

**Financial Sector (Collection of Data) (reporting standard) determinations No. 27
and No. 28 of 2015**

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

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

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.

On 13 August 2015, APRA made the following determinations (the **revised reporting standards**):

1. Financial Sector (Collection of Data) (reporting standard) determination No. 27 of 2015, which:
 - (i) revokes *Reporting Standard SRS 320.0 Statement of Financial Position* made under Financial Sector (Collection of Data) (reporting standard) determination No. 18 of 2014; and
 - (ii) determines *Reporting Standard SRS 320.0 Statement of Financial Position*; and
2. Financial Sector (Collection of Data) (reporting standard) determination No. 28 of 2015, which:
 - (i) revokes *Reporting Standard SRS 330.1 Statement of Financial Performance* made under Financial Sector (Collection of Data) (reporting standard) determination No. 12 of 2014; and
 - (ii) determines *Reporting Standard SRS 330.1 Statement of Financial Performance*;

The reporting standards listed in paragraphs 1 and 2 commence on the date of registration on the Federal Register of Legislative Instruments and apply to reporting periods ending on or after 1 July 2015.

1. Background

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

In 2013 and 2014, APRA released a new suite of 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 standards, as well as a large number of requests for clarification and guidance on interpretation.

2. Purpose and operation of the instruments

The purpose of making these instruments is to make minor revisions to two of the existing reporting standards for superannuation to clarify and provide further guidance on existing reporting requirements.

As a result of the questions raised by the superannuation industry about the new reporting standards which were released in 2013 and 2014, APRA publicly released 95 frequently asked questions (FAQs) on the APRA website. The FAQs provided additional information to assist reporting entities to complete the reporting standards and were the result of ongoing dialogue with reporting entities and the superannuation industry more broadly.

Whilst some FAQs provide transition guidance, APRA considered that a number of the matters raised by industry and covered in FAQs should be included in the reporting standards, forms and instructions on an ongoing basis.

The changes within the revised reporting standards are confined to the reporting instructions. The changes are minor in nature and are being released to simplify the superannuation industry's reporting requirements by consolidating relevant guidance into the reporting standard.

3. Consultation

As the FAQs had already been publicly released and the resulting changes to the reporting standards were minor in nature, no further consultation with industry was undertaken.

In late April 2015, the Australian Bureau of Statistics notified the superannuation industry that minor amendments to three reporting standards would be delayed until the data requirements had been confirmed. Final versions of SRS 320.0 and SRS 330.1 have been released in late July following the Australian Bureau of Statistic's confirmation that it no longer seeks further amendments.

4. Regulation Impact Statement

The revised reporting standards incorporate minor revisions which do not significantly change the reporting requirements. All of the revised reporting standards provide additional guidance and clarification and no new reporting requirements have been introduced as a result of this process.

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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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 make minor revisions to two reporting standards to provide additional guidance and clarification on how to complete the reporting standards. The data collected in these reporting standards is used by APRA to assist with APRA's supervisory functions, and also by Government and other agencies such as the Australian Bureau of Statistics. APRA also collates and publishes statistical information and analysis using data from these reporting forms.

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 information collected as a result of the continued operation of the reporting standards will be about the profile and structure of each RSE licensee's business operations. 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 No. 27 and No. 28 of 2015 are compatible with human rights because:

- (i) to the extent that determinations No. 27 and No. 28 of 2015 limit human rights, those limitations are reasonable, necessary and proportionate; and
- (ii) the remaining parts of the determinations do not raise human rights issues.