

Financial Sector (Collection of Data) (reporting standard) determination No. 38 of 2023

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 make, grant or issue an instrument of a legislative or administrative character 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.

Subsection 15(1) of the Act provides that APRA may declare a day on and after which the reporting standards are to apply.

On 16 March 2023, APRA determined the Financial Sector (Collection of Data) (reporting standard) determination No. 38 of 2023 which:

- (1) revokes *Reporting Standard LRS 430.0 Sources of Profit* (LRS 430.0) (reporting standard) made under Financial Sector (Collection of Data) (reporting standard) No. 59 of 2013; and
- (2) determines a new version of LRS 430.0.

This instrument commences on 1 April 2023.

1. Background

APRA's prudential framework includes a suite of prudential standards that impose capital requirements for life insurers (LIs), for the purpose of ensuring LIs hold sufficient capital to address the risks associated with their operations.

APRA's reporting standards collect financial data from regulated entities. This data contains critical indicators of a regulated entity's financial wellbeing, including capital adequacy. APRA relies heavily on this financial data to inform its supervisory actions towards its regulated entities. Without timely and complete data, APRA may miss indicators that a LI is taking on imprudent risk or is in distress. APRA's supervisory decisions may be jeopardised if its receipt of data is unreliable due to entities seeking merits review under its reporting standards.

LRS 430.0 sets out a LI's reporting requirements to APRA in relation to its sources of profit. It includes *Reporting Form LRF 430.0 Sources of Profit* (and the associated instructions). LRS 430.0 permits APRA to collect data to support APRA's prudential supervision of LIs and is used by APRA to assess compliance with the capital standards.

LRS 430.0 was last determined by APRA in 2013 (the previous LRS 430.0).

2. Purpose and operation of the instruments

The previous LRS 430.0 was to be repealed by sunseting on 1 April 2023 under subsection 50(1) of the *Legislation Act 2003*. APRA has reviewed the regulatory performance of the previous LRS 430.0 and found that it continues to be fit for purpose. Consequently, APRA intends that it be remade without substantive changes.

The purpose of the instrument is to revoke the previous LRS 430.0 and remake LRS 430.0 with minor changes to use the drafting style employed currently for APRA's reporting standards, such as formatting to improve readability and accessibility, make minor definitional changes and update the commencement date. The changes to LRS 430.0 do not alter the existing reporting obligations or interests of LIs. The due dates, data required and the application of the reporting standard has not changed.

The instrument incorporates by reference certain provisions of Acts, Prudential Standards, and Australian Accounting Standards issued by the Australian Accounting Standards Board. All of these references are references to the instruments as they exist from time to time. These instruments are disallowable instruments and are available on the Federal Register of Legislation at www.legislation.gov.au.

There are a number of powers that may be exercised by APRA in reporting standards that involve an element of discretion and which may impact the interests of the financial sector entity to which the reporting standard applies. These decisions include APRA refusing to change a reporting period or due date for a LI to provide information required by LRS 430.0. Decisions made by APRA exercising those powers are not subject to merits review. Delays caused by an entity seeking merits review of APRA's decisions under one or more reporting standards could significantly compromise use of the data at an entity and aggregate level by APRA. It is necessary that LRS 430.0 be allowed to continue in force from 1 April 2023 onwards.

APRA considers decisions made by APRA exercising discretions under its reporting standards should not be subject to merits review as they are financial decisions with a significant public interest element.

3. Consultation

The substance of LRS 430.0 has already been consulted on with industry when originally determining the reporting standard (see the Explanatory Statement for the previous LRS 430.0). APRA is satisfied that further consultation is not necessary and not reasonably practicable to undertake for this instrument. The instrument does not alter the existing reporting obligations that are required to be complied with by LIs and any changes to the instrument are minor and machinery in nature.

4. Regulation Impact Statement

The Office of Impact Analysis 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 instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (HRPS Act).

Overview of the Legislative Instrument

Reporting Standard LRS 430.0 Sources of Profit (LRS 430.0) outlines the overall requirements for the provision of information to APRA relating to a summary of the sources of profit of a life insurer (LI). LIs are bodies corporate authorised to conduct life insurance business in Australia.

The purpose of the Legislative Instrument is to revoke the existing version of LRS 430.0 determined by APRA in 2013 and replace it with a new version. A new version of LRS 430.0 is being made as the existing LRS 430.0 is due to sunset on 1 April 2023.

Human rights implications

APRA has assessed the 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 Legislative Instrument is compatible with human rights.

Conclusion

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