

Banking (Statistics) Amendment Regulations 1999 (No. 1) 1999 No. 142

EXPLANATORY STATEMENT

Statutory Rules 1999 No. 142

Issued by the Authority of the Minister for Financial Services and Regulation

Banking Act 1959

Banking (Statistics) Amendment Regulations 1999 (No. 1)

Section 71 of the *Banking Act 1959* provides that the Governor-General may make regulations for the purposes of the Act.

These regulations constitute part of the second stage of the financial system reforms involving the transfer of State and Territory-based deposit-taking institutions including building societies, credit unions and special services providers (SSPs) to the Commonwealth prudential regulatory regime. These follow on from amendments to the *Banking Act 1959* (the Banking Act) and other transitional provisions made in the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* (the FSR Act) which were designed to accommodate the transferring institutions within the Commonwealth regime.

The transfer of financial institutions to the Banking Act regime hinges on section 7 of Schedule 8 of the FSR Act which deems that transferring institutions are Authorised Deposit-taking Institutions (ADIs) and have authority to conduct banking business in Australia under subsection 9(3) of the Banking Act.

Currently, many transferring institutions are subject to the monthly statistics reporting requirements

under the *Financial Corporations Act 1974* (the FCA). The Reserve Bank of Australia (RBA) requires

this data for the purposes of calculating the monetary aggregates which assists it in conducting its

monetary policy functions. - While ADIs are exempted from the FCA by section 8, the information

provided by existing ADIs under section 51 of the Banking Act is sufficient in terms of the FCA and is

passed on to the RBA by the Australian Prudential Regulation Authority (APRA).

As a result of the FCA exemption for ADIs, following the transfer when all transferring institutions are deemed to be ADIs, all transferring institutions will be exempt from the FCA and its statistical , reporting requirements even though the RBA will still require this information. Moreover, in contrast with the Banking Act reporting requirements for existing ADIs, the interim prudential standards reporting requirements, which are being preserved for transferring institutions (by the Financial Sector Reform (Amendments and Transitional Provisions) Regulations 1999), are inadequate in terms of the FCA.

These regulations, made under section 51 of the Banking Act, address this problem by requiring that all transferring institutions with assets over \$50,000,000 should, in addition to other statistical reports submitted to APRA, submit a monthly report in the format set out to the proposed regulations.

APRA will then pass these data on to the RBA. For these purposes, the Australian Prudential Regulation Authority Amendment Regulations 1999 nominate the RBA as one of the institutions with whom APRA is able to share information as per subsection 56(5) of the *Australian Prudential Regulation Authority Act 1998*.

Details of the regulations appear at Attachment A.

The regulations commence on the transfer date as defined in Regulation 2.

ATTACHMENT A

Banking (Statistics) Amendment Regulations

Regulation 1

Regulation 1 provides that these regulations are the *Banking (Statistics) Amendment Regulations 1999* (No. 1).

Regulation 2 - Commencement

Regulation 2 provides that these regulations commence on the commencement of Schedule 4 of the

Financial Sector (Amendment and Transitional Provisions) Act 1999.

Regulation 3 - Amendment

Regulation 3 provides that the Banking Statistics Regulations 1989 (the Principal Regulations) are amended as set out in Schedule 1.

Schedule 1

Item [1] - Name of the regulation

Item 1 identifies the Principal Regulations as the Banking Statistics Regulations 1989.

Item [2] - Definition

Item 2 inserts a definition of transferring institution. In order to capture all transferring institutions, the definition relies on a provision in the FSR Act 1999 that deems all transferring institutions to have authority under the *Banking Act 1959* to conduct banking business in Australia.

Item [3] - Transferring Institutions - monthly financial statements

Item 3 inserts new regulation 6A which requires that all transferring institutions with assets over \$50,000,000 submit a monthly statement to the APRA. The form of the statement is set out in schedule 4 of these Regulations (as inserted by item 4).

Subregulation (1) further specifies that the requirement to submit to statement should be complied with both on the, month in which the regulation commences, and on the month immediately prior to the commencement of the regulation. This is so that there can be no possibility that, as a result of the transfer from the FCA and the Banking Act, transferring institutions miss one monthly statement.

Subregulation (2) requires that the form of the statement required in this Item is set out in Schedule 4 of these Regulations (as inserted by Item 4).

Subregulation (3) details the particulars of how the statement should be completed. The statement should be prepared as at the close of business on the last calendar day of each month. The statement should be provided to APRA no later than 14 days after the last day of the month to which the statement pertains.

Item [4] - Monthly Financial Statements

Item 4 inserts Schedule 4 which provides the form of the monthly statement to be provided by transferring institutions as per Item 3. The explanatory note at the end of the statement makes it clear that where there is a reference in an item to a pre-transfer class of transferring institution in the table, that item should be completed so that the pre-transfer distinction is retained. For example, item 30 in the statement requires that the institution include any borrowings from Special Service Providers (SSPs). After the transfer date all transferring institutions will become ADIs so that the distinction is lost; nevertheless, the item should be completed with reference to the pre-transfer classifications so that where the institution has borrowings from an institutions that was an SSP prior to the transfer date, those borrowing should be entered in item 30, despite the fact that the SSP is now an ADI.