

# **Financial Sector (Collection of Data) (reporting standard) determination No. 18 of 2017**

## **EXPLANATORY STATEMENT**

**Prepared by the Australian Prudential Regulation Authority (APRA)**

*Financial Sector (Collection of Data) Act 2001*, sections 13 and 15

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. Under subsection 13(2B) of the Act, the matters that may be included in reporting standards may relate to reporting of amounts for the purposes of the *Major Bank Levy Act 2017*.

On 29 September 2017, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 18 of 2017 (the instrument) which determines *Reporting Standard ARS 750.0 DAWR Agricultural Lending* (ARS 750.0).

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

### **1. Background**

In September 2014 at an extraordinary meeting of the Agricultural Finance Forum, the forum members agreed to investigate the feasibility of the ongoing collection of agricultural lending data. The Department of Agriculture and Water Resources (DAWR), the Australian Prudential Regulation Authority (APRA) and Treasury were engaged to determine the parameters for the collection.

In December 2016, the Treasurer requested that APRA proceed to collect agricultural debt data.

In June 2017, DAWR was listed as a ‘financial sector agency’ under the *Financial Sector (Collection of Data) Regulations 2008* and as a ‘specified agency’ under the *Australian Prudential Regulation Authority Act Regulations 1998* enabling APRA to collect the relevant data and share it with DAWR.

### **2. Purpose and operation of the instrument**

The purpose of this instrument is to determine ARS 750.0, which contains the requirements for the provision of agricultural lending data to APRA. The information reported under ARS 750.0 will be provided to DAWR for policy-making purposes.

ARS 750.0 applies to all authorised deposit-taking institutions (ADIs), other than purchase payment facility providers, and registered financial corporations (RFCs).

Where ARS 750.0 refers to Acts, Prudential Standards, Australian Accounting Standards or Audit Standards, these are references to those instruments as they exist from time to time.

### **3. Consultation**

APRA undertook public consultation on a draft of ARS 750.0 between 28 March 2017 and 28 April 2017.

Twelve submissions were received from ADIs, industry associations and other interested parties. APRA and DAWR also met with two industry bodies representing directly affected ADIs and RFCs to discuss any concerns or suggestions they had for the data collection.

Most submissions were broadly supportive of the need to collect agricultural lending data but some did raise concerns relating to the implementation timeline, use of 2006 Australian and New Zealand Standard Industrial Classification (ANZSIC) codes, confidentiality and specific data concepts.

As the submissions raised concerns regarding the implementation timeline and difficulties relating to the use of 2006 ANZSIC codes, APRA amended ARS 750.0 to allow reporting on a 'best endeavours' basis for reporting period ending on 30 June 2017 and to allow entities to use 1993 ANZSIC codes for reporting purposes.

The issues raised in submissions relating to the confidentiality of data collected under ARS 750.0 were considered by APRA and the DAWR. It was noted in the industry response letter that both agencies are bound by section 56 of the *Australian Prudential Regulation Authority Act 1998* and that APRA would consult on the publication of data collected under ARS 750.0 later in 2017.

Further, submissions requested the clarification of particular concepts in ARS 750.0. Clarifications made by APRA and DAWR on the data concepts included in ARS 750.0 were communicated to the affected ADIs and RFCs, and are covered in an industry response letter. Clarifications to concepts were also reflected in ARS 750.0.

#### **4. Regulation Impact Statement**

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

#### **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.

### **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 instrument determines a new reporting standard under the *Financial Sector (Collection of Data) Act 2001* which will facilitate APRA's collection of agricultural lending data from ADIs and RFCs. The collected data will be provided to the Department of Agriculture and Water Resources for policy making purposes.

### **Human rights implications**

APRA has assessed the 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.