Australian Retirement Trust

Australian Retirement Trust Pty Ltd
ABN 88 010 720 840 AFSL 228975
Australian Retirement Trust
ABN 60 905 115 063
GPO Box 2924 Brisbane QLD 4001
13 11 84 art.com.au

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

Via Email: PolicyDevelopment@apra.gov.au

30 September 2026

Submission on proposed changes to streamline Financial Accountability Regime

Thank you for the opportunity to provide feedback on the proposed changes to streamline aspects of the Financial Accountability Regime (FAR).

Australian Retirement Trust (ART) welcomes APRA and ASIC's review of the FAR and supports the proposed amendments aimed at reducing regulatory burden for entities, while ensuring regulators have the information they require to oversee the regime.

Response to the proposals

We consider the proposed amendments to remove key functions as prescribed information and reporting lines to accountable persons from accountability maps a valuable exercise to drive efficiency, productivity and simplification, without undermining accountability standards. ART does not have any further comments or feedback with respect to these proposals.

Areas for further guidance

As part of the consultation, APRA and ASIC have asked whether further clarity is needed in any areas. We have identified two areas where we believe additional guidance would assist industry participants to implement FAR more effectively and achieve the regime's intended outcomes, namely what constitutes reasonable steps in practice and materiality thresholds for FAR breaches. Greater clarity in these areas would strengthen accountability, leadership and succession planning, informed decision-making and governance, while reducing administrative burden. These comments support APRA and ASIC's objective of maintaining a robust accountability framework that is clear, proportionate and operationally effective for regulated entities.

Clarity on Reasonable steps

We would welcome additional regulatory guidance on what constitutes reasonable steps in practice and what would be considered sufficient evidence to demonstrate compliance. While the Financial Accountability Regime Act 2023 (Cth) identifies broad categories such as governance, controls, risk management, delegation and remediation, the principles-based nature of the regime means there remains limited guidance on the practical actions, behaviours and documentation that regulators would regard as sufficient in different circumstances.

In the absence of detailed regulatory guidance ART has responded by developing internal policies and standards, tools and templates, and undertaking monitoring activities, however, industry participants

are ultimately required to determine how the regime applies in particular circumstances. We believe there would be value in APRA and ASIC publishing additional examples, case studies and observations from supervisory activities across a range of Accountable Person roles, business models and risk events. Any additional guidance on documentation expectations, record keeping and the proportionality of evidence would also assist.

Clarity on Materiality of Breaches

We would also welcome additional regulatory guidance on the application of materiality thresholds for potential breaches of FAR. This would assist industry participants to distinguish between operational matters that can be effectively addressed through standard risk management and remediation processes, and circumstances that indicate a substantive failure to meet FAR requirements. This challenge is particularly evident where there is no clear member impact, financial loss or prudential consequence, but where questions may arise regarding the adequacy of governance, oversight, escalation or the exercise of reasonable steps by an Accountable Person.

ART has developed a stage-gate approach to assessing matters for FAR compliance in consultation with our Risk and Compliance teams; however, as with the application of reasonable steps, industry participants are again ultimately required to exercise their own judgement in applying the regime in the absence of detailed regulatory guidance. In particular, we believe there would be value in APRA and ASIC providing illustrative examples or case studies demonstrating the distinction between immaterial issues that should be managed and reported through standard channels, and material breaches requiring notification under FAR. This would assist industry participants to apply the regime consistently and reduce the risk of both under-reporting and defensive over-reporting of matters.

ART appreciates the opportunity to contribute to this review and would be pleased to provide any further information regarding the matters raised in this submission. [redacted], is the primary contact for this submission and can be contacted at [redacted]

Yours sincerely,

[redacted]

[redacted]

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