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Dear General Manager

Submission on Draft Prudential Standard CPS 510 Governance

Introduction

StateCover welcomes the opportunity to provide feedback on APRA's proposed Draft CPS 510 Governance. StateCover supports APRA's objective of strengthening governance standards across APRA-regulated entities and acknowledges APRA's focus on promoting independent judgement, effective oversight, accountability and prudent decision-making.

StateCover particularly supports APRA's overarching objective of establishing clear and contemporary governance requirements for boards and senior management, while harmonising governance requirements across industries and reducing duplication where appropriate.

Our comments focus on two crucial areas:

- The proposed director independence requirements, including the application of the term "material", the treatment of nominated directors and the operation of the proposed majority independent director requirement.
- The application of proportionality principles to non-SFI entities (StateCover is a non-SFI entity).

Director Independence

StateCover supports APRA's objective of increasing board independence and the proposed requirement that a majority of directors be independent.

However, StateCover would welcome clarification as to APRA's intended application of the independence requirements in practice, particularly in relation to member-based and mutually-owned organisations.

The draft standard defines an independent director as a non-executive director who is free from interests, positions or relationships that may materially influence, or reasonably be perceived to materially influence, the exercise of independent judgement.

Clarification would be particularly beneficial for entities whose Constitution or embedded governance arrangements provide that directors be nominated by stakeholder or member representative bodies. In such circumstances, it is unclear whether nomination by an organisation associated with the entity's membership base would, of itself, be viewed as a relationship relevant to the independence assessment, or whether APRA's focus is on whether the relationship materially impairs the director's ability to exercise independent judgement and act in the best interests of the regulated entity.

StateCover seeks clarification from APRA and encourages publication of additional guidance and practical examples regarding the assessment of independence for nominated directors, including within member-based organisations and mutual entities, support consistent interpretation across industry and assist entities to address practical matters such as nomination rights, constitutional requirements, member representation and the assessment of material influence.

Importantly, StateCover does not oppose the strengthening of independence requirements. StateCover welcomes clear and robust independence requirements that assist entities in reviewing and modernising governance arrangements where existing constitutional or nomination structures may no longer reflect contemporary governance expectations. StateCover supports APRA's objective while seeking greater clarity regarding practical application, especially for member-based organisations, specifically addressing how this applies to a substantial shareholder's nominated director(s).

Proportionality and Application to Non-SFI Entities

The consultation paper expressly notes that draft CPS 510 is intended to operate proportionately according to the size, complexity, risk profile and structure of regulated entities and that higher requirements apply to significant financial institutions (SFIs) in certain areas.

StateCover supports a proportionate prudential framework. However, we caution against an approach that assumes governance risks are inherently lower for smaller non-SFI entities.

The consultation paper notes that stronger governance is fundamental to organisational resilience and that governance weaknesses are often identified where regulated entities experience stress, conduct failures or operational issues.

In our view, the quality of governance remains critically important regardless of institutional size. While larger and more complex entities may warrant enhanced requirements in certain areas, smaller entities do not necessarily present lower governance risk.

Accordingly, StateCover encourages APRA to expect robust and strong governance expectations for all regulated entities, regardless of whether they are classified as SFIs.

Where proportionality is applied, StateCover suggests it should focus primarily on implementation methodology and administrative overlays rather than reducing governance expectations or governance outcomes.

For example:

- flexibility regarding committee structures for non-SFIs may be appropriate, consistent with APRA's proposal to allow non-SFIs to combine audit and risk committees;
- documentation and process requirements may reasonably be scaled to organisational size and complexity; but
- expectations regarding board effectiveness, independence, challenge, oversight, skills, accountability and governance culture should remain robust across all regulated entities as it is crucial for effective oversight.

StateCover therefore supports APRA's continued focus on governance quality across the entire prudentially regulated population and encourages APRA to avoid creating any perception that smaller entities require less rigorous governance oversight.

Conclusion

StateCover supports APRA's objective of strengthening governance standards through draft CPS 510 and generally welcomes the consolidation and modernisation of governance, conflicts management and fit and proper requirements.

StateCover recommends that APRA:

- Provide further guidance on the interpretation and application of the independence requirements, including:
  - the meaning of "material" within the independence definition; and
  - the treatment of directors nominated by stakeholder, industry or member representative bodies.
- Provide practical guidance and examples to assist member-based organisations, mutual entities and other specialised operating models to assess director independence consistently.
- Continue to apply proportionality in a manner that scales implementation requirements while maintaining strong and robust governance expectations for all regulated entities, including non-SFIs.

StateCover appreciates the opportunity to provide feedback and would welcome further engagement with APRA as the governance review progresses.

Yours sincerely

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