

**Australian Prudential Regulation Authority (confidentiality) determination
No.27 of 2013**

**Information provided by locally-incorporated banks and foreign authorised
deposit-taking institutions under Reporting Standard ARS 320.0**

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Australian Prudential Regulation Authority Act 1998 (APRA Act), section 57

Australian Prudential Regulation Authority (confidentiality) determination **No.27 of 2013** (the **Determination**), made on 16 December 2013 is APRA's one hundred and twenty fifth determination under section 57 of the APRA Act in relation to information provided under Reporting Standard *ARS 320.0 Statement of Financial Position (Domestic Books)* (**ARS 320.0**), taking into account both current and preceding versions of this reporting standard. The purpose of the Determination is to enable APRA to publish an edition of *Monthly Banking Statistics*, which will contain data in respect of **November 2013**.

Legislative background

Subsection 56(5C) of the APRA Act provides that it is not an offence against section 56(2) of that Act to disclose information in a reporting document given to APRA under section 13 of the *Financial Sector (Collection of Data) Act 2001 (FSCOD Act)* where APRA has determined, under section 57, that the document does not contain confidential information.

Section 57 of the APRA Act gives APRA power to determine whether a document given under section 13 of the FSCOD Act contains confidential information. The section provides that before doing so APRA must give relevant entities or bodies, or their representative association, a reasonable opportunity to make representations as to whether information of the kind contained in the document is confidential, and take such representations into account (consultation undertaken is discussed below).

Information covered by the determination

The Determination provides that certain information given to APRA under ARS 320.0 (made by Financial Sector (Collection of Data) (reporting standard) determination No. 30 of 2008), or another reporting standard in substantially the same form replacing it, being information received on or after the date of APRA's last determination under section 57 in respect of information provided under ARS 320.0 and before the date of the Determination, is non-confidential. It applies to information given to APRA by foreign Authorised Deposit-taking Institutions (**ADIs**) and locally-incorporated banks.

The Determination excludes information of a sensitive nature, including information relating to shareholder's equity, total income tax liability and total provisions. The latter two items were excluded as a result of consultations with industry under section 57 of the APRA Act (see below).

Items that will be disclosed (and which are covered by the Determination) are set out in Attachment A to this Explanatory Statement.

Consultation

APRA commenced consultations in relation to whether information of the kind covered by the Determination should be treated as non-confidential by writing to locally-incorporated banks, foreign ADIs, and their respective representative bodies, on 24 December 2003. Most agreed that information of the kind covered by the Determination could be treated as non-confidential. A small minority objected to the publication of any information from ARS 320.0, but in APRA's view there is a strong public interest in the publication of the information, and it is noted that similar information was regularly published under the former section 51 of the *Banking Act 1959*.

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 Attachment B to this Explanatory Statement.

Attachment A

Items to be published in the Monthly Banking Statistics publication

Table 1: Selected Assets on Australian Books of Individual Banks

- Cash and liquid assets
- Trading securities
- Investment securities
- Acceptances of customers
- Gross loans and advances
- Other investments
- Total resident assets
- Outstanding principal balance of securitised assets
- Value of housing loans securitised

Table 2: Loans and Advances on Australian Books of Individual Banks

- Loans to non-financial corporations
- Loans to financial corporations
- Loans to general government
- Housing loans - owner-occupied
- Housing loans - investment
- Household credit cards
- Other household loans
- Loans to community service organisations and non-profit institutions
- Total gross loans and advances
- Intra-group loans and advances

Table 3: Selected Liabilities on Australian Books of Individual Banks

- Due to clearing houses and financial institutions
- Acceptances
- Total deposits
- Intra-group deposits
- Bonds, notes and long-term borrowings
- Other borrowings

Table 4: Deposits on Australian Books of Individual Banks

- Deposits from non-financial corporations
- Deposits from financial corporations
- Deposits from general government
- Deposits from households
- Deposits from community service organisations and non-profit institutions
- Other deposit accounts
- Certificates of deposit
- Total deposits

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Australian Prudential Regulation Authority (confidentiality) determination No.27 of 2013

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.

Overview of the Legislative Instrument

The purpose of making this legislative instrument is to enable APRA to publish an edition of Monthly Banking Statistics, which will contain data in respect of November 2013.

Human rights implications

APRA has assessed the Determination against the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act) and determined that only Article 17 of the International Covenant on Civil and Political Rights (ICCPR) is conceivably of relevance.

Article 17 of the ICCPR prohibits the arbitrary or unlawful interference with a person's privacy, family, home and correspondence, and attacks on reputation. Article 17 is exclusively concerned with prohibiting interference with the privacy and/or reputation of individual persons. It does not extend to the privacy and/or reputation of corporate entities.

Determination No.27 will facilitate the disclosure of specific information to APRA by locally-incorporated banks and foreign ADIs in accordance with certain reporting standards. It does not involve the disclosure of information directly relating to individual persons. Further, APRA reviews all releases of data received under reporting standards to ensure that no information pertaining to an individual person can be deduced from the data.

Consequently the Determination 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.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.