

Banking (prudential standard) determination No. 1 of 2016

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 28 April 2016, APRA made Banking (prudential standard) determination No. 1 of 2016 (the instrument) which revokes Determination of Prudential Standard APS 240 Risk Management of Credit Card Activities, including *Prudential Standard APS 240 – Risk Management of Credit Card Activities* (APS 240).

The instrument takes effect upon registration on the Federal Register of Legislation.

1. Background

Specialist credit card institutions (SCCIs) were a special class of ADI that were authorised to carry on credit card issuing and/or acquiring, but no other banking business. Under Regulation 4 of the *Banking Regulations 1966* (the Banking Regulations), the activities of credit card issuing and acquiring were ‘banking business’ for the purposes of the *Banking Act 1959* (the Banking Act), if performed by a participant in a credit card scheme that was designated as a payment system under s 11 of the *Payments Systems (Regulation) Act 1998* on 11 April 2001. SCCIs were supervised by APRA and subject to broadly similar authorisation and prudential requirements as other ADIs.

In 2003, APRA finalised its regulatory arrangements for authorising and supervising SCCIs. APRA determined APS 240 which required ADIs to implement prudent measures to monitor and control the risks associated with their credit card activities.

Following the Payment Card Access Review in 2013-14, the Australian Government agreed to open up access to the approved card schemes by removing the requirement for issuers and acquirers to be ADIs. As part of these reforms, the SCCI framework was abolished from 1 January 2015 through the repeal of Regulation 4 of the Banking Regulations by the *Banking Amendment (Credit Card) Regulation 2014*.

2. Purpose and operation of the instrument

APS 240 was made to ensure that ADIs implemented prudent measures to monitor and control the risks associated with their credit card activities. It contained granular risk management provisions that sought to address the concentration of risks that arose as a result of operating a single business line.

The revocation of APS 240 is premised on the recognition that the standard had become outdated and contained obsolete provisions in its references to SCCIs. The prudential framework has evolved since APS 240 was introduced in 2003, with the requirements for appropriate credit card risk management now replicated within other prudential standards that focus on discrete risk areas (ie, credit, liquidity, operational risks) on a portfolio basis, rather than at the granular product level. This approach ensures the prudential framework more comprehensively addresses appropriate standards of risk management across all areas of an ADI's business, relative to when APS 240 was introduced. The revocation of APS 240 does not, therefore, detract from the quality of APRA's prudential framework.

The purpose of the instrument is to revoke APS 240 so as to align APRA's prudential framework with the Australian Government's abolition of the SCCI regime. This does not signify a loosening in the standards of risk management expected by APRA of ADIs that engage in credit card activities.

3. Consultation

APRA did not consult on the revocation of APS 240 as the repeal of this standard is a minor and machinery change, which is consequential to the Australian Government's abolition of the SCCI framework. Prior to the abolition of the SCCI framework, both the Reserve Bank of Australia and the Australian Department of Treasury consulted with industry representatives and other stakeholders during the period 2013-14.

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

Banking (prudential standard) determination No. 1 of 2016

This Legislative Instrument is 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* (HRPS Act).

Overview of the Legislative Instruments

This legislative instrument revokes Determination of Prudential Standard APS 240 Risk Management of Credit Card Activities, including *Prudential Standard APS 240 – Risk Management of Credit Card Activities* made under that Determination.

Human rights implications

APRA has assessed this Legislative 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.