

17 August 2023

Mr Stuart Bingham
General Manager
Governance, Culture, Remuneration & Accountability
Australian Prudential Regulation Authority

Via email: far@apra.gov.au

Dear Mr Bingham

Financial Accountability Regime: Draft Regulator and Transitional Rules

COBA welcomes the opportunity to contribute to APRA's and ASIC's (the Regulators) consultation on the draft Financial Accountability Regime Act (Information for Register) Regulator Rules 2023 (Regulator Rules) and the draft Financial Accountability Regime (Consequential Amendments) Transitional Rules 2023 (Transitional Rules).

COBA is the industry association for Australia's customer owned banks (mutual banks, credit unions and building societies). Collectively, our sector has over \$160 billion in assets and is the fifth largest holder of household deposits. Customer owned banks account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

COBA is generally supportive of the Regulator Rules and Transitional Rules as proposed. We appreciate the Regulators holding a webinar on 8 August 2023 to explain the consultation material and to answer questions from industry. We look forward to further engagement from the Regulators during the implementation period.

Regulator Rules and Transitional Rules

Our main area for concern is the cumulative impact of the reporting obligations required under the different legislative instruments of the Financial Accountability Regime (FAR). We acknowledge and appreciate that the regime creates two tiers of disclosure obligations but we are concerned that there still could be undue administrative burden on smaller ADIs.

Many of our members have relatively limited resources compared to larger ADIs to manage the transition from the Banking Executive Accountability Regime (BEAR) and the ongoing disclosure and reporting requirements of the FAR. The cumulative impact of requiring ADIs to determine who is an accountable person under the Financial Accountability Regime Bill 2023 (FAR Bill), allocate prescribed responsibilities under the Financial Accountability Regime Minister Rules 2022 (Minister Rules) and now the proposed ADI key functions under the Regulator Rules could stretch the already limited resources.

We note and appreciate that the Regulators stated at the 8 August webinar that their intent is not to create undue burden on regulated entities through the Regulator and Transitional Rules. We ask the Regulators to consider combined impact of the draft Rules when combined with the other FAR legislative instruments. An option could be to reduce or consolidate the proposed ADI key functions. We do not think that the 20 ADI key functions proposed when combined with the prescribed responsibilities is minimising the undue burden entity on smaller entities.

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Accountable Person Registration

COBA also raises an issue on the Accountable Person registration process which is contained in the FAR Bill. We recognise this issue is outside of the material being consulted on by the Regulators and we also acknowledge that changes to the Bill are not open for consideration at this time. On this issue we ask the Regulators to monitor its impact for any adverse effects, especially in comparison to the BEAR and for it to be considered as a possible change after the FAR has been implemented.

Our members have expressed concern about the 21 day period for registering accountable persons under cl 41(5) of the FAR Bill. The equivalent period under the BEAR is for 14 days and is provided under s 37HA(5) of the *Banking Act 1959*. The concern with this extension from 14 days to 21 days is that it creates an additional level of difficulty in recruiting senior executives (for example, a Chief Technology Officer) who may not be familiar with the obligations under FAR. This is because if a regulated entity is also subject to the enhanced accountability obligations under cl 31 they are required to provide an accountability statement for that person that complies with cl 33. The concern is that these requirements take away time from the regulated entity and the candidate for the role to perform their own suitability checks and to people consider the role and obligations before accepting. For smaller entities that are already experiencing difficulties in attracting suitable talent this could compound these difficulties.

Please do not hesitate to contact Robert Thomas, Senior Policy Adviser (rthomas@coba.asn.au) if you have any questions about our submission.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michael Lawrence', is positioned above the printed name.

MICHAEL LAWRENCE
Chief Executive Officer