



Prudential Standard CPS 510

Governance

Objectives and key requirements of this Prudential Standard

The ultimate responsibility for the sound and prudent management of an APRA-regulated entity rests with its Board of directors or equivalent.

It is essential that an APRA-regulated entity has a sound governance framework and conducts its affairs with a high degree of integrity. A culture that promotes good governance benefits all stakeholders of an APRA-regulated entity and helps to maintain public confidence in the entity.

This Prudential Standard sets out minimum foundations for good governance of an APRA-regulated entity. It aims to ensure that an APRA-regulated entity is managed soundly and prudently by a competent Board, which can make reasonable and impartial business judgements in the best interests of the entity and which duly considers the impact of its decisions on depositors and policyholders (as applicable).

The governance of an APRA-regulated entity builds on these foundations in ways that take account of the entity's size, complexity and risk profile.

The key requirements of this Prudential Standard include:

- specific requirements with respect to Board size and composition;
- that the chairperson of the Board of directors must be an independent director;
- that a Board Audit Committee must be established;
- that APRA-regulated entities must have a dedicated internal audit function;
- certain provisions dealing with independence requirements for auditors consistent with those in the *Corporations Act 2001*;
- that the Board must have a Remuneration Policy that aligns remuneration and risk management;

- that a Board Remuneration Committee must be established; and
- that the Board must have a policy on Board renewal and procedures for assessing Board performance.

A number of the requirements in this Prudential Standard apply to foreign authorised deposit-taking institutions, Category C insurers and eligible foreign life insurance companies.

Authority

1. Authority for the making of this Prudential Standard is as follows:
 - (a) to the extent that this Prudential Standard operates in relation to authorised deposit-taking institutions (**ADIs**) and non-operating holding companies authorised under the *Banking Act 1959* (**Banking Act**) (**authorised banking NOHCs**), it is made under section 11AF of the Banking Act;
 - (b) to the extent that this Prudential Standard operates in relation to general insurers and non-operating holding companies authorised under the *Insurance Act 1973* (**Insurance Act**) (**authorised insurance NOHCs**), it is made under section 32 of the Insurance Act; and
 - (c) to the extent that this Prudential Standard operates in relation to life companies, including friendly societies, and non-operating holding companies registered under the *Life Insurance Act 1995* (**Life Insurance Act**) (**registered life NOHCs**), it is made under section 230A of the Life Insurance Act.

Application

2. This Prudential Standard applies to all **APRA-regulated entities** which, for the purposes of this Prudential Standard, means:
 - (a) all ADIs, including foreign ADIs, and authorised banking NOHCs;
 - (b) all general insurers, including Category C insurers, and authorised insurance NOHCs; and
 - (c) all life companies, including friendly societies and eligible foreign life insurance companies (**EFLICs**), and registered life NOHCs.
3. Subject to paragraphs 97 and 98, APRA-regulated entities must comply with this Prudential Standard according to its terms. For the avoidance of doubt, and unless otherwise expressly indicated in this Prudential Standard, a provision that is expressed to apply to **locally-incorporated APRA-regulated entities** does not apply to foreign ADIs, Category C insurers and EFLICs. However, a provision that is expressed to apply to APRA-regulated entities (without a reference to locally-incorporated) or which is expressed to apply generally also applies to foreign ADIs, Category C insurers and EFLICs.
4. The obligations imposed by this Prudential Standard on, or in relation to, a foreign ADI, a Category C insurer or an EFLIC apply only in relation to the business carried on in Australia by that foreign ADI, Category C insurer or EFLIC.

Interpretation

5. By operation of subsection 13(1) of the *Legislative Instruments Act 2003*, a term which is not defined in this Prudential Standard or, for general insurers and authorised insurance NOHCs, in *Prudential Standard GPS 001 Definitions*

(GPS 001), but which is defined in one of the **Prudential Acts**¹ has the same meaning in this Prudential Standard as in the applicable Prudential Act when applied to an APRA-regulated entity authorised under that Act.

6. For the purposes of this Prudential Standard, a reference to the **Board** is to be read:
 - (a) in the case of a foreign ADI or a Category C insurer, as a reference to the senior officer outside Australia with delegated authority from the Board (**senior officer outside Australia**)²;
 - (b) in the case of an EFLIC, as a reference to the **Compliance Committee** with delegated authority from the Board³; and
 - (c) in all other cases, as a reference to the Board of directors.
7. For the purposes of this Prudential Standard:
 - (a) **appointed auditor** has the meaning given in *Prudential Standard APS 310 Audit and Related Matters (APS 310)*, in relation to an ADI (including a foreign ADI) or authorised banking NOHC;
 - (b) **Appointed Auditor** has the meaning given in *Prudential Standard GPS 001 Definitions (GPS 001)*, in relation to a general insurer (including a Category C insurer);
 - (c) **Auditor** has the meaning given in *Prudential Standard LPS 310 Audit and Related Matters (LPS 310)*, in relation to a life company (including an EFLIC);
 - (d) **responsible auditor** has the meaning given in GPS 001, in relation to an authorised insurance NOHC;
 - (e) **responsible auditor**, in relation to a registered life NOHC, is an auditor who is required to prepare a report under the Life Insurance Act, Prudential Standards made under the Life Insurance Act or Reporting Standards.

For ease of reference throughout this Prudential Standard, the term **auditor** is used to refer to the positions described in subparagraphs 7(a) to (e) inclusive except where otherwise specified.

8. For the purposes of this Prudential Standard, **Appointed Actuary** has the meaning given in GPS 001, in relation to a general insurer⁴ and the meaning

¹ Paragraph 9(a) defines Prudential Acts which is used in this Prudential Standard for ease of reference.

² Refer to paragraph 21 for the definition, in respect of foreign ADIs and Category C insurers, of senior officer outside Australia with delegated authority from the Board.

³ Compliance Committee has the same meaning as in subsection 16ZF(1) of the Life Insurance Act.

⁴ For a general insurer (including a Category C insurer), this means the internal or external Appointed Actuary as required under section 39 of the Insurance Act.

given in *Prudential Standard LPS 320 Actuarial and Related Matters (LPS 320)*, in relation to a life company.⁵

9. For the purposes of this Prudential Standard:
 - (a) a reference to Prudential Acts is a reference to the Banking Act, the Insurance Act and the Life Insurance Act;
 - (b) a reference to a **Board member** or a **member of a Board** is a reference to a director, the senior officer outside Australia (in the case of a foreign ADI or Category C insurers) or a member of the Compliance Committee (in the case of an EFLIC);
 - (c) a reference to a **corporate group** is a reference to a group comprising more than one company, where the companies are related bodies corporate;
 - (d) a reference to a **director** is a reference to a director of an APRA-regulated entity which has a Board of directors;
 - (e) locally-incorporated APRA-regulated entity means an APRA-regulated entity incorporated in Australia;
 - (f) **officer** has the meaning given in section 9 of the *Corporations Act 2001 (Corporations Act)*;
 - (g) **related body corporate** has the meaning given in section 50 of the Corporations Act; and
 - (h) **subsidiary** has the meaning given in section 9 of the Corporations Act.

The Board and senior management

10. This Prudential Standard sets out the minimum requirements that an APRA-regulated entity must meet in the interests of promoting strong and effective governance.
11. The Board of a locally-incorporated APRA-regulated entity is ultimately responsible for the sound and prudent management of that APRA-regulated entity.
12. The Board of a locally-incorporated APRA-regulated entity must have a formal charter that sets out the roles and responsibilities of the Board.
13. The Board of a locally-incorporated APRA-regulated entity, in fulfilling its functions, may delegate authority to management to act on behalf of the Board with respect to certain matters, as decided by the Board. This delegation of authority must be clearly set out and documented. The Board must have

⁵ For a life company (including an EFLIC), this means the internal or external Appointed Actuary as required under section 93 of the Life Insurance Act.

mechanisms in place for monitoring the exercise of delegated authority. The Board cannot abrogate its responsibility for functions delegated to management.

14. The Board of a locally-incorporated APRA-regulated entity must ensure that its members and the senior managers of the entity, collectively, have the full range of skills needed for the effective and prudent operation of that APRA-regulated entity, and that Board members have skills that allow them to make an effective contribution to Board deliberations and processes. This includes the requirement for Board members, collectively, to have the necessary skills, knowledge and experience to understand the risks of the APRA-regulated entity, including its legal and prudential obligations, and to ensure that the APRA-regulated entity is managed in an appropriate way taking into account these risks. This does not prohibit the Board from supplementing its skills and knowledge by engaging external consultants and experts.
15. Senior management of an APRA-regulated entity, with responsibilities relating to the business in Australia, must be ordinarily resident in Australia.
16. Members of the Board and senior management of an APRA-regulated entity must be available to meet with APRA on request.
17. The Board or senior officer outside Australia, as relevant, must provide the auditor and the Appointed Actuary with the opportunity to raise matters directly with the Board.

Independence

18. For the purposes of this Prudential Standard, an independent director is a non-executive director who is free from any business or other association, including those arising out of a substantial shareholding, involvement in past management or as a supplier, customer or adviser, that could materially interfere with the exercise of their independent judgement. The circumstances that will not meet this test of independence include, but are not limited to, those set out in Attachment A.
19. If the Board of a locally-incorporated APRA-regulated entity doubts a director's independence for the purposes of this Prudential Standard, the APRA-regulated entity may refer the matter to APRA for guidance.

Definition of non-executive director

20. For the purposes of this Prudential Standard a reference to a non-executive director is interpreted as meaning reference to a director who is not a member of the entity's management. Non-executive directors may include Board members or senior managers of the parent company of the locally-incorporated APRA-regulated entity or of the parent company's subsidiaries, but not executives of the APRA-regulated entity or its subsidiaries.

Senior officer outside Australia - Foreign ADIs and Category C insurers

21. As in the case of locally incorporated APRA-regulated entities, the ultimate responsibility for the safety and soundness of a foreign ADI or a Category C insurer resides with its Board. Foreign ADIs and Category C insurers must nominate a senior officer (whether a director or senior executive) outside Australia with delegated authority from the Board who will be responsible for overseeing the Australian branch operation.

Board composition – locally-incorporated APRA-regulated entities

22. The Board of a locally-incorporated APRA-regulated entity must have a minimum of five directors at all times.
23. The Board of a locally-incorporated APRA-regulated entity must have a majority of independent directors at all times. For a locally-incorporated APRA-regulated entity that is a subsidiary of another APRA-regulated entity or overseas equivalent⁶, exceptions may apply as set out at paragraphs 36 to 38. For a locally-incorporated APRA-regulated entity that is a subsidiary of a parent company that is not prudentially regulated, exceptions may apply as set out at paragraph 39.
24. The chairperson of the Board of a locally-incorporated APRA-regulated entity must be an independent director of the APRA-regulated entity.
25. A majority of directors present and eligible to vote at all Board meetings of a locally-incorporated APRA-regulated entity must be non-executive directors.
26. The chairperson of the Board of a locally-incorporated APRA-regulated entity cannot have been the Chief Executive Officer (CEO) of the APRA-regulated entity at any time during the previous three years. If the position of the CEO is unexpectedly vacated, the chairperson may serve as an interim CEO. After a period of 90 days, approval must be sought from APRA to allow this arrangement to continue.
27. The chairperson must be available to meet with APRA on request.
28. For a locally-owned and incorporated APRA-regulated entity, a majority of directors must be ordinarily resident in Australia.
29. For a foreign-owned, locally-incorporated APRA-regulated entity, at least two of the directors must be ordinarily resident in Australia, at least one of whom must also be independent.

⁶ An 'overseas equivalent' is an entity which is not authorised in Australia but is authorised and subject to prudential regulation in a foreign country.

Board composition – Foreign ADIs, Category C insurers and EFLICs

30. For a foreign ADI or Category C insurer, in addition to the requirement to have a senior officer outside Australia with delegated authority from the Board who is responsible for overseeing the Australian branch operation, there must be a senior manager⁷ in Australia responsible for the local operation who is ordinarily resident in Australia.
31. A Category C insurer that appoints a corporate agent as its agent in Australia must additionally ensure that:
 - (a) the Board of the corporate agent has a minimum of three directors at all times; and
 - (b) a majority of the directors of the Board of the corporate agent are ordinarily resident in Australia.⁸
32. For an EFLIC, the requirements for the composition of the Compliance Committee are detailed in Attachment B.

Board representation

33. Board representation must be consistent with a locally-incorporated APRA-regulated entity's shareholding. Where a shareholding constitutes not more than 15 per cent of a locally-incorporated APRA-regulated entity's voting shares, there should not be more than one Board member who is an associate of the shareholder where the Board has up to six directors, and not more than two Board members who are associates of the shareholder where the Board has seven or more directors. A director is taken to be an associate of a shareholder for the purposes of this Prudential Standard, if the director is an associate of the shareholder, or the shareholder is an associate of the director, according to the definition of associate in clause 4 of Schedule 1 of the *Financial Sector (Shareholdings) Act 1998*. That definition is to be applied for the purposes of this Prudential Standard as if subparagraph (1)(l) of that definition were omitted.
34. Where an individual shareholding is greater than 15 per cent, as approved under the *Financial Sector (Shareholdings) Act 1998*, the Board representation of that shareholding may be greater than allowed in paragraph 33, although it must still be broadly proportionate to the shareholding concerned.⁹
35. For an ADI that operates as a special service provider, the ADI may apply to APRA for approval for alternative Board composition arrangements that meet

⁷ For foreign ADIs, 'senior manager' has the same meaning as in *Prudential Standard CPS 520 Fit and Proper (CPS 520)*. For Category C insurers, 'senior manager' has the same meaning as in the Insurance Act read with CPS 520. Note that the person who performs this role may be the same as the agent in Australia (where the agent is an individual) or a director or senior manager of the agent in Australia (where the agent is a corporate agent) as required under section 118 of the Insurance Act.

⁸ Note that, by virtue of paragraph 118(6)(a) of the Insurance Act, an individual agent in Australia must be resident in Australia.

⁹ Note that where the proportionate shareholding does not equate to a whole number, it may be rounded to the nearest whole number.

the objectives of this Prudential Standard. APRA may approve alternative arrangements for the ADI if satisfied that those arrangements will, in APRA's opinion, achieve the objectives of this Prudential Standard.

APRA-regulated entities that are subsidiaries of other APRA-regulated entities or overseas equivalents

36. For a locally-incorporated APRA-regulated entity that is a subsidiary of another APRA-regulated entity or an overseas equivalent, the Board of the APRA-regulated entity must have a majority of non-executive directors, but these non-executive directors need not all be independent.
37. An APRA-regulated entity to which paragraph 36 applies will be required to have, at a minimum, two independent directors, in addition to an independent chairperson, where the Board has up to seven members. Where the Board has more than seven members, the APRA-regulated entity will be required to have at least three independent directors, in addition to an independent chairperson.
38. For the purposes of meeting the requirements in paragraph 37, the independent directors on the Board of the parent company or its other subsidiaries may also sit as independent directors on the Board of the APRA-regulated entity.

Subsidiaries of a parent that is not prudentially regulated

39. For a locally-incorporated APRA-regulated entity that is a subsidiary of another entity not covered by the arrangements in paragraphs 36 to 38 of this Prudential Standard, the Board must have a majority of independent directors. However, independent directors on the Board of the parent company or its other subsidiaries may also sit as independent directors on the Board of the APRA-regulated entity.

Joint ventures

40. For the purposes of this Prudential Standard, a locally-incorporated APRA-regulated entity that operates as a joint venture can be considered as part of the group of each parent entity. Independent directors of a parent may sit as independent directors on the Board of the joint venture entity. However, the general concessions available to subsidiaries in paragraphs 36 to 38 are not available to joint ventures.

APRA-regulated entities that are part of a corporate group

41. Where a locally-incorporated APRA-regulated entity is part of a corporate group, and the APRA-regulated entity utilises group policies or functions, the Board of the APRA-regulated entity must approve the use of group policies and functions and must ensure that these policies and functions give appropriate regard to the APRA-regulated entity's business and its specific requirements.

Remuneration Policy

42. An APRA-regulated entity must establish and maintain a documented **Remuneration Policy**. The Remuneration Policy must outline the remuneration objectives and the structure of the remuneration arrangements, including but not limited to the performance-based remuneration components, of the APRA-regulated entity.
43. The Remuneration Policy must be approved by the Board, the senior officer outside Australia or the Compliance Committee, as relevant.
44. For the purposes of this Prudential Standard, remuneration arrangements include measures of performance, the mix of forms of remuneration (such as fixed and variable components, and cash and equity-related benefits) and the timing of eligibility to receive payments. All forms of remuneration are captured by this Prudential Standard.
45. In addition to any other objectives, the Remuneration Policy's performance-based components of remuneration must be designed to encourage behaviour that supports:
 - (a) the APRA-regulated entity's long-term financial soundness; and
 - (b) the risk management framework of the APRA-regulated entity.
46. The performance-based components of remuneration must be designed to align remuneration with prudent risk-taking and must incorporate adjustments to reflect:
 - (a) the outcomes of business activities;
 - (b) the risks related to the business activities taking account, where relevant, of the cost of the associated capital; and
 - (c) the time necessary for the outcomes of those business activities to be reliably measured.
47. The Remuneration Policy must provide for the Board, the senior officer outside Australia or the Compliance Committee, as relevant, to adjust performance-based components of remuneration downwards, to zero if appropriate, in relation to persons or classes of persons, if such adjustments are necessary to:
 - (a) protect the financial soundness of the APRA-regulated entity; or
 - (b) respond to significant unexpected or unintended consequences that were not foreseen by the Board Remuneration Committee, the senior officer outside Australia or the Compliance Committee, as relevant.
48. The Remuneration Policy must set out who is covered by the Policy. The Remuneration Policy must cover, as a minimum:
 - (a) each responsible person, as that term is defined in *Prudential Standard CPS 520 Fit and Proper*, excluding:

- (i) non-executive directors;
 - (ii) auditors described in paragraphs 7(a) to (e) inclusive;
 - (iii) for foreign ADIs, the senior officer outside Australia;
 - (iv) for general insurers, external Appointed Actuaries and the Reviewing Actuary;
 - (v) for Category C insurers, the senior officer outside Australia, and non-executive directors of the Category C insurer's agent in Australia where the agent in Australia is a corporate agent;
 - (vi) for life companies, external Appointed Actuaries; and
 - (vii) in the case of an EFLIC, members of the Compliance Committee;
- (b) persons whose primary role is risk management, compliance, internal audit, financial control or actuarial control (collectively 'risk and financial control personnel'); and
- (c) all other persons for whom a significant portion of total remuneration is based on performance and whose activities, individually or collectively, may affect the financial soundness of the APRA-regulated entity.

A person will be included within one of the above categories if that person is: employed directly by the APRA-regulated entity; retained directly by the APRA-regulated entity under contract; employed by, or a contractor of, a body corporate (including a service company) that is a related body corporate of the APRA-regulated entity; or, subject to paragraph 49, an entity that is not a related body corporate of the APRA-regulated entity.

49. The Remuneration Policy must cover a service contract between an APRA-regulated entity and a body that is not a related body corporate of the APRA-regulated entity, if:
- (a) the primary role of the body is to provide risk management, compliance, internal audit, financial control or actuarial control services to the APRA-regulated entity; or
 - (b) the services provided by the body, either individually or collectively with like services provided by other bodies, may affect the financial soundness of the APRA-regulated entity and, under the services contract with the APRA-regulated entity, a significant portion of the total payment to the body is based on performance.

However, the Remuneration Policy need not cover a service contract with such a body if:

- (i) the APRA-regulated entity's risk management framework explicitly addresses the structure of payments to bodies of the relevant kind and the risk that payment incentives can give rise to inappropriate behaviour; and

- (ii) oversight of this risk has been delegated to a Board Committee, the senior officer outside Australia or the Compliance Committee, as relevant.
50. APRA may determine that an individual or class of individuals must be covered by the APRA-regulated entity's Remuneration Policy. APRA will notify the APRA-regulated entity of such a determination in writing.
 51. The Remuneration Policy must prohibit persons covered by paragraph 48(a), who receive equity or equity-linked deferred remuneration, from hedging their economic exposures to the resultant equity price risk before the equity-linked remuneration is fully vested and able to be sold for cash by the recipient. The Remuneration Policy must specify the actions to be taken where a person is found to have breached this requirement.
 52. The Remuneration Policy must ensure that the structure of the remuneration of risk and financial control personnel, including performance-based components if any, does not compromise the independence of these personnel in carrying out their functions.
 53. Nothing in this Prudential Standard prevents an APRA-regulated entity from adopting and applying a group Remuneration Policy that is also used by a related body corporate¹⁰, provided that the policy has been approved by the Board in accordance with paragraph 43 and meets the requirements of this Prudential Standard.¹¹
 54. The Remuneration Policy must form part of an APRA-regulated entity's risk management framework.¹²
 55. The Remuneration Policy must be provided to APRA on request.

Board Remuneration Committee

56. A locally-incorporated APRA-regulated entity must, unless otherwise approved in writing by APRA, have a Board Remuneration Committee that complies with the requirements of this Prudential Standard.
57. The Board Remuneration Committee must have at least three members. All members of the Committee must be non-executive directors of the locally-incorporated APRA-regulated entity. A majority of the members of the Committee must be independent. The chairperson of the Committee must be an independent director of the APRA-regulated entity.
58. The Board Remuneration Committee must have a written charter and terms of reference that outline the Committee's roles, responsibilities and terms of

¹⁰ Related body corporate has the meaning given in section 50 of the Corporations Act 2001.

¹¹ For the avoidance of doubt, paragraph 53 of this Prudential Standard applies to foreign ADIs, Category C insurers, and EFLICs for the purpose of group Remuneration Policies

¹² Refer to APS 310, *Prudential Standard GPS 220 Risk Management (GPS 220)*, *Prudential Standard GPS 221 Risk Management: Level 2 Insurance Groups* and *Prudential Standard LPS 220 Risk Management (LPS 220)*, as may be applicable.

operation. The Remuneration Committee must be provided with the powers necessary to enable it to perform its functions.

59. The responsibilities of the Board Remuneration Committee must include:
- (a) conducting regular reviews of, and making recommendations to the Board on, the Remuneration Policy. This must include an assessment of the Remuneration Policy's effectiveness and compliance with the requirements of this Prudential Standard;
 - (b) making annual recommendations to the Board on the remuneration of the CEO, direct reports of the CEO, other persons whose activities may in the Board Remuneration Committee's opinion affect the financial soundness of the APRA-regulated entity, and any other person specified by APRA; and
 - (c) making annual recommendations to the Board on the remuneration of the categories of persons covered by the Remuneration Policy (other than those persons for whom such recommendations are already required under paragraph 59(b)).
60. The Board Remuneration Committee, the senior officer outside Australia or the Compliance Committee, as relevant, must:
- (a) have free and unfettered access to risk and financial control personnel and other parties (internal and external) in carrying out its duties; and
 - (b) if choosing to engage third-party experts, have power to do so in a manner that ensures that the engagement, including any advice received, is independent.
61. Where a locally-incorporated APRA-regulated entity is part of a corporate group, the Board of the APRA-regulated entity may use a group Board Remuneration Committee in order to meet the requirements of paragraph 56 of this Prudential Standard, provided that the other requirements set out in this Prudential Standard are met and the Board of the APRA-regulated entity has unfettered access to the group Board Remuneration Committee.
62. For foreign ADIs and Category C insurers, the senior officer outside Australia must, and for EFLICs, the Compliance Committee must:
- (a) conduct regular reviews of, and make decisions in relation to, the Remuneration Policy. This must include an assessment of the Remuneration Policy's effectiveness and compliance with the requirements of this Prudential Standard;
 - (b) make annual decisions on the remuneration of the Head of the Australian branch operation, direct reports to that person, other persons whose activities may in the opinion of the senior officer outside Australia or of the Compliance Committee, as relevant, affect the financial soundness of the institution, and any other person specified by APRA; and

- (c) make annual decisions on the remuneration of the categories of persons covered by the Remuneration Policy (other than those persons for whom such recommendations are already required under paragraph 62(b)).
63. Members of the Board Remuneration Committee must be available to meet with APRA on request.

Board Audit Committee

64. An APRA-regulated entity (excluding foreign ADIs and excluding Category C insurers) must have a Board Audit Committee, which assists the Board by providing an objective non-executive review of the effectiveness of the APRA-regulated entity's financial reporting and risk management framework unless, with respect to risk management, there is another Board Committee which carries out this function.
65. The Board Audit Committee must have sufficient powers to enable it to obtain all information necessary for the performance of its functions.
66. The Board Audit Committee must have at least three members. All members of the Committee must be non-executive directors of the relevant APRA-regulated entity. A majority of the members of the Committee must be independent.
67. The chairperson of the Board Audit Committee must be an independent director of the relevant APRA-regulated entity.
68. The chairperson of the Board may sit on the Board Audit Committee, but may not chair the Committee.
69. The Board Audit Committee must have a charter that includes a reference to the fact that the Committee is responsible for the oversight of:
- (a) all APRA statutory reporting requirements;
 - (b) other financial reporting requirements;
 - (c) professional accounting requirements;
 - (d) internal and external audit; and
 - (e) the appointment of the APRA-regulated entity's auditor.
70. The Board Audit Committee must review the engagement of the auditor at least annually, including making an assessment of whether the auditor meets the Audit Independence tests set out in *APES 110 Code of Ethics for Professional Accountants*,¹³ as well as the additional auditor independence requirements set out in this Prudential Standard.

¹³ *APES 110 Code of Ethics for Professional Accountants* was issued by the Accounting Professional and Ethical Standards Board with effect from 1 July 2006.

71. For a foreign ADI or a Category C insurer, the assessment referred to in paragraph 70 is the responsibility of the senior officer outside Australia, and for an EFLIC, it is the responsibility of the Compliance Committee.
72. The Board Audit Committee must regularly review the internal and external audit plans, ensuring that they cover all material risks and financial reporting requirements of the APRA-regulated entity. It must also regularly review the findings of audits, and ensure that issues are being managed and rectified in an appropriate and timely manner.
73. The Board Audit Committee must ensure the adequacy and independence of both the internal and external audit functions.
74. The members of the Board Audit Committee must, at all times, have free and unfettered access to senior management, the internal auditor, the heads of all risk management functions, the auditor and the Appointed Actuary, as applicable, and vice versa.
75. The Board Audit Committee must establish and maintain policies and procedures for employees of the APRA-regulated entity to submit, confidentially, information about accounting, internal control, compliance, audit, and other matters about which the employee has concerns. The Committee should also have a process for ensuring employees are aware of these policies and for dealing with matters raised by employees under these policies.
76. Members of the Board Audit Committee must be available to meet with APRA on request.
77. The Board Audit Committee must invite the auditor and the Appointed Actuary, as applicable, to meetings of the Committee.
78. The internal auditor must have a reporting line and unfettered access to the Board Audit Committee.
79. For a foreign ADI, a Category C insurer and an EFLIC, the auditor of the local operation must have direct access to the Head Office audit function.

Internal audit

80. An APRA-regulated entity must have an independent and adequately resourced internal audit function. If an APRA-regulated entity does not believe it is necessary to have a dedicated internal audit function, it must apply to APRA to seek an exemption from this requirement, setting out reasons why it believes it should be exempt. APRA may approve alternative arrangements in writing for an APRA-regulated entity where APRA is satisfied that they will achieve the same objectives.

81. The objectives of the internal audit function must include evaluation of the adequacy and effectiveness of the financial and risk management framework of the APRA-regulated entity.¹⁴ To fulfil its functions, the internal auditor must, at all times, have unfettered access to all the APRA-regulated entity's business lines and support functions.

Auditor independence¹⁵

82. The *Corporations Act 2001* contains a number of requirements in relation to auditor independence. The auditor independence requirements in this Prudential Standard are substantially consistent with those requirements, and are intended to help ensure the independence of an auditor engaged to perform work of a prudential nature in relation to the Prudential Acts, Prudential Standards and Reporting Standards.¹⁶
83. The Board, senior officer outside Australia or the Compliance Committee, as relevant, must, to the extent practical, undertake steps to satisfy itself that the auditor, who undertakes work for the APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards, is independent of the APRA-regulated entity¹⁷, and that there is no conflict of interest situation that could compromise, or be seen to compromise, the independence of the auditor.
84. As part of the process of ascertaining the independence of the auditor, an APRA-regulated entity must obtain a declaration from the auditor to the effect that:
- (a) the auditor is independent, both in appearance and in fact;
 - (b) the auditor has no conflict of interest situation; and
 - (c) there is nothing to the auditor's knowledge (either in relation to the individual auditor or any audit firm or audit company of which the auditor is a member or director) that could compromise that independence.
85. For the purposes of this Prudential Standard, a conflict of interest situation exists in relation to an APRA-regulated entity at a particular time, if because of circumstances that exist at that time:

¹⁴ For general insurers, also refer to GPS 220 for the requirement for a review of a general insurer's risk management framework. Such a review carried out by a role or function within the general insurer other than internal audit does not relieve the internal audit function from carrying out a review of the risk management framework, though the internal audit function may rely on such other review in carrying out its own review. For life companies, refer to LPS 220.

¹⁵ Refer also to APS 310, *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation, Prudential Standard GPS 311 Audit and Actuarial Reporting and Valuation: Level 2 Insurance Groups (GPS 311)* and LPS 310.

¹⁶ 'Reporting Standards' are those standards made under the *Financial Sector (Collection of Data) Act 2001*.

¹⁷ Independent of the APRA-regulated entity means that the auditor has been assessed as independent in terms of paragraph 70 of this Prudential Standard.

- (a) the auditor is not capable of exercising objective and impartial judgement in relation to the conduct of the work that is undertaken for the APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards; or
 - (b) a reasonable person, with full knowledge of all relevant facts and circumstances, would conclude that the auditor is not capable of exercising objective and impartial judgement in relation to undertaking the work for the APRA-regulated entity for the purposes of the Prudential Acts, Prudential Standards or Reporting Standards.¹⁸
86. A person, who was a member of an audit firm or a director of an audit company, and who served in a professional capacity in the audit of an APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards, cannot be appointed to the role of director or senior manager of that APRA-regulated entity until at least two years have passed since they served in that professional capacity.
87. A person, who was an employee of an audit company, other than a director of that company, and who acted as the lead auditor¹⁹ or review auditor²⁰ in the audit of an APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards, cannot be appointed to the role of director or senior manager of that APRA-regulated entity until at least two years have passed since they acted as the lead auditor or review auditor.
88. A person cannot be appointed as a director or senior manager of an APRA-regulated entity if:
- (a) the person was, or is, a director of the audit company or a member of the audit firm that was, or is, responsible for the audit of the APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards; and
 - (b) there is already another person employed as a director or senior manager of the APRA-regulated entity who was a director of the audit company or a member of the audit firm, at a time when the audit company or audit firm undertook an audit of the APRA-regulated entity at any time during the previous two years.

¹⁸ This definition is based on that used in section 324CD of the Corporations Act to describe the circumstances under which a conflict of interest situation is considered to exist, and is intended to be interpreted in a similar manner. Without limiting the situations that may cause a conflict to arise for the purposes of this Prudential Standard, it is expected that any circumstances of the type that would lead to a breach of the Corporations Act requirements for audit independence, whether or not these provisions actually apply in relation to the audit of the APRA-regulated entity, will also result in a breach of the provisions of this Prudential Standard.

¹⁹ Lead auditor means the registered company auditor who is primarily responsible to the audit firm or the audit company for the conduct of audit work conducted in relation to the Prudential Acts, Prudential Standards or Reporting Standards.

²⁰ Review auditor means the registered company auditor (if any) who is primarily responsible to the individual auditor, audit firm or audit company for reviewing audit work conducted in relation to the Prudential Acts, Prudential Standards or Reporting Standards.

89. An individual who plays a significant role²¹ in the audit of an APRA-regulated entity in relation to the Prudential Acts, Prudential Standards or Reporting Standards, for five successive years, or for more than five years out of seven successive years, cannot continue to play a significant role in the audit until at least a further two years have passed, except with an exemption in writing from APRA. APRA may grant an exemption from this requirement if the individual provides specialist services that are otherwise not readily available or there are no other registered company auditors available to provide satisfactory services for the APRA-regulated entity.
90. For a general insurer (including a Category C insurer) or a life company (including an EFLIC), for the purposes of maintaining their independence and objectivity, the auditor and Appointed Actuary cannot both be employed by the same body corporate or related bodies corporate, or by the same firm or related firms.²²

Board performance assessment

91. The Board of a locally-incorporated APRA-regulated entity must have procedures for assessing, at least annually, the Board's performance relative to its objectives. It must also have in place a procedure for assessing, at least annually, the performance of individual directors.

Board renewal

92. The Board of a locally-incorporated APRA-regulated entity must have in place a formal policy on Board renewal. This policy must provide details of how the Board intends to renew itself in order to ensure it remains open to new ideas and independent thinking, while retaining adequate expertise. The policy must give consideration to whether directors have served on the Board for a period which could, or could reasonably be perceived to, materially interfere with their ability to act in the best interests of the APRA-regulated entity.

Persons not to be constrained from providing information to APRA²³

93. No prospective, current, or former officer, employee or contractor (including professional service provider) of an APRA-regulated entity may be constrained or impeded, whether by confidentiality clauses or other means, from disclosing information to APRA, from discussing issues with APRA of relevance to the management and prudential supervision of the APRA-regulated entity, or from

²¹ For the purpose of this paragraph 'an individual who plays a significant role' means an individual auditor who acts as the auditor in respect of any of the requirements of the Prudential Acts, Prudential Standards or Reporting Standards, or the lead or review auditor where such audit work is performed by an audit company or audit firm.

²² For the purposes of this Prudential Standard, related firms means either two or more firms, or a firm and a body corporate, that have common ownership or management, or where one has a substantial shareholding in the other. Refer to CPS 520 for a similar restriction on the Appointed Auditor and Appointed Actuary being from the same entity. Refer also to GPS 311.

²³ Also refer to the provisions for the protection of whistleblowers in Part VIA, Division 1 of the Banking Act, Part IIIA, Division 4 of the Insurance Act, Part 7, Division 5 of the Life Insurance Act, and the whistleblowing provisions in CPS 520.

providing documents under their control to APRA, that may be relevant in the context of the management or prudential supervision of the APRA-regulated entity. Such persons are not to be constrained or impeded from providing information to auditors, the Appointed Actuary, the Reviewing Actuary and others, who have statutory responsibilities in relation to the APRA-regulated entity.

94. An APRA -regulated entity must ensure that its internal policy and contractual arrangements do not explicitly or implicitly restrict or discourage auditors or other parties from communicating with APRA.

Commencement and transitional arrangements

95. This Prudential Standard commences on [date] (**effective date**).
96. Upon commencement of this Prudential Standard, the existing requirements contained in *Prudential Standard APS 510 Governance (APS 510)*, *Prudential Standard GPS 510 Governance (GPS 510)* and *Prudential Standard LPS 510 Governance (LPS 510)* will cease to have effect.

Adjustments and exclusions

97. APRA may, by notice in writing to an APRA-regulated entity, adjust or exclude a specific prudential requirement in this Prudential Standard in relation to that APRA-regulated entity.²⁴

Determinations made under previous prudential standards

98. An exercise of APRA's discretion (such as an approval, waiver or direction) under a previous version of this Prudential Standard continues to have effect as though exercised pursuant to a corresponding power (if any) exercisable by APRA under this Prudential Standard.

For the purposes of this paragraph, 'a previous version of this Prudential Standard' includes:

- (a) APS 510 made on 26 November 2009;
- (b) GPS 510 made on 26 November 2009; and
- (c) LPS 510 made on 26 November 2009.

²⁴ Refer to subsection 11AF(2) of the Banking Act, subsection 32(3D) of the Insurance Act and subsection 230A(4) of the Life Insurance Act.

Attachment A²⁵

A director is **not** independent if the director:

1. is a substantial shareholder²⁶ of the APRA-regulated entity or an officer of, or otherwise associated directly with, a substantial shareholder of the APRA-regulated entity;
2. is employed, or has previously been employed in an executive capacity by the APRA-regulated entity or another group member, and there has not been a period of at least three years between ceasing such employment and serving on the Board;
3. has within the last three years been a principal of a material professional adviser or a material consultant to the APRA-regulated entity or another group member, or an employee materially associated with the service provided;
4. is a material supplier or customer of the APRA-regulated entity or another group member, or an officer of or otherwise associated directly or indirectly with a material supplier or customer; or
5. has a material contractual relationship with the APRA-regulated entity or another group member other than as a director.

²⁵ The circumstances outlined in this Attachment are adapted from the guidance on “Relationships affecting independent status” to be considered by a Board when determining the independent status of a director set out in Box 2.1 of the ASX Corporate Governance Council’s *Corporate Governance Principles and Recommendations* (2nd Edition 2007).

²⁶ For the purpose of this Attachment, a ‘substantial shareholder’ is a person with a substantial holding as defined in section 9 of the Corporations Act.

Attachment B**Compliance Committee for eligible foreign life insurance companies****Purpose of the Compliance Committee**

1. The purpose of the Compliance Committee (referred to in this Attachment as **the Committee**) is to:
 - (a) ensure the eligible foreign life insurance company (**EFLIC**) complies with the requirements in, or imposed under, the Life Insurance Act; and
 - (b) assist the Board in meeting its responsibilities under the Life Insurance Act.
2. As required by subsections 16ZF(1) and (4) of the Life Insurance Act, the Board must delegate sufficient powers of management to the members of the Committee to enable Committee members to ensure that the EFLIC complies with the requirements in, or imposed under, the Life Insurance Act. The Board must do so irrespective of anything to the contrary in the EFLIC's constitution.

Continuing responsibility of the Board

3. Establishment of the Committee does not free the Board from ultimate responsibility for ensuring the Australian branch of the EFLIC complies with the requirements in, or imposed under, the Life Insurance Act.
4. In recognition of this, the Board must:
 - (a) have the power to appoint and remove, at its discretion, members of the Committee, as long as certain composition and residency requirements pertaining to the Committee continue to be met (refer to paragraphs 5 to 8 of this Attachment);
 - (b) ensure that the delegation of relevant managerial powers (of the kind referred to in paragraph 16ZF(1)(a) and (b) of the Life Insurance Act) is not irrevocable, and that the Board retains the powers delegated; and
 - (c) establish adequate procedures for monitoring and supervising the operation of the Committee, as well as assessing its performance.

Composition and residency status of Committee members

5. The Committee must comprise at least five members appointed by the Board. Those members must include:
 - (a) at least one director of the Board of the EFLIC;
 - (b) the Principal Executive Officer (**PEO**) appointed by the EFLIC for its Australian branch under either subsections 20(2) or 246(4) of the Life Insurance Act; and

- (c) at least two independent members.
6. A member cannot satisfy more than one of the composition requirements contained in subparagraphs 5(a), 5(b) and 5(c) of this Attachment (i.e. the director, PEO and independent members must all be separate individuals).
 7. At least two of the Committee members must be ordinarily resident in Australia, one being the PEO and the other an independent member.
 8. It should be noted that the definition of director contained in the Life Insurance Act, in relation to an EFLIC, is taken to refer to both members of the Committee and the directors of the EFLIC (except for certain provisions, notably sections 230B and 245 of the Life Insurance Act, where only Committee members are being referred to).

Application for a modified Committee composition

9. APRA may, on application from an EFLIC, determine a modified Committee for the EFLIC where it can be demonstrated that it is appropriate to do so.
10. In making this determination, APRA will take into account the following factors:
 - (a) the quantum of liabilities written by the EFLIC;
 - (b) the cost effectiveness or otherwise of establishing a Committee;
 - (c) any restrictions on the lines of business written by the EFLIC;
 - (d) whether these restrictions limit the number of policy-holders of the EFLIC (for example, by targeting specific policy-holder characteristics, such as age, nationality or geographical location); and
 - (e) whether the EFLIC has written any material amount of long tail business.
11. The composition of any modified Committee would be determined in writing on a case-by-case basis by APRA, but the possible modifications could take one or more of the following forms:
 - (a) a Committee with fewer than five members;
 - (b) replacing the director of the Board of the EFLIC as required by subparagraph 5(a) of this Attachment with the PEO; or
 - (c) a Committee with fewer than two independent members.

Appointment and removal of Committee members

12. The power to appoint and remove members of the Committee resides with the Board.
13. The Board must have appointed all members and formally constituted the Committee within seven days of receiving notification of registration.

14. Each member of the Committee must be fit and proper for the role in accordance with the requirements for fitness and propriety as set out in *Prudential Standard CPS 520 Fit and Proper*.
15. The Board must ensure that the Committee as a whole possesses the necessary skills and expertise to ensure that the EFLIC complies with the requirements in, or imposed under, the Life Insurance Act, and to discharge the duties and responsibilities of the Committee provided for in this Prudential Standard.
16. The Committee must have a policy for dealing with conflicts of interest.
17. Notwithstanding the Board's power to appoint and remove members, APRA may, under section 230B of the Life Insurance Act, direct an EFLIC to remove a member of the Committee.
18. While membership of the Committee is the responsibility of the Board, the powers to appoint and remove members of the Committee must not be used in a manner that impedes, discourages or otherwise hinders the Committee from discharging its duties and responsibilities. Examples that would be cause for concern by APRA would be an excessive turnover of members, or the removal of members at inappropriate times (for example at critical reporting periods). If requested to do so, by APRA, an EFLIC must, within a time stipulated by APRA in writing (which must not be unreasonable), provide a written report to APRA responding to any queries APRA has regarding the removal of members.

Processes of the Committee

19. At least three members of the Committee are required to be present at a meeting of the Committee to form a quorum. The PEO, and at least one independent member who is ordinarily resident in Australia, must be amongst the three members present.
20. The chairperson of the Committee must be a non-executive member.
21. Resolutions can be passed only by a majority with the chairperson having a casting vote.
22. The Committee must meet as often as required to discharge its duties and responsibilities, although APRA would expect the Committee to meet on at least a quarterly basis. Members, and individuals who may be needed to address the Committee, must be given reasonable notice of pending meetings.
23. The Committee must ensure that the Appointed Actuary is given reasonable notice of any meeting of the Committee at which matters are to be considered that relate to the functions and duties of the actuary, including matters:
 - (a) that relate to, or may affect:
 - (i) the solvency of the company; or
 - (ii) the adequacy of the capital of the company; or
 - (b) that relate to advice given by the Appointed Actuary to the directors; or

- (c) that concern a matter in relation to which the Appointed Actuary will be required to give advice.
24. Written minutes of Committee meetings must be taken and copies kept and made available to APRA on request. Any papers or submissions put to the Committee must likewise be kept and made available to APRA on request.

Duties and responsibilities of the Committee

25. The Committee must, with the powers delegated to it by the Board, ensure that the EFLIC complies with:
- (a) the Life Insurance Act;
 - (b) the *Life Insurance Regulations 1995*;
 - (c) the Prudential Standards determined under section 230A of the Life Insurance Act;
 - (d) the Prudential Rules made under section 252 of the Life Insurance Act;
 - (e) any conditions placed upon the EFLIC under section 22 of the Life Insurance Act at the time of, or after, its registration;
 - (f) directions given under the Life Insurance Act; and
 - (g) the *Financial Sector (Collection of Data) Act 2001*.
26. The Committee members must report to APRA, within 14 business days of becoming aware:
- (a) that the EFLIC has failed to comply with a requirement referred to in paragraph 25 of this Attachment; or
 - (b) the Committee believes there is a material risk of the EFLIC being unable to meet its obligations at some future time.
27. The report must:
- (a) be in the form of a written report explaining the causes of the failure or the material risk to the solvency of the EFLIC identified by the Committee; and
 - (b) outline a plan and timeframe for rectifying the failure or mitigating the risk of insolvency.
28. APRA would expect the Committee to provide a copy of the report to the Board.