

## **Banking (prudential standard) determinations Nos. 1 and 2 of 2019**

### **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 13 June 2019, APRA made the following determinations (the instruments):

- (1) Banking (prudential standard) determination No. 1 of 2019 which revokes *Prudential Standard APS 121 Covered Bonds* made under Banking (prudential standard) determination No. 1 of 2012 and determines a new *Prudential Standard APS 121 Covered Bonds* (APS 121);
- (2) Banking (prudential standard) determination No. 2 of 2019 which revokes *Prudential Standard APS 310 Audit and Related Matters* made under Banking (prudential standard) determination No. 10 of 2014 and determines a new *Prudential Standard APS 310 Audit and Related Matters* (APS 310).

The instruments commence on 1 July 2019.

### **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.

APS 121 sets out requirements for the issuing of covered bonds by ADIs. APS 310 requires an ADI to ensure APRA has access to independent advice from an auditor relating to the operations, internal controls and information provided to APRA in respect of that ADI.

In January 2017, the Reserve Bank of Australia (RBA), the Australian Bureau of Statistics (ABS) (collectively, ‘the agencies’) and APRA commenced consultation on the modernised Economic and Financial Statistics (EFS) data collection, which replaces the current domestic books collection. In August 2017, APRA and the agencies released a response to submissions.

Implementation of the EFS data collection commenced for the reporting period ending March 2019. APRA will revoke a number of ADI and Registered Financial Corporation (RFC) reporting standards and replace them with new EFS reporting standards during 2019.

The new *Accounting Standard AASB 9 Financial Instruments* (AASB 9) replaced the previous *Accounting Standard AASB 139 Financial Instruments* (AASB 139) on 1 January 2018. AASB 9 applies to all entities in Australia and contains new requirements for the classification and measurement of financial assets.

A number of ADI prudential and reporting standards, including APS 121 and APS 310 are affected by the EFS implementation and the introduction of AASB 9 (collectively, ‘the regulatory developments’).

## **2. Purpose and operation of the instrument**

### *Banking (prudential standard) determination No. 1 of 2019*

The purpose of this instrument is to revoke APS 121 and replace it with a new version of APS 121 to reflect the regulatory developments.

The new APS 121 refers to total resident assets on an ADI’s domestic books as reported on *Reporting Form ARF 320.0 Statement of Financial Position (Domestic Books)* (ARF 320.0) under *Reporting Standard ARS 320.0 Statement of Financial Position (Domestic Books)* for the purposes of defining an ADI’s assets in Australia and setting a limit on ADIs’ issues of covered bonds. The instrument makes minor alterations to APS 121 to update the reference to ARF 320.0 to refer to total resident assets as reported on the EFS replacement of ARF 320.0, *Reporting Form ARF 720.0 ABS/RBA Statement of Financial Position* (ARF 720.0) under *Reporting Standard ARS 720.0 ABS/RBA Statement of Financial Position*.

### *Banking (prudential standard) determination No. 2 of 2019*

The purpose of this instrument is to revoke APS 310 and replace it with a new version of APS 310 to reflect the regulatory developments.

The instrument makes minor alterations to APS 310 to update references to ARF 320.0, which will be revoked and replaced with the following EFS data collection reporting forms:

- ARF 720.0;

- *Reporting Form ARF 720.1 ABS/RBA Loans and Leases* under *Reporting Standard ARS 720.1 ABS/RBA Loans and Finance Leases*; and
- *Reporting Form ARF 720.2 ABS/RBA Deposits* under *Reporting Standard ARS 720.0 ABS/RBA Deposits*.

The instrument also adds the following reporting forms collected under *Reporting Standard ARS 210.0 Liquidity* to the list of reporting forms subject to reasonable and/or limited assurance under the new APS 310:

- *Reporting Form ARF 210.1A Liquidity Coverage Ratio – all currencies*;
- *Reporting Form ARF 210.1B Liquidity Coverage Ratio – AUD only*; and
- *Reporting Form ARF 210.6 Net Stable Funding Ratio*.

Both instruments make minor alterations to include up-to-date standardised paragraphs in APRA’s prudential standards. These minor alterations do not alter the interests of the financial sector entities to which APS 121 and APS 310 apply.

APS 121 and APS 310 incorporates by reference certain provisions of the Act, Prudential Standards and Reporting Standards.<sup>1</sup> All of these references are references to the instruments as they exist from time to time. These instruments are available on the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).

### **3. Consultation**

In January 2019, APRA conducted a consultation on proposed changes to APS 121, APS 310 and two reporting standards in January 2019. APRA released a letter to ADIs *Consultation on Proposed Changes to Reporting and Prudential Standards Resulting from Modernised Economic and Financial Statistics (EFS) Data Collection Implementation* with draft copies of the prudential and reporting standards.

APRA received six submissions in response. Submissions were generally supportive of APRA’s proposals but raised concerns regarding implementation timing and changes to reporting due dates. Submissions also requested clarification of technical aspects of the changes set out in the prudential and reporting standards.

### **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.

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<sup>1</sup> A reference to a Reporting Standard includes any reporting form and instructions that form part of the Reporting Standard.

## ATTACHMENT A

### Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

#### Banking (prudential standard) determinations Nos. 1 and 2 of 2019

The legislative instruments are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

#### Overview of the Legislative Instruments

The purpose of the instrument is to revoke *Prudential Standard APS 121 Covered Bonds* determined by APRA in 2012 and replace it with a new *Prudential Standard APS 121 Covered Bonds* (APS 121), and to revoke *Prudential Standard APS 310 Audit and Related Matters* determined by APRA in 2014 and replace it with a new *Prudential Standard APS 310 Audit and Related Matters* (APS 310).

APS 121 is being remade to update references to reporting forms that form part of APRA's reporting standards that will be revoked and replaced in 2019.

APS 310 is being remade to update references to reporting forms that will be revoked and replaced in 2019, and to include data collected for the purposes of the liquidity coverage ratio and net stable funding ratio under *Reporting Standard ARS 210.0 Liquidity* in the appointed auditor's assurance responsibilities required under APS 310.

#### Human rights implications

APRA has assessed the instruments and is of the view that they do 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 instruments are compatible with human rights.

#### Conclusion

The instruments are compatible with human rights as they do not raise any human rights issues.