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Implementing Royal Commission Recommendations 3.9, 4.12, 6.6, 6.7 and 6.8
Financial Accountability Regime

Proposal Paper

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Submissions process

Closing date for any submissions: 14 February 2020

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The principles outlined in this paper are not yet law.

Introduction

Background

The Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (the Royal Commission) made a number of recommendations relating to extending the Banking Executive Accountability Regime (BEAR). The Government's first priority will be the implementation of the following Royal Commission recommendations:

- Recommendation 3.9 – the BEAR be extended to all Registrable Superannuation Entity (RSE) licensees.
- Recommendation 4.12 – the BEAR be extended to all Australian Prudential Regulation Authority (APRA) regulated insurers.
- Recommendation 6.6 – the Australian Securities and Investments Commission (ASIC) and APRA jointly administer the BEAR.
- Recommendation 6.7 – the obligations be amended to make clear that an authorised deposit-taking institution (ADI) and accountable person must deal with APRA and ASIC in an open, constructive and co-operative way.
- Recommendation 6.8 – the BEAR should be extended to all APRA regulated financial services institutions and that APRA and ASIC should jointly administer those new provisions.

In response to the Royal Commission, the Government made a further commitment to extend the executive accountability regime to entities regulated solely by ASIC. The Government will progress this further commitment following the initial implementation of the regime to all APRA regulated entities. Further details of how the BEAR may be extended to solely ASIC regulated entities are outlined on page 10.

Objectives of the FAR

The BEAR established clear standards of conduct by imposing a strengthened responsibility and accountability framework for directors and the most senior executives in ADIs. The Financial Accountability Regime (FAR) will extend this responsibility and accountability framework across all APRA regulated industries. In doing so, the FAR is intended to increase the transparency and accountability of financial entities in these industries and improve risk culture and governance for both prudential and conduct purposes.

The FAR will also require financial entities to clarify responsibilities attaching to particular officers and positions. As a result, individuals will be held to account for failure to perform their obligations.

The BEAR to the FAR

Similar to the BEAR, the FAR will impose the following obligations:

- accountability obligations;
- key personnel obligations;
- accountability map and accountability statement obligations;
- notification obligations; and
- deferred remuneration obligations.

Transitional arrangements will apply to ADIs to ensure that obligations which have been met under the BEAR and which will be the same under the FAR will be taken to have been met. For example, an accountable person registered under the BEAR may not need to re-register under the FAR.

Although the FAR adopts the essential structure of the BEAR, there are differences to reflect:

- that APRA and ASIC will jointly administer the regime, and that many detailed aspects will be set by APRA and ASIC to allow greater flexibility in recognition of the broader range of industries and number of entities subject to the FAR; and
- the commencement of the stronger penalty framework for corporate and financial sector misconduct.

A table outlining the key differences between the BEAR and the FAR is at Attachment A.

Next steps

Feedback on the proposed model should be provided by 14 February 2020. Feedback should be focussed on how the proposal is best implemented, not whether it should be implemented.

The Government intends to consult on and introduce legislation by the end of 2020 to implement the model.

All information (including name and address details) contained in submissions will be made available to the public on the Treasury website unless you indicate that you would like all or part of your submission to remain in confidence. Automatically generated confidentiality statements in emails are not sufficient for this purpose. If you would like only part of your submission to remain confidential, please provide this information clearly marked as such in a separate attachment.

Proposal

Scope of the regime

Entities subject to the FAR

Beyond all ADIs that are already subject to the BEAR, the FAR will be extended to all other APRA regulated entities, namely:

- all general and life insurance licensees;
- all private health insurance licensees;
- all RSE licensees; and
- licensed non-operating holding companies.

Core compliance and enhanced compliance

Entities will be classified as either ***core compliance entities*** or ***enhanced compliance entities***. Core compliance entities will be subject to all the obligations under the FAR except for the requirement to submit accountability maps and statements to APRA and ASIC. Enhanced compliance entities will be required to meet all obligations under the FAR. This will replace the small, medium and large classification of ADIs under the BEAR.

Since the BEAR commenced on 1 July 2018, industry feedback suggests that the development, submission and updating of accountability maps and statements poses a significant compliance burden on smaller entities. APRA has found that accountability maps and statements are of most benefit for large and more complex institutions as they provide further clarity about their accountability arrangements. Classifying entities into core compliance entities and enhanced compliance entities is intended to reduce the compliance burden for the majority of entities.

ADIs now subject to the BEAR will transition to the FAR and be classified as core or enhanced compliance entities (depending on size and complexity) from commencement of the legislation to implement the FAR.

Entity type	Metric used to determine Enhanced Compliance
ADIs	Total assets > $10b
General insurance	Total assets > $2b
Life insurance	Total assets > $4b
Private health insurers	Total assets > $2b
RSE licensees	Total assets > $10b *This refers to combined total assets of all RSEs under the trusteeship of a given RSE licensee.

The Minister, APRA and/or ASIC will have the power to exempt further entities or classes of entities from the regime. It is expected that this exemption power will be used in limited and exceptional cases.

APRA and ASIC will also have the ability to reclassify entities between core compliance and enhanced compliance where it is of the view that the entity's governance and accountability would benefit from the requirement to develop and submit accountability maps and statements.

Accountable persons

An ***accountable person*** will be defined using a principles-based element and a prescriptive element. Similar to the BEAR, under the principles-based element, a person is an accountable person of a FAR entity or a subsidiary of a FAR entity if the person is in a senior executive position with actual or effective management or control of the entity, or the management or control of a substantial part of the operations of the entity and its significant and substantial subsidiaries. As with the BEAR, where the activities of a subsidiary of a FAR entity are significant, an accountable person should have responsibility for the operations of that subsidiary.

For the prescriptive element, APRA and ASIC will prescribe a list of particular responsibilities. Attachment B provides an indicative list of particular responsibilities for each entity type. Similar to APRA’s ability under the BEAR, APRA and ASIC will be able to prescribe additional particular responsibilities over time and will also be able to prescribe particular responsibilities in respect of foreign entities subject to the FAR.

Consistent with the BEAR, FAR entities will be required to apply to APRA or ASIC to register a person as an accountable person. Registrations made with APRA or ASIC will be shared in the case of dual regulated entities.

Product responsibility

The Royal Commission identified a number of deficiencies with respect to ADIs’ management of their product responsibilities and the absence of clear end-to-end accountability for product management, which led to adverse customer experiences and outcomes. Recommendation 1.17 recommended that APRA, under the BEAR, determine a responsibility within each ADI for all steps in the design, delivery and maintenance of all products offered to customers and any necessary remediation for customers in respect of any of those products.

In June 2019, APRA released a consultation letter proposing that ADIs identify and register an accountable person to hold end-to-end product responsibility for each product that the ADI, or the relevant group of bodies corporate that is constituted by the ADI and its subsidiaries, offers to its customers.

The work and outcomes of this consultation on end-to-end product responsibility will be subsumed into the FAR and is listed as a particular responsibility in Attachment B.

Accountability and key personnel obligations

Entity obligations

Accountability obligations

Similar to the BEAR, an entity will be required to take reasonable steps to:

1. conduct its business with honesty and integrity, and with due skill, care and diligence;
2. deal with APRA in an open, constructive and cooperative way;
3. deal with ASIC in an open, constructive and cooperative way;
4. in conducting its business, prevent matters from arising that would adversely affect the entity's prudential standing or prudential reputation (applicable only to APRA regulated entities);
5. ensure that each of its accountable persons meets their accountability obligations; and

6. ensure that each of its significant or substantial subsidiaries that are not subject to the FAR, comply with all of the above obligations as if the subsidiary were subject to the FAR (to the extent that the obligations are relevant to the subsidiary).

A significant or substantial subsidiary in this context refers to subsidiaries that have a material impact on the activities of the FAR entity.

FAR entities with outsourcing arrangements will need to ensure that the FAR entity and accountable persons have adequate control and oversight of activities covered by the FAR.

Key personnel obligations

Similar to the BEAR, the key personnel obligations of an entity will be to:

1. ensure that the responsibilities of accountable persons cover all aspects of the operations of the entity and its significant or substantial subsidiaries;
2. ensure that none of the accountable persons are prohibited under the FAR;
3. comply with APRA and ASIC directions to reallocate responsibilities; and
4. take reasonable steps to ensure that each of the entity's subsidiaries that is not a FAR entity complies with obligations (2) and (3) above.

The period where an individual may temporarily fill the position of an accountable person if they are not registered will be set by APRA and ASIC and it is expected this will be 90 days. While there is not a requirement to register the individual during this temporary period, the individual is taken to be the accountable person.

Accountable person obligations

Accountability obligations

Accountable persons will be obliged to:

1. act with honesty and integrity, and with due skill, care and diligence;
2. deal with APRA in an open, constructive and cooperative way (noting that this will not displace legal professional privilege);
3. deal with ASIC in an open, constructive and cooperative way (noting that this will not displace legal professional privilege);
4. take reasonable steps in conducting those responsibilities to prevent matters from arising that would adversely affect the prudential standing or prudential reputation of the entity; and
5. take reasonable steps in conducting their responsibilities as an accountable person to ensure that the entity complies with its licensing obligations.

Obligation 5 is a new obligation under the FAR. The addition of this obligation extends the obligations of accountable persons beyond only conduct that adversely affects prudential standing or reputation of the entity to conduct that affects entities complying with obligations under each of the respective licensing regimes that apply.

Deferred remuneration obligations

FAR entities will be required to defer 40 per cent of the variable remuneration for all of their accountable persons for a minimum of four years, but only if the amount that would be deferred is greater than $50,000 AUD. Entities will not be required to defer variable remuneration if variable remuneration is not a feature of a particular accountable person’s remuneration structure.

Variable remuneration is so much of an accountable person's total remuneration that is not guaranteed because it is conditional on the achievement of pre-determined objectives and can be forfeited if these objectives are not met.

If an accountable person breaches their FAR obligations, the entity must have remuneration policies that allow for a reduction in variable remuneration. The classification of FAR entities into core and enhanced categories will not impact the deferred remuneration obligations.

In July 2019, APRA released for consultation a discussion paper on the creation of a new prudential standard, Prudential Standard CPS 511 Remuneration (CPS 511). CPS 511 proposes requirements on prudentially regulated entities regarding remuneration, in addition to what is currently required under the BEAR. Entities subject to CPS 511 will need to comply with those heightened requirements, including for deferred remuneration arrangements. The FAR will not limit a regulator's ability to apply additional requirements on remuneration.

Accountability maps and statements

Enhanced compliance entities must submit accountability maps and statements to APRA and ASIC. Although core compliance entities will not be required to submit accountability maps and statements, it is expected that these entities will undertake a process of identifying and registering their accountable persons to cover all aspects of their business.

Similar to the BEAR, an accountability map must show lines of reporting and responsibility within the entity and an accountability statement for each accountable person details the areas of responsibility over which he or she has effective management or control. Joint regulatory guidance on the preparation and content required for accountability maps and statements will be issued to give entities certainty on the expectations and form in which these documents should be provided to the regulators.

Accountability maps and statements submitted to either APRA or ASIC will be shared in the case of dual regulated entities. An updated accountability map will only need to be provided to the regulator upon any material changes, e.g. changes in the accountabilities of an accountable person. If immaterial changes have occurred to accountability maps and statements over the course of the year, entities will need to submit a revised copy on an annual basis. An accountability statement will only need to be updated upon any changes in accountability. These materiality thresholds are to minimise the administrative burden of updating accountability maps and statements. Entities will be required to inform the relevant regulator of changes to the accountability maps or statements within 30 days of the change occurring.

Guidance on what is meant by material changes will be provided in regulatory guidance.

Notification obligations

As under the BEAR, entities will be required to notify APRA or ASIC of the following events:

1. a person ceasing to be an accountable person;
2. the entity becoming aware that it has breached its accountability or key personnel obligations, or an accountable person has breached his or her accountability obligations;
3. the dismissal or suspension of an accountable person because the person has failed to comply with his or her accountability obligations; and
4. the reduction of the variable remuneration of an accountable person by the entity, because the accountable person has failed to comply with their accountability obligations.

A notification submitted to either APRA or ASIC will be shared in the case of dual regulated entities.

Entities will need to report all instances of a failure to comply with the entity's accountability, key personnel obligations and an accountable person's accountability obligations. A reasonable steps qualification will continue to apply to all the accountability obligations except for an accountable person's obligations to act with honesty and integrity, and to deal with the regulators in an open way.

FAR notification requirements will coexist with existing breach reporting requirements and the proposed FAR notification requirements will not alter existing requirements.

Aspects of the FAR to be determined by regulators

In summary, the FAR will provide APRA and ASIC with powers to prescribe details regarding:

- the classification that entities will be subject to;
- the circumstances in which an entity may be made exempt from the regime;
- the list of particular responsibilities for accountable persons;
- the notification timeframes entities are subject to; and
- the content to be included in accountability maps and statements.

APRA and ASIC will be required to exercise these powers jointly where the power affects entities which are regulated by both APRA and ASIC. APRA and ASIC will be expected to coordinate and share information in relation to matters of enforcement relating to entities which are regulated by both APRA and ASIC.

Penalties

Penalties for entities

Entities may be liable for a civil penalty if they contravene their FAR obligations. Maximum penalties under the FAR will be aligned with the newly-imposed maximum penalty framework under the *Corporations Act 2001* (Cth) (Corporations Act), *Australian Securities and Investments Commission Act 2001* (Cth) (ASIC Act), *National Consumer Credit Protection Act 2009* (Cth) (Credit Act) and *Insurance Contracts Act 1984* (Cth) (Insurance Contracts Act) and any penalties are imposed by a court. The maximum penalties under the FAR will be the greater of the following:

1. 50,000 penalty units (currently $10.5 million);
2. if the court can determine – the benefit derived or detriment avoided by the body corporate because of the contravention, multiplied by three; or
3. 10 per cent of the annual turnover of the body corporate, but to a maximum monetary value of 2.5 million penalty units (currently $525 million).

These maximum penalties will be applicable to all entities subject to the FAR. When considering whether to impose a civil penalty, the court will be required to consider the impact that the penalty has on the viability of prudentially regulated entities.

Consistent with the BEAR, the reforms will not prevent FAR entities from indemnifying themselves but will prevent indemnification through related parties. However, consistent with existing arrangements in the *Superannuation Industry (Supervision) Act 1993* (SIS Act), RSE licensees will be prohibited from using trust assets to pay a civil penalty arising from breaching an obligation under the FAR. Provision will be made for the court to have regard to the impact of the penalty on the trustee's superannuation fund membership. Consistent with the BEAR, the reforms will not prevent FAR entities from indemnifying themselves or obtaining insurance.

Penalties for individuals

Similar to the BEAR, the FAR will provide APRA and ASIC with the power to disqualify an accountable person if they fail to comply with their accountability obligations. These administrative decisions by either APRA or ASIC will be reviewable by the Administrative Appeals Tribunal, with questions of law being appealable to the court.

In addition, individuals will be subject to civil penalties for breaches of their accountability obligations. The maximum civil penalties will be consistent with the newly-introduced maximum penalties for individuals under the Corporations Act, ASIC Act, Credit Act and Insurance Contracts Act and any penalties are imposed by a court. The maximum penalties will be the greater of the following:

1. 5,000 penalty units (currently $1.05 million); or
2. if the court can determine – the benefit derived or detriment avoided because of the contravention, multiplied by three.

As under the BEAR, entities will be prohibited from indemnifying or paying the cost of insuring accountable persons against the consequences of breaching the FAR. However, the reforms will not prevent executives from obtaining insurance that they would otherwise be permitted to obtain to cover the financial loss arising as a result of a civil penalty being imposed against them for a breach of the FAR.

Non-objections power

In February 2019, the Government announced a capability review of APRA following the recommendations of both the Royal Commission and Productivity Commission. The APRA Capability Review recommended that:

> The Government consider providing APRA with a non-objections power to veto the appointment or reappointment of directors and senior executives of regulated entities. This would bring it into line with international regulators and strengthen its capacity to pre-emptively regulate GCA [Governance, Culture and Accountability] risks. The power should be available to APRA only where the risks associated with the entity, including but not limited to member outcomes for superannuation funds, warrant it.

The APRA Capability Review envisaged that the non-objections power would build on and strengthen the registration arrangements provided for under the BEAR and that it would complement APRA's existing removal and disqualification powers, which are available where an individual already occupies a board or certain senior executive roles.

In response to this recommendation, the Government agreed that it would ensure that APRA has sufficient powers and flexibility to prevent inappropriate directors and senior executives from being appointed or reappointed to regulated entities, as part of extending the BEAR.

The non-objections power will be available to APRA under the FAR. Specifically, the non-objections power would be available to APRA during the period in which an entity applies to register an accountable person and that registration taking effect. It is important to emphasise that entities are responsible for all aspects of due diligence and assessment of individuals appointed, including determining the suitability of an accountable person prior to seeking registration of the person.

APRA will solely administer this power and can exercise it over accountable persons that are directors or senior executives of prudentially regulated entities.

APRA is to use this as a reserve power where APRA holds existing relevant information regarding a particular person that conflicts with the obligations that would be placed on him or her as an accountable person. Existing relevant information may include factors such as where that person:

- has failed to act with honesty, integrity, due skill, care and diligence;
- has failed to deal with APRA in an open, constructive and cooperative way, or;
- has presented a material risk to the prudential standing or prudential reputation of an entity.

Right to review

Persons who are prevented from being appointed as an accountable person through the exercise of this power by APRA will have the right to have the determination reviewed through the internal review process. A person affected will be able to request that APRA reconsider its decision, and where that person remains dissatisfied with APRA's decision, they will be able to seek a review by the Administrative Appeals Tribunal.

Extending the regime to solely ASIC regulated entities

The Government's first priority is the implementation of the Royal Commission recommendations. The extension of FAR beyond all APRA regulated entities is proposed to be facilitated by providing the Minister a power to make a legislative instrument that would allow solely ASIC regulated entities to be brought in to the scope of the regime.

Details of how solely ASIC regulated entities would be brought into the regime, including the thresholds that may determine the scope of entities, and the responsibilities that may be prescribed for accountable persons will be consulted on following implementation of the FAR to prudentially regulated entities.

Timeframes for implementation

The Government has not yet determined an implementation timeframe for the FAR and intends to consult on timeframes as part of the consultation on the exposure draft legislation.

Attachment A – Summary of changes from the BEAR to the FAR

Key area	Current law under the BEAR	Proposed change under the FAR	Impact on entities
Scope of the regime	Only ADIs are subject to the BEAR.	All APRA regulated entities (including licensed NOHCs) are subject to the FAR.	A larger cohort of entities subject to the FAR.
	Minister has the power to exempt an ADI, or a class of ADIs, from the application of the BEAR.	Regulators have the power to exempt a FAR entity, or a class of FAR entities, from the application of the FAR.	No impact on entities.
	ADIs split into small, medium and large for deferred remuneration obligation and penalties.	FAR entities split into core and enhanced compliance for accountability statements and map obligations.	Not all entities required to provide accountability statements and maps.
	Minister to set threshold for small, medium and large categories.	Regulators to set thresholds for core and enhanced compliance categories.	Core compliance entities will have reduced regulatory burden.
Definition of accountable person	List of roles and responsibilities prescribed in legislation for the purposes of defining an accountable person.	Increased number of roles and responsibilities in list prescribed by regulators for the purposes of defining an accountable person.	Increased number of persons defined as accountable persons.
Accountability obligations	ADIs required to take reasonable steps to comply with specified obligations which cover the way an ADI should conduct itself and how it should engage with APRA.	FAR entities required to take reasonable steps to comply with specified obligations which cover the way a FAR entity should conduct itself and how it should engage with APRA and ASIC.	No additional obligations on entities.
	Accountable persons required to comply with specified obligations.	Accountable persons of FAR entities also required to take reasonable steps in conducting their responsibilities to ensure the entity complies with its licensing obligations.	Additional obligation on accountable persons.

Key area	Current law under the BEAR	Proposed change under the FAR	Impact on entities
Key personnel obligations	If a person becomes an accountable person of an ADI, or a subsidiary of an ADI, by filling a temporary vacancy, the ADI has 28 days to register the individual, or such other period as APRA determines.	If a person becomes an accountable person of a FAR entity, by filling a temporary vacancy, the period within which a FAR entity has to register the individual will be determined by APRA and ASIC and it is expected this will be extended to 90 days.	Entities provided with longer timeframe to allow individuals to fill temporary vacancies without being required to register.
Deferred remuneration obligations	ADIs required to defer a specified percentage of an accountable persons' variable or total remuneration for a specified period, if the amount that would be deferred under the BEAR is greater than a threshold. The specified percentage of remuneration to be deferred is based on the size categorisation of the BEAR entities into small, medium and large.	FAR entities will be required to defer 40 per cent of the variable remuneration of all of their accountable persons for at least four years, if the amount that would be deferred under the FAR is greater than $50,000.	Deferred remuneration obligations will only apply to variable remuneration and entities will be subject to the same deferred remuneration obligations, regardless of their size. The FAR will not impact APRA's ability to set separate prudential standards in respect of prudentially regulated entities on remuneration.
Accountability maps and statements	All ADIs required to submit accountability maps and statements.	Only enhanced compliance entities required to submit accountability maps and statements.	Smaller entities will be exempt from the requirement to submit accountability maps and statements to alleviate regulatory burden.
	No equivalent under the BEAR.	Regulators can reclassify entities as core or enhanced.	Core compliance entity may be required to submit accountability maps and statements where regulators form a view this would benefit the entity's governance and accountability.
	ADIs required to notify APRA of all changes to accountability maps and statements.	Enhanced compliance entities are required to notify APRA or ASIC of material changes to accountability maps and statements.	Entities will not be required to notify APRA and ASIC of changes to the accountability maps and statements as frequently to reduce regulatory burden.
Notification obligations	An ADI must notify APRA when the ADI becomes aware that it has breached its accountability obligations.	A FAR entity must notify APRA and/or ASIC when it has become aware that it has breached either its accountability or key personnel obligations.	Entities will be required to notify APRA and/or ASIC in circumstances where they have breached key personnel obligations.

Key area	Current law under the BEAR	Proposed change under the FAR	Impact on entities
Penalties	Penalties are tiered based on the size of ADIs. The maximum penalty for: a. large ADIs is 1 million penalty units; b. medium ADIs is 250,000 penalty units; and c. small ADIs is 50,000 penalty units.	The maximum penalties under the FAR will be the greater of the following: a. 50,000 penalty units; b. if the court can determine - the benefit derived or detriment avoided by the body corporate because of the contravention, multiplied by three; or c. 10 per cent of the annual turnover of the body corporate, but to a maximum monetary value of 2.5 million penalty units.	Larger maximum penalties will apply under the FAR, to align the penalty framework with recent amendments to the Corporations Act, ASIC Act, Credit Act and Insurance Contracts Act.
	No equivalent under the BEAR.	Accountable persons will be liable for civil penalties under the FAR.	Individuals subject to civil penalties within FAR entities.
	No equivalent under the BEAR.	Veto the appointment or reappointment of senior executives and directors.	Senior executives and directors to be vetoed where APRA is of the opinion that a person is not suitable, or has ceased to be suitable to hold a position as an accountable person.
	No equivalent under the BEAR.	Under the FAR, the court must consider impact on fund members in setting the penalty in respect of RSE licensees.	No impact on entities.

Attachment B – Indicative list of particular responsibilities

The following lists, under items 1-3, are indicative of the particular responsibilities that APRA and ASIC may prescribe under FAR. Guidance would be issued to emphasise the critical expected functions within each particular responsibility that relate to the prudential and conduct obligations set out in the FAR. Guidance would also be provided on the respective roles of APRA and ASIC in registering individuals for these roles.

1. Particular responsibilities for all FAR entities (other than branches)

The following is an indicative list of those particular responsibilities that would generally be expected to apply to all locally incorporated FAR entities:

a. responsibility for oversight of the entity as a member of the Board of the entity;

b. senior executive responsibility for carrying out the management of all the business activities of the entity and its subsidiaries, including:

    i. allocating to accountable persons responsibility for all parts or aspects of the entity and its significant or substantial subsidiaries;

    ii. reporting directly to the Board of the entity;

c. senior executive responsibility for management of the entity’s financial resources;

d. senior executive responsibility for overall risk controls and/or overall risk management arrangements of the entity;

e. senior executive responsibility for management of the entity’s operations;

f. senior executive responsibility for information management, including information technology systems, for the entity;

g. senior executive responsibility for management of the entity’s internal audit function;

h. senior executive responsibility for management of the entity’s compliance function;

i. senior executive responsibility for management of the entity’s human resources function;

j. senior executive responsibility for management of the entity’s anti-money laundering function;

k. senior executive responsibility for management of a significant business division;

l. senior executive responsibility for management of the entity’s dispute resolution function (internal and external);

m. senior executive responsibility for management of client or member remediation programs (encompassing hardship considerations where relevant);

n. senior executive responsibility for end-to-end management of a given product or product group, including but not limited to all steps in the design, delivery, maintenance, and any necessary remediation of customers in respect of the product or product group;

o. senior executive responsibility for service provision and maintenance (i.e. the services equivalent to product responsibility);

p. senior executive responsibility for the setting of incentives (including incentives for staff and outward facing incentives such as loyalty programs); and

q. senior executive responsibility for breach reporting.

2. Particular responsibilities specific to FAR entities that are branches

The following are indicative particular responsibilities for FAR entities that are specific to foreign branches:

a. senior executive responsibility for the conduct of all the activities of an Australian branch of the foreign ADI, Category C insurer or Eligible Foreign Life Insurance Company (EFLIC);

b. the Senior Officer Outside Australia for an Australian branch of the foreign ADI or Category C insurer;

c. responsibility for oversight of an EFLIC as a member of the Compliance Committee;

d. agent in Australia of a Category C insurer; and

e. any particular responsibility under items 1 or 3 that are determined by either APRA or ASIC to apply to the branch.

3. Additional particular responsibilities for FAR entities that are insurers or RSE licensees

The following is an indicative list of additional specific particular responsibilities that would apply to FAR entities that are insurers and RSE licensees:

a. senior executive responsibility for the management of the insurer's or RSE licensee's claims and benefits entitlement handling functions;

b. senior executive responsibility for the management of the insurer's or RSE licensee's investment function;

c. senior executive responsibility for the management of the insurer's or RSE licensee's actuarial function;

d. senior executive responsibility for the management of the insurer's underwriting of its insurance business;

e. senior executive responsibility for management of the RSE licensee's financial advice service (if any);

f. senior executive responsibility for management of the RSE licensee's insurance offerings;

g. senior executive responsibility for management of the RSE licensee's retirement offerings.