



Australian Government

GOVERNMENT RESPONSE TO THE APRA CAPABILITY REVIEW

Government response to the APRA Capability Review

On 11 February 2019, the Government announced a review to consider the capabilities of the Australian Prudential Regulation Authority (APRA).

Importantly, since the review was announced, the Government has legislated to give APRA stronger powers to take action to ensure that superannuation funds act in the best interests of members and improved its legislative powers over the authorisation process for MySuper products. The Government also provided APRA with more than \$150 million in additional funding in the 2019-20 Budget.

The APRA Capability Review formed part of the Government's response to the Hayne Royal Commission. Recommendation 6.13 of the final report of the Hayne Royal Commission called for capability reviews of APRA and ASIC to occur at least every four years and for a capability review of APRA to be completed as soon as reasonably practicable.

The Hayne Royal Commission recommendation followed a previous Productivity Commission recommendation arising out of its final report *Superannuation: Assessing the Efficiency and Competitiveness* in December 2018 that the Government initiate an independent capability review of APRA. The Productivity Commission called for the review to be completed and published during 2019.

The APRA Capability Review was led by an expert panel chaired by Mr Graeme Samuel AC, with Ms Diane Smith-Gander AO and Mr Grant Spencer as members. Mr Samuel was formerly the Chairman of the Australian Competition and Consumer Commission and President of the National Competition Council. Ms Smith-Gander has previously been a senior executive at Westpac and partner at McKinsey & Company and is currently an adjunct professor in corporate governance at the University of Western Australia. Mr Spencer was the former Deputy Governor and Head of Financial Stability, and former Acting Governor, at the Reserve Bank of New Zealand and has previously held senior roles at the International Monetary Fund.

Terms of Reference for the Review were released on 13 March 2019 and submissions were due by 10 April 2019.

The Panel provided its Review to the Government on 28 June 2019. The Panel made 24 recommendations, with 19 directed to APRA. The remaining five recommendations were directed to the Government.

The Review found that APRA is an impressive and forceful regulator in matters of traditional financial risk. However, the Review has also identified important changes to ensure that APRA is well positioned to respond to an environment of growing complexity and emerging risks for APRA's regulated sectors.

APRA has indicated to Government that it supports all 19 recommendations directed to it. The Government notes that APRA is already implementing a number of the recommendations, and will promptly begin initiatives to implement the remainder. The Government will consider the need for any additional funding as part of the 2020-21 Budget process.

Government response to recommendations

Recommendation 2.5 — APS Workplace Bargaining Framework

To help facilitate a number of recommendations in the Review, the Government should remove APRA from the application of the APS Workplace Bargaining Policy.

APRA should engage with the Government to consider ways to enable greater variation in remuneration levels.

The Government agrees APRA should have the flexibility to attract and retain the staff it needs to deliver its mandate.

The Government will work with APRA and the Australian Public Service Commission (APSC) to better understand and address any restrictions within the current APS Bargaining Framework in order to ensure that APRA can attract and retain high skilled staff, particularly in niche areas subject to high market demand.

Recommendation 4.3 – Non-objections power

The Government should consider providing APRA with a non-objections power to veto the appointment or reappointment of directors and senior executives of regulated entities. This would bring it into line with international regulators and strengthen its capacity to pre-emptively regulate GCA risks. The power should be available to APRA only where the risks associated with the entity, including but not limited to member outcomes for superannuation funds, warrant it.

The Government will ensure that APRA has sufficient powers and flexibility to prevent inappropriate directors and senior executives from being appointed or re-appointed to regulated entities, as part of extending the Banking Executive Accountability Regime.

Recommendation 5.3 – APRA Mandate

In accordance with recommendation 23 of the Productivity Commission’s Superannuation Inquiry, the Government should legislate to make APRA’s member outcomes mandate more explicit. The Government should clearly outline its expectations for APRA on superannuation in its next Statement of Expectations.

The Government agrees that it will outline its expectations for APRA on superannuation in its next Statement of Expectations. The financial regulator oversight authority will be tasked with monitoring APRA’s performance against the Government’s expectations.

Recommendation 6.2 – APRA’s regulatory tools

While APRA’s regulatory tools are generally fit-for-purpose, the Government should consider:

- a) reviewing the adequacy of penalties across APRA's legislative framework;
- b) providing APRA with the power to appoint a skilled person to undertake a review of a regulated entity; and
- c) enhancing its private health insurance licensing powers.

The Government agrees to consider a review of APRA’s penalties, providing a power to appoint a person to undertake a review of an entity, and enhancing private health insurance licensing powers.

Recommendation 6.5 – External Accountability

The Government should consider streamlining and improving the effectiveness of existing accountability arrangements when establishing the financial regulator oversight authority.

The Government agrees that as part of establishing the financial regulator oversight authority, it will seek to streamline and improve the effectiveness of both APRA and ASIC’s accountability arrangements.