



Discussion Paper

Consolidating prudential standards: Outsourcing, Business Continuity Management, Governance and Fit and Proper

22 December 2010

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Preamble

This discussion paper describes APRA's proposed approach to harmonising and consolidating twelve of its current prudential standards into four new cross-industry standards.

APRA's approach has been to develop and administer prudential standards and associated guidance material on an industry-by-industry basis, covering authorised deposit-taking institutions, general insurers, life companies and authorised or registered non-operating holding companies. In many areas, the requirements that apply across these industries are essentially identical. APRA is proposing to facilitate industry compliance by consolidating some of these prudential standards and guidance material.

The prudential standards that APRA proposes to consolidate are:

- *Prudential Standard APS 231 Outsourcing, Prudential Standard GPS 231 Outsourcing and Prudential Standard LPS 231 Outsourcing;*
- *Prudential Standard APS 232 Business Continuity Management, Prudential Standard GPS 222 Business Continuity Management and Prudential Standard LPS 232 Business Continuity Management;*
- *Prudential Standard APS 510 Governance, Prudential Standard GPS 510 Governance and Prudential Standard LPS 510 Governance;* and
- *Prudential Standard APS 520 Fit and Proper, Prudential Standard GPS 520 Fit and Proper and Prudential Standard LPS 520 Fit and Proper.*

The draft cross-industry prudential standards closely reflect the existing industry-specific prudential standards and the requirements contained therein will continue to apply to regulated entities in each industry. However, some changes to the existing prudential requirements are proposed in order to clarify or ensure consistent application across industries of APRA's outsourcing, business continuity management, governance and fitness and propriety requirements.

APRA welcomes comments on these proposed changes but it does not intend to open up discussions on the content of the standards more broadly. Comments on any transitional issues relating to the proposals in this paper are also welcome.

APRA also proposes to review the existing guidance material (including both guidance notes and prudential practice guides) with a view to issuing cross-industry prudential practice guides in support of the prudential standards at a later date.

APRA invites comments on the proposals in this discussion paper by no later than 25 March 2011. Electronic submissions are preferred and can be emailed to consolidated.standards@apra.gov.au. Alternatively, submissions may be mailed to:

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Important

Submissions will be treated as public unless clearly marked as confidential and the confidential information contained in the submission is identified.

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOIA). APRA will determine such requests, if any, in accordance with the provisions of the FOIA.

Information in the submission about the regulated entity which is not in the public domain will be protected by section 56 of the *Australian Prudential Regulation Authority Act 1998* and therefore will ordinarily be exempt from production under the FOIA.

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Glossary

ADI	An authorised deposit-taking institution under the <i>Banking Act 1959</i>
APRA	Australian Prudential Regulation Authority
AGN 232.1	<i>Guidance Note AGN 232.1 Risk Assessment and Business Continuity Management</i>
APRA-regulated entity	An ADI, general insurer, life company or authorised or registered NOHC
APS 231	<i>Prudential Standard APS 231 Outsourcing</i>
APS 232	<i>Prudential Standard APS 232 Business Continuity Management</i>
APS 510	<i>Prudential Standard APS 510 Governance</i>
APS 520	<i>Prudential Standard APS 520 Fit and Proper</i>
Authorised banking NOHC	Non-operating holding company authorised under the <i>Banking Act 1959</i>
Authorised insurance NOHC	Non-operating holding company authorised under the <i>Insurance Act 1973</i>
BCM	Business Continuity Management
CPS 231	<i>Prudential Standard CPS 231 Outsourcing</i>
CPS 232	<i>Prudential Standard CPS 232 Business Continuity Management</i>
CPS 510	<i>Prudential Standard CPS 510 Governance</i>
CPS 520	<i>Prudential Standard CPS 520 Fit and Proper</i>
Friendly society	A friendly society as defined in the <i>Life Insurance Act 1995</i>
General insurer	An insurer authorised under the <i>Insurance Act 1973</i>
GPS 222	<i>Prudential Standard GPS 222 Business Continuity Management</i>
GGN 222.1	<i>Guidance Note 222.1 Risk Assessment and Business Continuity Management</i>
GPS 231	<i>Prudential Standard GPS 231 Outsourcing</i>
GPS 510	<i>Prudential Standard GPS 510 Governance</i>
GPS 520	<i>Prudential Standard GPS 520 Fit and Proper</i>
Life company	A life company registered under the <i>Life Insurance Act 1995</i> (includes friendly societies)
LPS 231	<i>Prudential Standard LPS 231 Outsourcing</i>
LPS 232	<i>Prudential Standard LPS 232 Business Continuity Management</i>
LPS 510	<i>Prudential Standard LPS 510 Governance</i>
LPS 520	<i>Prudential Standard LPS 520 Fit and Proper</i>
Registered life NOHC	Non-operating holding company registered under the <i>Life Insurance Act 1995</i>

Executive summary

This discussion paper sets out APRA's proposed approach to harmonising and consolidating a number of existing prudential standards that apply to authorised deposit-taking institutions, general insurers, life companies, and authorised and registered non-operating holding companies (NOHCs).

The prudential standards that APRA proposes to issue as cross-industry standards are those relating to outsourcing, business continuity management (BCM), governance and fitness and propriety. The proposed consolidation will involve the revocation of twelve existing industry prudential standards and their replacement with four standards that have cross-industry application. Guidance material with cross-industry application to support the new prudential standards will also be developed.

APRA's purpose is to ensure that identical behavioural risks across prudentially regulated industries are subject, to the extent appropriate, to identical prudential requirements. This approach will improve industry's ability to understand and comply with the prudential requirements and will improve APRA's efficiency and effectiveness in supervising the relevant behaviour.

The draft cross-industry prudential standards largely reflect the existing industry-specific prudential standards and the prudential requirements in these standards will continue to apply to regulated entities in each industry. However, some changes to the existing prudential requirements are proposed in order to clarify or ensure consistent application across industries.

The main changes are:

- the proposed extension of requirements relating to outsourcing and BCM to authorised and registered NOHCs and to Level 2 banking groups; and
- the requirement for responsible auditors of authorised or registered NOHCs to meet specific independence requirements, consistent with changes to the legislation that APRA administers.

A number of other minor changes are also proposed, predominantly to remove inconsistencies of treatment between industries.

Where the cross-industry prudential standards make reference to specific requirements that currently apply to a single APRA-regulated industry, and the specific industry difference is to be retained, the relevant requirements will be preserved in the new cross-industry prudential standards and clearly expressed as applicable only to that industry.

Next steps

APRA is seeking comments on the changes proposed in the context of the creation of the cross-industry prudential standards, but not on the content of the standards more broadly. Comments on any transitional issues relating to the proposals in this paper are also welcome.

Subject to the feedback received in response to this discussion paper, APRA intends to finalise the cross-industry prudential standards by 1 July 2011. As these prudential standards involve limited change from the existing industry-specific prudential standards, APRA envisages that the new requirements will be effective immediately.

A number of minor consequential amendments to other prudential standards will also be required and will also be released in 2011. As these amendments do not affect the substance of other standards, APRA does not see a need to consult on them. Amendments to any related prudential practice guides will also be issued as cross-industry guides, where not already published in that format, in 2011.

APRA has been consulting on a range of proposals applying to Level 3 groups, including some relating to the prudential standards that are the subject of this discussion paper.¹ APRA intends to release the four cross-industry prudential standards addressed in this discussion paper without reference to Level 3 groups. It is APRA's intent, however, that when the Level 3 group supervision regime is established, these four cross-industry standards will also apply to Level 3 groups. APRA will consult separately on the application of these behavioural standards to Level 3 groups.

¹ *Discussion Paper: Supervision of conglomerate groups*, 18 March 2010
www.apra.gov.au/Policy/Supervision-of-conglomerate-groups.cfm

Chapter 1 – Introduction

Harmonisation

Since its establishment in 1998, APRA has sought to apply a consistent approach to the prudential regulation and supervision of APRA-regulated entities, to the extent appropriate and achievable, irrespective of the industry in which the entities operate. This ensures that like risks are treated in a like manner so that no significant differences arise in the regulatory treatment of entities with similar risks operating in different industries. APRA first released a discussion paper outlining its approach to harmonisation in December 2000.²

In keeping with this approach, APRA has sought to harmonise its prudential standards across APRA-regulated industries where appropriate and practical. Since 2005, APRA has released harmonised prudential standards relating to outsourcing, business continuity management (BCM), governance and fitness and propriety. These requirements were issued as industry-specific prudential standards but at different times, reflecting the different stages of introduction of APRA's regulatory requirements for each industry. Accordingly, although the substance of each standard was the same across the industries, there are a number of minor differences in the requirements they contained.

In 2009, APRA undertook a survey of its stakeholders to better understand the impact of its prudential framework and the effectiveness of supervision arrangements.³ One area in which the survey results indicated room for improvement related to how well APRA has successfully harmonised its framework across industries.

APRA now proposes to further harmonise the current industry-specific requirements by issuing a single cross-industry prudential standard to replace the existing industry-specific prudential standards for outsourcing, BCM, governance and fitness and propriety. Each cross-industry prudential standard will ensure harmonised prudential requirements apply across industries except, as discussed below, where there are specific reasons for maintaining an industry-specific approach. Relevant guidance material will also be harmonised on a cross-industry basis.

Appropriate harmonisation of standards across industries brings a range of related benefits, including creating a common language and simpler compliance for groups operating across industries. It will also facilitate APRA's proposals for the supervision of Level 3 groups.

Industry-specific requirements

There are instances where industry-specific requirements are necessary and/or appropriate, particularly where there are underlying differences in the legislative framework applying to an industry. In such cases, the requirements will be preserved in the cross-industry prudential standards, but clearly expressed as applicable only to that specific industry or industries.

Associated guidance material

A range of guidance material associated with the prudential requirements related to outsourcing, BCM, governance and fitness and propriety currently exists to assist compliance with those prudential requirements. The existing guidance material includes both prudential practice guides (PPGs) and guidance notes. PPGs aim to assist APRA-regulated entities in complying with requirements outlined in the prudential standards and, more generally, to outline prudent practices. PPGs do not contain enforceable requirements. Guidance notes form part of the prudential standards and contain enforceable requirements.

² Harmonising Prudential Standards: A Principles-Based Approach, Policy Discussion Paper December 2000 www.apra.gov.au/AD1/upload/Harmonising-Prudential-Standards-A-Principles-Based-Approach-Dec-2000.pdf

³ APRA stakeholder survey – 2009 – Report of overall findings, September 2009 www.apra.gov.au/aboutApra/

APRA proposes to review this material following the consolidation of the prudential standards. APRA no longer issues guidance notes; instead, all guidance material is issued as PPGs. To this end, APRA intends to revoke the guidance notes associated with these standards and reissue that guidance in a PPG.

APRA welcomes specific comments from industry on any material issues that they envisage with the incorporation of the existing guidance notes into cross-industry PPGs, and with the development of new cross-industry PPGs for governance and fitness and propriety. Details of the proposed guidance material are outlined in each chapter of this paper. APRA is seeking comments on the changes proposed in the context of the creation of cross-industry PPGs, but not on the content of the PPGs more broadly.

APRA expects that draft PPGs will be released in early 2011 after release of the final standards. Final PPGs are expected to follow later in 2011.

Structure of this paper

The discussion paper outlines:

- the proposed changes to existing prudential requirements relating to outsourcing (Chapter 2);
- the proposed changes to existing prudential requirements relating to BCM (Chapter 3);
- the proposed changes to existing prudential requirements relating to governance (Chapter 4);
- the proposed changes to existing prudential requirements relating to fitness and propriety (Chapter 5); and
- common changes to the prudential standards proposed across all four cross-industry prudential standards (Chapter 6).

Comments on the costs and benefits of the proposed approach are requested in Chapter 7.

Chapter 2 – Prudential Standard CPS 231 Outsourcing

Existing outsourcing requirements

Existing prudential requirements for outsourcing are located in:

- for ADIs, *Prudential Standard APS 231 Outsourcing* (APS 231);
- for life companies, including friendly societies, *Prudential Standard LPS 231 Outsourcing* (LPS 231);
- for general insurers, *Prudential Standard GPS 231 Outsourcing* (GPS 231); and
- for Level 2 insurance groups, *Prudential Standard GPS 221 Risk Management: Level 2 Insurance Groups* (GPS 221), which requires the parent entity of a Level 2 insurance group to ensure the Level 2 group complies with GPS 231 as if references to a general insurer were references to a Level 2 insurance group. GPS 221 also specifies a number of additional outsourcing requirements.

For ease of reference, these standards and the outsourcing requirements in GPS 221 are collectively referred to as the 'outsourcing prudential standards'.

Proposed approach

APRA proposes to consolidate the requirements of the existing outsourcing prudential standards into a cross-industry prudential standard, *Prudential Standard CPS 231 Outsourcing* (CPS 231).⁴ The draft CPS 231 has been released with this discussion paper.

The draft CPS 231 largely reflects the requirements of the existing outsourcing prudential standards. However, APRA is proposing some amendments to the existing prudential requirements.

Consistent application to Level 2 groups

Level 2 insurance groups

GPS 221, the risk management standard applying to Level 2 insurance groups, currently requires Level 2 insurance groups to comply with the requirements in GPS 231 on a Level 2 basis. The substance of the requirements will remain unchanged. APRA proposes that these requirements be moved from GPS 221 to the draft CPS 231 to facilitate compliance by Level 2 insurance groups, by setting out all requirements in relation to outsourcing in a single standard.

Level 2 banking groups

The outsourcing requirements contained in APS 231 do not explicitly apply to Level 2 banking groups.⁵

The risks associated with outsourcing material business activities are essentially the same for a Level 2 banking group and an individual ADI. The risks associated with outsourcing are also essentially the same for Level 2 banking groups and Level 2 insurance groups. Hence, it is appropriate that consistent requirements are applied across both industries.

The draft CPS 231 proposes requirements that the Board of the Head of a Level 2 banking group develop a policy that covers a group approach to outsourcing material business activities, including where that Level 2 banking group undertakes business both inside and outside Australia. These requirements are aligned with those that currently apply to ADIs.

These proposals will apply consistent outsourcing requirements for Level 2 groups operating in the ADI and general insurance industries.⁶

⁴ 'CPS' refers to Cross-industry Prudential Standard.

⁵ 'Level 2' is defined in *Prudential Standard APS 110 Capital Adequacy*.

⁶ Note that there is currently no Level 2 framework in place for life insurance.

Consistent application to non-operating holding companies

As noted above, authorised insurance NOHCs must comply with GPS 231 by virtue of the requirements contained in GPS 221. However, the existing outsourcing prudential standards do not apply to either authorised banking NOHCs or registered life NOHCs.

To ensure consistency in the application of outsourcing requirements, APRA proposes to extend the outsourcing requirements contained in CPS 231 to all authorised and registered NOHCs. This proposed change is reflected in the draft CPS 231.

Explicit application to foreign branches

Foreign branches are required to comply with the requirements in APS 231, GPS 231 and LPS 231 by virtue of their application to ADIs, general insurers and life companies, respectively. However, the existing outsourcing prudential standards do not make explicit reference to foreign branches.

For clarity, APRA proposes the inclusion of a provision stating that foreign branches must comply with outsourcing requirements. This does not change the application of the existing requirements.

Role of the Board

The existing outsourcing prudential standards require an APRA-regulated entity to comply with a range of requirements. It is APRA's practice in prudential standards to include specific reference to the role of the Board and its responsibilities for ensuring that its entity complies with the requirements of the standard.

APRA therefore proposes to include new provisions that refer specifically to the role of the Board in complying with CPS 231. These new provisions emphasise the Board's ultimate responsibility for sound outsourcing arrangements by an APRA-regulated entity, but do not otherwise change the requirements.

Guidance material

Prudential Practice Guide PPG 231 Outsourcing has cross-industry application; APRA intends to review the content of this guide to ensure it remains aligned with CPS 231. Amendments will also be made to provide specific guidance for foreign branches in complying with the requirements in the CPS 231.

Chapter 3 – Prudential Standard CPS 232 Business Continuity Management

Existing business continuity management requirements

APRA's existing prudential requirements for BCM are located in:

- for ADIs, *Prudential Standard APS 232 Business Continuity Management (APS 232)*, including *Guidance Note 232.1 Risk Assessment and Business Continuity Management (AGN 232.1)*;
- for life companies, including friendly societies, *Prudential Standard LPS 232 Business Continuity Management (LPS 232)*;
- for general insurers, *Prudential Standard GPS 222 Business Continuity Management (GPS 222)*, including *Guidance Note GGN 222.1 Risk Assessment and Business Continuity Management (GGN 222.1)*; and
- for Level 2 insurance groups, GPS 221, which requires the parent entity of a Level 2 insurance group to ensure the Level 2 group complies with both additional BCM requirements in that standard and with GPS 222 and GGN 222.1.

For ease of reference, these standards and the BCM requirements in GPS 221 are collectively referred to as the 'BCM prudential standards'.

Proposed approach

APRA proposes to consolidate the requirements of the existing BCM prudential standards into a cross-industry prudential standard, *Prudential Standard CPS 232 Business Continuity Management (CPS 232)*. The draft CPS 232 has been released with this discussion paper.

The draft CPS 232 largely reflects the requirements of the existing BCM prudential standards. However, APRA is proposing some amendments to the prudential requirements in the existing BCM prudential standards.

Consistent application to Level 2 groups

Level 2 insurance groups

As discussed in the context of the draft CPS 231, Level 2 insurance groups are currently required to comply with the requirements in GPS 222 on a Level 2 basis. The substance of these requirements will remain unchanged. APRA proposes to move these requirements from GPS 221 to the draft CPS 232 to facilitate compliance by Level 2 insurance groups, by setting out all requirements in relation to BCM in a single prudential standard.

Level 2 banking groups

The BCM requirements contained in APS 232 do not explicitly apply to Level 2 banking groups.

The risks related to BCM are largely the same for ADIs at both Level 1 and Level 2. Hence, APRA's view is that the BCM requirements should also apply to ADIs at Level 2. Further, the risks associated with BCM are also essentially the same for both Level 2 banking and insurance groups. It is appropriate that consistent requirements are applied to both industries.

In addition to a requirement to comply with CPS 232 on a stand-alone basis, APRA proposes that the Board of the Head of a Level 2 banking group must ensure that all group members have in place BCM policies, that BCM is applied for each part of the group and that the business continuity policy is internally and externally reviewed at least annually. The draft CPS 232 also permits the Board of the head of a Level 2 banking group to delegate operational responsibility for BCM to a board committee or to senior management.

These proposals will apply consistent BCM requirements across Level 2 groups operating in the ADI and general insurance industries.

Consistent application to non-operating holding companies

At present, authorised insurance NOHCs must comply with GPS 232 by virtue of the requirements contained in GPS 221. However, the existing BCM prudential standards do not apply to either authorised banking NOHCs or registered life NOHCs.

To ensure consistency in the application of BCM requirements, APRA proposes to extend the requirements contained in the draft CPS 232 to all authorised and registered NOHCs. This proposed change is reflected in the draft CPS 232.

Explicit application to foreign branches

Foreign branches are required to comply with the requirements in the existing BCM prudential standards by virtue of their application to ADIs, general insurers and life companies. However, the existing BCM prudential standards do not make explicit reference to foreign branch operations.

For clarity, APRA proposes the inclusion of a provision stating that foreign branches must comply with BCM requirements. This does not change the application of the existing requirements.

Consistent audit arrangements

There is an inconsistency in the provisions in the existing BCM prudential standards as they relate to audit arrangements. Specifically, APS 232 and GPS 221 require the internal auditor (or an external expert) to periodically review the Business Continuity Plan and provide assurances to the Board. This provision is absent in LPS 232.

Further, LPS 232 contains an explicit power for APRA to request the external auditor of a life company (or an external expert) to undertake an assessment of the life company's BCM arrangements. There is no equivalent provision in either APS 232 or GPS 222.

Under the draft CPS 232, it is proposed that these provisions and powers will apply to all APRA-regulated industries.

Guidance material

APRA intends to review the existing guidance material relating to business continuity management to:

- reissue the guidance material currently contained in AGN 232.1 and GGN 222.1, as well as in *Prudential Practice Guide LPG 232 Business Continuity Management (LPG 232)*, as a new PPG with cross-industry application; and
- provide specific guidance for foreign branches in complying with the requirements in the CPS 232.

Chapter 4 – Prudential Standard CPS 510 Governance

Existing governance requirements

APRA-regulated entities are required to comply with governance requirements contained in:

- for ADIs and authorised banking NOHCs, *Prudential Standard APS 510 Governance* (APS 510);
- for general insurers and authorised insurance NOHCs, *Prudential Standard GPS 510 Governance* (GPS 510); and
- for life companies (including friendly societies) and registered life NOHCs, *Prudential Standard LPS 510 Governance* (LPS 510).

For ease of reference, these standards are collectively referred to as the ‘governance prudential standards’.

Proposed approach

APRA proposes to consolidate the requirements of the existing industry governance prudential standards into a cross-industry prudential standard, *Prudential Standard CPS 510 Governance* (CPS 510). The draft CPS 510 has been released with this discussion paper.

The draft CPS 510 largely reflects the requirements of the existing governance prudential standards. However, APRA is proposing some amendments to the prudential requirements in the existing governance prudential standards.

Auditor independence provisions to apply to NOHCs

When the existing governance prudential standards were determined in 2006, they did not extend to auditors of authorised NOHCs. This was due to different legislative powers in relation to authorised NOHCs across different industries.

Since 2006, reforms to legislation have addressed these differences.⁷ Under draft CPS 510, therefore, the auditor of an authorised NOHC will need to meet the independence requirements contained in the governance prudential standards.

Definition of auditor and actuary

In harmonising the requirements in the cross-industry prudential standards, APRA has sought to simplify compliance with the requirements contained therein. Consolidating the existing requirements in the draft CPS 510 has revealed a number of provisions that apply equally to all auditors or all actuaries, regardless of the industry in which they operate. However, these provisions are presented with minor structural differences across industries.

APRA proposes to make consistent the existing provisions that apply to auditors and actuaries, whilst retaining the industry-specific definitions in legislation or existing prudential standards. This does not alter the application of the existing requirements.

Guidance material

APRA proposes to consolidate the existing industry-specific PPGs into a new consolidated *Prudential Practice Guide PPG 510 Governance* with cross-industry application.⁸ This will involve some change to the content of the existing PPGs to ensure consistency but APRA does not anticipate that these changes will be significant.

⁷ *Financial Sector Legislation Amendment (Enhancing Supervision and Enforcement) Act 2009*

⁸ The existing industry-specific PPGs are *Prudential Practice Guide APG 510 Governance*, *Prudential Practice Guide GPG 510 Governance* and *Prudential Practice Guide LPG 510 Governance*.

Chapter 5 – Prudential Standard CPS 520 Fit and Proper

Existing fit and proper requirements

APRA-regulated entities are required to comply with fitness and propriety requirements contained in:

- for ADIs and authorised banking NOHCs, *Prudential Standard APS 520 Fit and Proper* (APS 520);
- for general insurers and authorised insurance NOHCs, *Prudential Standard GPS 520 Fit and Proper* (GPS 520); and
- for life companies (including friendly societies) and registered life NOHCs, *Prudential Standard LPS 520 Fit and Proper* (LPS 520).

For ease of reference, these are referred to collectively as the ‘fit and proper prudential standards’.

Proposed approach

APRA proposes to consolidate the requirements of the existing industry fit and proper prudential standards into a cross-industry prudential standard, *Prudential Standard CPS 520 Fit and Proper* (CPS 520). The draft CPS 520 has been released with this discussion paper.

The draft CPS 520 largely reflects the requirements of the existing fit and proper prudential standards. However, APRA is proposing some amendments to the prudential requirements in the existing fit and proper prudential standard.

Structure of the cross-industry prudential standard

In consolidating the existing requirements, a new structure has been adopted for a number of provisions in the standard to aid consistency and clarity; this new structure does not affect the substance of the requirements. For example, the industry-specific definitions of ‘responsible persons’ have been moved from the main body of the cross-industry prudential standard and are now included as attachments to the standard.

Guidance material

APRA proposes to consolidate the existing industry-specific PPGs into a new consolidated *Prudential Practice Guide PPG 520 Fit and Proper* with cross-industry application.⁹ This will involve some change to the content of the existing PPGs to ensure consistency but APRA does not anticipate that these changes will be significant.

⁹ The existing industry-specific PPGs are *Prudential Practice Guide APG 520 Fit and Proper*, *Prudential Practice Guide GPG 520 Fit and Proper* and *Prudential Practice Guide LPG 520 Fit and Proper*.

Chapter 6 – Changes proposed across all prudential standards

To improve consistency across APRA's prudential standards, a range of changes are proposed. These proposals will not affect the application of the requirements to APRA-regulated entities; their purpose is to clarify the operation of the prudential standards.

Interpretation of provisions in the prudential standard

A new interpretation provision has been included in the draft CPS 231, CPS 232, CPS 510 and CPS 520. This provision states that terms not defined in each prudential standard or *Prudential Standard GPS 001 Definitions* but which are defined in the *Banking Act 1959* (Banking Act), *Insurance Act 1973* (Insurance Act) and the *Life Insurance Act 1995* (Life Insurance Act) have the same meaning as in those Acts.

Clarification for APRA-regulated entities that form part of a group

The existing prudential standards allow the Board of an APRA-regulated entity that is part of a corporate group to use group policies and functions. For the avoidance of doubt, APRA proposes to modify the provision to clarify that the Board of the relevant APRA-regulated entity must approve any use of a group policy or function by the entity. That is, the Board of an APRA-regulated entity may choose to use group policies and functions, as is currently the case, but this choice must be made explicitly and appropriately documented.

Adjustments and exclusions

Each of the Banking Act¹⁰, the Insurance Act¹¹ and the Life Insurance Act¹² states that prudential standards may provide for APRA to exercise powers and discretions under the standard, including (but not limited to) discretions to approve, impose, adjust or exclude specific prudential requirements in relation to one or more specified APRA-regulated entities or authorised and registered NOHCs. APRA has included a provision giving effect to this legislative power in a number of its existing prudential standards. APRA proposes to include a similar provision in the draft CPS 231, CPS 232, CPS 510 and CPS 520.¹³

Existing adjustments and exclusions made under previous prudential standards will be preserved under the new cross-industry prudential standards.

Minor amendments

The process of consolidating the industry-specific prudential standards into a cross-industry prudential standard necessarily involves minor changes to the wording of the standard. A number of provisions have been altered for this reason but these wording changes are not intended to change the substance of the requirements, other than as outlined in this discussion paper.

¹⁰ Refer to *Banking Act 1959*, section 11AF(2)

¹¹ Refer to *Insurance Act 1973*, section 32(3D)

¹² Refer to *Life Insurance Act 1995*, section 230A(4)

¹³ Note that whilst this provision is already included in the governance prudential standards and the fit and proper prudential standards, the wording of the provision has been updated.

Chapter 7 – Request for cost-benefit analysis information

To improve the quality of regulation, the Australian Government requires all proposals to undergo a Preliminary Assessment to establish whether it is likely that there will be business compliance costs associated with the proposals. In order to perform a cost-benefit analysis, APRA welcomes information from interested parties.

As part of the consultation process, APRA requests respondents to provide an assessment of the impact of the proposed changes and, specifically, any marginal compliance costs that APRA-regulated entities are likely to face.

Given that APRA's proposed requirements may impose some compliance costs, respondents may also indicate whether there are any other relevant regulations that should be improved or removed to reduce compliance costs. In doing so, please explain what they are and why they need to be improved or removed.

Respondents are requested to use the Business Cost Calculator (BCC) to estimate costs to ensure that the data supplied to APRA can be aggregated and used in an industry-wide assessment. APRA would appreciate being provided with the input parameters to the BCC as well as the final result. The BCC can be accessed at: www.finance.gov.au/obpr/bcc/index.html.



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