



28 June 2019

## TO: ALL AUTHORISED DEPOSIT-TAKING INSTITUTIONS

### THE BANKING EXECUTIVE ACCOUNTABILITY REGIME – CONSULTATION ON PRODUCT RESPONSIBILITY

The *Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry* (the Royal Commission) identified a number of deficiencies with respect to ADIs' management of their product responsibilities, specifically in relation to the number and complexity of products, and the absence of clear end-to-end accountability for product management which led to adverse customer experience and outcomes.

Recommendation 1.17 of the final report of the Royal Commission recommended that APRA determine for the purposes of subsection 37BA(2)(b) of the *Banking Act 1959* (the Act), an end-to-end product responsibility for each ADI subject to the Banking Executive Accountability Regime (BEAR) with the aim of improving customer experience and outcomes. This letter outlines APRA's proposed approach to implementing recommendation 1.17.

APRA's proposal seeks to drive improvement in customer outcomes by requiring institutions to identify and register an accountable person (that could be a person already registered as an accountable person) to hold end-to-end product responsibility for each product that the ADI or the relevant group of bodies corporate that is constituted by the ADI and its subsidiaries (ADI group) offers to its customers including retail, business and institutional customers. APRA's proposal includes four key considerations namely, scope of accountability, coverage of products, mechanism, and joint accountability which are outlined in Figure 1 below.

APRA considers the core objective of its proposal being ADIs achieving heightened and clarified end-to-end accountability among senior executives for their products offered. Accordingly, APRA does not consider it appropriate that the Chief Executive Officer of an ADI holds the end-to-end accountability for all of its products, except for smaller less complex ADIs.

#### **Figure 1 APRA's four proposed key considerations to implementing product responsibility**

##### Scope of accountability

APRA proposes a broad interpretation of what is in scope of end-to-end accountability, including not only all steps in the design, delivery and maintenance of all products offered to customers by an ADI or ADI group but also extending to issues such as customer remediation, linkages to IT systems and data quality, outsourcing, and incentive arrangements. This goes beyond an explicit consideration of processing and administrative errors, and including but not limited to expansion to customer experience and outcomes.

Coverage of products	APRA proposes that a single-point accountability for a given product would be required for all products offered by an ADI or ADI group, rather than just retail products, as both retail and other products have the potential to impact the prudential standing and prudential reputation of an ADI. This would include but not limited to products, services, white-label or other-branded products.
Mechanism	<p>Recommendation 1.17 proposes a legislative instrument, to be determined under paragraph 37BA(4) of the Act, to add an additional particular responsibility for end-to-end product responsibility.</p> <p>APRA proposes the following additional particular responsibility:</p> <p style="padding-left: 40px;">For the purposes of paragraph 37BA(2)(b)(ii) of the <i>Banking Act 1959</i>, a particular responsibility includes senior executive responsibility for end-to-end product management of a product or product group offered by the ADI or the relevant group of bodies corporate that is constituted by the ADI and its subsidiaries, including but not limiting to all steps in the design, delivery, maintenance and any necessary remediation of customers in respect of any such product or product group.</p> <p>An ADI would be expected to reflect this responsibility for a given product or product group in the individual accountable person's accountability statement and to have it clearly delineated in the institution's accountability map.</p>
Joint accountability	<p>To reinforce clear points of accountability for any given product, APRA proposes that, where more than one accountable person is identified as accountable for a given product or product group, joint accountability is applied to the accountable persons involved to ensure no gaps or dilution in the end-to-end accountability. Accordingly, all relevant accountable persons will be equally accountable for that given product or product group.</p> <p>This joint accountability should not be taken to apply automatically across different identified products or product groups.</p>

APRA seeks input on any area that may impact the core objective of an ADI achieving heightened and clarified end-to-end accountability for each product offered by the ADI or ADI group. Further, APRA requests specific feedback from interested stakeholders on each of the four key considerations to implementing product responsibility outlined above. Additionally, APRA is keen to understand how many products or product groups ADIs would be likely to have and how many accountable persons would be likely to hold the proposed end-to-end product responsibility for the ADIs.

As per subsection 37BA(5) of the Act, subsection 37BA(2) of the Act does not apply to an Australian branch of a foreign ADI. Consequently, APRA's proposal is not directly relevant to an Australian branch of a foreign ADI. Nevertheless, APRA expects all foreign ADIs to consider how they could apply end-to-end product responsibility to their Australian operations

and how the accountability statements of their accountable persons would reflect such responsibility.

APRA aims to release a draft schedule for consultation in October 2019 with the requirements expected to be finalised in December 2019. An implementation date of 1 July 2020 is proposed.

### **Consultation period**

This proposal will be subject to an eight week public consultation and is available on the APRA website at:

<https://www.apra.gov.au/banking-executive-accountability-regime>

Written submissions on the proposal should be sent to [ADIpolicy@apra.gov.au](mailto:ADIpolicy@apra.gov.au) by 23 August 2019 and addressed to:

General Manager  
Policy Development  
Policy and Advice Division  
Australian Prudential Regulation Authority

APRA asks that all interested stakeholders use this consultation opportunity to provide information on the compliance impact of the proposals, and any other substantive costs associated with the changes. Compliance costs are defined as direct costs to businesses of performing activities associated with complying with government regulation. Specifically, information is sought on any changes to compliance costs incurred by businesses as a result of APRA's proposals.

Consistent with the Government's approach, APRA will use the methodology behind the Commonwealth Regulatory Burden Measure to assess compliance costs. This tool is designed to capture the relevant costs in a structured way, including a separate assessment of upfront costs and ongoing costs. It is available at <https://rbm.obpr.gov.au/>.

APRA requests that respondents use this methodology to estimate costs to ensure the data supplied to APRA can be aggregated and used in an industry-wide assessment. When submitting their costs assessment to APRA, respondents should include any assumptions made and, where relevant, any limitations inherent in their assessment. Feedback should address the additional costs incurred as a result of complying with APRA's requirements, not activities that institutions would undertake due to foreign regulatory requirements or in their ordinary course of business.

Yours sincerely,

Pat Brennan  
Executive General Manager  
Policy & Advice Division

### **Important disclosure notice – publication of submissions**

All information in submissions will be made available to the public on the APRA website unless a respondent expressly requests that all or part of the submission is to remain in confidence. Automatically generated confidentiality statements in emails do not suffice for this purpose.

Respondents who would like part of their submission to remain in confidence should provide this information marked as confidential in a separate attachment.

Submissions may be the subject of a request for access made under the *Freedom of Information Act 1982* (FOIA). APRA will determine such requests, if any, in accordance with the provisions of the FOIA. Information in the submission about any APRA-regulated entity that is not in the public domain and that is identified as confidential will be protected by section 56 of the *Australian Prudential Regulation Authority Act 1998* and will therefore be exempt from production under the FOIA.