

## **Australian Prudential Regulation Authority instrument fixing charges No. 1 of 2016**

### **Provision of statistical information about financial sector entities to the Reserve Bank of Australia and the Australian Bureau of Statistics during the 2015-16 financial year.**

#### **EXPLANATORY STATEMENT**

##### **Prepared by the Australian Prudential Regulation Authority**

*Australian Prudential Regulation Authority Act 1998, paragraph 51(1)(a)*

This explanatory statement relates to the instrument fixing charges which is made under paragraph 51(1)(a) of the *Australian Prudential Regulation Authority Act 1998* (the **APRA Act**) and which is dated 11 May 2016 (the **instrument**). The instrument, made by a delegate of the Australian Prudential Regulation Authority (**APRA**), imposes a charge for certain services provided by APRA to the Reserve Bank of Australia (**RBA**) and the Australian Bureau of Statistics (**ABS**).

#### **1. Background**

##### *Legislative framework*

The APRA Act is administered by APRA. APRA is the prudential regulator of the superannuation, general insurance, life insurance and approved deposit taking industries.

Subsection 51(1) of the APRA Act provides that APRA may, by legislative instrument, fix charges to be paid to it by persons in respect of:

- (a) services and facilities which APRA provides to such persons; and
- (b) applications or requests made to APRA under any law of the Commonwealth.

(These paragraphs reflect the contents of paragraphs 51(1)(a) and (b).)

Subsection 51(2) of the APRA Act provides that a charge fixed under subsection 51(1) must be reasonably related to the costs and expenses incurred or to be incurred in relation to the matters to which the charge relates and must not be such as to amount to taxation.

##### *Factual background*

The 2015-16 financial year is the 14th year in which APRA has been providing statistical information to the RBA and ABS: APRA also provided them with such information from 2002-03 to 2014-15 (inclusive), and imposed charges for providing this information, under paragraph 51(1)(a) of the APRA Act.

Under the *Financial Sector (Collection of Data) Act 2001* (the *Collection of Data Act*), APRA collects financial and other statistical information (*statistical information*) from superannuation entities, general insurers, life insurers, authorised deposit-taking institutions and registered finance corporations (collectively *financial sector entities*).

The statistical information that financial sector entities are required to lodge with APRA is prescribed by reporting standards that are made by APRA pursuant to the Collection of Data Act. The reporting standards detail the information required and are accompanied by forms into which the information has to be inserted.

In 2000 and 2001, APRA implemented a computer system designed and constructed to collect, store, and report the statistical information from financial sector entities. It is called @APRA. The @APRA system enables financial sector entities to lodge statistical information with APRA electronically, and it includes software which can be used to analyse and compile reports from the statistical information collected.

Subsection 3(1) of the Collection of Data Act provides that the purpose for which statistical information is collected under that Act is to assist APRA in the prudential regulation of financial sector entities and to assist the RBA in the formulation of monetary policy. Also, as is implicitly acknowledged by subsection 56(5A) of the APRA Act, some of the statistical information will be relevant to the ABS's function under the *Census and Statistics Act 1905* of maintaining and disseminating statistics relating to the financial industry and the wider economy.

Thus, as envisaged by the legislation, APRA shares the statistical information it collects with both the RBA and the ABS.

The RBA and the ABS need specific kinds of statistical information from financial sector entities which APRA does not need and which it therefore would not otherwise collect for itself. To enable such information to be obtained by the RBA and the ABS, APRA draws up reporting standards and accompanying forms which require financial sector entities to provide the information, collects it from them, and then supplies it to whichever of the two agencies has requested it, either in the form of standard statistics or customised reports.

This arrangement, under which APRA in effect collects statistical information from the whole financial sector and disseminates to the RBA and the ABS such of that information as each of them needs, is more efficient and cost-effective for all concerned than if the three agencies each individually collected their own information. Financial sector entities save time and money by only having to provide one set of statistical information to one agency (APRA). The RBA and the ABS also save considerable resources by not having to collect the statistical information themselves.

The statistical information that APRA is providing to the RBA and the ABS during the 2015-16 financial year is described in the Schedules attached to the instrument.

The statistical information is provided to the two agencies at their request, and they have agreed to pay the charges for it that are fixed by the instrument.

## 2. Operation of the instrument

### *Description of the charges*

A fee of \$75,094 is imposed on the RBA and a fee of \$388,093 is imposed on the ABS for the statistical information provided to each of them from the @APRA system during the 2015-16 financial year. The fees include GST of 10%.

### *How the charges have been calculated*

The charges are based on the need to recover APRA's costs of providing the statistical information subject to the budgetary restrictions of the two agencies.

Those costs have been worked out as follows:

- The costs of maintenance and operation of the @APRA system during 2015-16 is based on the forecasted cost for the year. These costs represent the costs of staff time expended in performing ongoing maintenance (including enhancement) of the system and in operating the system (which includes collecting, managing, analysing and distributing the statistical information collected by the system).
- During the 2015-16 financial year, the @APRA system serviced three agencies with statistical information: APRA, the RBA and the ABS. A proportion of the above-mentioned costs have been allocated to the RBA and the ABS, based on their usage of the @APRA system during 2015-16. Such allocations are made in two components and are based on full cost recovery.
- The charges relating to the RBA and ABS specific requests were estimated based on the quantum of staffing resources consumed. This was based on TMS (APRA's time management system) extracts during the period 1 January 2015 to 31 December 2015. The reason for using this period is to capture the gamut of activities which fluctuate during the year. Such resources are costed based on the average yearly costs for the relevant team, including appropriate management allocation.
- The cost of shared services was then worked out based on the number of forms processed for each of the organisations as a proportion of the total number of forms processed. As expected, these costs are predominantly borne by APRA due to the fact that most of the usage is dictated by APRA requirements. The proportion relating to the RBA and ABS was arrived at by extracting the cost per form by considering all costs relating to shared services for the year 2015-16, the cost of shared services was shared by the three agencies (RBA/ABS/APRA) in the following respective proportions: 5:19:76.
- On the above basis, it is determined that the total cost of the services provided to the RBA amounts to \$68,267. It has been agreed between APRA and the RBA that the amount to be charged to the RBA in respect of the 2015-16 financial year will be \$68,267 (plus GST).

- The total costs of services to the ABS have been determined to be \$352,812. It has been agreed between APRA and the ABS that the amount to be charged to the ABS in respect of the 2015-16 financial year will be \$352,812 (plus GST).
- After addition of 10% GST, the amount payable by the RBA comes to \$75,094 and the amount payable by the ABS comes to \$388,093.

*Charges must be reasonably related to the costs and expenses incurred*

As indicated above, the charges set by the instrument are calculated on a cost recovery basis for the services for which the charges are imposed subject to budgetary constraints of the respective agencies. The charges incorporate staff costs of operating the system, and are allocated to the RBA and the ABS based on their proportionate usage of the system.

*Charges must not amount to taxation*

As the charges are reasonably related to the costs incurred by APRA in providing the services concerned, they do not amount to taxation.

### **3. Consultation**

APRA has informed both the RBA and the ABS of the basis of calculation of the charges and no objection has been made.

### **4. 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*

#### **Australian Prudential Regulation Authority instrument fixing charges No. 1 of 2015**

The above 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 instrument will fix charges to be paid to the Australian Prudential Regulation Authority by the Reserve Bank of Australia (RBA) and the Australian Bureau of Statistics (ABS) for providing them with statistical information about financial sector entities during the 2015-16 financial year. Charges payable by the RBA and ABS will not have any direct or indirect effect on the rights of individual persons.

#### **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 of potential 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.

Consequently, the instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the HRPS Act. Accordingly, in APRA's assessment, this legislative instrument is compatible with human rights.

#### **Conclusion**

Australian Prudential Regulation Authority instrument fixing charges No. 1 of 2016 is compatible with human rights because the determinations do not raise human rights issues.