

Financial Sector (Collection of Data) (reporting standard) determination Nos. 9 to 11 of 2021

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

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

Acts Interpretation Act 1901, section 33

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. 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.

Subsection 15(1) of the Act provides that APRA may declare a day on and after which the reporting standards are to apply.

On 22 March 2021, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2021 which:
 - (i) revokes *Reporting Standard ARS 730.1 ABS/RBA Fees Charged* (ARS 730.1) made under Financial Sector (Collection of Data) (reporting standard) determination No. 21 of 2019; and
 - (ii) determines a new version of ARS 730.1;
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 10 of 2021 which determines *Reporting Standard ARS 722.0 ABS/RBA Derivatives* (ARS 722.0); and
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 11 of 2021 which revokes *Reporting Standard RRS 332.0 Statement of Economic Activity* (RRS 332.0).

The instruments commence on 31 March 2021.

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).

The data collected from ADIs and RFCs in the EFS data collection are used by the ABS and the RBA to compile and publish key macroeconomic indicators for Australia and are also used for analysis and policy purposes by the RBA. Data collected on the EFS forms are also used by APRA for prudential supervision and other purposes. Aggregated data are used by other economic policy makers and to meet Australia's international reporting obligations.

The EFS data are therefore a vital input for measuring and assessing both activity and risks in the financial sector and for the Australian economy more broadly. The data are also an input to global assessments of economic and financial activity and risks. The provision of relevant, timely and high quality EFS data will ensure that policy decisions are made using the best available information.

The EFS collection was proposed to commence in three phases, with the first phase commencing in March 2019, the second phase commencing in July 2019 and the third phase commencing in September 2019. The existing version of ARS 730.1 was determined in June 2019 as part of the second and third phases¹. However, in response to COVID 19, APRA and the agencies announced the deferral of the implementation of ARS 730.1 and, the new reporting standard, ARS 722.0 so that the reporting standards will apply to reporting periods ending on or after 31 March 2021². The revised commencement dates are formalised in the new version of ARS 730.1 and in ARS 722.0.

2. Purpose and operation of the instruments

The purpose of the instruments is to:

- revoke the existing ARS 730.1 and replace it with a new version of ARS 730.1;
- determine ARS 722.0; and
- revoke RRS 332.0.

Each of the instruments determine and/or revoke a reporting standard that relates to the EFS collection and that requires either or both an ADI or RFC to provide information to APRA about their businesses and activities³. The reporting standards being determined, ARS 722.0 and ARS 730.1, include a reporting form that an ADI must complete and submit to APRA, and instructions to completing the reporting form.

¹ [Financial Sector \(Collection of Data\) \(reporting standard\) determination No. 21 of 2019 \(legislation.gov.au\) <https://www.legislation.gov.au/Details/F2019L00735/Replacement Explanatory Statement/Text>](https://www.legislation.gov.au/Details/F2019L00735/Replacement%20Explanatory%20Statement/Text).

² [Changes to reporting obligations in response to COVID-19 | APRA <https://www.apra.gov.au/changes-to-reporting-obligations-response-to-covid-19>](https://www.apra.gov.au/changes-to-reporting-obligations-response-to-covid-19).

³ Each reporting standard includes a reporting form or reporting forms for the collection of the information. Comprehensive instructions are included to assist an ADI and RFC complete each reporting form.

Specifically:

- ARS 722.0 outlines the requirements for the provision of information to APRA by ADIs on derivatives as prescribed by the 2008 System of National Accounts (SNA08) and Balance of Payments Manual 6 (BPM 6). These statistical frameworks require reporting of derivatives as financial instruments in their own right, which does not align with Australian Accounting Standards Board (AASB) reporting.
- ARS 730.1 sets out an ADI's reporting requirements relating to their fees charged. This includes information on "fees charged on deposit accounts", "fees charged on loans and finance leases" and "merchant fees charged". The information is collected by *Reporting Form ARF 730.1 ABS/RBA Fees Charged*. ARS 730.1 is being revoked and replaced with a new version that contains the new commencement date.
- RRS 332.0 requires a registered entity that had total assets of \$500 million or more at the end of the most recent complete financial year to the time of reporting, to give APRA annual statements of economic activity. RRS 332.0 is being replaced by the EFS data collection and so is being revoked.

Where the instruments refer to an Act, Regulation, Prudential Standard, Reporting Standard, Australian Accounting Standard or Auditing Standard, this is a reference to the document as it exists from time to time, and which is available on the Federal Register of Legislation at www.legislation.gov.au.

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 to provide information required by ARS 722.0 or ARS 730.1. 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.

APRA's reporting standards collect financial data from regulated entities. This data contains critical indicators of a regulated entity's financial wellbeing, including data on an entity's assets, capital, liquidity, expenses and risk exposures. APRA relies heavily on this financial data to inform its supervisory actions towards its regulated entities. Without timely and complete data, APRA may miss indicators that an ADI is taking on imprudent risk or is in distress. APRA's supervisory decisions may be jeopardised if its receipt of data is unreliable due to entities seeking merits review under its reporting standards.

The data collected by APRA's reporting standards is also often used to compile key macroeconomic indicators for Australia. The Reserve Bank of Australia uses the data to compile and publish its monetary and credit aggregates. The Australian Bureau of Statistics uses the data to compile the national accounts. The data is also used to meet Australia's international reporting obligations.

Delays caused by an entity seeking merits review of APRA's decisions under one or more reporting standards could significantly compromise these publications. 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 consulted publicly on ARS 722.0 from March 2019 to June 2019, releasing a final response letter *Response to submissions on proposed ARS 722.0 ABS/RBA derivatives data collection* in November 2019⁴. APRA received eight submissions from industry. As a result of consultation feedback, APRA deferred the commencement date, added an item to the form to collect data on the value of adjustments, clarified the reporting threshold and also provided further detail on the reporting of specific transactions in the reporting instructions and guidance.

APRA also consulted publicly on the proposed amendments to the EFS reporting standards from August 2020 to September 2020⁵. A total of seven submissions were received in response to APRA's consultation, which resulted in further guidance and clarification in the reporting instructions and reporting practice guide.

In November 2020, APRA released a response letter *Response to submissions: Proposed changes to modernised Economic and Financial Statistics (EFS) reporting standards and guidance*⁶.

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.

⁴ [Response to submissions on proposed ARS 722.0 ABS/RBA derivatives data collection | APRA](https://www.apra.gov.au/response-to-submissions-on-proposed-ars-7220-absrba-derivatives-data-collection) <<https://www.apra.gov.au/response-to-submissions-on-proposed-ars-7220-absrba-derivatives-data-collection>>.

⁵ [Proposed changes to modernised Economic and Financial Statistics \(EFS\) reporting standards and guidance | APRA](https://www.apra.gov.au/proposed-changes-to-modernised-economic-and-financial-statistics-efs-reporting-standards-and-0) <<https://www.apra.gov.au/proposed-changes-to-modernised-economic-and-financial-statistics-efs-reporting-standards-and-0>>.

⁶ [Response to submissions: Proposed changes to modernised Economic and Financial Statistics \(EFS\) reporting standards and guidance | APRA](https://www.apra.gov.au/response-to-submissions-proposed-changes-to-modernised-economic-and-financial-statistics-efs) <<https://www.apra.gov.au/response-to-submissions-proposed-changes-to-modernised-economic-and-financial-statistics-efs>>.

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Financial Sector (Collection of Data) (reporting standard) determination Nos. 9 to 11 of 2021

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 Instrument

The purpose of the instruments is to:

- revoke the existing ARS 730.1 and replace it with a new version of ARS 730.1;
- determine ARS 722.0; and
- revoke RRS 332.0.

The legislative instruments determine reporting standards which apply to authorised deposit-taking institutions (ADIs). ARS 722.0 outlines the requirements for the provision of information to APRA by ADIs on derivatives as prescribed by the 2008 System of National Accounts (SNA08) and Balance of Payments Manual 6 (BPM 6). ARS 730.1 sets out an ADI's reporting requirements relating to their fees charged.

Human rights implications

APRA has assessed the instruments and is of the view that the instruments 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 legislative instruments are compatible with human rights as the instruments do not raise any human rights issues.