

Financial Sector (Collection of Data) (reporting standard) determination No. 107 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 26 May 2023, APRA made:

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 107 of 2023 which:
 - (i) determines a new *Reporting Standard HRS 118.0 Operational Risk Charge*.

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

1. Background

Since assuming prudential regulatory responsibility for the private health insurance (PHI) industry in 2015, APRA has progressively reviewed and updated the prudential policy framework. APRA released a PHI Roadmap in August 2016 outlining its plans to conduct a review of the PHI capital framework¹. APRA commenced consultation on the reviewed PHI capital framework in December 2019, releasing finalised prudential and reporting standards that incorporated industry feedback in September 2022.

In July 2017, the Australian Accounting Standards Board (AASB) adopted the *International Financial Reporting Standard 17* into *AASB 17 Insurance Contracts* (AASB 17). AASB 17 commenced 1 January 2023.

AASB 17 replaces three existing accounting standards used by private health insurers. These accounting standards govern the performance and liability valuation reporting of insurance contracts. APRA developed the PHI capital and reporting standards based on AASB 17 concepts where possible and appropriate. Aligning APRA's prudential and reporting

¹ [Private health insurance \(PHI\): prudential policy outlook](#)

framework with AASB 17 also reduces regulatory burden by limiting the need for private health insurers to maintain dual valuation, actuarial, accounting and reporting systems.

The new reporting standards apply to reporting periods ending on or after 1 July 2023.

2. Purpose and operation of the instrument

The purpose of the instrument is to determine a new *Reporting Standard HRS 118.0 Operational Risk Charge*. This Reporting Standard sets out the requirements for the provision of information to APRA relating to a private health insurer's Operational Risk Charge.

The new reporting standard will ensure that APRA's reporting framework aligns with its prudential framework and Australian Accounting Standards. Private health insurers will be required to provide data to APRA in accordance with the standard, allowing APRA to supervise their compliance against the new capital requirements.

Explanation of each provision in the instrument

Authority – paragraph 1

This paragraph outlines APRA's power to determine reporting standards that are required to be complied with by financial sector entities under paragraph 13(1)(a) 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.

Application and commencement – paragraph 3

This provision states which financial sector entities must comply with the reporting standard as permitted by section 13 of the Act, and when the reporting standard begins to apply to these financial sector entities as provided for in section 15 of the Act.

Information required – paragraph 4

This provision states what information financial sector entities must provide to APRA for each reporting period as permitted by paragraph 13(2)(b) of the Act.

Method of submission – paragraph 5

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

Reporting periods and due dates – paragraphs 6-9

Paragraphs 13(2)(d)-(f) of the Act permit 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.

Paragraphs 6-9 rely on these provisions. Paragraph 6 states that private health insurers are to provide the information required by this reporting standard in respect of each calendar quarter, and in respect of each year ending 30 June. Paragraph 7 provides for APRA to vary the reporting periods mentioned in paragraph 6 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 6. Paragraph 8 specifies the due dates for provision of information to APRA – quarterly information must be provided to APRA within 28 calendar days after the end of the reporting period, and annual information by 30 September each year. Paragraph 8 also states that in the case of information provided in accordance with paragraph 7, the due date will be as stated on the written notice. Paragraph 9 states that APRA may grant an extension of a due date in paragraph 8 in writing.

Quality control – paragraph 10

Paragraph 10 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.

Annual audit requirements – paragraphs 11-14

Paragraph (13)(2)(bb) of the Act permits reporting standards determined by APRA to include matters related to the auditing of reporting documents.

Paragraphs 11-14 rely on these provisions. These paragraphs state which information is to be externally audited, due dates for audit certification and opinion, examination of matters in previous years' auditor's reports, and contents of the auditor's report.

Authorisation – paragraph 15

Paragraph 15 states that a person who submits the information required under this Reporting Standard must be suitably authorised by an officer of the private health insurer.

Variations – paragraph 16

Paragraph 16 states that APRA may vary the requirements of this reporting standard in relation to a financial sector entity in writing, as permitted by paragraph 13(2)(f) of the Act.

Interpretation – paragraphs 17-18

Paragraph 17 provides definitions of common terms used throughout this reporting standard. Paragraph 18 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.

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

- Acts of Parliament; and
- Prudential Standards determined by APRA under subsection 92(1) of the *Private Health Insurance (Prudential Supervision) Act 2015*.

These documents may be freely obtained at 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 private health insurers to which the reporting standards apply. These decisions include APRA changing a reporting period or due date for a private health insurer to provide information required by each of the instruments. Decisions made by APRA exercising those powers are not subject to merits review.

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 a private health 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

APRA undertook public consultation on proposed updates to private health insurance reporting standards². Further details on the consultation are provided below.

On 13 December 2021, APRA released draft reporting standards for consultation that integrated the transition to AASB 17 and proposed updates to the private health insurance capital framework³. On 6 April 2022, APRA released additional draft life and general insurance reporting standards impacted by the introduction of AASB 17⁴. As part of the April

² [Review of the private health insurance capital framework | APRA](#)

³ see previous.

⁴ see previous.

2022 consultation, APRA also released a number of updates and clarifications to reporting standards that were released in December 2021 in response to industry feedback.

The final round of consultation for this Reporting Standard was completed on 27 September 2022, when APRA released finalised changes to the reporting framework for private health insurers, including finalised reporting standards⁵.

Submissions were received from private health insurers, industry bodies, and regulatory technology providers. APRA incorporated feedback received into the final versions of the reporting standards, including aligning with updates to the capital framework in response to industry feedback, adding clarification to reporting instructions and forms as requested by industry, and simplifying some reporting requirements in response to industry feedback.

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.

⁵ see previous.

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 HRS 118.0 Operational Risk Charge* that incorporates updates to *Accounting Standard AASB 17 Insurance Contracts* and APRA's prudential framework for private health insurers.

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.