

29 April 2019

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

To whom it may concern,

**The Banking Executive Accountability Regime – Consultation on
Determination Under Paragraph 37EA(4)(b) of The Banking Act 1959**

Thank you for the opportunity to provide a submission on the proposed exclusions to the definition of variable remuneration (VR) 'so as to ensure that the application of the deferred remuneration obligations across ADIs is consistent with the intent of the BEAR'.

Guerdon Associates is an adviser to ADI and other APRA regulated company boards on remuneration matters. As an expert adviser with knowledge of remuneration practices and considerations across a range of APRA regulated companies, we believe we are well qualified to comment on regulatory matters associated with remuneration.

The draft schedule ('kinds of remuneration that are not variable remuneration'), prescribes an approach to excluding VR for an accountable person (AP) where it does not relate to an Australian ADI or ADI subsidiary, in recognition that an executive may manage a number of entities both ADI and non-ADI within a single designated role.

The approach would require an entity, at year's end, to assess the proportion of both the short and long-term incentive elements attributable to the AP's engagement with an Australian ADI or ADI subsidiary to arrive at a final VR for the purposes of meeting the minimum remuneration deferral requirements.

The approach is consistent with the concept of apportionment applied where an AP serves a part year in an AP designated role¹, though does not contemplate the potential to apply apportionment to the AP's fixed remuneration on the same basis as VR. That is, the schedule seeks to adjust only one remuneration element used as the basis of the minimum deferral requirements.

The minimum remuneration deferral requirements² are tested against two variables:

1. The quantum of VR (to be adjusted downwards for non-ADI sourced VR), and
2. The quantum of total remuneration for that year i.e. fixed remuneration plus the adjusted VR outcome.

The schedule does not contemplate the potential impact to the remuneration deferral calculation by excluding an adjustment for the fixed remuneration.

For example, if an AP notionally spends 50% of their time allocated to the ADI entity as a

¹ BEAR Bill (2017) Remuneration - Clause 1.126

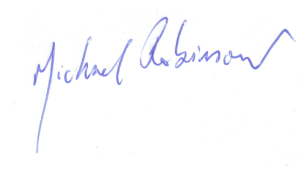
² Banking Executive Accountability Regime clause 1.77, Table1.1

function of their role, it may then follow that 50% of the fixed remuneration could be added to the adjusted VR to arrive at the total remuneration for the purposes of determining the ADI related remuneration deferral requirements.

The proportion of VR attributed to the ADI will vary in line with business performance (zero through to maximum), whereas the relative proportion of fixed pay may remain static reflecting the profile of the business portfolio.

Adjustment of both the fixed remuneration and VR outcome will provide a consistent approach to AP ADI remuneration attribution and a defensible approach to the determination of the minimum amounts of remuneration to be deferred.

Yours faithfully,



Michael Robinson
Director

Attachment I: About Guerdon Associates

Guerdon Associates is Australia's largest independent specialist adviser on executive and board remuneration³. The firm has offices in Sydney and Melbourne, with affiliate offices in Zurich, London, Paris, Los Angeles, New York, Beijing and Singapore. The firm is a partner in the global *Governance and Executive Compensation Group* (<http://gecn.com>).

Our clients include about 20% of ASX 100 companies, as well as many other ASX 300 companies, superannuation funds, mutual entities and large private companies.

Guerdon Associates brings together behavioural, financial, comprehensive data and research, a measurement framework, accounting and taxation disciplines, and a consulting network to provide remuneration and governance advice holistically.

Our clients tend to be larger listed companies and similar mutual and member organisations. Primary contacts within client companies are board chairmen, chairmen of board remuneration committees, CFOs, human resources directors, remuneration/compensation managers, company secretaries and corporate counsel.

Our focus is to enhance organisation performance through the better application of human capital and the management of human capital risk. We do this with the instruments of reward, performance measurement and performance management. We view organisations as complex but understandable human and economic systems. So, while we may apply specialist expertise to only parts of the system, we assess the impact that changes may have on the entire system and its outputs.

While we have strength in analysis and measurement, we are also strong in stakeholder engagement. We maximise the likelihood of success by testing analyses and alternatives with the board remuneration committee, management, and other external stakeholders. Our work is based on proven research. This research is sourced from within Guerdon Associates' own work, from the public domain, and from co-operative ventures Guerdon Associates has established with universities and other dedicated research bodies.

Team members have decades of experience, and have consulted to companies around the world on executive and director remuneration matters.

³ Based on an independent survey of annual company disclosures