

Financial Sector (Collection of Data) (reporting standard) determination No. 8 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 Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2021 (the instrument) which revokes *Reporting Standard ARS 210.0 Liquidity* (ARS 210.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 19 of 2017 and determines a new version of ARS 210.0.

The instrument commences on 1 April 2021.

1. Background

APRA's mandate is to ensure the safety and soundness of prudentially regulated financial institutions so that they can meet their financial promises to depositors, policyholders and fund members within a stable, efficient and competitive financial system.

Authorised deposit-taking institutions (ADIs) are currently required to report liquidity data to APRA under ARS 210.0 for the purpose of supervision of liquidity risk. ARS 210.0 contains *Reporting Form ARF 210.5 Daily Liquidity Report* (ARF 210.5) and associated instructions. ADIs report daily liquidity information to APRA under ARF 210.5 when requested by APRA. In March 2020 APRA requested that, commencing from 1 April 2020, certain ADIs submit a modified version of ARF 210.5 to APRA. The request was aimed at the provision of timely information on ADIs' liquidity risk in response to the impacts of COVID-19. The modified version of ARF 210.5 contained additional information on ADIs' funding maturities and minimum liquidity holdings.

APRA has examined data submitted since April 2020 in the modified version of ARF 210.5, and identified some areas where the reporting instructions for ARF 210.5 could be clarified.

2. Purpose and operation of the instrument

The purpose of the instrument is to revoke the existing ARS 210.0 and replace it with a new version of ARS 210.0 that includes updates to align ARF 210.5 with the modified version that has been submitted by certain ADIs since April 2020. APRA has also drafted updates to the reporting instructions for ARF 210.5 to provide additional guidance and ensure consistent reporting across entities. Additionally, APRA has added a net cash flow overlay item and accompanying reporting instructions to capture any adjustments to net cash outflows made under paragraph 70 of *Prudential Standard APS 210 Liquidity*.

Where the instrument refers 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 210.0. 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.

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 the proposed amendments to ARS 210.0 from September 2020 to October 2020. A total of seven submissions were received in

response to APRA's consultation, which resulted in further guidance and clarification being provided for certain items in the reporting instructions. In December 2020, APRA released a response letter *Proposed changes to ARS 210.0 Liquidity - response to submissions* and final revised ARS 210.0¹.

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.

¹ [Proposed changes to ARS 210.0 Liquidity - response to submissions | APRA](https://www.apra.gov.au/proposed-changes-to-ars-2100-liquidity-response-to-submissions)
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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 revoke *Reporting Standard ARS 210.0 Liquidity* (ARS 210.0) determined by APRA in 2017 and replace it with a new version of ARS 210.0.

ARS 210.0 outlines the overall requirements for the provision of information to APRA relating to the liquidity risk of an authorised deposit taking institution (ADI). ADIs are bodies corporate authorised to carry on banking business in Australia.

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

The legislative instrument is compatible with human rights as it does not raise any human rights issues.