Streamlining FAR Administration

The Australian Prudential Regulation Authority (APRA)

Submitter:

[redacted]

Introduction

I welcome the opportunity to comment on the proposed streamlining of the Financial Accountability Regime. I support genuine regulatory simplification where duplication can be removed, information can be collected once rather than repeatedly and administrative work can be reduced without loss of regulatory capability, but simplification should be judged by what the regulatory system can still see, establish and enforce after the change rather than by the number of fields, forms or notifications removed.

The present consultation is narrow and this submission remains within that scope because *Consultation on streamlining FAR administration*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, proposes two changes within the regulators' control: removing key functions as prescribed information in the register of accountable persons and no longer expecting accountability maps to identify reporting lines to accountable persons, meaning their direct reports. APRA and ASIC say the changes are intended to reduce regulatory burden while maintaining clear accountability standards and expressly ask whether they will materially reduce time and cost, affect accountability, create unintended consequences or reveal other opportunities for clarification or burden reduction.

I do not address the separate legislative reforms proposed for later Treasury consultation except where necessary to distinguish them from the present proposals. The central question here is whether APRA and ASIC can remove information from the contemporary accountability architecture without making responsibility materially harder to identify, test and enforce when accountability is actually required.

First principles: accountability must remain traceable

The starting point should be the purpose of FAR rather than the administrative machinery used to implement it because *Financial Accountability Regime: Information for accountable entities*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, explains that key functions concern areas of particular prudential or conduct importance and that their assignment assists the regulators to obtain visibility and clarity about where accountability sits. The same guidance distinguishes key functions from the responsibilities that identify an accountable person and states that key functions assist the regulators to assess whether accountability has been adequately assigned across operational areas.

That purpose produces a simple first principles test because an accountability regime should make it easier to establish who was responsible, for what, at what time, with what authority and through what system of delegation, reporting and control. The familiar question "where does the buck stop?" is therefore directly relevant because FAR should help answer that question before something goes wrong rather than require the answer to be reconstructed after personal and institutional interests have become adverse.

There is also substance behind the expression that "the fish rots from the head", provided it is understood as an accountability principle rather than an allegation that every institutional failure begins with senior management. *Prudential Inquiry into the Commonwealth Bank of Australia*, Australian Prudential Regulation Authority, identified unclear accountabilities beginning with inadequate ownership of key risks at executive level, weak escalation and overly complex decision making, while recording CBA's own delegation policy as stating that accountability could not be delegated even though responsibility could be.

Operational failure can occur at any level, but systemic failure may reflect strategy, incentives, resourcing, risk appetite, governance, escalation arrangements or tolerated practice established much higher in an organisation. An effective accountability regime should therefore distinguish the person who performed an act from the people who designed, controlled, supervised or tolerated the system within which it occurred, so that accountability can travel upward to the level at which relevant authority actually rested.

This matters because the weakest or most visible organisational link can otherwise become the sacrificial lamb. If operational conduct is easy to document while senior responsibility becomes diffuse through delegations, committees and overlapping functions, the people easiest to identify may also become the easiest to blame while those possessing greater authority are better positioned to argue that responsibility sat elsewhere.

The unexplained change in the regulators' position

The strongest evidentiary issue in the consultation is APRA and ASIC's changed assessment of key function information because *Response to submissions: Consultation on the Regulator Rules and Transitional Rules under the Financial Accountability Regime*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, considered industry concerns about duplication, overlap and reporting burden and concluded that relevant entities should already know where senior executive responsibility for applicable key functions lies. The regulators stated that notification should not create significant additional burden and described key function information as "critical to effectively administer the FAR" because it provided visibility of which accountable persons held relevant responsibility, after which they narrowed the requirements rather than removing them.

The same regulatory purpose appears in *Financial Accountability Regime: Information for accountable entities*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, which says key function information assists the regulators to assess whether accountable entities are adequately assigning accountability across operational areas and provides visibility and clarity concerning those functions. The guidance further explains that key functions are prescribed information for the register rather than the statutory basis for identifying an accountable person, meaning their stated purpose has always been broader than merely deciding who qualifies as an accountable person.

The present *Consultation on streamlining FAR administration*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, now says key functions may assist contextual understanding but are not necessary to identify accountable persons or their areas of accountability and proposes removing them from prescribed information. Regulatory experience can legitimately change a regulator's assessment, but the consultation does not presently disclose the evidentiary bridge between information described as critical to effective administration and information now considered unnecessary.

That gap deserves explanation rather than an assumption that either position must be wrong because *Observations from the implementation of the Financial Accountability Regime for the banking industry*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, demonstrates that the regulators reviewed actual registration and notification experience following commencement and identified matters requiring further attention by banking entities. If subsequent experience has established that key function information is duplicative or adds little supervisory value, APRA and ASIC should be able to show that evidence and explain what information now performs the function previously considered critical.

From contemporaneous accountability to retrospective reconstruction

My principal concern is not that the proposals formally abolish accountability because they do not, but that they may convert part of the existing contemporaneous accountability architecture into retrospective reconstruction. That distinction matters because the value of an accountability regime is tested most severely after failure, when responsibility is disputed rather than when all participants agree about the organisation chart.

Financial Accountability Regime: Information for accountable entities, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, treats key functions as areas of particular prudential or conduct importance and requires notification where an accountable person has actual or effective senior executive responsibility for the whole or a significant or substantial part of the relevant function. The present architecture therefore does something more specific than identify senior executives generally because it creates a contemporaneous regulatory linkage between an identified accountable person and an important functional area.

Removing that linkage creates, in my analysis, a risk that responsibility which was capable of being recorded before an event becomes arguable afterwards because large institutions operate through committees, delegations, business units, group functions, service providers and changing reporting structures. The question "where does the buck stop?" can then be answered successively by pointing sideways or downward until responsibility has been divided among so many participants that ultimate accountability becomes difficult to establish.

That risk does not depend upon an assumption that senior executives will deliberately evade responsibility because ambiguity has defensive value regardless of motive once regulatory, financial or reputational consequences are at stake. A person need not establish that nobody was responsible if the available material permits a credible argument that responsibility instead rested with another executive, a committee, a subordinate, a group function or a delegated officer.

The weaker the contemporaneous accountability record, the more likely responsibility is to have to be reconstructed from emails, minutes, position descriptions, delegations, committee papers and witness evidence created for different purposes. That can become what might colloquially be called a "lawyers' picnic", not because legal scrutiny is undesirable but because every uncertainty concerning scope, delegation, timing, oversight, knowledge or operational control becomes another matter capable of requiring investigation, document production and legal argument.

The apparent regulatory saving may therefore be a transfer rather than a reduction in cost because recurring compliance expenditure saved before a failure can reappear

afterwards as supervisory investigation, internal reconstruction and litigation. The correct efficiency test is consequently not the reporting cost removed from accountable entities in isolation but the total resources required to preserve equivalent regulatory capability across the life of the regime.

Knowledge, detection and the responsibility to know

This issue becomes particularly important where an accountable person says that they were unaware of a failure occurring within their area of responsibility because actual knowledge and accountability are not necessarily the same thing. *Financial Accountability Regime Act 2023*, Commonwealth of Australia, requires an accountable person to conduct their responsibilities with honesty and integrity and with due skill, care and diligence, and to take reasonable steps to prevent specified adverse consequences and material contraventions, while its definition of reasonable steps includes appropriate governance, control and risk management, safeguards against inappropriate delegation, procedures for identifying and remediating problems and appropriate action in response to actual or suspected non-compliance.

The Act does not expressly impose a general statutory test of what an accountable person "should have known", so I do not suggest that this consultation should create a new liability standard outside the legislation. My analysis is narrower because, when the statutory question is whether reasonable steps were taken, the absence of actual knowledge cannot by itself answer whether governance, controls, monitoring and escalation arrangements were adequate to bring a material problem to the accountable person's attention.

The relevant regulatory inquiry should therefore extend beyond "did the accountable person know?" to ask how long the failure existed before detection, how it was ultimately detected, who detected it, what systems were supposed to identify it, what information should ordinarily have travelled upward, whether warning signs existed, whether earlier detection should reasonably have occurred and what happened after the problem became known. Those questions are analysis flowing from the existing reasonable steps architecture because section 22 expressly identifies governance, controls, risk management, safeguards against inappropriate delegation, problem identification and responses to suspected non-compliance as relevant to reasonable steps.

An accountable person should not therefore be able to rely on what might colloquially be called a Sergeant Schultz or "I know nothing" defence merely by establishing that the failure never personally reached their desk. If the person was accountable for the relevant area, absence of knowledge should itself prompt examination of whether the systems for which they were responsible were capable of identifying and escalating the

failure, rather than automatically operating as evidence that the person had discharged their obligations.

Evidence that an underlying employee deliberately disregarded a clear and verifiable direction from the accountable person would be highly relevant to that inquiry, particularly where the direction predated the breach and the organisation can demonstrate that it was communicated, capable of being complied with, appropriately monitored and deliberately ignored. It should not, however, operate as an automatic defence because issuing a directive is not equivalent to exercising adequate governance, and a regulator should still be able to ask whether compliance was monitored, whether departure should have been detected, whether warning signs were ignored and whether the delegation itself was appropriately controlled.

This distinction protects both sides of the accountability equation because an accountable person should not automatically bear personal blame for every unauthorised act committed by a subordinate, while neither should senior responsibility be defeated simply by demonstrating lack of personal knowledge. The appropriate question is whether the accountable person can demonstrate reasonable governance and control over the area for which they were accountable, including a credible system for discovering when instructions were not being followed.

This directly strengthens the case for preserving contemporaneous accountability information because determining whether an executive knew, should reasonably have become aware or had systems capable of making them aware depends upon understanding the function, reporting structure, delegation, control environment and escalation pathways operating at the relevant time. If APRA and ASIC remove information that presently assists them to understand those relationships, they may still be able to reconstruct them later, but reconstruction is not equivalent to having a contemporary regulatory record created before the failure and before defensive interests arise.

The relevant test should therefore be harder than asking whether APRA and ASIC could eventually determine responsibility from other records because almost any organisational history may be capable of reconstruction given enough compulsory notices, interviews, documents, lawyers and time. Before removing key function and direct reporting information, the regulators should demonstrate that the remaining architecture preserves a contemporaneous and readily accessible evidentiary trail capable of establishing who was responsible, what authority and reporting structures supported that responsibility, what information should have reached the accountable person and when a material failure should reasonably have been identified.

If those matters must instead be reconstructed after the event from records held, selected and explained by the institution whose accountability is under examination,

the reform has not simply removed administration. It has shifted part of the evidentiary burden from prospective accountability to retrospective investigation and potentially increased the importance of the regulated institution's own reconstruction of its organisational history.

Reporting lines and the organisational reality of accountability

The second proposal raises the same issue in a narrower form because *Consultation on streamlining FAR administration*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, says direct reporting lines provide organisational context but are not essential to understanding FAR accountability, can change frequently and generate material change notifications, so APRA and ASIC propose no longer expecting those lines to appear in accountability maps. The proposal retains the upward reporting line identifying the person to whom the accountable person reports, so the issue is specifically whether information below the accountable person can be removed without losing material understanding of how accountability is exercised.

There is a legitimate burden problem if changes in names, titles or routine personnel movements repeatedly trigger notifications while substantive accountability remains unchanged. The harder question is whether the appropriate response is to remove the information entirely or distinguish administrative churn from changes that alter delegation, control, information flow, escalation or functional responsibility.

Organisational context is not itself accountability, but it can provide evidence of practical control because formal responsibility and operational reality do not always coincide. If an accountable person nominally owns a function while the relevant staff, information, delegation or escalation pathways sit elsewhere, the structure below that person may help a regulator determine whether the formal allocation reflects how the institution actually operates and what information the accountable person should have been receiving.

APRA's own earlier experience supports preserving that practical dimension because *Implementation of the Banking Executive Accountability Regime*, Australian Prudential Regulation Authority, found that BEAR had driven greater clarity and transparency of individual accountability, while APRA encouraged scenario testing to identify handovers, gaps and overlaps and specifically observed that executive accountable persons could benefit from cascading such testing to their direct reports. APRA also reported practices involving documentation of how executive responsibilities were cascaded to lower management levels and monitoring information sources for potential accountability breaches.

Those observations are directly relevant to the present proposal because the organisational layer below an accountable person may help establish not only who

performed an activity but how responsibility, reporting and detection were intended to operate. Removing direct reports from the regulatory map may therefore reduce low value updating, but APRA and ASIC should first establish whether the same information necessary to test practical accountability, escalation and detection remains readily available elsewhere.

Core and enhanced entities

The proposed removal of key function information may also have different effects across the regime because *Financial Accountability Regime: Information for accountable entities*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, explains that enhanced entities provide accountability statements and accountability maps while core entities are not required to submit those documents. This means, as an inference from the regulatory architecture rather than a stated conclusion of APRA or ASIC, that prescribed key function information may provide comparatively more regulatory context where the richer documentation required of an enhanced entity is not routinely supplied.

APRA and ASIC should therefore test whether the same removal has the same informational effect across core and enhanced entities rather than assuming uniform consequences because the legal amendment is uniform. Proportional regulation should permit information to disappear where equivalent visibility demonstrably exists while preserving it where removal would create a material supervisory or evidentiary gap.

Follow the money and the incentives

The immediate beneficiary of the proposed simplification is identifiable because *APRA and ASIC commence consultation on FAR streamlining*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, estimates that reporting will be reduced for all accountable entities and approximately 4,500 accountable people and that accountability map updates will be halved. The published material does not, however, quantify the monetary saving, staff hours avoided, number of key function changes presently reported, supervisory value of the information or cost of reconstructing equivalent information when required.

In *Transition of Superannuation D2A data collections to APRA Connect*, submitted to the Australian Prudential Regulation Authority, I argued that regulatory burden should not be measured merely by counting fields removed and that genuine reform should identify which processes, controls and assurance requirements actually cease and what equivalent information remains available. In *Transition of Life Insurance D2A data collections to APRA Connect*, submitted to the Australian Prudential Regulation Authority, I similarly argued that reduced reporting burden must not become reduced

prudential visibility because less information is an efficiency gain only where the regulator retains the capability it needs.

The incentives of participants also differ because institutions rationally seek to reduce recurring compliance cost, regulators rationally seek to reduce low value processing and executives rationally seek to avoid unnecessary administration, while customers, members, shareholders and the public have an interest in responsibility remaining readily identifiable after failure. None of those incentives implies improper conduct, but sound regulatory architecture should not assume that they will automatically align.

Those incentives change further once accountability is disputed because any person facing adverse financial, regulatory or reputational consequences has a legitimate reason to adopt the interpretation of ambiguous responsibilities most favourable to their position. A contemporaneous regulatory record reduces that later contestability by requiring relevant responsibility to be identified before those defensive incentives arise.

There is also a resource asymmetry because a regulated financial institution ordinarily controls its internal records, staff knowledge and organisational history and can obtain specialist legal assistance to interpret them. Removing a clear regulatory record may therefore shift evidentiary advantage toward the institution or executive best equipped to reconstruct and contest that history, even where the underlying statutory obligations remain unchanged.

Better regulation should remove duplication, not regulatory sightlines

The broader reform objective supports genuine simplification because *Better Regulation Roadmap*, Council of Financial Regulators, expressly seeks greater regulatory efficiency without compromising financial stability, consumer protection or market integrity and includes reducing unnecessary data burden and making greater use of information already held by regulators. That framework supports removing genuine duplication, but it also requires attention to whether regulatory capability survives the removal rather than treating lower reporting volume as an outcome in itself.

In *Proposed changes to governance*, submitted to the Australian Prudential Regulation Authority, I argued that reducing duplication between prudential requirements and FAR should not convert administrative simplification into regulatory blindness and that delegation should not allow accountability to disappear down an organisational chain. In *CS 054 Proposed consolidation of financial reporting and auditing instruments*, submitted to the Australian Securities and Investments Commission, I similarly argued that simplification should be tested by what regulatory capability survives rather than by how much reporting architecture disappears.

In *Oversight of ASIC, the Takeovers Panel and the Corporations Legislation*, submitted to the Parliamentary Joint Committee on Corporations and Financial Services, I argued

that material regulatory simplification should identify the cost of the existing obligation, the protection replacing it, any additional supervision required and whether the reform removes total cost or merely transfers it. In *The Banking Code Review*, submitted to the independent Banking Code Review, and *Independent Review of the Banking Code Compliance Committee*, submitted to the Independent Review of the Banking Code Compliance Committee, I similarly argued for contemporaneous records of important responsibility and for regulatory effectiveness to be measured by outcomes rather than activity.

Those principles produce a consistent test for the present consultation because genuine duplication should be removed, but information should not be labelled duplicative merely because another document touches the same subject. The relevant question is whether the alternative information performs the same regulatory function with equivalent reliability, historical traceability, accessibility and capacity to establish not merely who was nominally responsible but whether that person exercised reasonable governance and control.

The United Kingdom provides a useful comparator

Australia need not copy the United Kingdom, but *Review of the Senior Managers and Certification Regime*, Prudential Regulation Authority, Bank of England, provides a useful comparator because 88 per cent of respondents considered that regime had made individuals easier to hold to account and 82 per cent considered individual accountability supportive of safety, soundness and conduct, while respondents also identified opportunities for targeted simplification. The Prudential Regulation Authority responded by pursuing targeted changes intended to improve efficiency while retaining an individual accountability architecture centred on identified senior decision makers and clear responsibilities.

The comparison is particularly relevant to the question of knowledge and control because the United Kingdom regime also treats reasonable steps by senior managers as central to accountability, including effective control of the business for which a senior manager is responsible. The significance of that comparator is conceptual rather than prescriptive because the Australian and United Kingdom regimes are different, but both demonstrate that personal accountability depends upon being able to connect formal responsibility with actual governance and control.

The comparator therefore shows that the burden associated with maintaining accountability information can be examined through notification frequency, materiality, batching and process design without beginning from the assumption that the underlying information itself must disappear. Administrative efficiency and clear senior accountability need not be treated as opposing objectives.

Testing whether the information is genuinely redundant?

The strongest argument for APRA and ASIC's proposal is that statutory obligations, accountability statements, maps and ordinary corporate records remain available, meaning key function and direct reporting information may duplicate material obtainable elsewhere. If APRA and ASIC can demonstrate functional equivalence, genuine duplication should be removed because requiring the same accountability fact through several mechanisms consumes resources without corresponding regulatory benefit.

The existing public material does not yet demonstrate that equivalence because *Financial Accountability Regime: Information for accountable entities*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, expressly gives key functions a purpose different from identifying accountable persons by stating that they assist the regulators to assess whether accountability has been adequately assigned across operational areas. Ordinary corporate records are also not automatically equivalent to a regulatory accountability record because they may use different terminology, change over time and require interpretation before they establish who possessed authority, how responsibility was exercised and what information should have flowed to the accountable person.

Nor is it sufficient to say that APRA or ASIC could compel the relevant information after a failure because investigative availability and contemporaneous regulatory visibility are different things. A regime that requires regulators to reconstruct responsibility after the event from records controlled by the institution may ultimately reach the same factual conclusion, but only with greater time, cost, uncertainty and opportunity for competing interpretations.

The burden of justification should therefore be practical rather than ideological because more reporting is not inherently better regulation and less reporting is not inherently better regulation. Information should be removed where its cost exceeds its regulatory value and an equally reliable substitute exists, but retained where removal materially increases the time, uncertainty or legal contestability involved in identifying responsibility and assessing whether reasonable steps were taken.

A regulatory grid for the final decision

Before removing key function information, APRA and ASIC should test each requirement against the same regulatory grid by identifying the present compliance cost, the supervisory purpose, evidence of actual use, the substitute information source, the cost and delay involved in obtaining that substitute and the consequence if responsibility later becomes disputed. The relevant comparison is not reporting against no reporting but the existing accountability architecture against the proposed architecture on both total cost and regulatory capability.

The same analysis should apply to direct reporting information by separating notifications caused by immaterial personnel movements from changes that alter control, delegation, information flow or functional responsibility. If most updates are administrative churn, that supports targeted reform, but it does not establish that all information about the organisational structure below an accountable person lacks regulatory value.

The grid should also include detection because an accountability system should enable the regulator to ask not simply who formally owned a function but how effectively that responsibility was exercised. Relevant measures include how long a material failure existed before detection, how it was detected, whether it was discovered through routine controls, internal escalation, audit, whistleblowing, customer complaints, regulator intervention or chance, whether the control environment should reasonably have identified it earlier and how quickly corrective action occurred once it became known.

These questions are especially important where an accountable person relies upon non knowledge because *Financial Accountability Regime Act 2023*, Commonwealth of Australia, makes governance, control, risk management, safeguards against inappropriate delegation, identification and remediation procedures and responses to suspected non-compliance relevant to reasonable steps. A regulatory architecture that makes it harder to establish the reporting and control arrangements operating during the period of an undetected breach may consequently make the existing statutory reasonable steps obligation harder to test in practice.

The architecture should therefore be scenario tested because *Implementation of the Banking Executive Accountability Regime*, Australian Prudential Regulation Authority, identified scenario testing as a means of examining handovers, gaps and overlaps in accountability and specifically contemplated its extension to direct reports. APRA and ASIC could test whether, following a major technology failure, scam loss, hardship failure, inappropriate enforcement practice or credit governance breakdown, supervisors could identify the responsible executive, establish how information should have reached that person and determine whether the failure should have been detected earlier as quickly and confidently under the proposed architecture as under the existing one.

Proposed approach

APRA and ASIC should not remove key functions from prescribed information until they explain why information previously described as critical to effective FAR administration is now considered unnecessary and publish sufficient evidence about its actual use, compliance cost and proposed substitute to allow that change to be tested. If that evidence establishes duplication or low value, the regulators should first consider

narrower functions, single source reporting, automation, improved materiality thresholds or reduced notification frequency before removing the information entirely.

APRA and ASIC should similarly reconsider complete removal of direct reporting information from accountability maps and distinguish ordinary personnel changes from changes affecting material delegation, control, escalation or responsibility. If the existing notification framework makes that distinction unnecessarily burdensome, the administrative requirement should be changed without losing a contemporaneous and historically traceable record capable of being obtained promptly by the regulators.

Historical traceability is particularly important because the relevant question after a failure is not who holds responsibility today but who held it when the decision, omission or escalation occurred and what control structure existed at that time. The weakest link should not become the sacrificial lamb merely because operational conduct remains easy to identify while senior responsibility, reporting arrangements and escalation pathways have disappeared into superseded structures, delegations or committee arrangements.

APRA and ASIC should also preserve enough information to test the quality of an accountable person's oversight where that person says they did not know about a breach. Evidence that a subordinate ignored a clear, verifiable and appropriately monitored directive should be capable of supporting an accountable person's case that reasonable steps were taken, but the regulator should remain able to examine whether the direction was adequate, whether compliance was monitored, whether warning signals existed, whether departure should have been detected and whether the governance system itself was capable of identifying non-compliance.

This is not a proposal to create a new statutory defence, reverse onus or strict liability through an administrative consultation because those questions belong to the legislative framework. It is a proposal that APRA and ASIC should not remove information needed to test the existing statutory requirement for reasonable steps, including whether non knowledge reflects a genuinely unforeseeable breach by a subordinate or inadequate governance, monitoring and escalation within the accountable person's own area of responsibility.

APRA and ASIC should then evaluate any reform against outcomes rather than reporting volumes by testing whether supervisors can identify responsible executives as quickly as before, whether accountability gaps remain detectable, whether responsibility becomes more frequently contested, whether the duration of material failures before detection can still be assessed and whether investigations require more retrospective reconstruction. Fewer notifications would demonstrate less reporting, but only preserved or improved accountability at lower total cost would demonstrate better regulation.

Responses to the consultation questions

On whether the changes will materially reduce time and cost, *APRA and ASIC commence consultation on FAR streamlining*, Australian Prudential Regulation Authority and Australian Securities and Investments Commission, provides evidence that reporting volumes will fall because the regulators estimate reduced reporting across approximately 4,500 accountable people and a halving of accountability map updates. That does not establish the magnitude of the economic saving or whether reduced front-end compliance will be offset by greater supervisory, evidentiary or investigative reconstruction, so the appropriate measure is total system cost rather than notifications avoided.

On whether accountability may be affected, my concern is that formal legal accountability may remain while evidentiary accountability weakens because fewer contemporaneous links between executives, functions and organisational structures can make responsibility and reasonable steps more contestable after failure. The critical test is "where does the buck stop?", and if answering that question becomes slower, more interpretive or more dependent upon retrospective reconstruction, the practical quality of accountability has changed even if the statutory obligation has not.

The same concern applies where an accountable person says they knew nothing of the failure because lack of actual knowledge should not end the inquiry into responsibility for an area over which that person exercised senior executive authority. The regulator should still be able to determine how long the failure existed, how it was discovered, what controls and escalation processes should have detected it, whether earlier detection was reasonably available and what evidence demonstrates that the accountable person took reasonable steps to make directions, monitoring and controls effective.

On unintended consequences, the material risks are greater scope for plausible deniability, defensive delegation, loss of institutional memory, more retrospective reconstruction, greater legal contestability and transfer of compliance cost into investigation or litigation. A further risk is that the weakest organisational link becomes the sacrificial lamb because responsibility is clearest closest to the operational event while authority, knowledge and control become progressively more difficult to prove as inquiry moves upward, which would invert the senior accountability purpose of FAR.

There is also a specific incentive risk if ignorance becomes easier to establish than effective oversight because an accountability regime should not reward organisational distance from operational problems. Senior accountability should create an incentive to design systems through which material failures are identified and escalated, not an incentive structure in which the safest position after failure is to establish that the relevant executive did not personally know what was occurring.

On further clarification and burden reduction, APRA and ASIC should disclose the evidence supporting their changed assessment of key functions, distinguish organisational churn from material accountability changes and examine single source reporting, automation, batching, materiality and reduced notification frequency before deleting potentially useful information. That approach is consistent with *Better Regulation Roadmap*, Council of Financial Regulators, because it seeks lower regulatory burden while preserving financial stability, consumer protection, market integrity and regulatory capability.

Conclusion

The public record demonstrates why clarity of senior accountability matters because *Prudential Inquiry into the Commonwealth Bank of Australia*, Australian Prudential Regulation Authority, found that unclear accountability contributed to difficulty identifying who was accountable when things went wrong, while *Implementation of the Banking Executive Accountability Regime*, Australian Prudential Regulation Authority, later found that clearer individual accountability sharpened governance and supervisory engagement. Those findings do not prove that every present FAR data item must remain, but they establish that clarity of responsibility is part of the regulatory infrastructure rather than administrative decoration.

The expression that "the fish rots from the head" is relevant because systemic conduct can reflect decisions about culture, incentives, resources, risk appetite and governance made far above the employee closest to a failure, while "where does the buck stop?" captures the essential function of an accountability regime. FAR should therefore make it possible to follow responsibility downward through the structure in which authority is exercised and upward to the level at which material authority, control and responsibility actually rested.

That requires more than identifying who personally knew about a failure because senior accountability also concerns the systems through which an executive manages an area for which they are responsible. An "I know nothing" response should trigger questions about why the person did not know, how long the failure persisted, how it was eventually discovered, whether it should have been detected earlier and whether the accountable person can demonstrate appropriate governance, controls, monitoring, escalation and action consistent with the existing reasonable steps obligation.

The weakest link should not become the sacrificial lamb simply because that person is easiest to identify, discipline or place before an investigator while people exercising greater authority can rely upon organisational complexity, delegation or lack of personal knowledge to create uncertainty about their role. Nor should an administrative saving create a lawyers' picnic in which responsibility, authority and the adequacy of oversight that could have been recorded contemporaneously must instead be established

through competing reconstructions of delegations, committees, reporting lines, detection systems and organisational history.

The central test is therefore straightforward because an accountability regime should record enough information before interests become adverse to establish not only who was responsible but how that responsibility was exercised and whether failures should have been identified earlier. If the proposed streamlining preserves equivalent or better traceability and the capacity to test reasonable steps at lower total cost it should proceed, but if it converts contemporaneous accountability into retrospective argument, the apparent saving will have shifted cost, risk and evidentiary advantage rather than removed them.