



Corporations Amendment Regulations 2009 (No. 11)

Select Legislative Instrument 2009 No. 387

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Corporations Act 2001*.

Dated 14 December 2009

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

CHRIS BOWEN
Minister for Financial Services, Superannuation and Corporate
Law

1 Name of Regulations

These Regulations are the *Corporations Amendment Regulations 2009 (No. 11)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Corporations Regulations 2001*

Schedule 1 amends the *Corporations Regulations 2001*.

Schedule 1 Amendments

(regulation 3)

[1] After Part 7.6A

insert

Part 7.6B Provision of information to APRA about contracts of insurance

7.6.08A Definitions

In this Part:

general insurer has the same meaning as in subsection 3 (1) of the *Insurance Act 1973*.

Lloyd's underwriter has the same meaning as in subsection 3 (1) of the *Insurance Act 1973*.

unauthorised foreign insurer has the same meaning as in regulation 4 of the *Insurance Regulations 2002*.

7.6.08B Application

This Part applies to a person who is a financial services licensee authorised to deal in general insurance products.

Note **General insurance product** is defined in section 761A and paragraph 764A (1) (d) of the Act. **Dealing** is defined in section 766C of the Act.

7.6.08C Modification of section 912CA of the Act

For paragraph 926B (1) (c) of the Act, Part 7.6 of the Act applies as if section 912CA of the Act were modified to read as follows:

‘912CA Regulations may require information to be provided

- (1) The regulations may require a financial services licensee, or each financial services licensee in a class of financial services licensees, to provide APRA (acting as ASIC’s agent) with specified information about:
 - (a) the financial services provided by the licensee or its representatives; or
 - (b) the financial services business carried on by the licensee.
- (2) The specified information:
 - (a) must be lodged in the prescribed form; and
 - (b) must include:
 - (i) the information, statements, explanations or other matters required by the form; and
 - (ii) any further information requested by APRA in relation to any of the matters in subparagraph (i); and
 - (c) must be accompanied by any other material required by the form.’

7.6.08D Information about general insurance products

- (1) This regulation applies in relation to a general insurance product that:
 - (a) is entered into as a result of a dealing in the product, either wholly or partially, by the person, with a general insurer, Lloyd’s underwriter or an unauthorised foreign insurer; and

(b) is not a reinsurance contract or a retrocession contract.

- (2) However, if the person is a general insurer, this regulation does not apply in relation to a general insurance product issued by the person.
- (3) For section 912CA of the Act, the person must provide information to APRA about the general insurance product entered into in a reporting period specified in subregulation (5):
- (a) in accordance with Table 1 in Form 701; and
 - (b) either:
 - (i) within the time specified by ASIC or APRA if that is a reasonable time; or
 - (ii) if ASIC or APRA do not specify a time — within 20 business days after the last day of the applicable reporting period.

Penalty: 10 penalty units.

- (4) For section 912CA of the Act, the person must provide further information to APRA relating to the information provided in accordance with Table 1 in Form 701:
- (a) if APRA makes a request in writing for the further information; and
 - (b) either:
 - (i) within 5 business days of receiving the request; or
 - (ii) if ASIC or APRA specifies a later date — by that date.

Penalty: 10 penalty units.

- (5) The reporting periods are:
- (a) 1 May to 30 June 2010; and
 - (b) 1 July to 31 December 2010; and
 - (c) 1 January to 30 June in any year after 2010; and
 - (d) 1 July to 31 December in any year after 2010.
- (6) Strict liability applies to subregulations (3) and (4).

7.6.08E Information about general insurance products — unauthorised foreign insurers

- (1) This regulation applies in relation to a general insurance product:
- (a) that is entered into as a result of a dealing in the product, either wholly or partially, by the person; and
 - (b) that is not a reinsurance contract or a retrocession contract; and
 - (c) in relation to which an unauthorised foreign insurer is a party to the contract that is the general insurance product.

Note An unauthorised foreign insurer may be a party to a contract of insurance to which Part 2 of the *Insurance Regulations 2002* applies. These are insurance contracts for:

- (a) high-value insured; and
 - (b) atypical risks; and
 - (c) risks that cannot reasonably be placed in Australia; and
 - (d) contracts required by foreign law.
- (2) However, if the general insurance product has been dealt with by more than 1 person, this regulation only applies, in relation to the general insurance product, to the person who has:
- (a) dealt directly with the unauthorised foreign insurer; or
 - (b) dealt indirectly with the unauthorised foreign insurer through a foreign intermediary.
- (3) For section 912CA of the Act, the person must provide information to APRA about the general insurance product entered into within a reporting period specified in subregulation (5):
- (a) in accordance with Table 2 in Form 701; and
 - (b) either:
 - (i) within the time specified by ASIC or APRA if that is a reasonable time; or
 - (ii) if ASIC or APRA do not specify a time — within 20 business days after the last day of the applicable reporting period.

Penalty: 10 penalty units.

- (4) For section 912CA of the Act, the person must provide further information to APRA relating to the information provided in accordance with Table 2 in Form 701:
 - (a) if APRA makes a request in writing for the further information; and
 - (b) either:
 - (i) within 5 business days of receiving the request; or
 - (ii) if ASIC or APRA specify a later date — by that date.

Penalty: 10 penalty units.
- (5) The reporting periods are:
 - (a) 1 May to 30 June 2010; and
 - (b) 1 July to 31 December 2010; and
 - (c) 1 January to 30 June in any year after 2010; and
 - (d) 1 July to 31 December in any year after 2010.
- (6) Strict liability applies to subregulations (3) and (4).

[2] Schedule 1, table, after Chapter 6

insert

Chapter 7 Financial services and markets

99	Subregulation 7.6.08D (3)	Data on intermediated	701
	Subregulation 7.6.08E (3)	business with APRA- authorised general insurers, Lloyd's underwriters and unauthorised foreign insurers	

[3] Schedule 2, after Form 553

insert

Form 701

Data on intermediated business with APRA-authorized general insurers, Lloyd's underwriters and unauthorised foreign insurers

Australian business number

Australian financial services licence number

Australian financial services licensee name

Reporting period

TABLE 1: AGGREGATE DATA ON INTERMEDIATED BUSINESS WITH APRA-AUTHORISED GENERAL INSURERS, LLOYD'S UNDERWRITERS AND UNAUTHORISED FOREIGN INSURERS

Total business placed with APRA-authorized general insurers, Lloyds underwriters and unauthorised foreign insurers	Premium invoiced this reporting period			
	Effective this reporting period	Effective after the reporting period end	Effective before the reporting period start	Total invoiced this reporting period
a. Business placed directly by the general insurance intermediary with APRA-authorized general insurers				
b. Business placed directly, or indirectly through a foreign intermediary, by the general insurance intermediary with Lloyd's underwriters				
c. Business placed directly, or indirectly through a foreign intermediary, by the general insurance intermediary with unauthorised foreign insurers				
d. Business placed indirectly through another general insurance intermediary, by the general insurance intermediary with: <ul style="list-style-type: none"> i. APRA-authorized general insurers; or ii. Lloyds underwriters; or iii. unauthorised foreign insurers 				
Total				

General insurer is defined in subsection 3 (1) of the *Insurance Act 1973*.

Lloyd's underwriter is defined in subsection 3 (1) of the *Insurance Act 1973*.

Unauthorised foreign insurer is defined in regulation 4 of the *Insurance Regulations 2002*.

TABLE 2: TRANSACTION LEVEL DATA ON INTERMEDIATED BUSINESS PLACED DIRECTLY, OR INDIRECTLY THROUGH A FOREIGN INTERMEDIARY, WITH UNAUTHORISED FOREIGN INSURERS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Policy transaction type	Client code	Policy code	Invoice date	Effective date	APRA class of business	Premium	Currency of premium	UFI name	UFI country code	Exemption type	HVI limb	HVI value (#)	Atypical risk class	Customised reason

Note It is an offence under section 137.1 of the *Criminal Code Act 1995* to provide false or misleading information to a Commonwealth entity. The Australian Prudential Regulation Authority is a Commonwealth entity.

Lodgement requirements

If information is to be lodged in Table 1 only, the licensee may lodge the information electronically or in writing.

If information is to be lodged in both Table 1 and Table 2, the licensee must lodge the information electronically. If the licensee is unable to lodge the information electronically, the licensee must arrange an alternative method of lodgement with APRA.

Requirements for forms lodged electronically

A licensee must lodge a form electronically via the licensees portal provided by APRA. A licensee must undertake the steps required by APRA to become authorised to use the portal.

A document accompanying a form may only be lodged electronically if APRA has approved, in writing, the electronic lodgement of documents of that kind. If APRA has not approved the electronic lodgement of a document, the document may be lodged in writing.

APRA may approve the electronic lodgement of:

- (a) a particular kind of document; or
- (b) documents in a particular class of documents.

A document is taken to be lodged with APRA electronically if it is lodged in accordance with APRA's approval, including any requirements of the approval as to authentication.

Requirements for forms lodged in writing

If a form is lodged in writing, the form must be signed in accordance with the requirements of section 912CA of the *Corporations Act 2001*, as modified by regulation 7.6.08C of the *Corporations Regulations 2001*.

Licensees lodging by mail or in person must lodge with APRA:

- (a) the signed, original form; and
- (b) any information, statements, explanations or other matters required by the form; and
- (c) any other material required by the form.

Licensees lodging by email must lodge with APRA:

- (a) the signed form in PDF (portable document format); and
- (b) any information, statements, explanations or other matters required by the form; and
- (c) any other material required by the form.

Licensees lodging by email must retain signed original copies of the forms and attachments for a period of 7 years.

A form, or document, lodged with APRA in writing by, or on behalf of, an entity in an item of the following table, must be signed by the person specified in the item.

Item	Entity	Person
1	A body that is not a foreign company	A director or secretary
2	A body that is a foreign company	(a) a local agent; or (b) if the local agent is a company — a director or secretary of the company
3	An individual	An individual
4	A partnership	(a) a partner; or (b) if the partner is a company — a director or secretary of the company
5	A trust	(a) a trustee; or (b) if the trustee is a body — a director or secretary of the body

Note A body includes a body corporate or an unincorporated body, for example, a society or association — see the definition of **body** in section 9 of the Act.

The following table must be completed. In the table, the person's name must be printed next to the person's signature.

Lodgement details (for the person who physically completes the form)	
Firm/organisation	
Contact name/position description	
ASIC registered agent number (if applicable)	
Telephone number	
Postal address or DX address	
Signature block	
Name	
Signature	
Capacity	
Entity name (if entity acting as local agent)	
Date signed	

