



# A Turning Point for Superannuation Risk and Compliance

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APRA's imposition of additional licence conditions on United Super Pty Ltd and BUSS (Queensland) Pty Ltd. echo past catalysts that transformed Australia's Financial Services governance, signaling regulatory changes ahead.

BY DAVID VAN GOGH

# Introduction

Three moments have been pivotal for the uplift of risk and compliance practices in the Australian Financial Services Industry.

1

Delivery of the 2018 Prudential Inquiry into the Commonwealth Bank of Australia (CBA). This APRA-directed review of Governance, Culture and Accountability at the CBA led to 'APRA Self-Assessments' being undertaken by all major banks and insurers in Australia.

2

Delivery of the Hayne Financial Services Royal Commission final report in 2019.

*Both of these reviews identified areas of misconduct in the financial services industry and drove major risk and compliance uplifts, first in the banking industry, and then subsequently in insurance.*

3

A third such moment arrived last week, with APRA's [announcement](#) that it had entered into an enforceable undertaking (EU) with United Super Pty Ltd and BUSS (Queensland) Pty Ltd.

## Implications

This followed widespread media coverage of criminal allegations against the Construction, Forestry and Maritime Employees Union (CFMEU) and its officials, including in relation to fraud, corruption, and links with criminal gangs. These two Superannuation Trustees are both partially owned by the CFMEU and have CFMEU officials taking up a material number of seats on their Boards (3 of 14 and 4 of 8 respectively).

The Trustees have agreed to commission independent reviews against their obligations under Prudential Standard SPS 520 Fit and Proper and their compliance with the duty to act in the best financial interests of beneficiaries of the funds.

This follows debate over the conflicts inherent in industry super funds having Directors nominated by union or employer groups, and the extent to which political donations from these funds are in the best interests of their members.

APRA has indicated that it intends to make the results of these reviews public. This mirrors its approach to the 2018 Prudential Inquiry into the CBA, where it published the results of the inquiry and required all major banks and insurers to perform a self-assessment against the findings. As such, it seems likely that Superannuation Trustees will be directed to conduct similar reviews.

# Areas for Trustee Review

Areas of scope for such reviews will relate to the findings of the Uniter Super and BUSSQ reviews, however they are likely to include:



Governance structures and decision-making processes.



The extent of compliance with applicable Prudential Standards and Duties, including specifically *SPS 520 Fit and Proper* and the Best Financial Interest duty.



Processes and reporting in place to ensure compliance with regulations and to report breaches.



Delegations Policies and past fund expenditure.



Broader Risk Management practices.

Prudent Trustees should be reviewing the above, identifying uplift plans, and ensuring that any variance from good practice is defensible in the circumstances of that organisation.

# Our Author



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