6 December 2022

Australian Prudential Regulation Authority
General Manager, Policy
Policy and Advice Division
Level 12, 1 Martin Place
Sydney
NSW 2000

Dear Sir/Madam

Response to Consultation on draft guidance for financial contingency and resolution planning: CPG 190 and CPG 900

The Actuaries Institute (the Institute) is the peak professional body for actuaries in Australia. Our members have significant involvement with APRA regulated entities, including life insurers, general insurers, health insurers and superannuation trustees.

The Institute welcomes the opportunity to comment on APRA's draft prudential guides, CPG 190 Financial Contingency Planning (CPG 190) and CPG 900 Resolution Planning (CPG 900). APRA has prepared these guides based on the two proposed draft prudential standards APRA released for consultation in December 2021:

- CPS 190 Financial Contingency Planning (CPS 190), and
- CPS 900 Resolution Planning (CPS 900).

We note APRA issued an updated version of CPS 190 on 1 December 2022 – renamed Recovery and Exit Planning, and that APRA intends for this to be the final version of CPS 190. We also note APRA's comments that it intends to issue a revised version of CPS 900 in the first half of 2023.

Executive Summary

We support APRA's intention to strengthen the preparedness of APRA regulated entities to respond to future financial crises. However, as indicated in our submission to APRA's consultation on CPS 190 and CPS 900, we have concerns on the new standards. These concerns remain following the publication of the guidance and the updated CPS 190.

We therefore direct APRA to our original submission dated 28 April 2022, and re-emphasise our two most material concerns below on:

- Interaction with other Prudential Standards, and
- Application to superannuation entities.

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We have also provided specific feedback on CPG 190 in relation to superannuation below.

Integration and interaction between CPS 190 and other Prudential Standards

There is a substantial overlap in requirements between CPS 190 and other standards for those APRA regulated entities that are insurers or superannuation entities. There is a significant opportunity to streamline the CPS 190 requirements and better integrate them with other standards, while still achieving APRA's overall goals. For example:

- While CPG 190 and the 1 December 2022 letter accompanying the update CPS 190 includes a reference to the ICAAP, it does not provide a clear articulation of how CPS 190 integrates and interacts with it and the full range of other relevant prudential standards in a format that is clear and easy to explain to management and Boards, and
- Several existing and proposed superannuation standards cover similar content. These include SPS 515, SPS 160 and the matters considered in APRA's latest open consultation for SPS 114, SPS 515 and superannuation transfer planning. This is consistent with our original feedback and the recommendations to APRA in the published submissions from peak superannuation industry associations including the FSC and AIST.

The Institute believes that as drafted, CPS 190 and CPS 900 will add unnecessary complexity to risk conversations, making it more difficult to promote the voice of risk at all levels of an organisation. We also believe that this is inconsistent with APRA's stated desire to modernise the prudential architecture.

Inclusion of Registrable Superannuation Entities (RSEs) and RSE Licensees (RSELs)

As mentioned in our submission on CPS 190, we believe that APRA should treat RSELs differently from other APRA regulated entities, since:

- Financial resilience within superannuation must consider the inter-connectivity of RSELs and their RSEs, and consider a superannuation fund and trustee holistically. APRA recognises this elsewhere when focusing on an RSE's ability to deliver good member outcomes. CPS 190 as drafted only considers RSELs;
- Very few circumstances cause financial stress for an RSEL, as evidenced by many RSELs being $2 companies until the recent implementation of changes to the SIS Act that prevent regulatory penalties imposed on RSELs and their directors being met from RSE assets. Further, even if the RSEL became insolvent members' monies would remain secure as they are in a separate superannuation fund operating under trust from the RSEL; and
- Even if APRA extends CPS 190 to include RSEs as well as RSELs, financial contingency stresses will still be substantially more limited than for insurers or banks. In RSEs, excepting defined benefit arrangements (which are carefully monitored under SPS 160), assets are largely matched with liabilities. A financial stress such as a market downturn, changing interest rates, impacts of COVID or unexpected additional expenses, affects liabilities the same as assets, not the financial strength of the RSEL and RSE. That is, it affects member outcomes as opposed to financial strength of the RSEL or RSE.

CPS 190 defers the application of CPS 190 for superannuation until 1 January 2025. However, we are concerned that this will give insufficient time to address the above matters before superannuation is included in the new standard, and for APRA to consider the feedback from its open consultations on related matters such as SPS 114, SPS 515 and superannuation transfer planning.

Feedback on CPG 190 as it relates to RSELs

The guidance in CPG 190 is principles based and the Institute believes that some specific superannuation examples would support RSEs and RSELs in clarifying APRA's expectations. We recommend examples in at least the following areas:

- How a trigger framework could be designed for an RSEL (page 10 of CPG 190);
- How an RSEL might address idiosyncratic stresses (e.g. regulatory fines) and systemic stresses (noting we are struggling to identify any example of a systemic stress that would impact on an RSELs viability); and
- A scenario analysis that assesses the effectiveness of the trigger framework for an RSEL given the balance sheets of most RSELs are limited, regardless of whether they would be deemed an SFI under CPS 190.

The Institute would be pleased to discuss this submission. If you would like to do so, please contact Chief Executive Officer of the Actuaries Institute.

Yours sincerely,

President