

1.3.5 Disqualifying events

On leaving Macquarie, an Executive Director will not be entitled to receive any of their unvested Transitioned Amounts¹ or retained profit share from 2009 and future years if the Board, the BRC or the Executive Committee under delegation from the BRC, determines, in its absolute discretion, that the Executive Director has during the period of employment with Macquarie or since leaving:

- (a) committed an act of dishonesty (including but not limited to misappropriation of funds and deliberate concealment of a transaction)
- (b) committed a significant and wilful breach of duty that causes material damage to Macquarie
- (c) joined a competitor of Macquarie Group
- (d) taken staff to a competitor or been instrumental in causing staff to go to a competitor, or
- (e) otherwise acted, or failed to act, in a way that damages Macquarie, including but not limited to situations, where the action or inaction leads to a material financial restatement, a significant financial loss or any significant reputational harm to Macquarie or its businesses.

If an Executive Director leaves Macquarie and the discretion to release unvested retained amounts is exercised as described in section 1.3.4 'Early vesting and release of retained profit share', the release will occur over the period from six months to two years after the Executive Director leaves. Different disqualifying event provisions will apply at the six month, one year and two year timeframes as follows:

- retained profit share from all but the last two years – released on the expiry of six months following the end of employment (the 'First Period') provided the Executive Committee has determined that none of the disqualifying events (a), (b), (c), (d) and (e) set out above occurred during the First Period
- retained profit share from the second year prior to the end of employment – released on the expiry of a further six months following the end of the First Period (the 'Second Period') provided the Executive Committee has determined that no disqualifying event occurred during the First Period and disqualifying events (a), (b), (d) and (e) set out above have not occurred during the Second Period
- retained profit share from the year prior to the end of employment – released on the expiry of a further 12 months following the end of the Second Period (the 'Third Period') provided the Executive Committee has determined that no disqualifying event occurred during the First Period, disqualifying events (a), (b), (d) and (e) set out above have not occurred during the Second Period and disqualifying events (a), (b) and (e) set out above have not occurred during the Third Period.

¹ Under the remuneration arrangements approved by shareholders in December 2009, Executive Directors were given the choice of leaving their pre-2009 retained profit share in the pre-2009 DPS Plan, or moving some of these amounts into the new arrangements (Transitioned Amounts).

1.3.6 Performance share units (PSUs)

Executive Committee members are the only group of staff eligible to receive PSUs. Since their introduction, PSUs have been structured as DSUs with performance hurdles. Holders have no right to dividend equivalent payments before the PSUs vest. In all other respects, holders of these PSUs will have the same rights as holders of DSUs.

Unlike options, there is no exercise price for PSUs.

Determination and allocation of the PSUs

The Board approves the number of PSUs to be allocated to Executive Committee members each year as part of the annual remuneration review process. This determination has regard to Macquarie's overall performance, the extent to which the Executive Committee members have fulfilled their roles, and the long-term value delivered to shareholders. The allocation to individual executives is broadly in the same manner as annual profit share allocations i.e. it is performance based. The allocation of PSUs to the Managing Director and CEO, who is an Executive Voting Director, is subject to shareholder approval at the Annual General Meeting.

Vesting schedule

In the past, PSUs have vested in three equal tranches after two, three and four years from the deemed vesting commencement date (typically 1 July in the year of grant), giving an average vesting period of three years. For grants in respect of the 2012 performance year, PSUs will vest in two equal tranches after years three and four.

As a general rule, unvested PSUs will lapse on termination. However, the Board or the BRC has the authority to accelerate the vesting of PSUs. The Board or the BRC may consider exercising this authority where, for example, a staff member dies, is totally and permanently disabled, gives notice of their intention to enter into genuine retirement or a staff member's employment ends on the grounds of redundancy, illness or in other limited exceptional circumstances, such as hardship or where business efficacy justifies exercising the discretion. To date, the discretion to accelerate vesting has not been exercised.

Performance hurdles

PSUs issued under the MEREP are released, or become exercisable, upon the achievement of certain performance hurdles. There are two performance hurdles and each applies individually to 50 per cent of the total number of PSUs awarded.

The BRC periodically reviews the performance hurdles, including the reference group, and has discretion to change the performance hurdles in line with regulatory and remuneration trends. No change has been made to the performance hurdles for the past year. The section below describes these hurdles and their rationale.