



ASIC

Australian Securities & Investments Commission

[PF 216]

Pro Forma 216

Authorised audit company registration conditions

Corporations Act 2001 Chapter 9, Part 9.2A

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This Pro Forma [PF 216] sets out the standard registration conditions that will usually be imposed on the registration of a company as an authorised audit company.

Australian Securities and Investments Commission
Corporations Act 2001 — Section 1299D

1. Notification obligations

1.1 The company must notify ASIC, in writing, within 7 days of becoming aware of either of the following:

- (a) the company is not eligible to be registered as an authorised audit company under section 1299B of the Act; or
- (b) the company has not complied with, or has reasonable grounds to believe that it is unlikely that it will be able to comply with, its obligations in paragraph 2 of these conditions.

2. Professional indemnity insurance

2.1 The company must, at all times, maintain an insurance policy that satisfies conditions 2.2 to 2.5 of these conditions. Unless we otherwise agree, the policy must be written by an APRA-regulated insurer.

Adequacy (quantum)

2.2 The insured amount of the insurance policy must be:

- (a) where the maximum engagement fee payable to the company for a Corporations Act audit conducted during the period of cover is estimated by a director of the company on reasonable grounds existing immediately before entry into the policy to be less than or equal to \$50,000 – not less than \$500,000 for each claim, and all claims in the aggregate, made under the policy during one calendar year; or
- (b) where the maximum engagement fee payable to the company for a Corporations Act audit conducted during the period of cover is estimated by a director of the company on reasonable grounds existing immediately before entry into the policy to be more than \$50,000 – the lesser of ten times the maximum engagement fee or \$20 million for each claim, and all claims in the aggregate, made under the policy during one calendar year.

Deductible

2.3 The insurance policy may have a deductible or excess which does not exceed the value of the net tangible assets of the company on the date the insurance contract is entered into.

Appropriateness (terms and conditions)

2.4 The insurance policy must, at all times during the period of the cover:

- (a) cover claims made in respect of Corporations Act audits conducted by the company, its officers and employees; and
- (b) cover costs and expenses incurred by the company, its officers and employees when defending and settling claims of the kind referred to in paragraph (a), made against the company, an officer or an employee including legal costs and expenses of investigation; and
- (c) cover fraud by officers, and/or employees of the company relating to a Corporations Act audit; and
- (d) not be cancellable by the insurer solely because of an innocent non-disclosure or misrepresentation by the company, its officers or employees.

2.5 Subject to conditions 2.2 to 2.4, the insurance policy must be on ordinary commercial terms offered by insurers for insurance of that type at the time the insurance contract is entered into,

including only being subject to exclusions and conditions standard or usual for insurance of that type.

3. Complaints handling

- 3.1 The company must implement complaints handling procedures consistent with Australian Standard AS 4269:1995, 'Complaints Handling' as at 5 February 1995 and must document these procedures. All complaints received in relation to Corporations Act audits must be dealt with in accordance with these procedures.

4. Run-off cover

- 4.1 The company must not have a person as a director who has not, within 7 days of registration of the company as an authorised audit company or the person becoming a director of the company, given ASIC a copy of a deed covering the director's responsibilities in relation to run-off cover that:
- (a) is executed by the director and expressed to be in favour of the company and ASIC; and
 - (b) is in the terms set out in ASIC Pro Forma [PF 217].
- 4.2 The company must keep an original of each deed executed in accordance with condition 4.1.

5. Interpretation

- 5.1 In these conditions:
- (a) **Act** means the *Corporations Act 2001*.
 - (b) **APRA-regulated insurer** means an entity permitted by the *Insurance Act 1973* to write insurance business in Australia.
 - (c) **Corporations Act audit** means:
 - (i) an audit of a company, registered scheme or disclosing entity under a provision of the Act;
 - (ii) an audit required under a condition of or otherwise conducted to obtain the benefit of ASIC relief in relation to the Act; or
 - (iii) an audit conducted in accordance with the operating rules of a licensed financial market.

- (d) **employee** means a past or present employee of the company.
- (e) **engagement fee** means the total remuneration payable to the company for services rendered or to be rendered in relation to a Corporations Act audit.
- (f) **officer** means a past or present officer (as defined in s9 of the Act) of the company.
- (g) **net tangible assets** means, in relation to a company on a particular date, the tangible assets (being monetary assets and assets with physical substance) less all liabilities of the company where the assets and liabilities are determined in accordance with the accounting standards that would have applied to the company, if the company was required to report under Chapter 2M of the Act and had a financial year of 12 months ending on that date.
- (h) **run-off cover** means insurance cover for claims made during the run-off period against the company in respect of Corporations Act audits conducted by the company during its period of registration as an authorised audit company.
- (i) **run-off period** means the period that is seven years from and including the date on which the company's registration as an authorised audit company is cancelled.