Commonwealth Coat of Arms

Corporations and Australian Securities and Investments Commission Amendment Regulation 2013 (No. 1)

Select Legislative Instrument No. 192, 2013

I, Quentin Bryce AC CVO, Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Australian Securities and Investments Commission Act 2001* and the *Corporations Act 2001*.

Dated 25 July 2013

Quentin Bryce

Governor‑General

By Her Excellency’s Command

Bernie Ripoll

Parliamentary Secretary to the Treasurer

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1 Name of regulation

This regulation is the *Corporations and Australian Securities and Investments Commission Amendment Regulation 2013 (No. 1)*.

2 Commencement

This regulation commences on the day after it is registered.

3 Authority

This regulation is made under:

(a) the *Australian Securities and Investments Commission Act 2001*; and

(b) the *Corporations Act 2001*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Australian Securities and Investments Commission Regulations 2001

1 After regulation 8A

Insert:

8AAA Annual reports

(1) For subsection 136(2A) of the Act, a report under subsection 136(1) of the Act for a financial year (the ***report year***) must include the following information:

(a) the number of times in the report year that ASIC used an information gathering power prescribed in subregulation (2) (a ***prescribed power***);

(b) for a particular use of a prescribed power in the report year—the provision of the Act, or another law, which conferred the prescribed power;

(c) the number of times in the financial year before the report year that ASIC used an information gathering power that was a prescribed power for this regulation at the time the power was used.

(2) For subsection 136(2A) of the Act, each information gathering power set out in a provision of an Act mentioned in the following table is prescribed.

| Information gathering powers | | |
| --- | --- | --- |
| Item | Provisions in which powers appear | General description of provision (for information only) |
| 1 | Subsection 12GY(2) of the Act | Powers relating to substantiation of a claim |
| 2 | Section 19 of the Act | Powers relating to requiring a person to attend for examination |
| 3 | Section 30 of the Act | Powers relating to the production of books |
| 4 | Section 30A of the Act | Powers relating to requesting information |
| 5 | Section 31 of the Act | Powers relating to the production of books |
| 6 | Section 32A of the Act | Powers relating to the production of books |
| 7 | Section 33 of the Act | Powers relating to the production of books |
| 8 | Subsection 49(3) of the Act | Powers relating to requiring a person to give assistance |
| 9 | Section 58 of the Act | Powers relating to:  (a) summonsing a witness; and  (b) taking evidence |
| 10 | Section 601FF of the *Corporations Act 2001* | Powers relating to conducting surveillance on, or monitoring, a managed investment scheme |
| 11 | Section 601HD of the *Corporations Act 2001* | Powers relating to a request for information |
| 12 | Section 672A of the *Corporations Act 2001* | Powers relating to requiring the disclosure of interests |
| 13 | Section 672B of the *Corporations Act 2001* | Powers relating to requiring the disclosure of interests |
| 14 | Section 792D of the *Corporations Act 2001* | Powers relating to requiring a person to give assistance |
| 15 | Section 912C of the *Corporations Act 2001* | Powers relating to requiring a person to give assistance |
| 16 | Section 912E of the *Corporations Act 2001* | Powers relating to:  (a) requiring a person to give assistance; and  (b) requiring the disclosure of documents and information |
| 17 | Section 1317R of the *Corporations Act 2001* | Powers relating to requiring a person to give assistance |
| 18 | Section 3E of the *Crimes Act 1914* | Powers relating to search warrants |
| 19 | Subsection 10(2) of the *Mutual Assistance in Business Regulation Act 1992* | Powers relating to:  (a) requiring a person to give information; and  (b) requiring a person to give documents; and  (c) requiring a person to attend to give evidence and produce documents |
| 20 | Subsection 37(4) of the *National Consumer Credit Protection Act 2009* | Powers relating to requesting information |
| 21 | Subsection 49(1) of the *National Consumer Credit Protection Act 2009* | Powers relating to requesting information |
| 22 | Section 51 of the *National Consumer Credit Protection Act 2009* | Powers relating to requiring a person to give assistance |
| 23 | Section 253 of the *National Consumer Credit Protection Act 2009* | Powers relating to requiring a person to give assistance |
| 24 | Section 266 of the *National Consumer Credit Protection Act 2009* | Powers relating to the production of books |
| 25 | Section 267 of the *National Consumer Credit Protection Act 2009* | Powers relating to the production of books |
| 26 | Item 17 of Schedule 2 to the *National Consumer Credit Protection Act 2009* | Powers relating to requesting information |

2 Paragraph 21(2)(b)

Omit “relates; and”, substitute “relates.”.

3 Paragraph 21(2)(c)

Repeal the paragraph.

4 At the end of subregulation 37(2)

Add:

(3) The President may permit a member of the Panel, a party to the proceedings or a person who may attend a conference to attend the conference by:

(a) telephone; or

(b) video conference; or

(c) any other means of communication approved by the President.

(4) A conference for which permission has been given under subregulation (3) may be held at 2 or more places at the same time.

(5) A person mentioned in subregulation (3) who attends a conference in accordance with a permission under that subregulation is taken to be present at the place where, and the time when, the conference is convened, as determined by the President for paragraph (2)(a).

5 Subregulation 38(3)

Omit “must make”, substitute “may make”.

Corporations Regulations 2001

6 After subregulation 2M.3.03(3B)

Insert:

(3C) Items 17 to 24 of the table in subregulation (1) apply in relation to a directors’ report for a financial year commencing on or after 1 July 2013.