



Prudential Standard CPS 510

Governance

Objectives and key requirements of this Prudential Standard

This Prudential Standard sets out minimum foundations for good governance of an APRA-regulated institution in the deposit-taking, general insurance and life insurance industries and of a Head of a group. Its objective is to ensure that an institution and group is managed soundly and prudently by a competent Board (or equivalent), which can make reasonable and impartial business judgements in the best interests of the institution and group and which duly considers the impact of its decisions on depositors and/or policyholders.

The ultimate responsibility for oversight of the sound and prudent management of an APRA-regulated institution rests with its board of directors (or equivalent). The ultimate responsibility for oversight of the sound and prudent management of a group lies with the Board of the Head of the group.

It is essential that an APRA-regulated institution and group 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 institution and group and helps to maintain public confidence in the institution and group.

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

The key requirements of this Prudential Standard for a locally incorporated APRA-regulated institution and a Head of a group are that:

- specific requirements with respect to Board size and composition are met;
- the chairperson of the Board of directors must be an independent director;
- the Board must have a policy on Board renewal and procedures for assessing Board performance;

- a Board Remuneration Committee must be established and the institution or group must have a Remuneration Policy that aligns remuneration and risk management; and
- a Board Audit Committee and a Board Risk Committee must be established.

Where an APRA-regulated institution is the Head of a group, this Prudential Standard requires that the group has in place governance arrangements appropriate to the nature and scale of the group's operations, and the provisions of this Prudential Standard are applied appropriately throughout the group, including in relation to institutions that are not APRA-regulated. In addition, where specified, the Head of a group must comply with the requirements on a group basis.

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.

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Authority

1. This Prudential Standard is made under:
 - (a) section 11AF of the *Banking Act 1959* (**Banking Act**);
 - (b) section 32 of the *Insurance Act 1973* (Insurance Act); and
 - (c) section 230A of the *Life Insurance Act 1995* (Life Insurance Act).

Application

2. This Prudential Standard applies to all ‘APRA-regulated institutions’,¹ defined as:
 - (a) all **authorised deposit taking institutions (ADIs)**, including **foreign ADIs**, and **non-operating holding companies** authorised under the Banking Act (authorised banking NOHCs);
 - (b) all **general insurers**, including **Category C insurers**, non-operating holding companies authorised under the Insurance Act (authorised insurance NOHCs) and **parent entities of Level 2 insurance groups**;
 - (c) all **life companies**, including **friendly societies** and **eligible foreign life insurance companies** (EFLICs), and non-operating holding companies registered under the Life Insurance Act (registered life NOHCs).
3. All APRA-regulated institutions have to comply with this Prudential Standard in its entirety, unless otherwise expressly indicated. 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 Australian branch operations of that institution.
4. Where an APRA-regulated institution is the ‘Head of a group’,² it must comply with a requirement of this Prudential Standard:
 - (a) in its capacity as an APRA-regulated institution;
 - (b) subject to paragraph 43, by ensuring that a requirement is applied appropriately throughout the group, including in relation to institutions that are not APRA-regulated; and
 - (c) on a group basis.

In applying the requirements of this Prudential Standard on a group basis, references in paragraphs 51 to 64, 66 to 72, 74 to 100 and 102 to 112 to an ‘APRA-

¹ Note, for the purposes of this Prudential Standard, an **RSE licensee** is not treated as an ‘APRA-regulated institution’. Refer to *Prudential Standard SPS 510 Governance* (SPS 510) for requirements relating to the governance of an RSE licensee.

² Where a Level 2 group operates within a Level 3 group, a requirement expressed as applying to a Head of a group is to be read as applying to the Level 3 Head.

regulated institution' should be read as 'Head of a group' and references to 'institution' should be read as 'group'.

5. This Prudential Standard commences on 1 July 2017.

Interpretation

6. Terms that are defined in *Prudential Standard 3PS 001 Definitions*, *Prudential Standard APS 001 Definitions* (APS 001), *Prudential Standard GPS 001 Definitions* (GPS 001) or *Prudential Standard LPS 001 Definitions* appear in bold the first time they are used in this Prudential Standard.

7. Where this Prudential Standard provides for APRA to exercise a power or discretion, this power or discretion is to be exercised in writing.

8. For the purposes of this Prudential Standard:

'group' means a Level 2 group or a **Level 3 group**, as relevant;

'Head of a group' means a Level 2 Head or **Level 3 Head**, as relevant;

'Level 2 group' means the entities that comprise:

- (a) **Level 2** as defined in APS 001; or
- (b) a Level 2 insurance group as defined in GPS 001;

'Level 2 Head' means:

- (a) where an ADI that is a member of a Level 2 group is not a **subsidiary** of an authorised banking NOHC or another ADI, that ADI;
- (b) where an ADI that is a member of a Level 2 group is a subsidiary of an authorised banking NOHC, that authorised banking NOHC; or
- (c) the parent entity of a Level 2 insurance group as defined in GPS 001;

9. For the purposes of this Prudential Standard, a reference to an 'auditor' is taken to be a reference to a person holding any of the following positions, unless otherwise specified:

- (a) '**Appointed auditor**' as defined in APS 001, in relation to an ADI (including a foreign ADI) or authorised banking NOHC;
- (b) '**Appointed Auditor**' as defined in GPS 001, in relation to a general insurer (including a Category C insurer);
- (c) 'Auditor' as defined in *Prudential Standard LPS 310 Audit and Related Matters* (LPS 310), in relation to a life company (including an EFLIC);
- (d) '**responsible auditor**' as defined in GPS 001, in relation to an authorised insurance NOHC and 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 made under the *Financial Sector (Collection of Data) Act 2001* (FSCODA); and

- (e) ‘Appointed Auditor’ as defined in *Prudential Standard 3PS 310 Audit and Related Matters* (3PS 310), in relation to a Level 3 Head.
10. This Prudential Standard sets out the minimum requirements that an APRA-regulated institution and the Head of a group must meet in the interests of promoting strong and effective governance.

Additional requirements of the Head of a group

11. The Head of a group must maintain governance arrangements for the group.
12. In meeting the requirements of this Prudential Standard on a group basis, the Head of a group must;
- (a) maintain a **Board**-approved group Remuneration Policy that meets the requirements of paragraphs 51 to 64 on a group basis; and
 - (b) maintain a group internal audit function that meets the requirements of paragraphs 90 and 91 on a group basis.
13. The Board of the Head of a group is ultimately responsible for oversight of the sound and prudent management of the group and must have the following committees for the group:
- (a) a group Board Remuneration Committee that meets the requirements of paragraphs 66 to 72;
 - (b) a group Board Audit Committee that meets the requirements of paragraphs 74 to 89 and that assists the Board by providing an objective non-executive review of the effectiveness of the group’s financial reporting and group risk management framework; and
 - (c) a group Board Risk Committee that meets the requirements of paragraphs 102 to 109 and that assists the Board by providing an objective non-executive oversight of the implementation and operation of the group **risk management framework**.
14. The Board of a Head of a group must **ensure** that **directors** and **senior management** of the group, collectively, have the full range of skills needed for the effective oversight and prudent management, respectively, of the group. This does not lessen the responsibility of each of the individual Boards of the institutions within the group for their institutions.
15. Where an entity within the group that is not an APRA-regulated institution engages in business activities that may pose a material risk to the group, the Head

of the group must ensure that such business activities are undertaken in a way that complies with the group governance arrangements.³

A. Governance arrangements – locally incorporated APRA-regulated institutions

The Board and senior management

16. The Board of directors (the Board) of a locally-incorporated APRA-regulated institution is ultimately responsible for oversight of the sound and prudent management of that institution.
17. The Board must have a formal charter that sets out the roles and responsibilities of the Board.
18. The Board, 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 mechanisms in place for monitoring the exercise of delegated authority. The Board cannot abrogate its responsibility for oversight of the functions delegated to management.
19. The Board must ensure that directors and senior management of the institution collectively have the full range of skills needed for the effective and prudent operation of the institution, and that each director has skills that allow them to make an effective contribution to Board deliberations and processes. This includes the requirement for directors, collectively, to have the necessary skills, knowledge and experience to understand the risks of the institution, including its legal and prudential obligations, and to ensure that the institution is managed in an appropriate way taking into account these risks. This does not preclude the Board from supplementing its skills and knowledge by engaging external consultants and experts.
20. Senior management of a locally incorporated APRA-regulated institution, with responsibilities relating to the business in Australia, must be ordinarily resident in Australia.
21. Directors and senior management of a locally incorporated APRA-regulated institution must be available to meet with APRA on request.
22. The Board must provide the auditor and the **Appointed Actuary** of the institution, as relevant, with the opportunity to raise matters directly with the Board.

Independence

23. 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

³ This paragraph does not override any requirements in SPS 510 applying to an RSE licensee.

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.

24. If the Board of a locally incorporated APRA-regulated institution is in doubt about a director's independence for the purposes of this Prudential Standard, the APRA-regulated institution may refer the matter to APRA for guidance.

Definition of non-executive director

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

Board composition

26. The Board of a locally incorporated APRA-regulated institution must have a minimum of five directors at all times.
27. The Board must have a majority of independent directors at all times. For a locally incorporated APRA-regulated institution that is a subsidiary⁴ of another APRA-regulated institution or overseas equivalent,⁵ exceptions may apply as set out at paragraphs 37 to 39. For a locally incorporated APRA-regulated institution that is a subsidiary of a parent company that is not prudentially regulated, exceptions may apply as set out at paragraph 40.
28. The chairperson of the Board must be an independent director of the APRA-regulated institution.
29. A majority of directors present and eligible to vote at all Board meetings must be non-executive directors.
30. The chairperson of the Board cannot have been the Chief Executive Officer (CEO) of the APRA-regulated institution 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.
31. The chairperson must be available to meet with APRA on request.
32. For a locally owned and incorporated APRA-regulated institution, a majority of directors must be ordinarily resident in Australia.

⁴ 'Subsidiary' means a subsidiary within the meaning of the Corporations Act.

⁵ An 'overseas equivalent' is an entity which is not authorised in Australia but is authorised and subject to prudential regulation in a foreign country.

33. For a foreign-owned, locally incorporated APRA-regulated institution, at least two of the directors must be ordinarily resident in Australia, at least one of whom must also be independent.

Board representation

34. Board representation must be consistent with a locally incorporated APRA-regulated institution's shareholding. Where a shareholding constitutes not more than 15 per cent of the APRA-regulated institution'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* (Financial Sector (Shareholdings) Act). That definition is to be applied for the purposes of this Prudential Standard as if subparagraph (1)(l) of that definition were omitted.
35. Where an individual shareholding is greater than 15 per cent, as approved under the Financial Sector (Shareholdings) Act, the Board representation of that shareholding may be greater than allowed in paragraph 34, although it must still be broadly proportionate to the shareholding concerned.⁶
36. For a locally incorporated ADI that operates as a special service provider, the ADI may apply to APRA for approval for alternative Board composition arrangements that meet 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.

Locally incorporated APRA-regulated institutions that are subsidiaries of other APRA-regulated institutions or overseas equivalents

37. For a locally incorporated APRA-regulated institution that is a subsidiary of another APRA-regulated institution or an overseas equivalent, the Board must have a majority of non-executive directors, but these non-executive directors need not all be independent.
38. An institution to which paragraph 37 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 institution will be required to have at least three independent directors, in addition to an independent chairperson.
39. For the purposes of meeting the requirements in paragraph 38, 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 institution.

⁶ Note that, where the proportionate shareholding does not equate to a whole number, it may be rounded to the nearest whole number.

Subsidiaries of a parent that is not prudentially regulated

40. For a locally incorporated APRA-regulated institution that is a subsidiary of another entity not covered by the arrangements in paragraphs 37 to 39 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 institution.

Joint ventures

41. For the purposes of this Prudential Standard, a locally incorporated APRA-regulated institution 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 37 to 39 are not available to joint ventures.

APRA-regulated institutions that are part of a group or any other corporate group

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

Entities that are part of a group that are not APRA-regulated institutions

43. The board composition and representation requirements in paragraphs 26 to 36 that apply to a locally incorporated APRA-regulated institution do not apply to an entity within the group that is not an APRA-regulated institution.⁷

Board performance assessment

44. The Board of a locally incorporated APRA-regulated institution 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

45. The Board of a locally incorporated APRA-regulated institution 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 that could, or could reasonably be perceived to, materially interfere with their ability to act in the best interests of the institution. The policy must include the process

⁷ This paragraph does not override any board composition and representation requirements applying to an RSE licensee in SPS 510.

for appointing and removing directors, including the factors that will determine when an existing director will be re-appointed.

B. Governance arrangements – foreign ADIs, Category C insurers and EFLICs

46. As in the case of locally incorporated APRA-regulated institutions, 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 (**senior officer outside Australia**) who will be responsible for overseeing the Australian branch operation.
47. For a foreign ADI or Category C insurer, there must also be a senior manager⁸ in Australia responsible for the local operation who is ordinarily resident in Australia. The senior management must be available to meet with APRA on request.
48. 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.⁹
49. The ultimate responsibility for the safety and soundness of an EFLIC resides with its Board. An EFLIC must establish a **Compliance Committee**¹⁰ to assist the Board in meeting its responsibilities under the Life Insurance Act. The requirements for the composition of the Compliance Committee are detailed in Attachment B. The senior management of an EFLIC must be available to meet with APRA on request.
50. The senior officer outside Australia or Compliance Committee of an EFLIC, as relevant, must provide the external auditor of the APRA-regulated institution with the opportunity to raise matters directly with the senior officer outside Australia or the Compliance Committee, as relevant.

⁸ For foreign ADIs, 'senior manager' has the same meaning as in 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.

⁹ Note that, by virtue of paragraph 118(6)(a) of the Insurance Act, an individual agent in Australia must be resident in Australia.

¹⁰ Compliance Committee has the same meaning as in subsection 16ZF(1) of the Life Insurance Act.

C. Remuneration

Remuneration policy

51. An APRA-regulated institution must maintain a documented Remuneration Policy for the institution. The Remuneration Policy must outline the remuneration objectives and the structure of the remuneration arrangements, including, but not limited to, the performance-based components of remuneration.
52. The institution's Remuneration Policy must be approved by the Board of the APRA-regulated institution, the senior officer outside Australia or the Compliance Committee, as relevant.
53. 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, regardless of where, or from whom, the remuneration is sourced.
54. 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 institution's long-term financial soundness; and
 - (b) the risk management framework of the institution.
55. 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.
56. The Remuneration Policy must provide for the Board of the APRA-regulated institution, 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 relevant persons or classes of persons, if such adjustments are necessary to:
 - (a) protect the financial soundness of the institution; or
 - (b) respond to significant unexpected or unintended consequences that were not foreseen by the institution's Board Remuneration Committee, the senior officer outside Australia or the Compliance Committee, as relevant.

57. 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* (CPS 520), excluding:
 - (i) non-executive directors;
 - (ii) auditors described in paragraphs 9(a) to (e) of this Prudential Standard;
 - (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 institution.

A person will be included within one of the above categories if that person is: employed directly by the APRA-regulated institution; retained directly by the APRA-regulated institution 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 institution,¹¹ or, subject to paragraph 58, an entity that is not a related body corporate of that APRA-regulated institution.

58. The Remuneration Policy must cover a service contract between an APRA-regulated institution and a body that is not a related body corporate of the APRA-regulated institution, if:
- (a) the primary role of the body is to provide risk management, compliance, internal audit, financial control or actuarial control services to the institution; 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 institution and, under the services contract with the APRA-regulated

¹¹ Related body corporate has the meaning given in section 50 of the Corporations Act.

institution, 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:

- (c) the institution'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
 - (d) oversight of this risk has been delegated to a Board Committee of the APRA-regulated institution, the senior officer outside Australia or the Compliance Committee, as relevant.
59. APRA may determine that an individual or class of individuals must be covered by the institution's Remuneration Policy.
60. The Remuneration Policy must prohibit persons covered by paragraph 57(a) of this Prudential Standard 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.
61. 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.
62. Nothing in this Prudential Standard prevents an APRA-regulated institution from adopting and applying a group Remuneration Policy that is also used by a related body corporate provided that the policy has been approved by the Board of the APRA-regulated institution, the senior officer outside Australia or the Compliance Committee, as relevant, in accordance with paragraph 52 and meets the requirements of this Prudential Standard.¹²
63. The Remuneration Policy must form part of an institution's risk management framework.
64. The Remuneration Policy of an institution must be provided to APRA on request.

Board Remuneration Committee

65. A locally incorporated APRA-regulated institution must, unless otherwise approved by APRA, have a Board Remuneration Committee that complies with the requirements of this Prudential Standard.
66. The Board Remuneration Committee must have at least three members. All members of the Committee must be non-executive directors of the APRA-

¹² For the avoidance of doubt, paragraph 42 of this Prudential Standard applies to foreign ADIs, Category C insurers and EFLICs for the purpose of group Remuneration Policies.

regulated institution. 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 institution.

67. The Board Remuneration Committee must have a written charter and terms of reference that outline the Committee's roles, responsibilities and terms of operation. The Remuneration Committee must be provided with the powers necessary to enable it to perform its functions.
68. 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 institution 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 68(b)).
69. The Board Remuneration Committee of the institution, 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.
70. Where a locally incorporated APRA-regulated institution is part of a Level 2 group, Level 3 group or other corporate group, the Board of the APRA-regulated institution may use a group Board Remuneration Committee in order to meet the requirements of paragraph 65 and 66 of this Prudential Standard, provided that the other requirements set out in this Prudential Standard are met, all members of the group Board Remuneration Committee are non-executive directors of the Head of the group and the Board of the APRA-regulated institution has unfettered access to the group Board Remuneration Committee.
71. Members of the Board Remuneration Committee must be available to meet with APRA on request.
72. For foreign ADIs and Category C insurers, the senior officer outside Australia, 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 72(b)).

D. Audit arrangements

Board Audit Committee

- 73. An APRA-regulated institution (excluding foreign ADIs and Category C insurers but including EFLICs) must have a Board Audit Committee, which assists the Board by providing an objective non-executive review of the effectiveness of the institution's financial reporting and risk management framework.
- 74. The Board Audit Committee must have sufficient powers to enable it to obtain all information necessary for the performance of its functions.
- 75. The Board Audit Committee must have at least three members. All members of the Committee must be non-executive directors of the APRA-regulated institution. A majority of the members of the Committee must be independent.
- 76. The chairperson of the Board Audit Committee must be an independent director of the APRA-regulated institution.
- 77. The chairperson of the Board may be a member of the Board Audit Committee, but may not chair the Committee.
- 78. The Board Audit Committee must have a written charter that outlines its roles, responsibilities and terms of operation. The responsibilities of the Committee must include 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 and removal of that institution's auditor and Head of Internal Audit.

79. The Board Audit Committee is required to provide prior endorsement for the appointment or removal of the institution's auditor and Head of Internal Audit. If the auditor or Head of Internal Audit is removed from their position, the reasons for removal must be discussed with APRA as soon as practicable, and no more than 10 **business days**, after the Committee's endorsement is agreed upon.
80. 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.
81. For a foreign ADI or a Category C insurer, the assessment referred to in paragraph 80 is the responsibility of the senior officer outside Australia, and for an EFLIC, it is the responsibility of the Compliance Committee.
82. 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 institution. It must also regularly review the findings of audits, and ensure that issues are being managed and rectified in an appropriate and timely manner.
83. The Board Audit Committee must ensure the adequacy and independence of both the internal and external audit functions.
84. 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.
85. The Board Audit Committee must ensure that the APRA-regulated institution maintains policies and procedures for employees of the institution to submit, confidentially, information about accounting, internal control, compliance, audit, and other matters about which the employee has concerns. The Committee must also ensure that the APRA-regulated institution has a process for ensuring employees are aware of these policies and for dealing with matters raised by employees under these policies.
86. Members of the Board Audit Committee must be available to meet with APRA on request.
87. The Board Audit Committee must invite the auditor and the Appointed Actuary, as applicable, to meetings of the Committee.
88. The internal auditor must have a reporting line and unfettered access to the Board Audit Committee.

¹³ *APES 110 Code of Ethics for Professional Accountants* was issued by the Accounting Professional and Ethical Standards Board in December 2010.

89. 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

90. An APRA-regulated institution must have an independent and adequately resourced internal audit function for the institution. If an APRA-regulated institution 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 for an institution where APRA is satisfied that they will achieve the same objectives.
91. The objectives of the internal audit function must include evaluation of the adequacy and effectiveness of the financial and risk management framework of the institution.¹⁴ To fulfil its functions, the internal auditor must, at all times, have unfettered access to the institution's business lines and support functions.

Auditor independence¹⁵

92. The *Corporations Act 2001* (Corporations Act) 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 Banking Act, Insurance Act, Life Insurance Act (collectively, the 'Prudential Acts'), prudential standards and reporting standards.¹⁶
93. The Board of the APRA-regulated institution, 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 institution in relation to the Prudential Acts, prudential standards or reporting standards, is independent of the institution,¹⁷ and that there is no conflict of interest situation that could compromise, or be seen to compromise, the independence of the auditor.
94. As part of the process of ascertaining the independence of the auditor, an APRA-regulated institution must obtain a declaration from the auditor to the effect that:
- (a) the auditor is independent, both in appearance and in fact;

¹⁴ Refer to *Prudential Standard CPS 220 Risk Management* (CPS 220) for the requirement for a review of an APRA-regulated institution's risk management framework. Such a review carried out by a role or function within the institution, 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.

¹⁵ Refer also to *Prudential Standard APS 310 Audit and Related Matters*, 3PS 310, *Prudential Standard GPS 310 Audit and Related Matters* (GPS 310) and LPS 310.

¹⁶ 'Reporting Standards' are those standards made under FSCODA.

¹⁷ Independent of the APRA-regulated entity means that the auditor has been assessed as independent in terms of paragraph 80 of this Prudential Standard.

- (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.
95. For the purposes of this Prudential Standard, a conflict of interest situation exists in relation to an APRA-regulated institution at a particular time, if because of circumstances that exist at that time:
- (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 institution 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 institution for the purposes of the Prudential Acts, prudential standards or reporting standards.¹⁸
96. 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 institution 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 institution until at least two years have passed since they served in that professional capacity.
97. 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 institution 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 institution until at least two years have passed since they acted as the lead auditor or review auditor.
98. A person cannot be appointed as a director or senior manager of an APRA-regulated institution if:

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 institution, 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.

- (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 institution 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 institution 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 institution at any time during the previous two years.
99. An individual who plays a significant role²¹ in the audit of an APRA-regulated institution 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 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 institution.
100. 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

E. Board Risk Committee

101. The Board of an APRA-regulated institution (excluding foreign ADIs and Category C insurers but including EFLICs) must have a Board Risk Committee, which assists the Board by providing an objective non-executive oversight of the implementation and operation of the institution's risk management framework.
102. The Board Risk Committee must be provided with the powers necessary to enable it to perform its functions.
103. The chairperson of the Board Risk Committee must be an independent director of the APRA-regulated institution.

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 310 and *Prudential Standard GPS 320 Actuarial and Related Matters*.

104. The chairperson of the Board may be a member of the Board Risk Committee, but may not chair the Committee. The chair of the Board Audit Committee may also chair the Board Risk Committee.
105. The Board Risk Committee must have at least three members. All members of the Committee must be non-executive directors of the APRA-regulated institution. A majority of the members of the Committee must be independent.
106. The Board Risk Committee must have a written charter that outlines its roles, responsibilities and terms of operation. The responsibilities of the Committee must include:
 - (a) advising the Board on the institution's overall current and future risk appetite and risk management strategy;
 - (b) oversight of an institution-wide view of the institution's current and future risk position relative to its risk appetite and capital strength;
 - (c) oversight of senior management's implementation of the risk management strategy;
 - (d) constructive challenge of senior management's proposals and decisions on all aspects of risk management arising from the institution's activities;
 - (e) reviewing the performance and setting the objectives of the institution's Chief Risk Officer (CRO),²³ and ensuring the CRO has unfettered access to the Board and the Committee; and
 - (f) oversight of the appointment and removal of the CRO.
107. The Board Risk Committee is required to provide prior endorsement for the appointment or removal of the institution's CRO. If the CRO is removed from their position, the reasons for removal must be discussed with APRA as soon as practicable, and no more than 10 business days, after the Committee's endorsement is agreed upon.
108. The Board Risk Committee must have free and unfettered access to senior management, risk and financial control personnel, and other parties (internal and external) in carrying out its duties.
109. The Board Risk Committee must invite the CRO to attend all relevant sections of meetings of the Committee.

²³ Refer to CPS 220.

F. Other matters

Persons not to be constrained from providing information to APRA²⁴

110. No prospective, current, or former officer, employee or contractor (including professional service provider) of an APRA-regulated institution 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 institution, or from providing documents under their control to APRA, that may be relevant in the context of the management or prudential supervision of the institution. Such persons are not to be constrained or impeded from providing information to, as applicable, auditors, the Appointed Actuary, the Reviewing Actuary and others, who have statutory responsibilities in relation to the institution.
111. An APRA-regulated institution must ensure that the institution's internal policy and contractual arrangements do not explicitly or implicitly restrict or discourage auditors or other parties from communicating with APRA.

Adjustments and exclusions

112. APRA may adjust or exclude a specific requirement in this Prudential Standard in relation to an APRA-regulated institution.²⁵

Determinations made under previous prudential standards

113. 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 any versions of:
- (a) *Prudential Standard APS 510 Governance*;
 - (b) *Prudential Standard GPS 510 Governance*; and
 - (c) *Prudential Standard LPS 510 Governance*.

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, Part 7, Division 5 of the Life Insurance Act, and the whistleblowing provisions in CPS 520.

²⁵ 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 – Director independence²⁶

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

1. is a substantial shareholder²⁷ of the APRA-regulated institution or an officer of, or otherwise associated directly with, a substantial shareholder of the institution;
2. is employed, or has previously been employed in an executive capacity by the APRA-regulated institution or another member of the group, 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 institution or another member of the group, or an employee materially associated with the service provided;
4. is a material supplier or customer of the APRA-regulated institution or another member of the group, 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 institution or another member of the group other than as a director.

²⁶ 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).

²⁷ 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 policyholders of the EFLIC (for example, by targeting specific policyholder 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 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 CPS 520.
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 (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) FSCODA.
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.