

# APRA Governance Discussion Paper

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**13 June 2025**

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File: 2025/19

Zoe Cox  
Senior Manager  
Cross-Industry Policy  
APRA  
1 Martin Place  
SYDNEY NSW 2001  
Via email: [zoe.cox@apra.gov.au](mailto:zoe.cox@apra.gov.au)

13 June 2025

Dear Ms Cox,

### **APRA Governance Review - Discussion Paper**

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to APRA's consultation on its Governance Discussion Paper (the Discussion Paper).<sup>1</sup>

#### **About ASFA**

ASFA, the voice of super, has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers. We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

We unite the superannuation community, supporting our members with research, advocacy, education and collaboration to help Australians enjoy a dignified retirement. We promote effective practice and advocate for efficiency, sustainability and trust in our world-class retirement income system.

#### **Introductory Comments**

ASFA supports robust governance arrangements for APRA regulated entities.

We note the Discussion Paper puts forward proposals for changes with respect to the following areas of governance:<sup>2</sup>

1. Skills and capabilities;
2. Fitness and propriety;
3. Conflicts management;
4. Changes to rules regarding independence (for banks and insurers only);
5. Board performance reviews;
6. Role clarity;
7. Board committees, and
8. Directors tenure and board renewal.

ASFA supports or supports-in-principle the overwhelming majority of the proposals put forward. We also wish to specifically acknowledge APRA's willingness to work constructively on these issues.

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<sup>1</sup> APRA, Governance Discussion Paper ([March 2025](#)).

<sup>2</sup> APRA, Governance Discussion Paper ([March 2025](#)), 5-6.

Our approach to this topic is guided by the following principles:

- 1. The importance of acknowledging sector maturity and supporting continued governance uplift** - As the superannuation sector continues to grow in scale, complexity and impact, it is appropriate to expect high standards of governance and accountability. We recognise the importance of ensuring that trustee boards are equipped with the right mix of skills, experience and behaviours to oversee complex responsibilities.
- 2. Maintaining the legitimate role of shareholders** - Shareholders play a legitimate role in appointing directors under the fund's governing arrangements. Where those appointments comply with existing legislative and prudential standards, it is important that the regulatory framework continues to respect those rights. Any future reforms should aim to provide greater clarity about the regulator's role, while avoiding any unintended shift toward pre-approval mechanisms that could be perceived as overriding lawful shareholder decisions
- 3. Promoting regulatory alignment without prescribing uniformity** - While we understand the appeal of harmonising governance requirements across sectors, uniformity does not necessarily equate to efficiency or improved outcomes. Superannuation funds already operate under a detailed and mature regulatory framework, and any additional requirements should be assessed through the lens of their practical value in supporting high-quality governance and long-term member outcomes.
- 4. Supporting flexibility in board composition and renewal** - The long-term nature of superannuation often benefits from continuity and depth of experience on trustee boards. Reforms that introduce new expectations around tenure limits, board assessments or independence should allow funds to adopt fit-for-purpose approaches, aligned to their structure and size. Flexibility is important to enable the ongoing participation of capable directors, ensure board diversity, and support effective transitions—particularly in a period of significant consolidation and change across the sector. There is no 'one-size-fits-all' approach to governance. The principles of flexibility and choice for Trustees in implementation need to be considered, alongside the value of consistency.

ASFA also notes that APRA explicitly states that their proposals do not intend to undermine the Equal Representation modal, as outlined in the *Superannuation Industry Supervision Act 1993* (Cth)(the SIS Act). APRA explicitly states in the Discussion Paper:<sup>3</sup>

*To be clear, [the Proposals], would not involve any changes to the equal representation model under which employer and employee groups have the right to nominate directors to some RSE licensee boards. The focus of the proposals is on ensuring that directors of these entities have the necessary skills, capabilities and character – regardless of how they are nominated, the ownership model or board composition requirements in legislation.*

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<sup>3</sup> APRA, Governance Discussion Paper ([March 2025](#)), 16.

In **Attachment A**, we outline our specific positions and recommendations with respect to each of the proposals. We look forward to continuing to engage with you in relation to these matters.

Should you have any questions, please feel free to contact ASFA Policy Director, Sebastian Reinehr at [sreinehr@superannuation.asn.au](mailto:sreinehr@superannuation.asn.au) or on 0474 704 992.

James Koval

Chief Policy and Advocacy Officer

## Attachment A – ASFA’s Detailed Comments on the Package

### Proposal 1 – Skills and Capabilities

#### 1.1 ASFA’s Position

This proposal would require regulated entities to do the following:<sup>4</sup>

- a) identify and document the skills and capabilities necessary for the board overall, and for each individual director;
- b) evaluate existing skills and capabilities of boards and individual directors;
- c) take active steps to address gaps through professional development, succession planning and appointments.

APRA also articulates that, under existing arrangements, requirements for directors skills and capabilities are covered under CPS 510 and SPS 510, which states:<sup>5</sup>

*Each director must have skills that allow them to make an effective contribution to board deliberations and processes. Boards are required to evaluate their collective performance on an annual basis. There is no explicit requirement to set minimum requirements for individual directors or to respond to any shortcomings.*

#### 1.2 ASFA’s Position

ASFA recommends that, if this proposal is adopted, board skills, capabilities, perspectives and experience should be considered holistically, on a ‘whole-of-board’ basis and not with reference to individual directors such that the Board’s collective abilities are considered and gaps identified.

- This is appropriate, as certain directors will have expertise in some necessary skills, and the focus is on the coverage of the board composition of all identified skills.
- The key should be that the board as a whole benefits from the necessary skills. Not that every director is an expert in every ‘skill on the matrix’, which is practically impossible.

### Proposal 2 – Fitness and Propriety

#### 2.1. Summary of the Proposal

Proposal 2 would require the following:<sup>6</sup>

1. That regulated entities meet higher minimum requirements to ensure fitness and propriety of their responsible persons.
2. That Significant Financial Institutions ([SFIs](#)), and non-SFIs under heightened supervision, to engage proactively with APRA on potential appointments.

#### 2.2. ASFA’s Position

ASFA recommends that APRA consider aligning these fit and proper requirements with Financial Accountability Regime (FAR). Ideally, fit and proper expectations should be set out in prudential practice guides to inform what is expected of accountable persons under FAR.

The significant degree of overlap between FAR and CPS/SPS 520, especially the overlap between ‘Accountable Persons’ and ‘Responsible Persons’ seems duplicative for little prudential benefit.

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<sup>4</sup> APRA, Governance Discussion Paper ([March 2025](#)), 15.

<sup>5</sup> Ibid.

<sup>6</sup> APRA, Governance Discussion Paper ([March 2025](#)), 17.

ASFA further recommends greater consider and clarity should be provided by APRA on the following:

1. the circumstances of heightened supervision where non-SFI's would be captured by this proposal;
2. how APRA would deal with the concept of 'reputational risk' in assessing fitness and propriety;
3. providing confirmation in writing that APRA meeting with potential appointees prior to appointment is intended to operate only in cases where someone manifestly does not appear to meet the fitness and propriety requirements. Conversely, the approach should not be intended to give the regulator a quasi 'right-of-veto' outside that context;
4. it does not appear reasonable to require regulated entities to notify APRA when concerns arise that may reasonably impact a person's fitness and propriety, before a determination regarding that person's appointment to the Board has even been confirmed, especially when the concerns that arise may not ultimately be substantiated;
5. a requirement to keep APRA informed of succession plans and nominations prior to appointment or public announcement may be impractical and unreasonable;
6. whether and how this would affect recruitment timeframes and the attraction of international talent. Recruitment speed is needed following an unanticipated vacancy. APRA consultation after a nomination committee recommendation to the board may slow down the process and it is not appropriate to engage APRA on potential appointments prior to the nomination committee's consideration.
7. It is requested that APRA clarifies:
  - the type of situations that APRA expects to be notified of (before an entity has 'determined' the issue);
  - how confidentiality is maintained for the relevant person to ensure there is adequate natural justice in the situation;
  - whether this requirement should be changed to 'when concerns arise that are likely to materially impact a person's fitness and propriety, even before a determination has been reached';
  - how APRA expects entities to manage situations in which it notifies APRA of preliminary concerns that ultimately are either not substantiated or do not impact a person's fitness and propriety in a material way.

### Proposal 3 – Conflicts Management

#### 3.1. Summary of the Proposal

Extend current RSE licensee conflict management requirements to banks and insurers so they are also required to:<sup>7</sup>

- a) proactively identify actual and potential conflicts of interest and duty
- b) avoid or prudently manage conflicts
- c) take remedial action when conflicts are not disclosed or managed properly.

Require regulated entities to ***consider perceived conflicts, in addition to actual and potential conflicts.***

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<sup>7</sup> APRA, Governance Discussion Paper ([March 2025](#)), 20.

### 3.2. ASFA's Position

ASFA expresses no view regarding the extension of existing requirements already applied to superannuation funds to banks and insurers.

ASFA seeks greater clarity on how the addition of the term 'perceived conflicts' would substantively change the regulatory requirements. For example, we ask for the provision of examples which clearly articulate the difference between a 'potential conflict', which is an existing requirement, and a 'perceived conflict', which is a proposed new requirement.

ASFA has concerns regarding the proposal to extend conflict management to 'conflicts that affect the reputation of the business.' Sufficient clarity would be needed regarding concept of 'reputational conflicts', as this could be far reaching or discriminatory in effect.

### Proposal 4 – Independence (Banks and Insurers Only)

#### 4.1. Summary of the Proposal (banks and insurers only):

The proposal is that those entities must strengthen independence on regulated entity boards by:<sup>8</sup>

- a) requiring that at least two of their independent directors (including the chair) are not members of any other board within the entity's group
- b) making minor amendments to the independence criteria, including extending the prohibition on directors who are substantial shareholders in a regulated entity or group from being considered independent, to include material holdings of any type of security
- c) extending the current requirement for bank and insurer boards to have a majority of independent directors to include boards of entities with a parent that is regulated by APRA or an overseas equivalent.

#### 4.2. ASFA's Position

ASFA does not express a view in relation to this proposal, given the note on page 21 of the discussion paper explicitly indicates it does not affect superannuation funds.

### Proposal 5 – Board Performance Review

#### 5.1. Summary of the Proposal

This proposal is to require SFIs to commission a qualified independent third-party performance assessment at least every three years which covers the board, committees and individual directors.<sup>9</sup>

#### 5.2. ASFA's Position

ASFA recommends that:

1. The term 'qualified' should be able to be met with a mixture of formal qualifications and skills and experience.
2. There should be no formal minimum requirement for the independent reviewer.
3. Further clarification should be provided by APRA regarding any data gathering requirements that may be associated with these reviews.

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<sup>8</sup> APRA, Governance Discussion Paper ([March 2025](#)), 21.

<sup>9</sup> APRA, Governance Discussion Paper ([March 2025](#)), 23.

ASFA understands the independent reviewer should be appointed by the Board, not senior management, and have a detailed understanding of the areas below.

ASFA understands that, among others, the following topics will be included in the independent reviews.

1. a clear understanding on the different roles of boards and management;
2. expertise around APRA and Corporations regulations and related strategic issues;
3. reviewers should not have any conflicted relationship or business relationship with directors;
4. behavioural expertise on board dynamics may be beneficial;
5. all these requirements can be met through a combination of formal qualifications and experience;
6. the complexity of the review required will be scalable depending on the complexity of the entity.

APRA should clarify these expectations in written guidance.

ASFA recommends that the requirement for the review to take place every 3 years should be replaced with the need for a 'periodic review', with guidance on APRA's expectations in the prudential practice guidance can then explaining that every three years would generally be considered an appropriate 'periodic review'.

- This would enable the Chair, as is appropriate, to determine the exact timing of the review which may be more informative if completed later (e.g at the three and a half or four year mark).
- For example, recent significant events, or current priorities of the board (e.g mergers, acquisitions, recent appointments of Board / Committee Chairs) could impact on the quality of the review if it is not done at the most optimal time.

ASFA would welcome detailed written guidance from APRA (which AFSA anticipates may ultimately comprise the prudential practice guide) for further consultation on the requirements for the Board performance and effectiveness evaluation.

ASFA expresses concern about the requirement to submit the independent triennial external board assessment report to APRA, which appears to be overreach.

## Proposal 6 – Role Clarity

### 6.1. Summary of the Proposal

Proposal 6 is that APRA will undertake the following:<sup>10</sup>

1. define APRA's core expectations of the board, the chair and senior management.
2. provide additional guidance on which APRA requirements may be delegated to board committees and senior management.

### 6.2. ASFA's Position

ASFA supports APRA providing greater clarity, through written guidance, on the roles of the Board, Chair and senior management, as well as which APRA requirements may be delegated to board committees.

ASFA asks that any draft guidance should be subject to public consultation with industry, industry capacity for the receipt of written submissions. Any subsequent variations to guidance after its initial publication should also be subject to similar detailed public consultation.

ASFA notes that our support for this proposal is contingent upon review of the details of any such draft guidance and assesment of any cost implications arising from changes in roles.

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<sup>10</sup> APRA, Governance Discussion Paper ([March 2025](#)), 25.

## Proposal 7 – Board Committees

### 7.1. Summary of the Proposal

Proposal 7 includes the following elements:<sup>11</sup>

1. Extend the current requirement for bank and insurer boards to have separate risk and audit committees, to apply to SFI RSE licensees as well.
2. Repeal this requirement for non-SFI banks and insurers, allowing flexibility for smaller entities.
3. Mandate that only full board members can be voting members of APRA-required board committees.

### 7.2. ASFA's Position

ASFA supports non-SFIs not being subject to this proposal.

ASFA understands the rationale for this proposal is to extend the same requirements to superannuation funds which are SFI as already apply to equivalent bank and insurer boards.

ASFA seeks greater information as to whether and how the model of separate committees has been found to be more effective than the model of committees covering both activities.

If a separate committee model is adopted, ASFA recommends that specialist committee members on specific committees who have skills not normally found in a director but who can make an invaluable contribution that could not be replicated by an adviser or consultant, should be full members of the committee and exercise full voting rights. The voting rights of committee members elevates contributions above a consultant/advisory capacity.

## Proposal 8 – Director Tenure and Board Renewal

### 8.1. Summary of the Proposal

Proposal 8 put forward by APRA has two elements, including to:<sup>12</sup>

1. impose a lifetime default tenure limit of 10 years for non-executive directors at a regulated entity;
2. require regulated entities to establish a robust, forward-looking process for board renewal.

### 8.2. ASFA's Position

ASFA makes the following recommendations with respect to proposal 8:

1. ASFA strongly recommends that the length of tenure serving on the Board for individual directors should remain a matter for individual funds to decide under their own internal policies.
2. In the alternative, the tenure limit should be set at 12 years for the service of each director on the Board of an individual entity. This is consistent with the existing requirements under SPG 510.<sup>13</sup>
3. At a minimum, the existing 12-year tenure limit should be grandfathered so that existing directors are not impacted by any change to tenure limits.

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<sup>11</sup> APRA, Governance Discussion Paper ([March 2025](#)), 27.

<sup>12</sup> APRA, Governance Discussion Paper ([March 2025](#)), 28.

<sup>13</sup> APRA, SPG 510 – Governance ([November 2016](#)) at [24].

4. Alternate directors should be expressly excluded from any tenure limits that may otherwise be applied to principal directors, for the following reasons:
  - Serving as an alternate director provides valuable experience for candidates who are not currently serving as directors but may later become directors.
  - Alternate directors also help ensure continuity and ongoing Board functionality during periods of director absence.
  - Including alternate directors in tenure limits improperly limits their capacity to contribute in the future, despite their not having been a principal director during the relevant period.
5. In certain exceptional circumstances, such as where there is a merger necessity greater emphasis on continuity of information, funds should be able to opt to extend the 12-year tenure limit by a single additional term for individual directors, amounting to an additional 3 years beyond the baseline limit of 12 years.
6. Consistent with what APRA has proposed, it should be made unambiguously clear that the lifetime tenure limit operates at an entity-level, not a sector wide level. Therefore, after having exhausted the entity tenure limit at one fund, directors will still be allowed to serve on the Board of another fund. At each individual fund, the 12-year tenure limit should reset. APRA's intention for the tenure limit to operate at an entity level, not a sector-wide level, is made clear in the discussion paper, as outlined below. This should be reiterated in formal guidance. APRA states:<sup>14</sup>

*APRA proposes to introduce a 10-year lifetime **tenure limit on a regulated entity board** for non-executive directors, with the possibility of an extension at APRA's discretion. This includes where **an entity** has undergone a merger. The purpose of this proposal is to establish a consistent and appropriate baseline in the prudential framework to which all **regulated entities** will be held.*

7. The absence of a lifetime, sector-wide, tenure limit will ensure that those with extensive expertise and experience across the superannuation sector are not unduly precluded from service on boards.
8. ASFA seeks further detailed information on what is intended in establishing 'a robust, forward-looking process for board renewal.'<sup>15</sup>
9. Any further APRA guidance on proposal 8 should be released in draft form first and subject to a call for written submissions from industry.

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<sup>14</sup> APRA, Governance Discussion Paper ([March 2025](#)), 28.

<sup>15</sup> Ibid.