

10 February 2017

Manager, Banking Statistics
Australian Prudential Regulation Authority
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SYDNEY NSW 2001
By email: statistics@apra.gov.au

Dear Sir/Madam

Discussion Paper: Residential mortgage lending reporting requirements for authorised deposit-taking institutions

The Australian Bankers' Association (**ABA**) appreciates the opportunity to provide comments on APRA's Discussion Paper: *Residential mortgage lending reporting requirements for authorised deposit-taking institutions* (**Discussion Paper**).

With the active participation of its members, the ABA provides analysis, advice and advocacy for the banking industry and contributes to the development of public policy on banking and other financial services. The ABA works with government, regulators and other stakeholders to improve public awareness and understanding of the industry's contribution to the economy and to ensure Australia's banking customers continue to benefit from a stable, competitive and accessible banking industry.

Implementation timeline and regulatory compliance burden

The ABA is supportive of attempts to collect accurate and meaningful data and acknowledges that APRA sees this new reporting standard and associated reporting form (**ARF 223.0**) as enabling the collection of information deemed to be essential to its supervisory activities.

The ABA requests APRA to consider and prioritise the large volume of concurrent regulatory reforms impacting the sector when considering their final policy response to submissions on this consultation. The ABA also urges APRA to ensure consistency in definitions between ARF 223.0 and the economic and financial statistics (**EFS**) collection.

Government agencies should provide at least 12-18 months from the issue of final instructions and forms to allow ADI's to implement any reporting changes. APRA has indicated their final policy settings resulting from this consultation will be provided in the first half of 2017. If final forms and instructions are not issued until June 2017 then all ADIs will need to ensure the required data be available by 1 October 2017 for the December quarter reporting. The ABA would hold that such a short timeframe is unreasonable and will result in all ADIs incurring additional costs to implement an interim tactical response to achieve the 1 October 2017 date. The ABA recommends that a suitable implementation period, assuming instructions are released in June 2017, would be June 2018 with a period of 'best endeavours' reporting for the June, September and December 2018 quarters.

The Financial System Inquiry's Final Report recognised this ever-increasing burden with government accepting the Inquiry's 31st recommendation, namely to increase the time available for industry to implement complex regulatory change. Government agreed to provide industry with appropriate time to implement regulatory change and also committed to reflect this in their Statement of Expectations to all agencies.



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ADIs, regardless of size, have limited resources (people, technology and budget) to implement the technological solutions and compliance/reporting processes needed to address the many competing regulatory projects in a cost effective and efficient manner. The ABA encourages APRA to take a holistic view when considering multiple implementation timeframes across its entire policy agenda.

For ease, the ABA has placed our comments in an Appendix under the relevant section headings of the Discussion Paper. Written submissions on technical topics such as statistics have limitations. For this and future APRA consultations with such nuanced content, the ABA would welcome the opportunity to facilitate a workshop with APRA's banking statistics team and industry, which would help address many of the definitional issues and questions that ADIs will have now posed in their responses to APRA. Soft-soundings and workshops are a common feature in the policy formation process of other government departments and agencies, so the ABA would encourage serious consideration of our offer to help ensure clarity and reduce any reporting inaccuracies arising from ambiguous definitions and instructions.

Discussion Paper

In the Discussion Paper, Section 2.3 *Use of ARF 320.8* noted that APRA's need for regular statistics on mortgage lending activity will be largely met by the proposed ARF 223.0 and that the RBA will become the primary user of ARF 320.8. It also requested that APRA continue to collect the form on its behalf from ADI's with over \$1 billion of residential mortgage term loans each quarter.

As per the ABA's letter to APRA dated 22 December 2016 on *Revised APG 223 - Residential Mortgage Lending*, the ABA requested APRA clarify the current reports expected to be replaced by ARF 223.0, and those which are intended to continue alongside the reporting form, e.g. the APRA quarterly lending survey. The ABA would welcome APRA's response to that request. In APRA's webinar held on 15 November 2016 it was stated that ARF 223.0 would replace all current mortgage balance reporting.

The ABA also seeks clarification whether APRA intends to make the report publicly available or if it is for internal use only. If APRA intends to publish data from the ARF 223.0 return it would need to consult with industry to assess the value of publishing this information and the potential for data to be misinterpreted by users.

Section 2.4 Next steps, states that after considering feedback received in response to the Discussion Paper, APRA expects to issue a response paper and finalise the content and format of ARS 223.0 in the first half of 2017. The new reporting requirements would commence for the quarter ending 31 December 2017. In addition to our earlier request to align the implementation of the proposed reporting standard ARS 223 with other regulatory reporting requirements, the ABA would expect APRA to also provide details on the implementation approach for the new reporting requirements. The ABA recommends a period of reporting under 'best endeavours' before the return is subject to audit under APS 310.

Conclusion

Should APRA have any questions regarding the views of the ABA and its members, we are most willing to assist. The ABA looks forward to continuing dialogue with APRA's banking statistic team in 2017.

Yours faithfully

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Appendix – Comments on Reporting Standard ARS 223.0

Reporting Standard ARS 223.0 – Draft reporting form

Item 10 New loans originated – Total committed amount

The ABA would welcome clarification from APRA on whether ‘Top ups’ are to be included in this reporting item.

Item 12.1 Average variable rate

The ABA seek confirmation from APRA that this rate is to include any discretionary discounts the customer may be entitled to.

Reporting Standard ARS 223.0 – Instructions

General direction and notes

The instructions state that the form is to be completed by all Australian-owned banks, foreign subsidiary banks, any branch of a foreign bank which has received a notice from APRA under paragraph 5 of *Reporting Standard ARS 223.0 Residential Mortgage Lending*. The ABA would welcome clarification whether this definition is limited to the Australian portfolio of an ADI or should include any overseas portfolios e.g. New Zealand.

Reporting Standard ARS 223.0 – Definitions

Definition of security types

The ABA notes that security types include residential property i.e. dwellings (including units or apartments), residential land. The ABA seeks updated guidance to clarify that in the instance of ‘cash as security’, should loans where the borrower had sold the security property and placed cash on deposit with the ADI pending purchase of another residential security property, be included or excluded from ARF 223.0.

Definition of borrower types and characteristics

The Non-Resident definition is not consistent with the definition put forward in the Discussion Paper for the EFS Collection.

The last paragraph in the final page of the draft reporting guidance *ARF 223.0 Residential Mortgage Lending* states: *Residents and non-residents: the definition of residents and non-residents is consistent with other reporting to APRA such as ARF 320.0 and consistent with SESCOA.*

The ABA recommends that the definition of *Non-Resident* be aligned with the definition of *Non-Resident* contained on page 7 of the document *Reporting guidance: ABS/RBA Reporting Concepts* contained in the EFS Collection Discussion Paper.

Impaired customer credit history: Should a minor default for a non-material amount where this amount has subsequently been paid be included? The ABA proposes that each ADI should exclude any non-material defaults from being reported as having an impaired credit history, in line with the ADI’s internal credit policy on the treatment of these non-material default amounts.

The ABA would also welcome guidance whether just one default constitutes a record of default or would further defaults be required, and queries whether there is a materiality threshold?



Definitions of measures of loans

Loan-to-income Ratio: The ABA holds that defining the denominator to be gross income after discounts are applied creates a counter-intuitive outcome of increasing the loan to income ratio for ADIs which apply greater income discounts. For example, a more conservative ADI may discount rental income by 30%, resulting in a higher loan to income profile than an ADI that discounts rental income by 20%, all else being equal. The ABA recommends that total gross income is used in the denominator.

Definitions of loan types and characteristics

30-89 days past due: The APRA Discussion Paper states: **30-89 days past-due** refers to loans that are at least 30 days past due but less than 90 days past-due, whether or not the loan is well secured or impaired. Include loans under which one or two monthly payments have been missed, even if the loan is still considering performing and is within limits.

The ABA recommends removing the sentence “Include loans under which one or two monthly payments have been missed” to avoid confusion in the definition, noting that one missed repayment generally equates to 1-29 days past due.

The ABA would like APRA to confirm where a loan is re-structured in line with APS220 and the delinquency status has been reset to current, that the loan should not be considered ‘past due’ unless the customer then fails to make payments as required under the revised repayment schedule. If so, then the definition should make this clear.

The ABA recommend that the **30-89 days past due** definition be changed to:

loans where the borrower has failed to make the equivalent of two or more contractually required monthly repayments, including any repayments that have been waived or capitalised as part of a restructure (as per APS 220 definition), whether due to hardship relief or for any other reason.

The ABA recommend that the reporting instructions for **30-89 days past due** include:

Do not include loans that are already being reported as past due or impaired. If a loan has been restructured and returned to non-impaired / performing status (as per APS 220), include it only if the borrower has missed the equivalent two or more monthly repayments since the return to non-impaired / performing status.

Hardship relief: Prudential Standard APS 220 Credit Quality, states, ‘a restructured facility is defined for the purposes of this Prudential Standard as a facility in which the original contractual terms have been modified to provide for concessions of interest, or principal, or other payments due, or for an extension in maturity for a non-commercial period for reasons related to the financial difficulties of an entity. The ABA would like to have clarified are loans currently subject to hardship relief the same as restructured loans?

Low-documentation: The APRA Discussion Paper states: **Low-documentation** refers to a loan for which the lender has not, prior to loan origination, fully documented and verified the income of the borrower.

The low-documentation definition appears to describe serviceability policy exceptions. The distinguishing feature of a low-documentation loan is that it relies on the stated or declared income of the borrower, with no documentary evidence, or one that is underwritten under a Low-Documentation Loan program (including but not limited to a program made available by an LMI provider, for example). Loans approved under a “Fully Documented” loans policy, but with a lesser level of documentation than specified in that policy, should not be reported as low documentation loans, but as “Exceptions to serviceability policy” of a fully documented loan,.

Would APRA please confirm that the above is in line with APRA policy settings, such that loans with an alternate income verification policy such as those for self-employed, should be excluded in this category.



Mortgagee in possession: The ABA requests that APRA confirm that loans where the security property has been sold and there is a shortfall be excluded from the Mortgagee in Possession section of ARF 223.0.

Originated: The APRA Discussion Paper states: ***Originated** a loan is considered originated once any portion of the funds are made available for the borrower to draw down according to the terms of the contract, irrespective of whether any funds have yet been drawn or not. Include refinancing of existing loans from within the ADI where a new application is received, a new credit assessment decision is made and a new loan replaces the existing loan. Exclude loans refinanced within the ADI that do not meet these criteria.*

The ABA seeks clarification from APRA on the definition of 'originated' and if it is intended to differ to the definition of 'approvals' used for the 320.8 report.

In regards to 'new loans' in the **originated** definition, it is unclear from the drafting at what stage an ADI would report the new loan to APRA? Is it when a loan is applied for by an individual or when an ADI makes the funds available to the individual? The ABA recommends that the definition be altered to reflect that new loans would be reported to APRA when an ADI makes the funds available.

Refinanced from other institutions: The APRA Discussion Paper states: ***Refinanced from other institutions** refers to loans resulting from repayment of a previous existing loan at another financial institution (that is not within the regulated ADI itself) with a new loan from the ADI of similar amount for the same security.*

There may be instances where a loan is refinanced for an amount greater than the amount borrowed from the other ADI. The ABA therefore suggest removing the reference to a 'similar amount' unless APRA intend to report this separately.

The ABA recommends that the definition of refinanced from other institutions is aligned to the definition of external refinancing per ARF 743 Housing Finance¹.

Revolving Credit and Term Loans: The ABA believes the distinction between Revolving Credit and Term Loans is not clear. The definitions of both needs additional clarity provided by a statement similar to:

Revolving Credit

The distinguishing feature of revolving credit is the ability to repeatedly draw down in part or in full up to a limit, which (according to the loan contract), remains unchanged for the life of the loan.

Term Loans

The loan contract for a term loan intends that from a given point in time during the term of the loan until maturity, a series of instalment payments will gradually reduce the maximum permitted loan balance to zero by the maturity date.

Revolving credit balances: In ARF 223.0, revolving credit balances are not partitioned into those secured by owner occupied property and those secured by investment property, nor required to be partitioned by time since origination, nor required to be partitioned by loan-to-income, nor required to be partitioned by LVR band. The ABA would welcome guidance from APRA the reason for not treating term loans and revolving line of credit loans together when partitioning into investor/owner occupied, origination period, LVR Band, etc.

¹ ARS 701 ABS RBA definitions state, 'External refinancing' occurs where a new loan is obtained to replace an existing loan that was provided by a different lender. The funds from the new loan should be used for substantially the same purpose as the existing loan contract that it is to replace. For housing, it should refinance an existing loan for the purchase or construction of, or any other alterations, additions and repairs or other improvements to the same residential property.



Reporting Standard ARS 223.0 – Specific Instructions

Section A: Outstanding loans secured by residential property

Items 3.9 and 10.10² refer to “Primary security is unit/apartment”. For loans with more than one security, how is the “primary security” to be determined? The ABA requests that APRA publish examples to demonstrate how ADIs should report situations of multiple securities and loan types.

Item 12.1 - Average variable rate

The ABA seeks clarification regarding loans where the interest rate reverts to variable during the term of the loan. Should these loans be considered to be fixed-rate loans for the purposes of this calculation?

Reporting Standard ARS 223.0 – Reporting Guidance

Reporting guidance - Households and other counterparties

The ABA would welcome clarification of the following:

- Where the borrower is a company or trust that is solely for the purpose of holding residential property assets, such as family investment companies, property trusts and trading trusts, should this be included under the definition of household, or should this be excluded and treated as a business?

As an aside, a significant number of ABA members have indicated they will have difficulty determining whether their existing trust customers meet the definition of a Household Trust, including whether they have a controlling interest in one or more businesses, due to the information either not being available or held in a format not easily useable for the purposes of the reporting. The short implementation timeframe will further hamper efforts to obtain this information by the proposed 1 October 2017 date for data capture. The ABA strongly recommends that the requirement to report loans to household trusts is limited to Section B (i.e. removed from Section A) where new processes can be implemented to obtain the necessary information for new loans originated from the date which APRA decides the reporting obligation commences, noting the ABA’s earlier request for an adequate implementation time for this obligation.

- Should loans that are to a trust that is not a family trust, property trust or unit trust be included in the ARF 223.0 return?
- Should individuals who are acting as a sole trader and where the loan is for business purposes be excluded from the ARF 223.0 return?

Classification of loans by their security

The ABA would welcome clarification of the following:

Mixed security – How loans secured by a combination of both residential and commercial property be included in ARF 223.0.

Should loans secured against property development considered as residential mortgage lending?

Loan-to-valuation ratio (LVR) categories

The ABA would welcome clarification on how the LVR for loans in *Instructions, Section B: New Loan Originated in the Quarter, secured by residential property* should be calculated. Should this be based on the outstanding balance of the loan as per Attachment D of APS 112, or should this be based on the approved limit of the loan? If this is the outstanding balance of the loan, should this be on the day of settlement of the loan, or as at the reporting date being the last day of the calendar quarter?

² See also item 10.10, Section B: New Loans originated during the quarter, secured by residential property, Page 11