



APRA's enforcement activities

The Australian Prudential Regulation Authority (APRA) prefers to take a cooperative approach to resolving prudential issues with boards and management of the institutions it supervises. However, APRA is also empowered to take enforcement action against an institution, or individuals associated with that institution, to protect the interests of depositors, policyholders and members of superannuation funds (whom APRA collectively defines as 'beneficiaries').

On occasions, APRA's collaborative approach will be unsuccessful either because the institution it is supervising is not willing to cooperate or is unable to do so. Under such circumstances, it is critical that APRA take effective enforcement action to safeguard the interests of beneficiaries.

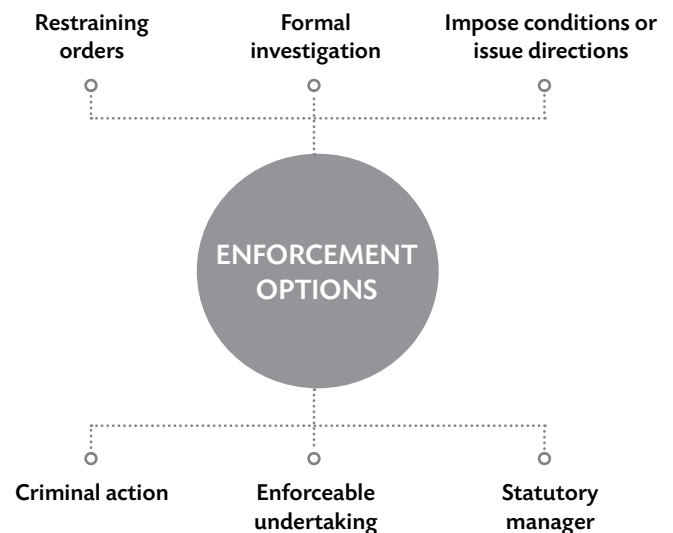
APRA also deploys its enforcement team to prevent unlicensed institutions from conducting business in Australia.

Individuals can be removed (or 'disqualified') from their positions or from holding senior roles within the industries supervised by APRA. An individual will also be automatically disqualified if he or she is convicted of an offence involving dishonest conduct, or becomes bankrupt. APRA maintains a register of disqualified individuals, which is available on the [APRA website](#). This register records individuals disqualified by the Federal Court (or by APRA prior to 1 July 2008).

Enforcement options

Although the details vary slightly by industry, APRA has considerable statutory powers to protect beneficiaries. When considering enforcement action, APRA typically has the power to:

- undertake a formal investigation into the affairs of an institution;
- impose conditions on an institution's licence or issue directions related to particular matters;
- appoint a statutory manager, judicial manager or replacement trustee to manage an institution's affairs;
- accept enforceable undertakings (EUs) (see below);
- take criminal action against persons or institutions; or
- seek restraining orders.



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Disqualification process

Since 1 July 2008, any decision to disqualify an individual from holding a senior role within the industries supervised by APRA is made by the Federal Court of Australia, on application by APRA. In addition, the Federal Court has the capacity to impose a conditional ban on an individual, limiting the period of disqualification.

Enforceable undertakings (EUs)

If an institution or individual is considered to have breached prudential requirements, APRA may accept an enforceable undertaking rather than impose sanctions.

EUs are particularly relevant when an institution or an individual has made particular admissions to APRA concerning their conduct and remedial steps have commenced. An EU deals effectively with prudential issues. EUs also offer a cost effective and timely means of achieving an appropriate supervisory outcome without the time and resources that are often necessary in any formal legal action.