The Treasury

Reserve Bank Act Review Phase 2 Review Update Proactive Release

March 2020

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RESERVE BANK
OF NEW ZEALAND
TE PŪTEA MATUA

TE TAI ŌHANGA
THE TREASURY

Report: Executive accountability – follow-up advice

Date:	18 November 2019	**Report No:**	T2019/3384
		File Number:	MC-1-7-3-1-13

Action sought

	Action sought	Deadline
Minister of Finance (Hon Grant Robertson)	**Indicate** your agreement to the recommendations **Forward** the report to the Minister of Commerce and Consumer Affairs **Discuss** the report with the Minister of Commerce and Consumer Affairs **Indicate** whether you would like to meet the Review team and relevant CoFR agencies to discuss the report	29 November 2019

Contact for telephone discussion (if required)

Name	Position	Telephone		1st Contact
Chris Hunt	Adviser, Reserve Bank Act Review Phase 2	[39] (wk)	n/a	✓
Tamiko Bayliss	Review Director, Reserve Bank Act Review Phase 2	[39] (wk)	n/a	

Minister's Office actions (if required)

Return the signed report to Treasury.

Refer a copy of this report to the Minister of Commerce and Consumer Affairs.

Set up meeting with the Review team and relevant CoFR agencies if required.

Enclosure: No

Report: Executive accountability - follow up advice

Executive Summary

This report responds to your request for the Phase 2 Review team to provide additional advice on progressing work on an ‘executive accountability’ regime. This request followed from your consideration of the Review team’s recommendations on the proposed new legislation for deposit takers.

You have made an in-principle decision to enhance the accountability requirements that the Reserve Bank imposes on the directors of registered banks (and by implication, the directors of deposit takers more broadly given your earlier in-principle decision to integrate the bank and non-bank prudential regimes).

You also expressed a clear preference for extending these obligations beyond directors to senior employees (i.e. senior executives), along the lines of recent policy reforms in other jurisdictions such as Australia and the UK.

There are a number of options for developing and implementing an executive accountability regime, with the key high-level design choices around the scope of the industries captured, and whether the framework should cut across both ‘peaks’ (prudential and conduct) of New Zealand’s regulatory framework for the financial sector.

The Review team, with input and advice from CoFR agencies, recommends the development of an integrated prudential-conduct regime structured around dual-licensed deposit takers and insurers – that is, those entities licensed by the Reserve Bank and the FMA (following the introduction of the new ‘fair conduct’ licensing regime). Such a regime would be best progressed outside the Phase 2 Review process, and through a cross-agency process comprising the key regulatory and policy agencies.

This recommendation is motivated by the general direction of travel internationally towards integrated executive accountability regimes, and in a process sense, the fact that the Phase 2 Review team is neither resourced for, nor has the mandate to progress work involving fundamental policy change to financial market conduct regulation. Under the current terms of reference, the Review process would only be able to progress and deliver a regime focussed on prudential regulation and deposit takers (i.e. not including conduct regulation or insurers etc.). In addition, those stakeholders that supported extending accountability requirements to executives in the June consultation, did so with a view that an integrated approach be undertaken.

If you would like to adopt an integrated prudential-conduct approach we suggest you discuss this with the Minister of Commerce and Consumer Affairs. We also suggest you seek further, advice from the relevant CoFR agencies on timeframes for progressing this work. [33]

MBIE officials are working with the Minister of Commerce and Consumer Affairs to introduce a conduct Bill before the end of this year. They will spend next year in the select committee process and will be developing regulations to implement the Bill.

In terms of public communications, we suggest you announce your in-principle decision to enhance director accountability for deposit takers as part of the Review Update planned for early December. In addition, we recommend you signal that officials will continue to consider options for extending accountability beyond directors and that they will report back in due course.

Recommended Action

We recommend that you:

1. **note** your in-principle decision to increase the accountability requirements for directors of deposit takers established through broad positive duties, with civil penalties as the primary redress.

   Noted.

2. **note** that there are a number of options for extending formal accountability requirements to senior executives, with key design choices being the industry sectors captured, and whether both prudential and conduct obligations should apply.

   Noted.

3. **note** that CoFR agencies have expressed a strong preference for an integrated prudential-conduct approach to the development of any executive accountability regime progressed through a cross-agency process separate from the Phase 2 Review, but have highlighted significant resource constraints that limit the ability to progress any related policy work in the near term. CoFR are also concerned about proceeding too quickly on an issue that is sensitive and would benefit from a thorough policy process.

   Noted.

4. **agree** that if policy work on an integrated prudential-conduct executive accountability regime is to be progressed then it should be done so in a process separate from the Phase 2 Review. [Review team and CoFR agencies preferred option].

   Agree/disagree.

   OR

   agree to progress work on a more narrow prudential executive accountability regime for deposit takers within the Phase 2 Review.

   Agree/disagree.

5. **note** that progressing the work on the development of an integrated prudential-conduct executive accountability regime on an accelerated timeframe would require significant reprioritisation of resource within the Commerce and Consumer Affairs' portfolio, and concomitant reprioritisation of workloads for Treasury and the Reserve Bank.

   Noted.

6. **agree,** subject to your agreement to the Review team and CoFR preferred option in recommendation 4, to discuss prioritisation of work to develop an integrated prudential-conduct executive accountability regime with the Minister of Commerce and Consumer Affairs and seek further advice from relevant CoFR agencies on timeframes for policy development.

   Agree/disagree.

7. **agree,** subject to recommendation 6, that you meet with the Review team and CoFR agencies to discuss your preferred approach, options for timing and the risks of progressing work more quickly than recommended by the Review team, and CoFR agencies.

   Agree/disagree.

8. **agree** that the public announcement of the in-principle decisions on the Deposit Takers Act planned for early December outline your decision to strengthen the accountability of directors of deposit takers, and indicate (subject to your decision on recommendation 4 and further discussion with the Minister of Commerce and Consumer Affairs) that:

   i. officials will further consider, outside the Phase 2 Review process, options for extending accountability requirements beyond directors to senior managers/executives across the twin peaks regulatory framework, and allow sufficient time for industry and other stakeholder consultation and input [Review team and CoFR agencies preferred option].

   Agree/disagree.

   OR

   ii. the new accountability obligations also be extended to executives of deposit takers, with the public consultation planned for February outlining design options and seeking stakeholder feedback.

   Agree/disagree.

9. **refer** this report to the Minister of Commerce and Consumer Affairs.

   Refer/Not referred.

Tamiko Bayliss
Review Director, Reserve Bank Act Review – Phase 2

Hon Grant Robertson
Minister of Finance

Report: Executive accountability – follow-up advice

Purpose of Report

1. The purpose of this report is to provide you with options for progressing work on 'executive accountability' – that is, extending the new accountability obligations that are being proposed for directors of deposit takers as part of the Phase 2 Review of the Reserve Bank Act, to senior employees.

2. You asked for this advice following a 10 October discussion with the Phase 2 Review team on the joint report – Update on planned Deposit Takers Act and Deposit Protection [refer to T2019/3011].

3. This report takes into account feedback from Council of Financial Regulators (CoFR) agencies following their quarterly meeting held 15 October.

Analysis

Background

4. Phase 2 of the review of the Reserve Bank Act has considered potential improvements to the individual liability framework for registered banks (and by implication other deposit takers), including whether liability should be extended to senior-office holders.[1]

5. Following consideration of our joint report 'Update on planned Deposit Takers Act and Deposit Protection' [T2019/301], you accepted our recommendation to increase the accountability of directors under the proposed new Deposit Takers Act by imposing positive duties on directors such as the the need to ensure that a deposit taker is run in a prudent manner, acting with honesty and integrity, and dealing with the Reserve Bank in an open and transparent manner. These obligations would be enforced largely under a civil liability framework rather than a criminal one, with criminal sanctions reserved for cases of clear 'intent' or recklessness on the part of directors. The third public consultation planned for February will test the design and specification of these new director obligations.

6. We did not recommend extending these obligations to senior executives in the first instance, due to the significance of the other changes being progressed, the extent of change in this area internationally, and the desirability of taking a joined-up approach to prudential and conduct accountability.

7. You have, however, stated a clear preference for extending obligations to senior executives and asked for further advice on options for introducing an executive accountability regime. This paper therefore considers the pros and cons of extending accountability, highlights the views of CoFR, and outlines some design and process options for progressing future work.

High-level pros and cons of extending accountability beyond directors

8. The main benefit of extending accountability beyond directors to senior executives is that, conceptually at least, this recognises that misconduct or poor risk management in

[1] The current approach to individual liability, and the consultation process to date are outlined in Annex 1. We also summarise developments in the regulation of financial markets conduct, including the new conduct licensing regime being proposed for banks, insurers, and non-bank deposit takers (NBDTs) in Annex 2.

a financial institution can lead to adverse outcomes for society and that there are inherent limitations of the role played by directors in providing strategic direction for an organisation, while holding management to account. This is an example of the problems associated with principal-agent relationships (e.g. between staff/senior management and the board as the monitoring agent on behalf of shareholders/owners) in the presence of information asymmetries (management has better firm-specific information than directors, shareholders and other external stakeholders).

9. Vesting formal accountability for firm-specific outcomes on those office holders that are directly responsible for particular activities and decision-making, can help to better align the incentives between management and directors, and better align the incentives of the firm with society's preferences (as proxied by the statutory objectives for the prudential regulator). The global financial crisis highlights the serious consequences of incentive misalignment, where previous approaches to ensuring self-discipline proved inadequate. The UK's 2013 Parliamentary Commission on Banking Standards, for example, took the view that directors and senior managers "dodged accountability for failings on their watch by claiming ignorance or hiding behind collective decision-making".

10. The potential downside of devolving formal responsibility beyond directors and attaching significant personal liability to senior executives is that this may result in unnecessary risk aversion on the part of management. It also runs the risk of diluting or undermining the fundamental role that directors play in providing oversight for their organisation. Implementing executive accountability regimes are also potentially costly, both for the regulator(s) and regulated entities. Costs for the regulator(s) include the on-going additional cost of supervision and the dispute resolution and litigation costs tied to the associated enforcement of penalties.

11. International experience with executive accountability regimes is still in its infancy, and frameworks are still evolving, so care must be taken in terms of drawing any firm lessons. Nevertheless, feedback from APRA and the Bank of England has been generally positive regarding the implementation of their respective regimes to-date. APRA discussed their regime with the Review team in June and noted the clarity it has brought to governance and accountability arrangements within entities (particularly for the larger and more complex banks). They also noted the significant resourcing impost on APRA in implementing the regime, including time spent working with regulated entities on how they should meet the new legislative requirements introduced in mid-2018. APRA had not progressed to testing banks' actual compliance with legislative requirements at that point, illustrating the potentially long lead times in implementation.

The perspective from CoFR

12. The introduction of an executive accountability regime was discussed by the Council of Financial Regulators (CoFR) at its meeting on 15 October. There was support expressed by individual agencies for exploring policy options around executive accountability. Agencies emphasised there is a need for a coherent accountability regime across the prudential and financial markets conduct regulatory frameworks.

13. However CoFR recognised that current resourcing pressures being placed on all agencies, and competing policy priorities, are a significant constraint on progressing this work in the near term. [33]

Design options for an executive accountability regime

14. Table 1 below outlines the high-level options for potentially progressing an executive accountability regime.

15. The key high-level design options for extending accountability to senior executives are around scope. This includes:

    a. the industry sectors that are captured by the new obligations (e.g. deposit-takers, insurers), and

    b. whether obligations should only relate to prudential matters (as per the proposed obligations of directors under the Deposit Takers Act) or if these should also extend to conduct matters.

16. The Australian regime for example, is currently prudential in scope, and focussed on deposit takers, but is in the process of being extended to other sectors and integrated across their twin peaks (APRA-ASIC) regulatory framework. The UK regime started with an integrated prudential-conduct approach for deposit takers and certain investment firms. It has subsequently been expanded to include insurers and the multitude of other financial service providers regulated only by the Financial Conduct Authority (FCA). An integrated regime is being designed in Ireland covering almost all financial service providers with legislation expected this year. See Annex 3 for a summary of international policy developments focussing on enhancing executive accountability.

17. The international experience suggests that given the interconnections between prudential and conduct issues and outcomes that cut across various sectors, and the significant resource costs incurred in policy development and legislative design, that an optimal policy process should begin with an integrated approach in mind (Option 3 in Table 1). While a step-wise approach is possible, starting with a narrowly focussed prudential regime centred on deposit takers (Option 1) and broadening later, this may not be the most efficient approach.

18. Other, more specific design questions include:

    a. The nature of the registration and approval process for directors and senior executives defined as 'accountable persons'.

    b. The definition of 'executive' which will determine how deep into an organisation the accountability framework sits (including within subsidiaries or related legal entities).

    c. The specification of the obligations or duties imposed on accountable persons and how these could differ across certain office holders.

    d. The nature of the liability regime setting out the consequences for both individuals and the entity of a contravention of any accountability obligation. This could include deferral or clawback of variable remuneration (i.e. bonuses), removal of office or from the industry, and civil pecuniary fines for the firm, individuals or both.

    e. The degree of proportionality built into the regime to reflect differences across and within industries (e.g. size and systemic importance, degree of complexity of business models). This could include the use of baseline or enhanced requirements, or the use of exemptions.

Table 1: Options for progressing an executive accountability regime

	Strengthened director accountability regime *(baseline)*	Option 1: Deposit taker executive accountability regime	Option 2:Prudential executive accountability regime	Option 3: Integrated executive accountability regime
Scope	▪ Board directors of licensed deposit takers	▪ Board directors and specified senior executives of licensed deposit takers	▪ Board directors and specified senior executives of prudentially-licensed deposit takers and insurers	▪ Board directors and specified senior executives of dual-licensed deposit takers and insurers
Lead vehicle for policy development	▪ Phase 2 Review	▪ Phase 2 Review	▪ Phase 2 Review and IPSA Review	▪ Cross-agency team: FMA, MBIE, Reserve Bank and Treasury
Legislative vehicle	▪ Deposit Takers Act	▪ Deposit Takers Act	▪ Deposit Takers Act & IPSA	▪ Standalone legislation or amendments to FMC Act, Deposit Takers Act and IPSA
Timeframes	▪ 1st half of 2022 for passage of legislation ▪ Transition phase for implementation of operational requirements	▪ 1st half of 2022 for passage of legislation ▪ Transition phase for implementation of operational requirements	▪ Not clear – dependent on IPSA review and associated legislative process	▪ Not clear – dependent on resourcing and any reprioritisation of competing policy work
Agency implementing the regime	▪ Reserve Bank	▪ Reserve Bank	▪ Reserve Bank	▪ Reserve Bank & FMA
Additional considerations	▪ Parallel implementation of new conduct regime enforced by FMA and CCCFA reforms enforced by the Commerce Commission	▪ Parallel implementation of new conduct regime enforced by FMA and CCCFA reforms enforced by the Commerce Commission	▪ Parallel implementation of new conduct regime enforced by FMA and CCCFA reforms enforced by the Commerce Commission	▪ Based on dual (RBNZ & FMA) licensed entities ▪ Further complexity in extending regime to solo (i.e. FMA-only) regulated entities

Process options for delivering an executive accountability regime

19. The high-level design choices on the scope of an executive accountability regime are closely related to choices around the delivery and implementation of any regime. Factors of relevance here include the 'ownership' of the policy development process, the degree of public consultation required, expected timeframes, and the capacity of any agency or agencies to undertake the requisite policy work (and the extent any current or proposed work needs to be deprioritised in order to deliver any new executive accountability regime) .

20. For example, the Phase 2 Review process has a well-defined terms of reference to examine the current Reserve Bank Act, including those parts of the Act that pertain to the prudential regulation and supervision of registered banks. The discussion of improving individual accountability outlined in the June public consultation was therefore couched in terms of banks, although your earlier in-principle decision of integrating the prudential regimes for banks and NBDTs implies the reference point is deposit takers more broadly.

21. The Review's terms of reference is focused on the Reserve Bank Act and limited to the prudential peak of New Zealand's regulatory framework. The Review does not have a mandate to recommend fundamental changes to the conduct peak of New Zealand's regulatory framework for the financial sector, nor is it resourced to do so. Except for consequential amendments, the Review also does not have a mandate to examine other Reserve Bank-administered legislation.

22. This limits the options for progressing executive accountability within the Phase 2 Review process. Therefore, were you of a mind to move beyond the 'Strengthened director accountability regime' recommended by the Review team described in paragraph 5, the new Deposit Takers Act could conceivably deliver an executive accountability regime that is prudential in scope, and narrowly focussed on deposit takers. Additional policy work and consultation would need to take place on the specific design details, including consideration of how the regime would apply to different types of deposit takers (i.e. the issue of proportionality). This additional policy work and consultation may further delay the introduction of the Deposit Takers legislation.

23. Extending a prudentially focussed regime to include insurers would require the Phase 2 Review team to work in tandem with the Reserve Bank who currently administers the Insurance (Prudential Supervision) Act (IPSA). A review of IPSA began in early 2016, but has been put on hold due to competing policy development and resourcing pressures. Our understanding is that the Reserve Bank plans to restart the IPSA Review sometime next year. Therefore, delivery of an executive accountability regime that includes insurers is contingent on the timeframes for progressing the IPSA Review – this may not neatly align with the current timeframe for progressing the Deposit Takers Act.

24. An integrated prudential and conduct regime could not be progressed within the Phase 2 Review process since the Review has no mandate to examine conduct issues. The policy work and legislative process for delivering an integrated regime would need to be progressed through a cross-agency process jointly lead by the Reserve Bank and MBIE. Given the implications for industry, this cross-agency review would need to undertake extensive public consultation on specific design questions. Timeframes for delivery of an integrated regime would be subject to available resourcing and possibly a reprioritisation of current and impending initiatives. Attempting to progress this work too quickly runs the risk of a poorly designed regime without sufficient industry input.

25. An integrated prudential/conduct regime would be most effectively developed around dual-licensed entities – that is, those entities already licensed by the Reserve Bank for a prudential purpose, and the same entities that will be licensed by the FMA under the new conduct regime. This would provide a clear and well-defined regulatory perimeter encompassing deposit takers (banks and NBDTs) and insurers. The legislative vehicle underpinning the regime could be new standalone legislation, or amendments to relevant legislation (i.e. the FMC Act, the new Deposit Takers Act, and IPSA).

26. [33]

If you would like to adopt this approach, we would suggest discussing overall policy priorities with the Minister of Commerce and Consumer Affairs and that you seek more detailed advice on the approach to this work from the relevant CoFR agencies.

27. Conceptually, the regime could also include solo-regulated entities – that is FMA-only regulated entities such as managed investment schemes and financial advice providers. However, this would add significant complexity to both the policy development process and the regime itself. Consideration could subsequently be given to extending any integrated regime based on dual-regulated entities to solo-regulated entities following experience implementing the new executive accountability regime, and any parallel decisions to extend the new 'fair conduct' regime to other FMA-regulated entities.

Annex 1: Status quo and consultation to date

Status quo – the Reserve Bank Act and director accountability

Individual liability buttresses the sanctions that the Reserve Bank can apply to a registered bank as a corporate entity. A focus on individuals recognises the culpability of specific office holders within an institution for prudential outcomes by creating formal accountability mechanisms. This ‘self-discipline’ forms one of the three ‘pillars’ of the Reserve Bank’s regulatory framework.

Directors of registered banks are currently the focal point for the individual accountability provisions in the Reserve Bank Act. Registered banks are required to publish a *Disclosure Statement* every six months that includes financial accounts, as well as information on credit ratings, capital adequacy and other prudential requirements. These disclosure requirements are tied to an ‘attestation regime’ that applies to board directors (and the NZ CEO of an overseas incorporated bank – i.e. a branch operating In New Zealand). Directors attest that the bank has systems in place to monitor and control adequately the banking group’s material risks; that those systems are being properly applied; and that the bank has complied with its Conditions of Registration.

Directors are faced with criminal liability for making false and misleading attestations in a bank’s *Disclosure Statement*. Conceptually this creates strong incentives for them to provide a thorough oversight role and to take their duties very seriously. There are however, a number of issues with this attestation regime: there is no guidance from the Reserve Bank to banks as to what constitutes adequate risk management, there is limited verification on the part of the Reserve Bank that attestations are correct, and criminal liability can be disproportionate. This suggests significant improvements could be made to how banks are providing assurance to both the Reserve Bank and other external stakeholders that they are prudently managing risks.

Reserve Bank Act Review

Chapter 1 of the June Consultation Document 2B asked stakeholders to consider three options that could potentially improve the personal liability and accountability framework for registered banks (and by extension for the new deposit-takers regime):

1. An ‘enhanced status quo’ that would preserve current arrangements, but be supplemented by operational changes such as the Reserve Bank setting out its expectations in relation to risk management, as well as board composition and performance
2. A ‘reframed attestation regime’, that while preserving the focus on directors, would decouple from disclosure requirements, create additional director duties and shift the liability framework largely to a civil regime, and
3. A ‘senior managers’ or ‘executive accountability regime’ that would build on changes in options 1 and 2, but extend accountability beyond directors to senior office holders within the institution.

Almost all stakeholders who provided feedback on the liability provisions of the current Reserve Bank Act support a rebalancing away from criminal sanctions to civil penalties, and limiting the former to deliberate or reckless conduct. A number of submissions supported the introduction of a ‘senior managers-type’ accountability regime. However, this support was generally qualified, as most noted the importance of creating an integrated executive accountability regime for prudential and financial market conduct regulation.

Other stakeholders either did not support the extension of accountability to executives, (preferring instead option 2 above), or were concerned with any enhancements to current obligations placed on directors (preferring instead option 1 above).

Annex 2: Developments in financial markets conduct regulation

Conduct licensing regime

The Government announced in January 2019 that it would progress legislation to improve the conduct of financial institutions. This was in response to the joint FMA and Reserve Bank Conduct and Culture reviews of banks and life insurers, and the findings of the Australian Royal Commission.

In April 2019, MBIE consulted on potential options for a new conduct regime – 85 submissions were received.

In September, the Government announced its proposed conduct regime. The regime will include:

- A requirement for banks, insurers and NBDTs to be licensed by the FMA in respect of their general conduct. The high-level purpose of the new regime will be to ensure these institutions pay due regard to the interests of consumers and treat them fairly ('fair conduct' principle).

- An obligation for licensed entities to have, maintain and comply with policies, procedures, systems and controls to meet the 'fair conduct' principle.

- Regulation of sales incentives based on volume or value targets (including soft commissions).

MBIE and PCO are working on a draft Bill to introduce the regime and the Government has stated its intention for this Bill to be introduced by the end of 2019. Once introduced, the Bill is likely to have a standard six-month select committee period. Timing from there is uncertain but current expectations are that the legislation could be passed by around mid-2021. Following the passage of the Bill there will also be some substantial regulations to be made in order to give effect to the Government's policy decisions.

The Credit Contracts Legislation Amendment Bill

The Credit Contracts Legislation Amendment Bill, which amends the Credit Contracts and Consumer Finance Act 2003 (CCCFA) was introduced to Parliament in April and is due to be reported back by the Finance and Expenditure Committee by 13 November. The Bill strengthens requirements to lend responsibly, introduces a 'fit and proper person' test and new duties to ensure compliance for directors and senior managers, and provides new remedies and penalties for non-compliance.

Currently, the duties and incentives on directors and senior managers to ensure their organisations comply with the CCCFA are relatively weak. Enforcement actions and penalty and compensation claims can also be avoided through frequent voluntary liquidations and the creation of new 'phoenix' companies. This appears to have been a significant issue among operators of mobile traders, but also some other creditors (such as debt collectors who purchase debts from the original creditor).

The new duties on directors and senior managers of creditors will require them to exercise due diligence to ensure the creditor complies with the CCCFA. This means they must take reasonable steps to ensure that the creditor has processes in place to comply with its obligations. This includes ensuring that the creditor requires its employees and agents to follow compliance procedures, has methods for identifying deficiencies in these procedures, and remedies identified deficiencies.

A breach of the duties may incur pecuniary penalties of up to $200,000 for an individual. Directors or senior managers who breach their duties may also be personally liable for compensation or statutory damages where the failure to perform their duties is linked to a breach of the creditor's obligations.

Annex 3: International experience with executive accountability regimes

The UK introduced their 'Senior Managers & Certification Regime' (SMCR) in March 2016 for banks, building societies, credit unions and investment firms that are regulated by both the Prudential Regulation Authority (PRA), and the Financial Conduct Authority (FCA). In December 2018 the SMCR was extended to dual-regulated insurers (which had hitherto been subject to a separate senior insurance managers regime (SIMR) developed in parallel to the SMCR). Later this year, a further extension is planned to the remaining financial service entities regulated only by the FCA.

The Banking Executive Accountability Regime (BEAR) was introduced in Australia in mid-2018 and is focussed on deposit-taking institutions that are regulated and supervised by APRA (banks, building societies and credit unions). There is an extra-territorial dimension to BEAR in that New Zealand CEOs of the big-4 Australian-owned banks are defined as 'accountable persons'. Changes to the regime are already being contemplated in light of the Hayne Royal Commission on Misconduct in the Banking, Insurance and Superannuation sectors. The Hayne Report recommended that BEAR be extended to all entities regulated by APRA – i.e. including insurers and superannuation schemes. The Government's response went even further, proposing the extension to all financial services regulated by ASIC (the Australian equivalent of the FMA). A related extension is that BEAR will be jointly administered by APRA and ASIC, with ASIC charged with overseeing those parts that concern consumer protection and market conduct, and APRA those related to prudential aspects of the regime. In parallel, APRA is proposing that it be given the ability to impose civil penalties on accountable persons, a feature currently absent in BEAR. The Australian Treasury plan to release a public consultation document in the early November detailing the proposed changes. The Australian Treasury is aiming to introduce a new standalone 'Financial Services Executive Accountability Regime' (FSEAR) legislation in late 2020.

Ireland is currently developing a 'Senior Executive Accountability Regime' (SEAR) modelled largely off the UK's. The regime will be administered by the Central Bank of Ireland as Ireland's integrated prudential and financial market conduct regulator. A Central Bank (Amendment) Bill was introduced in June 2019 to lay the legislative basis for the new regime.

A number of other jurisdictions have implemented, or are in the process of implementing, aspects of executive accountability similar in spirit to the UK and Australia. The Monetary Authority of Singapore (MAS) issued 'Individual Accountability and Conduct (IAC) Guidelines' in June 2019, aiming to promote the individual accountability of senior managers, strengthen the oversight of employees in material risk functions, and to reinforce standards of conduct among all employees. In Hong Kong the Securities and Futures Commission implemented a Managers-in-Charge (MIC) regime in 2017, which was complemented by a Hong Kong Monetary Authority (HKMA) initiative aimed at bank culture reform in 2018. The Bank Negara Malaysia (Malaysia's central bank and prudential regulator) is currently developing 'responsibility maps', to clarify responsibilities of individuals holding leadership positions in banks, insurers and other defined financial institutions.