

Financial Sector (Collection of Data) (reporting standard) determination No. 29 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 27 June 2019, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 29 of 2019 which revokes *Reporting Standard ARS 701.0 ABS/RBA Definitions for the EFS Collection* made under Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2019 and determines a new *Reporting Standard ARS 701.0 ABS/RBA Definitions for the EFS Collection* (ARS 701.0).

The instrument commences on 1 July 2019.

1. Background

The Economic and Financial Statistics (EFS) collection – previously the Domestic Books collection – is a series of reporting requirements administered on behalf of the Australian Bureau of Statistics (ABS) and the Reserve Bank of Australia (RBA) (collectively, the agencies) by APRA in its role as national statistical agency for the financial sector. The collection focuses on the Australian (domestic) operations and activities of authorised deposit-taking institutions (ADIs) and Registered Financial Corporations (RFCs).

In March 2018, amendments to the Act broadened the scope of entities that must register under the FSCODA and enabled APRA to collect information from non-ADI lenders. These amendments were made to allow APRA and the Council of Financial Regulators to better monitor the financial stability impacts of non-ADI lenders and to determine appropriate actions if needed to address a potential increase of risk in this sector.

2. Purpose of the instruments

The purpose of the instrument is to revoke ARS 701.0 and replace it with a new version of ARS 701.0. ARS 701.0 provides definitions of key terms and concepts used throughout the EFS collection. The new version of ARS 701.0 improves the collection of non-ADI lender data by amending the treatment of securitisation special purpose vehicles (SPVs) in the EFS data collection.

ARS 701.1 incorporates 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.

3. Consultation

In May 2019, APRA, and the agencies conducted formal consultation on the changes to ARS 701.0 for the treatment of SPVs in the EFS data collection. APRA and the agencies released a consultation letter *Economic and Financial Statistics – Proposed Changes to Reporting Consolidation for Securitisation Special Purpose Vehicles (SPVs)*, along with draft versions of ARS 701.0 and a data quality guidance document.

APRA received one submission from an industry association. The submission agreed that APRA's proposed changes to ARS 701.0 were the best way to capture the bulk of the securitisation industry as intended. The submission noted issues to consider regarding the structure and control relationship of SPVs, and also suggested a change to reporting dates for RFCs. The submission also indicated that SPVs that are no longer under the accounting control of the RFC will not be captured by the changes. The submission also noted that it would be less burdensome for RFCs with assets between \$50m and \$400m to report as at 30 June which aligns more closely with end of financial year reporting.

4. Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this legislative 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 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 determine *Reporting Standard ARS 701.0 ABS/RBA Definitions for the EFS Collection* (ARS 701.0).

ARS 701.0 provides definitions of key terms and concepts used throughout the Economic and Financial Statistics (EFS) collection. The EFS collection sets out requirements for authorised deposit-taking institutions and registered financial corporations to report key data to APRA on their domestic operations.

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.