

Financial Sector (Collection of Data) (reporting standard) determination Nos. 26 to 27 of 2019

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Financial Sector (Collection of Data) Act 2001 (the Act)

Acts Interpretation Act 1901

Under paragraph 13(1)(a) of the Act, APRA may, by writing, determine reporting standards 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 15(1) of the Act provides that APRA may declare a day on and after which the reporting standards are to apply. 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 13 June 2019, APRA made the following determinations (the instruments):

1. Financial Sector (Collection of Data) (reporting standard) determination No. 26 of 2019 which:
 - (a) revokes *Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated)* (previous ARS 322.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 22 of 2018; and
 - (b) determines a new *Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated)* (ARS 322.0); and
2. Financial Sector (Collection of Data) (reporting standard) determination No. 27 of 2019 which:
 - (a) revokes *Reporting Standard ARS 323.0 Statement of Financial Position (Licensed ADI)* (previous ARS 323.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 23 of 2018; and
 - (b) determines a new *Reporting Standard ARS 323.0 Statement of Financial Position (Licensed ADI)* (ARS 323.0).

The instruments commence on 1 July 2019.

1. Background

In March 2018, APRA determined the previous ARS 322.0 and ARS 323.0. The previous ARS 322.0 and ARS 323.0 provided requirements for the provision of information to APRA relating to an ADI's statement for financial position.

The previous ARS 322.0 and ARS 323.0 required amending to reflect a number of changes in regulatory requirements. 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.

The previous ARS 322.0 and ARS 323.0 were affected by the EFS implementation and the introduction of AASB 9 (collectively, 'the regulatory developments').

2. Purpose of the instruments

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- The purpose of this instrument is to revoke existing ARS 322.0 and replace it with a new version of ARS 322.0 to reflect the regulatory developments.
- This instrument removes references to reporting forms that will be revoked from ARS 322.0 and updates them with the relevant EFS reporting forms. This instrument also changes the reporting due dates and removes the scale factor requirement from ARS 322.0. In addition, this instrument removes Section D of the reporting form from the previous ARS 322.0.

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- The purpose of this instrument is to revoke existing ARS 323.0 and replace it with a new version of ARS 323.0 to reflect the regulatory developments.
- This instrument removes references to reporting forms that will be revoked from ARS 323.0 and updates them with the relevant EFS reporting forms. This instrument also changes the reporting due dates and removes the scale factor requirement from ARS 323.0.

There are a number of powers that may be exercised by APRA in reporting standards which involve an element of discretion and which may impact the interests of the financial sector entity to which the reporting standard applies. These decisions include APRA refusing to change a reporting period or due date for an ADI to provide information required by ARS 322.0 and ARS 323.0. Decisions made by APRA exercising those powers are not subject to merits review. This is because APRA requires accurate and timely data to effectively monitor the financial viability of prudentially-regulated entities. The quality and accuracy of this data has significant implications for the safety and stability of the financial system. Undue delays in receiving data of this nature can seriously compromise the APRA's ability to effectively supervise the financial system. APRA's decisions to exercise discretion under its reporting standards are therefore important financial decisions with a significant public interest element, the outcomes of which must be final to provide certainty for the regulated entities in the fast moving regulatory environment.

The instruments incorporate by reference certain provisions of Acts, Prudential Standards, Australian Accounting Standards issued by the Australian Accounting Standards Board, and Australian Auditing Standards issued by the Auditing and Assurance Standards Board. 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. The instruments also incorporate by reference provisions of the International Financial Reporting Standards (IFRS) set by the International Accounting Standards Board. The IFRS are incorporated as they exist as at 1 July 2019 and are available at www.ifrs.org.

3. Consultation

In January 2019, APRA commenced a consultation on proposed changes to ARS 322.0 and ARS 323.0 and two prudential 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.

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 instruments 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 *Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated)* determined by APRA in 2018 and replace it with a new *Reporting Standard ARS 322.0 Statement of Financial Position (Consolidated)* (ARS 322.0), and to revoke *Reporting Standard ARS 323.0 Statement of Financial Position (Licensed)* determined by APRA in 2018 and replace it with a new *Reporting Standard ARS 323.0 Statement of Financial Position (Licensed)* (ARS 323.0). ARS 322.0 and ARS 323.0 provide requirements for the provision of information to APRA relating to an ADI's statement for financial position.

ARS 322.0 and ARS 323.0 are being remade to update references to reporting forms that will be revoked and replaced by the *Modernised Economic and Financial Statistics* (EFS) data collection, remove differential reporting due dates and scale factor requirements, and remove unused data from ARS 322.0.

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

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