



# Corporations Amendment Regulations 2009 (No. )<sup>1</sup>

## Select Legislative Instrument 2009 No.

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 2009

Governor-General

By Her Excellency's Command

**[DRAFT ONLY – NOT FOR SIGNATURE]**

Minister for Financial Services, Superannuation and Corporate  
Law

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**1 Name of Regulations**

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

**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**

(section 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*.

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### 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 paragraph (i); and
  - (c) must be accompanied by any other material required by the form.’

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

Item	Entity	Person
1	body that is not a foreign company	director or secretary
2	body that is a foreign company	(a) local agent; or (b) if the local agent is a company — a director or secretary of the company
3	registered scheme	responsible entity
4	individual	an individual
5	partnership	(a) partner; or (b) if the partner is a company — a director or secretary of the company
6	trust	(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.

- (4) A document may be lodged with APRA electronically only if:
- APRA and the person seeking to lodge it (either on the person's own behalf or as an agent) have agreed, in writing, that it may be lodged electronically; or
  - APRA has approved, in writing, the electronic lodgement of documents of that kind.

The document is taken to be lodged with APRA if it is lodged in accordance with the agreement or approval (including any requirements of the agreement or approval as to authentication).

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- (5) For paragraph (4) (b), APRA may approve:
- (a) a particular kind of document; or
  - (b) documents in a particular class of documents.’

#### **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:
- (a) if the person is a general insurer, this regulation does not apply in relation to a general insurance product issued by the person; and
  - (b) 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:
    - (i) is not a general insurer; and
    - (ii) has dealt directly with the general insurer or underwriter in relation to the general insurance product.
- (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 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 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 November 2009 to 31 December 2009; and
  - (b) 1 January to 30 June in any year after 2009; and
  - (c) 1 July to 31 December in any year after 2009.
- (6) Strict liability applies to subregulations (3) and (4).

**7.6.08E Information about general insurance products — unauthorised foreign insurers and atypical risks**

- (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:
    - (i) an unauthorised foreign insurer is a party to the contract that is the general insurance product; or
    - (ii) the general insurance product insures against an atypical risk (within the meaning of regulation 4C of the *Insurance Regulations 2002*).

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*Note:* An unauthorised foreign insurer will 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;
- (b) atypical risks;
- (c) risks that cannot reasonably be placed in Australia; and
- (d) contracts required by foreign law.

(2) However:

- (a) if the person is a general insurer, this regulation does not apply in relation to a general insurance product issued by the person; and
- (b) 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:
  - (i) who is not a general insurer; and
  - (ii) who has dealt directly with the general insurer or underwriter in relation to the general insurance product.

(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 Form 702; 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 Form 702:

- (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 November to 31 December 2009; and
- (b) 1 January to 30 June in any year after 2009; and
- (c) 1 July to 31 December in any year after 2009.

(6) Strict liability applies to subregulations (3) and (4).

**[2] Schedule 1, after item 98**

*insert*

**Chapter 7 Financial Services and Markets**

99	Subregulation 7.6.08D (3)	Aggregate data on intermediated business with APRA-authorised general insurers, Lloyd's underwriters and unauthorised foreign insurers	701
100	Subregulation 7.6.08E (3)	Transaction level data on intermediated business relating to unauthorised foreign insurers and atypical risks	702

**[3] Schedule 2, after form 553**

*insert*

**Form 701****Aggregate data on intermediated business with APRA-authorised general insurers, Lloyd's underwriters and unauthorised foreign insurers**

<b>Australian business number</b>	<input type="text"/>
<b>Australian financial services licence number</b>	<input type="text"/>
<b>Australian financial services licensee name</b>	<input type="text"/>
<b>Reporting period</b>	<input type="text"/>

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

APRA class of business	General insurers (defined in subsection 3(1) of the <i>Insurance Act 1973</i> )		Lloyd's underwriters (defined in subsection 3(1) of the <i>Insurance Act 1973</i> )		Unauthorised foreign insurers (defined in regulation 4 of the <i>Insurance Regulations 2002</i> )	
	Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
Houseowners/householders						
Commercial motor vehicle						

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APRA class of business	General insurers (defined in subsection 3(1) of the <i>Insurance Act 1973</i> )		Lloyd's underwriters (defined in subsection 3(1) of the <i>Insurance Act 1973</i> )		Unauthorised foreign insurers (defined in regulation 4 of the <i>Insurance Regulations 2002</i> )	
	Premium	No. of policies	Premium	No. of policies	Premium	No. of policies
Domestic motor vehicle						
Travel						
Fire and ISR						
Marine						
Aviation						
Mortgage						
Consumer credit						
Other accident						
Other						
CTP motor vehicle						
Public and product liability						
Professional indemnity						
Employers' liability						
<b>Total business</b>						

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

**Requirements for forms lodged electronically**

Licensees lodging this form electronically must do so via the Licensees portal provided by APRA.

Licensees lodging Form 702 electronically must lodge Form 702 and this form electronically. A licensee must lodge both forms electronically if the licensee has data to submit on form 702.

Licensees not lodging Form 702 electronically may lodge both Form 702 and this form in writing.

**Requirements for forms lodged in writing**

If this 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 7.6.08B of the *Corporations Regulations 2001*. The following two tables must be completed.

The form must be lodged with APRA in the following manner.

**Licensees lodging by mail or in person** should lodge with APRA:

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

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- (c) any other material required by the form.

Licensees should retain signed copies of the forms and attachments for their records.

**Licensees lodging by email** should lodge with APRA:

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

Licensees must retain signed original copies of the forms and attachments for their records.

A person's name must be printed next to the person's signature.

<b>Lodgement details (for the person who physically completes the form)</b>	
Firm/organisation	
Contact name/position description	
ASIC registered agent number (if applicable)	

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Telephone number	
Postal address or DX address	

<b>Signature block</b>	
Name	
Signature	
Capacity	
Entity name (if entity acting as local agent)	
Date signed	

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**FORM 702**

**DRAFT ONLY**

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**TRANSACTION LEVEL DATA ON INTERMEDIATED BUSINESS RELATING TO  
UNAUTHORISED FOREIGN INSURERS AND/OR ATYPICAL RISKS**

<b>Australian business number</b>	<input type="text"/>
<b>Australian financial services licence number</b>	<input type="text"/>
<b>Australian financial services licensee name</b>	<input type="text"/>
<b>Reporting period</b>	<input type="text"/>

**DRAFT ONLY**

**TRANSACTION LEVEL DATA ON INTERMEDIATED BUSINESS RELATING TO  
UNAUTHORISED FOREIGN INSURERS AND/OR ATYPICAL RISKS**

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Client code	Policy code	Policy date	APRA class of business	Layer	Insurer share (%)	Premium (\$)	Insurer class	UFI name	UFI country code	Exemption type	HVI limb	HVI value (#)	Atypical risk class	Customised reason
A															
B															
C															
...															
Etc															

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

**Requirements for forms lodged electronically**

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Licensees lodging this form electronically must do so via the Licensees portal provided by APRA.

Licensees that have data to submit on this form must lodge both Form 701 and this form electronically.  
Licensees that do not have data to submit on this form may lodge both Form 701 and this form in writing.

**Requirements for forms lodged in writing**

If this 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 7.6.08B of the *Corporations Regulations 2001*. The following two tables must be completed.

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- (c) any other material required by the form.

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**Licensees lodging by email** should lodge with APRA:

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

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(c) any other material required by the form.

Licensees must retain signed original copies of the forms and attachments for their records.

A person's name must be printed next to the person's signature.

<b>Lodgement details (for the person who physically completes the form)</b>	
Firm/organisation	
Contact name/position description	
ASIC registered agent number (if applicable)	
Telephone number	
Postal address or DX address	

<b>Signature block</b>
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**DRAFT ONLY**

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Name	
Signature	
Capacity	
Entity name (if entity acting as local agent)	
Date signed	

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.