

**Financial Sector (Collection of Data) (reporting standard) determination No. 30
of 2015**

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority

Financial Sector (Collection of Data) Act 2001 subsections 13(1) and 15(1)

Acts Interpretation Act 1901 subsection 33(3)

Under paragraph 13(1)(a) of the Financial Sector (Collection of Data) Act 2001 (FSCODA), 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 15(1) of FSCODA provides that APRA may declare a date on and after which reporting standards are to apply.

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 and vary any such instrument.

On 17 April 2015, under paragraph 13(1)(a) of FSCODA and subsection 33(3) of the Acts Interpretation Act 2001, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 30 of 2015 which:

- (a) revokes *Reporting Standard LRS 117.0 Asset Concentration Risk Charge* made under Financial Sector (Collection of Data) (reporting standard) determination No. 50 of 2013; and
- (b) determines *Reporting Standard LRS 117.0 Asset Concentration Risk Charge* (LRS 117).

1. Background

Life companies (including life insurers and friendly societies) are exposed to reinsurance counterparty risks when using reinsurance as a mechanism to transfer insurance risk and augment their capital position. The failure of a reinsurer could have a significant impact on the capital adequacy of a life company by both reducing the company's capital base and increasing its prescribed capital amount. This could, in the extreme, result in the insolvency of the life company. The current data collected by APRA lacks sufficient detail for APRA to assess the impact of a reinsurer failure on individual life companies and the industry as a whole.

In December 2013, APRA consulted with life companies on proposals to collect further information in *Reporting Form LRF 117.0 Asset Concentration Risk Charge* on exposures to reinsurers. Changes to the reporting instructions associated with LRS 117 were proposed in order to enhance APRA's current collection of reinsurance

counterparty data so that APRA could better assess the impact of a reinsurer failure on the capital coverage of individual life companies and for the industry as a whole.

2. Purpose of the instrument

The purpose of making the instrument is to implement the proposal discussed in Section 1, to collect reinsurance counterparty information by amending the reporting instructions associated with LRS 117.

3. Operation of the instrument

The new reporting standard is issued under FSCODA. The determination of the reporting standard enables the amended reporting instructions under LRS 117 to take effect. This instrument commences for the reporting periods ending on or after 30 June 2015.

4. Consultation

APRA consulted with life companies through a letter released on 16 December 2013 which included proposed amendments to the reporting instructions associated with LRS 117. The consultation period was for 13 weeks.

APRA received two submissions on proposals to collect further information on exposures to reinsurers both before and after the application of insurance risk charge stresses.

Submissions supported the initiative but sought further clarification on certain aspects of the data collection. These included the reporting methodology to be used, the layout of the reporting form and data confidentiality.

In a letter to all life companies on 23 December 2014, APRA responded to these submissions and outlined its final position.

5. Regulation Impact Statement

The Office of Best Practice Regulation has advised that a Regulation Impact Statement is not required for this legislative instrument.

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.

This legislative instrument does not engage any of the applicable rights or freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011. Accordingly, in APRA's assessment, the instrument is compatible with human rights.

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 Instruments

The purpose of making this legislative instrument is to amend the reporting instructions associated with LRS 117. This enables APRA to collect information allowing for a better assessment of the impact of a reinsurer failure on the capital position of individual life companies and on the industry as a whole.

Human rights implications

APRA has assessed this legislative instrument against the international instruments listed in section 3 of the HRPS Act and determined 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, this legislative instrument is compatible with human rights.

Conclusion

Financial Sector (Collection of Data) (reporting standard) determination No. 30 is compatible with human rights because it does not limit human rights or otherwise raise any human rights issues.