

Draft Prudential Standards and Guidance Note: Authorised Deposit-Taking Institutions¹

DRAFT

Prudential Standard

Board Composition (August 2001)

Objective

This standard aims to ensure that locally incorporated ADIs are soundly and prudently managed by a competent board of directors, capable of making reasonable and impartial business judgements in the best interests of the ADI.

Principles

Overview

1. Depositors' confidence is critical for ADIs to whom the public has entrusted their monies. To maintain this confidence, it is essential that ADIs conduct their affairs with a high degree of integrity.
2. The ultimate responsibility for the sound and prudent conduct of an ADI rests with its board of directors (Board). When setting policies and making decisions for the ADI, the Board should have regard to the interests of depositors. Effective corporate governance is more likely to be achieved when the Board of an ADI is made up of directors who are:
 - (a) 'fit and proper' to hold the position;
 - (b) capable of exercising judgement independent of the management of the ADI and the group to which the ADI belongs; and
 - (c) widely representative of the shareholders. No single shareholder (or group of associated shareholders) should be in a position to exercise undue control or influence over the Board.

Composition of Board

1 <http://www.apra.gov.au/Policy/Draft-Prudential-Standards-and-Guidance-Notes-for-A...>
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3. The Board of an ADI should comprise at least five directors at all times.
4. The Board should be broadly representative of the ADI's shareholders or members as a whole. Individual shareholders (or any group of associated shareholders) should have broadly proportionate representation on the Board based on their shareholdings. As a guide, holdings under 15 per cent of an ADI's voting shares should have a representation of no more than one on a board of six or less, and no more than two on a board of seven or more. Holdings over 15 per cent (as approved under the provisions of the Financial Sector (Shareholdings) Act 1998) may have greater representation but not more than is broadly proportionate to the relevant shareholding.
5. The Chairman, and a majority of an ADI's board of directors, including those present and eligible to vote at all board meetings, should be non-executives i.e. they are not part of the management of the ADI nor executives of any member of the group to which the ADI belongs.
6. For the purposes of paragraph 5, non-executives of a foreign owned locally incorporated ADI may include executives of the foreign parent (including banking subsidiaries of the foreign parent). APRA will also accept an executive of the foreign parent to be Chairman of the Australian ADI provided the Chairman is available to consult with APRA if required.
7. In the case of mixed conglomerates (a group consisting of both financial and non-financial business) containing an ADI, at least two non-executive directors of the ADI should be independent of the non-financial operations of the group.
8. APRA may, on a case-by-case basis, require an ADI to appoint additional non-executive directors if it is not satisfied with the presence of independence on the Board.
9. At least two directors of an ADI must be Australian residents, one of whom should be a non-executive.
10. An ADI must notify APRA in advance of any proposed changes in its Board composition (including any new appointment, resignation, retirement or removal of directors). Notifications of proposed appointments should include details of the individual's qualifications, history and business associations. A resigning director should supply APRA with a written statement of reasons for resignation.
11. An ADI should provide to APRA annually:
 - (a) an update on all its directors and their business associations; and
 - (b) information in respect of the functions and membership of all its board committees.

Quality of Directors

12. Individual directors must be ‘fit and proper’ to hold the position. In defining ‘fit and proper’ standards, an ADI should have regard to factors such as:

(a) the person’s integrity in the conduct of business activities and reputation within the business and financial community;

(b) the person’s competence and experience relative to the duties involved; and

(c) the person’s business record and other business interests, as well as financial soundness and strength.

13. Directors of an ADI should be familiar with APRA’s prudential requirements and with their responsibilities (including to depositors).

