

APRA regulation of non-ADI lending consultation

On 17 July 2017, the draft Treasury Laws Amendment (Non-ADI Lender Rules) Bill 2017 (Bill) was released for consultation to widen the powers of the Australian Prudential Regulation Authority (APRA) to:

- make rules concerning the lending activities of non-ADI lenders for the purpose of addressing financial stability risks, and
- allow APRA to collect data from non-ADI lenders for the purposes of monitoring their activities.

Historically APRA has focused on the regulation of authorised deposit-taking institutions (ADIs) to protect depositor interests. The role of non-ADI lenders in the mortgage and personal finance markets has been identified as a potential risk to financial stability in the economy, and the objective of the Bill is to promote financial stability through strengthening APRA's ability to respond.

Key Points

Registrable Corporations definition and exemption

- Definition of registrable corporations for Financial Sector (Collection of Data) Act 2001 (FSCODA) has widened to include those corporations whose business activities in Australia include the provision of finance, or have been identified as a class of corporations specified by APRA.
- Corporations which have assets, consisting of debts due as a result of the provision of finance and principal amounts outstanding on loans or other financing, which do not exceed \$50 million are not registrable corporations for the purposes of FSCODA. This determination is made on an annual basis at 30 June each year.

APRA's rule-making and directive powers

- Legislation will be amended to provide APRA with the powers to make rules in relation to lending activities of non-ADI lenders where APRA has identified material risks of instability in the financial system, and to issue directions to non-ADI lenders.
- This is not ongoing regulation by APRA of non-ADI lenders as APRA will not prudentially regulate and supervise non-ADI lenders as it does ADIs.
- These rules are not intended to cover lending matters which are the responsibility of the Australian Securities and Investments Commission (ASIC) such as responsible lending.
- Penalties will apply for non-compliance.

Reporting Requirements

- Registered corporations (RFCs) will be required to submit data to APRA on their lending activities.
- Whilst there is an RFC Framework for reporting under FSCODA, there is an ongoing initiative to align these with the new Economics and Financial Statistics (EFS) collection requirements for both ADIs and RFCs.

What's next?

The consultation on the draft Bill closes on 14 August 2017. We suggest reviewing and responding to the consultation through the Treasury website: <http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2017/New-APRA-powers-to-address-financial-stability-risks>

For RFCs and non-ADI lenders, if the Bill is passed, key areas to consider include:

- Defining roles and responsibilities for compliance with APRA requirements, both upfront and on an ongoing basis,
- Assessing data, technology and resourcing needs to ensure full compliance with new reporting requirements, and identify any potential gaps,
- Implementing, testing and validating any gaps in data, systems, processes and controls, and
- Maintaining an ongoing relationship with APRA.

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