

Financial Sector (Collection of Data) (reporting standard) determinations No. 5 to 10 of 2014

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

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

Acts Interpretation Act 1901, section 33

Under subsection 13(1) of the *Financial Sector (Collection of Data) Act 2001* (the Act), 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 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to issue an instrument the power shall, unless the contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to revoke any such instrument.

On 21 March 2014, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 5 of 2014 which:
 - (i) revokes *Reporting Standard SRS 320.0 Statement of Financial Position* made under Financial Sector (Collection of Data) (reporting standard) determination No. 70 of 2013; and
 - (ii) determines *Reporting Standard SRS 320.0 Statement of Financial Position* (SRS 320.0);
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2014 which:
 - (i) revokes *Reporting Standard SRS 330.0 Statement of Financial Performance* made under Financial Sector (Collection of Data) (reporting standard) determination No. 72 of 2013; and
 - (ii) determines *Reporting Standard SRS 330.0 Statement of Financial Performance* (SRS 330.0);
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 7 of 2014 which:
 - (i) revokes *Reporting Standard SRS 520.0 Responsible Persons Information* made under Financial Sector (Collection of Data) (reporting standard) determination No. 77 of 2013; and
 - (ii) determines *Reporting Standard SRS 520.0 Responsible Persons Information* (SRS 520.0);

- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2014 which:
- (i) revokes *Reporting Standard SRS 530.1 Investments and Investment Flows* made under Financial Sector (Collection of Data) (reporting standard) determination No. 79 of 2013; and
 - (ii) determines *Reporting Standard SRS 530.1 Investments and Investment Flows* (SRS 530.1);
- (5) Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2014 which:
- (i) revokes *Reporting Standard SRS 533.0 Asset Allocation* made under Financial Sector (Collection of Data) (reporting standard) determination No. 82 of 2013; and
 - (ii) determines *Reporting Standard SRS 533.0 Asset Allocation* (SRS 533.0); and
- (6) Financial Sector (Collection of Data) (reporting standard) determination No. 10 of 2014 which:
- (i) revokes *Reporting Standard SRS 702.0 Investment Performance* made under Financial Sector (Collection of Data) (reporting standard) determination No. 92 of 2013; and
 - (ii) determines *Reporting Standard SRS 702.0 Investment Performance* (SRS 702.0).

The instruments commence on 1 April 2014.

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 2013, APRA released a suite of 37 final reporting standards applying to the superannuation industry.

Since the commencement of the new reporting requirements, APRA has received industry feedback on some of these obligations, seeking clarification and guidance on interpretation. As a result, APRA has publicly released a number of frequently asked questions (FAQs) on the APRA website to provide timely guidance for RSE licensees to ensure the submission of high quality data to APRA.

A number of matters raised by industry stakeholders and which are covered in FAQs are those that APRA considers necessary to include in the reporting standards, forms and instructions on an ongoing basis.

APRA has therefore identified six reporting standards which would benefit from minor amendment, largely with respect to the reporting instructions.

2. Purpose and operation of the instrument

The purpose of making the instruments is to amend six reporting standards to ensure that all relevant information relating to compliance with the reporting requirements is available in one, consolidated location. APRA has incorporated the materials from the FAQs, as well as a small number of other minor corrections to the reporting standards, forms and instructions, to the previous versions of six reporting standards made under legislative instrument. This requires revoking the six old reporting standards and replacing them with new versions of the same reporting standards that reflect the minor amendments.

The types of changes that APRA has made include: correction of paragraph references, provision of additional examples for reporting data, clarification of instructions for when updated information needs to be reported to APRA and minor changes to definitions to ensure that they reflect recognized industry terminology and practice. Details of the changes to the six reporting standards are outlined below:

(1) Reporting Standard SRS 320.0 Statement of Financial Position

- Additional detail about how to report members' benefits for members with defined benefit and defined contribution interests;
- Clarity on reporting liability for members' benefits in respect of a pooled superannuation trust; and
- Clarity on reporting directly held derivatives, including how this reporting should reconcile with other forms.

(2) Reporting Standard SRS 330.0 Statement of Financial Performance

- Confirmation that investment income and investment expenses should be reported on a gross basis;
- Additional detail for when reporting on fee rebates;
- Clarity about the treatment of lump sum benefit payments and insurance related inflows; and
- Consistency between the instructions and the form, including correction of a derivation calculation.

(3) Reporting Standard SRS 520.0 Responsible Persons Information

- Correction of cross-references to the relevant paragraphs in *Prudential Standard SPS 520 Fit and Proper*.

(4) Reporting Standard SRS 530.1 Investments and Investment Flows

- Improvements to definitions such as look-through, equity investments and asset and investment vehicle domicile;
- Further detail about reporting currency hedging ratios and the market exposure of indirectly held derivatives; and
- Improvement to the collection of life insurance company related investments through corrections to definitions.

(5) Reporting Standard SRS 533.0 Asset Allocation

- Minor change to the reporting form to ensure consistent reporting about the level of strategic and actual currency hedging;
- Further detail about reporting currency hedging ratios and the market exposure of indirectly held derivatives; and
- Improvements to definitions such as look-through, equity investments, asset and investment vehicle domicile and life insurance company related investments.

(6) Reporting Standard SRS 702.0 Investment Performance

- Clarity regarding look-through reporting in the context of reporting investment fees and costs, as well as reporting gross of tax; and
- Clarity regarding reporting on MySuper investment options that start on a date other than the first day of the reporting year.

3. Consultation

APRA undertook extensive consultations on the development of the 37 reporting standards which were determined in 2013.

APRA does not consider that consultation on these changes is necessary as the changes have already been communicated to industry via the FAQs and the instruments are minor or machinery in nature and do not substantially alter existing arrangements.

4. Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for these legislative instruments.

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*

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The above legislative instruments are 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 instruments

The purpose of making these legislative instruments is to revoke existing reporting standards and remake reporting standards to make minor and machinery amendments to the reporting requirements in relation to RSE licensees.

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 legislative instruments.

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 Standard SRS 520.0 Responsible Persons Information* (made by determination No. 7) includes information which relates to individual persons.

The personal information sought within *Reporting Standard SRS 520.0 Responsible Persons Information* (made by determination No. 7) is for individuals who are directors and responsible persons of RSE licensees (trustees of APRA-regulated superannuation entities). 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. 5 to 10 of 2014 are compatible with human rights because:

- (i) to the extent that *Reporting Standard SRS 520.0 Responsible Persons Information* (made by determination No. 7) limits human rights, those limitations are reasonable, necessary and proportionate; and
- (ii) the remaining determinations do not raise human rights issues.