

**Senate Economics Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Treasury Portfolio**  
Budget Estimates  
2017 - 2018

**Division/Agency:** Financial System Division  
**Question No:** 209  
**Topic:** Banking Executive Accountability Regime  
**Reference:** Hansard page 78-79 (30 May 2017)  
**Senator:** Ketter, Chris

**Question:**

Senator KETTER: My questions relate to the banking executive accountability regime. One of the requirements of the new regime is that bank executive bonuses are to be withheld. My question is: has Treasury conducted an analysis of whether the banks would just increase the base rate of pay and reduce the amount of bonuses?

Mr Lonsdale: Certainly, that was an issue that was thought through as one of the issues when it was put to the government. The measure is to really have a hard vesting period of a minimum of four years, but the prudential regulator—that is, APRA—will be conducting a review around some of the issues here. I think the short answer to your question is: yes, it was something that was thought about. We will certainly be thinking more about it as we go through the consultation period.

Senator KETTER: Are you aware of how many executives have been suspended under the equivalent UK regime?

Mr Lonsdale: I do not have that with me.

Senator KETTER: Can you take that on notice?

Mr Lonsdale: I am happy to take that on notice.

[...]

Senator KETTER: What will happen once APRA removes a non-executive director's name from the regime registry? Does that have the effect of automatically disqualifying a non-executive director from his or her directorship?

Mr Lonsdale: There is a range of things that could happen.

Ms Brown: APRA would have the power to remove or disqualify people and that would mean they could either no longer be in the position or be disqualified from the industry and no longer be in the industry.

Mr Lonsdale: And it would depend on the type of issue.

Senator KETTER: Will the ADI be required to take steps to remove the non-executive director? Does it automatically occur or do steps have to be taken?

Ms Brown: The proposal here is that APRA would be able to remove someone directly.

Senator KETTER: What happens when APRA removes a senior executive's name from APRA's registry? Will the regime provide the ADI is not liable to the senior executive for the early termination of his or her contract of employment?

Mr Lonsdale: Again, that is quite a technical issue that we will need to work through in the implementation of the law. The intent is very clear.

Senator KETTER: Have you agreed to take all of those questions on notice? Is that correct?

Mr Lonsdale: We are happy to take them on notice but I think the way that it will play out is we will need to talk to industry some more to get answers to those and to formulate advice to put to government. There have been some discussions prior to the measure with ADIs that did highlight some issues. We have tried to take those into account. The secretary conducted

some discussions with the major banks but, again, they were typically issues of first order and not the technical issues that we still have to work through.

**Answer:**

Q: Are you aware of how many executives have been suspended under the equivalent UK regime?

A: The Senior Managers Regime was introduced in the UK on 7 March 2016. UK authorities have indicated that the number of executives disciplined under the regime is not the only measure of its success. Detailed information regarding enforcement is not available while investigations are ongoing. On 27 February 2017, the Financial Conduct Authority (FCA) disclosed information on the number of investigations opened since the introduction of the regime. The document is available on the FCA website's FOI disclosure log at <https://www.fca.org.uk/freedom-information/disclosure-log> or directly at <https://www.fca.org.uk/publication/foi/foi4965.pdf>.

Q: What will happen once APRA removes a non-executive director's name from the regime registry? Does that have the effect of automatically disqualifying a non-executive director from his or her directorship? Will the ADI be required to take steps to remove the non-executive director? Does it automatically occur or do steps have to be taken? Will the regime provide the ADI is not liable to the senior executive for the early termination of his or her contract of employment?

A: The Government published a consultation paper on the Banking Executive Accountability Regime on 13 July 2017 which discusses the design of the BEAR, including issues related to registration, removal and disqualification.