

Financial Sector (Collection of Data) (reporting standard) determination No. 129 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 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 26 September 2023, APRA made the Financial Sector (Collection of Data) (revocation) determination No. 129 of 2023 which revokes *Reporting Standard SRS 534.0 Derivative Financial Instruments* made under Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2017 the old reporting standard.

The instrument commences at the start of the day after it is registered on the Federal Register of Instruments.

1. Background

The old reporting standard required registrable superannuation entities (RSEs) to provide information to APRA relating to the derivative financial instruments of a registrable superannuation entity.

In September 2021, APRA determined ten new reporting standards as a part of APRA's Superannuation Data Transformation (SDT) project, which aims to collect accurate and comparable data on the superannuation industry to enable appropriate regulatory oversight, transparency and accountability for RSE licensees. One of those reporting standards (*Reporting Standard SRS 550.0 Asset Allocation* (the new Reporting Standard)) collects information which overlaps with SRS 534.0. After a period of parallel reporting to ensure the quality of the data submitted under the New Reporting Standard is sufficient, APRA has determined that collection of information under the old reporting standard is no longer required.

2. Purpose and operation of the Legislative Instrument

The purpose of the Legislative Instrument is to revoke the old reporting standard. The information collected under the old reporting standard is now collected under the new Reporting Standard. This will reduce duplication of reporting for RSEs.

Operation of the instrument

The first paragraph of the instrument identifies the source of the power that is being exercised by the delegate and is the operative paragraph that revokes the old reporting standard.

The second paragraph provides for the instrument to commence on the day after it is registered on the Federal Register of Legislative Instruments. This is the day that would apply under subsection 12(1) of the *Legislation Act 2003* (Cth), if no commencement provision were made.

3. Documents incorporated by reference

Under paragraph 14(1)(a) of the *Legislation Act 2003*, the reporting standard revocation determination incorporates by reference as in force from time to time:

- *Legislation Act 2003* (Cth)

This document can be freely obtained at www.legislation.gov.au.

4. Consultation

APRA undertook public consultation on the proposed cessation of the old reporting standard from April 2022 to May 2022 as part of the Superannuation Data Transformation Project Phase 2 consultation. Submissions were received from both reporting entities and industry bodies, with no objections raised in response to the proposed revocation of the reporting standards. APRA confirmed its intention to revoke the reporting standard in its August 2022 response paper ‘*Superannuation Data Transformation Project Phase 2*’.

5. Regulation Impact Statement

A Regulation Impact Statement was prepared and lodged in connection with the wider Superannuation Data Transformation project which contemplates the revocation of the old reporting standard.

6. 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.

7. Legislative instrument – disallowance and sunseting

The instrument is a legislative instrument for the purposes of the *Legislation Act 2003* (Legislation Act). In accordance with section 44 of the Legislation Act and item 3 in paragraphs 9 and item 6 in paragraph 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015* (Legislation Regulation), the instrument is not subject to disallowance or sunseting under the Legislation Act on the grounds that the instrument relates to superannuation. The instrument is a determination which revokes a reporting standard. The Explanatory Statement to the Legislation Regulation states:

¹ [Consultation on Superannuation Data Transformation Phase 2 Scope and Approach | APRA](#)

“Item 3 is an instrument (other than regulations) relating to superannuation. This item preserves the exemption in item 39 of the table in subsection 44(2) of the Legislative Instruments Act. This exemption exists because exposure of superannuation instruments to disallowance would cause commercial uncertainty, as well as uncertainty for superannuation fund members and providers. These instruments are intended to have enduring operation and are not suitable for the disallowance process.”

“Item 6 is an instrument (other than a regulation) relating to superannuation. This item preserves the exemption in item 42 of the table in subsection 54(2) of the Legislative Instruments Act. Sunsetting of instruments relating to superannuation could cause commercial uncertainty, as well as uncertainty for superannuation fund members and providers. These instruments are intended to have enduring operation and it would not be appropriate to subject them to sunsetting.”

As detailed above, extensive consultation with industry stakeholders occurred prior to the finalisation of the instrument. APRA conducts regular reviews on its reporting standards, which range from post-implementation reviews to targeted reviews of specific standards or aspects of standards.

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 purpose of the Legislative Instrument is to revoke the following instrument:

Reporting Standard SRS 534.0 Derivative Financial Instruments (SRS 534.0) made under Financial Sector (Collection of Data) (reporting standard) determination No. 1 of 2017

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.