

## Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2023

### 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 make, grant or issue an instrument of a legislative or administrative character 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 16 March 2023, APRA determined the Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2023 which:

- (1) revokes *Reporting Standard ARS 116.0 Market Risk* (ARS 116.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 10 of 2012; and
- (2) determines a new version of ARS 116.0.

The instrument commences on 1 April 2023.

### **1. Background**

APRA's prudential framework includes a suite of prudential standards that impose capital requirements for authorised deposit-taking institutions (ADIs), for the purpose of ensuring ADIs hold sufficient capital to address the risks associated with their operations.

One of these standards is *Prudential Standard APS 116 Capital Adequacy: Market Risk* (APS 116). APS 116 sets out the requirements that must be met by an ADI engaging in activities that give rise to risks associated with potential movements in market prices to adopt risk management practices and hold regulatory capital that is commensurate with the risks involved.

ARS 116.0 sets out an ADI's reporting requirements to APRA in relation to an ADI's market risk. It includes *Form ARF 116.0\_SU: Market risk summary table* and the series of reporting forms *ARF 116.0.1: Market risk table 1* to *ARF 116.0.23: Market risk table 23* (and the associated instructions) and should be read in conjunction with APS 116. ARS 116.0 permits APRA to collect data to support APRA's prudential supervision of ADIs under APS 116. The data collected under ARS 116.0 is also used by the Reserve Bank of Australia (RBA) and the Australian Bureau of Statistics (ABS) to assist them with their functions.

ARS 116.0 was last determined by APRA in 2012 (the previous ARS 116.0).

## **2. Purpose and operation of the instrument**

The previous ARS 116.0 was to be repealed by sunseting on 1 April 2023 under subsection 50(1) of the *Legislation Act 2003*. APRA has reviewed the regulatory performance of the previous ARS 116.0 and found that it continues to be fit for purpose. Consequently, APRA intends that it be remade without substantive changes.

The purpose of the instrument is to revoke the previous ARS 116.0 and remake ARS 116.0 with minor changes to use the drafting style employed currently for APRA's reporting standards, such as formatting to improve readability and accessibility, make minor definitional changes and update the commencement date. The changes to ARS 116.0 do not alter the existing reporting obligations or interests of ADIs. The due dates, data required and the application of the reporting standard have not changed.

The instrument incorporates by reference certain provisions of Acts, Prudential Standards, and Australian Accounting Standards issued by the Australian Accounting Standards Board. All of these references are references to the instruments as they exist from time to time. These instruments are disallowable instruments and are available on the Federal Register of Legislation at [www.legislation.gov.au](http://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 116.0. Decisions made by APRA exercising those powers are not subject to merits review. Delays caused by an entity seeking merits review of APRA's decisions under one or more reporting standards could significantly compromise use of the data at an entity and aggregate level by APRA, the RBA and ABS. It is necessary that ARS 116.0 be allowed to continue in force from 1 April 2023 onwards.

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.

## **Consultation**

The substance of ARS 116.0 has already been consulted on with industry when originally determining the reporting standard (see the Explanatory Statement for the previous ARS 116.0). APRA is satisfied that further consultation is not necessary and not reasonably practicable to undertake for this instrument. The instrument does not alter the existing reporting obligations that are required to be complied with by ADIs and any changes to the instrument are minor and machinery in nature.

## **3. Regulation Impact Statement**

The Office of Impact Analysis has advised that a Regulation Impact Statement is not required for these legislative instruments.

**4. 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*

#### **Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2023**

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**

*Reporting Standard ARS 116.0 Market Risk* (ARS 116.0) outlines the overall requirements for the provision of information to APRA relating to the market risk of an authorised deposit taking institution (ADI). ADIs are bodies corporate authorised to carry on banking business in Australia.

The purpose of the Legislative Instrument is to revoke the existing version of ARS 116.0 determined by APRA in 2012 and replace it with a new version. A new version of ARS 116.0 is being made as the existing ARS 116.0 is due to sunset on 1 April 2023.

#### **Human rights implications**

APRA has assessed the Legislative 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 Legislative Instrument is compatible with human rights.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.