

SUBMISSION

Submission to APRA — Draft Prudential Practice Guide CPG 511 Remuneration

23 July 2021

**The Association of Superannuation
Funds of Australia Limited**
Level 11, 77 Castlereagh Street
Sydney NSW 2000

PO Box 1485
Sydney NSW 2001

T +61 2 9264 9300
1800 812 798 (outside Sydney)

F 1300 926 484

W www.superannuation.asn.au

ABN 29 002 786 290 CAN 002 786 290

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[REDACTED]
General Manager, Policy
Australian Prudential Regulation Authority
1 Martin Place (Level 12)
SYDNEY NSW 2000

Via email: [REDACTED]

23 July 2021

Dear [REDACTED]

Draft Prudential Practice Guide CPG 511 Remuneration

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the draft Prudential Practice Guide CPG 511 Remuneration.

About ASFA

ASFA is a non-profit, non-political national organisation whose mission is to continuously improve the superannuation system, so all Australians can enjoy a comfortable and dignified retirement. We focus on the issues that affect the entire Australian superannuation system and its \$3 trillion in retirement savings. Our membership is across all parts of the industry, including corporate, public sector, industry and retail superannuation funds, and associated service providers, representing almost 90 per cent of the 16.5 million Australians with superannuation.

If you have any queries or comments in relation to the content of our submission, please contact [REDACTED], Senior Policy Advisor, on [REDACTED] or by email [REDACTED]

Yours sincerely

[REDACTED]
[REDACTED]
Director - Policy Operations, Member Engagement & External Relations

Specific comments

Interaction with the Financial Accountability Regime (FAR)

Treasury has now released the draft legislation to implement the FAR and there continues to be areas of non-alignment between the draft legislation and CPS 511. As ASFA has raised in previous submissions to APRA, the differences between CPS 511 and the proposed FAR creates confusion and requires the application of different tests to determine application. There may also be situations where inconsistent obligations apply.

ASFA recommends CPS 511 more closely align with the FAR in all aspects.

Risk and conduct

There is need for further clarity on what is considered 'risk and conduct measures'. For example, it is not clear whether a standalone risk 'modifier' is required, whether this links to a non-financial measure or whether there is a distinct and separate expectation regarding the risk and conduct downward adjustment process.

CPG 511 also notes that initial risk and conduct adjustments should be taken, with final adjustments made once the full impact of an incident is known. This could be difficult to implement as, without knowing all the details of an incident, a reasonable response to the incident may not be possible.

Risk and financial control personnel

While reference is made to 'risk and financial control personnel' in CPG 511, it does not clarify how these personnel are to be identified. It can be interpreted, broadly, to include all personnel who work within the finance, risk or audit function of an RSE licensee. We consider this extensive capture of personnel to fall outside the intent of the prudential standard and recommend the narrower scope of personnel who fall within this category be made clear in either CPS 511 or CPG 511.

Variable remuneration and accountability

CPS 511 and CPG 511 continues to indicate that variable remuneration is an accountability component for an organisation, implying that it might be required for RSE licensees to ensure that appropriate incentives are set for employees. Not all RSE licensees have variable remuneration. The choice of having (or not) variable remuneration is made by each RSE licensee based on their individual circumstances. ASFA recommends APRA explicitly state that relevant parts of CPS 511 apply (or not) in circumstances where there is no variable remuneration to ensure there is clarity for RSE licensees.

ASFA also recommends further clarification be provided in relation to how RSE licensees can show appropriate steps were taken in consequence management where there is no variable remuneration component.

ASFA also seeks further clarification for the reasons behind including service-based awards as part of variable remuneration. Generally, service-based awards are based on loyalty / length of service of an employee and do not have a performance component in its calculation.

Board oversight and discretion

CPG 511 notes that 'it could be appropriate for a Board to reduce pre-emptively variable remuneration during a period of stress'. While Boards would, ordinarily, want to act pre-emptively in periods of stress, visibility of variable remuneration may often not occur until the end of the financial year.

ASFA recommends further clarification on how Boards, when variable remuneration amounts are unknown, should reduce variable remuneration. While situations such as these are often decided on a case-by-case basis, the Board should have discretion to decide whether it is appropriate to wait until the end of the year or to pre-emptively reduce variable remuneration.

Determining a material weight

CPG 511 mentions what a prudent Board would consider in relation to whether a material weight is being applied effectively (paragraph 56). ASFA recommends that (b) in paragraph 56 be further clarified.

ASFA would also note that, with the increased expectations surrounding weighting of particular measures in remuneration design, it is becoming increasingly difficult for RSE licensees to design remuneration that is tailored to what is important to their organisation. Effectively it will homogenise remuneration design across organisations and dilute the importance of strategic objectives of an RSE licensee when setting performance measures.

Deferral

Paragraph 63 of CPG 511 mentions that deferral should apply to each material component of an individual's variable remuneration. This could be quite problematic to implement, particularly when competing for talent with industries that do not need to comply with CPS 511. ASFA recommends that deferral is applied to performance incentives that form part of variable remuneration.

Third-party service providers

RSE licensees, as APRA has noted in its November 2020 remuneration response paper, particularly rely on service providers to undertake major functions such as administration, investment management and insurance. Requiring RSE licensees to address remuneration conflicts of service providers will significantly increase the compliance burden on APRA-regulated superannuation funds, particularly as it is unclear whether RSE licensees are required to conduct compliance checks on remuneration arrangements of service providers on an ongoing basis or at the start of the engagement.

CPG 511 also mentions that changes to the service contract or termination of the arrangement as options to address the risk of conflict. It may not be possible, or cost effective, for an RSE licensee to request changes to the service agreement or terminate arrangements and find a new service provider.