

Banking (prudential standard) determination No. 3 of 2018

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Banking Act 1959, section 11AF

Under subsection 11AF(1) of the *Banking Act 1959* (the Act), APRA has the power to determine standards (prudential standards), in writing, in relation to prudential matters to be complied with by authorised deposit-taking institutions (ADIs) and authorised non-operating holding companies (authorised NOHCs). Under subsection 11AF(3) of the Act, APRA may, in writing, vary or revoke a prudential standard.

On 18 April 2018, APRA made Banking (prudential standard) determination No. 3 of 2018 (the instrument), which revokes *Prudential Standard APS 330 Public Disclosure* made under Banking (prudential standard) determination No. 3 of 2015 and determines a new *Prudential Standard APS 330 Public Disclosure* (APS 330).

The instrument commences on 1 July 2018.

1. Background

APRA's mandate is to ensure the safety and soundness of prudentially regulated financial institutions so that they can meet their financial promises to depositors, policyholders and fund members within a stable, efficient and competitive financial system.

APRA carries out this mandate through a multi-layered prudential framework that encompasses licensing and supervision of institutions. In the case of the banking industry, APRA is empowered under the Banking Act to issue legally binding prudential standards that set out specific prudential requirements with which ADIs must comply.

APRA regularly reviews its regulatory regime and amends its prudential requirements as a result of a number of factors including:

- international developments;
- changes in financial market conditions or changes in risk management practices, in response to identified weaknesses in the prudential framework; and
- to reduce potential negative impacts of emerging industry issues.

APRA's prudential framework for ADIs is based on the framework agreed by the Basel Committee on Banking Supervision (Basel Committee).¹

¹ The Basel Committee, of which Australia is a member, is the primary global standard-setter for the prudential regulation of banks and provides a forum for cooperation on banking supervisory matters. Its mandate is to strengthen the regulation, supervision and practices of banks worldwide with the purpose of enhancing financial stability.

The Basel Committee's disclosure requirements, known as Pillar 3, were introduced in Australia from January 2008 through APS 330. The Pillar 3 framework facilitates market discipline by providing a set of common disclosure requirements to allow market participants to assess banks' capital adequacy, remuneration and other indicators of financial health. The Basel Committee has recently updated its Pillar 3 framework, which includes additional liquidity disclosures among other changes.²

The additional liquidity disclosure requirements include a common template that banks must use to report their Net Stable Funding Ratio (NSFR) results and selected details of the NSFR components.³

2. Purpose and operation of the instrument

The purpose of the instrument is to revoke APS 330 and to replace it with a new version of APS 330.

APS 330 has been updated to include additional liquidity disclosure requirements.⁴ These are expected to improve the transparency of regulatory funding requirements, reinforce the principles for sound liquidity risk management and supervision, strengthen market discipline, and reduce uncertainty in markets as the NSFR standard is implemented.⁵

Further, APS 330 has been updated to align the frequency of the NSFR disclosures and the existing Liquidity Coverage Ratio (LCR) disclosures to the Basel Committee's Pillar 3 requirements, which are semi-annual and quarterly, respectively.⁶ The LCR disclosures were previously disclosed on the same frequency of an ADI's publication of financial reports, typically semi-annually.

APS 330 incorporates by reference certain Acts, Prudential Standards, Prudential Practice Guides and Australian Accounting Standards. All of these references are references to the Acts, Prudential Standards, Prudential Practice Guides and Australian Accounting Standards as in force from time to time, and are available on the Federal Register of Legislation at www.legislation.gov.au, or, in the case of the Prudential Practice Guides, are available at www.apra.gov.au.

APS 330 also incorporates by reference the documents *International Convergence of Capital measurement and Capital Standards: A revised Framework*, Comprehensive Version, as it exists at June 2006, available at <https://www.bis.org/publ/bcbs128.htm>, and *Basel III: A global regulatory framework for more resilient banks and banking*

² *Basel Committee Standards Pillar 3 disclosure requirements – consolidated and enhanced framework, March 2017*, available at: <http://www.bis.org/bcbs/publ/d400.htm>

³ The NSFR is a liquidity standard that seeks to promote more stable funding of banks' balance sheets.

⁴ APS 330 has not been updated to include the other changes to the Basel Committee's Pillar 3 framework as outlined in its March 2017 document, referred to in footnote 2.

⁵ In Australia, the NSFR standard has been incorporated into *Prudential Standard APS 210 Liquidity* (APS 210) and applies from 1 January 2018.

⁶ The LCR is a liquidity standard that requires an ADI to have an adequate level of unencumbered high-quality liquid assets to meet their liquidity needs for a 30 calendar day period under a stress scenario. In Australia, the LCR standard has been incorporated into APS 210 and applies from 1 January 2015.

systems, revised version, as it exists at June 2011, available at <https://www.bis.org/publ/bcbs189.htm>.

Finally, APS 330 incorporates by reference *Liquidity Policy – Annex: Liquid Assets – Prudential Supervision Department Document BSI3A*, published by the Reserve Bank of New Zealand (RBNZ), as existing from time to time, available at <https://www.rbnz.govt.nz/regulation-and-supervision/banks/prudential-requirements/liquidity-policy>.

3. Consultation

APRA undertook a public consultation on the changes to APS 330 from November 2017 to December 2017.⁷ APRA released a response to submissions on 19 March 2018.⁸

A total of two submissions were received in response to APRA's public consultation. One submission sought clarification on the disclosure of certain items in the NSFR disclosure template and the frequency of liquidity disclosures. APRA has provided additional guidance on these matters in the final prudential standard and response to submissions.

The other submission made suggestions, unrelated to the NSFR disclosures, on how APS 330 could be improved more generally. The Basel Committee's Pillar 3 framework is likely to be further revised following the finalisation of the Basel III reforms. APRA intends to consult on further changes to APS 330, and the Pillar 3 framework more generally, when the next phase of the Basel Committee's review is finalised.

4. Regulation Impact Statement

The changes to APS 330 are expected to have an immaterial impact on the relevant ADIs (16 larger ADIs). ADIs' internal reporting structures already accommodate the NSFR standard and LCR standard. These ADIs are also already required to make the LCR disclosures under APS 330. Consequently the update to APS 330 is considered relatively minor.

The Office of Best Practice Regulation has confirmed that a Regulation Impact Statement is not required.

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.

⁷ <http://www.apra.gov.au/adi/PrudentialFramework/Pages/Proposed-revisions-to-Prudential-Standard-APS-330-Public-Disclosure.aspx>

⁸ <http://www.apra.gov.au/adi/PrudentialFramework/Pages/Proposed-revisions-APS-330-Public-Disclosure-response.aspx>

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 the instrument is to revoke *Prudential Standard APS 330 Public Disclosure* (APS 330) determined by APRA in 2015 and replace it with a new *Prudential Standard APS 330 Public Disclosure* (new APS 330). New APS 330 reflects additional liquidity disclosure requirements including a common template that ADIs must use to report their Net Stable Funding Ratio (NSFR) results and selected details of the NSFR components and provides for the NSFR disclosures and the existing Liquidity Coverage Ratio (LCR) disclosures to be disclosed on a semi-annual and quarterly basis, respectively.

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.