

The following Corporate Governance Statement is an excerpt from
the Macquarie CPS Trust 2011 Annual Report

MACQUARIE CPS TRUST
2011 ANNUAL REPORT



MACQUARIE

Corporate Governance Statement

Macquarie CPS Trust – Legal and Corporate Governance Framework

Macquarie CPS Trust (the Trust) is a special purpose trust, established as a funding vehicle for Macquarie Group Limited (Macquarie). Its sole purpose is to issue Macquarie Convertible Preference Securities (CPS) and subscribe for shares in Macquarie CPS LLC. This was effected in July 2008 when CPS were issued and quoted on the Australian Securities Exchange (ASX). Macquarie CPS LLC, in turn, invested those proceeds in subordinated notes issued by Macquarie (UK) Group Services Limited (the Investment).

The primary ongoing role of the Trust is to administer the payment of distributions to the holders of CPS (Holders) under the terms of the CPS. Therefore the main decision to be made by the Manager as responsible entity of the Trust is the decision to authorise the payment distributions. The terms of the CPS are very prescriptive as to how distributions are calculated and when they are to be paid and therefore this is an area in which Directors have little discretion.

Macquarie Capital Loans Management Limited (the Manager) has been appointed as the responsible entity of the Trust and is a member of the Macquarie Group of entities.

The constitution of the Trust limits the powers of the Manager generally in its capacity as the responsible entity of the Trust. Specifically, the constitution provides that the Manager must not acquire any interest in any asset other than the Investment; interests in bank accounts in which income or capital of the Trust is invested; cash, rights and benefits under the transaction documents; and income or other rights arising in connection with those assets.

Under the *Corporations Act 2001* (Cth) (Corporations Act) and the general law, the Manager has a duty to manage the Trust in the best interests of members. The Corporations Act requires the Manager to, among other duties, act honestly, act in accordance with a duty of care and diligence.

To conduct its activities the Manager holds an Australian Financial Services Licence (AFSL) issued by the Australian Securities & Investments Commission (ASIC). To retain its AFSL, the Manager must comply with specific requirements. These include meeting certain financial requirements, maintaining appropriate risk management and compliance systems and properly training and supervising its employees and agents.

Under the Corporations Act, the Manager must administer the Trust in accordance with a written constitution and must also prepare and lodge with ASIC a detailed compliance plan (see Principle 7 below).

The constitution of the Trust governs, among other things, how the Trust must operate, the rights of the members, and how remuneration of the Manager is calculated (see Principle 8 below). The Compliance Plan sets out the mechanisms in place to ensure compliance with the constitution and the Corporations Act.

ASX Corporate Governance Principles and Recommendations

The ASX Corporate Governance Council (the Council) has issued Corporate Governance Principles and Recommendations (the Principles) which are designed to maximise corporate performance and accountability in the interests of investors and the broader community. The Principles encompass matters such as board composition, committees and compliance procedures.

The Principles can be viewed at asx.com.au. The Principles are not prescriptive; however, listed entities including the Trust are required to disclose the extent of their compliance with the Principles, and to explain why they have not adopted a Principle if they consider it inappropriate in their particular circumstances.

Given the special purpose nature of the Trust and the very prescribed nature of the Manager's powers in relation to the Trust, the Manager has determined that a number of the Principles are not appropriate for the Trust or are not relevant.

The Trust's 2011 corporate governance statement is in the form of a report against the Principles. The Trust's corporate governance policies diverge from the Principles in a number of respects, as highlighted below.

Corporate Governance Statement

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Principle 1: Lay solid foundations for management and oversight

Board of directors

Responsibility for corporate governance and management of the Trust rests with the Board of the Manager.

As outlined above, the Trust has limited operational activity and the Manager has limited discretion in respect of the day to day management of the Trust. To the extent that any material exercise of discretion or other decision making authority is required, that discretion or authority is exercised by the Manager's Board. In these circumstances, the Manager has not considered it necessary to adopt a formal charter detailing the Board's functions and its relationship with management.

Performance of key executives

The Trust has no employees. As resources are provided by Macquarie, evaluation of the performance of key executives is not applicable to the Trust. Information regarding the assessment of the performance of Macquarie's key executives is set out on page 40 of Macquarie's 2011 Annual Report.

The Board considers that ASX Recommendation 1.2 is not relevant as the Trust has no employees and the directors receive no remuneration specifically related to the Trust.

Principle 2: Structure the board to add value

The Board considers that its membership should comprise directors with an appropriate mix of skills, experience and personal attributes that allow the directors individually and the Board collectively to:

- discharge their responsibilities and duties under the law effectively and efficiently;
- understand the business of the Trust and the environment in which it operates so as to be able to agree the objectives, goals and strategic direction which will maximise investor value; and
- assess the performance of management in meeting those objectives and goals.

The composition of the Board of the Manager reflects its limited role and duties and the responsibilities it discharges.

The Constitution of the Manager provides that unless otherwise determined by the Company in a general meeting the number of Directors shall not be less than two and not more than 12. The Manager currently has 4 Directors – John Roberts (Chairman), Matthew Gummer, David Luboff and Daniel Walmsley (appointed on 1 December 2010).

The details of each of the director's skill, experience, expertise and period of office held are set out on page 1 of the Directors' Report.

There are no independent directors on the Board of the Manager and this represents a departure from ASX recommendation 2.1, which recommends that the majority of the Board consist of independent directors.

Given that the Trust is a special purpose funding vehicle and the role and decision-making of the Manager is therefore heavily circumscribed by the terms of the CPS and the Constitution, there are in practice a limited range of matters which are expected or likely to come before the Board of the Manager in its role as responsible entity of the Trust and those that do (for example, in relation to the payment of distributions as described above) involve very little exercise of discretion. For this reason, the Board does not consider that a majority of independent directors is necessary to facilitate the effective discharge of its duties in a way that is appropriate to the particular circumstances of the Trust.

From time to time and when circumstances require, the Board will consider its composition to ensure that it continues to serve the best interests of the Trust.

Chairman

For the reasons described above, there are no independent directors on the Board of the Manager. **Accordingly, the Chairman is an executive director who does not satisfy the independence recommendation of the Principles.**

Principle 3: Promote ethical and responsible decision-making

Given the nature and operations of the Trust as a funding vehicle for Macquarie, the Manager operates the Trust under relevant Macquarie policies. As described below, Macquarie has a robust framework of policies, underpinned by its Goals and Values and Code of Conduct.

Code of Conduct

The Macquarie Code of Conduct (Code of Conduct), which incorporates Macquarie Group's Code of Ethics (What We Stand For), applies to directors of Macquarie and to employees, contractors, and consultants of MGL and its related entities (including the Manager). The Code of Conduct sets out principles and standards for directors and employees to understand their responsibilities to uphold the following goals and values to which Macquarie aspires: Integrity, Client commitment, Strive for profitability, Fulfilment of our people, Teamwork and Highest standards. It also includes a requirement to conduct all Macquarie's business in accordance with applicable laws and regulations in the jurisdictions in which Macquarie operates, and in a way that enhances its reputation in those markets.

It covers Macquarie's dealings with external parties and how Macquarie operates internally. It is periodically reviewed and fully endorsed by the Macquarie Board. The document titled What We Stand For, which includes Macquarie's Goals and Values, is distributed to all staff and its standards communicated and reinforced at Macquarie-wide induction programs, presentations to workgroups, online training and annual staff meetings.

A copy of the Code of Conduct is available on Macquarie's website.

Macquarie's Integrity Officer

To strengthen Macquarie's commitment to conducting its business activities in accordance with the highest ethical standards, Macquarie has appointed Executive Director Bill Marynissen, as the Integrity Officer. The Integrity Officer serves as an independent point of contact if directors or staff have a concern about an integrity related issue.

Staff and Director Trading

The Trust has lodged its Trading Policy, which sets out the restrictions that apply to dealing in CPS by Key Management Personnel, with ASX.

More generally, Macquarie's Trading Policy identifies the principles by which Macquarie balances the personal investment interests of staff against Macquarie's responsibility to ensure that the personal dealing and investment activities of its staff in any financial product are conducted appropriately. A summary of Macquarie's Trading Policy (the Policy) is available on Macquarie's website. Its requirements also apply to the trading of CPS.

The Policy applies to directors and staff of Macquarie (all full and part-time employees and contractors engaged). It also applies generally to 'associates' of staff and directors, which includes persons or entities over whom a staff member or director has investment control (eg spouses, dependent children, self-managed super funds and private and family-controlled companies and trusts).

Key aspects of the Policy include:

- **pre-clear securities trading:** Directors, staff and their associates must pre-clear their securities trading with Macquarie
- **trading windows:** Directors and staff may only trade in Macquarie securities and related derivatives during designated trading windows. These are typically of three to five weeks duration
- **trading prohibition while in possession of material non-public price-sensitive information:** in all cases Macquarie prohibits Directors and staff from dealing in such investments while they possess material non-public price-sensitive information about Macquarie
- **invested options, retained shares and minimum shareholding requirements cannot be hedged:** Executive Directors are not permitted to undertake any action that is designed to limit their exposure to Macquarie shares which are subject to retention arrangements, or their unvested Macquarie options. Non-Executive Directors may also not enter into a transaction that operates to limit the economic risk of their Macquarie shareholding below their minimum shareholding requirement
- **net short positions not permitted:** Employees are not permitted to take net short positions in Macquarie shares or any Macquarie-managed funds.

Corporate Governance Statement

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Principle 4: Safeguard integrity in financial reporting

Financial Reporting

The Board has responsibility for the integrity of financial reporting. To assist the Board in fulfilling their responsibility, the processes outlined below apply. These processes are aimed at providing assurance that the financial statements and related notes are complete, are in accordance with applicable accounting standards and provide a true and fair view.

Given its limited operations, no CFO or CEO has been appointed for the Trust. The Legal Entity Controller of the Trust provides the Board with written confirmation that the financial reports present a true and fair view, in all material respects, of the Trust's financial condition and operational results and are in accordance with relevant accounting standards.

An external auditor has been appointed to audit the accounts. The Macquarie policy on auditor independence applies to services supplied by the external auditor and their related firms to Macquarie, its related entities and the trusts and entities managed by Macquarie, including the Macquarie CPS Trust. A copy of Macquarie's external auditor policy statement is available on Macquarie's website. Under the policy on auditor independence:

- the auditor is not to provide non-audit services under which the auditor assumes the role of management, becomes an advocate for the Group, or audits its own professional expertise
- the external audit engagement partner and review partner must be rotated every five years. Macquarie's lead audit engagement partner rotated at the conclusion of the 2008 financial reporting period.

The Board has not established a Board audit committee. The Board does not consider that a separate committee is necessary, taking into account the limited nature of the Trust's activities and the limited powers of the Manager under the Constitution.

Principle 5: Make timely and balanced disclosure

The Trust is a disclosing entity for the purposes of the Corporations Act and is subject to regular reporting and disclosure obligations under the Corporations Act and the Listing Rules. These obligations require that ASX be continuously notified of information about specific events and matters as they arise for the purpose of ASX making the information available to the market operated by ASX. In particular, the Manager has an obligation under the Listing Rules (subject to certain limited exceptions) to notify ASX immediately of any information concerning the Trust of which it becomes aware and which a reasonable person would expect to have a material effect on the price or value of CPS.

The Manager is also required to lodge with ASIC both yearly and half-yearly financial statements accompanied by a Directors' statement and report, and an audit or review report.

It is the Manager's policy to provide timely, open and accurate information to all stakeholders, including investors, regulators and the wider investment community.

Macquarie has a Continuous Disclosure Policy which is incorporated in the External Communications Policy which includes policies and procedures in relation to disclosure and compliance with the disclosure requirements in the ASX Listing Rules and its requirements are applied to the Trust. A summary of the External Communications Policy is available on Macquarie's website.

These policies include procedures for dealing with potentially price-sensitive information which includes referral to the Macquarie CEO and Head of Corporate Communications and Investor Relations for a determination as to disclosure required. The ASX liaison person is the Head of Corporate Communications and Investor Relations.

Principle 6: Respect the rights of shareholders

Communications

As set out in the External Communications Policy referred to in Principle 5, all external communications by the Trust will:

- be factual and subject to internal vetting and authorisation before issue;
- not omit material information; and
- be timely and expressed in a clear and objective manner.

Macquarie's website macquarie.com.au/mgl/au/about-macquarie-group/investor-relations/shares-securities/macquarie_cps contains announcements made about the CPS including ASX announcements, CPS documentation, credit ratings and contact details.

General meetings

The Trust is not required by law to hold an Annual General Meeting (AGM). Where unit holder approval is required for any matter a unit holder meeting would be convened in accordance with the Corporations Act. An explanatory memorandum on the resolutions would be included with the notice of meeting. Unless explicitly stated in the notice of meeting, all Holders would be eligible to vote on all resolutions. If Holders cannot attend formal meetings, they can lodge a proxy form in accordance with the Corporations Act. Proxy forms can be mailed, faxed or lodged through the internet.

The auditor of the Trust will be invited to attend security holder meetings, if they are held, to answer security holder questions directed to the auditor.

Complaints

If a Holder has a complaint about the Manager in connection with the Trust they can refer the matter in writing to:

The Complaints Handling Officer
Macquarie Capital Loans Management Limited
Level 7
1 Martin Place
Sydney NSW 2000

A Holder may lodge any complaints in writing to the Manager at the address above. The Manager will always acknowledge any complaint in writing and respond within 45 days.

The Manager is a member of the Financial Ombudsman Service (FOS) scheme. If a Holder is dissatisfied with the response from the Manager, the Holder can lodge a complaint with the FOS:

Financial Ombudsman Service
GPO Box 3
Melbourne VIC 3001
Phone: 1300 78 08 08

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Principle 7: Recognise and manage risk

There are various risks that may impact the operation of the Trust. A range of factors, some of which are beyond the control of Macquarie and the Manager, may influence the operation of the Trust and the payment of distributions. The management of these risks is reviewed periodically by the Board. Given the nature and operations of the Trust as a funding vehicle for Macquarie, the Manager operates the Trust under relevant Macquarie policies, including Macquarie's internal risk management policy.

At Macquarie, each business is subject to oversight by the Risk Management Group (RMG). RMG exercises centralised prudential management and ensures risks are assessed consistently from a Macquarie-wide perspective. RMG is mandated with identifying, quantifying and assessing all risks and setting appropriate prudential limits.

Declaration by persons performing CFO function

As the Trust has no CEO or CFO, the Legal Entity Controller of the Trust provides the Board with written confirmation that their statement given to the Board on the integrity of the financial statements (as mentioned in Principle 4) is founded on a sound system of risk management and internal control and that the system is operating effectively in all material respects in relation to financial reporting risks.

The Board has received the declaration described above for this financial year.

Macquarie's risk management policy can be viewed at macquarie.com.au/mgl/au/about-macquarie-group/profile/corporate-governance

Compliance Plan

As required under the Corporations Act, the Manager has adopted a Compliance Plan for the Trust. The Compliance Plan sets out the processes by which the Manager, as responsible entity of the Trust, will ensure compliance with the Constitution and the Corporations Act, including in relation to procedures for applications, distributions, audit, related party transactions, and disclosure and reporting requirements.

The Manager's Board of Directors has appointed a Compliance Committee for the Trust that consists of a majority of members who are external to the Manager. The Compliance Committee's role includes monitoring the Manager's compliance with the Compliance Plan and to report to the Manager accordingly.

The current members of the Compliance Committee are:

- Geoff Hawkins – Associate Director of Macquarie
- Brendan Howell – External Appointee
- James McNally – External Appointee

A copy of the Compliance Plan is available at macquarie.com.au/mgl/au/about-macquarie-group/investor-relations/shares-securities/macquarie_cps

Principle 8: Remunerate fairly and responsibly

Management fees

Under the Constitution, the Manager is entitled to receive out of the Trust a fee in respect of each three month period ending on 31 March, 30 June, 30 September and 31 December in each year. However, Macquarie has agreed to:

- pay the costs incurred in establishing the Trust; and
- reimburse the Manager for ongoing costs and expenses of operating the Trust.

On this basis, the Manager has waived its rights to a management fee under the Constitution.

Staff remuneration

As outlined above under Principle 1, the Trust has no employees. Details regarding Macquarie's remuneration arrangements are set out on pages 77 to 128 of Macquarie's 2011 Annual Report.

Director remuneration

The Directors do not receive any specific remuneration in relation to their role as directors of the Manager.

Remuneration Committee

The Trust has no employees and the directors of the Manager do not receive any remuneration specifically related to the Trust; therefore the Manager does not consider it necessary or appropriate to establish a remuneration committee.