



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

5 February 2021

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

*via email: Policy.Development@apra.gov.au*

Dear Sir/Madam

**Remuneration requirements for all APRA-regulated entities**

We support the intent of the revised draft Prudential Standard CPS 511 Remuneration to require APRA-regulated entities to give material weight to non-financial measures when determining remuneration. The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Royal Commission) showed that these institutions do not always meet public expectations when awarding variable remuneration.

We support the use of malus and clawback to ensure the consideration of non-financial metrics in variable remuneration. However, the current draft Prudential Standard CPS 511 does not go far enough to ensure negative outcomes for small businesses are factored into these decisions.

Small businesses are at a significant disadvantage when dealing with large APRA-regulated entities. This disadvantage can lead to adverse outcomes for small businesses, forcing them to lodge a dispute with AFCA. In 2019-2020 these disputes led to \$27 million in compensation and refunds for small businesses, with the most common complaints linked to business loans and appropriate lending.

We strongly recommend that the paragraphs detailing required criteria for the application of malus and claw-back on unvested remuneration (paras 38, 55 and 66) explicitly include significant adverse outcomes to small business customers and counterparties. Including a specific requirement of clawback or malus for significant adverse outcomes to small business customers and counterparties will ensure APRA-regulated entities explicitly evaluate impacts on small businesses and bring the issue to the attention of the Board Remuneration Committees. We also recommend clear guidance on the meaning of 'significant adverse outcomes for small businesses' to include at a minimum, business closure, unreasonable denial of a product or service and unreasonable enforcement action.

Additionally, we support the original draft standard's inclusion of a 50% cap on the use of financial performance measures to allocate variable remuneration. We acknowledge that there has been feedback that this is too prescriptive, however we encourage the inclusion of this limit or of a limit of similar proportion. This would provide clarity, ensure entities meet public expectations and enact Recommendation 5.3 of the Royal Commission.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact [REDACTED]

Yours sincerely

[REDACTED]  
Australian Small Business and Family Enterprise Ombudsman

T 1300 650 460 E [info@asbfeo.gov.au](mailto:info@asbfeo.gov.au)  
[www.asbfeo.gov.au](http://www.asbfeo.gov.au)

Office of the Australian Small Business and Family Enterprise Ombudsman  
GPO Box 1791, Canberra City ACT 2601