

**A Comparison of APRA, CBRC and CIRC: Some Observations**

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In 2008 China was Australia's second largest trade partner, its largest source of imports and its second largest export market, and Australia was China's eighth largest trade partner, its tenth largest export market and its seventh largest source of imports. Australia is an important partner for China in terms of energy and mineral resources and the two economies are highly complementary to each other. Besides natural resources, Australia has also developed a very strong financial services industry which has experienced no big turmoil in the wake of the global financial crisis. The Rudd government even commits itself to strengthening Australia's international standing as a financial services hub in the Asia-Pacific region, which echoes the recent Chinese decision to build Shanghai into an international financial hub by 2020. It seems the two countries are sharing a lot in common and can rely well on each other.

I came to Australia under the Australia-China Legal Professional Development program with a goal to learn Australian financial law and regulation and my placement with APRA (Australian Prudential Regulation Authority) has confirmed it is both a fruitful and rewarding experience. The following is a general comparison of APRA and its Chinese counterparts, namely, China Banking Regulatory Commission (CBRC) and China Insurance Regulatory Commission (CIRC). The comparison is divided into five parts. The first part is about the legislative framework and statutory responsibilities of each regulator. The second part is about governance structure and leadership composition. The third part deals with regulatory autonomy and accountability. The fourth part discusses each regulator's reliance on, and relationship with, third parties. The fifth part is about crisis coordination plans.

<b>Questions</b>	<b>APRA</b>	<b>CBRC</b>	<b>CIRC</b>
<b>SECTION 1: LEGISLATIVE FRAMEWORK AND STATUTORY RESPONSIBILITIES</b>			
Regulated Entities	APRA oversees banks, credit unions, building societies, general insurance and reinsurance companies, life insurance, friendly societies, and institutional members of the superannuation industry.	CBRC has the power to supervise commercial banks, urban credit cooperatives, rural credit cooperatives, policy banks, financial assets management companies, trust investment companies, financial companies and the financial lease companies.	CIRC regulates insurance companies and other insurance entities.
Regulatory powers that	APRA has the power to license banking and	CBRC formulates supervisory rules and	CIRC formulates supervisory rules

A Comparison of APRA, CBRC and CIRC

<p>the supervisory agency has under legislation</p>	<p>insurance institutions; set prudential standards for banking and insurance industry; inspect institutions; request any information it requires for prudential purposes; give directions to comply with standards; make institution-specific standards and directions; appoint an administrator; set fit-and-proper standards for responsible personnel; administer the Financial Claims Scheme; and act as the national statistical agency for the Australian financial sector.</p>	<p>regulations; authorizes institutional changes; conducts examination and surveillance; takes enforcement; conducts fit-and-proper tests on the senior managerial personnel; compiles and publishes statistics and reports of the overall banking industry.</p>	<p>and regulations; authorizes institutional and senior personnel changes; approves certain insurance products and terms; conducts examination and surveillance; takes enforcement; compiles and publishes statistics and reports of the overall insurance industry.</p>
<p>Are the powers outlined the same across all industries that the supervisory agency regulates?</p>	<p>APRA has similar (not the same) powers over all supervised institutions, although supervisory standards and processes still tend to differ markedly across the different industries. For example, the supervisory process for banks makes much greater use of external auditors (e.g. in the conduct of targeted reviews) than does the supervisory process for insurance companies.</p>	<p>CBRC and CIRC have similar powers, but due to industry difference there are minor variations. For example, the Banking Supervision Act empowers CBRC to articulate rules for prudent operations, which cover the risk management, internal control, capital adequacy ratio, quality of capital, loss reserve fund, risk concentration, related transactions and liquidity of assets, etc. However the Insurance Act is silent on the prudential rules on insurance companies.</p>	
<p>Does legislation support the imposition of informal guidelines or does legislation require that all the regulatory requirements contained under an Act of Parliament?</p>	<p>APRA supervises mainly under four pieces of legislation. The Banking Act allows APRA to issue Prudential Standards, that if breached, can trigger legally enforceable directions. Under the Life Insurance Act and Insurance Act, APRA can issue legally enforceable Prudential Standards. Legally enforceable rules for superannuation funds are contained in statutes or regulations. Non-enforceable guidance in relation to prudential matters is contained in Prudential Practice Guides.</p>	<p>CBRC mainly supervises under two pieces of legislation. The Banking Supervision Act allows CBRC to issue regulations and rules on banking institutions, which if breached, can trigger enforceable actions. The Commercial Banking Act mainly focuses on CBRC's powers and penalties on commercial banks. All banking institutions must strictly abide by the rules for prudent operations. CBRC has the power to enforce formal standards or rules in accordance with the Administrative Penalty Act. Informal guidelines seldom appear as regulations. All</p>	<p>CIRC mainly supervises under the Insurance Act which supports the legal enforcement of any violation of the law and regulation. Informal guidelines seldom appear as regulations. All the legal enforcement by CIRC shall also comply with the Administrative Penalty Act.</p>

A Comparison of APRA, CBRC and CIRC

		the legal enforcement by CBRC shall also comply with the Administrative Penalty Act.	
<b>SECTION 2: GOVERNANCE STRUCTURE AND LEADERSHIP COMPOSITION</b>			
Is the supervisory agency established as an arm of the government or as an independent statutory agency?	The APRA Act establishes APRA as an independent authority. APRA is not a government department or part of the Australian Public Service. But ultimately, APRA is accountable to the government.	CBRC is a governmental agency and accountable to State Council.	CIRC is a governmental agency and accountable to State Council.
How is the supervisory agency governed?	<p>The current governance structure comprises a full-time Executive Group of at least three and no more than five members (APRA members). The Executive Group is responsible for determining goals, priorities and strategies and is accountable for the operation and performance of APRA.</p> <p>APRA has a Risk Management and Audit Committee that provides independent assurance and assistance to the APRA members on APRA's risk, control and compliance framework, and its external accountability responsibilities.</p> <p>The Committee comprises an external chair (with casting vote), one external member, one member of APRA's Executive Group and one Executive General Manager (on a one-year rotation). In addition, regular attendees at committee meetings are the General Manager Risk Assessment and Internal Audit, the Chief Financial Officer and a representative of the Australian National Audit Office. The Chairman of APRA may attend by invitation.</p>	<p>There are one Chairman and four vice Chairmen and one Commissioner of Discipline Inspection on the leadership board.</p> <p>The auditing, supervision and other organs of the State Council shall conduct supervision over the activities of CBRC.</p>	<p>There are one Chairman and four vice Chairmen and one Commissioner of Discipline Inspection, one Party secretary on the leadership board.</p> <p>The auditing, supervision and other organs of the State Council shall conduct supervision over the activities of CIRC.</p>

A Comparison of APRA, CBRC and CIRC

Who appoints the leadership of the Agency?	The Governor-General appoints the members of Executive Group.	State Council appoints and terminates the leadership boards of both CBRC and CIRC.	
Are there restrictions on the activities and affiliations of Agency staff?	APRA staff cannot also be directors or employees of any institution that is supervised by APRA.	The functionaries of CBRC shall dedicate themselves to their duties, handle matters in pursuance of the law, be impartial and honest, shall not seek improper interests by taking advantages of their posts, and shall not hold concurrent positions in other financial institutions or other enterprises.	Not mentioned in the Insurance Act, but according to the Public Servants Act, any public servant cannot hold another job without permission.
<b>SECTION 3: AUTONOMY AND ACCOUNTABILITY</b>			
Does legislation delegate all supervisory powers to the supervisory agency or does the Government retain final approval of policy?	The Minister may give APRA a written direction about policies APRA should pursue, or priorities it should follow, in performing or exercising any of its functions or powers.	The Banking Supervision Act delegates CBRC powers to formulate and issue regulations and rules governing the supervision over banking institutions and their operations; it also delegates CBRC powers to provide rules for prudent operations governing banking institutions. Generally speaking, the State Council does not retain any approval of CBRC policies.	The Insurance Act empowers CIRC to formulate rules concerning insurance regulation. Generally speaking, the State Council does not retain any approval of CIRC policies.
To whom is the supervisory agency ultimately accountable beyond its own Board? What are the main means of reporting of the agency's activities?	APRA is ultimately accountable to the Treasurer (the government). APRA's activities will be reported in its Annual Report, quarterly Bulletin, regular appearances before Parliamentary Committees, speeches and publications.	CBRC is accountable to the State Council. CBRC has also published its annual report since 2007.	CIRC is accountable to the State Council. There is no annual report from CIRC made public available yet.
<b>SECTION 4: RELIANCE ON, AND RELATIONSHIPS WITH, THIRD PARTIES</b>			
Does the supervisor regulate market conduct, disclosure, competition policy and/or consumer protection in any or all	No. These issues are the responsibility of other government agencies. In broad terms, APRA is responsible for the prudential supervision of individual institutions, while the Australian Securities and Investments	Yes. Also CBRC aims to promote a lawful, steady, and sound operation of, and maintain the confidence of the general public in the banking industry. CBRC is required to protect fair competition and	Yes. Also in examining and approving the applications for setting up insurance companies, CIRC shall take into consideration the need of the development of the

A Comparison of APRA, CBRC and CIRC

<p>supervised industries?</p>	<p>Commission (ASIC) is responsible for issues related to market conduct and consumer protection in financial markets, and the Australian Competition and Consumer Commission (ACCC) is responsible for competition policy.</p>	<p>improve the competitive ability of the banking industry. However, it is not the responsibility of CBRC to consider competition policy between banking institutions with other non-banking financial institutions.</p>	<p>insurance business and fair competition. CIRC shall abide by the principles of protection of public interest and prevention of unfair competition in the examination and approval of insurance products.</p>
<p>Where it is not responsible for these elements of regulation, what arrangements, if any, are in place to coordinate the supervisory agency's needs with the policy decisions of other agencies?</p>	<p>There are a number of arrangements in place to ensure co-ordination between the various agencies. For example, there are also a number of bilateral liaison committees that have been established to enable matters of mutual interest to be discussed and dealt with in a coordinated way. The Council of Financial Regulators (chaired by the Governor of the Reserve Bank of Australia and including APRA and ASIC) exists to ensure regulation of the financial sector is conducted in a consistent manner.</p>	<p>CBRC shall establish a supervision information sharing system with the People's Bank of China and the other financial supervision institutions of the State Council.</p>	<p>CBRC shall establish a supervision information sharing system with the People's Bank of China and the other financial supervision institutions of the State Council.</p>
<p><b>SECTION 5: CRISIS COORDINATION PLANS</b></p>			
<p>Which organizations would be involved in the assessment, evaluation and resolution of a crisis within a supervised institution?</p>	<p>APRA must advise the Minister as soon as practicable if it considers that a body regulated by APRA is in financial difficulty.</p>	<p>Where CBRC discovers an emergency may result in a systematic banking risk or may seriously affect the stability of the society, it shall immediately report to the State Council. And it's up to the State Council to inform the People's Bank of China, the finance department and other relevant departments. CBRC shall, jointly with the People's Bank of China, the finance department of the State Council and other relevant departments, establish a banking emergency handling system, formulate a banking emergency disposal plan and</p>	<p>The law is silent on crisis within insurance industry.</p>

A Comparison of APRA, CBRC and CIRC

		clearly specify the handing institutions, the personnel and their duties, the measures and procedures so as to timely and effectively handle any banking emergencies	
Has a formal ‘Action Plan’ been agreed for such circumstances, identifying each party’s respective responsibilities?	Under the MoU between APRA and the Reserve Bank, both have responsibilities for identifying situations that might threaten the stability of the financial system, but it is the Reserve Bank’s decision as to whether, and how, it might provide emergency liquidity support to the financial system. The Reserve Bank does not see its balance sheet as being generally available to support the solvency of any individual institution in difficulty. In deciding whether to provide support to an institution, the Reserve Bank would look to APRA for advice as to the solvency of that institution.	Not released. From the stability reports by the central bank, there are plans.	
Are there particular ‘trigger points’ which would activate this ‘Action Plan’, or is it something which is assessed on a case-by-case basis?	Reflecting the fact that the Reserve Bank does not see its balance sheet as being generally available to support the solvency of any individual institution, a case-by-case approach is taken. The cause of an institution’s liquidity problems, and its importance to the financial system as a whole, would be important bearings on any decision to provide support.	Not released.	
Would the supervisory agency be expected to take the lead role in resolving a crisis within an institution?	Yes. APRA has the expertise and formal responsibility for dealing with troubled institutions; however, ultimately APRA will only act as adviser if the Reserve Bank (or the Government) decides to provide emergency support to an institution.	If it’s a banking crisis, CBRC is expected to take the lead. But the responsibility to keep financial markets stable goes to the central bank.	The law is silent on insurance crisis, but if there were an insurance crisis, CIRC is expected to take the lead. However the responsibility to keep financial markets stable goes to the central

## A Comparison of APRA, CBRC and CIRC

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From the above comparison, some observations can be made.

1. Regulatory coverage. In addition to banking institutions and insurance companies, APRA also regulates part of the superannuation industry, which is not regulated by either CBRC or CIRC. The Chinese Pension System is different from Australia and the compulsory pension is managed by local government while the voluntary pension is managed by annuity management companies, which are supervised by the Labor and Social Security Department.
2. Regulatory powers. APRA, CBRC and CIRC all have similar regulatory powers under legislation. However, both CBRC and CIRC tend to rely more on formal rules instead of guidelines.
3. Prudential Standards. In Australia, institutions should only be subjected to prudential regulation if the financial promises they offered are difficult to keep, difficult to understand or, in the event of the promise failing, likely to cause significant financial distress and/or to have a significant impact on the economy. As a result, Australian prudential regulations apply to banks, non-bank deposit takers, insurance companies and pension funds. In China, only banking institutions are subject to prudential regulation by law.
4. Regulatory independence. As a statutory corporation, APRA is more independent from government with its own “legal personality”, while both CBRC and CIRC are typical government departments. APRA also has a risk management and audit committee that provides independent assurance and assistance to APRA members. CBRC and CIRC don’t have such an independent advisory body. However, APRA’s members are appointed by the Governor General, which makes it not totally independence from the government. The leadership of both CBRC and CIRC are directly appointed by the State Council, which means they are not independent from government.
5. Autonomy and Accountability. APRA, CBRC and CIRC are all empowered to regulate without final approvals from the government and they are all accountable to their respective governments.
6. Regulatory coordination with other agencies. Through bilateral committees and the Council of Financial Regulators, APRA is able to coordinate with other agencies. Since both CBRC and CIRC are all government agencies and are also required by law to share information with the People’s Bank of China and the other financial supervision institutions of the State Council, such as CSRC (China Securities Regulatory Commission) and the Ministry of Finance, regulatory coordination is well in place in China. However, APRA’s supervision focuses more on institutional soundness while supervisions from both CBRC and CIRC focus on both institutional soundness and institutional conducts, which means CBRC and CIRC also regulate market conduct, disclosure or competition of the institutions under supervision, while such a role is generally taken in Australia by ASIC, not APRA.
7. Crisis coordination plans. APRA, CBRC and CIRC each have crisis coordination plans in place but APRA’s plan is more clear and public while plans of CBRC and CIRC are not publicly available so far.