

EXPLANATORY STATEMENT

Authorised Deposit-taking Institutions Supervisory Levy Imposition Determination 2019

This determination relates to a levy imposed by the *Authorised Deposit-taking Institutions Supervisory Levy Imposition Act 1998* (the Act) on authorised deposit-taking institutions (ADIs).

This determination commences on 1 July 2019 and relates to the 2019-20 financial year. The *Authorised Deposit-taking Institutions Supervisory Levy Imposition Determination 2018* is repealed upon commencement of this determination. Consistent with section 7 of the *Acts Interpretation Act 1901*, any obligation or liability incurred in previous financial years remains valid.

Subsection 7(3) of the Act requires the Treasurer, by legislative instrument, to determine:

- the maximum restricted levy amount for each financial year;
- the minimum restricted levy amount for each financial year;
- the restricted levy percentage for each financial year;
- the unrestricted levy percentage for each financial year; and
- how an ADI's levy base is to be worked out.

For foreign ADIs, this determination provides that the restricted component of the 2019-20 levy will be calculated at 0.00100 per cent of assets held by the entity, subject to a minimum of \$15,000 and a maximum of \$625,000. The unrestricted component of the 2019-20 levy will be calculated at 0.000955 per cent of assets held by the entity.

For providers of purchased payment facilities, this determination provides that the restricted component of the 2019-20 levy will be calculated at 0.00501 per cent of assets held by the entity, subject to a minimum of \$15,000 and a maximum of \$625,000. The unrestricted component of the 2019-20 levy will be calculated at 0.000955 per cent of assets held by the entity.

For all other ADIs¹ (including ADIs with an authority to carry on a banking business in Australia for a limited time), this determination provides that the restricted component of the 2019-20 levy will be calculated at 0.00501 per cent of assets held by the entity, subject to a minimum of \$15,000 and a maximum of \$3,125,000. The unrestricted component of the 2019-20 levy will be calculated at 0.000955 per cent of assets held by the entity.

This determination incorporates matters from the following instruments:

- the *Financial Sector (Collection of Data) (reporting standard) determination No. 14 of 2018*; and
- the *Financial Sector (Collection of Data) (reporting standard) determination No. 23 of 2018*.

Those instruments are disallowable legislative instruments, and are available on the Federal Register of Legislation.

¹ This includes where the authority, under section 9 of the *Banking Act 1959*, to carry on a banking business in Australia is subject to a time limit. APRA will use the information required to be reported (i.e. completed on a Level 1, and if applicable, a Level 2 basis, as defined under Prudential Standard APS 001 Definitions) in the reporting standards applicable to that ADI to work out the value of assets of the ADI as at the valuation day.

The finance sector has been consulted on the 2019-20 supervisory levies through a Treasury and Australian Prudential Regulation Authority (APRA) discussion paper released on the Treasury website on 4 June 2019. The paper discusses potential impacts of the levies on each industry sector and institution regulated by APRA. Six submissions were received during the consultation process, none of which related specifically to the methodology for this levy.

The Office of Best Practice Regulation has previously advised that a Regulatory Impact Statement is not required as supervisory levies are considered *machinery-of-government* in nature.

This determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

A statement of compatibility with human rights for the purposes of Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* is set out in Attachment 1.

Statement of Compatibility with Human Rights

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

Authorised Deposit-taking Institutions Supervisory Levy Imposition Determination 2019

This Legislative Instrument is 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*.

Overview of the Legislative Instrument

This determination relates to a levy imposed by the *Authorised Deposit-Taking Institutions Supervisory Levy Imposition Act 1998* on authorised deposit-taking institutions (ADIs).

Subsection 7(3) requires the Treasurer to determine:

- the maximum restricted levy amount for each financial year;
- the minimum restricted levy amount for each financial year;
- the restricted levy percentage for each financial year;
- the unrestricted levy percentage for each financial year; and
- how an ADI's levy base is to be worked out.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

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