

Financial Sector (Collection of Data) (reporting standard) determinations No. 37, 38, 39, 40 and 41 2015

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

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

Acts Interpretation Act 1901, section 33

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. Such standards relate to reporting financial or accounting data and other information regarding the business or activities of the entities. 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 any such instrument.

On 10 December 2015, APRA made the following determinations (the instruments):

- (1) Financial Sector (Collection of Data) (reporting standard) determination No. 37 of 2015 which:
 - (i) revokes *Reporting Standard SRS 532.0 Investment Exposure Concentrations* (SRS 532.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 27 of 2014; and
 - (ii) determines *Reporting Standard SRS 532.0 Investment Exposure Concentrations*;
- (2) Financial Sector (Collection of Data) (reporting standard) determination No. 38 of 2015 which determines *Reporting Standard SRS 533.1 Asset Allocation and Members' Benefits Flows* (SRS 533.1);
- (3) Financial Sector (Collection of Data) (reporting standard) determination No. 39 of 2015 which determines *Reporting Standard SRS 534.0 Derivative Financial Instruments*;
- (4) Financial Sector (Collection of Data) (reporting standard) determination No. 40 of 2015 which:
 - (i) revokes *Reporting Standard SRS 702.0 Investment Performance* (SRS 702.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 26 of 2014; and
 - (ii) determines *Reporting Standard SRS 702.0 Investment Performance*; and
- (5) Financial Sector (Collection of Data) (reporting standard) determination No. 41 of 2015 which:

- (i) revokes *Reporting Standard SRS 703.0 Fees Disclosed* (SRS 703.0) made under Financial Sector (Collection of Data) (reporting standard) determination No.100 of 2013; and
- (ii) determines *Reporting Standard SRS 703.0 Fees Disclosed*.

This instrument commences on date of registration on the Federal Register of Legislative Instruments.

1. Background

APRA is empowered to make reporting standards under the Act, which require regulated institutions, including RSE licensees, to submit specified data through various reporting forms. Data from these forms is used by APRA to assist with APRA's supervisory functions, and also by Government and other agencies such as the Australian Bureau of Statistics and the Australian Securities and Investments Commission.

In 2013 and 2014, APRA released a new suite of reporting standards applying to the superannuation industry. Since the commencement of the new reporting requirements, APRA has received industry feedback on some of these standards, as well as a number of requests for clarification and guidance on interpretation.

2. Purpose and operation of the instruments

The purpose of making these instruments is to make minor revisions to five of the existing reporting standards for superannuation to clarify and provide further guidance on the reporting requirements applying to the superannuation industry.

The issues that APRA has addressed in the revisions to the five reporting standards include, but are not limited to:

- changes to the definitions and reporting of certain asset types or asset classes to clarify APRA's requirements and to reduce complexity;
- ensure consistency in reporting certain items with other reporting standards;
- clarify and update the reporting of certain items on an APRA look-through basis; and
- clarify the reporting of certain items with reference to Australian Accounting Standards.

3. Consultation

APRA consulted on the proposed reporting standards between April and June 2016. Submissions were received from, and discussions were held with, RSE licensees, industry bodies and other interested parties.

On 28 April 2015, APRA released a package of 31 draft reporting standards. The majority of changes outlined in this package related to minor revisions to the

reporting standards to incorporate material previously issued by APRA as frequently asked questions.

At this time APRA also sought industry feedback on proposed changes to five reporting standards (SRS 532.0, SRS 533.1, SRS 534.0, SRS 702.0 and SRS 703.0). Consultation on these proposed changes closed on 19 June 2015.

In a letter on 31 July 2015, APRA responded to the submissions on these five reporting standards and released revised versions of these reporting standards. Submissions did not raise any material issues about the reporting standards; they instead sought further clarification on the intent of APRA's requirements and requested that APRA reduce certain reporting complexity in the standards. These comments included:

- misalignment between the reporting of direct and indirectly held investments under SRS 533.1 with the equivalent reporting for MySuper products under *Reporting Standard SRS 533.0 Asset Allocation*;
- difficulties in obtaining information on netting arrangements from third parties for certain asset classes; and
- issues with the approach to reporting indirect costs on SRS 702.0 for real estate investment trusts under APRA look-through reporting and whether to report items under SRS 702.0 on a gross of tax basis.

APRA has made changes to respond to these concerns.

The instruments will be effective on 1 July 2016.

4. Regulation Impact Statement

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

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*

Financial Sector (Collection of Data) (reporting standard) determinations No. 37 – No. 41 2015

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 Instruments

The purpose of making these legislative instruments is to make minor revisions to five reporting standards SRS 532.0, SRS 533.1, SRS 534.0, SRS 702.0 and SRS 703.0 to clarify and provide further guidance on existing reporting requirements. The changes are being released to simplify the superannuation industry's reporting requirements and ensure consistency across the entire suite of reporting standards.

Human rights implications

APRA has assessed the instrument against the international instruments listed in section 3 of the HRPS Act and determined that only Article 17 of the International Covenant on Civil and Political Rights (ICCPR) is conceivably potentially of relevance to the instrument.

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.

The information collected will be about each RSE licensee's business operations, focusing on aggregate transactions information. The information collected does not relate to individuals or persons.

This information ultimately supports APRA achieving its mission of ensuring that, under all reasonable circumstances, financial promises made by the institutions APRA supervises are met within a stable, efficient and competitive financial system.

APRA does not publish the personal information which it collects. Information provided to APRA under reporting standards is protected information for the purposes of section 56 of the Australian Prudential Regulation Authority Act 1998 (APRA Act) and cannot be disclosed except under a limited range of circumstances provided for under that section. While APRA does publish some protected information gathered under reporting standards, 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.

Conclusion

Financial Sector (Collection of Data) (reporting standard) determinations No. 37, 38, 39, 40 and 41 are compatible with human rights because:

- (i) to the extent that determinations No. 37, 38, 39, 40 and 41 of 2015 limit human rights, those limitations are reasonable, necessary and proportionate; and
- (ii) the remaining parts of the determinations do not raise human rights issues.