

Financial Sector (Collection of Data) (reporting standard) determination No. 9 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.

On 10 July 2024, APRA made the Financial Sector (Collection of Data) (reporting standard) determination No. 9 of 2024 which revokes *Reporting Standard ARS 923.2 Repayment Deferrals* (ARS 923.2) made under Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2020 (the reporting standard).

The instrument commences the day after it is registered on the Federal Register of Legislation.

1. Background

In response to the unprecedented economic challenges presented by the COVID-19 pandemic, authorised deposit-taking institutions (ADIs) offered large numbers of borrowers repayment deferrals or otherwise modified the terms of loans. APRA responded at the time by temporarily modifying the prudential framework as it applied to loans impacted by COVID-19. The reporting standard was implemented to collect data from ADIs on their exposure to loans with repayment deferrals due to COVID-19 from June 2020, and was aligned with these temporary amendments to the prudential framework. APRA required ADIs to report to APRA, and to publicly disclose, the nature and terms of any repayment deferrals and the volume of loans to which they were applied.¹

The concessional treatment for new loans subject to repayment deferral finally ended on 30 September 2021 and the data collection ended in October 2021.²

2. Purpose and operation of the Legislative Instrument

The purpose of the Legislative Instrument is to revoke the reporting standard. It is no longer required to collect the information under the reporting standard.

Operation of the instrument

¹ See <https://www.apra.gov.au/news-and-publications/apra-advises-regulatory-approach-to-covid-19-support> and <https://www.apra.gov.au/letter-to-authorised-deposit-taking-institutions-treatment-of-loans-impacted-by-covid-19>

² <https://www.apra.gov.au/temporary-loan-repayment-deferrals-due-to-covid-19-october-2021>

The first paragraph of the instrument identifies the source of the power that is being exercised by the delegate and is the operative paragraph that revokes the reporting standard.

The second paragraph provides that the revoked reporting standard will cease to apply on the day after the instrument is registered on the Federal Register of Legislation.

The third paragraph provides for the instrument to commence on the day after it is registered on the Federal Register of Legislation. This is the day that would apply under subsection 12(1) of the *Legislation Act 2003* (Cth), if no commencement provision were made.

3. Documents incorporated by reference

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

- *Legislation Act 2003* (Cth).

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

4. Consultation

APRA engaged in short public consultations on the treatment of loans impacted by COVID-19, including the reporting standard and publication of the loan deferrals data.³ The consultations were clear that the measures and data collection would be temporary.

APRA is satisfied the consultation was appropriate and reasonably practicable.

5. Regulation Impact Statement

The Office of Impact Analysis has advised that a detailed Impact Analysis is not required for the revocation of the reporting standard.

6. 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 APRA's full response and non-confidential submissions to both consultations are available on APRA's website at <https://www.apra.gov.au/treatment-of-loans-impacted-by-covid-19>.

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 revoke the following instrument:

Reporting Standard ARS 923.2 Repayment Deferrals made under Financial Sector (Collection of Data) (reporting standard) determination No. 8 of 2020.

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.