



30 April 2012

TO ALL LOCALLY INCORPORATED ADIs AND GENERAL AND LIFE INSURERS

Remuneration - Establishment of the Bilateral Complaint Handling Process (BCHP)

Remuneration practices at a number of financial institutions were a key contributing factor to the global financial crisis. In response, the Financial Stability Board (FSB) developed its *Principles for Sound Compensation Practices*¹ and their *Implementation Standards*² (Principles and Standards, P&S) were developed to align compensation with prudent risk-taking. APRA introduced a range of prudential requirements dealing with remuneration in April 2010.

An October 2011 FSB peer review on compensation practices³ found concerns by firms over inconsistent implementation of the P&S across jurisdictions. Such concerns might hinder the full adherence of firms to the P&S and give rise to an uneven playing field in the market for highly skilled employees. The peer review report recommended the establishment of a bilateral complaint handling process (BCHP) among national supervisory authorities in FSB member jurisdictions to address concerns of individual firms. This recommendation was endorsed by G20 Leaders at their Cannes Summit in November 2011.

Under the BCHP, national supervisors will address evidence-based complaints raised by firms that document a competitive disadvantage as a result of the inconsistent implementation of the P&S by firms headquartered in other jurisdictions, particularly with regard to Standards 6-9, 11 and 14.

The BCHP is expected to generate evidence-based information on specific cases of inconsistent implementation of the P&S that have been brought to the attention of national supervisors and to encourage supervisory dialogue on these issues. Specific sources of concern relative to the application of the P&S will be verified and addressed by bilateral exchanges among supervisory authorities. Over time, the analysis of firm-specific cases is expected to provide more clarity on the application of the P&S across firms and jurisdictions.

The purpose of this letter is to inform APRA-regulated institutions of the main features of the BCHP and how it will be applied by APRA. The BCHP is effective immediately and will cover complaints involving compensation practices since January 2012. APRA-regulated institutions wishing to file a complaint should provide, to APRA, evidence substantiating why the specific compensation practice at the competitor firm located in another jurisdiction might be deemed to be inconsistent with the P&S. The complaint should include detailed information on the relevant elements of the pay package offered by the firm to the employee and (where available) elements of the pay package offered by the competitor firm. A difference in the level of pay is not in itself evidence of an uneven playing field, nor are improvements in the pay package attributable to general career moves that involve promotions in title and level of responsibility. **Annex I** provides a template of the information required for filing a complaint.

¹ See http://www.financialstabilityboard.org/publications/r_0904b.pdf.

² See http://www.financialstabilityboard.org/publications/r_090925c.pdf.

³ See http://www.financialstabilityboard.org/publications/r_111011a.pdf

APRA will examine the information received and may discuss the information with the institution filing the complaint.

Complaints that are deemed by APRA to be well-substantiated based on the information provided will be brought by APRA to the attention of the supervisory authority for the competitor firm. The purpose of the bilateral exchange will be to share information on the specific source of concerns relative to the application of the P&S, in order to verify those concerns and to address them as needed. Under normal circumstances, the BCHP is expected to resolve the complaint within three months of the date it is brought to the attention of the supervisory authority having responsibility for the competitor firm. Once the process is concluded, the outcome of the complaint will be communicated by APRA to the institution that filed the complaint.

More information on the objectives of the BCHP and its main features, including on the treatment of confidential information submitted by firms, as well as on public reporting by the FSB on compensation practices can be found on the FSB's compensation practices website (<http://www.financialstabilityboard.org/activities/compensation/>).

Any BCHP complaints and questions on the process should be addressed to APRA's company Secretary by emailing secretary@apra.gov.au or writing to the Secretary, Australian Prudential Regulatory Authority, 400 George Street (Level 26), Sydney NSW 2000.

Keith Chapman
Executive General Manager
Diversified Institutions Division

Brandon Khoo
Executive General Manager
Specialised Institutions Division

Annex I
Information template to be completed by firms filing a complaint

1. Date the complaint is filed	2. Date(s) of the events that are the object of complaint
3. Identity of complaining firm (Firm 1)	4. Identity of firm that is object of the complaint (Firm 2)
5. Home jurisdiction of Firms 1 and 2	6. Jurisdiction where the complaint has arisen
7. Description of the complaint, including the specific P&S involved and the reason why the specific compensation practice is inconsistent with the P&S.	8. Nature and magnitude of the competitive disadvantage caused by the inconsistent application of the P&S
9. Information about the employee(s) at Firm 1 (rank, title, function, whether designated as Material Risk Taker)	10. If relevant, information on the employee(s) at Firm 2 (rank, title, function, whether designated as Material Risk Taker)
<p>11. Information on relevant elements of the pay practices or package at Firm 1, including for example:</p> <ul style="list-style-type: none"> • Actual payouts and bonus • Relationship between fixed and variable remuneration • Deferral arrangements • Clawbacks • Guarantees 	<p>12. Information on relevant elements of the pay practices or package at Firm 2 (on a best effort basis), including for example:</p> <ul style="list-style-type: none"> • Actual payouts and bonus • Relationship between fixed and variable remuneration • Deferral arrangements • Clawbacks • Guarantees <p>If relevant elements of the pay package are not available, please provide other evidence that supports the complaint.</p>
<p>13. Other information (applicable in the case of an employee move), for example:</p> <ul style="list-style-type: none"> • Whether the firm can confirm that the difference in pay package is the most important / an important reason for an employee move. • Whether the employee received a higher base salary, a higher expected bonus or a promotion in title by moving to the new firm. 	