

Financial Sector (Collection of Data) (reporting standard) determination No. 51 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 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 31 March 2023, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 51 of 2023 which:

- (1) revokes *Reporting Standard ARS 120.1 Securitisation — Regulatory Capital* made under Financial Sector (Collection of Data) (reporting standard) determination No. 16 of 2017; and
- (2) determines a new *Reporting Standard ARS 120.1 Securitisation — Regulatory Capital* (ARS 120.1).

The instrument commences 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 carries out this mandate through a prudential framework and is empowered under the *Banking Act 1959* to issue prudential standards that set out specific prudential requirements with which authorised deposit taking institutions (ADIs) must comply.

A key component of APRA's prudential framework is the suite of prudential standards that impose regulatory capital requirements on ADIs for the purpose of ensuring ADIs hold sufficient capital to address the risks associated with their operations.

In July 2017, APRA announced its intention to review the long-standing requirements in the ADI capital framework. After multiple rounds of consultations, APRA released final capital adequacy and credit risk capital requirements for ADIs in November 2021, contained in *Prudential Standard APS 110 Capital Adequacy* (APS 110), *Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk* (APS 112) and *Prudential*

Standard APS 113 Capital Adequacy: Internal Ratings-based Approach to Credit Risk (APS 113).

The ADI capital reforms will embed the industry's 'unquestionably strong' capital position and improve the flexibility of the framework to respond during periods of stress. To support the capital reforms, APRA has created three updated ADI capital reporting standards:

- *Reporting Standard ARS 110.0 Capital Adequacy* (ARS 110.0);
- *Reporting Standard ARS 112.0 Capital Adequacy: Standardised Approach to Credit Risk* (ARS 112.0); and
- *Reporting Standard ARS 113.0 Capital Adequacy: Internal Ratings-based Approach to Credit Risk* (ARS 113.0).

These new reporting standards ensure that APRA's reporting framework aligns with APRA's updated ADI capital framework.

In addition to the three ADI capital reporting standards, APRA has also consulted on and created updated ADI reporting standards that incorporate necessary consequential changes as a result of the new ADI capital framework.

These reporting standards are:

- *Reporting Standard ARS 120.1 Securitisation — Regulatory Capital* (ARS 120.1);
- *Reporting Standard ARS 120.2 Securitisation — Supplementary Items* (ARS 120.2);
- *Reporting Standard ARS 180.0 Counterparty Credit Risk* (ARS 180.0);
- *Reporting Standard ARS 210.0 Liquidity* (ARS 210.0);
- *Reporting Standard ARS 221.0 Large Exposures* (ARS 221.0); and
- *Reporting Standard ARS 223.0 Residential Mortgage Lending* (ARS 223.0).

APRA consulted on changes to these reporting standards that were designed to ensure consistency with the new ADI capital reforms. Amendments to the reporting standards were also proposed to update cross referencing and to provide clarification requested by industry.

2. Purpose and operation of the instrument

The purpose of the instrument is to revoke the existing ADI capital reporting standard and replace it with a new version.

The new reporting standard will ensure that APRA's reporting framework aligns with its prudential framework. It will also ensure that APRA will continue to receive data that is necessary to supervise ADIs' compliance against the new capital adequacy and credit risk capital requirements.

The reporting standard requires reporting for reporting periods that occurred prior to the commencement of the reporting standard. The reporting standard is 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 this standard refers 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 ADIs 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 determining, in writing, that an individual ADI of one class of ADI is to be treated, for the purposes of a Reporting Standard, as though it were an ADI of another class of ADI. 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 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.

3. Consultation

APRA undertook public consultation on proposed updates to ADI capital reporting standards from April 2022 to October 2022 as part of the consultation on updates to the ADI capital reporting and prudential framework.¹ Further details on the consultation from April to October 2022 is provided below.

On 7 April 2022, APRA commenced consultation on draft interim versions of ARS 110.0, ARS 112.0, and ARS 113.0 that would incorporate updates to APRA's ADI capital framework. APRA also commenced consultation on consequential amendments to ARS 180.0, ARS 221.0 and ARS 223.0 due to the new capital framework as part of the same consultation².

On 26 July 2022, APRA initiated consultation on minor consequential amendments to ARS 110.0, ARS 113.0, ARS 120.1, ARS 120.2, ARS 180.0, and ARS 210.0. These amendments were to support proposed updates to APRA's prudential framework that would ensure consistency with the new ADI capital reforms. Amendments to the reporting standards were also proposed to update cross referencing and to provide clarification requested by industry.

Submissions on both stages of consultation were received from reporting ADIs, industry bodies, and regulatory technology providers. APRA incorporated feedback received into the final versions of the reporting standards, including adding clarification to reporting instructions and forms as requested by industry.

¹ Refer to: [Revisions to the capital framework for authorised deposit-taking institutions | APRA](#)

² Refer to: [Revisions to the ADI capital framework: Interim reporting standards for consultation and parallel run expectations | APRA](#)

APRA released a response to submissions to its April 2022 consultation on 10 August 2022. The response included a letter to ADIs and updated versions of ARS 110.0, ARS 112.0, ARS 113.0, ARS 180.0, ARS 221.0, and ARS 223.0³. In response to feedback on ARS 110.0, ARS 112.0, and ARS 113.0, APRA clarified the reporting treatment for exposures in New Zealand subsidiaries in these reporting standards.

On 31 October 2022 APRA released a response to submissions on the July 2022 consultation⁴. ARS 110.0 and ARS 113.0 contained minor updates to provide clarifications and correct typographical errors. ARS 120.1, ARS 120.2, and ARS 180.0 were updated to reflect the treatment of exposures to New Zealand. ARS 210.0 contained minor changes for consequential amendments to the Net Stable Funding Ratio requirements. APRA is satisfied the consultation was appropriate and reasonably practicable.

4. Regulation Impact Statement

The Office of Impact Analysis confirmed that a Regulation Impact Statement was not required.

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.

³ Refer to: [Credit risk reporting – Response to submissions | APRA](#)

⁴ Refer to: [ADI capital reforms: Consequential amendments | APRA](#)

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 instrument listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

Overview of the Legislative Instrument

The purpose of the Legislative Instrument is to determine a new *Reporting Standard ARS 120.1 Securitisation — Regulatory Capital* that incorporates updates to APRA's capital adequacy and credit risk capital requirements and minor consequential updates required as a result of the new capital requirements.

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 Instrument is compatible with human rights.

Conclusion

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