



Fit and Proper Policy

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Fit and Proper Policy

1. EXECUTIVE SUMMARY

Introduction

This Policy applies to MyState Limited (MYS), MyState Financial Limited (MSF) and Tasmanian Perpetual Trustees Limited (TPTL) as well as all other MyState Limited Group Companies and subsidiaries.

This document has been prepared in compliance with the requirements of the Australian Prudential Regulation Authority (APRA) Prudential Standard, APS 520 and specifically relates to the Board and responsible persons within MyState Limited (MYS) and its Authorised Deposit Taking Institution (ADI) subsidiary MyState Financial Limited (MSF), and in accordance with APRA's Superannuation Guidance Note SGN110.1 and the Superannuation Industry (Supervision) Act 1993 as it applies to MYS's Registrable Superannuation Entity (RSE) subsidiary, Tasmanian Perpetual Trustees Limited (TPTL).

TPTL is the Trustee of the superannuation fund: AXIS Retirement Solutions (the Fund). The Trustee is primarily responsible and directly accountable for the prudential management of the Fund.

Policy Objective

The purpose of this document is to establish and describe MyState Limited's (MYS) policies relating to the fitness and propriety of individuals who hold positions of responsibility.

The Fit and Proper Policy is designed to assist in managing the risk that individuals who hold positions of responsibility with MYS, MSF and TPTL are not fit and proper.

Policy Parameters

This policy forms part of MYS's risk management system and as such relies on a number of other documents to give it effect. Accordingly, this policy includes references to the following MSF documents:

- CGNC Schedule of Tasks
- Directors Policy
- Whistleblower Protection Policy

Definitions

In this policy:

ADI means Authorised Deposit-taking Institution under the *Banking Act*

AFS Licence means the Australian financial services licences granted by ASIC to MyState Financial Limited (240896), its subsidiary Connect Asset Management Pty Ltd (289677); and Tasmanian Perpetual Trustees Limited (234630) under *Part 7.6* of the *Corporations Act*

Annual Information Statement means the form MYS will provide to its Responsible Persons each year for each of them to make a declaration about their fitness and propriety

APG 520 means APRA's Prudential Practice Guide APG 520 – Fit and Proper

APS 310 means APRA's Prudential Standard APS 310 "Audit and Related Matters"

APS 510 means APRA's Prudential Standard APS 510 "Governance"

APS 520 means APRA's Prudential Standard APS 520 "Fit and Proper"

APRA means the Australian Prudential Regulation Authority

AC or **Audit Committee** means the Board Audit Committee established by the Board in accordance with APS 510 to generally review the effectiveness of the Group's financial reporting

ASIC means the Australian Securities & Investments Commission

Banking Act means the *Banking Act 1959 (Cth)*

Board means the Board of Directors of MyState Limited

CAM means Connect Asset Management Pty Ltd, a wholly owned AFSL regulated subsidiary of MSF.

Corporate Governance and Nomination Committee (CGNC) means the Board Committee established by the Board to oversee the governance responsibilities of the Board

Corporations Act means the *Corporations Act 2001 (Cth)*

Fit and Proper Declaration means the form MYS will provide to candidates for Responsible Person positions and Responsible Persons for each of them to make a declaration to MYS about each of their fitness and propriety

Fit and Proper Officer means the Company Secretary of MYS

MD means the Managing Director or CEO of MYS

MyState Limited (MYS) for the purposes of this policy means MyState Limited and MyState Financial Limited in so far as both companies are required to comply with the APRA APS 520 requirements; and Tasmanian Perpetual Trustees (TPTL) in accordance with APRA's Superannuation Guidance Note SGN 110.1 and the Superannuation Industry (Supervision) Act 1993 as it applies to MYS's Registrable Superannuation Entity (RSE) subsidiary.

Personal Information Statement means the form MYS will provide to candidates for Responsible Person positions for each of them to provide information to MYS as part of a fit and proper assessment. (Annexure B)

RG104 means ASIC Regulatory Guide 104 Licensing: Meeting the general obligations

RG105 means ASIC Regulatory Guide 105 Licensing: Organisational Competence

RG146 means ASIC Regulatory Guide 146 Licensing: Training of financial product advisors

Responsible Persons means those persons meeting the criteria specified in APG 520 and SGN 110.1 and listed in this policy in the section 'Responsible Persons'

Risk Register means a list of all the identified risks to which MYS is exposed

RM means Responsible Manager as defined in [RG105](#)

RP means Responsible Person as defined in APS 520; or in the case of TPTL the Responsible Officers/Directors of TPTL.

RSE means Registrable Superannuation Entity as defined in section 10(1) of the *Superannuation Industry (Supervision) Act 1993*

RSE Licensee means for the purpose of this policy, Tasmanian Perpetual Trustees Limited, as Trustee of the AXIS Retirement Solutions(the Fund)

Senior Managers means those managers other than the MD identified in this policy as Responsible Persons as described in APS 520 or SGN 110.1.

SGN 110.1 means APRA's Registered Superannuation Entity "Superannuation Guidance Note 110.1 Fit and Proper"

Skills Audit: means the annual review of MYS's position descriptions for Responsible Persons against the Skills Inventory

Skills Inventory means the list of skills, qualifications and experience for each Responsible Person position within MYS

Training Officer means the General Manager Brands, Communications, People and Development.

Trustee means for the purpose of this policy, Tasmanian Perpetual Trustees Limited (TPTL)

DISTRIBUTION

A copy of this policy must be given to:

- any candidate for election as a director of MYS as soon as possible after the candidate has been nominated for election as a director;
- APRA on request;
- MYS's Auditors (Internal and External) on request;
- any other person before an assessment of their fitness and propriety is conducted.

RESPONSIBLE PERSONS

Persons holding the following positions have been identified as being MYS Responsible Persons or MSF Responsible Persons as defined in the APRA Prudential Practice Guide 'APG 520 – Fit and Proper', APRA RSE Responsible Persons as defined in 'SGN 101.1 Fit and Proper'; and/or is shown as a Responsible Manager on MSF's, CAM's or TPTL'S Australian Financial Services Licence.

Position	MYS RP	MSF (ADI) RP	TPTL (RSE) RP	MSF (AFSL) RM	CAM (AFSL) RM	TPTL (AFLS) RM
Directors (MYS)	✓	✓	✓			
Company Secretary/Chief Financial Officer	✓	✓	✓		✓	✓
Managing Director	✓	✓	✓			
General Manager Retail Banking and Distribution		✓		✓		
General Manager Brands, Communications, People and Development		✓				
General Manager Technology and Operations		✓				
General Manager Wealth Management and Trustee Services		✓	✓			✓
Treasurer/ General Manager CAM		✓			✓	
Group Financial Controller		✓				
Senior Manager Risk		✓				
Senior Manager Legal and Compliance		✓				
Assistant Company Secretary		✓				
Senior Manager Product Development and Research		✓		✓TBA		
Senior Manager HR Operations		✓				
Senior Manager Operations		✓		✓		
Senior Manager Retail and Strategic Partners		✓		✓		
Senior Manager Financial Planning		✓		✓		✓
Senior Manager Investment Services		✓	✓			✓
Other Members of the TPTL Superannuation Management Committee			✓			
MYS Auditors	✓	✓	✓			

RESPONSIBILITIES

Board

The Board is responsible for:

- Reviewing and approving this Fit and Proper Policy;
- appointing both the Fit and Proper Officer and Training Officer;
- appointing the members of the Corporate Governance and Nomination Committee;
- determining the members of the Audit Committee;
- determining whether to outsource any of the responsibilities under this Fit and Proper Policy; and
- ensuring an assessment of the skills and expertise required by MYS to carry on its business is undertaken and reviewed annually by the management.

Managing Director (MD)

The MD is responsible for conducting fit and proper assessments of any Senior Managers appointed. In this regard the MD will be responsible for:

- ensuring Senior Managers meet the fit and proper criteria set out in this policy;
- determining, from time to time, the matters that will be considered before determining if a person is fit and proper to be a Senior Manager;
- ensuring APRA and other relevant regulators are notified in accordance with the requirements of this policy;
- ensuring a report on MYS's management of fitness and propriety risk is included in the Annual Declaration provided to APRA regarding compliance with APS 310; and
- making a copy of this policy available to APRA on request.

Audit Committee (AC)

The AC is responsible for conducting fit and proper assessments of MYS's auditors who are Responsible Persons. In this regard the AC is responsible for ensuring:

- MYS's auditors meet the fit and proper criteria set out in this Fit and Proper Policy;
- determining, from time to time, the matters that will be considered before determining if a person is fit and proper to be an auditor of MYS.

The AC is also responsible for:

- ensuring that all individuals and committees who have responsibility under this Fit and Proper Policy fulfil their responsibilities in a timely and diligent manner;
- ensuring that the assessment of fitness and propriety of Responsible Persons are included in the compliance management regime for MYS;
- ensuring that from time to time, MYS's Internal Auditors test the controls established by this Fit and Proper Policy; and
- receiving reports on the currency and status of the Fit and Proper assessments of all Responsible Persons on an annual basis.

Corporate Governance and Nomination Committee (CGNC)

The CGNC is responsible for:

- the process for ensuring that MYS's Directors are appropriately trained and continue to be properly trained and maintaining records of such training;
- ensuring that only a person who meets the fit and proper criteria set out in this Fit and proper Policy is appointed as the MD;
- ensuring annual fit and proper assessments of the MD are completed;
- determining, from time to time, the matters that will be considered before determining if a person is fit and proper to be a MD of MYS.

The CGNC has the sole responsibility for determining and making appropriate recommendations to the Board regarding the fitness and propriety of persons who are seeking election or re-election as a director. This responsibility also applies to the occasion when the Board resolves to appoint a director(s).

The CGNC is also charged with responsibility for determining the fitness and propriety of Directors holding office as at July 1 annually and making appropriate recommendations to the Board.

Fit and Proper Officer

The Fit and Proper Officer at the direction of the MD or the relevant Committee is responsible for:

- ensuring that the appropriate checks are carried out by MYS for each Responsible Person position;
- making submissions about any matters that are relevant to a particular Fit and Proper assessment including consideration of whether the Responsible Person is properly trained and continues to be properly trained;
- collecting information with respect to the matters that will be considered before determining if a person is fit and proper to hold a Responsible Person position;
- providing information to the MD, relevant committee or Training Officer in relation to a fit and proper assessment for a Responsible Person position;
- reporting to the MD or relevant committee on matters concerning the procedures for fit and proper assessments;
- ensuring that MYS takes reasonable steps to protect the information and documents collected for each fit and proper assessment are protected from misuse and from unauthorised access, modification or disclosure.

For the purposes of this policy the Fit and Proper Officer is the Company Secretary of MYS.

Training Officer

The Training Officer at the direction of the MD or relevant Committee is responsible for:

- checking material qualifications and making submissions about any matters relevant to a particular Fit and Proper assessment;

- the process for ensuring that MYS' s Responsible Persons (other than Directors) are appropriately trained and continue to be appropriately trained;
- providing the Fit & Proper Officer with a written report for the annual fit and proper assessment detailing any deficiencies in skill or knowledge of a particular Responsible Person, after conferring with the Responsible Person;
- maintaining training records for each Responsible Person of MYS excluding Directors.

For the purposes of this policy, the Fit and Proper Training Officer (Training Officer) is the General Manager Brands, Communications, People and Development of MYS.

ASSESSMENT OF FITNESS AND PROPRIETY

Persons to be Assessed

Each person holding a position defined in this policy as a 'Responsible Person' position is to be assessed for fitness and propriety in accordance with this policy.

Assessment Timeframes

Assessments will be carried out within the following time frames:

- (a) before a person becomes a holder of a Responsible Person position; or
- (b) within 28 days of a person becoming the holder of a Responsible Person position if they hold the position:
 - (i) because of a resolution of shareholders of MYS; or
 - (ii) because APRA has determined that the person is a Responsible Person; or
- (c) within a period of 90 days (or longer with APRA's agreement) of a person becoming the holder of a Responsible Person position if:
 - (i) the person holds the position as an interim appointment; and

- (ii) prior to the appointment the steps were taken to assess the fitness and propriety of the person; and
- (iii) a full fit and proper assessment is completed prior the appointment of the person to the Responsible Person position on a permanent basis; and
- (d) for shareholder elected director candidates, in accordance with the CGNC 'Schedule of Tasks' as amended each year, providing that there is no conflict between that schedule and the above requirements
- (e) annually for each of the Responsible Person positions.

PROCESS FOR ASSESSING FITNESS AND PROPRIETY

Criteria to determine if a person is fit and proper

APRA APS520 regulated entities MYS & MSF

APS 520 provides that the criteria that must be met for a person to be fit and proper to hold a Responsible Person position are whether:

- it would be prudent for the ADI to conclude that the person possesses the competence, character, diligence, honesty, integrity and judgment to perform the duties of the Responsible Person position;
- the person is not disqualified under the Banking Act from holding the Responsible Person position; and
- the person either - has no conflict of interest in performing the duties of the Responsible Person; or - has a conflict of interest but it would be prudent to conclude that the conflict will not create a material risk that the person will fail to properly perform the duties of the Responsible Person position.

Responsible Persons must also have satisfied the criteria contained within:

- the Corporations Act;
- APS 510;
- MYS's Constitution;
- this Fit and Proper Policy;
- the Position Description for the Responsible Person's position and

- for Directors, all of the above and MYS's various governance policies.

ASFL regulated entities (MSF, TPTL & CAM)

- for RM's all of the above where relevant and the requirements of RG105.

SGN 110.1 regulated entity TPTL

The *Superannuation Industry (Supervision) Act 1993* imposes minimum standards in respect of the fitness and propriety for Trustees and Responsible Persons of superannuation funds. APRA SGN 110.1 Fit and Proper sets out the requirements to be met by a Registrable Superannuation Entity (RSE) Licensee.

A RSE Licensee must demonstrate it possesses relevant attributes that enable it to properly discharge its duties and responsibilities as a RSE Licensee in a prudent manner. The attributes include but are not limited to:

- character, competence, diligence, experience, honesty, integrity and judgement; and
- educational or technical qualifications, expertise, knowledge and skills relevant to the duties and responsibilities of an RSE Licensee.

The Trustee is to meet the minimum requirements for educational, technical or practical qualifications on an ongoing basis through the Responsible Persons as a whole having:

- an understanding of and ability to effectively implement the principles of section 52 of the *Superannuation Industry (Supervision) Act 1993* (Annexure A);
- a working knowledge of other relevant prudential requirements;
- sufficient knowledge regarding the duties and responsibilities of an RSE Licensee to make informed decisions in the best interest of beneficiaries based on the advice of technical experts;
- a basic investment knowledge; and

- a basic knowledge of other laws relevant to an RSE Licensee such as trust law, the Privacy Act and Corporations Act.

Additional criteria for auditors

In addition to the criteria set out above, a Responsible Person who is an auditor must also be:

- registered as an auditor under the *Corporations Act 2001*;
- ordinarily resident in Australia;
- a member of a recognised professional body; and
- have a minimum of 5 years relevant experience in the audit of ADIs and be familiar with current issues in the audit of ADIs.

Matters to be considered in making an assessment

Propriety Assessment

In making a determination about the **propriety** of a Responsible Person, or a candidate for a Responsible Person position, the MD or relevant committee will give consideration to the following:

- the person's character in relation to their proposed and/or existing role, including whether there are reasonable grounds to believe that the person has demonstrated in their existing role appropriate professional conduct, sound judgement, and diligence for the Responsible Person position;
- an assessment of the responses provided in the Personal Information Statement and the Fit and Proper Declaration;
- references; and
- the Federal Police check and bankruptcy check.

In determining whether the criteria for the **propriety** requirement have been met for a Responsible Person, or a candidate for a Responsible Person position, the MD or relevant committee will have regard to the:

- information and submissions from the Fit & Proper Officer and the Training Officer, taking into account the Fit and Proper Assessment Form;
- Personal Information Statement;

- Fit and Proper Declaration;
- information and documentation provided by the Fit & Proper Officer and the Training Officer, including an evaluation of all of the established criteria for assessing propriety;
- Responsible Person's (or person proposed to be a Responsible Person) current curriculum vitae with appropriate detail on the person's qualifications and work experience; and
- any other information about the person's propriety that MYS should reasonably be aware of.

For clarity, the process and procedure of the propriety assessment together with consideration of the Fit and Proper Assessment Form, the Personal Information Statement and the Fit and Proper Declaration, regard must also be given to whether the person:

- has demonstrated a lack of willingness to comply with legal obligations, regulatory requirements or professional standards, or has been obstructive, misleading or untruthful in dealing with regulatory bodies or a court of law;
- has breached a fiduciary obligation;
- has a conflict of interest which may influence the ability of either the individual or the Trustee as RSE Licensee to carry out roles and functions:
- has the degree of probity and independence required;
- has a duty of care to Fund members;
- has failed to deal appropriately with such conflicts of interest;
- has perpetrated or participated in negligent, deceitful, or otherwise discreditable business or professional practices;
- has been reprimanded, or disqualified, or removed, by a professional or regulatory body due to matters relating to the person's honesty, integrity or business conduct;
- has seriously or persistently failed to manage personal debts or financial affairs satisfactorily in circumstances where such failure caused loss to others;

- has been substantially involved in the management of a business which has failed, where that failure has been occasioned in part by deficiencies in management;
- is of bad repute in any business or financial community or any market; or
- was the subject of civil or criminal proceedings or enforcement action in relation to the management of an entity or commercial or professional activities, which were determined adversely to the person (including by the person consenting to an order or direction or giving an undertaking not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity.

Fitness Assessment

In making a determination about the **fitness** of a Responsible Person or a candidate for a Responsible Person position, the MD or relevant committee will give consideration to the following:

- the person's competence and experience for the particular Responsible Person position, including whether there are reasonable grounds to believe that the person possesses the necessary skills and expertise for the Responsible Person position;
- whether the person is able to demonstrate they are competent for the position, by reference to attributes such as educational and technical qualifications, completion of any training or induction processes required for the position, knowledge, skills and experience as well as their performance in positions with MYS or otherwise relevant to the position in question;
- whether MYS has information available to it which indicates that the person has been involved in a breach of law, policy, or professional standards or an other activity which is relevant to the fitness of the person for the Responsible Person position; and
- an assessment of the responses provided in the Personal Information Statement and the Fit and Proper Declaration.

In determining whether the criteria for the **fitness** requirement have been met for a Responsible Person position, or a person proposed to be a Responsible Person, the MD or relevant Committee will have regard to the:

- information and submissions from the Fit & Proper Officer and the Training Officer;
- Personal Information Statement;
- Fit and Proper Declaration;
- information and documentation provided by the Fit & Proper Officer and the Training Officer, including an evaluation of all of the established criteria for assessing fitness;
- Responsible Person's (or person proposed to be a Responsible Person) current curriculum vitae with appropriate detail on the person's qualifications and work experience;
- whether the Responsible Person is appropriately trained and continues to be appropriately trained;
- confirmation that the Training Officer has verified (to their satisfaction) that the person has the skills and experience for the Responsible Person position and the person is maintaining an appropriate training development plan; and
- any other information about the person's fitness or competency that MYS should reasonably be aware of.

In addition to the above detailed considerations and requirements, in the context of being fit and proper for superannuation management and administration, together with consideration of the Fit and Proper Assessment Form, the Personal Information Statement and the Fit and Proper Declaration, regard must also be given to whether the persons, as a whole has:

- an understanding of and ability to effectively implement the principles of section 52 of the Superannuation Industry (Supervision) Act 1993 (Annexure A);
- a working knowledge of other relevant prudential requirements;

- sufficient knowledge regarding the duties and responsibilities of an RSE Licensee to make informed decisions in the best interest of beneficiaries based on the advice of technical experts;
- a basic investment knowledge; and
- a basic knowledge of other laws relevant to an RSE Licensee such as trust law, the Privacy Act and Corporations Act.

The Trustee will monitor the fitness of the Trustee and individual Responsible Persons on an ongoing basis through:

- monitoring changes or developments in skills, knowledge, expertise, diligence, soundness of judgement and competencies of Responsible Persons;
- assessing and agreeing upon training needs of Responsible Persons;
- confirming training achievements and developments by Responsible Persons; and
- monitoring ongoing compliance with and satisfaction of the fitness requirements of this Policy.

For clarity, the Trustee will consider on an ongoing basis the range of skills and experience required in the appointment of Responsible Persons including the following:

- meeting widely adopted and relevant industry standards or relevant standards set by APRA;
- having the equivalent of at least 3 years relevant experience in the immediately preceding 5 years in a role that enables the person to understand the responsibilities and requirements of the current role;
- holding a qualification in a discipline relevant to the activities being carried out (eg economics, commerce, business, accounting, information technology);
- having completed approved relevant short industry courses listed in the ASIC Training Register which covers generic and relevant specialist knowledge;

- demonstrating the necessary knowledge needed which has been acquired through industry experience from positions held in the previous 10 years (or thereabouts); or having relevant credentials such as association membership or affiliation or skills or knowledge recognised by an industry association, a regulatory body such as APRA or some relevant overseas body.

The process of review of meeting the fitness requirement will be undertaken on an ongoing basis with at least an annual formal review to be undertaken by the Fit and Proper Officer.

The Training Officer will develop and assess the Individual Training and Development Plans for each Responsible Person to ensure that the Responsible Persons of the Trustee as a whole at least meet the minimum levels of education for ongoing compliance with this Fit and Proper Policy.

The mix of skills and experience of the Responsible Persons of the Trustee as a whole will be monitored on an ongoing basis so that any desirable skills and experience may be obtained by existing Responsible Persons or through the appointment of one or more new Responsible Persons.

Disqualified persons

A Responsible Person's (or person proposed to be a Responsible Person) will automatically fail the fitness and propriety standard if he or she is or has been:

- a 'disqualified' person as defined by the relevant law;
- prohibited from being a Director;
- convicted of an offence in respect of dishonest conduct, has been subject to a civil penalty order or is an insolvent person under administration; or
- have been found not to be a fit and proper person by APRA, ASIC or any other regulator.

The Board will not allow a 'disqualified person' to act in any Responsible Person position. In determining whether a person has been disqualified, the Fit & Proper Officer will have regard to:

- the Personal Information Statement; and
- the Fit and Propriety Declaration; and
- any information the Fit & Proper Officer receives as result of checks they completed under this Fit and Proper Policy.

All Responsible Persons are required to notify MYS as soon as possible and at the latest within 7 days if they become, or have grounds to believe they will become, a disqualified person.

Conflicts of interest

The conflicts of interest of Responsible Persons are to be identified and appropriately managed so that the duties of the individual are not compromised by the commercial, employment or personal interests of such individuals. For the purposes of this Policy, a 'conflict of interest' is an interest, position, or association which does, or may, or may reasonably be perceived as being likely to, negatively influence the ability of either the individual to properly discharge their individual duties, or the ability of the Trustee as an RSE Licensee, to carry out its duties and responsibilities in a prudent manner.

The circumstances that may lead to conflict of interest arising include the following:

- relationship to a service provider;
- derivation of a financial benefit;
- director loans or borrowings;
- shareholder interests; or
- multiple directorships or trusteeships other than those held as a result of being a Responsible Person of MYS.

Each Responsible Person must comply with MYS's policies regarding conflicts of interest, together with such the Code of Personal Conduct and the Corporate Code of Conduct. A person who has a conflict of interest that will create a material risk that the person will fail to properly perform the duties of the Responsible Person position may not be or become a Responsible Person. In determining whether a person has a material conflict of interest, the MD or relevant Committee will have regard to:

- the Personal Information Statement; and
- the Fit and Propriety Declaration; and
- any information the Fit & Proper Officer receives as result of checks they completed under this Fit and Proper Policy.

A Responsible Person will be required to confirm that they will:

- disclose of Directors or the MD if a conflict of interest exists or is likely to exist;
- disqualify themselves and not participate in relevant deliberations if a conflict of interest exists; and
- act in the interest of depositors or the beneficiaries of the Fund rather than their own interests.

Where any potential or actual conflict of interest is identified then the Fit and Proper Officer is to liaise with the relevant Responsible Person to resolve the conflict of interest or to implement a process whereby that conflict of interest does not impact upon the performance of his or her responsibility to MYS.

MYS may take a range of actions which may include the following:

- requiring MYS or the relevant Responsible Person to implement rectification action to resolve, remove or minimise the influence of the conflict of interest;
- obtaining independent expert advice; or
- taking other appropriate action.

The objective of this Fit and Proper Policy is to ensure any actual or potential conflict of interest held by a Responsible Person is identified and appropriately managed with a view that the ability of the individual and MYS to properly discharge their individual and collective duties in a prudent manner is maintained.

Initial Assessments

Information to be obtained

The MD or relevant committee, with assistance from the Fit and Proper Officer and/or Training Officer, will obtain when relevant, the following information for each initial fit and proper assessment of a Responsible Person or a candidate for a Responsible Person position:

- identification information;
- whether the person possesses the necessary skills, knowledge, expertise, diligence and soundness of judgement to undertake and fulfil the particular duties and responsibilities of the role in question; and
- whether the person has demonstrated the appropriate competence and integrity in fulfilling occupational, managerial or professional responsibilities previously and/or in the conduct of his or her current duties; and
- whether the person has demonstrated a lack of willingness to comply with legal obligations, regulatory requirements or professional standards, or been obstructive, misleading or untruthful in dealing with regulatory bodies or a court;
- whether the person has breached a fiduciary obligation;
- has perpetrated or participated in negligent, deceitful, or otherwise discreditable business or professional practices;
- whether the person has been reprimanded, or disqualified, or removed, by a professional or regulatory body in relation to matters relating to the person's honesty, integrity or business conduct;
- whether the person has seriously or persistently failed to manage personal debts or financial affairs satisfactorily in circumstances where such failure caused loss to others;

- whether the person has been substantially involved in the management of a business or company which has failed, where that failure has been occasioned in part by deficiencies in that management;
- whether the person is of bad repute in any business or financial community or any market; or
- whether the person was the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or commercial or professional activities, which were determined adversely to the person (including by the person consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;
- whether the person has a conflict of interest, which may influence the ability of either the individual, or the Trustee in the case of the RSE Licensee, to carry out its duties and responsibilities in a prudent manner with the degree of probity and independence required or regard to the duty of care to Fund members.

Obtaining the Information

The information above will be obtained by making the following enquiries:

- require the person the subject of the assessment to provide the Fit & Proper Officer with:
 - a Personal Information Statement prior to the initial assessment of the fitness and propriety of that person
 - authorisation to complete a bankruptcy check
 - a Fit and Proper Declaration, prior to the initial assessment of the fitness and propriety of that person
 - a signed Australian Federal Police Criminal History Check Application Form;
- encouraging the person to disclose any other information which may be relevant to their fitness and propriety.
- check with APRA whether they are disqualified;
- check with ASIC whether they are disqualified;

- conduct a bankruptcy search;
- check drivers licence, passport or birth certificate;
- sight evidence of any qualifications which are material to an assessment of competency for the Responsible Person position and verify material qualifications by checking with the conferring institution;
- obtain at least two character references;
- conduct an historical directorship search;
- verify recent employment history to the extent relevant and material;
- check with relevant professional or industry bodies for matters relevant and material to an assessment of propriety;
- check other matters disclosed in the Fit and Proper Declaration to the extent relevant and material to an assessment of fitness and propriety;
- Fit and Proper Officer submission (including the Training Officer's submission); and
- review any other appraisal of the person conducted by MYS.

Annual Assessments

The MD or relevant committee will conduct an annual fit and proper assessment of each of its Responsible Persons in accordance with the requirements of APS 520, SGN 110.1 and RG 105.

Information to be obtained

The MD or relevant committee, with assistance from the Fit and Proper Officer and/or Training Officer, will obtain or verify, when relevant, the information it obtained when conducting the initial fit and proper assessment of the Responsible Person.

Obtaining the Information

This information will be obtained by making the following enquiries:

- require the person to provide the Fit & Proper Officer with a Personal Information Statement prior to the annual assessment of their fitness and propriety and encouraging that person to disclose any other information which may be relevant to their fitness and propriety;

- investigate any matter disclosed in the Personal Information Statement that may be relevant to an assessment of a person's fitness and propriety which was not known at the time of the last fit and proper assessment of the person;
- check with APRA whether the Responsible Person is disqualified;
- check with ASIC whether the Responsible Person is disqualified;
- conduct a bankruptcy search;
- reviewing any performance appraisal of Responsible Person conducted by MYS;
- review the training requirements for the Responsible Person position.
- ensuring any continuous professional development requirements have been met during the year.

Ongoing Assessments

MYS will apply fit and proper requirements on an ongoing basis to its Responsible Persons. To this end, if MYS becomes aware of information that may be relevant to an assessment of a Responsible Person's fitness and propriety that was not known at the time of the last fit and proper assessment, the MD or relevant committee must promptly undertake enquiries to determine if a fitness or propriety concern exists in accordance with the requirements of APS 520 or SGN 110.1.

To this end, depending on the nature and extent of the information, the MD or relevant committee may:

- require a Responsible Person to complete a declaration in the form of an Fit and Proper Declaration and provide it to the Fit and Proper Officer;
- require a Responsible Person to undergo a complete fit and proper assessment in accordance with this Fit and Proper Policy;
- require a Responsible Person to attend an interview with the MD or relevant committee;

- provide a Responsible Person with a fair opportunity to put matters to the Fit and Proper Officer that relate to any information that could lead to an assessment that the person is not fit and proper.

Interim Appointments

MYS may on occasion appoint a person to a Responsible Person position without a fit and proper assessment for a period of 90 days (or longer with APRA's agreement).

Information to be obtained

Prior to MYS making such the appointment it must obtain when relevant the following information in respect of the person it wishes to appoint to the Responsible Person position:

- identification information;
- whether the person has demonstrated a lack of willingness to comply with legal obligations, regulatory requirements or professional standards, or been obstructive, misleading or untruthful in dealing with regulatory bodies or a court;
- whether the person has breached a fiduciary obligation;
- has perpetrated or participated in negligent, deceitful, or otherwise discreditable business or professional practices;
- whether the person has been reprimanded, or disqualified, or removed, by a professional or regulatory body in relation to matters relating to the person's honesty, integrity or business conduct;
- whether the person has seriously or persistently failed to manage personal debts or financial affairs satisfactorily in circumstances where such failure caused loss to others; • whether the person has been substantially involved in the management of a business or company which has failed, where that failure has been occasioned in part by deficiencies in that management;
- whether the person is of bad repute in any business or financial community or any market; or
- whether the person was the subject of civil or criminal proceedings or enforcement action, in relation to the management of an entity, or

commercial or professional activities, which were determined adversely against the person (including by the person consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct) and which reflected adversely on the person's competence, diligence, judgement, honesty or integrity;

- whether the person has a conflict of interest.

Obtaining the Information

This information will be obtained by making the following enquiries:

- requiring the person to provide the Fit & Proper Officer with:
 - a Personal Information Statement, to be completed by the person prior to their appointment to the Responsible Person position ;
 - authorisation to complete a Federal Police check and a bankruptcy check;
 - a Fit and Proper Declaration, prior to their appointment and;
- encouraging that person to disclose any other information which may be relevant to their fitness and propriety;
- investigating any matter disclosed in the Fit and Proper Declaration that may be relevant to an assessment of a person's fitness and propriety;
- check with APRA whether the Responsible Person is disqualified;
- check with ASIC whether the Responsible Person is disqualified;
- conduct a bankruptcy search;
- review any interview or appraisal of the person conducted by MYS;
- review any other information obtained by MYS.

A full Fit and Proper assessment in accordance with the process described under 'Initial Assessment' must be made prior to appointing the person to the position on a permanent basis.

Decision Making Process

1. The Fit & Proper Officer will collect all information required under this Fit and Proper Policy, including submissions from the Fit and Proper

Officer and from the Training Officer and pass this information to the MD or relevant committee

2. The MD or relevant committee conducting the assessment will evaluate the information.
3. The MD or relevant committee will provide a candidate or Responsible Person with any information that has been collected that might lead to an assessment that the person is not fit and proper.
4. The MD or relevant committee must allow the candidate or Responsible Person a fair opportunity to put matters regarding the information to the MD or relevant committee.
5. The MD or relevant committee conducting the assessment will invite a candidate or Responsible Person to attend an interview with the MD or relevant Committee.
6. After the interview process is completed the MD or relevant committee will then assess the fitness and propriety of the Responsible Person, or proposed Responsible Persons.
7. The CGNC will consult with the Board on any persons considered not to be fit and proper.

All of the criteria in the section 'Criteria to determine if a person is fit and proper' must be satisfied for that person and position. In addition to the requirements set out above, a candidate will not be endorsed or a Responsible Person will be removed from a Responsible Person position if:

- they fail to provide within a reasonable time when requested any information relevant to their fitness and propriety for a particular Responsible Person position.

- they fail to provide within a reasonable time when requested the Personal Information Statement or the Fit and Propriety Declaration.
- to make themselves available for an interview by the MD or relevant committee.

Outcomes of Assessment

Responsible Persons will be assessed as either 'Fit and Proper to hold the position' or 'Not Fit and Proper to hold the position'.

'Fit and Proper to hold the position'

A person assessed as 'Fit and Proper to hold the position' may hold the position for which they were assessed.

'Not Fit and Proper to hold the position'

Directors

If the Responsible Person position is that of Director and the person:

- who is a candidate for that position is found by the CGNC to be not fit and proper to be and act as the Director of MYS, where there is:
 - **Election by members:** The Board will not endorse the candidacy of such a person to the membership for election as a Director.
 - **Appointment by the Board:** The Board will not appoint a person as a Director if the person is not assessed as fit and proper by the CGNC; or
- holding that position is found by the Board to be **not** fit and proper to be and act as a Director of MYS, MYS's Constitution provides that such a person must automatically vacate the office of Director.

MYS's policy is to:

- immediately notify the Director that their office is vacated under the constitution;
- inform the Director that they will be in breach of MYS's Constitution if they:

- (a) make, or participate in making, decisions that affect the whole, or a substantial part, of the business of MYS; or
 - (b) exercise the capacity to affect significantly MYS's financial standing; or
 - (c) communicate instructions or wishes (other than advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the Directors or MYS) to the Directors of MYS:
 - (i) knowing that the directors are accustomed to act in accordance with the person's instructions or wishes; or
 - (ii) intending that the directors will act in accordance with those instructions or wishes;
- notify APRA within 10 business days of the assessment;
 - if necessary notify APRA that the person remains in the position and that MYS will where relevant:
 - (a) notify APRA that the Director will be re-appointed when they have taken remedial action to satisfy the CGNC and the Board that they are fit and proper;
 - (b) ask APRA to make an assessment of the Director's fitness and propriety to be and act as a Director of MYS because they are disputing the Board's determination.

Auditors

If the Responsible Person position is that of auditor and a person holding that position is not fit and proper:

- **Appointment by the Board Audit Committee:** The AC will not appoint a person as an auditor if the person is not fit and proper.
- **Existing auditor:** In relation to removal of the auditor, the AC's ability to take action following a finding that the auditor is not fit and proper is limited by the Corporations Act. Accordingly, whenever the AC forms the belief that the auditor is not fit and proper, MYS's policy is to:
 - arrange for the removal of the auditor in accordance with Corporations Act;

- notify APRA within 10 business days of the assessment that the auditor:
 - (a) Is not fit and proper;
 - (b) remains in the position; and
 - (c) that MYS is arranging a meeting of members in accordance with the Corporations Act to vote on a resolution for the removal of the auditor.

Senior Managers

If the Responsible Person position is that of a Senior Manager and a person is assessed as not fit and proper:

- **Appointment by MD:** The MD will not appoint a person as a Senior Manager if the person is not fit and proper.
- **Existing Senior Manager:** The MD will, having regard for the terms and conditions of any employment agreement with the Senior Manager, either:
 - redeploy the employee or consultant to a position for which they are fit and proper, or
 - terminate the employment or consultancy.
 - notify APRA of the removal of the individual from the position of Responsible Person within 10 days of the assessment.

APPOINTMENT PROCESS

The appointment process for Responsible Persons is to be undertaken so as to ensure that the Responsible Persons and the RSE Trustee Board meets this Fit and Proper Policy on an ongoing basis.

The Fit and Proper Officer is to arrange for all prospective Directors and Responsible Persons to be provided with the following information:

- summary of the duties of a Director, including the covenants contained in section 52 of the *Superannuation Industry (Supervision) Act 1993* (Annexure A);

- details of the processes that will be undertaken to satisfy itself that the requirements of this Fit and Proper Policy and the Relevant Law are met initially and will continue to be met;
- copy of the codes of conduct and Fit and Proper Policy;
- copy of APS 520; and where appropriate APRA Superannuation Guidance Note SGN 110.1;
- requirement for Federal Police checks and bankruptcy checks to be undertaken;
- requirement for a curriculum vitae to be provided with demonstrated skills and experience or demonstrated commitment to acquire such skills and experience as soon as is practicable including a readiness to undertake relevant training such as the Trustee Know How course provided by the Association of Superannuation Funds Australia or such other relevant course within six months of commencement of office; and
- requirement to complete the Responsible Person – Personal Information Statement initially and at least annually and to advise of any relevant changes in circumstances within seven days.

A prospective Director or Responsible Officer to the RSE is to be appointed once the Trustee is satisfied with a range of matters relating to that person including the following:

- the contents of the completed Responsible Person – Personal Information Statement;
- the Federal Police check undertaken;
- the bankruptcy search undertaken;
- the skills and experience outlined in the curriculum vitae;
- first hand knowledge of the prospective Responsible Officer held by the Trustee; and
- any other information or enquiries which the Trustee wishes to undertake.

An appointment of a Director to the RSE is to be considered by the Trustee in accordance with the Constitution and the appointment of a Responsible

Officer will be considered by the Trustee in accordance with the processes for the appointment of such Officers including entering into a contract of employment.

SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993; SECTION 52 COVENANTS

The *Superannuation Industry (Supervision) Act 1993* provides that where a Trustee of a superannuation entity is a company, the covenants specified in section 52(2) bind each of the Directors of the Board as if they were parties to the governing rules. The Directors are bound to exercise a reasonable degree of care and diligence for the purposes of ensuring that the Trustee carries out the covenant (section 52(8)).

Under the general law, the Directors of a Trustee Company do not directly owe duties to beneficiaries; they merely owe duties to the company to act in its best interests. The practical effect of the duty imposed on the Directors by the covenants is that each Director now owes a direct duty under the governing rules to members or beneficiaries to ensure that the Fund complies with the statutory covenants, including the requirement of the SIS Act in general.

It is therefore possible that members or beneficiaries may bring an action against the Directors directly if the Board of Directors contravenes the covenants or the requirements of the SIS Act which results in loss or damage to the members or beneficiaries.

The standard of care for the purposes of section 52(8) is the degree of care and diligence that a reasonable person in the position of Director of the Trustee would exercise in the trustee's circumstances (section 52(9)). (Annexure A)

SKILLS INVENTORY

The training, education, skills and expertise requirements for Responsible Person positions are to be recorded in the Position Descriptions for each

position. These Position Descriptions will form part of the assessment criteria upon which the Fit and Proper assessment is based.

Collectively these Position Descriptions represent MYS's Skills Inventory and must therefore contain all of the training, education, skills and expertise requirements necessary to carry on business as an ADI.

The MD is responsible for ensuring Position Descriptions are documented for each Responsible Person position (excluding Directors). These documents are to be retained by the Training Officer.

The GC is responsible for ensuring a Position Description exists for Directors. The Position Description for Directors is to be documented in the Directors Policy.

SKILLS AUDIT

The MD is responsible for ensuring a Skills Audit for Responsible Person positions is conducted annually to ensure MYS has the appropriate skills necessary for its business activities.

The Skills Audit will be conducted by reviewing the training, education, skills and expertise requirements for current business activities against MYS's Skills Inventory.

Any gaps will be managed through training, re-alignment, recruitment or by using external consultants at the discretion of the MD and Training Officer.

WHISTLEBLOWING

In addition to MSF's Whistleblower Protection policy which is adopted by MYS, the following also apply:

Responsible persons not fit and proper

If a person believes that a Responsible Person does not meet the fit and proper criteria of MYS that person may notify the relevant Board Committee,

the MD, or, the Fit & Proper Officer of their belief. MYS encourages and consents to any person notifying the MD, the relevant Committee or the Fit & Proper Officer of their belief that a Responsible Person does not meet MYS's fit and proper criteria.

MYS not complying with APS 520

If a person believes that MYS has not or will not comply with APS 520 that person may notify APRA of their belief and their reasons for it.

Notifying APRA

The Board of MYS consents to any person who held a Responsible Person position disclosing information or providing documents to APRA relating to their reasons for resignation, retirement or removal.

Communication to employees and directors

The MD must ensure that the provisions for whistle blowing in this Fit and Proper Policy are communicated to directors and employees whom it is considered may have information relevant to an assessment of the fitness and propriety of a Responsible Person.

Must not impede

MYS will not constrain, impede, restrict or discourage by any means, any person with the belief that APS 520 is not being complied with from contacting the Fit & Proper Officer or APRA.

Suffer no detriment

MYS will take all reasonable steps to ensure that no person making the disclosures, referred to above is, or is threatened with a detriment because of any notification, unless the disclosure or notification was not made in good faith.

MYS Policy Section 24 Whistleblower Protection

The whistle blowing requirements in this Fit and Proper Policy should be read in conjunction with the whistle blowing protections provided for in the Corporations Act and MSF's Whistleblower Protection Policy which has been

adopted for use by MYS. The protections contained in the Corporations Act will apply to persons acting in accordance with whistle blowing provisions contained in this Fit and Proper Policy.

PROVIDING INFORMATION TO APRA

MYS must:

- if there is a change to any information previously provided to APRA regarding Responsible Persons or if there is a new appointment to a Responsible Person position advise APRA of the revised information (in the form required by APRA) within 28 days of the change or new appointment;
- notify APRA, (in the form required by APRA) within 10 business days if MYS assesses that a Responsible Person is not fit and proper;
- upon request by APRA, take all reasonable steps to provide information and documentation to assist APRA in assessing the fitness and propriety of a person.

DOCUMENT RETENTION

MYS must:

- document all information considered in initially assessing and annually re-assessing the fitness and propriety of a person for a particular Responsible Person position;
- retain all documentation relating to the initial assessment or annual re-assessment of a person for a particular Responsible Person position for as long as the person remains in that Responsible Person position or another Responsible Person position with MYS;
- immediately destroy documentation relating to the initial assessment of an unsuccessful candidate for a particular Responsible Person position;
- retain documentation relating to the initial assessment or annual re-assessment of a person for a particular Responsible Person for a period of 7 years following the person ceasing to hold any Responsible Person position with MYS.

COLLECTION OF INFORMATION

Responsible Person must provide information

Each candidate for a Responsible Person position and existing Responsible Persons must provide the MD or relevant Committee with all information and documentation that the MD or relevant Committee reasonably requests for the purposes of determining whether the person is fit and proper.

How to contact us

If a person who is the subject of a fit and proper assessment under this Fit and Proper Policy wishes to contact MYS they can contact:

Company Secretary

MyState Limited

23 Paterson Street

LAUNCESTON, TAS 7250

Collection of Personal Information

In carrying out a fit and proper assessment MYS may collect personal information (including sensitive information) about a candidate for a Responsible Person position or a Responsible Person. If MYS does collect such information the person to whom the information applies may in accordance with the *Privacy Act 1988 (Cth)* gain access to the information by contacting MYS at the address provided. If MYS does collect and holds personal information (including sensitive information) it will collect, hold and use the personal information (including sensitive information) to:

- assess a person's fitness and propriety;
- comply with legislative and regulatory requirements;
- perform administrative functions including risk management, record keeping, archiving, staff training; and
- managing MYS's rights and obligations under its licences.

The collection of personal information (including sensitive information) for the purposes of a fit and proper assessment is, where relevant, required by APS 520.

To whom the information will be provided

Any personal information (including sensitive information) for the purposes of a fit and proper assessment collected by MYS will be disclosed as required under this Fit and Proper Policy, APS 520 and the law.

Failure to provide information

If a person, the subject of a fit and proper assessment, fails to provide information to MYS, that person will:

- not be endorsed by the Board as a candidate for election;
- not be considered for employment in a Responsible Person position; or
- be removed from a Responsible Person position. In certain circumstances this may mean their employment will be terminated.

REVIEW

The Board will review this policy at least annually to ensure it remains up to date and relevant.

ANNEXURE A – SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993 - SECTION 52 COVENANTS

The covenants prescribed by section 52 (2) are as follows:

Section 52(2)(a) – Covenant by the Trustee:

(a) to act honestly in all matters concerning the entity.

This covenant encompasses the duty of a Trustee under trust law to act honestly and in good faith in all matters in relation to a trust and as between all beneficiaries.

The scope of this general duty to act honestly is wide enough to cover a number of other fiduciary duties owed by a trustee which are not specified in the statutory covenants, for example:

- to exercise the powers of the Trustee only for the purpose for which they were conferred,
- to ensure that the trustee is not placed in a position where the exercise of its powers is fettered or where its duties and personal interests conflict when there is a real possibility of such a conflict arising.

Section 52(2)(b) – Covenant by the Trustee:

(b) to exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide.

This covenant imposes an objective test on the standard of care required of the Trustee in all matters relating to the Fund, including the matters specifically set out in the SIS Act.

A Trustee is therefore not assessed on the basis of the skills or experience of the Trustee (the subjective test) but is only required to exhibit in the performance of its duties the standard of care, skill and diligence to that objective standard of an ordinary prudent person.

Section 52(2)(c) – Covenant by the Trustee:

(c) to ensure that the trustee's duties and powers are performed and exercised in the best interests of the beneficiaries.

Generally this requires the Trustee when exercising its powers and duties, not to compromise the interests of the beneficiaries in favour of other parties (eg a purchaser of an asset being sold by a fund) or the personal interest of the Trustee. The promise to act in the best interests of the beneficiaries also implies that the trustee will act impartially between beneficiaries.

Section 52(2)(d) – Covenant by the Trustee:

(d) to keep the money and other assets of the entity separate from any money and assets, respectively:

(i) that are held by the trustee personally; or

(ii) that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the entity.

The Trustee is to keep proper accounts so that trust property is not mixed with other assets not forming part of the trust.

Section 52(2)(e) – Covenant by the Trustee:

(e) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers.

The covenant under section 52(2)(e) does not prevent the Trustee from engaging or authorising persons to do acts or things on behalf of the Trustee (section 52 (3)). However the trustee remains liable for any acts or omissions by the delegates of the trustee.

Section 52(2)(f) - Covenant by the Trustee:

(f) to formulate and give effect to an investment strategy that has regard to the whole of the circumstances of the entity including, but not limited to, the following:

(i) the risk involved in making, holding and realising, and the likely return from, the entity's investments having regard to its objectives and its expected cash flow requirements;

(ii) the composition of the entity's investments as a whole including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification;

(iii) the liquidity of the entity's investments having regard to its expected cash flow requirements;

(iv) the ability of the entity to discharge its existing and prospective liabilities.

An investment strategy is to be put in place by the Trustee in accordance with this covenant.

The requirements of this covenant to formulate and give effect to an investment strategy is also prescribed as an operating standard for regulated superannuation funds, approved deposit funds and pooled superannuation trusts (regulation 4.09).

Section 52(2)(g) - Covenant by the Trustee:

(g) if there are any reserves of the entity - to formulate and to give effect to a strategy for their prudential management, consistent with the entity's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due.

The SIS Act does not prohibit an entity from maintaining reserves where it is not prohibited by the governing rules of the entity (section 115).

Where reserves are kept, the Trustee must, in addition to complying with the covenant, ensure that the prescribed operating standard for the determination

of investment returns to be credited or debited to members' benefits is also complied with (regulation 5.03).

Section 52(2)(h) - Covenant by the Trustee:

(h) to allow a beneficiary access to any prescribed information or any prescribed documents.

The prescribed information and documents are those required to be made available at the request of a concerned person (i.e., a person who is, or was within the preceding 12 months, a member or a beneficiary of the superannuation entity) under Pt 2 Div 2.6 of the SIS Regulations (regulation 4.01).

The information requirements under Division 2.6 are prescribed operating standards for all superannuation entities. While the covenant allows a vast range of information to be made available to a person, it must be noted that a trustee is not required to disclose:

- internal working documents of the entity; or
- information or documents that would disclose, or tend to disclose personal information of another person if, in the circumstances, the disclosure would be unreasonable, or trade secrets or other information having a commercial value that would be reduced or destroyed by the disclosure; or
- information or documents in relation to which the trustee of the entity owes to another person a duty of non-disclosure (reg 2.40(2)).

ANNEXURE B – PERSONAL INFORMATION STATEMENT

Responsible Person – Annual Personal Information Statement

This questionnaire covers requirements under the *Corporations Act*, the *Banking Act 1959* (Cth) and the Australian Prudential Regulation Authority's *Prudential Standard 520 Fit and Proper*.

APS 520 requires an annual fit and proper evaluation of responsible persons. The purpose of the following declaration is to identify any event that has occurred since the last such Statement that could potentially impact on your fitness and propriety to act as a responsible person.

Please respond to all questions then sign the declaration.

You are not required to reveal any convictions, which may be protected by Part VIIC of the Crimes Act 1914 – please refer to information at the end of this document for more detail.

Please tick your answer to the following questions:

Inquiries under the Corporations Act and Banking Act		
1	Have you been convicted of any offence involving any of the following: <ul style="list-style-type: none"> • management of corporations • breaches of the <i>Corporations Act</i>, the <i>Corporations Law</i> that was previously in force or a similar law of a foreign country • breaches of the <i>Banking Act 1959</i> (Cth) • breaches of the <i>Financial Sector (Collection of Data) Act 2001</i> (Cth) • dishonesty • conduct relating to a company that carries on business in the financial service sector • significant prison terms 	Yes <input type="checkbox"/> No <input type="checkbox"/>
<p>If you answered Yes to question 1, please provide details of the conviction, including a description of the conduct for which you were convicted, when you were convicted, and the penalty imposed.</p>		
2	Are you or have you been bankrupt under Australian or foreign law?	Yes <input type="checkbox"/> No <input type="checkbox"/>
3	Have you executed a deed or arrangement under Part X of the <i>Bankruptcy Act 1966</i> (Cth) (or a similar law of a foreign country)?	Yes <input type="checkbox"/> No <input type="checkbox"/>

4	Have your creditors accepted a composition under Part X of the Bankruptcy Act 1966 (Cth)(or a similar law of a foreign country)?	Yes <input type="checkbox"/> No <input type="checkbox"/>
5	Has a court disqualified you from managing corporations?	Yes <input type="checkbox"/> No <input type="checkbox"/>
6	Has ASIC disqualified you from managing corporations?	Yes <input type="checkbox"/> No <input type="checkbox"/>
7	Has APRA disqualified you from being or acting as a director or senior manager of an authorised deposit taking institution or an authorised non-operating holding company, or a senior manager of the Australian operations of a foreign authorised deposit-taking institution?	Yes <input type="checkbox"/> No <input type="checkbox"/>
8	Have you been disqualified under the law of a foreign country from managing, or taking part in the management of an entity that carries on the business of banking or insurance or otherwise deals in financial matters?	Yes <input type="checkbox"/> No <input type="checkbox"/>

If you answered Yes to questions 5, 6, 7 or 8, please provide details of the disqualification, including a description of the conduct for which you were disqualified, when you were disqualified, where you were disqualified, and the period of your disqualification.

If you answered Yes to any of questions 1 to 8, please answer question 9. Otherwise, go to question 10.

9	Has either a court given you leave or ASIC given you written permission to be involved in the management of an ADI, or a class of corporations includes ADIs?	Yes <input type="checkbox"/> No <input type="checkbox"/>
10	Has APRA determined that you are not disqualified from being or acting as a director or senior manager of an authorised deposit taking institution or an authorised non-operating holding company, or a senior manager of the Australian operations of a foreign authorised deposit-taking institution?	Yes <input type="checkbox"/> No <input type="checkbox"/>

If you answered Yes to question 9 or 10, please provide a copy of the

Court order, ASIC's written permission or APRA's determination.		
Enquiries under APS 520		
11(a)	Are you unable to demonstrate that you are competent for the position, by reference to attributes such as educational and technical qualifications, completion of any training or induction processes required for the position, knowledge, skills and experience as well as performance in positions with the institution or the subsidiary or otherwise relevant to the position in question?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(b)	Have you failed to discharge your responsibilities as a director or manager of, or a professional service provider to, a body corporate, statutory body, partnership, trust, or commercial or professional enterprise of any kind (entity) with diligence, honesty, integrity or judgment?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(c)	Were you the subject of justifiable criticism, discipline, punishment, adverse findings, directions or orders, by a court, tribunal, official inquiry, regulatory agency, complaints handling body, dispute resolution body, or professional or industry body concerning your conduct in relation to: 1. the management of an entity; or 2. commercial or professional activities?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(d)	Were you the subject of civil or criminal proceedings, or enforcement action, in relation to: 1. the management of an entity; or 2. commercial or professional activities; that were determined adversely to you (including by you consenting to an order or direction, or giving an undertaking, not to engage in unlawful or improper conduct), and which reflected adversely on your competence, character, diligence, honesty, integrity or judgment?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(e)	Were you expelled or excluded from, or refused admission to, a professional or industry body, or a clearing house or exchange?	Yes <input type="checkbox"/> No <input type="checkbox"/>

11(f)	Were you involved with the affairs of an entity that was expelled or excluded from, or refused admission to, a professional or industry body, or a clearing house or exchange, and engaged in conduct which caused or contributed to the entity's expulsion, exclusion or non-admission?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(g)	Were you refused a licence or Authorization relating to a commercial or professional activity, or had such a licence or Authorization revoked?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(h)	Were you involved with the affairs of an entity that was refused a licence or Authorization relating to a commercial or professional activity, or had such a licence or Authorization revoked, and engaged in conduct that caused or contributed to the refusal or revocation of the licence or Authorization?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(i)	Have you had your appointment terminated, or resigned or was asked to resign, from a position as director or manager of, or professional service provider to, an entity in circumstances which reflected adversely on your competence, character, diligence, honesty, integrity or judgement in discharging your responsibilities in the position?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(j)	Have you seriously or persistently failed to manage your debts or financial affairs in accordance with your contractual or other legal obligations in circumstances where such failure caused loss to others?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(k)	<p>Were you, or did you act as, a director or manager of, or professional advisor to, an entity that:</p> <ol style="list-style-type: none"> 1. was, or later came to be, insolvent; 2. was, or later came to be, under insolvency administration; 3. was, or later came to be, under statutory or judicial management; or 4. failed to repay, or otherwise failed to meet its financial obligations to, creditors or beneficiaries, <p>and engaged in unreasonable or unlawful conduct that caused or contributed to the insolvency, placement under insolvency administration or statutory or judicial management, or failure to repay or otherwise meet obligations to creditors or beneficiaries?</p>	Yes <input type="checkbox"/> No <input type="checkbox"/>

11(l)	Have you contravened any regulatory requirement or professional standard relating to: (i) the management of an entity; or (ii) commercial or professional activities?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(m)	Have you been unreasonably or improperly obstructive of, or misleading or untruthful in dealing with, a court, tribunal, official inquiry, regulator, complaints handling body, dispute resolution body, or professional or industry body?	Yes <input type="checkbox"/> No <input type="checkbox"/>
11(n)	Have you breached a fiduciary obligation or other legal or professional obligation involving trust or conflict of interest or perpetrated or participated in negligent, deceitful or otherwise discreditable business or professional practices?	Yes <input type="checkbox"/> No <input type="checkbox"/>

11(o)	Have you failed to comply with a fit and proper policy of an APRA-regulated institution?	Yes <input type="checkbox"/> No <input type="checkbox"/>
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If you have answered Yes to any of the above questions, please provide further details.

Declaration

I declare that:

- there is no further information (other than that provided in this declaration or any previous declarations) that may be relevant to your assessment of my fitness and propriety as a responsible person; and
- the answers given above, and any other information that I have given in connection with this continued eligibility questionnaire, is complete and accurate as at today's date.

Signature of Responsible Person

Name of Responsible Person

Position

Date

NOTE	DISCLOSURE OF CONVICTIONS <p>You are not required to reveal any convictions, which may be protected by Part VIIC of the Crimes Act 1914. This means that you do not have to disclose where any of the following apply:</p> <ul style="list-style-type: none">• if you were granted a free and absolute pardon because of a wrong conviction;• the conviction was quashed; or• the conviction is spent. A Commonwealth conviction is spent if a pardon was granted or a reason other than wrongful conviction or if it meets ALL the following conditions:<ul style="list-style-type: none">☞ it is 10 years or more since the date of the conviction (or five years since the date of the conviction if the person was dealt with as a juvenile);☞ the sentence IMPOSED (not what was actually served) was a fine, bond, community service order or imprisonment for a period of less than 30 months;☞ there have not been any further offences in the ten (or five) year period; AND☞ an exclusion does not apply. <p>Information about quashed convictions or free and absolute pardons can never be disclosed. However under the Crimes Act there are some exclusions from the legislation with respect to spent convictions for certain types of employers. An exclusion removes or restricts the rights of an individual with a minor old conviction. Exclusions are either complete or partial. A complete exclusion means that information about all criminal convictions may be disclosed. With a partial exclusion, only specific convictions may be disclosed. No exclusion from the spent convictions scheme has been granted to applications using the Australian Securities and Investments Commission Form, in other words spent convictions can never be disclosed. Please ensure your responses to the questions on the previous pages take into account this information.</p>
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