



Financial Accountability Regime (Minister) Rules 2024

I, Stephen Jones, Assistant Treasurer and Minister for Financial Services, make the following rules.

Signed

5 March 2024

Stephen Jones
Assistant Treasurer
Minister for Financial Services

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Part 1—Preliminary

1 Name

This instrument is the *Financial Accountability Regime (Minister) Rules 2024*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	15 March 2024.	15 March 2024

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Financial Accountability Regime Act 2023*.

4 Definitions

Note: Expressions have the same meaning in this instrument as in the *Financial Accountability Regime Act 2023* as in force from time to time—see paragraph 13(1)(b) of the *Legislation Act 2003*.

In this instrument:

eligible foreign life insurance company means an eligible foreign life insurance company (within the meaning of the *Life Insurance Act 1995*) that is registered under section 21 of the *Life Insurance Act 1995*.

final report:

- (a) in relation to an accountable entity that is an ADI—see section 14; or
- (b) in relation to an accountable entity that is a general insurer—see section 17; or
- (c) in relation to an accountable entity that is a life company—see section 20; or
- (d) in relation to an accountable entity that is a private health insurer—see section 23; or
- (e) in relation to an accountable entity that is an RSE licensee—see section 26.

Section 4

foreign ADI has the same meaning as in the *Banking Act 1959*.

foreign general insurer has the same meaning as in the *Insurance Act 1973*.

relevant final report, in relation to an accountable entity that is an ADI—see section 14.

Reporting Standard: see section 29.

the Act means the *Financial Accountability Regime Act 2023*.

total assets value:

- (a) in relation to an accountable entity that is an ADI—see section 15; or
- (b) in relation to an accountable entity that is a general insurer—see section 18; or
- (c) in relation to an accountable entity that is a life company—see section 21; or
- (d) in relation to an accountable entity that is a private health insurer—see section 24; or
- (e) in relation to an accountable entity that is an RSE licensee—see section 27.

Part 2—Accountable persons—prescribed responsibilities and positions

5 Prescribed responsibilities for accountable entities other than foreign accountable entities and NOHCs—all sectors

- (1) For the purposes of paragraph 10(2)(b) of the Act, each of the responsibilities listed in subsection (2) are prescribed in relation to an accountable entity that is:
- (a) one of the following:
 - (i) an ADI;
 - (ii) a general insurer;
 - (iii) a life company;
 - (iv) a private health insurer;
 - (v) an RSE licensee; and
 - (b) *not* a foreign accountable entity.

Note: An individual is an accountable person, in relation to an accountable entity, where they hold a position in, or relating to, that entity and because of that position has a prescribed responsibility.

- (2) Each of the following responsibilities, relating to the accountable entity, are prescribed:
- (a) senior executive responsibility for management or control of the business activities of the accountable entity and its significant related entities (if any);
 - (b) senior executive responsibility for management or control of the accountable entity's:
 - (i) financial resources; or
 - (ii) operations;
 - (c) senior executive responsibility for management of the accountable entity's overall risk controls or overall risk management arrangements;
 - (d) senior executive responsibility for management of the accountable entity's information management (including information technology systems);
 - (e) senior executive responsibility for management of the accountable entity's:
 - (i) internal audit function; or
 - (ii) compliance function; or
 - (iii) human resource function; or
 - (iv) dispute resolution function (whether internal or external, or both);
 - (f) senior executive responsibility for management of the accountable entity's client or member remediation programs (including hardship arrangements);
 - (g) senior executive responsibility for management of the accountable entity's breach reporting;
 - (h) if the accountable entity is a reporting entity for the purposes of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*—senior executive responsibility for management of the accountable entity's anti-money laundering function.

Section 6

- (3) For the purposes of subsection (2), a person does not have senior executive responsibility for management of an activity or function merely because the person is carrying out the activity or function.

6 Prescribed positions for accountable entities other than foreign accountable entities and NOHCs—all sectors

- (1) For the purposes of subsection 10(3) of the Act, the positions covered by subsection (2) are prescribed in relation to an accountable entity that is:
- (a) one of the following:
 - (i) an ADI;
 - (ii) a general insurer;
 - (iii) a life company;
 - (iv) a private health insurer;
 - (v) an RSE licensee; and
 - (b) *not* a foreign accountable entity.
- (2) The positions of members of the board of directors (or equivalent) of the accountable entity are prescribed.

7 Prescribed responsibilities for accountable entities other than foreign accountable entities and NOHCs—insurance

- (1) For the purposes of paragraph 10(2)(b) of the Act, each of the responsibilities listed in subsection (2) are also prescribed in relation to an accountable entity that is:
- (a) one of the following:
 - (i) a general insurer;
 - (ii) a life company;
 - (iii) a private health insurer; and
 - (b) *not* a foreign accountable entity.
- (2) Each of the following responsibilities, relating to the accountable entity, are prescribed:
- (a) senior executive responsibility for management of the accountable entity's actuarial function;
 - (b) senior executive responsibility for management of the accountable entity's claims handling function.
- (3) For the purposes of subsection (2), a person does not have senior executive responsibility for management of an activity or function merely because the person is carrying out the activity or function.

8 Prescribed responsibilities for accountable entities that are RSE licensees

- (1) For the purposes of paragraph 10(2)(b) of the Act, each of the responsibilities listed in subsection (2) are also prescribed in relation to an RSE licensee.

-
- (2) Each of the following responsibilities, relating to an RSE licensee, are prescribed:
 - (a) senior executive responsibility for management of the RSE licensee's member administration operations;
 - (b) senior executive responsibility for management of the RSE licensee's investment function;
 - (c) senior executive responsibility for management of the RSE licensee's financial advice service;
 - (d) senior executive responsibility for management of the RSE licensee's insurance offerings.
 - (3) For the purposes of subsection (2), a person does not have senior executive responsibility for management of an activity or function merely because the person is carrying out the activity or function.

9 Prescribed responsibilities for accountable entities that are foreign accountable entities

- (1) For the purposes of paragraph 10(2)(b) of the Act, each of the responsibilities listed in subsection (2) are prescribed in relation to a foreign accountable entity.
- (2) Each of the following responsibilities, relating to a foreign accountable entity, are prescribed:
 - (a) senior executive responsibility for conduct of the activities of a branch of the foreign accountable entity that is operating in Australia;
 - (b) if the foreign accountable entity is a foreign ADI or a foreign general insurer—responsibility for overseeing the operation of a branch operating in Australia as a senior officer outside Australia with delegated authority from the board of directors (or equivalent) of the foreign accountable entity;
 - (c) if the foreign accountable entity is an eligible foreign life insurance company—responsibility for oversight of the foreign accountable entity as a member of its Compliance Committee for the purposes of section 16ZF of the *Life Insurance Act 1995*;
 - (d) if the foreign accountable entity is a foreign general insurer—responsibility as an agent in Australia for the purposes of section 118 of the *Insurance Act 1973*.

10 Prescribed responsibilities for accountable entities that are NOHCs

- (1) For the purposes of paragraph 10(2)(b) of the Act, each of the responsibilities listed in subsection (2) are prescribed in relation to an accountable entity that is:
 - (a) an authorised NOHC of an ADI; or
 - (b) an authorised NOHC of a general insurer; or
 - (c) a registered NOHC of a life company.
- (2) Each of the following responsibilities, relating to the accountable entity, are prescribed:

Section 11

- (a) senior executive responsibility for management or control of the business activities of the accountable entity and its significant related entities (if any);
 - (b) senior executive responsibility for management or control of the accountable entity's financial resources;
 - (c) senior executive responsibility for management of the accountable entity's overall risk controls or overall risk management arrangements;
 - (d) senior executive responsibility for management of the accountable entity's internal audit function.
- (3) For the purposes of subsection (2), a person does not have senior executive responsibility for management of an activity or function merely because the person is carrying out the activity or function.

11 Prescribed positions for accountable entities that are NOHCs

- (1) For the purposes of subsection 10(3) of the Act, the positions covered by subsection (2) are prescribed in relation to an accountable entity that is:
- (a) an authorised NOHC of an ADI; or
 - (b) an authorised NOHC of a general insurer; or
 - (c) a registered NOHC of a life company.
- (2) The positions of members of the board of directors (or equivalent) of the accountable entity is prescribed.

12 Relationship between sections in this Part

Unless expressly provided otherwise, no section in this Part is intended to limit the operation of any other section in this Part.

Part 3—Accountable entities—enhanced notification threshold

Division 1—Accountable entities that are ADIs

13 Determining when accountable entity meets enhanced notification threshold—ADIs

- (1) Under subsection 31(3) of the Act, this section sets out how to determine when an accountable entity (other than a foreign accountable entity) that is an ADI meets the enhanced notification threshold.
- (2) The accountable entity meets the threshold at a particular time during a financial year of the entity if the entity's total assets value, as reported in the entity's relevant final report, exceeds \$20 billion.

Note: If an accountable entity meets the enhanced notification threshold under this subsection, any other accountable entity that is related to the first accountable entity is also taken to meet the enhanced notification threshold: see section 28.

14 Relevant final report—ADIs

- (1) Subject to subsections (2) and (3), the accountable entity's **relevant final report** is the most recent final report submitted by the entity to APRA under any of the following:
 - (a) Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated);
 - (b) Reporting Standard ARS 323.0 Statement of Financial Position (Licensed ADI);
 - (c) Reporting Standard ARS 720.0 ABS/RBA Statement of Financial Position.
- (2) If the most recent final report was submitted under ARS 323.0 or ARS 720.0, and the entity previously submitted a final report under ARS 322.0 in relation to the same financial year—the entity's **relevant final report** is the final report submitted under ARS 322.0.
- (3) If the most recent final report was submitted under ARS 720.0, and the entity previously submitted a final report under ARS 323.0 in relation to the same financial year (but did not previously submit a final report in relation to the same financial year under ARS 322.0)—the entity's **relevant final report** is the final report submitted under ARS 323.0.

Note: See also section 29 of this instrument about Reporting Standards.

- (4) In this section, a **final report** for the accountable entity means a report in relation to the reporting period for a financial year of the entity that includes the last day of that financial year.

15 Total assets value—ADIs

- (1) The **total assets value** in a relevant final report of the accountable entity is determined in accordance with this section.

Part 3 Accountable entities—enhanced notification threshold

Division 1 Accountable entities that are ADIs

Section 15

- (2) If the report is under Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated), the total assets value is the amount reported in Section A, item 12 Total assets in Form ARF 322.0 in that Reporting Standard.
- (3) If the report is under Reporting Standard ARS 323.0 Statement of Financial Position (Licensed ADI), the total assets value is the amount reported in Section A, item 11 Total assets in Form ARF 323.0 in that Reporting Standard.
- (4) If the report is under Reporting Standard ARS 720.0 ABS/RBA Statement of Financial Position and Form ARF 720.0A in that Reporting Standard, the total assets value is the amount reported in Section A, item 13 Total Assets including intra-group assets in Form ARF 720.0A in that Reporting Standard.
- (5) If the report is under Reporting Standard ARS 720.0 ABS/RBA Statement of Financial Position and Form ARF 720.0B in that Reporting Standard, the total assets value is the amount reported in Section A, item 13 Total assets including intra-group assets in Form ARF 720.0B in that Reporting Standard.

Division 2—Accountable entities that are general insurers

16 Determining when accountable entity meets enhanced notification threshold—general insurers

- (1) Under subsection 31(3) of the Act, this section sets out how to determine when an accountable entity (other than a foreign accountable entity) that is a general insurer meets the enhanced notification threshold.
- (2) The accountable entity meets the threshold at a particular time during a financial year of the entity if the entity's total assets value, as reported in the entity's most recent final report, exceeds \$10 billion.

Note: If an accountable entity meets the enhanced notification threshold under this subsection, any other accountable entity that is related to the first accountable entity is also taken to meet the enhanced notification threshold: see section 28.

17 Final report—general insurers

A *final report*, for the accountable entity, means a report submitted by the entity to APRA under Reporting Standard GRS 300.0 Statement of Financial Position for the reporting period for a financial year of the entity that includes the last day of that financial year.

Note: See also section 29 of this instrument about Reporting Standards.

18 Total assets value—general insurers

The *total assets value* in a final report of the accountable entity is the amount reported in item 15 Total assets in Reporting Standard GRS 300.0 Statement of Financial Position.

Section 19

Division 3—Accountable entities that are life companies

19 Determining when accountable entity meets enhanced notification threshold—life companies

- (1) Under subsection 31(3) of the Act, this section sets out how to determine when an accountable entity (other than a foreign accountable entity) that is a life company meets the enhanced notification threshold.
- (2) The accountable entity meets the threshold at a particular time during a financial year of the entity if the entity's total assets value, as reported in the entity's most recent final report, exceeds \$10 billion.

Note: If an accountable entity meets the enhanced notification threshold under this subsection, any other accountable entity that is related to the first accountable entity is also taken to meet the enhanced notification threshold: see section 28.

20 Final report—life companies

A *final report*, for the accountable entity, means a report submitted by the entity to APRA under Reporting Standard LRS 300.0 Statement of Financial Position for the reporting period for a financial year of the entity that includes the last day of that financial year.

Note: See also section 29 of this instrument about Reporting Standards.

21 Total assets value—life companies

The *total assets value* in a final report of the accountable entity is the amount reported in item 15 Total assets in Reporting Standard LRS 300.0 Statement of Financial Position.

Division 4—Accountable entities that are private health insurers

22 Determining when accountable entity meets enhanced notification threshold—private health insurers

- (1) Under subsection 31(3) of the Act, this section sets out how to determine when an accountable entity that is a private health insurer meets the enhanced notification threshold.
- (2) The accountable entity meets the threshold at a particular time during a financial year of the entity if the entity's total assets value, as reported in the entity's most recent final report, exceeds \$3 billion.

Note: If an accountable entity meets the enhanced notification threshold under this subsection, any other accountable entity that is related to the first accountable entity is also taken to meet the enhanced notification threshold: see section 28.

23 Final report—private health insurers

A *final report*, for the accountable entity, means a report submitted by the entity to APRA under Reporting Standard HRS 300.0 Statement of Financial Position for the reporting period for a financial year of the entity that includes the last day of that financial year.

Note: See also section 29 of this instrument about Reporting Standards.

24 Total assets value—private health insurers

The *total assets value* in a final report of the accountable entity is the amount reported in item 15 Total assets in Reporting Standard HRS 300.0 Statement of Financial Position.

Section 25

Division 5—Accountable entities that are RSE licensees

25 Determining when accountable entity meets enhanced notification threshold—RSE licensees

- (1) Under subsection 31(3) of the Act, this section sets out how to determine when an accountable entity that is an RSE licensee meets the enhanced notification threshold.
- (2) The accountable entity meets the threshold at a particular time during a financial year of the entity if the entity's total assets value, as reported in the entity's most recent final report, exceeds \$30 billion.

Note: If an accountable entity meets the enhanced notification threshold under this subsection, any other accountable entity that is related to the first accountable entity is also taken to meet the enhanced notification threshold: see section 28.

26 Final report—RSE licensees

A *final report*, for the accountable entity, means a report submitted by the entity to APRA under Reporting Standard SRS 320.0 Statement of Financial Position for the reporting period for a financial year of the entity that includes the last day of that financial year.

Note: See also section 29 of this instrument about Reporting Standards.

27 Total assets value—RSE licensees

The *total assets value* in a final report of the accountable entity is worked out in accordance with the following method:

Method statement

- | | |
|---------|--|
| Step 1. | For each registrable superannuation entity of which the entity is an RSE licensee, identify the amount reported in item 11 Total assets in Form SRF 320.0 in Reporting Standard SRS 320.0 Statement of Financial Position. |
| Step 2. | Add together each of the amounts identified under step 1. |

Division 6—Accountable entities that are in the same corporate group

28 Related accountable entity also taken to meet enhanced notification threshold

- (1) Under subsection 31(3) of the Act, this section sets out an additional way to determine when an accountable entity meets the enhanced notification threshold if:
 - (a) an accountable entity (the *first accountable entity*) meets the enhanced notification threshold at a particular time during a financial year of the first accountable entity under subsection 13(2), 16(2), 19(2), 22(2) or 25(2); and
 - (b) the first accountable entity is related to another accountable entity that is *not* a foreign accountable entity (the *second accountable entity*); and
 - (c) at that time, the second accountable entity does not otherwise meet the enhanced notification threshold under this Part of the instrument (other than this section).
- (2) The second accountable entity is taken to meet the enhanced notification threshold at the same time the first accountable entity meets the threshold.

Section 29

Division 7—Miscellaneous

29 Reporting Standards

- (1) If a provision (the *referring provision*) of this instrument refers, in relation to a final report for an accountable entity, to a Reporting Standard with a particular identifier, the referring provision is taken to refer to the version of the Reporting Standard with that identifier that applied to the entity in relation to that report because of a determination made under section 13 of the *Financial Sector (Collection of Data) Act 2001*.

Example: Reporting Standard ARS 323.0 Statement of Financial Position (Licensed ADI).

- (2) However, if that Reporting Standard has been superseded by a more recent Reporting Standard with a different identifier:
 - (a) subsection (1) applies as if the referring provision referred instead to the more recent Reporting Standard; and
 - (b) any reference to particular material in the superseded Reporting Standard is taken to refer instead to the corresponding material in the more recent Reporting Standard.

- (3) In this section:

identifier means a combination of letters and numbers (with or without punctuation marks, and whether or not followed by a title).

Part 4—Miscellaneous**30 Evidentiary use of certain material—manner of authentication of examination record**

For the purposes of subsection 54(7) of the Act, a manner of authentication of a written record of an examination, mentioned in that subsection, that meets all of the following, is specified:

- (a) the written record is produced as soon as practicable after the conclusion of the examination;
- (b) the written record is endorsed by a person (the *endorser*) other than the person examined at the examination;
- (c) the endorser:
 - (i) was present throughout the examination; and
 - (ii) read and endorsed the written record as soon as practicable after it was produced;
- (d) the endorsement:
 - (i) is to the effect that the record is a true record of what was said in the examination; and
 - (ii) is signed and dated by the endorser.

Part 5—Application and transitional provisions

31 Application provision—total assets value

For the purposes of Part 3, in working out the total assets value of an accountable entity, the relevant final report for the purposes of Division 1 of that Part, and the final report for the purposes of Divisions 2 to 5 of that Part, may be for a financial year that starts or ends:

- (a) before the commencement of this instrument; or
- (b) before the time when the accountable entity became an accountable entity.

Example: The financial year for an ADI starts on 1 November. Under subsection 13(2) of this instrument, the ADI meets the enhanced notification threshold if the ADI's relevant final report for 2022-23 reports a total asset value that exceeds \$20 billion.

Note: For when a body corporate starts being an accountable entity, see subsections 9(2) and (4) of the Act.