

# Financial Sector (Collection of Data) (reporting standard) determination No. 41 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 23 May 2023, APRA made:

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 41 of 2023 which:
  - (i) revokes *Reporting Standard SRS 332.0 Expenses* (SRS 332.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 15 of 2021; and
  - (ii) determines a new version of SRS 332.0.

The instrument commences upon registration on the Federal Register of Legislation.

### **1. Background**

APRA is empowered to make reporting standards under the Act, which require regulated institutions, including RSE licensees, to submit specified data through various reporting forms. Data from these forms is used by APRA to assist with APRA's supervisory functions, and also by Government and other agencies such as the Australian Bureau of Statistics and the Australian Securities and Investments Commission.

It is crucial that RSE licensees, government, regulatory agencies, superannuation members and other interested stakeholders have access to high quality and consistent data to assess industry performance and the outcomes delivered for superannuation members. APRA identified the need to address gaps in the coverage and quality of the superannuation data collection and commenced the Superannuation Data Transformation (SDT) project in 2019. In September 2021, APRA determined ten new superannuation reporting standards. The superannuation reporting standards addressed critical data gaps in the previous reporting framework and the highest priority areas impacting member outcomes including: the expansion of the data collection to include all products and investment options; and improved

data in relation to performance, fees and costs, insurance arrangements, expenses, member demographics and asset allocation classifications.

The new reporting standard will enable APRA to meet its new legislative obligations set out in the *Superannuation Industry (Supervision) Act 1993* (SIS Act) (including administering the performance test under paragraph 60C of the SIS Act for trustee directed products) and to strengthen its prudential oversight of the superannuation industry. The data will support APRA's ongoing supervision activities that seek to ensure adequate focus by RSE licensees on improving member outcomes, and will also assist APRA in promoting transparency and comparability within the superannuation industry.

Following the implementation of the new standards, APRA further released minor amendments to nine of the reporting standards. These minor amendments aim to clarify aspects of the standards based on industry feedback.

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

The purpose of the instrument is to revoke *Reporting Standard SRS 332.0 Expenses* and replace it with a new version. The reporting standard outlines the requirements for the provision of information to APRA relating to the expenses of RSE licensees.

RSEs will be required to provide data to APRA in accordance with the new standard, which will enable APRA to provide better informed supervision decisions through the use of more granular and higher quality data.

### ***Explanation of each provision in the instrument***

#### *Authority – paragraph 1*

This paragraph outlines APRA's authority to determine reporting standards that are required to be complied with by financial sector entities under section 13 of the Act.

#### *Purpose – paragraph 2*

This paragraph explains the purpose of APRA's collection of information under the reporting standard. Information collected under this reporting standard will be used by APRA for the purpose of prudential supervision and publication. It may also be used by the Australian Securities and Investments Commission.

#### *Application – paragraph 3*

This provision states which financial sector entities must comply with the reporting standard, as provided for in section 15 of the Act.

#### *Commencement – paragraph 4*

This provision states when the reporting standard commences as provided for in section 15 of the Act.

#### *Reporting periods – paragraph 5*

Paragraph 13(2)(d) of the Act permits reporting standards determined by APRA to include matters related to the times as at which, or the periods to which, the information in reporting documents is to relate.

Paragraph 5 relies on this provision. Paragraph 5 states that RSE licensees are to provide the information required by this Reporting Standard in respect of each year of income of the entity.

#### *Information required – paragraph 6 – 8*

Paragraphs 13(2)(d) and (e) of the Act permits reporting standards determined by APRA to include matters related to the times as at which, or the periods to which, the information in reporting documents is to relate, the giving of reporting documents to APRA, and when they should be provided.

Paragraphs 6 – 8 rely on these provisions. Paragraph 6 states that information required by this reporting standard must be provided for reporting periods ending on or after 30 June 2023.

Paragraph 7 states that information is required under paragraph 6 for the reporting period ending on 30 June 2023, by 31 December 2023.

Paragraph 8 states that RSE licensees must provide information required by this reporting standard within 3 months after the end of the relevant reporting period.

#### *Notices – paragraphs 9 – 11*

Paragraphs 13(2)(d)-(f) of the Act permits reporting standards determined by APRA to include matters related to the times as at which, or the periods to which, the information in reporting documents is to relate, the giving of reporting documents to APRA, and when they should be provided, and the discretion of APRA, in particular cases, to vary reporting standards, including, but not limited to, the discretion to vary when entities are to provide documents.

Paragraph 9 provides for APRA to vary the reporting periods mentioned in paragraph 5 in writing, if, having regard to the particular circumstances of a financial sector entity, APRA considers it necessary or desirable to obtain information at a different frequency than stated in paragraph 5. Paragraph 10 also states that in the case of information provided in accordance with paragraph 9, the due date will be as stated on the written notice. Paragraph 11 states that APRA may grant an extension of a due date in writing.

#### *Form and method of submission – paragraph 12*

This provision specifies how information required by the reporting standard must be given to APRA as provided for in paragraph 13(2)(e) of the Act.

#### *Quality control – paragraphs 13-14*

Paragraph 13 states that information provided to APRA under this reporting standard must be the product of systems, processes and controls that have been reviewed and tested by the RSE auditor of the RSE, or defined benefit RSE to which the information relates.

Paragraph 14 states that information provided under this reporting standard must be subject to systems, processes and controls developed by the entity for the internal review and authorisation of that information.

#### *Authorisation – paragraphs 15 – 17*

Paragraphs 15 – 17 state how information provided to APRA should be authenticated and who is authorised to provide information to APRA for a financial sector entity, and a requirement for RSE licensees to retain a copy of any information provided to APRA on their behalf.

#### *Minor alterations to forms and instructions – paragraphs 18 – 19*

Paragraph 18 states that APRA may vary the requirements of this reporting standard in relation to a financial sector entity in writing, as provided for in paragraph 13(2)(f) of the Act. Paragraph 19 states APRA must notify entities if it makes such a variation.

#### *Interpretation – paragraphs 20 – 22*

Paragraph 20 provides definitions of common terms used throughout this reporting standard. Paragraph 21 states that unless the contrary intention appears, a reference to an Act, Prudential Standard, Reporting Standard, Australian Accounting or Auditing Standard is a reference to the instrument as in force from time to time. Paragraph 22 outlines where this Reporting Standard provides APRA to exercise a power or discretion, the power or discretion is to be exercised in writing

#### *General instructions*

The general instructions contain details on the data to be reported to APRA under this reporting standard. Information in the general instructions applies to all data items in this reporting standard. This information includes definitions of terms that relate to the data reported to APRA under this reporting standard, and instructions on how to interpret the reporting tables.

#### *Specific instructions*

The specific instructions list the specific data items that must be reported to APRA and how financial sector entities should determine these items.

#### ***Documents incorporated by reference***

Under section 14(1)(a) of the *Legislation Act 2003*, the standard incorporates by reference as in force from time to time:

- Acts of Parliament and associated delegated legislation;

These documents may be freely obtained at [www.legislation.gov.au](http://www.legislation.gov.au).

Under section 14(1)(b) of the *Legislation Act*, the standard incorporates the following documents from the time that the instrument commences:

- Prudential Standards determined by APRA under subsection 34C(1) of the *Superannuation Industry (Supervision Act) 1993 that relate to superannuation*; and
- Reporting Standards determined by APRA under subsection 13(1) of the Act that relate to superannuation.

These documents may be freely obtained at [www.legislation.gov.au](http://www.legislation.gov.au).

#### ***Review of decisions***

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 RSE licensees to which the reporting standards apply. These decisions include APRA changing a reporting period or due date for an RSE licensee to provide information required by each of the instruments. 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. 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 RSE licensee 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**

In November 2022, APRA released publicly, the consultation package on reporting requirements for the minor amendments to SDT Phase 1 reporting.<sup>1</sup>

APRA held two roundtable consultation sessions, two working group meetings with industry, informal meetings with RSE licensees and released frequently asked questions (FAQs) and worked examples to address and provide clarification on issues raised by industry stakeholders.

Submissions were received from RSE licensees and industry bodies in response to the consultation package. These were valuable in assessing whether the data would meet the objectives of the SDT project, highlighting the practical issues that RSE licensees may experience in reporting and where additional guidance or improvements to definitions were required.

In March 2023, APRA released a response to consultation, incorporating the feedback received from industry into the final versions of the reporting standards, adding clarification to reporting instructions and forms, and simplifying some reporting requirements.

APRA is satisfied the consultation was appropriate and reasonably practicable.

### **4. Regulation Impact Statement**

The Office of Impact Analysis advised that a Regulatory Impact Statement was not required for the SDT minor amendments to Phase 1 reporting standards.

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<sup>1</sup> The discussion paper, topic papers and response to consultation together with proposed reporting standards are available on APRA's website at [Consultation on APRA's Superannuation Data Transformation](#).

## **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.

## **6. Legislative instruments – disallowance and sunseting**

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). In accordance with section 44 of the Legislation Act and item 3 in paragraphs 9 and item 6 in paragraph 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (Legislation Regulation), the instrument is not subject to disallowance or sunseting under the Legislation Act on the grounds that the instrument relates to superannuation. The instrument is a reporting standard, which requires registrable superannuation entity (RSE) licensees to provide information to APRA about their superannuation businesses and activities. The Explanatory Statement to the Legislation Regulation states:

*“Item 3 is an instrument (other than regulations) relating to superannuation. This item preserves the exemption in item 39 of the table in subsection 44(2) of the Legislative Instruments Act. This exemption exists because exposure of superannuation instruments to disallowance would cause commercial uncertainty, as well as uncertainty for superannuation fund members and providers. These instruments are intended to have enduring operation and are not suitable for the disallowance process.”*

*“Item 6 is an instrument (other than a regulation) relating to superannuation. This item preserves the exemption in item 42 of the table in subsection 54(2) of the Legislative Instruments Act. Sunseting of instruments relating to superannuation could cause commercial uncertainty, as well as uncertainty for superannuation fund members and providers. These instruments are intended to have enduring operation and it would not be appropriate to subject them to sunseting.”*

As detailed above, extensive consultation with industry stakeholders occurred prior to the finalisation of the instrument. APRA conducts regular reviews on its reporting standards, which range from post-implementation reviews to targeted reviews of specific standards or aspects of standards.

## **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. 41 of 2023**

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 the *Reporting Standard SRS 332.0 Expenses* that incorporates updates to the requirements for the provision of information to APRA relating to the expenses of RSE licensees.

#### **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.