



11 July 2024

To: All APRA-regulated insurance and superannuation entities

Response to submissions: Consultation on the Regulator rules amendment instrument under the Financial Accountability Regime

On 14 March 2024, APRA and ASIC (the Regulators) released a joint consultation seeking feedback on:

- the draft *Financial Accountability Regime Regulator Rules Amendment Instrument No.1 of 2024* (amendment instrument); and
- supporting descriptions for each proposed Insurance Key Function and RSE licensee Key Function.

This letter summarises the feedback from seven submissions received during the consultation process and sets out the Regulators' response.

Consultation feedback

The key themes from the submissions received are broadly summarised below:

- **Scope of key functions** – Some concerns were raised around the scope of certain key functions and possible overlap with the prescribed responsibilities and positions of an accountable person.
- **Application of key functions** – Submissions requested specific guidance and clarification on how key functions apply to groups, significant related entities (SREs) and non-operating holding companies (NOHCs).
- **Relevance to the insurance and superannuation industries** – Submissions considered that the proposed lists of key functions and their descriptions would, in some instances, benefit from being more specific to the insurance and superannuation industries.

The Regulators' response

The key differences between the responsibilities and positions that cause a person to be an accountable person under the FAR legislation and the key functions are set out in section 3.4 of the FAR information paper, [Financial Accountability Regime: Information for accountable entities](#). Key functions should only be notified where one or more of an entity's accountable persons have relevant responsibility for one or more key functions.

The Regulators note that the key functions apply at the accountable entity level, which includes authorised and registered NOHCs but not SREs. Accountable entities should determine whether certain aspects of a key function remain with the accountable entity, even if that key function is predominantly managed by another entity. An accountable person could have senior executive responsibility for the same key function across multiple accountable entities within the same corporate group if this aligns with actual practices.

The Insurance Key Functions and RSE licensee Key Functions are prescribed information for inclusion in the FAR register. To minimise any unnecessary regulatory burden, any changes to the key functions would be subject to prior consultation with industry. The supporting key function descriptions may be amended from time to time (e.g. to align with changes to the corresponding legislative or prudential frameworks) if required and will remain part of the Regulators' guidance materials.

The Regulators have tightened some key function descriptions to be more specific to insurance and superannuation entities' operations.

Insurance Key Functions and their descriptions

The Regulators have:

- removed 'collections and enforcement' as an Insurance Key Function;
- removed references that are not specific to insurance from the key function descriptions of 'product origination' and 'training and monitoring of relevant representatives and staff';
- refined the key function description for 'insurance risk management' to remove any overlap with other Insurance Key Functions;
- tightened the key function description for 'scam management' to be more specific to insurance entities' operations; and
- clarified in section 3.4.2 of the [FAR information paper](#) that some Insurance Key Functions may not be applicable to private health insurers (PHIs).

RSE licensee Key Functions and their descriptions

The Regulators have:

- given greater detail to the key function descriptions for 'member outcomes and member engagement' and 'product origination' to remove overlap with other RSE licensee Key Functions;
- tightened the key function description for 'scam management' and 'marketing and advertising' to be more specific to superannuation entities' operations; and
- clarified the 'investment management' key function description in response to consultation feedback.

Other matters

Submissions also provided feedback on other aspects of the FAR, including in relation to the need for greater clarity on the different purposes of the key functions and the primary areas of focus (PAFs). The Regulators refer enhanced accountable entities and their SREs to Appendix 1 of the [accountability statement guidance and template](#) for clarity on the different purposes. As a response to the feedback received at the webinar on 11 April 2024, 'management of hospital contracting' (applicable to PHIs only) has been added to the list of PAFs under 'General responsibilities': see Table (a) of Appendix 2 of the [accountability statement guidance and template](#).

The Regulators intend to address other matters raised that were outside the scope of this consultation directly with the relevant respondents.

Final amendment instrument and key function descriptions for insurance and superannuation entities

The Regulators have made the final versions of:

- the amendment instrument [Financial Accountability Regime Regulator Rules Amendment Instrument No. 1 of 2024](#), which amends [Financial Accountability Regime Act \(Information for register\) Regulator Rules 2024](#); and
- the key function descriptions for insurance and superannuation entities available in Appendix A of the [FAR information paper](#).

Yours sincerely,

Margaret Cole
Deputy Chair, APRA

Sarah Court
Deputy Chair, ASIC