

31 July 2015

Mr Pat Brennan  
General Manager  
Policy Development  
Australian Prudential Regulation Authority  
GPO Box 9836  
SYDNEY NSW 2001

Email: [superannuation.policy@apra.gov.au](mailto:superannuation.policy@apra.gov.au)

Dear Mr Brennan

## Governance Requirements for RSE Licensees

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I refer to your letter of 26 June regarding proposed amendments to the SIS Act, particular relating to minimum independence requirements for Trustee boards.

I am writing to you in my capacity as Secretary to the Trustee board of the BOC Gases Superannuation Fund, a single-employer Corporate Fund. The BOC Fund was established in 1937 to provide benefits for BOC employees and is a hybrid Defined Benefit / Accumulation scheme with assets of about \$670m and membership of 3,600.

The BOC Fund operates with both RSE and AFS licences and has the scale to efficiently provide a MySuper option.

I recently wrote to the Assistant Treasurer about the announced governance changes and the Chairman of the Trustee board provided a submission to Treasury. Both of these are copied for your information as they are relevant to the matters APRA is considering.

I do not think it would be useful to repeat all of the details presented in this earlier correspondence but I can summarise the main points as follows:

1. The proposed requirement for a minimum of 1/3 of Directors on RSE boards to be independent is not regarded as being appropriate for non-public offer funds. The FSI report did not support this, commenting instead that continuation of the equal representation model for single employer *non-public offer* funds was “appropriate and consistent with the governance models of defined benefit pension funds internationally”.
2. Most non-public offer funds, and single-employer Corporate Funds in particular, operate under an equal representation model quite different from that used by Industry funds. In the BOC Fund’s case, half of the Directors are elected by direct ballot and all Directors are members of the scheme.
3. The assertion that the proposed changes “will substantially strengthen governance arrangements for the benefit of fund members” needs to be directly challenged. Trustee boards should already include a broad range of skills and perspectives. Imposition of the proposed changes on many *non-public offer* funds will cause significant additional

cost and will do little or nothing to improve governance. An operating cost increase of between 10% and 25% is estimated for the BOC Fund.

4. Single-employer Corporate Funds have, by definition, a very close relationship between the Trustee and the Employer Sponsor. Apart from producing material additional costs, the proposed changes will potentially disengage previously committed employers. In either case, members of *non-public offer* funds are likely to be worse off.

**We strongly submit that the proposed changes should not be imposed on non-public offer funds in general and on single-employer Corporate Funds in particular.**

There are other matters addressed in your letter of 26 June on which you sought comment. Many of these have already been adequately addressed in submissions from the various industry associations. There are a couple of matters on which I would like to comment from this fund's perspective.

### **Majority independent membership of board committees**

This proposal seems to be very clearly intended for large boards and would impose unreasonable restrictions on smaller boards. The BOC Super Trustee board is comprised of six Directors, three Member-elected and three Company appointed. All Directors serve on at least two (of the five) board committees.

A board of six Directors is regarded as appropriate and operates efficiently in the BOC Fund's case and we would be reluctant to increase the size of the board if a minimum of 1/3 independent Directors was imposed. That would lead to two independent Directors and two from each of the other categories. The current APRA proposal would require the two independent Directors to form the majority on both the Audit and the Remuneration Committees, which appears to provide an excessive external weighting.

Operationally, this proposal would appear to be requiring an increase in the size of the overall Trustee board, without any clear likelihood of a governance benefit.

### **Independent Chair requirement**

The proposed requirement that an independent Director chair the main board and the audit committee also places an onerous restriction on smaller boards. In effect this could easily restrict independent appointments to boards and limit the flexibility to fill skills gaps. Ensuring a broad range of skills and experience is regarded as being far more important to good governance.

As mentioned in my letter to the Assistant Treasurer, the employer sponsor, BOC Limited, has a strong desire to support employees with a prudently managed, personalised and well performing superannuation fund but will find it increasingly difficult to do so under the proposed changes.

I would be pleased to provide further information if needed.

Yours faithfully,



ALLAN MURPHY  
General Manager Superannuation, South Pacific  
Secretary to the Trustee Board

## Appendix

### About BOC Limited

Operations in Australia since 1935 (formerly as CIG). A member of The Linde Group.

BOC supplies over 400,000 customers across the South Pacific region through 40 production facilities, 90 Gas & Gear stores and more than 1000 Gas Agents and Equipment Partners.

BOC operates in every Australian capital city and many regional areas, employing approximately 2,400 current staff in Australia and recording over \$1.66 billion in revenue during 2014

### About BOC Super

Fund Name:	BOC Gases Superannuation Fund	
ABN:	49 620 344 668	
Fund type:	Corporate Fund; Not-for-profit	
Established:	1937	
Trustee:	BOC Superannuation Pty Ltd	
Trustee ABN:	83 080 598 821	
Trustee RSE Licence:	L0000710	
Trustee AFS Licence:	287131	
MySuper Authorisation:	49620344668116	
Membership (31 March 2015):	Active Defined Benefit Employees	109
	Active Accumulation Employees	1756
	Retained Members (ex-employees)	1533
	Pensioners & others	<u>271</u>
	Total	<u>3669</u>
Assets (31 March 2015):	\$670m	
Benefit Structure:	13% Company Contributions Death and Disability costs met by Company for employees Competitive Death and Disability costs for other members	
Investments:	8 diversified investment options Investment returns above median for most options over most time periods. Default option (High Growth) return, after fees and tax, to 31/6/2015:	
	1 year:	9.2% (9.3% median fund)
	3 years	13.9% p.a. (12.3% median fund)
Website:	<a href="http://www.bocsuper.com.au">www.bocsuper.com.au</a>	