

Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2024

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 1 February 2024, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2024 which:

- (i) revokes *Reporting Standard HRS 601.0 Statistical Data by State* (HRS 601.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 22 of 2016; and
- (ii) determines a new version of HRS 601.0.

1. Background

In 2015, APRA assumed prudential regulatory responsibility for the private health insurance (PHI) industry.

On 16 March 2023, three acts from the Health and Aged Care portfolio to amend private health insurance legislation were enacted. These acts are:

- [Private Health Insurance Legislation Amendment \(Medical Device and Human Tissue Product List and Cost Recovery\) Act 2023](#);
- [Private Health Insurance \(Prostheses Application and Listing Fees\) Amendment \(Cost Recovery\) Act 2023](#); and
- [Private Health Insurance \(National Joint Replacement Register Levy\) Amendment \(Consequential Amendments\) Act 2023](#).

In addition, the Department of Health and Aged Care (the Department) is also preparing minor amendments to remove inactive definitions from the *Health Insurance Act 1973*. The Department intends to repeal the definitions of patient contribution and nursing-home type patient for the purposes of private health insurance benefits and for patients in public hospitals in Part I Subsection 3(1).

To align PHI reporting standards with the new legislation, APRA is required to make consequential amendments to three PHI reporting standards, including HRS 601.0.

The new reporting standards apply to reporting periods ending on or after 31 March 2024.

2. Purpose and operation of the instrument

The purpose of the instrument is to determine a new *Reporting Standard HRS 601.0 Statistical Data by State*. HRS 601.0 sets out the requirements for the provision of information to APRA allowing for the calculation of the risk equalisation special account and calculation of levies in respect of private health insurers, administered by APRA.

The new reporting standard will ensure that APRA's reporting framework aligns with relevant PHI legislation. Private health insurers will be required to provide data to APRA in accordance with the reporting standard, allowing APRA to supervise their compliance.

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 – paragraphs 3 and 4

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 – paragraphs 5 and 6

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 7

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 8-10

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 8-10 rely on these provisions. Paragraph 8 states that private health insurers are to provide the information required by this reporting standard for each calendar quarter. Paragraph 9 specifies the due date for provision of information to APRA, which is within 28 calendar days after the end of each reporting period. Paragraph 10 states that APRA may grant an extension of a due date in paragraph 8 in writing.

Quality control – paragraph 11

Paragraph 11 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 12-16

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

Paragraphs 12-16 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 17

Paragraph 17 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 18

Paragraph 18 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.

Transitional – paragraph 19

Paragraphs 13(2)(d)-(e) of the Act provide for APRA to include matters relating to times and periods to which information in reporting documents is to relate, the provision of documents to APRA, and the time periods for provision of these documents to APRA. Paragraph 19 states that financial sector entities must report data under the reporting standard revoked in the determination making this reporting standard for reporting periods that ended before 31 March 2024.

Interpretation – paragraph 20

Paragraph 20 provides definitions of common terms used throughout this reporting standard. Paragraph 20 also states that unless the contrary intention appears, words and expressions have the meanings given to them in *Prudential Standard HPS 001 Definitions*.

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* (Legislation Act), the reporting standard incorporates by reference as in force from time to time:

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

All documents incorporated by reference in the reporting standard are available on the Federal Register of Legislation at www.legislation.gov.au.

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

- Eligibility criteria for allied health professionals providing new Medicare services by reference as in force at 1 November 2023. This document is published by the Department of Health and Ageing and is freely available to the public at <https://www.servicesaustralia.gov.au/recognition-allied-health-professional-to-provide-medicare-services?context=34076>; and
- Standards for mental health set out in the Australian Association of Social Workers' Practice Standards, as in force at May 2023. This document is published by the AASW and is freely available to the public at <https://www.aasw.asn.au/about-aasw/ethics-standards/practice-standards/>.

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 standards¹. Further details on the consultation are provided below.

On 2 August 2023, APRA released proposed amendments to three private health insurance reporting standards for consultation, following amendments to PHI legislation².

The final round of consultation for this Reporting Standard was completed on 22 November 2023, when APRA released finalised changes to the reporting framework for private health insurers, including finalised reporting standards³.

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 providing private health insurers with additional time to implement the updates and correcting minor typographical errors.

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.

¹ [Amendments to private health insurance reporting standards | APRA](#)

² see previous footnote.

³ see previous footnote.

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. 1 of 2024

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 601.0 Statistical Data by State* that incorporates updates to legislation applicable to 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.