

Financial Sector (Collection of Data) (reporting standard) determination Nos. 1 to 10 of 2022

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 23 February 2022, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2022 which:
 - (i) revokes *Reporting Standard ARS 112.1 Standardised Credit Risk – On-balance Sheet Assets* (ARS 112.1) made under Financial Sector (Collection of Data) (reporting standard) determination No. 7 of 2012; and
 - (ii) determines a new version of ARS 112.1;
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2022 which determines a new *Reporting Standard ARS 115.0 Capital Adequacy: Standardised Measurement Approach to Operational Risk* (ARS 115.0);
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 3 of 2022 which:
 - (i) revokes *ARS 120.2 Securitisation – Supplementary Items* (ARS 120.2) made under Financial Sector (Collection of Data) (reporting standard) determination No. 17 of 2017; and
 - (ii) determines a new version of ARS 120.2;
- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 4 of 2022 which:

- (i) revokes *Reporting Standard ARS 210.0 Liquidity* (ARS 210.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2021; and
 - (ii) determines a new version of ARS 210.0;
- (5) Financial Sector (Collection of Data) (reporting standard) determination No. 5 of 2022 which:
 - (i) revokes *Reporting Standard ARS 220.0 Credit Quality* (ARS 220.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2018; and
 - (ii) determines a new version of ARS 220.0;
- (6) Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2022 which:
 - (i) revokes *Reporting Standard ARS 223.0 Residential Mortgage Lending* (ARS 223.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2018; and
 - (ii) determines a new version of ARS 223.0;
- (7) Financial Sector (Collection of Data) (reporting standard) determination No. 7 of 2022 which:
 - (i) revokes *Reporting Standard ARS 230.0 Commercial Property* (ARS 230.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 13 of 2018; and
 - (ii) determines a new version of ARS 230.0;
- (8) Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2022 which:
 - (i) revokes *ARS 701.0 ABS/RBA Definitions for the EFS Collection* (ARS 701.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 23 of 2021; and
 - (ii) determines a new version of ARS 701.0;
- (9) Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2022 which:
 - (i) revokes *ARS 720.1 ABS/RBA Loans and Finance Leases* (ARS 720.1) made under Financial Sector (Collection of Data) (reporting standard) determination No. 3 of 2019; and
 - (ii) determines a new version of ARS 720.1;

(10) Financial Sector (Collection of Data) (reporting standard) determination No. 10 of 2022 which:

- (i) revokes *Reporting Standard ARS 743.0 ABS/RBA Housing Finance* (ARS 743.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 36 of 2021; and
- (ii) determines a new version of ARS 743.0.

The instruments commence upon registration on the Federal Register of Legislation.

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. APRA gives effect to its mandate by establishing minimum expectations for prudentially regulated financial institutions. The *Banking Act 1959* enables APRA to issue legally binding prudential standards that set out specific prudential requirements with which ADIs must comply. APRA collects data under reporting standards made under the Act that enable APRA to assess ADIs' compliance with these prudential requirements.

Two key components of APRA's prudential and reporting framework for ADIs are the prudential standards for credit quality and operational risk and their accompanying reporting standards.

Updates to APRA's prudential and accompanying reporting standards are often informed by developments in international standards. In the banking industry, the primary international standard setting body is the Basel Committee on Banking Supervision (Basel Committee). As a member of the Basel Committee, APRA's prudential requirements are expected to be consistent with those set by the Basel Committee. To facilitate an international level playing-field, APRA is also expected to align its domestic implementation of prudential requirements with the internationally agreed timetables.

APRA also acts as national data collection agency for the financial sector. 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. 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.

2. Purpose and operation of the instruments

The purpose of the instruments is to: determine a new ARS 115.0, and revoke existing instruments and replace them with new versions.

Each instrument revokes and/or determines a reporting standard that requires an ADI or RFC to provide information to APRA about their businesses and activities. The reporting standards include a reporting form that an ADI or RFC must complete and submit to APRA, and instructions to completing the reporting form.

Specifically:

- ARS 112.1 outlines the requirements for the provision of information to APRA by ADIs on their on-balance sheet assets.
- ARS 115.0 outlines the requirements for the provision of information to APRA by ADIs and RFCs on their operational risk measured using the standardised approach set by APRA.
- ARS 120.2 outlines the requirements for the provision of supplementary information to APRA by ADIs on their securitisation activity.
- ARS 210.0 outlines the requirements for the provision of information to APRA by ADIs on their liquidity risk. ARS 210.0 also contains references to *Prudential Practice Guide APG 210 Liquidity*¹.
- ARS 220.0 outlines the requirements for the provision of information to APRA by ADIs on their credit risk.
- ARS 223.0 outlines the requirements for the provision of information to APRA by ADIs on their residential mortgage lending.
- ARS 230.0 outlines the requirements for the provision of information to APRA by ADIs on their commercial property activity.
- ARS 701.0 outlines the definitions that apply to the EFS data collection, which ADIs and RFCs submit to APRA.
- ARS 720.1 outlines the requirements for the provision of information to APRA by ADIs and RFCs on their loans and finance leases.
- ARS 743.0 outlines the requirements for the provision of information to APRA by ADIs and RFCs on their provision of housing finance to households. This includes information relating to “new applications for housing loans”, “new borrower-accepted commitments for housing loans” and “new borrower-accepted commitments for housing loans to resident first-home buyers”.

¹ <https://www.apra.gov.au/sites/default/files/APG-210%20Liquidity.pdf>

The new versions of the reporting standards contain changes that align them with APRA's new credit risk management framework. ARS 701.0 also contains an updated definition for Reporting Category A ADIs, to ensure that less complex ADIs report a simpler set of data to APRA under the EFS data collection.

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 each of the instruments. Decisions made by APRA exercising those powers are not subject to merits review.

Paragraphs 7 and 12 ARS 210.0 contain discretions where APRA may require ADIs to report information required by ARS 210.0 when asked by APRA to do so, in addition to regular reporting. APRA would typically decide to request an ADI to report additional information under paragraphs 7 and/or 12 in a situation of significant liquidity stress, where APRA requires timely and/or additional information on an ADI's liquidity risk.

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

In August 2018, APRA commenced consultation on a revised operational risk capital framework, including for operational risk. APRA released a final operational risk prudential standard and a draft ARS 115.0 for consultation in December 2019. In March 2021, APRA released a final version of ARS 115.0. After further discussion with industry participants, APRA released an updated ARS 115.0 in January 2022 to revise the reporting frequency for the reporting standard from quarterly to annually, and to provide ADIs with additional time to submit annual operational risk data to APRA².

In March 2019, APRA proposed to modernise the credit risk management framework for ADIs, including modernising the *Prudential Standard APS 220 Credit Risk Management* (APS 220). APRA consulted on the updated credit risk prudential standards from March – December 2019. APRA consulted on a draft reporting standard for credit risk from October 2020 – January 2021³. APRA has also held a number of bilateral discussions with ADIs and industry bodies to gain feedback on the proposals and APRA’s likely response. APRA incorporated feedback from these discussions and its formal consultation to develop its response.

In June 2021, APRA commenced consultation on consequential changes to other ADI reporting standards affected by the implementation of APS 220. After considering feedback from industry participants, ADI released final versions of consequential changes to reporting standards in August 2021. In June 2021, APRA also proposed a phased implementation of ARS 220.0, with an interim ARS 220.0 which would apply while ADIs develop their solutions for delivering the full ARS 220.0 data. The interim ARS 220.0 was proposed to apply from the beginning of 2022, being replaced by ARS 220.0 starting in the second quarter of 2023.

Under the new APS 220, the term *impaired* will be replaced with the term *non-performing*. In June 2021 APRA also proposed replacing the term *impaired* with the new term *non-performing* in affected ADI reporting standards and forms. APRA proposed these consequential changes would be effective commencing 2022. APRA released a response to submissions and final versions of the reporting standards in August 2021.

In August 2021 APRA consulted on further changes to ARS 720.1 to align it accurately with APS 220.0. In October 2021, APRA released a response to submissions and final ARS 720.1. The changes were to align terminology used in the reporting standard with updated terms used in APS 220. APRA also consulted directly with affected ADIs in August 2021 on a proposed correction to a definition in ARS 701.0. The correction was to an ADI reporting category definition, and was aimed at ensuring smaller, less complex ADIs continue to report a simpler set of EFS data.

4. Regulation Impact Statement

² <https://www.apra.gov.au/update-of-reporting-schedule-for-reporting-standard-ars-1150-capital-adequacy-standardised>

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.

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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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 instruments is to revoke the existing reporting standards and replace them with versions that are aligned with APRA's updated credit risk capital framework, and to determine a new operational risk capital reporting standard.

The legislative instruments determine reporting standards which apply to authorised deposit-taking institutions (ADIs) and registered financial corporations (RFCs).

The reporting standards set out requirements for ADIs and RFCs to report key data on their domestic operations, credit risk, and operational risk. The data collected from ADIs and RFCs are used by APRA for prudential supervision and other purposes. The data are also used to compile key macroeconomic indicators for Australia published by the ABS and the RBA and are used for analysis and policy purposes by the RBA. Aggregated data are used by other economic policy makers and to meet Australia's international reporting obligations.

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.