

17 August 2023

[REDACTED]  
General Manager  
GCRA, APRA

Email: [far@apra.gov.au](mailto:far@apra.gov.au)

Dear [REDACTED]

**Re: Judo Bank Submission in response to the Financial Accountability Regime ("FAR") - consultation on the Regulator rules and Transitional rules ("Consultation")**

Thank you for giving interested parties the opportunity to take part in the Consultation and to provide feedback on the draft Regulator rules and Transitional rules.

Our comments are as follows, noting that as a general comment, we would welcome further detail around how the Regulators will jointly administer the FAR legislation.

**Regulator Rules and ADI key functions descriptions**

1. Where a non-operating holding company ("**NOHC**") in a corporate group that includes an authorised deposit-taking institution ("**ADI**") does not effectively trade or carry on business other than to hold share capital in the ADI, is the NOHC required to maintain a full list of 'accountable persons' who are responsible for the 'ADI key functions' listed in column 1 of the descriptions document ("**Attachment B**") where it does not undertake any, some or all of those "ADI key functions"?
2. What is the status of Attachment B as it is not contained within the Regulator Rules and may potentially be amended more easily than those Rules? What is the proposed variation regime for the matters in Attachment B and how much notice will be provided to affected ADIs and/or NOHCs if an amendment is proposed?
3. In a time when many jurisdictions are moving towards privacy standards akin to the European Union's "right to be forgotten", the requirements for accountable persons to make their date of birth, plus additional "personal information" data points such as direct phone and email, potentially publicly available is concerning in an era of escalating data breaches and the "mosaic effect" arising from such events. To require such personal information to be publicly listed (see section 40(5) of FAR) may deter employees or officers from taking on an accountable person role in an ADI or NOHC. We submit that the date of birth requirement, at a minimum, should be dropped.

**Transitional Rules**

4. The 30-day transitional period (from the "banking start time") may not give affected ADIs and/or NOHCs enough time to submit the required information under the Transitional Rules, particularly where accountable person roles cannot be filled due to the "personal identification details" requirements discussed at **Paragraph 5**. below. Is it envisioned that there will be an ability to seek an extension, if necessary, from one or both regulators?
5. The personal identification details required for transitioning accountable persons under the Transitional Rules differ from, and are far more extensive than, those set out under the draft Regulator Rules. It is unclear why this is the case, and the Transitional Rules "personal identification details" requirements also suffer from the privacy issues noted above at **Paragraph 3**. but carry greater risks of serious harm to

affected individuals as additional data points (including middle name, country of birth and state of birth) will further enable “bad actors” to pinpoint the location and identity of transitioning accountable persons. At a minimum, the personal identification requirements of both the Transitional Rules and the Regulator Rules should be standardised and made consistent across both instruments, recognising the global regulatory trend towards countries implementing a “right to be forgotten.”

**Compliance and cost impact of the proposed changes**

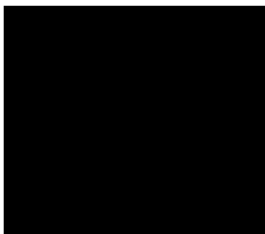
6. The expected organisational uplift required to enhance existing, and establish new, processes to comply with FAR will require significant resource and effort, especially for small-to-medium ADIs which may have limited resource to complete this work. The Regulators should consider whether there should be a two-stage ‘banking start time’ – akin to the ‘initial data holder’ versus ‘any other relevant ADI’ approach used in the implementation of the Consumer Data Right/Open Banking regime – in relation to the implementation of the new requirements.

**Other considerations**

7. Provision of guidelines at the earliest opportunity will assist with preparation for the transition, including but not limited to the essential documentation that will be required. It is anticipated that as a result of remuneration reforms, licensed entities will have policies that are aligned with FAR. The nature of policy reform and uplift however requires lead time to diligently review and apply changes, if any.
8. It has been observed through the transition of BEAR records from D2A to Connect, of the importance of data quality across different records for the same person. There may be any number of factors contributing to the variation in data quality, either data entry or the application of data by Connect across multiple records. It is recommended that the transition considers how to optimise data entry and reduce any potential manual or administrative processes.

Please contact the writer below if you wish to discuss any aspect of this submission.

Yours sincerely,



Chief Risk Officer



Queen and Collins, 376-390 Collins Street, Melbourne VIC 3000