

Box E

The Council of Financial Regulators

The Council of Financial Regulators (CFR) is the coordinating body for Australia's main financial regulatory agencies. There are four members: the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC), the Reserve Bank of Australia (RBA) and the Australian Treasury. The Reserve Bank Governor chairs the CFR and the RBA provides secretariat support. The CFR's objectives, as set out in its Charter, are to contribute to the efficiency and effectiveness of financial regulation, and to promote stability of the Australian financial system.¹

The CFR is a non-statutory body, unlike similar bodies in the United Kingdom and the United States. It does not have regulatory or policy decision-making powers of its own. Those powers reside with its members under their respective legislation. Instead, the CFR operates as a means for cooperation and coordination among member agencies. This box discusses the origins, processes and functions of the CFR.

History and governance

The CFR was established in 1998 as the successor to the Council of Financial Supervisors (CFS), which had been in operation from 1992. The CFR's collaborative, non-statutory structure was recommended by the 1997 report of the Financial System Inquiry (Wallis Committee). The Wallis Committee did not favour creating a statutory charter for the CFR as this could suggest that the CFR had regulatory functions

separate from those of its members. Instead, the Wallis Committee argued that the CFR, as a replacement to the CFS, should have the aim of facilitating close cooperation among its members. It saw the CFR as the collaborative dimension of the regulatory agencies' activity. It did not see the CFR as a separate body with the ability to force cooperation among regulatory agencies.

The CFR was originally established with only three members: APRA, ASIC and the RBA. In 2003, the Treasurer announced that the Australian Treasury would join the CFR. This followed major changes to Australia's financial regulatory structure brought about by the recommendations of the Royal Commission into the failure of HIH Insurance. At that time, the CFR Charter was also revised to provide a stronger focus on stability issues, including the promotion of coordination arrangements between regulators for handling episodes of financial instability. In March 2004, the RBA began publishing a semi-annual *Financial Stability Review*. Alongside the RBA's assessment of the state of the financial system, each *Review* discusses activities of the CFR.

The CFR meets quarterly, or more often if required. At these meetings the four member agencies share views and information, and discuss regulatory reforms or issues where responsibilities overlap. They also coordinate responses to any threats to financial stability. This provides a flexible approach to coordination among the main financial regulatory agencies. Where appropriate, the CFR also provides joint

¹ The Charter is available on the CFR's website <<https://www.cfr.gov.au>>.

advice to the Government on current regulatory issues. As the secretariat, the RBA works to ensure the CFR operates effectively and within its mandate. This includes liaising with members to determine the agenda for CFR meetings and reaching out to non-member government agencies for their participation as appropriate.

The CFR's focus on cooperation and coordination between the agencies is supported by multiple Memorandums of Understanding (MoUs) and bilateral coordination arrangements between member agencies. The MoUs cover such matters as information sharing, prompt notification of any regulatory decisions likely to impact other agencies' responsibilities, and consultation arrangements in the event of financial disturbances. Given the CFR's central role in crisis management, a specific MoU on financial distress management was agreed by the CFR members in 2008. This close cooperation is complemented by the Secretary to the Treasury sitting on the Reserve Bank Board and APRA having representation on the Bank's Payments System Board.

Organisation

The CFR comprises two representatives – the agency head and another senior representative – from each of the four member agencies. For the RBA, these representatives are the Governor and the Assistant Governor (Financial System). For the other agencies they are: the Chairman and Executive General Manager (Policy and Advice Division), APRA; the Chair and a Commissioner, ASIC; and the Secretary to the Treasury and Deputy Secretary (Markets Group), Treasury. Agencies may invite other internal specialists to speak on particular topics if required. Other regulatory bodies, such as the Australian Competition and Consumer Commission (ACCC) and the Australian Transaction Reports and

Analysis Centre (AUSTRAC), are invited to attend discussions relevant to their respective mandates.

Between quarterly meetings, the work of the CFR is facilitated through various working groups (see Figure E1). These groups progress work on specific topics or policy reforms. They develop papers for discussion that may include working-group-level advice on whether the CFR should support a particular position. The working groups are established either on an ongoing or temporary basis. Typically, each working group carries out work based on an agreed terms of reference, which sets out the group's scope of work, objectives and timeline. Groups usually consist of representatives from each of the four CFR agencies, though non-member agencies with appropriate expertise participate in some groups; both the ACCC and AUSTRAC are currently participating in CFR working groups.

Some of the activities of these working groups include the following:

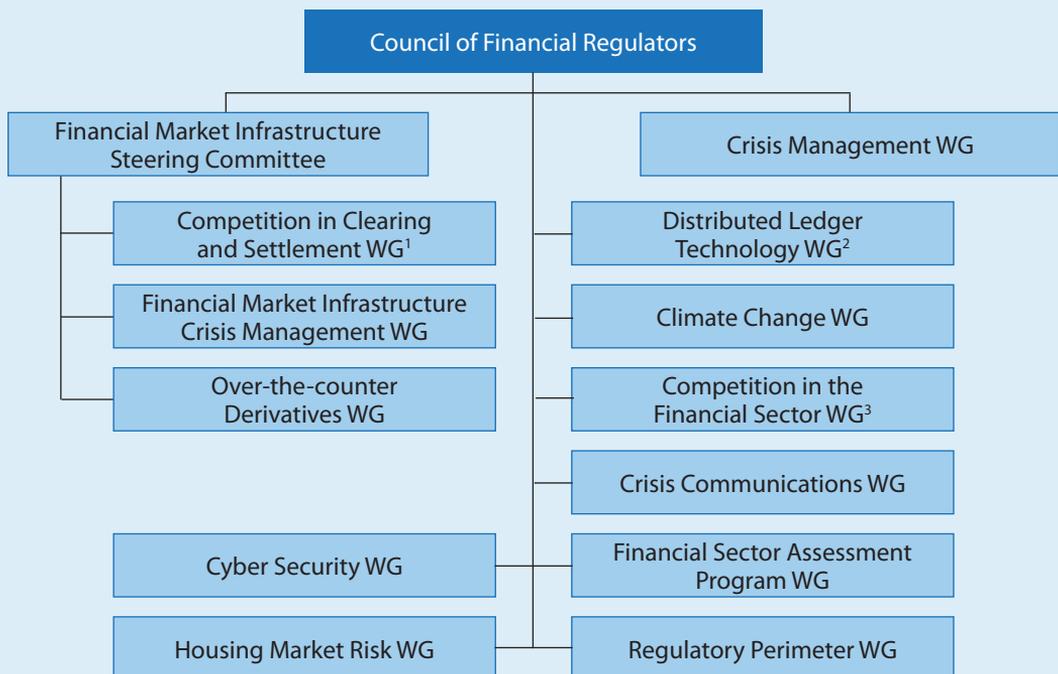
- The Financial Market Infrastructure Steering Committee (FMI SC) monitors, coordinates and prioritises interagency policy work in relation to FMIs and 'over-the-counter' (OTC) derivatives market regulation. It also provides policy direction and options to the CFR. In 2017, the FMI SC coordinated a joint CFR-ACCC public consultation on possible implications of competition in the settlement of cash equities in Australia for the functioning of markets, financial stability and access. This consultation, as with all public consultations and related announcements by the CFR, are made available on the CFR website <<http://www.cfr.gov.au>>.
- The Crisis Management Working Group (CMWG) was established in 2006 to set out policies and cross-agency processes to ensure the effective management of distressed financial institutions. As part of

this, the working group developed agreed processes for orderly communication between member agencies, as well as with the government, to ensure a coordinated response. This includes clarifying each agency's responsibilities, maintaining key personnel contact lists, and setting out the information that can be shared among agencies. The CMWG was also pivotal in preparing and finalising the financial distress management MoU noted earlier.

- In 2014, the CFR established the Housing Market Risk Working Group in response to growing concerns around lending standards and housing debt. This followed several years of monitoring by the Bank and APRA of mortgage growth and the quality of

lending. The group meets regularly to assess risks posed by housing and the household sector. Where necessary, it considers options for CFR discussion on potential regulatory actions that could be taken by member agencies to address these risks. It also helps with coordination of actions across agencies. Given the CFR has no power as a separate decision-making body, APRA and ASIC are the ultimate decision-makers on policies and tools related to their own statutory mandates. However, as with other members, APRA and ASIC consult with the CFR on possible regulatory responses and consider the views of other CFR members when deciding on policy measures of broader interest to CFR agencies. For example, members consider

Figure E1: CFR Working Groups (WGs)



1 Includes the ACCC but not APRA

2 Includes AUSTRAC

3 Includes ACCC

All groups include APRA, ASIC, the RBA and the Treasury unless otherwise noted

Source: RBA

the need to balance competition and stability when discussing possible policy actions.

Other working groups cover issues such as distributed ledger technology, competition, cyber security and the implications of climate change on the Australian financial system. A temporary working group is currently coordinating agency engagement with the International Monetary Fund as part of its Financial Sector Assessment Program (FSAP) review of Australia (for more information, see the 'Regulatory Developments' chapter).

Enhancing Australia's crisis management arrangements

The CFR also plays a central role in coordinating and advancing Australia's framework for managing a major disruption to the financial system. This has included establishing arrangements to deal with potential threats to financial stability. Relevant examples include:

- In November 2005, the CFR advised the government on a package of measures for dealing with distressed financial institutions. This included the proposal for a Financial Claims Scheme (FCS) that would provide depositors in a failed authorised deposit-taking institution (ADI) and policyholders in a failed insurer with timely access to their funds up to a certain limit.
- In late 2008, the CFR played a critical role at the height of the global financial crisis, providing advice to the government on improving Australia's crisis management arrangements. This included advice on the introduction of the FCS as well as a Guarantee Scheme for Large Deposits and Wholesale Funding. Both arrangements became operational in November 2008.

- At the request of the government, the CFR undertook an assessment in 2010 of whether the structure of the FCS was suitable for the post-crisis environment. Its advice informed the government's revised arrangements for the FCS, including a lowering of the cap, which were subject to a public consultation process before their finalisation in 2011.

The CFR has also committed to regularly testing Australia's crisis management framework, including the preparedness of the CFR to manage the failure of a financial institution. Crisis simulations are an effective means to test such arrangements and help identify areas that require further attention. In order to test cross-border arrangements, simulations are sometimes also carried out under the auspices of the Trans-Tasman Council on Banking Supervision (TTBC). The four CFR members are on the TTBC, along with the New Zealand Treasury, the Reserve Bank of New Zealand and the New Zealand Financial Markets Authority.

Accountability and membership

As it does not determine or make policy, the CFR itself does not have explicit or formal accountability arrangements, beyond those already applying to its individual members. For example, all four agencies are subject to, and adhere to, the *Public Governance, Performance and Accountability Act 2013*. CFR members have been seeking ways to enhance the transparency of the CFR's work. The CFR has a website and, starting from October 2017, each *Financial Stability Review* includes an expanded discussion of recent CFR activities. The final report of the Productivity Commission's inquiry into competition in the Australian financial system also recommended the CFR further increase its transparency. The CFR is currently considering how this could best be achieved.

The 2014 report of The Financial System Inquiry (Murray Committee) concluded no fundamental change to institutional arrangements related to financial stability policy was required. The Inquiry also concluded there was no need to expand the permanent membership of the CFR given other agencies attend meetings when appropriate. In contrast, more recently, the Productivity Commission recommended that membership be expanded to include the ACCC on the basis it could act as a 'competition champion'. CFR members considered this recommendation, but concluded that the appropriate competition champion was the Treasury and that the CFR should continue to consult with the ACCC where appropriate. A separate annual meeting of CFR members and other regulatory agencies with an interest in the financial sector was instigated in 2017, including representatives of the ACCC, AUSTRAC and the Australian Taxation Office. ❖

