

Financial Sector (Collection of Data) (reporting standard) determination No. 40 of 2018

EXPLANATORY STATEMENT

Prepared by the Australian Prudential Regulation Authority (APRA)

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

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. Under subsection 13(2B) of the Act, the matters that may be included in reporting standards may relate to reporting of amounts for the purposes of the *Major Bank Levy Act 2017*.

On 19 July 2018, APRA made Financial Sector (Collection of Data) (reporting standard) determination No. 40 of 2018 (the instrument) which determines *Reporting Standard ARS 910.0 Financial Claims Scheme data collection* (ARS 910.0).

The instrument commences upon registration on the Federal Register of Legislation.

1. Background

The Financial Claims Scheme (FCS) is an Australian Government scheme under the *Banking Act 1959* that provides protection to deposits held in locally incorporated authorised deposit-taking institutions (ADIs) in the event that one of these ADIs fails. The FCS covers amounts up to \$250,000 per account holder per ADI. Once activated by the Treasurer, APRA is responsible for administering the FCS.

On 1 July 2013, APRA released the final version of *Prudential Standard APS 910 Financial Claims Scheme* (APS 910). APS 910 sets out the minimum requirements that a locally incorporated ADI must meet to ensure that it is adequately prepared if it is declared under the FCS. APS 910 requires ADIs to be able to identify each unique account-holder in order to establish a single customer view (SCV) that would in turn facilitate FCS payments and reporting.

2. Purpose and operation of the instrument

The purpose of this instrument is to determine ARS 910.0, which contains the requirements for the provision of FCS relevant data to APRA. The information reported under ARS 910.0 will assist with APRA's FCS administration and will help APRA to determine and provide information on FCS coverage amounts.

ARS 910.0 applies to all locally incorporated ADIs, other than providers of purchase payment facilities.

3. Consultation

APRA undertook public consultation on a draft of ARS 910.0 between 29 August 2017 and 25 October 2017.

APRA received four submissions from reporting entities and industry associations. The main issues raised in submissions concerned the implementation timeline and the alignment of definitions with other APRA data collections. Submissions also sought clarity on some data concepts contained in ARS 910.0.

The timing of implementation and reporting due dates in ARS 910.0 were not amended based on the feedback received in submissions citing APRA's longstanding need for accurate FCS data and the need to provide some of this data in aggregate form to Government.

To a large extent APRA aligned the definitions contained in ARS 910.0 with those contained in *Reporting Standard ARS 701.0 ABS/RBA Definitions* (ARS 701.0) as requested in submissions. This was done to allow entities to leverage off the work underway to implement ARS 701.0.

Further, submissions requested the clarification of particular concepts in ARS 910.0. Clarifications made by APRA on the data concepts included in ARS 910.0 were communicated to the affected ADIs in an industry response letter. Clarifications to concepts were also reflected in ARS 910.0.

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

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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* (HRPS Act).

Overview of the legislative instrument

The instrument determines a new reporting standard under the *Financial Sector (Collection of Data) Act 2001* which will facilitate APRA's collection of Financial Claims Scheme (FCS) data from locally incorporated Authorised Deposit-taking Institutions (ADIs). The collected data will assist with APRA's FCS assurance benchmarking and will help to ensure that ADIs are in a state of operational readiness in the event of an FCS declaration.

Human rights implications

APRA has assessed the 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.