

**Financial Sector (Collection of Data) (reporting standard) determinations No. 36,
No. 42, No. 43 and No. 44 of 2015**

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 10 December 2015, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 36 of 2015 which:
 - (i) revokes *Reporting Standard SRS 330.0 Statement of Financial Performance* (SRS 330.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 19 of 2014; and
 - (ii) determines *Reporting Standard SRS 330.0 Statement of Financial Performance*;
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 42 of 2015 which determines *Reporting Standard SRS 720.0 ABS Statement of Financial Position* (SRS 720.0);
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 43 of 2015 which determines *Reporting Standard SRS 721.0 ABS Securities Subject to Repurchase and Resale and Stock Lending and Borrowing* (SRS 721.0); and
- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 44 of 2015 which determines *Reporting Standard SRS 722.0 ABS Derivatives Schedule* (SRS 722.0).

This instrument commences on date of registration on the Federal Register of Legislative Instruments.

1. Background

APRA is empowered to make reporting standards under the Act, which require regulated institutions, including registrable superannuation entity (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 (ABS).

The ABS uses superannuation data submitted to APRA for the compilation and publication of the Australian National Accounts and other statistics which are widely used in government economic policy and business decision making. In line with the Government's stated objective to reduce red tape, APRA and the ABS collaborate to simplify and streamline business-to-government reporting in order to collect high quality data without unnecessary reporting burden on industry.

2. Purpose and operation of the instruments

The framework for ABS economic statistics, including the Australian National Accounts, centres on two key international standards, the System of National Accounts (SNA) and the Balance of Payments Manual (BPM), both of which have been significantly revised in the last seven years. The purpose of making these instruments is to ensure that data collected for the purposes of the ABS complies with these revised international statistical standards.

The instruments will assist in complying with the revised SNA and BPM by:

- requiring the reporting of detailed counterparty and asset class information;
- adopting standard SNA and BPM definitions; and
- facilitating the adoption of future changes to SNA and BPM requirements.

3. Consultation

The ABS and APRA undertook extensive consultations on the proposed reporting standards between January 2015 and August 2015. Submissions were received from, and discussions held with RSE licensees, industry bodies, and other interested parties.

The consultation process included the public release of three packages:

- 27 January 2015: ABS and APRA consultation package: '*Consultation on superannuation data collection for the Australian Bureau of Statistics (ABS)*', incorporating four draft reporting standards;
- 1 April 2015: ABS letter '*Changes to proposed reporting standards*', which proposed changes to the draft reporting standards; and
- 31 July 2015: ABS and APRA letter, '*Consultation on proposed changes to superannuation reporting standards for the purposes of the Australian Bureau of Statistics*', accompanied by a revised draft SRS 330.0.

Issues raised by industry participants included the commencement date of the proposed reporting standards being too soon after the release of the January 2015 consultation package, reporting due dates, potential duplication of data compared to APRA's existing reporting obligations and the expected difficulty in reporting a number of the proposed items.

In response to the issues raised, the ABS and APRA made a number of changes to the reporting standards, including but not limited to:

- deferring the commencement date of the reporting standards to 1 July 2016 from the originally proposed 1 January 2016;
- providing an extension for quarterly reporting for a transitional period such that RSE licensees would have five weeks to submit the data until 2017;
- removing a significant number of data items from SRS 720.0, SRS 721.0 and SRS 722.0 and improving their alignment with existing APRA reporting obligations; and
- withdrawing the proposed *Reporting Standard SRS 730.0 ABS Income and Expenditure* (SRS 730.0) and adding seven data items originally proposed on SRS 730.0 to SRS 330.0.

During the consultation period, the ABS advised the superannuation industry that proposed SRS 720.0, SRS 721.0 and SRS 722.0 had been amended such that all items must be reported in accordance with market values and without netting of disposal costs. Where market prices are not available, the instructions to the reporting standards stipulate that the data can be reported as careful estimates. This change was made to ensure consistency with SNA requirements.

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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These 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 facilitate the reporting of data necessary for the ABS and to ensure reporting is in compliance with two key international statistical standards, the SNA and the BPM. The data collected in SRS 720.0, SRS 721.0 and SRS 722.0, and the additional data collected in SRS 330.0, will be used primarily for the purpose of the ABS. The data may also be used by APRA for the purposes of prudential supervision and publication.

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 will be about each RSE licensee's business operations, focusing on aggregate transactions information. The information collected does not relate to individuals or persons.

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. 36, 42, 43 and 44 of 2015 are compatible with human rights because:

- (i) to the extent that determinations No. 36, 42, 43 and 44 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.