

Attachment C: Draft Transitional rules

Note: This draft instrument is based on the Financial Accountability Regime (Consequential Amendments) Bill 2023 (the Bill), which was introduced into Parliament on 8 March 2023, and is currently before Parliament. This draft will be reviewed if amendments to the Bill occur before it is enacted, and those changes impact on the Transitional rules.



Financial Accountability Regime (Consequential Amendments) Transitional Rules 2023

We, [name], a delegate of the Australian Prudential Regulation Authority, and [name], a delegate of the Australian Securities and Investments Commission, make this legislative instrument.

Date 2023

[DRAFT ONLY – NOT FOR SIGNATURE]

<signature>

<signature>

<insert name>

<insert name>

Contents

Part 1—Preliminary	3
1 Name of legislative instrument	3
2 Commencement	3
3 Authority	3
4 Application	3
5 Definitions	3
Part 2—Collection of information to facilitate transition from the BEAR to the Financial Accountability Regime	6
6 Information to be provided for transitioning accountable persons	6

Part 1—Preliminary

1 Name of legislative instrument

This is the *Financial Accountability Regime (Consequential Amendments) Transitional Rules 2023*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under item 34(1) of Schedule 2 of the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

4 Application

This instrument applies to all ADIs which are subject to the BEAR and which become accountable entities under the Act at the banking start time.

5 Definitions

In this instrument:

Act means the *Financial Accountability Regime Act 2023*.

ADI has the same meaning as in the *Banking Act 1959*.

ADI Key Function means the following key functions of an accountable entity, where the accountable entity is an ADI:

- (a) capital management;
- (b) collections and enforcement (default, debt collections, and recovery);
- (c) conduct risk management;
- (d) credit risk management;
- (e) data management;
- (f) financial and regulatory reporting;
- (g) financial services regulatory engagement;
- (h) hardship processes;

- (i) liquidity and funding management;
- (j) market risk management;
- (k) monitoring representatives and staff—financial or credit products/services;
- (l) operational risk management;
- (m) product design and distribution obligations;
- (n) product origination;
- (o) recovery and exit planning and resolution planning;
- (p) risk culture;
- (q) scam management;
- (r) technology management;
- (s) training of relevant staff and representatives—financial products/services/credit activities; and
- (t) whistleblower policy and process.

APRA means the Australian Prudential Regulation Authority.

APRA Connect means APRA’s data collection solution for entities to lodge relevant information and data with APRA.

banking start time has the same meaning as in item 1(1) of Schedule 2 of the *Financial Accountability Regime (Consequential Amendments) Act 2023*.

BEAR means the provisions of Part IIAA of the *Banking Act 1959* as in force immediately before the banking start time.

Note: Part IIAA of the *Banking Act 1959* relates to the Banking Executive Accountability Regime.

General or Prescribed Responsibility or Position means any one or more responsibilities or positions (as applicable) of a kind:

- (a) set out in subparagraph 10(1)(b)(i) of the Act;
- (b) set out in subparagraph 10(1)(b)(ii) of the Act;
- (c) prescribed for the purposes of paragraph 10(2)(b) of the Act;
- (d) prescribed for the purposes of subsection 10(3) of the Act;
- (e) set out in paragraph 10(5)(a) of the Act;

- (f) set out in paragraph 10(5)(b) of the Act;
- (g) set out in subparagraph 10(6)(b)(i) of the Act; or
- (h) set out in subparagraph 10(6)(b)(ii) of the Act.

Note 1: The following terms are defined in the Act:

- (a) accountable entity;
- (b) accountable person;
- (c) Regulator;
- (d) significant related entity.

Part 2—Collection of information to facilitate transition from the BEAR to the Financial Accountability Regime

6 Information to be provided for transitioning accountable persons

- (1) An ADI which is subject to the BEAR and which becomes an accountable entity under the Act at the banking start time must provide the Regulator with the information in subsection (2) by providing it as specified in subsection (3), within 30 days after the banking start time.
- (2) For the purposes of subsection (1), the following information must be provided in respect of each person who is, immediately prior to the banking start time, an accountable person for the purposes of the BEAR and who, at the banking start time, becomes an accountable person of the accountable entity or a significant related entity of the accountable entity (as applicable) under the Act:

Personal identification details

- (a) former given name(s) (if applicable);
- (b) former middle name(s) (if applicable);
- (c) former family name(s) (if applicable);
- (d) place of birth (town/city);
- (e) country of birth;
- (f) state of birth (if applicable);
- (g) director identification number (if applicable, and subject to section 1270N of the *Corporations Act 2001*);
- (h) direct phone number;
- (i) direct email address;

Employment status

- (j) start date of the position title (role title);
- (k) start date of employment with the employer

Reporting lines

- (l) position title of the person the accountable person reports to;

- (m) the date the accountable person started to report to the person referred to at paragraph 6(2)(l);

Responsibilities information

- (n) details of each General or Prescribed Responsibility or Position that causes the person to be an accountable person;

Key functions information

- (o) key functions—each ADI Key Function (if any) of the accountable person; and
 - (p) the date the accountable person assumed responsibility for each ADI Key Function referred to in paragraph 6(2)(o) (if applicable).
- (3) The information in subsection (2) must be provided by completing and submitting the electronic notification form which is made available by APRA in APRA Connect for this purpose.