

Banking (prudential standard) determinations Nos. 3 to 11 of 2014

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

Banking Act 1959, section 11AF

Under subsection 11AF(1) of the *Banking Act 1959* (the **Act**), APRA has the power to determine standards (**prudential standards**), in writing, in relation to prudential matters to be complied with by authorised deposit-taking institutions (**ADIs**) and authorised non-operating holding companies (**authorised NOHCs**). Under subsection 11AF(3) of the Act, APRA may, in writing, vary or revoke a prudential standard.

On 3 December APRA made the following determinations (the instruments):

- (1) Banking (prudential standard) determination No. 3 of 2014 (the instrument), which revokes *Prudential Standard APS 001 Definitions* made under Banking (prudential standard) determination No.2 of 2012, and determines a new *Prudential Standard APS 001 Definitions* (APS 001);
- (2) Banking (prudential standard) determination No. 4 of 2014 (the instrument), which revokes *Prudential Standard APS 116 Capital Adequacy: Market Risk* made under Banking (prudential standard) determination No. 9 of 2012, and determines a new *Prudential Standard APS 116 Capital Adequacy: Market Risk* (APS 116);
- (3) Banking (prudential standard) determination No. 7 of 2014 (the instrument), which revokes *Prudential Standard APS 120 Securitisation* made under Banking (prudential standard) determination No. 11 of 2012, and determines a new *Prudential Standard APS 120 Securitisation* (APS 120);
- (4) Banking (prudential standard) determination No. 8 of 2014 (the instrument), which revokes *Prudential Standard APS 220 Credit Quality* made under Banking (prudential standard) determination No. 12 of 2012, and determines a new *Prudential Standard APS 220 Credit Quality* (APS 220);
- (5) Banking (prudential standard) determination No. 5 of 2014 (the instrument), which revokes *Prudential Standard APS 221 Large Exposures* made under Banking (prudential standard) determination No. 13 of 2012, and determines a new *Prudential Standard APS 221 Large Exposures* (APS 221);
- (6) Banking (prudential standard) determination No. 9 of 2014 (the instrument), which revokes *Prudential Standard APS 222 Associations with Related Entities* made under Banking (prudential standard) determination No. 14 of 2012, and determines a new *Prudential Standard APS 222 Associations with Related Entities* (APS 222);
- (7) Banking (prudential standard) determination No. 10 of 2014 (the instrument), which revokes *Prudential Standard APS 310 Audit and Related Matters* made under Banking (prudential standard) determination No. 15 of 2012, and determines a new *Prudential Standard APS 310 Audit and Related Matters* (APS 310);
- (8) Banking (prudential standard) determination No. 11 of 2014 (the instrument),

which revokes *Prudential Standard APS 330 Capital Adequacy: Public Disclosure* made under Banking (prudential standard) determination No. 1 of 2013, and determines a new *Prudential Standard APS 330 Capital Adequacy: Public Disclosure* (APS 330); and

- (9) Banking (prudential standard) determination No. 6 of 2014 (the instrument), which revokes *Prudential Standard APS 610 Prudential Requirements for Providers of Purchased Payment Facilities* made under Banking (prudential standard) determination No. 17 of 2012, and determines a new *Prudential Standard APS 610 Prudential Requirements for Providers of Purchased Payment Facilities* (APS 610).

The instruments commence on 1 January 2015.

1. Background

In January 2014, APRA released a new cross-industry prudential standard *Prudential Standard CPS 220 Risk Management* (CPS 220), that applies to ADIs, general insurers and life insurers, and Level 2 and Level 3 groups. A revised *Prudential Standard CPS 510 Governance* (CPS 510) was also released to ensure risk management governance principles were aligned to the new CPS 220.

These new and amended standards come into effect from 1 January 2015.

CPS 220 and revised CPS 510 necessitate a series of consequential amendments to existing industry-specific and cross-industry prudential standards. The majority of changes are necessary to remove duplication and to update cross-references.

2. Purpose and operation of the instruments

Banking (prudential standard) determination No. 3 of 2014

The purpose of the instrument is to revoke APS 001 and to replace it with a new version of APS 001.

APS 001 incorporates common definitions used in ADI prudential standards into a single prudential standard. Generally, only definitions that are unique to a particular prudential standard will be retained in that prudential standard; otherwise, definitions common to two or more prudential standards have been consolidated in APS 001.

The instrument makes changes to APS 001 to insert new definitions related to CPS 220 and to delete a redundant list of ADI prudential standards, prudential practice guides and guidance notes.

Banking (prudential standard) determination No. 4 of 2014

The purpose of the instrument is to revoke APS 116 and to replace it with a new version of APS 116.

APS 116 requires an ADI engaged in activities that give rise to risks associated with potential movements in market prices to adopt risk management practices and hold regulatory capital commensurate with the risks involved.

The instrument makes changes to APS 116 to incorporate references to CPS 220.

Banking (prudential standard) determination No. 7 of 2014

The purpose of the instrument is to revoke APS 120 and to replace it with a new version of APS 120.

APS 120 requires ADIs to adopt prudent practices in managing the risks associated with securitisation and to ensure that sufficient regulatory capital is held against the associated credit risk.

The instrument makes minor alterations to APS 120 to update references to CPS 510.

Banking (prudential standard) determination No. 8 of 2014

The purpose of the instrument is to revoke APS 220 and to replace it with a new version of APS 220.

APS 220 requires an ADI to adopt prudent credit risk management policies and procedures for the recognition, measurement and reporting of, and provisioning for, impaired facilities.

The instrument changes APS 220 to update references to CPS 510.

Banking (prudential standard) determination No. 5 of 2014

The purpose of the instrument is to revoke APS 221 and to replace it with a new version of APS 221.

APS 221 requires ADIs to implement prudent measures and to set prudent limits to monitor and control their large exposures, on both a Level 1 and Level 2 basis.

The instrument makes minor alterations to APS 221 to update cross references to requirements formerly included in APS 310 but are now contained in CPS 220.

Banking (prudential standard) determination No. 9 of 2014

The purpose of the instrument is to revoke APS 222 and to replace it with a new version of APS 222.

APS 222 sets out prudential requirements for ADIs in their dealings with related entities, and requires that they give due consideration to the risks associated with the corporate group of which they are a member and that they are not exposed to excessive risk as a result of their dealings with related entities.

The purpose of the instrument is to delete sections of the standard (i.e. Monitoring of Contagion Risk and Group Risk Management) that are replaced by requirements in CPS 220.

Banking (prudential standard) determination No. 10 of 2014

The purpose of the instrument is to revoke APS 310 and to replace it with a new version of APS 310.

APS 310 requires an ADI to ensure that APRA has access to independent advice from an auditor relating to the operations, internal controls and information provided to APRA in respect of that ADI. APS 310 also sets out requirements for the roles and responsibilities of the appointed auditor.

The instrument makes minor alterations to APS 310 to align with the updated requirements of CPS 510 and to delete requirements related to Risk Management Systems that are now covered by CPS 220.

Banking (prudential standard) determination No. 11 of 2014

The purpose of the instrument is to revoke APS 330 and to replace it with a new version of APS 330.

APS 330 requires locally incorporated ADIs to meet minimum requirements for the public disclosure of information on their risk management practices and capital adequacy to enhance transparency in Australian financial markets.

The instrument makes minor alterations to APS 330 to update references to CPS 510.

Banking (prudential standard) determination No. 6 of 2014

The purpose of the instrument is to revoke APS 610 and to replace it with a new version of APS 610.

APS 610 requires an ADI that has an authority to provide purchased payment facilities to meet prudential requirements commensurate with its risk profile.

The instrument makes minor consequential amendments to APS 610 to include CPS 220 in the listing of prudential standards that apply to providers of purchased payment facilities.

3. Consultation

APRA undertook a seven week consultation on the proposed consequential changes from August 2014.

4. Regulation Impact Statement

A Preliminary Assessment was submitted the Office of Best Practice Regulation who confirmed that a Regulation Impact Statement is not required.

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

Banking (prudential standard) determinations Nos. 3 to 11 of 2014

The instruments are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The instruments make changes to prudential standards to incorporate changes consequential to new *Prudential Standard CPS 220 Risk Management* and revised *Prudential Standard CPS 510 Governance*. These instruments:

- include a new definition for ‘ensure’;
- update references to applicable standards; and
- remove duplication of detail.

Human rights implications

APRA has assessed these 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 *Human Rights (Parliamentary Scrutiny) Act 2011*. Accordingly, in APRA’s assessment, the instruments are compatible with human rights.

Conclusion

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