



Response to Submissions

Financial Claims Scheme for authorised deposit-taking institutions

26 September 2011

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Preamble

In January 2010, APRA released a discussion paper on its proposals to implement the Financial Claims Scheme (FCS) for authorised deposit-taking institutions (ADIs). In August 2010 it released a response paper addressing submissions received. This second response paper provides further responses to the key matters raised in submissions to the August 2010 paper.

In conjunction with this response paper, APRA is releasing a draft prudential standard for comment.

APRA invites written submissions on its proposals. Following consideration of submissions received, APRA will issue a final prudential standard later this year. APRA intends to implement the FCS requirement from 1 January 2012.

This discussion paper is available on APRA's website at www.apra.gov.au/policy. Written submissions on the paper should be forwarded by 11 November 2011 by email to fcs@apra.gov.au and addressed to:

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Important

Submissions will be treated as public unless clearly marked as confidential and the confidential information contained in the submission is identified.

Submissions may be the subject of a request for access made under the Freedom of Information Act 1982 (FOIA). APRA will determine such requests, if any, in accordance with the provisions of the FOIA.

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Glossary

ADI	Authorised deposit-taking institution under the <i>Banking Act 1959</i>
APS 310	<i>Prudential Standard APS 310 Audit and Related Matters</i>
APRA	Australian Prudential Regulation Authority
CEO	Chief executive officer
Discussion paper	<i>Financial Claims Scheme for authorised deposit-taking institutions</i> (January 2010)
End-of-Day	End-of-Day means 9.00 am on the day following the date on which the Minister's declaration is made under s16 AD of the Banking Act in relation to an ADI or, for testing purposes, 9.00 am on the day following the date on which APRA requests that the information be generated.
FCS	Financial Claims Scheme
IT	Information technology
Response paper	<i>Financial Claims Scheme for authorised deposit-taking institutions</i> (August 2010)
SCV	Single Customer View

Chapter 1 – Introduction

APRA released a discussion paper on the Financial Claims Scheme (FCS) for authorised deposit-taking institutions (ADIs) in January 2010. That paper sought comment from interested parties on the proposed framework for the operation of the FCS for ADIs. APRA received a number of responses to the paper from ADIs and ADI industry bodies. APRA released a response paper in August 2010 that generated a number of further submissions from industry. Further details on key matters raised in submissions on that response paper, and APRA's proposed responses, are set out in this paper.

One key change is that ADIs will not be required to submit 'Single Customer View' (SCV) data to APRA on a regular basis, as previously proposed. SCV data would still be subject to periodic review by APRA, as part of its supervision activities. The removal of the data collection aspect of the earlier proposal means that the legislative instrument for implementing the FCS proposals has changed from a reporting standard to a prudential standard. Importantly, APRA still intends that ADIs pre-position themselves to generate SCV data. Although APRA will not normally require the data to be submitted to it, APRA may still collect SCV data should it consider it necessary to do so. This would most likely occur when it is anticipated that the FCS will be invoked in relation to an ADI or APRA is preparing to make a payout for this purpose. It is also important, in this context, that both the systems used for SCV data generation and the data itself are maintained in Australia, unless otherwise approved by APRA. The draft prudential standard reflects this.

APRA has also made some modifications to its proposals to address issues raised by industry during the most recent round of consultation and in subsequent industry meetings.

APRA is aware of the systems challenges for some ADIs in meeting the requirements for identifying account-holders and implementing an SCV for FCS purposes. APRA has sought to address these concerns by increasing the standard transition period for all ADIs and by providing scope for an extended transition period for those ADIs that can demonstrate that they reasonably require more time to implement the necessary system changes.

In addition to the need to produce SCV data, ADIs will need to ensure they are able to produce payment instructions for a paying agent from their SCV data, and that there are controls around systems, processes and data to ensure instructions are able to be supplied to a paying agent in the event of an ADI being placed in statutory management or liquidation.

ADI systems will also need to be able to generate various reports for FCS purposes. These include reports to account-holders as to amounts eligible and paid under the FCS, reports to the Australian Tax Office on payments made, reports to APRA, and other management reporting that may be necessary in relation to an ADI's SCV data.

APRA intends to consult separately with industry on these matters (payments and reporting) in coming months. Any pre-positioning required for these aspects of the FCS will be the subject of further prudential standards; they are not addressed in the draft prudential standard that forms part of this package.

Chapter 2 – Responses to matters raised in submissions

2.1 Single Customer View

APRA has previously set out the reasons why an SCV is necessary for the successful implementation of the FCS. In order to ensure the integrity of the FCS and the payout process, and that payouts do not exceed the FCS limit applicable at the time the FCS is activated, it is critical that ADIs are able to identify their customers with a high degree of accuracy. Furthermore, developing an SCV that produces an aggregated deposit balance for each account-holder will reduce the risk of duplicate or erroneous payments being made to account-holders in the event of the failure of an ADI.

Comments received

The proposed SCV requirement generated significant comment from industry. While submissions acknowledged the reasons underpinning the SCV for account-holder identification purposes, most submissions expressed concerns about the information technology (IT) difficulties in moving to an SCV. Some ADIs suggested that it will take longer to implement an SCV than the transition period originally proposed by APRA. Some ADIs also expressed concerns about the potential costs of implementation. Reflecting this, a number of submissions suggested a longer transition period before ADIs are required to comply with the SCV requirements.

There were varied responses regarding the potential cost associated with the implementation of an SCV, although no submissions provided quantifications of those costs. Differences in potential cost reflected ADI size as well as the nature, complexity and multiplicity of systems that would need to be integrated for SCV purposes, and the fact that ADIs are at varying stages of implementation of an SCV.

Some submissions also asserted that it would be difficult to implement an SCV with 100 per cent accuracy in terms of account-holder identification, unless some form of mandatory customer identifier is legislated. It was argued that, in the absence of a legally enforceable customer identifier, identification can only be undertaken on a best endeavours basis. Most submissions argued that APRA should only require data-matching of account-holders on a best-endeavours basis.

APRA's response

The objectives underpinning the FCS require APRA and the ADI industry to implement a regime that ensures payments to account-holders are made quickly and accurately. In order to ensure that account-holders have ready access to balances held in protected accounts, and within a reasonable period of time, it is imperative that ADIs establish an SCV capacity. The integrity of the FCS relies upon ADIs accurately identifying account-holders and generating deposit data on an SCV basis. In the absence of an externally verifiable customer identity number or other such mechanism, the generation of SCV data may not necessarily be accurate in all cases. ADIs will generally produce SCV data using a range of techniques, including data matching. APRA's expectation is that ADIs will produce SCV data that is as complete and accurate as is practicable. APRA remains committed to the SCV requirement and its implementation but will allow a longer transition period in acknowledgment of the issues raised by industry (refer to section 2.5 for further details).

2.2 Time for submission of End-of-Day data

In the response paper, APRA proposed that ADIs would need to establish and maintain the capacity to submit the required aggregated account-holder data to APRA. It was proposed that data must be provided within 72 hours after the End-of-Day, moving to 48 hours once the maximum allowable transition period comes to an end. This time period facilitates payout of account-holders within the seven-day period that APRA has specified.

Comments received

Some submissions suggested that the proposed time for submission of FCS data should be extended to three business days (72 hours) on a permanent basis. One of the key arguments made was that many ADIs rely on data warehouses that report End-of-Day balances 24 hours in arrears of an ADI's close of business.

APRA's response

APRA originally proposed a 48-hour reporting period, but agreed to extend the time for submission of data for all ADIs to 72 hours for the duration of the maximum allowable transition period. As noted in the introduction, the timely generation of SCV data remains critical in order to facilitate prompt payout to account-holders and to ensure that payouts are based on the aggregated account balance for each account-holder. Data will be required within a specified timeframe after End-of-Day processes are finished. The End-of-Day cut-off is important for closing payment channels and so that funds in the system can clear. Timely generation of data is imperative if APRA is to be able to make payments in the timeframes being proposed.

APRA remains of the view that it would be undesirable to extend the data generation period to 72 hours on a permanent basis. APRA therefore proposes that the required time for ADIs to generate data revert to 48 hours once the FCS requirements are fully operational and the maximum allowable transition period ends.

2.3 Audit of SCV data

APRA has proposed that FCS data be subject to reasonable assurance review once an ADI has its FCS systems in place and operational and then every three years thereafter, with limited assurance reviews required in intervening years.

Comments received

Submissions generally questioned the need for reasonable assurance audits for FCS purposes. It was argued that reasonable assurance should be limited to data sourced 'directly' from the general ledger (stated as being deposit data), while all non-accounting data (customer specific data such as name, address and other contact details) should only be subject to limited assurance audit. It was also argued that this would also be consistent with the audit requirements in *Prudential Standard APS 310 Audit and Related Matters* (APS 310).

APRA's response

Much of the data required for the generation of an SCV is sourced from the general ledger or is otherwise factually verifiable through a sample-based testing method. Given the importance of SCV data being as complete and accurate as is reasonably practicable, APRA remains strongly of the view that the level of audit testing it has proposed not be weakened.

Parallels have been drawn with the audit requirements set out in APS 310, and the fact that APS 310 only requires reasonable assurance audit of data sourced from the general ledger. This is not, in APRA's view, a sufficient argument to require a lower level of audit testing for FCS purposes. The concerns expressed by ADIs about their ability to generate an SCV with a high degree of accuracy lend support to the need for a higher level of audit testing. APRA therefore proposes to retain the audit requirements as previously set out in the response paper.

2.4 CEO attestation

APRA proposed that the chief executive officer (CEO) of an ADI attest that the ADI is compliant with the prudential standard and that there are controls in place designed to ensure the integrity of systems and data used for FCS purposes in generating an SCV. The attestation requirement is intended to ensure there is appropriate oversight of the systems and controls around SCV data such that the SCV can be relied upon for the purpose of paying out account-holders should an ADI fail.

Comments received

All submissions raised concerns about the proposed CEO attestation. The main concern centred on the wording of the attestation and the view that it will be difficult for an ADI to provide an attestation without qualification due to the need to attest that all account-holders have been identified with 100 per cent accuracy.

Submissions generally requested that the attestation be worded such that ADIs attest that account-holders have been matched with a high degree of accuracy based on account-holder data being matched on a best endeavours basis.

APRA's response

APRA remains of the view that the attestation requirement should be retained as currently proposed in order to ensure there is appropriate oversight of SCV processes and controls. Any qualification will serve to highlight possible deficiencies in SCV systems and data that can then be appropriately addressed. APRA notes, however, that a heavily qualified attestation is likely to be indicative of poor compliance and would trigger an appropriate supervisory response.

2.5 Transition period

APRA originally proposed to allow a one-year transition period on commencement of the FCS standard for all ADIs. An extended transition period of up to a further two years was proposed for ADIs that, on application to APRA, are able to satisfy APRA that they require the additional time to complete the implementation of required IT system and other changes for SCV purposes.

Comments received

Some submissions requested that there be allowance for a longer transition period than the maximum three years proposed by APRA, with most arguing for a transition period of up to four years.

APRA's response

In light of the need for some ADIs to undertake significant work to implement an SCV, APRA is proposing to allow a longer transition period. Although this will delay the date by which some ADIs are able to generate SCV data, a longer transition period will allow industry reasonable time to implement systems changes that may be required for FCS purposes.

APRA therefore proposes that the transition period for all ADIs will be two years from the commencement date of the prudential standard. An extended transition period of up to a further two years may be granted by APRA. Approval of an extended transition would be conditional on an ADI being able to demonstrate, to APRA's satisfaction, that the ADI has sound reasons for being granted an extended transition period, and that its plans for implementation and the associated timeframes are reasonable. On this basis, the intended implementation timetable for the requirements in the prudential standard is:

- the standard will take effect from 1 January 2012;
- all ADIs will be allowed a two-year transition period before they must be in compliance with the standard; and
- for ADIs granted an extended transition period, the date for compliance with the standard will be as advised by APRA, but would be not later than four years from the commencement date of the standard.



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