of 2006	03/07/06	Regulation 7.03A
A62 of 2006	01/07/06	Regulations 4.16 and 4.17
A63 of 2006	13/07/06	Regulations 4.16 and 4.17
A64 of 2006	10/07/06	Regulations 4.16 and 4.17
A65 of 2006	14/07/06	Regulation 9.29(1)
A66 of 2006		Not issued
A67 of 2006	28/09/06	Regulations 4.16 and 4.17
A68 of 2006		Not issued
A69 of 2006	14/08/06	Revoke exemption A66 of 2006
A70 of 2006	14/08/06	Regulation 6.29
A71 of 2006	12/10/06	Revoke exemption no. 105
A72 of 2006		Not issued

Exemption number	Date	Provision of SIS Act / regulations exempted
A73 of 2006		Not issued
A74 of 2006		Not issued
A75 of 2006		Not issued
A76 of 2006		Not issued
A77 of 2006		Not issued
A78 of 2006		Not issued
A79 of 2006	29/08/06	Regulations 4.16 and 4.17
A80 of 2006	12/09/06	Regulations 4.16 and 4.17
A81 of 2006	22/09/06	Regulation 9.29(1)
A82 of 2006	05/10/06	Regulations 4.16 and 4.17
A83 of 2006	11/10/06	Regulation 9.04D(1)
A84 of 2006	27/10/06	Regulations 4.16 and 4.17
A85 of 2006	05/10/06	Revoke exemption A28 of 2006
A86 of 2006	05/10/06	Subsection 330(2)
A87 of 2006	09/10/06	Regulations 6.18(1) and 6.19(1)
A88 of 2006	10/11/06	Revoke exemption A83 of 2006
A89 of 2006	10/11/06	Regulation 9.04D(1)
A90 of 2006	27/10/06	Regulation 9.04D(1)
A91 of 2006	01/11/06	Regulation 4.16
A92 of 2006	31/10/06	Regulation 9.29(1)
A93 of 2006	31/10/06	Regulation 9.29(1)
A94 of 2006	20/11/06	Regulation 9.04D(1)
A95 of 2006	29/11/06	Regulation 5.08
A96 of 2006	21/12/06	Revoke exemption A86 of 2006
A97 of 2006	21/12/06	Subsection 93(4)(a)
A98 of 2006	28/12/06	Regulations 4.16 and 4.17

Exemption number	Date	Provision of SIS Act / regulations exempted
A99 of 2006	29/12/06	Regulation 4.16 and 4.17
A1 of 2007	19/01/07	Subregulation 6.17(2)
A2 of 2007		Not issued
A3 of 2007		Not issued
A4 of 2007		Not issued
A5 of 2007	21/03/07	Regulations 4.16 and 4.17
A6 of 2007	11/04/07	Subsection 93(4)
A7 of 2007	20/04/07	Regulation 9.03D(3)
A8 of 2007	20/04/07	Regulation 9.04D(3)
A9 of 2007	01/05/07	Subsection 89(3)(c)
A10 of 2007	27/04/07	Regulation 9.04D(1)
A11 of 2007	29/05/07	Regulation 9.04D(1)

Modification declaration number	Date	Provision of SIS regulations modified
Class		
1 of 2007	28/06/07	Regulation 4.16

Commonwealth Authorities and Companies Act 1997 (CAC Act)

Auditor-General's activities

APRA was not subject to any performance audits by the Australian National Audit Office (ANAO) in 2006/07. The ANAO outlined APRA's supervision of superannuation funds in its *Report on the Australian Taxation Office's Approach to Regulating and Registering Self Managed Superannuation Funds*, tabled in June 2007. APRA contributed to the ANAO's *Better Practice Guide on Administering Regulation*, issued in March 2007.

Executive Group attendance

See page 56 of the *Governance* section of this Report.

Executive Group qualifications

See pages 58-59 of the *Governance* section of this Report.

Statement by Members

See page 74 of the *Financial statements* in this Report.

Courts and tribunals

Over 2006/07, a number of judicial and Administrative Appeals Tribunal (AAT) decisions had, or may have, a significant effect on APRA's operations. These involved:

- *VBN & Ors*, in which the AAT set aside APRA's decision to disqualify seven directors of the former trustee of the AXA Australia Staff Superannuation Plan;
- *X & Ors v APRA*, in which the High Court of Australia ruled that the use of evidence obtained from individuals in a Royal Commission for disqualification purposes under the *Insurance Act 1973* against those individuals was not prohibited by the provisions of the *Royal Commissions Act 1902*;
- *Kamha v APRA*, in which the High Court of Australia refused an application for leave to appeal the decision of the Full Bench of the Federal Court in *Kamha v APRA*; and
- *APRA v Cameron*, in which APRA successfully applied to the Federal Court for Orders restraining certain individuals from conducting unauthorised banking business and issuing notes for payment in contravention of the *Reserve Bank Act 1959*.

APRA's *supervisory activities* section of this Report contains details of court and tribunal decisions relating to enforcement action taken by APRA during the year.

Enabling legislation and information on purpose and functions

APRA's purpose, powers and functions are set out in sections 8, 9, 9A and 11 of the APRA Act.

APRA's purpose is to regulate bodies in the financial sector in accordance with the laws of the Commonwealth that provide for prudential regulation and retirement income standards, and for developing the administrative practices and procedures to be applied in performing that regulatory role. In performing and exercising its functions and powers, APRA is required to balance the objectives of financial safety and efficiency, competition, contestability and competitive neutrality and, in balancing these objectives, is to promote financial system stability in Australia.

Following the enactment of the *Governance Review Implementation (Treasury Portfolio Agencies) Act 2007*, APRA's financial arrangements have, from 1 July 2007, been subject to the *Financial Management and Accountability Act 1997* (FMA Act).

Commonwealth Ombudsman

The Commonwealth Ombudsman conducted investigations into seven matters, of which six related to early release of superannuation benefits. There was no negative comment about APRA's activities.

Financial statements

See page 76 of this Report.

Indemnities and insurance premiums

APRA entered into indemnity agreements with APRA Members and, as required, officers consistent with, and to the extent allowed, by Section 27M of the CAC Act.

APRA Members and officers are covered by the professional indemnity insurance cover of the Commonwealth-managed insurance fund, Comcover. The generic terms and conditions of the insurance cover provided by Comcover to Commonwealth agencies are available on the Comcover website www.finance.gov.au/comcover. Under the conditions of the policy, APRA is prohibited from disclosing the specific nature and limit of the liabilities covered and the amount of the premium.

Location

See page 138 of this Report.

Organisation chart

See pages 134-135 of this Report.

Parliamentary committees

Avenues for APRA to be accountable to the Parliament are through Parliament's *ad hoc* and standing committees, and through specific references on legislation or issues of particular interest to Parliamentary committees.

During 2006/07, APRA Members and officers made themselves available for public hearings before the Senate Economics Legislation Committee (sitting as Senate Estimates) on 2 November 2006 and on 15 February and 29 May 2007, and before the Parliamentary Joint Committee on Corporations and Financial Services in its Inquiry into the Structure and Operation of the Superannuation Industry on 7 March 2007.

Privacy Commission

There were no investigations by the Privacy Commissioner under section 36 of the *Privacy Act 1988* during 2006/07. No reports were served under section 30 of the Act. The Privacy Commission made no determinations under section 52, nor did APRA seek any under section 72.

There were no adverse or favourable comments made by the Privacy Commissioner in respect of APRA's operations.

Privacy inquiries relating to APRA should be addressed to:

The Privacy Officer
Legal Services
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001

Phone: 02 9210 3000

Fax: 02 9210 3424

Responsible Ministers

The Hon Peter Costello MP, Treasurer of the Commonwealth of Australia, has portfolio responsibility for APRA.

He is assisted in this by the Minister for Revenue and Assistant Treasurer, the Hon Peter Dutton MP.

Review of operations and prospects

See the narrative section of this Report, beginning on page 4.

Risk Management and Audit Committee attendance

See page 57 of the *Governance* section of this Report.

Statement on governance

See the *Governance* section of this Report.

Environment Protection and Biodiversity Conservation Act 1999

Ecologically sustainable development and environmental performance

Under section 516A of the *Environment Protection and Biodiversity Conservation Act 1999*, APRA is required to report on its contribution to ecologically sustainable development and other environmental matters.

APRA's Environmental Policy Statement reinforces its commitment to managing environmental matters through its Green Taskforce and to the implementation of an Environmental Management System.

In the *Energy Use in the Australian Government's Operations - Report for 2005-2006*, the Australian Greenhouse Office showed that overall energy consumption per person in APRA offices was 9,370 MJ, which was well below the target of 10,000 MJ/person.

APRA continues to take practical steps to reduce energy consumption in its main tenancies, with zone-controlled lighting systems for after-hours use and recycling of printer cartridges, paper and cardboard. In addition, APRA has contracted to utilise above the recommended level of green power when renewing energy contracts.

Equal Employment Opportunity (Commonwealth Authorities) Act 1987 (EEO Act)

Workplace diversity program report

APRA is continuing to take a proactive and innovative approach in meeting its responsibilities under the EEO Act. This includes the creation of flexible and inclusive employment that values and utilises the contribution of people of different backgrounds, experiences, perspectives and abilities. This strategy retains the essential EEO principles in relation to non-discrimination and equal employment opportunity, and also recognises the broader concept of diversity in ensuring a tolerant workplace free from all forms of harassment.

In 2006/07, APRA's Workplace Diversity Taskforce recommended a number of initiatives to enable APRA to make best use of its highly diverse workforce. These included the establishment of a parent's room, reserved places in a CBD childcare centre, a 'Transition to Retirement' program and a range of health and well-being programs. A number of these initiatives have been implemented and others will be further developed over the next 12 months. As a result of its initiatives, APRA was ranked 17 out of 282 participating public and private organisations in a national work/life benchmarking study.

EEO staff data – staff diversity as at 30 June 2007

Level	Female	Male	ATSI	NESB1	NESB2	PWD
Level 1	56	19	0	16	1	1
Level 2	68	47	0	22	6	0
Level 3	78	80	1	47	7	0
Level 4	51	96	0	35	1	1
Senior	8	51	0	12	2	1
Executive	3	25	0	1	0	0
Total	264	318	1	133	17	3

ATSI Aboriginal and Torres Strait Islander

NESB1 Non-English-speaking background, first generation

NESB2 Non-English-speaking background, second generation

PWD People with disability

Freedom of Information Act 1982 (FOI Act)

The FOI Act provides the public with a general right of access to documents held by Commonwealth agencies, including APRA. This general right is limited by exceptions needed to protect essential public interests or the privacy and business affairs of those who give information to APRA or the Commonwealth.

In 2006/07, APRA received 10 applications under the FOI Act, including one application for internal review.

During the year, FOI applications were dealt with as follows:

Granted in full	0
Granted in part	2
Access refused	3
Withdrawn	2
Transferred to another agency	0
On hand at 30 June 2006	3
Total	10

Charges collected were \$430.00 and the estimated cost of handling FOI requests in 2006/07 was \$7,500.

Initial contact for requests under FOI Act

Requests under the FOI Act should be made in writing, together with the prescribed fee, to:

The FOI Co-ordinator
 Legal Services
 Australian Prudential Regulation Authority
 GPO Box 9836
 Sydney NSW 2001
 Phone: 02 9210 3000
 Fax: 02 9210 3424

Access to documents

APRA is increasingly using the internet to make its publications available to the public on the APRA website, free of charge. Some publications, however, attract a charge. The website contains application forms, regulatory information, prudential statements, circulars and guidelines covering the types of entities that APRA regulates.

In addition, a list of documents that are used by APRA in making decisions or recommendations for the purposes of legislation administered by APRA, made under section 9 of the FOI Act, has been lodged with the Freedom of Information Controller at National Archives of Australia in Canberra.

Questions about publications should be made to:

Public Affairs
 Australian Prudential Regulation Authority
 GPO Box 9836
 Sydney NSW 2001
 Phone: 02 9210 3000
 Fax: 02 9210 3170

Categories of documents

APRA maintains the following categories of documents covered by section 8(1) (a)(iii) of the FOI Act:

- documents open to public access as part of a public register in accordance with an enactment where access is subject to a fee or other charge:
 - accounts and auditor certificates relating to general insurers available under the former section 122 of the *Insurance Act 1973*;
- other documents available for purchase by the public in accordance with arrangements made with APRA:
 - life insurance publications (financial diskette containing annual data and market statistics from half-yearly data);
- documents made available to the public free via APRA's website at www.apra.gov.au:
 - lists of regulated entities and industry bodies;
 - superannuation circulars and guidance notes relating to the *Superannuation Industry (Supervision) Act 1993* and the *Retirement Savings Accounts Act 1997*, and 'frequently asked questions' on superannuation industry issues;
 - statutory instruments issued by APRA, including modification declarations, determinations and approvals;
 - prudential standards and rules made under the *Banking Act 1959*, the *Insurance Act 1973* and the *Life Insurance Act 1995*, guidance notes and prudential practice guides;
 - transitional prudential standards made under the *Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999*;
 - reporting standards made under the *Financial Sector (Collection of Data) Act 2001* together with reporting forms and instructions for the lodgement of returns;
 - transfer rules made under the *Financial Sector (Transfers of Business) Act 1999*;
 - class consent under section 66 of the *Banking Act 1959*;
 - market statistics (including APRA's Insight and other various industry-based statistical performance publications) and other research material;
 - policy discussion papers;
 - media releases and other news updates;
 - copies of Enforceable Undertakings issued by APRA and the APRA Disqualification Register;
 - seminar papers and copies of speeches given by APRA Members and officers;
 - APRA ADI Points of Presence (concerning the availability of banking services in rural and regional areas);
 - corporate information;
 - procedural guidelines;
 - enabling legislation; and
 - indexed file list for the purposes of Senate Continuing Order No. 6.

Occupational Health and Safety (Commonwealth Employment) Act 1991 (OHS Act)

Details of investigations and other matters as prescribed

The following information is presented in accordance with section 74 of the OHS Act.

In compliance with reporting obligations under the OHS Act, there were:

- no investigations conducted during the year that related to undertakings carried on by APRA;
- no tests conducted on any plant, substance or thing in the course of such investigations;
- no directions to APRA by an investigator that the workplace not be disturbed; and
- no prohibition or improvements and provisional notices given to APRA.

Measures taken to ensure health, safety and welfare of employees and contractors

Responsibilities imposed by the OHS Act were identified and allocated to individual staff members. This included the identification and training of four new health and safety staff representatives in Canberra (one), Melbourne (one) and Sydney (two).

Procedures for dealing with health and safety issues are published on APRA's intranet site and are included in staff induction programs.

APRA's policy and procedures are maintained with the assistance of a consultant ergonomic specialist to identify, assess and control hazards associated with work processes, particularly computer-based work. Sessions informing staff of the ideal ergonomic set-up for their individual workstations were held in Sydney, Brisbane and Canberra in late 2006 with additional sessions in Sydney in May 2007. Several sessions were also held in Sydney in 2006 to help staff better prepare for lunch-time sporting activities in an effort to avoid injuries; following these sessions, the number of workers compensation claims related to lunch-time sports injuries reduced considerably.

First-aid services for the treatment of work-related injury or illness, including appropriately trained first-aid officers, are situated at all work locations. Rehabilitation services and support are provided to injured employees with ongoing consultation for affected employees.

APRA's intranet has been refreshed with new and updated information on occupational health and safety issues, and a new and improved health and well-being program has been introduced. In 2007, full health assessments (previously only available to senior staff) were also made available to staff over 50 years of age. Mini-health assessments were also offered to all staff between Levels 1 and 4 under the age of 50. The assessments are intended to be an annual event managed along the same lines as APRA's influenza vaccination program.

OHS policies including establishment of staff committees and selection of health and safety representatives

APRA has arrangements for consultation on all OHS issues, including maintenance of the Occupational Health and Safety (OHS) Committee with four staff and four management representatives.

The OHS Committee satisfies legislative requirements, including meeting at least every three months and providing all staff with access to minutes of the meetings.

Statistics requiring the giving of notice under section 68

During the year, six incidents were notified to APRA, none of which required a report to Comcare as required by section 68 of the OHS Act. The incidents were in the following locations:

Location	Number
On APRA premises	1
Home to work/work to home	3
Other	2
Total	6

Other reporting

Commonwealth Disability Strategy

APRA continues to ensure that there are no obstacles to those with disabilities contained in its employment practices and procedures or to public access to information through APRA's distribution channel, the internet. For those services that are not provided electronically (particularly early release of superannuation benefits), there is ongoing assessment to ensure that particular groups are not excluded either by virtue of financial circumstance or physical or intellectual disability.

Commonwealth Fraud Control Guidelines

Fraud control

The Chairman of APRA certifies that he is satisfied that:

- fraud risk assessments and fraud control plans have been prepared that comply with the *Commonwealth Fraud Control Guidelines*;

- appropriate fraud prevention, detection, investigation and reporting procedures and processes are in place; and
- annual fraud data have been collected and reported in compliance with the *Commonwealth Fraud Control Guidelines*.

Consultancies

APRA's policy on procurement includes specific provisions on consultants and contractors. Considerations prior to engagement include whether in-house resources are available; the cost-effectiveness of the operation and whether the project is essential; availability of funds; a selection and evaluation process resulting in fair competition, effective services and value for money; project definition and outcomes; and superannuation implications.

The main purposes for which consultants were engaged in 2006/07 were audit services; training; financial and accounting services; IT consultancies; legal advice; litigation services; recruitment selection, administration and counselling; and professional services.

In 2006/07, the total number of consultants engaged was 89 and the total amount paid was \$3.79 million.

Consultative arrangements

APRA consults extensively with regulated entities, industry bodies and other interested parties prior to formulating or amending prudential policies or finalising prudential standards.

Executive and consultative committees from 1 July 2006 to 30 June 2007

Management Group

This Group comprises the APRA Members and the Executive General Managers and is responsible for high-level information-sharing and decisions on more routine supervisory and organisational matters. It meets weekly or more frequently as required.

Leadership Team

The Leadership Team, which comprises APRA Members, Executive General Managers and General Managers, meets twice a year to develop APRA's strategic and business plans, to monitor performance against plans and to discuss major operational issues.

Steering Groups

To strengthen APRA's efficiency and effectiveness and improve staff motivation and retention, the APRA Members established three new Steering Groups in 2006/07 to implement a range of initiatives. These Groups comprise an APRA Member as Chair and relevant Executive General Managers and General Managers. The Groups are:

- *Supervision Steering Group.* This Group oversees the development and integration of APRA's supervisory systems, tools and processes.
- *Infrastructure Steering Group.* This Group oversees the development of APRA's physical and IT infrastructure and its business, financial and resource planning systems.
- *People and Engagement Steering Group.* This Group addresses initiatives on management and leadership, performance management, rewards and recognitions, and APRA culture.

Industry groups

There are four groups, comprising representatives of the various divisions of APRA, and they cover the following industry sectors:

- ADIs;
- superannuation;
- general insurance; and
- life insurance.

These groups are a key forum for identifying and seeking an APRA-wide consensus on emerging industry issues. Their main roles are to liaise with industry so as to identify emerging trends and to act as a sounding board for prudential policy issues in the different industry sectors, prior to presentation of these issues to the Executive Group.

Basel II Steering Group

The Group comprises representatives of the various Divisions of APRA. It provides a forum for discussion of issues relating to the interpretation and implementation of Basel II in Australia, to ensure consistency of approach within APRA.

Cross-Divisional Licensing Committee

This Committee comprises representatives from across APRA and seeks to assist supervisors considering licence applications and ensure consistency in licensing practice and application across all APRA-regulated industries. It provides APRA-wide guidance on issues which need to be considered in licensing submissions and, after consideration of an application, recommends to the relevant Executive General Manager action to be taken.

Occupational Health and Safety Committee

The Committee includes both staff and management representatives. It focuses on issues to do with the health, safety and well-being of staff and ensures that these are integrated into broader management systems and practices.

Staff Consultative Group

The Group facilitates communication and consultation with all APRA staff below the senior management level on the terms and conditions of their employment (including the Human Resources Policy Manual) and the impact of these on APRA's organisational culture and values.

Performance pay

APRA has a performance bonus system, designed in consultation with staff and management and covering all employees. For 2006/07, the aggregate bonus pool was \$3 million. Bonuses were paid in late July 2007.

Staff statistics

Staff by location and full-time/part-time as at 30 June 2007

Location	Full-time	Part-time	Total
Adelaide	7	0	7
Brisbane	14	2	16
Canberra	27	19	46
Melbourne	65	3	68
Perth	7	0	7
Sydney	425	13	438
Total	545	37	582

Staff by division and full-time/part-time as at 30 June 2007

Division	Full-time	Part-time	Total
Corporate	109	23	132
Diversified Institutions	99	2	101
Policy, Research and Statistics	75	3	78
Specialised Institutions	125	5	130
Supervisory Support	137	4	141
Total	545	37	582