

Financial Sector (Collection of Data) (reporting standard) determination Nos. 23 to 25 of 2019

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Financial Sector (Collection of Data) Act 2001 (the Act)

Acts Interpretation Act 1901

Under paragraph 13(1)(a) of the Act, APRA may, by writing, determine reporting standards 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 the Act provides that APRA may declare a day on and after which the reporting standards are to apply.

On 4 June 2019, APRA made the following determinations (the instruments):

1. Financial Sector (Collection of Data) (reporting standard) determination No. 23 of 2019 which revokes *Reporting Standard ARS 112.2 Standardised Credit Risk – Off-balance Sheet Exposures* made under Financial Sector (Collection of Data) (reporting standard) determination No. 63 of 2013 and determines a new *Reporting Standard ARS 112.2 Standardised Credit Risk – Off-balance Sheet Exposures* (ARS 112.2); and
2. Financial Sector (Collection of Data) (reporting standard) determination No. 24 of 2019 which revokes *Reporting Standard ARS 118.1: Other Off-balance Sheet Exposures* made under Financial Sector (Collection of Data) (reporting standard) determination No. 2 of 2011 and determines a new *Reporting Standard ARS 118.1: Other Off-balance Sheet Exposures* (ARS 118.1); and
3. Financial Sector (Collection of Data) (reporting standard) determination No. 25 of 2019 which determines a new *Reporting Standard ARS 180.0: Counterparty Credit Risk* (ARS 180.0).

The instruments commence on 1 July 2019.

1. Background

APRA's prudential framework includes a suite of prudential standards that impose capital requirements for ADIs to ensure they hold sufficient capital to address risks associated with their operations. One of these standards is the existing *Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk* (APS 112) which includes requirements in relation to counterparty credit risk – being the risk that an entity suffers a loss due to a counterparty defaulting on its obligations under a contract. ADIs are required to hold capital for counterparty credit risk that arises from certain types of transactions – including, over-the-counter (OTC) derivative transactions, exchange traded derivative transactions, securities financing transactions and long settlement transactions. APRA collects data under reporting standards to assess ADIs' compliance with the prudential standards.

In 2014, the Basel Committee on Banking Supervision (Basel Committee) – which is the international standard setter for banks – finalised revisions to its framework relating to the measurement of counterparty credit risk exposures as set out in the standardised approach for measuring counterparty credit risk exposures (March 2014). The revisions introduced a new non-internal model for measuring counterparty credit risk exposures (SA-CCR) which is intended to replace existing non-model approaches in the Basel framework. As part of updating its requirements for counterparty credit risk, APRA has introduced a dedicated prudential standard on this topic – *Prudential Standard APS 180 Capital Adequacy: Counterparty Credit Risk* (APS 180) – which will incorporate relevant existing requirements in APS 112. APRA has introduced new and updated reporting standards to align with the new prudential framework.

2. Purpose of the instruments

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The purpose of this instrument is to make the new ARS 180.0.

- ARS 180.0 collects data on ADIs' compliance with the new *Prudential Standard APS 180 Capital Adequacy: Counterparty Credit Risk*. ARS 180.0 collects data on ADIs' regulatory capital held for counterparty credit risk exposures arising from over-the-counter derivative transactions, exchange-traded derivative transactions, securities financing transactions and long settlement transactions.
- This instrument consolidates reporting requirements for counterparty credit risk, including existing requirements in ARS 112.2, into a single reporting standard. ARS 180 implements the SA-CCR which will apply to ADIs who are accredited to use the internal ratings-based approach (IRB) to credit risk while all other ADIs will be able to use a simplified approach – the adjusted current exposure method for measuring counterparty credit risk.
- ARS 180.0 refers to the Committee on Payments and Market Infrastructures and International Organization of Securities Commissions *Principles for Financial Market Infrastructures* (CPMI-IOSCO Principles).¹ Under ARS 180.0, the reporting of the capital charge to be applied to exposures to a central counterparty (CCP) is dependent on whether the CCP is treated as a qualifying CCP or a non-qualifying CCP. Whether a CCP is a qualifying CCP involves a question of fact, which is dependent on whether the CCP is subject to rules and regulations that are consistent with the CPMI-IOSCO Principles, rather than an application of the CPMI-IOSCO Principles. The CPMI-IOSCO Principles are not intended to be incorporated into ARS 180.0.

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- The purpose of this instrument is to revoke existing ARS 112.2 and replace it with a new version of ARS 112.2.
- This instrument removes existing counterparty credit risk requirements contained within ARS 112.2, as they have been moved to the new ARS 180.0.

¹ The CPMI-IOSCO Principles are available at: <https://www.bis.org/cpmi/publ/d101.htm>.

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- The purpose of this instrument is to revoke existing ARS 118.1 and replace it with a new version of ARS 118.1.
- This instrument removes existing counterparty credit risk requirements contained within ARS 118.1, as they have been moved to the new ARS 180.0.

The instruments incorporate by reference certain provisions of Acts, Prudential Standards, Australian Accounting Standards issued by the Australian Accounting Standards Board, and Australian Auditing Standards issued by the Auditing and Assurance Standards Board. All of these references are references to the instruments as they exist from time to time. These instruments are available on the Federal Register of Legislation at www.legislation.gov.au.

The instruments refer to *Guidance Statement GS 012 Prudential Reporting Requirements for Auditors of Authorised Deposit-taking Institutions* (GS 012), available at www.auasb.gov.au, and *Prudential Practice Guide APG 112 Standardised Approach to Credit Risk* (APG 112), available at www.apra.gov.au. GS 012 and APG 112 are referred to for additional guidance only and are not intended to be incorporated in ARS 112.2, ARS 118.1 and ARS 180.0.

There are a number of powers that may be exercised by APRA in reporting standards which involve an element of discretion and which may impact the interests of the financial sector entity to which the reporting standard applies. These decisions include APRA refusing to change a reporting period or due date for an ADI to provide information required by ARS 112.2, ARS 118.1 and ARS 180.0. Decisions made by APRA exercising those powers are not subject to merits review. This is because APRA requires accurate and timely data to effectively monitor the financial viability of prudentially-regulated entities. The quality and accuracy of this data has significant implications for the safety and stability of the financial system. Undue delays in receiving data of this nature can seriously compromise the APRA's ability to effectively supervise the financial system. APRA's decisions to exercise discretion under its reporting standards are therefore important financial decisions with a significant public interest element, the outcomes of which must be final to provide certainty for the regulated entities in the fast moving regulatory environment.

3. Consultation

APRA undertook consultation for these instruments. APRA undertook two rounds of consultation on its proposed prudential framework for counterparty credit risk for ADIs, the first in September 2016 and the second in August 2017. Submissions were received from, and discussions held with, numerous ADIs, industry bodies and other interested parties. As part of the September 2016 consultation, APRA also invited views from industry on the potential introduction of an alternative approach for measuring counterparty credit risk exposures for ADIs with immaterial levels of such exposures.

APRA received five submissions in response to its initial discussion paper. Submissions were generally supportive of APRA's proposals but raised concerns regarding implementation timing, scope of application of the SA-CCR amongst other matters. Submissions also expressed support for consideration of a simple, conservative alternative methodology for ADIs with immaterial counterparty credit risk exposures.

APRA, in its August 2017 discussion paper, proposed a simplified counterparty credit risk measurement approach for those ADIs who calculate credit risk using a standardised approach to credit risk – being the majority of ADIs. Seven submissions were received on the August 2017 discussion paper. The 2017 discussion paper included a chapter on the reporting requirements on counterparty credit risk exposures under ARS 112.2, ARS 118.1 and ARS 180.0. Submissions raised various issues, some of a general nature and some covering technical aspects of the proposals set out in the discussion paper and accompanying prudential and reporting standards.

The public discussion papers and other documents released during the consultation period were:

- September 2016: Discussion Paper Counterparty credit risk for ADIs;
 - Draft Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk (APS 112);
 - Draft Prudential Standard APS 180 Capital Adequacy: Counterparty Credit Risk (APS 180);
- August 2017: Discussion Paper Counterparty credit risk for ADIs; and
 - Draft Prudential Standard APS 112 Capital Adequacy: Standardised Approach to Credit Risk (APS 112);
 - Draft Prudential Standard APS 180 Capital Adequacy: Counterparty Credit Risk (APS 180);
 - Draft Reporting Standard ARS 112.2 Standardised Credit Risk — Off-balance Sheet Exposures;
 - Draft Reporting Standard ARS 118.1 Other Off-balance Sheet Exposures; and
 - Draft Reporting Standard ARS 180.0 Counterparty Credit Risk.

4. Regulation Impact Statement

APRA prepared an independent review, which involved an equivalent process and analysis to that required for a Regulation Impact Statement, which has been lodged as supporting material.

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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These legislative instruments are 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 instruments is to make a new *Reporting Standard ARS 180.0 Counterparty Credit Risk* (ARS 180.0), revoke *Reporting Standard ARS 112.2 Capital Adequacy: Standardised Credit Risk – Off-balance Sheet Exposures* determined by APRA in 2013 and replace it with a new *Reporting Standard ARS 112.2 Capital Adequacy: Standardised Credit Risk – Off-balance Sheet Exposures* (ARS 112.2), and revoke *Reporting Standard ARS 118.1 Other Off-balance Sheet Business* determined by APRA in 2011 and replace it with a new *Reporting Standard ARS 118.1 Other Off-balance Sheet Business* (ARS 118.1).

ARS 180.0 collects data from authorised deposit-taking institutions (ADIs) on their regulatory capital held for counterparty credit risk exposures arising from certain transactions. ADIs are bodies corporate authorised to carry on banking business in Australia.

ARS 112.2 and ARS 118.1 are being remade to remove existing counterparty credit risk requirements which are now included as part of ARS 180.0.

Human rights implications

APRA has assessed the instruments and is of the view that they do 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 instruments are compatible with human rights.

Conclusion

These legislative instruments are compatible with human rights as they do not raise any human rights issues.