

Financial Sector (Collection of Data) (reporting standard) determination Nos. 12 to 17 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 12 October 2022, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 12 of 2022 which:
 - (i) revokes *Reporting Standard GRS 114.1 Assets by Counterparty Grade* (GRS 114.1) made under Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2013; and
 - (ii) determines a new version of GRS 114.1;
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 13 of 2022 which:
 - (i) revokes *Reporting Standard GRS 114.1_G Assets by Counterparty Grade (Level 2 Insurance Group)* (GRS 114.1_G) made under Financial Sector (Collection of Data) (reporting standard) determination No. 6 of 2016; and
 - (ii) determines a new version of GRS 114.1_G;
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 14 of 2022 which:
 - (i) revokes *Reporting Standard GRS 114.3 Off-balance Sheet Business* (GRS 114.3) made under Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2013; and
 - (ii) determines a new version of GRS 114.3;

- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 15 of 2022 which:
- (i) revokes *Reporting Standard GRS 114.3_G Off-balance Sheet Business (Level 2 Insurance Group)* (GRS 114.3_G) made under Financial Sector (Collection of Data) (reporting standard) determination No. 7 of 2016; and
 - (ii) determines a new version of GRS 114.3_G;
- (5) Financial Sector (Collection of Data) (reporting standard) determination No. 16 of 2022 which:
- (i) revokes *Reporting Standard GRS 117.0 Asset Concentration Risk Charge* (GRS 117.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 14 of 2013; and
 - (ii) determines a new version of GRS 117.0;
- (6) Financial Sector (Collection of Data) (reporting standard) determination No. 17 of 2022 which:
- (i) revokes *Reporting Standard GRS 117.0_G Asset Concentration Risk Charge (Level 2 Insurance Group)* (GRS 117.0_G) made under Financial Sector (Collection of Data) (reporting standard) determination No. 11 of 2016; and
 - (ii) determines a new version of GRS 117.0_G;

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

1. Background

On 12 October 2022, APRA determined six general insurance reporting standards incorporating consequential amendments to the reporting framework to support the operation of the Australian Government's cyclone and related flood damage reinsurance pool. The amendments clarify that reinsurance provided by the Australian Reinsurance Pool Corporation (ARPC) are not subject to a capital charge in recognition of the Australian Government guarantee that supports the reinsurance pool.

The instruments amend the definition of an APRA-authorized reinsurer to include the ARPC.

2. Purpose and operation of the instruments

The purpose of the instruments is to revoke the six existing reporting standards requiring consequential amendments and replace them with corresponding standards which incorporate appropriate amendments.

The determined reporting standards will ensure that APRA's reporting framework aligns with its prudential framework, which recognises the ARPC as a high-grade APRA-authorized reinsurer and ensure that reinsurance recoverables from the ARPC are not subject to a capital charge in recognition of the Australian Government guarantee that supports the pool.

The reporting standards which have been revoked and replaced are:

- *Reporting Standard GRS 114.1 Assets by Counterparty Grade;*

- *Reporting Standard GRS 114.1_G Assets by Counterparty Grade (Level 2 Insurance Group)*;
- *Reporting Standard GRS 114.3 Off-balance Sheet Business*;
- *Reporting Standard GRS 114.3_G Off-balance Sheet Business (Level 2 Insurance Group)*;
- *Reporting Standard GRS 117.0 Asset Concentration Risk Charge*; and
- *Reporting Standard GRS 117.0_G Asset Concentration Risk Charge (Level 2 Insurance Group)*.

The reporting standards require reporting for reporting periods that occurred prior to the commencement of the reporting standard. The reporting standards are not retrospective in operation as the obligation to report on these reporting periods commences from, and not prior to, the commencement of the reporting standard.

Where these standards refer to an Act, Regulation or Prudential 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 general insurers to which the reporting standards apply. These decisions include APRA changing a reporting period or due date for an ADI to provide information required by each of the instruments or varying the reporting requirements in relation to a particular insurer or Level 2 Insurance Group. Decisions made by APRA exercising those powers are not subject to merits review. These discretions have not been amended and are consistent with discretions included in the reporting standards being revoked by the instruments.

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 capital adequacy. 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 a general insurer 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.

3. Consultation

On 16 June 2022, APRA undertook consultation by way of a letter to industry with all general insurers in relation to its proposed consequential amendments to the reporting framework to support the operation of the Australian Government's cyclone and related flood damage reinsurance pool.

As part of the consultation, APRA requested written submissions by 30 June 2022 on its proposal to recognise the ARPC as a high-grade APRA-authorized reinsurance and its proposal that reinsurance recoverables from the ARPC are not subject to a capital charge in recognition of the Australian Government guarantee that supports the pool.

No submissions were received. APRA is satisfied the consultation was appropriate and reasonably practicable as the consequential amendments can be regarded as minor and machinery.

4. Regulation Impact Statement

The OBPR confirmed that a Regulation Impact Statement was not required for the changes described in this explanatory statement as they were considered minor and machinery.

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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These Legislative Instruments are compatible with the human rights and freedoms recognised or declared in the international instrument 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 is to make consequential changes to *Reporting Standard GRS 114.1 Assets by Counterparty Grade*, *Reporting Standard GRS 114.1_G Assets by Counterparty Grade (Level 2 Insurance Group)*, *Reporting Standard GRS 114.3 Off-balance Sheet Business*, *Reporting Standard GRS 114.3_G Off-balance Sheet Business (Level 2 Insurance Group)*, *Reporting Standard GRS 117.0 Asset Concentration Risk Charge*, and *Reporting Standard GRS 117.0_G Asset Concentration Risk Charge (Level 2 Insurance Group)* to recognise the Australian Reinsurance Pool Corporation (ARPC) as a high-grade APRA-authorized reinsurer and to ensure that reinsurance recoverables from the ARPC are not subject to a capital charge in recognition of the Australian Government guarantee that supports the scheme.

Human rights implications

APRA has assessed the Legislative Instruments and is of the view that they 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

These Legislative Instruments are compatible with human rights as they do not raise any human rights issues.