



Prudential Standard CPS 520

Fit and Proper

Objective and key requirements of this Prudential Standard

The ultimate responsibility for ensuring the fitness and propriety of the responsible persons of an APRA-regulated entity rests with the Board of directors or equivalent.

Persons who are responsible for the management and oversight of an APRA-regulated entity need to have appropriate skills, experience and knowledge and act with honesty and integrity. These skills and qualities strengthen the protection afforded to depositors, policyholders and/or other stakeholders. To this end, APRA-regulated entities need to prudently manage the risk that persons in positions of responsibility might not be fit and proper.

This Prudential Standard sets out minimum requirements for APRA-regulated entities in determining the fitness and propriety of individuals to hold positions of responsibility.

The key requirements of this Prudential Standard include that:

- an APRA-regulated entity must have and implement a Fit and Proper Policy that meets the requirements of this Prudential Standard;
- the fitness and propriety of a responsible person must generally be assessed prior to initial appointment and then re-assessed annually;
- an APRA-regulated entity must take all prudent steps to ensure that a person is not appointed to, or does not continue to hold, a responsible person position for which they are not fit and proper;
- additional requirements must be met for certain auditors and Appointed and Reviewing Actuaries; and
- certain information must be provided to APRA regarding responsible persons and the APRA-regulated entity's assessment of their fitness and propriety.

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 61 and 62, APRA-regulated entities must comply with this Prudential Standard according to its terms.
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

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

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 Category C insurer, as a reference to the senior officer outside Australia with delegated authority from the Board (**senior officer outside Australia**) as defined in *Prudential Standard CPS 510 Governance (CPS 510)*;
 - (b) in the case of an EFLIC, as a reference to the **Compliance Committee** with delegated authority from the Board as defined in CPS 510²; 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 or authorised banking NOHC;
 - (b) **Appointed Auditor** has the meaning given in GPS 001, in relation to a general insurer;
 - (c) **responsible auditor** has the meaning given in GPS 001, in relation to an authorised insurance NOHC;
 - (d) **Auditor** has the meaning given in *Prudential Standard LPS 310 Audit and Related Matters (LPS 310)*, in relation to a life company; and
 - (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 insurer³ and the meaning given in *Prudential Standard LPS 320 Actuarial and Related Matters (LPS 320)*, in relation to a life company.⁴

² Compliance Committee has the same meaning as in subsection 16ZF(1) of the Life Insurance Act.

³ 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.

⁴ 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.

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) **director** has the meaning given in section 9 of the *Corporations Act 2001* (**Corporations Act**); and
 - (c) **subsidiary** has the meaning given in section 9 of the Corporations Act.
10. This Prudential Standard specifies:
- (a) the senior management responsibilities for the purposes of the definition of senior manager for the purposes of the Prudential Acts⁵;
 - (b) the fitness and propriety criteria for auditors and Appointed Actuaries for the purposes of the Prudential Acts⁶;
 - (c) the fitness and propriety criteria for certain responsible persons for the purposes of the Prudential Acts⁷; and
 - (d) the fitness and propriety criteria for the purposes of paragraph 21(3)(b) of the Banking Act.

Fit and Proper Policy

11. An APRA-regulated entity must have in place mechanisms to manage the risks that persons acting in **responsible person positions**⁸ who are not fit and proper pose to its business and financial standing. To this end, the APRA-regulated entity must have a documented policy relating to the fitness and propriety of its responsible persons that meets the requirements of this Prudential Standard (**Fit and Proper Policy**).
12. The Fit and Proper Policy must be approved by the Board.
13. An APRA-regulated entity must take all reasonable steps to ensure that each responsible person is aware of, and understands, the provisions of its Fit and Proper Policy.

⁵ Refer to subsection 5(1) of the Banking Act in relation to ADIs and authorised banking NOHCs, subsection 3(1) of the Insurance Act in relation to general insurers and authorised insurance NOHCs and section 8 of the Life Insurance Act in relation to life companies and registered life NOHCs.

⁶ Refer to paragraph 17(2)(b) of the Banking Act in relation to ADIs and authorised banking NOHCs, paragraphs 39(3)(a) and 43(2)(c), and subparagraph 44(1)(a)(iii), of the Insurance Act in relation to general insurers and authorised insurance NOHCs and section 84 and subsection 93(3) of the Life Insurance Act in relation to life companies and registered life NOHCs.

⁷ Refer to paragraph 23(2)(b) of the Banking Act in relation to ADIs and authorised banking NOHCs, paragraphs 25A(3)(b), 27(2)(b), 43(2)(b), 44(3)(b) and 49R(3)(b), and subparagraph 44(1)(a)(ii), of the Insurance Act in relation to general insurers and authorised insurance NOHCs and section 245A(3)(b) of the Life Insurance Act in relation to life companies and registered life NOHCs.

⁸ Refer to paragraph 20 for the definition of responsible person position.

14. The Fit and Proper Policy must form part of an APRA-regulated entity's risk management system or risk management framework.⁹
15. Nothing in this Prudential Standard prevents an APRA-regulated entity from adopting and applying a group Fit and Proper Policy that is also used by a related body corporate¹⁰, provided that the policy has been approved by the Board in accordance with paragraph 12 and meets the requirements of this Prudential Standard.

Responsible persons

16. A **responsible person** of an APRA-regulated entity is:
 - (a) for an ADI (other than a foreign ADI) or an authorised banking NOHC, a person defined in Attachment A;
 - (b) for a foreign ADI, a person defined in Attachment B;
 - (c) for a general insurer (other than a Category C insurer) or an authorised insurance NOHC, a person defined in Attachment C;
 - (d) for a Category C insurer, a person defined in Attachment D;
 - (e) for a life company (other than an EFLIC) or a registered life NOHC, a person defined in Attachment E; and
 - (f) for an EFLIC, a person defined in Attachment F.
17. A person need not be an employee of an APRA-regulated entity to be a responsible person if they are within the definitions in paragraph 16 and Attachments A to F inclusive. In some circumstances a consultant, contractor or employee of a subsidiary or otherwise related company may be a responsible person.
18. In addition to persons who meet the definition of a responsible person, APRA may determine that a person is a responsible person if APRA is satisfied that the person plays a significant role in the management or control of the APRA-regulated entity, or that the person's activities may materially impact on prudential matters. The determination will be given in writing to the APRA-regulated entity.
19. APRA may determine that a person is not a responsible person in relation to a particular position, responsibility or activity if APRA is satisfied that the person does not play a significant role in the management or control of the APRA-regulated entity or that the person's activities may not materially impact on prudential matters. The determination will be given in writing to the APRA-regulated entity.

⁹ As required by APS 310, *Prudential Standard GPS 220 Risk Management*, *Prudential Standard GPS 221 Risk Management: Level 2 Insurance Groups* and *Prudential Standard LPS 220 Risk Management*.

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

20. **Responsible person position** means the responsibilities or activities of a responsible person that would lead to the person being a responsible person under the definitions in paragraph 16 and Attachments A to F inclusive.

Senior managers

21. Senior manager in relation to an APRA-regulated entity means a person (other than a director of that APRA-regulated entity) who:
- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the APRA-regulated entity;
 - (b) has the capacity to affect significantly the APRA-regulated entity's financial standing¹¹;
 - (c) may materially affect the whole, or a substantial part, of the business of the APRA-regulated entity or its financial standing through their responsibility for:
 - (i) enforcing policies and implementing strategies approved by the Board of the APRA-regulated entity;
 - (ii) the development and implementation of systems used to identify, assess, manage or monitor risks in relation to the business of the APRA-regulated entity; or
 - (iii) monitoring the appropriateness, adequacy and effectiveness of risk management systems; or
 - (d) for a foreign ADI or Category C insurer, is nominated as the senior officer outside Australia to the extent that the person meets the definition in subparagraphs (a), (b) or (c).
22. For the purposes of the definition of senior manager in the Prudential Acts¹², the responsibilities set out in paragraph 21, when exercised for an APRA-regulated entity, are senior management responsibilities (except where carried out by a director).
23. Senior manager, in relation to a corporate agent of a general insurer, means a person (other than a director of the corporate agent) who, when acting for the corporate agent:
- (a) makes, or participates in making, decisions that affect the whole, or a substantial part, of the business of the Category C insurer represented by the corporate agent;

¹¹ Paragraphs 21(a) and (b) are intended to be interpreted consistently with the definition of 'senior manager' (in relation to a corporation) in section 9 of the Corporations Act.

¹² Refer to subsection 5(1) of the Banking Act, subsection 3(1) of the Insurance Act and section 8 of the Life Insurance Act

- (b) has the capacity to affect significantly the Category C insurer's financial standing¹³; or
 - (c) may materially affect the whole, or a substantial part, of the business of the Category C insurer or its financial standing through:
 - (i) enforcing policies and implementing strategies approved by the Board of the Category C insurer;
 - (ii) the development and implementation of systems that identify, assess, manage or monitor risks in relation to the business of the Category C insurer; or
 - (iii) monitoring the appropriateness, adequacy and effectiveness of risk management systems.
24. For the purposes of the definition of senior manager in subsection 3(1) of the Insurance Act, the responsibilities set out in paragraph 23, when exercised for a corporate agent in respect of an APRA-regulated entity, are senior management responsibilities (except when carried out by a director of the corporate agent).

Criteria to determine if a responsible person is fit and proper

25. An APRA-regulated entity must clearly define and document the competencies required for each responsible person position.
26. For the purposes of the Prudential Acts and for the purposes of determining whether a person is fit and proper to hold a responsible person position, the criteria are whether¹⁴:
- (a) it would be prudent for an APRA-regulated entity to conclude that the person possesses the competence, character, diligence, honesty, integrity and judgement to perform properly the duties of the responsible person position;
 - (b) the person is not disqualified under an applicable Prudential Act from holding the position;
 - (c) the person either:
 - (i) has no conflict of interest in performing the duties of the responsible person position; or

¹³ Paragraphs 23(a) and (b) are intended to be interpreted consistently with the definition of 'senior manager' (in relation to a corporation) in section 9 of the Corporations Act.

¹⁴ Refer to paragraphs 21(3)(b) and 23(2)(b) of the Banking Act, paragraphs 25A(3)(b), 27(2)(b), 43(2)(b) and 44(3)(b) and subparagraph 44(1)(a)(ii) of the Insurance Act and paragraph 245A(3)(b) of the Life Insurance Act. Paragraphs 28 and 30 to 34 provide additional criteria for fitness and propriety of an auditor, Appointed Actuary or a Reviewing Actuary of a general insurer (as applicable) and the eligibility criteria that must be met before an auditor or Appointed Actuary may be appointed (other than a criterion that APRA has determined under paragraphs 29 or 34 does not apply in relation to a particular case).

- (ii) if the person has a conflict of interest, it would be prudent for an APRA-regulated entity to conclude that the conflict will not create a material risk that the person will fail to perform properly the duties of the position; and
- (d) for a senior manager of a corporate agent of a general insurer, the person is ordinarily resident in Australia.

Additional criteria applying to auditors¹⁵

- 27. The criteria for fitness and propriety of an auditor for the purposes of the Prudential Acts are those contained in paragraphs 26 and 28.¹⁶
- 28. The additional criteria which must be met for an auditor to be fit and proper are that the person:
 - (a) is a registered company auditor under the Corporations Act;
 - (b) has a minimum of five years' relevant experience in the audit of the industry within which they are working;
 - (c) has experience relating to ADIs, general insurers or life companies (as applicable) that is sufficiently relevant and recent to provide reasonable assurance that the person is familiar with current issues in the audit of that type of APRA-regulated entity;
 - (d) for an Appointed Auditor of a general insurer¹⁷ or responsible auditor of an authorised insurance NOHC, is not:
 - (i) for the Appointed Auditor of a general insurer, the Appointed Actuary of the general insurer or, for the responsible auditor of an authorised insurance NOHC, the Appointed Actuary of a general insurer that is a subsidiary of the authorised insurance NOHC;
 - (ii) an employee or director of a body corporate, statutory body, partnership, trust, or commercial or professional enterprise of any kind of which the Appointed Actuary is an employee or director¹⁸; or
 - (iii) a partner of that Appointed Actuary;

¹⁵ Refer to CPS 510 for the requirement for auditors to be independent.

¹⁶ Refer to paragraphs 17(2)(b) and 21(3)(b) of the Banking Act in relation to an auditor or responsible auditor; paragraphs 25A(3)(b), 27(2)(b), 43(2)(b) and 44(3)(b), and subparagraph 44(1)(a)(ii) of the Insurance Act in relation to an appointed auditor or responsible auditor and paragraph 245A(3)(b) of the Life Insurance Act in relation to an Auditor or responsible auditor.

¹⁷ For paragraphs 28 to 35 inclusive, refer also to *Prudential Standard GPS 310 Audit and Actuarial Reporting and Valuation* and *Prudential Standard GPS 311 Audit and Actuarial Reporting and Valuation: Level 2 Insurance Groups*.

¹⁸ Refer to CPS 510 for a similar restriction on the Appointed Auditor and Appointed Actuary of a general insurer being from the same entity.

- (e) for an Auditor of a life company or responsible auditor of a registered life NOHC, is not:
 - (i) the Appointed Actuary of the life company or of a life company that is a subsidiary of the registered life NOHC;
 - (ii) an employee or director of a body corporate, statutory body, partnership, trust, or commercial or professional enterprise of any kind of which the Appointed Actuary is an employee or director; or
 - (iii) a partner of that Appointed Actuary;
 - (f) is a member of a recognised professional body; and
 - (g) is ordinarily resident in Australia.
29. The criteria in paragraph 28 do not apply if the following conditions are met:
- (a) the APRA-regulated entity reasonably considers that there are exceptional circumstances;
 - (b) the APRA-regulated entity has promptly notified APRA of which eligibility criteria are not satisfied and of the exceptional circumstances as to why they do not apply; and
 - (c) APRA has notified the APRA-regulated entity in writing that APRA has no objections to the person holding the position in question.

Additional criteria applying to Appointed Actuaries¹⁹ and Reviewing Actuaries

30. The criteria for fitness and propriety of an Appointed Actuary, or of a Reviewing Actuary of a general insurer, for the purposes of the Prudential Acts are those contained in paragraphs 26 and 31 to 33 inclusive.²⁰
31. The additional criteria that must be met for a person to be fit and proper to act as an Appointed Actuary, or as a Reviewing Actuary of a general insurer, are that the person:
- (a) has appropriate formal qualifications;
 - (b) is not the Chief Executive Officer nor a director of the general insurer or life company, as applicable, or of a related body corporate (except when that related body corporate is a subsidiary of the general insurer or life company, as applicable);

¹⁹ Refer to LPS 320 for eligibility criteria for appointed actuaries as required by section 93 of the Life Insurance Act.

²⁰ Refer to paragraphs 17(2)(b) and 21(3)(b) of the Banking Act in relation to an auditor or responsible auditor, paragraphs 25A(3)(b), 27(2)(b), 43(2)(b) and 44(3)(b), and subparagraph 44(1)(a)(ii) of the Insurance Act in relation to an appointed auditor or responsible auditor and paragraph 245A(3)(b) of the Life Insurance Act in relation to an Auditor or responsible auditor.

- (c) is not:
 - (i) the Appointed Auditor or Auditor, as applicable;
 - (ii) for an Appointed Actuary, an employee or director of an entity of which the Appointed Auditor or Auditor is an employee or director; or
 - (iii) for an Appointed Actuary, a partner of the Appointed Auditor or Auditor, as applicable;
 - (d) has a minimum of five years' relevant experience in the provision of actuarial services to entities carrying on general insurance business or life insurance business, as applicable, and has experience relating to general insurers or life companies, as applicable, that is sufficiently relevant and recent to provide reasonable assurance that the person is familiar with current issues in the provision of actuarial services to such entities;
 - (e) is a Fellow or Accredited Member²¹ of the Institute of Actuaries of Australia; and
 - (f) is ordinarily resident in Australia.
32. In addition to the criteria specified in paragraph 31, a Reviewing Actuary of a general insurer must not be an employee of the insurer.
33. In addition to the criteria specified in paragraph 30, where a general insurer's Appointed Actuary is not an employee of the insurer, the Reviewing Actuary must not be:
- (a) an employee or director of the same firm or company as the Appointed Actuary, or from a related firm or related company; or
 - (b) a partner of the same firm or related firm as the Appointed Actuary.

A Reviewing Actuary may, however, be from the same firm or company as the general insurer's Appointed Auditor or from a related firm or related company.

34. The criterion in paragraph 31(f) does not apply to the Appointed Actuary of a Category B insurer and a Category C insurer if:
- (a) the Appointed Actuary is responsible for providing actuarial services to the corporate group, as a whole, to which the insurer belongs; and
 - (b) the Appointed Actuary meets the criteria in paragraphs 31(a) to (e) inclusive.²²

²¹ 'Fellow' and 'Accredited Member' as defined by the Institute of Actuaries of Australia.

²² Note that, by application of paragraphs 30 to 32, the Reviewing Actuary of the general insurer must meet the criteria specified in those paragraphs, including that the Reviewing Actuary is a Fellow or Accredited Member of the Institute of Actuaries of Australia and ordinarily resident in Australia.

35. The criteria in paragraph 30 to 34 do not apply while:
- (a) the APRA-regulated entity reasonably considers that there are exceptional circumstances;
 - (b) the APRA-regulated entity has promptly notified APRA of which eligibility criteria are not satisfied and of the exceptional circumstances; and
 - (c) APRA has notified the APRA-regulated entity in writing that APRA has no objections to the person holding the position.

Process for assessment of fitness and propriety

36. The Fit and Proper Policy must include the processes to be undertaken in assessing whether a person is fit and proper for a responsible person position (**fit and proper assessment**). The processes must include details of:
- (a) a statement of who will conduct fit and proper assessments on behalf of the APRA-regulated entity;
 - (b) what information will be obtained and how it will be obtained;
 - (c) the matters that will be considered before determining if a person is fit and proper for a responsible person position; and
 - (d) the decision-making processes that will be followed.
37. The Fit and Proper Policy must specify the actions to be taken where a person is assessed as being not fit and proper.
38. The Fit and Proper Policy must provide that a copy of the Policy is to be given to:
- (a) any candidate for election as a director as soon as possible after the candidate is nominated; and
 - (b) any other person before an assessment of their fitness and propriety is conducted.
39. The Fit and Proper Policy must require a fit and proper assessment to be completed before a person becomes the holder of a responsible person position unless they hold the position:
- (a) because of a resolution of members of the APRA-regulated entity; or
 - (b) because APRA has determined that the person is a responsible person under paragraph 18.

In such cases, the Fit and Proper Policy must require an assessment to be completed within 28 days of the person becoming the holder of the responsible person position.

40. Interim appointment to a responsible person position may be made without a full fit and proper assessment for a period of up to 90 days (or longer with APRA's written agreement) including any prior period of interim appointment. Prior to making such an appointment, reasonable steps must be taken, as specified in the Fit and Proper Policy, to assess the fitness and propriety of the person. The APRA-regulated entity must complete a full fit and proper assessment prior to appointing the person to the responsible person position on a permanent basis.
41. The Fit and Proper Policy must require annual fit and proper assessments (or as close to annual as is practicable) for each responsible person position.
42. When an assessment is conducted, an APRA-regulated entity must make all reasonable enquiries²³ to obtain information, including collecting sensitive information as defined in the *Privacy Act 1988*, that it believes may be relevant to an assessment of whether the person is fit and proper to hold a responsible person position.
43. Where a responsible person has been assessed as fit and proper, but the APRA-regulated entity subsequently becomes aware of information that may result in the person being assessed as not fit and proper, the APRA-regulated entity must take all reasonable steps, including collecting sensitive information as defined in the *Privacy Act 1988* if relevant, to ensure that it can prudently conclude that no material fitness and propriety concern exists. Where a concern exists, a full fit and proper assessment must be conducted.
44. The Fit and Proper Policy must contain adequate provisions:
 - (a) to encourage any person to disclose information that may be relevant to a fit and proper assessment to the APRA-regulated entity or to APRA;
 - (b) to enable the disclosure to APRA of any information the APRA-regulated entity is required to provide under this Prudential Standard; and
 - (c) for giving or obtaining any consents required for the collection and use of any information:
 - (i) by the APRA-regulated entity to comply with the Fit and Proper Policy or this Prudential Standard; and
 - (ii) by APRA for its powers and functions under the Prudential Acts.
45. The Fit and Proper Policy must require that sufficient documentation for each fit and proper assessment is retained to demonstrate the fitness and propriety of the APRA-regulated entity's current, and recently past, responsible persons.

²³ Including following the processes described in the Fit and Proper Policy under subparagraph 36(b).

Whistleblowing²⁴

46. The Fit and Proper Policy must include adequate provisions to allow whistleblowing if a person believes that a responsible person does not meet the APRA-regulated entity's fit and proper criteria. The Fit and Proper Policy must ensure that the APRA-regulated entity and its subsidiaries consent to the person notifying either the person responsible for conducting fit and proper assessments or APRA of that belief and the reasons for it.
47. The Fit and Proper Policy must include adequate provisions to allow persons who believe that the APRA-regulated entity has not complied with this Prudential Standard to notify APRA of that belief and the reasons for it.
48. The Fit and Proper Policy must provide that the APRA-regulated entity and its subsidiaries consent to any person who held a responsible person position disclosing information or providing documents to APRA relating to their reasons for resignation, retirement or removal.
49. An APRA-regulated entity must not, and must ensure that its subsidiaries do not, constrain, impede, restrict or discourage, whether by confidentiality clauses, policies or other means, any person from disclosing information or providing documents to APRA about matters referred to in paragraphs 46, 47 or 48.²⁵
50. The Fit and Proper Policy must require that any provisions of the Policy, and of the Prudential Acts, encouraging whistleblowing are adequately communicated to directors and employees of the APRA-regulated entity and its subsidiaries who are likely to have information relevant to fit and proper assessments.
51. APRA does not require that an APRA-regulated entity impose an obligation on any person to make the disclosures under paragraphs 46, 47 or 48. However, the Fit and Proper Policy must require that all reasonable steps be taken to ensure that no person making such disclosures in good faith is subject to, or threatened with, a detriment because of any notification in purported compliance with the requirements of the Fit and Proper Policy.

When a responsible person is not fit and proper

52. Where an APRA-regulated entity has assessed that a person is not fit and proper, or a reasonable person in the APRA-regulated entity's position would make that assessment, the APRA-regulated entity must take all steps it reasonably can to ensure that the person:²⁶
 - (a) is not appointed to; or

²⁴ 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, and Part 7, Division 5 of the Life Insurance Act, and the provisions in CPS 510 for not constraining persons from providing information.

²⁵ Refer also to section 52C of the Banking Act, section 38C of the Insurance Act and section 156C of the Life Insurance Act.

²⁶ Including the actions outlined in the Fit and Proper Policy in accordance with paragraph 36.

- (b) for an existing responsible person, does not continue to hold the responsible person position.

Informing APRA

- 53. An APRA-regulated entity must notify APRA of the following information for each responsible person:
 - (a) the person's full name;
 - (b) the person's date of birth (for identification purposes only);
 - (c) the person's position and main responsibilities; and
 - (d) a statement of whether the person has been assessed under the Fit and Proper Policy.
- 54. An APRA-regulated entity must ensure that the information provided under paragraph 53 remains correct for all of its responsible persons. It must provide revised information to APRA within 28 days of any change or new appointment.
- 55. An APRA-regulated entity must notify APRA within ten business days if it assesses that a responsible person is not fit and proper. If the person remains in the responsible person position, the notification must state the reason for this and the action that is being taken.
- 56. The information or notifications required by this Prudential Standard must be given in such form, if any, and by such procedures, if any, as APRA publishes on its website from time to time.
- 57. An APRA-regulated entity must take reasonable steps to:
 - (a) obtain any information and documentation that APRA asks of it; and
 - (b) provide that information to APRAto assist APRA in assessing the fitness and propriety of a person. This could include providing the Fit and Proper Policy to APRA on request.
- 58. APRA does not and will not require disclosure of spent convictions where precluded under Part VIIC of the *Crimes Act 1914*.

Commencement and transitional arrangements

- 59. This Prudential Standard commences on [date] (**effective date**).
- 60. Upon commencement of this Prudential Standard, the existing requirements contained in *Prudential Standard APS 520 Fit and Proper (APS 520)*, *Prudential Standard GPS 520 Fit and Proper (GPS 520)* and *Prudential Standard LPS 520 Fit and Proper (LPS 520)* will cease to have effect.

Adjustments and exclusions

61. 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.²⁷

Determinations made under previous prudential standards

62. 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 520 made on 23 June 2008;
- (b) GPS 520 made on 23 June 2008; and
- (c) LPS 520 made on 2 March 2010.

²⁷ 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 A**Responsible persons of authorised deposit-taking institutions and authorised banking NOHCs**

1. A responsible person of an ADI (other than a foreign ADI) or authorised banking NOHC is any person who is:
 - (a) a director of the APRA-regulated entity;
 - (b) a senior manager of the APRA-regulated entity;
 - (c) an appointed auditor who provides any report in relation to the ADI that is required to be prepared by an auditor under the Banking Act, Prudential Standards made under the Banking Act or Reporting Standards under the *Financial Sector (Collection of Data) Act 2001*;
 - (d) an appointed auditor who provides any report in relation to the authorised banking NOHC that is required to be prepared by an auditor under the Banking Act, Prudential Standards made under the Banking Act or Reporting Standards; or
 - (e) a person who performs activities for a subsidiary of the APRA-regulated entity where those activities could materially affect the whole, or a substantial part, of the business of the APRA-regulated entity or its financial standing, either directly or indirectly.
2. References to a subsidiary in subparagraph 1(e) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.

Attachment B**Responsible persons of foreign authorised deposit-taking institutions**

1. A responsible person of a foreign ADI is any person who is:
 - (a) a senior manager of the Australian operations of the foreign ADI who is, except in the case of the senior officer outside Australia referred to in paragraph 21(d) of this Prudential Standard, ordinarily resident in Australia;
 - (b) an appointed auditor of the foreign ADI; or
 - (c) a person who performs activities for a subsidiary of the foreign ADI that the foreign ADI controls as part of its Australian operations, where:
 - (i) those activities could materially affect the whole, or a substantial part, of the business of the Australian operations of the foreign ADI or its financial standing, either directly or indirectly; and
 - (ii) the person is ordinarily resident in Australia.
2. References to a subsidiary in subparagraph 1(c) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.

Attachment C**Responsible persons of general insurers and authorised insurance NOHCs**

1. A responsible person of a general insurer (other than a Category C insurer) or authorised insurance NOHC is any person who is:
 - (a) a director of the APRA-regulated entity;
 - (b) a senior manager of the APRA-regulated entity;
 - (c) for a general insurer, the Appointed Auditor;
 - (d) for a general insurer, the Appointed Actuary and the Reviewing Actuary;
 - (e) a responsible auditor who provides any report in relation to the authorised insurance NOHC that is required to be prepared by an auditor under the Insurance Act, Prudential Standards made under the Insurance Act or Reporting Standards under the *Financial Sector (Collection of Data) Act 2001*; or
 - (f) a person who performs activities for a subsidiary of the APRA-regulated entity where those activities may materially affect the whole, or a substantial part, of the business of the APRA-regulated entity or its financial standing, either directly or indirectly.
2. References to a subsidiary in subparagraph 1(f) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.

Attachment D**Responsible persons of Category C insurers**

1. A responsible person of a Category C insurer is any person who is:
 - (a) a senior manager of the Category C insurer who is, except in the case of the senior officer outside Australia referred to in paragraph 21(d) of this Prudential Standard, ordinarily resident in Australia;
 - (b) the Category C insurer's agent in Australia where the agent in Australia is an individual²⁸;
 - (c) a director of the Category C insurer's agent in Australia where the agent in Australia is a corporate agent;
 - (d) a senior manager of the Category C insurer's agent in Australia where the agent in Australia is a corporate agent;
 - (e) the Appointed Auditor of the Category C insurer;
 - (f) the Appointed Actuary and the Reviewing Actuary of the Category C insurer; or
 - (g) a person who performs activities for a subsidiary of the Category C insurer that the Category C insurer controls as part of its Australian operations, where:
 - (i) those activities may materially affect the whole, or a substantial part, of the business of the Category C insurer or its financial standing, either directly or indirectly; and
 - (ii) the person is ordinarily resident in Australia.
2. References to a subsidiary in subparagraph 1(g) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.

²⁸ Note that 'agent in Australia' in this Prudential Standard includes a person appointed under subsection 118(2), (3) or (3A) of the Insurance Act to act as agent on a temporary basis.

Attachment E**Responsible persons of life companies and registered life NOHCs**

1. A responsible person of a life company (other than an EFLIC) or registered life NOHC is any person who is:
 - (a) a director of the APRA-regulated entity;
 - (b) a senior manager of the APRA-regulated entity;
 - (c) for a life company, the Auditor;
 - (d) for a life company, the Appointed Actuary;
 - (e) a responsible auditor who is required, in relation to a registered life NOHC, to prepare a report under the Life Insurance Act, Prudential Standards made under the Life Insurance Act or Reporting Standards under the *Financial Sector (Collection of Data) Act 2001*; or
 - (f) a person who performs activities for a subsidiary of the life company or registered life NOHC where those activities may materially affect the whole, or a substantial part, of the business of the life company or registered life NOHC or its financial standing, either directly or indirectly.
2. References to a subsidiary in subparagraph 1(f) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.

Attachment F**Responsible persons of eligible foreign life insurance companies**

1. A responsible person of an EFLIC is any person who is:
 - (a) a member of the Compliance Committee of the EFLIC;
 - (b) a senior manager of the Australian operations of the EFLIC who is ordinarily resident in Australia;
 - (c) the Auditor of the EFLIC;
 - (d) the Appointed Actuary of the EFLIC; or
 - (e) a person who performs activities for a subsidiary of the EFLIC that the EFLIC controls as part of its Australian operations, where:
 - (i) those activities may materially affect the whole, or a substantial part, of the business of the Australian operations of the EFLIC or its financial standing, either directly or indirectly; and
 - (ii) where the person is ordinarily resident in Australia.
2. References to a subsidiary in subparagraph 1(e) do not apply to a subsidiary that holds a registrable superannuation entity licence under the *Superannuation Industry (Supervision) Act 1993*.