

Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2018

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, subsection 33(3)

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. Under subsection 13(2B) of the Act, the matters that may be included in reporting standards may relate to reporting of amounts for the purposes of the *Major Bank Levy Act 2017*.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any Instrument (including rule, regulations or by-laws) 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 repeal, rescind, revoke, amend, or vary any such Instrument.

On 9 January 2018, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2018 (the instrument) which determines *Reporting Standard ARS 760.0 ATO collection for Major Bank Levy Act* (ARS 760.0). The instrument also revokes Financial Sector (Collection of Data) (reporting standard) determination No. 13 of 2017, including *Reporting Standard ARS 760.0 ATO collection for Major Bank Levy Act 2017* made under that Determination.

The instrument commences on 12 January 2018

1. Background

In June 2017, the Australian Parliament passed the *Major Bank Levy Act 2017* (MBL Act) and the *Treasury Laws Amendment (Major Bank Levy) Act 2017* (TLA Act) to implement the major bank levy, which was announced as part of the 2017-18 Budget. This legislation empowers APRA to collect data from authorised deposit-taking institutions (ADIs) under the Act for the purposes of the major bank levy.

2. Purpose and operation of the instrument

The purpose of the instrument is to revoke the version of ARS 760.0 which was made under Financial Sector (Collection of Data) (reporting standard) determination No. 13 of 2017 and replace it with a revised version of ARS 760.0. The revised version of ARS 760 (the revised ARS 760.0) contains the requirements for the provision of information to APRA, using the definitions and methodology set out in the MBL Act, for the purposes of the major bank levy. The information reported to APRA under the revised ARS 760.0 will be provided to the Commissioner of Taxation for the purposes of the MBL Act.

The revised ARS 760.0 applies to ADIs with liabilities that exceed the levy threshold set out in the MBL Act.

The main changes incorporated within the revised ARS 760.0 are:

- Changing the scaling factor used in reporting from millions to one decimal place to whole dollars;
- The addition of the word ‘lending’ in the definition of repurchase agreements to correct an omission in the original version;
- The addition of definitions for ‘subsection 5(4) legislative instrument’ and ‘subsection 6(4) legislative instrument’; and
- Updates to the syntax used when referring to legislative instruments and Acts.

Where the revised ARS 760.0 refers to Acts, Prudential Standards, Australian Accounting Standards or Audit Standards, these are references to those instruments as they exist from time to time.

3. Consultation

APRA consulted with each entity that is required to report under the revised ARS 760.0 and asked each of them whether changing the scaling factor used and adding the word ‘lending’ in the definition of repurchase agreements would pose any problems for reporting purposes. No objections to the proposed changes were raised.

Other changes made in the revised ARS 760.0 are mechanical or minor drafting clarifications which do not alter the substance of the existing requirements. Accordingly it was not considered necessary to consult upon those changes.

4. Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for the instrument.

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

In June 2017, the Australian Parliament passed the *Major Bank Levy Act 2017* and the *Treasury Laws Amendment (Major Bank Levy) Act 2017* to implement the major bank levy, which was announced as part of the 2017-18 Budget. This legislation empowers APRA to collect data from authorised deposit-taking institutions (ADIs) under the *Financial Sector (Collection of Data) Act 2001* for the purposes of the major bank levy.

The instrument determines a new reporting standard under the *Financial Sector (Collection of Data) Act 2001* to facilitate the collection of data by APRA from ADIs, which will be provided to the Commissioner of Taxation for the purposes of administering the bank levy.

Human rights implications

APRA has assessed the instrument and is of the view that it 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, the instrument is compatible with human rights.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.