



APRA



ASIC

Financial Accountability Regime:

**Superannuation webinar
and Q&A**

9 April 2024

Agenda

1 Journey of the FAR

2 FAR essentials

- Core obligations and joint administration
- Significant related entities (SREs)
- Assigning accountability across an accountable entity and its SREs

3 FAR information and consultation packages

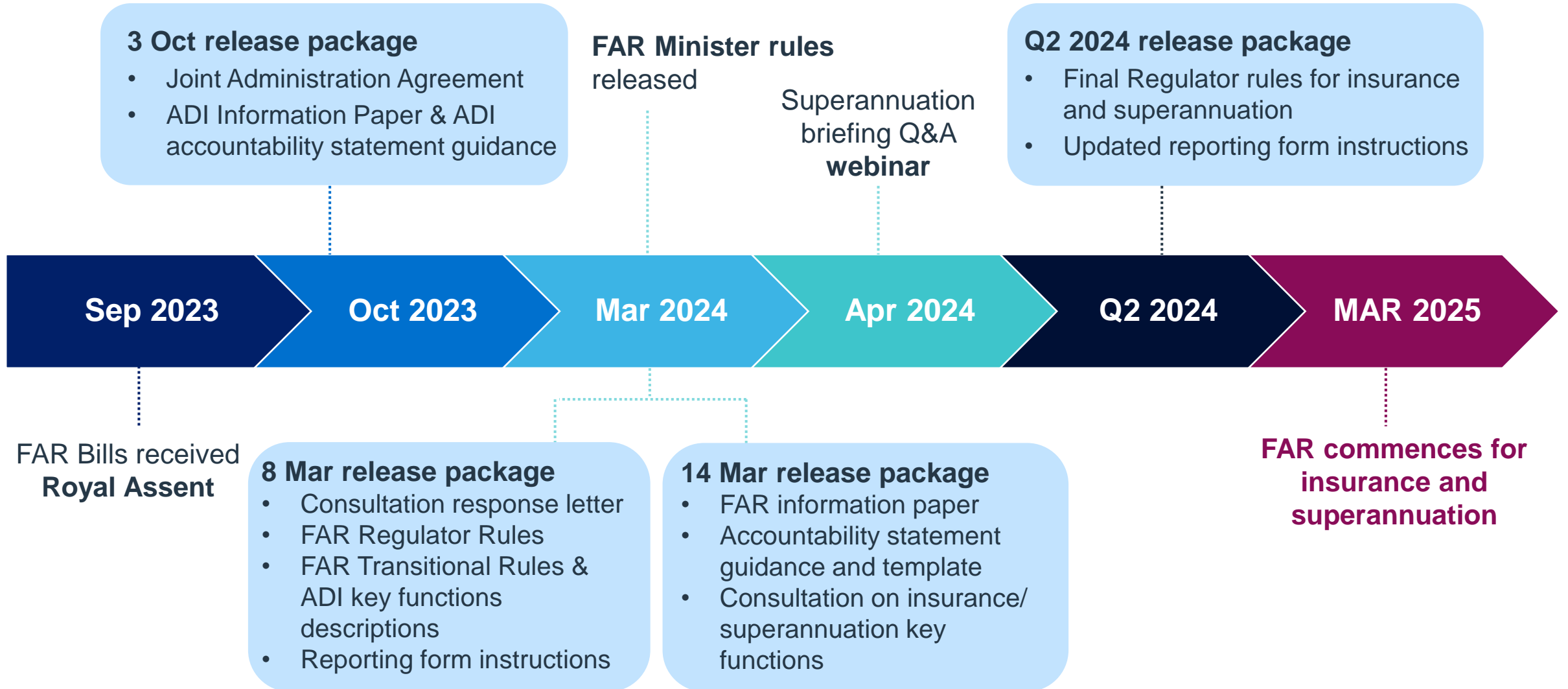
- Consultation scope
- Concept and application of key functions

4 Next steps

- How can entities prepare for FAR implementation?

5 Questions

1. Journey of the FAR



2. FAR essentials

The key pillars of the FAR

1.

Four core sets of obligations – accountability obligations, key personnel obligations, deferred remuneration obligations and notification obligations

2.

Administration – joint administration by APRA and ASIC with ongoing supervisory and surveillance activities

3.

Regulatory powers and enforcement – range of powers for APRA and ASIC to deal with non-compliance of the FAR

2. FAR essentials

Accountable entity obligations

Accountability obligations

Accountable entities must take reasonable steps to conduct their business in a certain manner.



Notification obligations

Provide the Regulators with certain information about the accountable entity and its directors and most senior and influential executives.



Core sets of obligations

Key personnel obligations

Ensure the responsibilities of its accountable persons cover all aspects of the operations of the entity and its significant related entities (SREs), including the allocation of all relevant prescribed responsibilities and positions.



Deferred remuneration obligations

Minimum deferral of 40% of variable remuneration of an accountable person for four years and reduction of variable remuneration for non-compliance with their obligations.



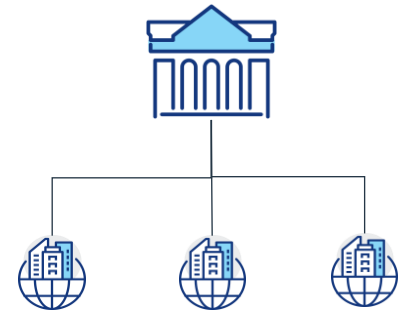
2. FAR essentials

Significant related entities (SREs)

Accountable entities need to identify all of their SREs. The FAR imposes obligations on accountable entities to take reasonable steps to ensure that each of their SREs comply with certain FAR obligations.

An SRE:

- is a subsidiary of an ADI or insurer, or a connected entity of an RSE licensee;
- is not an accountable entity itself; and
- has material or substantial effect on the accountable entity or its business.



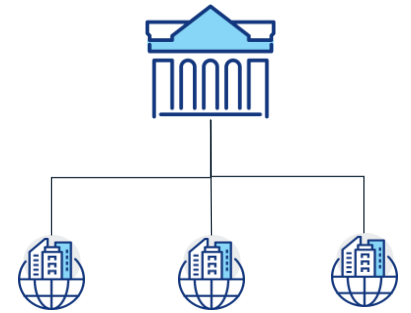
When assessing whether an entity is an SRE, accountable entities should **consider both financial and non-financial risk factors**, such as:



- Nature and scale of the entity's business or activities
- Extent of any interdependency, or any organisational, financial, or administrative arrangements (e.g. material business activity) between the entity and the accountable entity.

2. FAR essentials

SREs and 'connected entity'



Why is the approach to the identification of SREs for superannuation different from the banking and insurance industries?

- The explanatory memorandum to the FAR Bill recognised that a connected entity of a RSE licensee could have a material and substantial impact on the licensee but may not be a subsidiary of the licensee. Additionally, a connected entity can be an SRE of more than one RSE licensee.
- The definition of 'connected entity' in the FAR Act is consistent with the SIS Act and Corporations Act.
- SREs of a RSE licensee can be:
 - Subsidiaries of the licensee;
 - Other related bodies corporate of the licensee (e.g. parent and sibling entities); and
 - Entities with certain control relationships with the licensee.

2. FAR essentials

Notification obligations

Accountable entities need to determine their **core or enhanced classification** based on thresholds specified in the Minister rules.

Entity type	Enhanced notification threshold
Authorised deposit-taking institutions	Total assets > \$20b
General insurers and life companies	Total assets > \$10b
Private health insurers	Total assets > \$3b
RSE licensees	Total assets > \$30b



Where an accountable entity within a group meets the enhanced notification threshold, all other accountable entities (other than any foreign accountable entities) within that group are also classified as enhanced entities, irrespective of their asset size.

2. FAR essentials

Accountable persons - identification and their obligations



Identification of accountable persons

Directors and senior executives regulated under the FAR are referred to as accountable persons.

There are **two ways** for an accountable entity to identify their accountable persons. An individual who:

- Holds **general responsibilities** under s10(1) or 10(6) of the FAR Act (i.e. they have senior executive responsibility for management or control of the accountable entity or a substantial part of the accountable entity's relevant group);

and / or

- Holds one or more of the **prescribed responsibilities or positions in the Minister rules.**

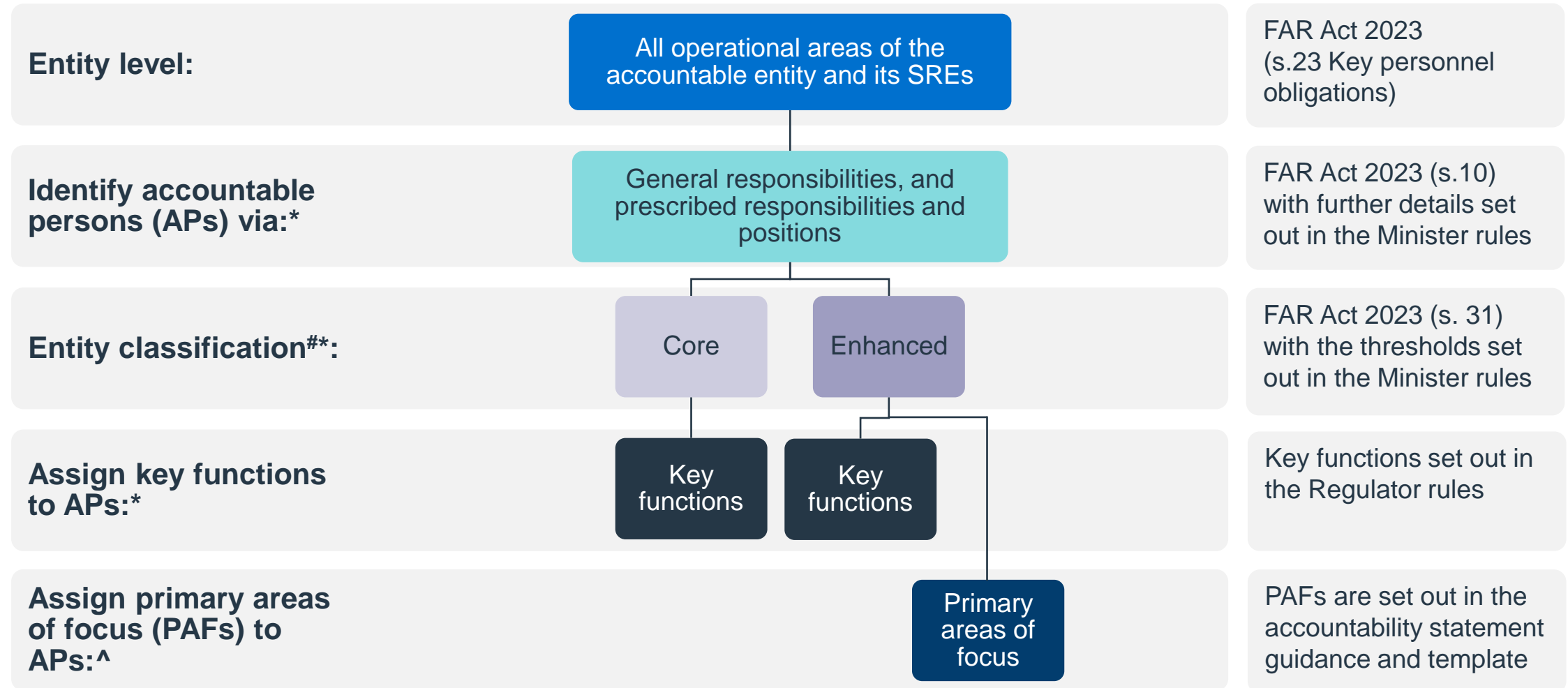
Accountable person obligations

Each accountable person is required to:

- Act with **honesty and integrity**, and with **due skill, care and diligence**;
- Deal with the Regulators in an **open, constructive and cooperative** way;
- Take reasonable steps to prevent matters from arising that may **adversely affect** the accountable entity's **prudential standing or reputation**; and
- Take reasonable steps to **prevent** matters from arising that may result in a **material contravention** by the accountable entity of **specified financial services laws.**

2. FAR essentials

Assigning accountability across an accountable entity and its SREs



Core entities do not have to submit accountability statements and maps

* Data submitted via forms within APRA Connect

^ For inclusion in accountability statements (enhanced entities)

2. FAR essentials

Joint administration



Joint Administration Agreement

Available on the **APRA and ASIC websites**.

The Regulators will collaborate and coordinate all activities including processing registrations, supervision, enforcement, and exercising powers.



Single point of contact

The **FAR@apra.gov.au** mailbox is the single point of contact.

Used for general and technical FAR queries and requests.

The mailbox will be jointly triaged as appropriate.



Single system

APRA Connect is the centralised system for data collection.

Information submitted by dual-regulated entities will be shared with APRA and ASIC.

APRA and ASIC have joint administration



FAR information and consultation packages – March 2024

3. FAR Information and Consultation packages – March 2024

Rules and information packages

(relevant to all industries)

- Regulator Rules
 - List of common data items
- FAR information paper
- Accountability statement guidance and template (for enhanced entities)
- FAR reporting form instructions*

* All reporting form instructions are available on APRA's website – they may be updated with minor consequential changes to reflect the outcomes of the consultation.

Consultation package

(for insurance and superannuation industries only)

- Joint letter
 - Introduce the consultation package
 - Outline steps entities should take ahead of FAR commencement
- Draft Regulator rules amendment instrument
- Draft key functions descriptions for insurance and superannuation entities

3. Consultation – insurance and superannuation key functions

Background

July 2023 consultation – draft Regulator rules

- In July 2023, the Regulators consulted on the **draft Regulator rules** and ADI key functions descriptions.
- The draft Regulator rules were divided into two parts:
 - **A list of data items** for inclusion in the register of accountable persons – **applicable to all accountable entities**; and
 - A list of ADI key functions – insurance and superannuation entities were encouraged to consider the concept of key functions.

March 2024 – Final Regulator rules released

- Insurance and superannuation entities should **refer to these final rules for the data items** all accountable entities must provide for the register of accountable persons and notify the Regulators of any changes.

Current consultation – targeted scope

- The Regulators propose to amend the Regulator rules by including a list of key functions for insurance and superannuation entities.
- The scope of the current consultation is limited to:
 - **The list of insurance and superannuation key functions** in the draft Regulator rules amendment instrument; and
 - The **draft key function descriptions** for insurance and superannuation entities.



3. Consultation – insurance & superannuation key functions

The concept and application of key functions



What are they? Key functions are functions, or functional areas, within an accountable entity, that are considered material from both a prudential and conduct perspective.



Why do we need them?

The Regulators consider this information to be critical to effectively administer the FAR –

- It provides visibility of which accountable persons have relevant responsibility for applicable key functions, particularly where such accountabilities are not immediately apparent from the list of prescribed responsibilities and positions.



How do they apply?

- Entities have discretion about which key functions are assigned to which accountable persons, as long as it reflects actual practices.
- Entities should **only allocate an applicable key function** to a person the entity has **determined to be an accountable person** in accordance with the FAR Act --
 - Key functions do not expand the definition or scope of responsibilities of accountable persons (see s10 of the FAR Act for the identification of accountable persons).
 - The amended Regulator rules will not require insurance or superannuation entities to undertake any key functions.

3. Consultation – insurance & superannuation key functions

Example – assigning key functions to more than one accountable person

Accountable entities can assign a key function to more than one accountable person if this reflects different responsibilities in relation to that function. For example, in one accountable entity:



3. Consultation – proposed list of RSE licensee key functions

• Conduct risk management	• Operational risk management
• Data management	• Product design and distribution obligations
• Financial and regulatory reporting	• Product origination
• Hardship processes	• Recovery and exit planning and resolution planning
• Investment management	• Scam management
• Liquidity management	• Technology management
• Marketing and advertising	• Training and monitoring of relevant representatives and staff
• Member outcomes	• Whistleblower policy and process

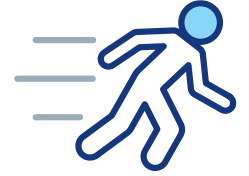
Note: Each of the key functions, where applicable, must be allocated to at least one accountable person.



Next steps

4. How can entities prepare for FAR implementation?

Entities are encouraged to be proactive and undertake the following key implementation activities:



All entities

- ✓ Finalise internal review/discussion on accountability arrangements
- ✓ Determine FAR entity profile and classification
- ✓ Identify which subsidiaries or connected entities may become SREs
- ✓ Identify potential accountable persons
- ✓ Allocate prescribed responsibilities to potential accountable persons
- ✓ Allocate applicable key functions to potential accountable persons
- ✓ Develop internal accountability documentation

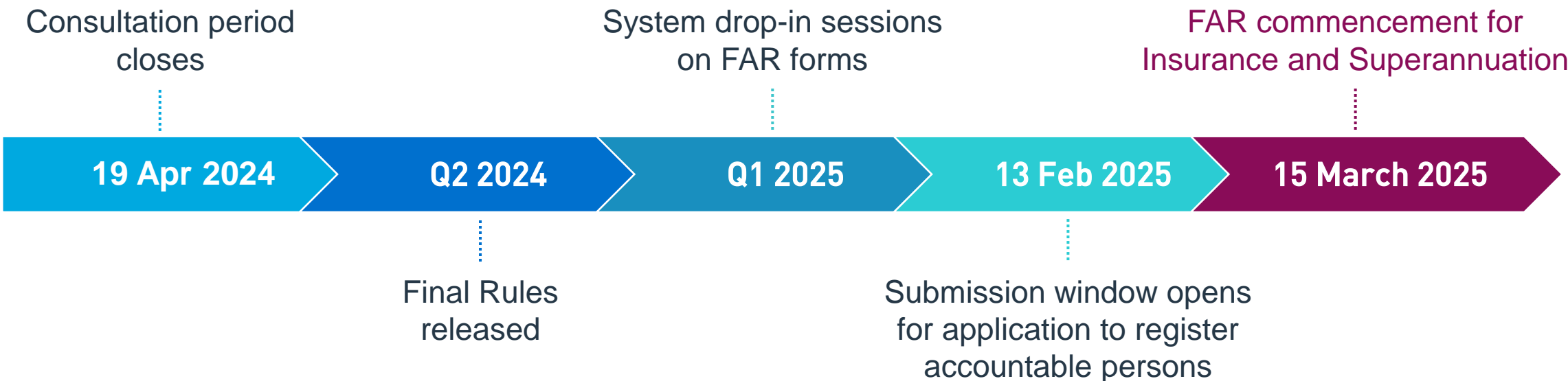
Enhanced entities *

- ✓ Develop draft accountability statements and map

**The enhanced notification thresholds are detailed in the final Minister rules.*

4. Next steps

- Written submissions to the consultation should be sent to the Regulators' single point of contact mailbox far@apra.gov.au by **19 April 2024**.
- Entities have the building blocks and guidance materials in place to continue with their preparations to implement the FAR. Over time, the Regulators will share available support for entities to provide the required information in APRA Connect.



Thank you