

Financial Sector (Collection of Data) (reporting standard) determination Nos. 5 to 6 of 2020

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Financial Sector (Collection of Data) Act 2001, sections 13 and 15

Under subsection 13(1) of the *Financial Sector (Collection of Data) Act 2001* (the Act), APRA has the power to determine reporting standards, in writing, 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.

On 6 May 2020, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 5 of 2020 which determines *Reporting Standard RRS 331.0 Selected Revenue and Expenses* (RRS 331.0); and
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2020 which determines *Reporting Standard ARS 331.0 Selected Revenue and Expenses* (ARS 331.0).

The instruments commence on 6 May 2020.

1. Background

The instruments determine reporting standards RRS 331.0 and ARS 331.0 which will apply to registered entities under the Act (Registered Financial Corporation or 'RFCs') and authorised deposit-taking institutions (ADIs) respectively.

APRA determined previous versions of RRS 331.0 and ARS 331.0 in 2016 and 2018 to collect information on RFCs' and ADIs' selected revenues and expenses on a quarterly basis. The Australian Bureau of Statistics (the ABS) used the information collected under RRS 331.0 and ARS 331.0 to compile Australia's National Accounts.

In January 2020, APRA revoked these reporting standards under Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2020. These reporting standards were revoked as they have been replaced by new reporting standards as part of the modernised Economic and Financial Statistics (EFS) data collection, which now form the basis of Australia's National Accounts. While the EFS data collection will be the new source of data on RFCs' and ADIs' revenues and expenses, the data is not collected in an identical manner to the previous RRS 331.0 and ARS 331.0.

The instruments reinstate RRS 331.0 and ARS 331.0. APRA made the instruments at the request of the ABS in light of the volatile market movements and unprecedented economic conditions caused by the COVID-19 virus. The ABS requires a consistent series of reporting to develop the National Accounts to accurately represent the impacts of the COVID-19 virus on Australia's economic activity.

2. Purpose and operation of the instruments

Financial Sector (Collection of Data) (reporting standard) determination No. 5 of 2020

The purpose of this instrument is to determine a new RRS 331.0. RRS 331.0 requires a RFC that had total assets of at least \$500 million at the end of the most recent complete financial year at the time of reporting, to report selected revenues and expenses to APRA on a quarterly basis.

The new RRS 331.0 continues the requirements of the previous RRS 331.0 with only minor or machinery changes. The new RRS 331.0 collects information from RFCs for the quarters ending 31 March 2020 and 30 June 2020.

Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2020

The purpose of this instrument is to determine a new ARS 331.0. This reporting standard requires an ADI to report selected revenues and expenses to APRA on a quarterly basis. The new ARS 331.0 collects information from ADIs for the quarters ending 31 March 2020 and 30 June 2020.

The new ARS 331.0 continues the requirements of the previous ARS 331.0 with minor and machinery changes. The reporting quarter under the new ARS 331.0 has been revised to a calendar quarter. Under the previous ARS 331.0, a quarter was dependent on an ADI's financial year under the *Corporations Act 2001*. This revision reflects ADI's reporting practices under the previous version ARS 331.0. The due dates for reporting under the new ARS 331.0 have also been extended from 15 or 25 business days after each reporting period (depending on the type of the ADI) to 40 calendar days after each reporting period, given the operational impacts of COVID-19 on reporting entities.

Each reporting standard comprises: (1) the body of the reporting standard itself (which contains details about inter alia when returns under the standards must be lodged with APRA); (2) a reporting form which must be completed by ADIs or RFCs covered by the reporting standard; and (3) a set of detailed technical instructions regarding completion of the form.

An entity's obligation to report under RRS 331.0 or ARS 331.0 will cease after it submits the information to APRA, as required by the instruments, for the quarter ending 30 June 2020.

There are a number of powers that may be exercised by APRA in reporting standards that 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 or RFC to provide information required by ARS 331.0 or RRS 331.0. Decisions made by APRA exercising those powers are not subject to merits review.

APRA considers decisions made by APRA exercising discretions under its reporting standards should not be subject to merits review as they are financial decisions with a significant public interest element.

ARS 331.0 and RRS 331.0 collect data for the ABS to compile data for Australia's National Accounts. It is critical that the ABS continues to receive data under ARS 331.0 and RRS 331.0, rather than relying on the new EFS data collection, so that the ABS can accurately measure the effect of COVID-19 on Australia's economy with a consistent continuation of data.

Delays caused by an entity seeking merits review of APRA's decisions under ARS 331.0 or RRS 331.0 could significantly compromise the publication of Australia's National Accounts. As the publications are done at an aggregate level, any lack of data from one entity caused by a merits review claim prevents the release of the entire publication.

3. Consultation

APRA has not consulted in relation to the instruments. APRA is satisfied, in accordance with subsection 13(6) of the Act, that the delay involved in holding the consultations would have a detrimental effect on the stability of the financial system.

The instruments require urgent implementation to support the ABS' analysis of the impact of COVID-19 on Australia's economic activity and Australia's National Accounts. Delays caused by consultation will jeopardise the ABS' ability to accurately measure the effects of COVID-19 on Australia's economic activity in a timely manner.

On 23 March 2020, APRA indicated to RFCs and ADIs of its intent to continue RRS 331.0 and ARS 331.0. On 1 April 2020, APRA notified RFCs and ADIs on that it will reinstate the reporting standards to continuing reporting under RRS 331.0 and ARS 331.0 for two more quarters¹. APRA encouraged reporting entities to contact APRA if they had concerns in meeting their reporting obligations. In response to concerns, APRA extended the due dates for reporting to alleviate additional burden on the resources of reporting entities.

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.

¹ <https://www.apra.gov.au/changes-to-reporting-obligations-response-to-covid-19>

ATTACHMENT A

Statement of Compatibility with Human Rights

Human Rights (Parliamentary Scrutiny) Act 2011

Financial Sector (Collection of Data) (reporting standard) determinations Nos. 5 to 6 of 2020

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 legislative instruments are to determine *Reporting Standard RRS 331.0 Selected Revenue and Expenses* (RRS 331.0) and *Reporting Standard ARS 331.0 Selected Revenue and Expenses* (ARS 331.0).

RRS 331.0 and ARS 331.0 collect data on the quarterly statements of selected revenues and expenses of registered financial corporations (RFCs) and authorised deposit-taking institutions (ADIs) respectively.

The legislative instruments reinstate previous versions of RRS 331.0 and ARS 331.0 that were revoked by APRA in February 2020. The changes are minor and machinery in nature. The data collected under the reporting standards is used by the Reserve Bank of Australia and the Australian Bureau of Statistics to assist them in performing their functions. RFCs and ADIs are bodies corporates, and the reporting standards do not collect information on individuals.

Human rights implications

APRA has assessed these instruments 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, these legislative instruments are compatible with human rights.

Conclusion

These Legislative Instruments are compatible with human rights as it does not raise any human rights issues.