



21 August 2020

Ms Katrina Squires
Acting General Manager. Policy development
Policy and Advice Division
Australian Prudential Regulation Authority
1 Martin Place
SYDNEY NSW 2000

By email: ADIpolicy@apra.gov.au

Dear Ms Squires

APRA consultation on treatment of loans impacted by COVID-19

The Australian Banking Association (ABA) welcomes the opportunity to provide feedback on APRA's 13 August 2020 letter to ADIs on the treatment of loans impacted by COVID-19. The temporary relief APRA is providing for COVID -19 loans has helped ABA members assist over 800,000 customers with a loan deferral during this health crisis.

Your letter invites feedback on two related issues:

1. Draft Attachment E *Prudential Standard APS 220 Credit Quality* (APS 220); and
2. Draft *Reporting Standard ARS 923.2 Repayment Deferrals* (ARS 923.2)

The ABA's feedback on each of these is below.

Draft Attachment E Prudential Standard APS 220 Credit Quality

The ABA understands that the purpose of Attachment E is to give effect to the temporary relief contained in APRA's 9 July 2020 letter to ADIs. The ABA considers that draft Attachment E largely reflects our understanding of the temporary relief contained in the 9 July 2020 letter.

The ABA would however welcome further clarification on two points. These are:

- a potential narrowing of the COVID-19 eligible loan criteria; how and when the current APS 220 would apply; and
- whether it is APRA or the ADI, that determines the appropriateness of a credit assessment.

COVID-19 eligible loan criteria narrowed

The ABA understands that APRA's draft eligibility loan criteria for COVID-19 loans under draft Attachment E Section 2 to the following:

- (a) *the loan is provided to an eligible borrower. An eligible borrower for this purpose is either:*
 - (i) *a natural person; or*
 - (ii) *a small- to medium-sized enterprise (SME) with less than \$10m in total debt facilities outstanding.*
- (b) *the borrower's ability to repay according to the original loan terms has been affected by the COVID-19 pandemic; and*



(c) the loan was not 90 days past-due or impaired at the time a loan deferral or restructure was provided to the borrower.

Draft Attachment E indicates that where an 'eligible borrower's' ability to repay according to original loan terms has been affected by the COVID-19 pandemic, and the borrower has been provided with an eligible repayment deferral, then this is not considered a restructure. Paragraph 2(a) defines an eligible borrower as either a natural person or a SME with less than \$10m in total debt facilities outstanding.

However, the ABA understood from APRA's 9 July 2020 letter to ADIs that further capital relief for deferrals and restructures could apply to "a broad class of otherwise performing loans on which ADIs grant repayment deferrals". That is, the scope of borrower was not previously limited to individuals and small businesses up to \$10 million in total debt facilities outstanding.

Given this, the ABA seeks clarification regarding the following situation:

Where an entity has greater than \$10m in total debt facilities outstanding and:

- the entity has until recently been meeting all contractual obligations, financial and non-financial
- the loan is less than 90 days past due; and
- the entity's ability to repay according to the original loan terms has been affected by the COVID-19 pandemic.

In the above case, the ABA would welcome clarification of whether an ADI can provide the following relief without the need to consider the exposure to be a restructured loan:

- extension of maturity date
- deferral or extension of principal payments, including interest capitalisation; or
- conversion to interest only or extension of interest only period.

The relief referred to above would be temporary in nature (i.e. less than 12 months) due to the short-term financial difficulty being experienced by that entity as a result of COVID-19.

In support of this, we note that the ADI must undertake an appropriate credit assessment and be satisfied that the entity is able to fully perform (with no loss of principal and the original contracted amount of interest or other payments due) and the ADI must not maintain any provisions assessed against the facility on an individual basis.

If APRA does intend to narrow the scope of eligible borrowers, it would be useful if APRA could also confirm that the broad range of deferred borrowers including trusts, Self-Managed Super Funds and property investors classified as 'Specialised Lending – Income-Producing Real Estate' with less than \$10m in total debt facilities outstanding are considered eligible borrowers under paragraph 2(a)(ii) of Attachment E.

Appropriateness of credit assessment

The ABA welcomes APRA's approach by requiring a credit assessment to be 'appropriate' instead of the current requirement that: "*Underlying evidence must support the view that there is no doubt about an entity meeting its future obligations*" under APS 220 for a facility to return to non-impaired status.

Assessing the prospects for repayment under the modified terms with certainty is difficult during this highly uncertain economic COVID-19 environment. The proposed approach will enable ADIs to help more customers by offering restructured loans more suitable to their current circumstances.

We understand that APRA has asked ADIs to determine an appropriate credit assessment such that they can form a view of whether the 'borrower has a reasonable prospect of being able to repay the loan on appropriate terms at the end of the deferral period'. ADIs are submitting comprehensive credit assessment plans to APRA this month which outlines their approach.



Draft Reporting Standard ARS 923.2 Repayment Deferrals

The ABA welcomes greater data transparency by regulators. However, providing entity level data to the market needs to be considered in the context of corporate responsibility and directors' duties relating to the disclosure of consistent and accurate information to the market.

Given this, the ABA does not consider that Business Day (BD10) provides sufficient time for ADI's to apply the necessary levels of governance and assurance to data being released to the market.

The ABA appreciates APRA's recent efforts to reduce reporting obligations by publishing only a limited set of data items on loan deferrals and continuing to accept and publish loan deferral data on a best endeavours basis. However, the ABA considers that extending the data submission from Business Day (BD) 10 to BD20 is required to apply the appropriate governance and oversight.

Entity level reporting

The recommendation to extend the submission date is driven by the need for different levels of quality assurance required by the different intended uses of the data. The ABA's understanding of APRA's motivation to publish data at entity level, rather than whole-of-industry or by bank-type, is for greater transparency and to broadly update the market. In comparison, data used to inform economic and industry policy is not published at an entity level.

This distinction is important to note as the different end-uses of the data require different and additional sets of governance arrangements which have different time requirements. ADIs currently provide best endeavours data within a short timeframe using systems and processes which are still under development. The extent of the immaturity of this new COVID-19 deferral data collection can be evidenced by:

- Feedback to ADIs from APRA about inconsistencies between the application of data definitions to data provided by banks to APRA
- Limited reporting definitions resulting from the urgency of the original request which continue to be updated, including a change to a key definition (SME) as recently as 20 August 2020
- Data resubmissions by banks resulting from adaptations to internal processes of data collection

Data provision on a (BD10 cycle at an industry level is appropriate where its overriding purpose is urgent government decision-making during a time of crisis. In this circumstance there are severe economic risks requiring visibility over consumer and business financial behaviour in order to guide government and regulatory responses. By providing data in this way, banks are assisting the Australian government to be responsive in their use of economic levers (i.e. wage subsidies, changes to the cash rate, targeted industry assistance) to support and maintain the overall functioning of the economy.

However, data published at an entity level cannot be treated in this same way due to the disclosure obligations and requirements placed upon ADIs under the *Corporations Act 2001* and ASX Listing Rules.

Increase in regulatory burden

The draft reporting requirements will result in further regulatory burden as well as a material increase in reporting operational risks. In particular there is a significant risk concerning the accuracy of the data required within a BD10 timeframe. This is because the draft requirements increase reporting requirements without any consequential relief for existing requirements.

As well as introducing a new and ongoing reporting form as a response to COVID-19, APRA has also requested that the four largest banks provide all data in a cube format. It was anticipated that the data cube and ARF 923.2 would have a limited parallel reporting run. This is looking increasingly unlikely, however, given a number of key data categories within the data cube contain different definitions to the ARS 923.2.



The introduction of both ARS 923.2 and the data cube is not in the spirit of the 16 March Statement by the Council of Financial Regulators, in which APRA committed to examining how best to allow financial institutions to concentrate on their businesses and assist their customers during the health and economic crisis of 2020. Nor is the ARS 923.2 in the spirit of the current appetite by Treasury for limiting regulatory burden on industry.

A balance of providing information to government which aids important decision-making, and allowing industry the time, space and resources to conduct work which is essential to Australian consumers and business, is essential.

To date, Australian ADIs have shown their willingness to work with government and have increased their regulatory reporting workload to help crucial government decision-making. They have done this under extreme circumstances, including novel and unsettling work arrangements, where staff efficiency may be understandably expected to be lowered rather than raised.

Summary of ABA ARS 923.2 recommendations

The ABA considers that the following actions by APRA will resolve the above concerns. As noted earlier, the ABA proposes that APRA:

- extend the submission date of all COVID-19 data to be published at entity level at least from BD10 to BD20, including submission of ARF923.2 and the data cube.
- confirm that the existing deferral submissions will be decommissioned after the parallel run of Data Cube reporting in August.
- work with industry to collectively define the definitions in the reporting standard.
- provide guidance on restatement requirements given the sensitivity of potential restatements.
- reconsider the requests for extension for some reporting as per the letter of 25 March 2020. APRA previously provided an extension so that forms due before the 35th calendar day would be due on the 35th calendar day.

Thank you again for the opportunity to provide feedback on the COVID 19 loan measures. If you have any queries regarding the ABA's feedback on:

- the draft Attachment E for APS 220, please contact Karen O'Brien [REDACTED]
- the draft reporting standard ARS 923.2, please contact Michelle Jakubauskas on [REDACTED]

Yours sincerely

[REDACTED]

Karen O'Brien
Policy Director

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