

Financial Sector (Collection of Data) (reporting standard) determinations Nos. 64 to 91 and 93 to 97 of 2013

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Financial Sector (Collection of Data) Act 2001, subsections 13(1) and 15(1)

Under paragraph 13(1)(a) of the *Financial Sector (Collection of Data) Act 2001* (FSCODA), APRA has the power to determine reporting standards, in writing, with which financial sector entities must comply. Such standards relate to reporting financial or accounting data and other information regarding the business or activities of the entities. Subsection 15(1) of FSCODA provides that APRA may declare a date on and after which reporting standards are to apply.

On 3 June 2013, APRA made the following determinations (the **new reporting standards**):

1. Financial Sector (Collection of Data) (reporting standard) determination No. 64 of 2013, which makes *Reporting Standard SRS 114.0 Operational Risk Financial Requirement*;
2. Financial Sector (Collection of Data) (reporting standard) determination No. 65 of 2013, which makes *Reporting Standard SRS 114.1 Operational Risk Financial Requirement*;
3. Financial Sector (Collection of Data) (reporting standard) determination No. 66 of 2013, which makes *Reporting Standard SRS 160.0 Defined Benefit Matters*;
4. Financial Sector (Collection of Data) (reporting standard) determination No. 67 of 2013, which makes *Reporting Standard SRS 160.1 Defined Benefit Member Flows*;
5. Financial Sector (Collection of Data) (reporting standard) determination No. 68 of 2013, which makes *Reporting Standard SRS 161.0 Self-Insurance*;
6. Financial Sector (Collection of Data) (reporting standard) determination No. 69 of 2013, which makes *Reporting Standard SRS 250.0 Acquired Insurance*;
7. Financial Sector (Collection of Data) (reporting standard) determination No. 70 of 2013, which makes *Reporting Standard SRS 320.0 Statement of Financial Position*;
8. Financial Sector (Collection of Data) (reporting standard) determination No. 71 of 2013, which makes *Reporting Standard SRS 320.1 Statement of Financial Position*;
9. Financial Sector (Collection of Data) (reporting standard) determination No. 72 of 2013, which makes *Reporting Standard SRS 330.0 Statement of Financial Performance*;

10. Financial Sector (Collection of Data) (reporting standard) determination No. 73 of 2013, which makes *Reporting Standard SRS 330.1 Statement of Financial Performance*;
11. Financial Sector (Collection of Data) (reporting standard) determination No. 74 of 2013, which makes *Reporting Standard SRS 330.2 Statement of Financial Performance*;
12. Financial Sector (Collection of Data) (reporting standard) determination No. 75 of 2013 (determination No. 75), which makes *Reporting Standard SRS 331.0 Services*;
13. Financial Sector (Collection of Data) (reporting standard) determination No. 76 of 2013, which makes *Reporting Standard SRS 410.0 Accrued Default Amounts*;
14. Financial Sector (Collection of Data) (reporting standard) determination No. 77 of 2013 (determination No. 77), which makes *Reporting Standard SRS 520.0 Responsible Persons Information*;
15. Financial Sector (Collection of Data) (reporting standard) determination No. 78 of 2013, which makes *Reporting Standard SRS 530.0 Investments*;
16. Financial Sector (Collection of Data) (reporting standard) determination No. 79 of 2013, which makes *Reporting Standard SRS 530.1 Investments and Investment Flows*;
17. Financial Sector (Collection of Data) (reporting standard) determination No. 80 of 2013, which makes *Reporting Standard SRS 531.0 Investment Flows*;
18. Financial Sector (Collection of Data) (reporting standard) determination No. 81 of 2013, which makes *Reporting Standard SRS 532.0 Investment Exposure Concentrations*;
19. Financial Sector (Collection of Data) (reporting standard) determination No. 82 of 2013, which makes *Reporting Standard SRS 533.0 Asset Allocation*;
20. Financial Sector (Collection of Data) (reporting standard) determination No. 83 of 2013, which makes *Reporting Standard SRS 534.0 Derivative Financial Instruments*;
21. Financial Sector (Collection of Data) (reporting standard) determination No. 84 of 2013, which makes *Reporting Standard SRS 535.0 Securities Lending*;
22. Financial Sector (Collection of Data) (reporting standard) determination No. 85 of 2013, which makes *Reporting Standard SRS 540.0 Fees*;
23. Financial Sector (Collection of Data) (reporting standard) determination No. 86 of 2013 (determination No. 86), which makes *Reporting Standard SRS 600.0 Profile and Structure (RSE Licensee)*;

24. Financial Sector (Collection of Data) (reporting standard) determination No. 87 of 2013, which makes *Reporting Standard SRS 601.0 Profile and Structure (RSE)*;
25. Financial Sector (Collection of Data) (reporting standard) determination No. 88 of 2013, which makes *Reporting Standard SRS 602.0 Wind-up*;
26. Financial Sector (Collection of Data) (reporting standard) determination No. 89 of 2013, which makes *Reporting Standard SRS 610.0 Membership Profile*;
27. Financial Sector (Collection of Data) (reporting standard) determination No. 90 of 2013, which makes *Reporting Standard SRS 610.1 Changes in Membership Profile*;
28. Financial Sector (Collection of Data) (reporting standard) determination No. 91 of 2013, which makes *Reporting Standard SRS 610.2 Membership Profile*;
29. Financial Sector (Collection of Data) (reporting standard) determination No. 93 of 2013, which makes *Reporting Standard SRS 710.0 Conditions of Release*;
30. Financial Sector (Collection of Data) (reporting standard) determination No. 94 of 2013, which makes *Reporting Standard SRS 800.0 Financial Statements*;
31. Financial Sector (Collection of Data) (reporting standard) determination No. 95 of 2013, which makes *Reporting Standard SRS 801.0 Investments and Investment Flows*; and
32. Financial Sector (Collection of Data) (reporting standard) determination No. 96 of 2013, which makes *Reporting Standard SRS 802.0 Fund Profile*.

The new reporting standards listed in paragraphs 1, 2, 3, 5, 6, 7, 9, 11, 12, 13, 14, 16, 19, 22, 23, 24, 25, 28, 29, 30, 31 and 32 above commence on 1 July 2013 and apply to reporting periods ending on and after that date.

The new reporting standards listed in paragraphs 4, 8, 10, 15, 17, 18, 20, 21, 26 and 27 above commence on 1 July 2014 and apply to reporting periods ending on or after that date.

On 3 June 2013, APRA also made Financial Sector (Collection of Data) (reporting standard) determination No. 97 of 2013, which revokes the following:

Reporting standards that cease to apply on 1 July 2013:

33. Financial Sector (Collection of Data) determination No. 46 of 2005, including *Reporting Standard SRS 100.0 (2005) Statement of Financial Performance* made under that Determination;
34. Financial Sector (Collection of Data) determination No. 47 of 2005, including *Reporting Standard SRS 110.0 (2005) Statement of Financial Position* made under that Determination;

35. Financial Sector (Collection of Data) determination No. 51 of 2005, including *Reporting Standard SRS 200.0 (2005) Statement of Financial Performance* made under that Determination;
36. Financial Sector (Collection of Data) determination No. 52 of 2005, including *Reporting Standard SRS 210.0 (2005) Statement of Financial Position* made under that Determination
37. Financial Sector (Collection of Data) determination No. 56 of 2005, including *Reporting Standard SRS 230.0 (2005) Transactions with Associated Entities* made under that Determination;
38. Financial Sector (Collection of Data) determination No. 41 of 2005, including *Reporting Standard SRS 250.0 (2005) Superannuation Entity Profile* made under that Determination;
39. Financial Sector (Collection of Data) determination No. 42 of 2005, including *Reporting Standard SRS 260.0 (2005) Trustee Statement* made under that Determination (**SRS 260.0**);
40. Financial Sector (Collection of Data) (reporting standard) determination No. 57 of 2008, which varied SRS 260.0;
41. Financial Sector (Collection of Data) determination No. 58 of 2005, including *Reporting Standard SRS 300.0 (2005) Statement of Financial Performance* made under that Determination;
42. Financial Sector (Collection of Data) (determination No. 59 of 2005, including *Reporting Standard SRS 310.0 (2005) Statement of Financial Position* made under that Determination;
43. Financial Sector (Collection of Data) determination No. 60 of 2005, including *Reporting Standard SRS 310.1 (2005) Selected Disclosure of Investments* made under that Determination;
44. Financial Sector (Collection of Data) determination No. 61 of 2005, including *Reporting Standard SRS 310.2 (2005) Derivative Financial Instruments* made under that Determination;
45. Financial Sector (Collection of Data) determination No. 62 of 2005, including *Reporting Standard SRS 320.0 (2005) Exposure Concentrations* made under that Determination;
46. Financial Sector (Collection of Data) determination No. 63 of 2005, including *Reporting Standard SRS 330.0 (2005) Transactions with Associated Parties* made under that Determination;
47. Financial Sector (Collection of Data) determination No. 43 of 2005, including *Reporting Standard SRS 340.0 (2005) Superannuation Entity Profile* made under that Determination;

48. Financial Sector (Collection of Data) determination No. 44 of 2005, including *Reporting Standard SRS 350.0 (2005) Trustee Statement* made under that Determination (**SRS 350.0**);
49. Financial Sector (Collection of Data) (reporting standard) determination No. 58 of 2008, which varied SRS 350.0;

Reporting Standards that cease to apply on 1 July 2014:

50. Financial Sector (Collection of Data) determination No. 48 of 2005, including *Reporting Standard SRS 110.1 (2005) Selected Disclosure of Investments* made under that Determination;
51. Financial Sector (Collection of Data) determination No. 49 of 2005, including *Reporting Standard SRS 110.2 (2005) Derivative Financial Instruments* made under that Determination;
52. Financial Sector (Collection of Data) determination No. 50 of 2005, including *Reporting Standard SRS 120.0 (2005) Exposure Concentrations* made under that Determination;
53. Financial Sector (Collection of Data) determination No. 53 of 2005, including *Reporting Standard SRS 210.1 (2005) Selected Disclosure of Investments* made under that Determination;
54. Financial Sector (Collection of Data) determination No. 54 of 2005, including *Reporting Standard SRS 210.2 (2005) Derivative Financial Instruments* made under that Determination;
55. Financial Sector (Collection of Data) determination No. 55 of 2005, including *Reporting Standard SRS 220.0 (2005) Exposure Concentrations* made under that Determination; and
56. Financial Sector (Collection of Data) determination No. 57 of 2005, including *Reporting Standard SRS 240.0 (2005) Membership Profile* made under that Determination.

The determinations and reporting standards set out in paragraphs 33 to 49 above are revoked effective 1 July 2013. Paragraph 2, and Column 3 of the table, in the determination set out certain transitional provisions requiring relevant trustees to report under each revoked standard in respect of any reporting period that ended on or before 30 June 2013 within the time required under the standard (if the trustee has not already reported).

For example, if a trustee has been required to report under *Reporting Standard SRS 100.0 (2005) Statement of Financial Performance*, and the relevant superannuation entity has a year of income of 1 July to 30 June, then, despite the revocation of the reporting standard, the trustee must report in respect of the quarter ending 30 June 2013 within the time (25 business days) referred to in the standard.

The reporting standards set out in paragraphs 50 to 56 are revoked effective 1 July 2014. Column 3 of the table sets out similar transitional provisions to those described

above except they preserve the obligation to report in respect of any reporting period under the standard that ended on or before 30 June 2014 within the time required by the revoked standard (provided the trustee has not already reported).

In summary, these transitional provisions are not intended to impose substantive new obligations or to duplicate existing obligations. Rather, they are intended to preserve accrued obligations to report under revoked standards to ensure there is no gap in coverage between the data collected under the revoked standards and that collected under the new standards.

1. Background

APRA is empowered to make reporting standards under FSCODA, which require regulated institutions, including RSE licensees, to submit specified data through various reporting forms. Data from these forms are used internally to assist APRA's supervisory functions and by other agencies such as the Australian Bureau of Statistics and the Australian Securities and Investments Commission. APRA also collates and publishes statistical information and analysis using data from these reporting forms.

In 2012, legislative reforms¹ granted APRA the power to make prudential standards for the superannuation industry, extended its existing powers to collect data under FSCODA and imposed additional publication obligations on APRA. These measures were introduced in response to recommendations contained in the June 2010 report of the Review into the Governance, Efficiency, Structure and Operation of Australia's Superannuation System (Super System Review).

In November 2012, APRA determined a suite of prudential standards applying to RSE licensees that implement the Government's Stronger Super reforms (which followed the Super System Review). The reporting standards complement those prudential standards and will enable APRA to meet its new legislative obligations (including to publish MySuper data under new section 348A² of the *Superannuation Industry (Supervision) Act 1993*) and to strengthen its prudential oversight of the superannuation industry. The reforms also assist APRA in fulfilling its role as national statistical agency for the Australian financial sector and promote transparency and comparability within the superannuation industry.

2. Purpose and operation of the instruments

The purpose of making the instruments is to introduce new reporting standards and to revoke existing reporting standards in relation to RSE licensees in order to implement the Government's Stronger Super reforms, strengthen supervision of the

¹ The *Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Act 2012* and the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*. These complemented the introduction of MySuper (a diversified superannuation product for contributions where the member has not made a choice of fund or product) in the *Superannuation Legislation Amendment (MySuper Core Provisions) Act 2012*. The Government has also introduced the *Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Bill 2012*.

² Section 348A is inserted by *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.

superannuation industry, meet the requirements of users of data collected by APRA in its role as a national statistical collection agency and promote transparency and comparability within the superannuation industry.

The implementation of the Government's Stronger Super reforms requires substantive changes to the reporting requirements for RSE licensees. APRA has also taken the opportunity to make improvements to the reporting requirements of RSE licensees by implementing a number of changes to enhance APRA's superannuation statistical publications.

The changes to the reporting requirements have been made to provide APRA with information on the following key areas:

- investment and sub-fund reporting;
- compliance with prudential standards;
- financial position and performance; and
- profile and demographics of RSE licensees, RSEs and members.

The changes to the reporting requirements for RSE licensees require a significant increase in the volume of data to be reported to APRA particularly in relation to investments, investment performance and fees. This includes investment option and sub-fund information which has not previously been collected by APRA.

The new reporting standards and associated reporting forms are issued under FSCODA. These reporting standards enable the reporting requirements of the revised prudential framework to take effect.

The collection of data under the new superannuation reporting requirements is staggered over the period from 1 July 2013 to 1 July 2014.

The new reporting standards listed in paragraphs 15, 16, 17, 18, 19 and 31 include items requiring look-through reporting in reliance on subsections 13(4A) to (4C) of FSCODA.³ Consequently, notification requirements apply under subsection (3B) where assets of an RSE licensee (or assets derived from such assets) are invested, and the party investing those assets must provide information about those investments.

3. Consultation

APRA has consulted extensively on the proposed reporting standards since the beginning of 2012, including:

³ Subsections 13(4A) to (4C) of FSCODA are inserted by Item 29 of Schedule 3 to the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*, effective 1 July 2013. Although these subsections commence after the making of the reporting standards, section 4 of the *Acts Interpretation Act 1901* permits the exercise of a power (in this case, to make a reporting standard requiring look-through reporting) between the enactment of amending legislation affecting the power (3 December 2012) and the commencement of those amendments (1 July 2013). The reporting standards requiring look-through reporting under subsections 13(4A) to (4C) of FSCODA do not impose obligations before the commencement of those subsections.

- preliminary consultation undertaken in early 2012 with a small number of external users including large administrators, custodians, accounting firms and RSE licensees;
- release of a discussion paper, *Reporting standards for superannuation* (September 2012), outlining the main areas proposed to be addressed in each reporting standard and each draft reporting form and instructions. APRA received 29 submissions on this discussion paper;
- public seminars in major capital cities in September/October 2012 to present the proposed reporting requirements and to discuss their practical application;
- attendance at a range of industry conferences to present on details of the reporting standards; and
- meetings with individual RSE licensees, industry representative bodies, other regulatory agencies and other interested stakeholders to discuss specific details of the reforms, including APRA's implementation expectations.

Submissions were received from a variety of organisations that will be impacted by the reporting standards, including RSE licensees, industry bodies, professional bodies and service providers.

4. Regulation Impact Statement

A Regulation Impact Statement has been prepared and has been lodged with the Federal Register of Legislative Instruments as supporting material.

5. Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

A Statement of compatibility prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is provided at Attachment A to this Explanatory Statement.

ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Financial Sector (Collection of Data) (reporting standard) determinations Nos. 64 to 91 and 93 to 97 of 2013

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instrument listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act)

Overview of the Legislative Instrument

The purpose of making these legislative instruments is to introduce new reporting standards and to revoke existing reporting standards in relation to RSE licensees in order to implement the Government's Stronger Super reforms, strengthen supervision of the superannuation industry, meet the requirements of users of data collected by APRA in its role as a national statistical collection agency and promote transparency and comparability within the superannuation industry.

Human rights implications

APRA has assessed the instrument against the international instruments listed in section 3 of the HRPS Act and determined that only Article 17 of the International Covenant on Civil and Political Rights (ICCPR) is conceivably potentially of relevance to the instrument.

Article 17 of the ICCPR prohibits the arbitrary or unlawful interference with a person's privacy, family, home and correspondence, and attacks on reputation. Article 17 is exclusively concerned with prohibiting interference with the privacy and/or reputation of individual persons. It does not extend to the privacy and/or reputation of corporate entities.

The majority of information collected will be about the profile and structure of each RSE licensee's business operations. However, Reporting Standards SRS 331.0 Services (made by determination No. 75), SRS 520.0 Responsible Persons Information (made by determination No. 77) and SRS 600.0 Profile and Structure (RSE Licensee) (made by determination No. 86) all include information which relates to individuals persons.

The personal information sought within these Reporting Standards is for individuals who are directors and responsible persons of RSE licensees (trustees of APRA-regulated superannuation entities) and service providers to RSE licensees (in the limited circumstances where the service provider is an individual person). Understanding who the directors and the principal individuals are within an RSE licensee is central to the effective regulation of governance of superannuation entities.

This information ultimately supports APRA achieving its mission of ensuring that, under all reasonable circumstances, financial promises made by the institutions APRA supervises are met within a stable, efficient and competitive financial system.

APRA does not publish the personal information which it collects. Information provided to APRA under reporting standards is protected information for the purposes of section 56 of the *Australian Prudential Regulation Authority Act 1998* (APRA Act) and cannot be disclosed except under a limited range of circumstances provided for under that section. While APRA does publish some protected information gathered under reporting standards, APRA reviews all releases of data received under reporting standards to ensure that no information pertaining to an individual person can be deduced from the data.

Conclusion

Financial Sector (Collection of Data) (reporting standard) determinations Nos. 64 to 91 and 93 to 97 are compatible with human rights because:

- (i) to the extent that determinations Nos. 75, 77 and 86 limit human rights, those limitations are reasonable, necessary and proportionate; and
- (ii) the remaining determinations do not raise human rights issues.