

E-ADVICE

STEADFAST GROUP

e-Advice 50

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INFORMATION REQUIRED ON PUBLIC DOCUMENTS AND MATERIALS

OUTLINE

Chapter 7 of the Corporations Act ("**Act**") requires certain information to be included on the documents that an Australian Financial Services ("**AFS**") licensee and an Authorised Representative ("**AR**") provide to their clients and to the public generally. This includes information that must be included on disclosure documents, such as a Financial Services Guide ("**FSG**"), Statement of Advice ("**SoA**") and Product Disclosure Statement ("**PDS**"), and also information that must be included on business documents, such as stationery, business cards and invoices.

Businesses must also include their Australian Business Number ("**ABN**") on certain documents pursuant to the A New Tax System (Goods and Services Tax) Act 1999.

In this advice, DLA Piper has provided details of the information that must be included on such documents for both licensees and ARs.

In addition to the mandatory requirements under the Act, ASIC also expects that licensees and ARs will make their role in relation to the financial services that they provide clear in their public documents. For example, the public documents should make it clear whether they are acting as a principal (licensee) or as a representative for a licensee (AR). It is also important to ensure that the documentation

is not confusing or misleading to consumers. To achieve this, DLA Piper has made a number of recommendations in this advice regarding information that should be included on public documents, even if that information is not expressly required under the Act.

DLA Piper has also included in this advice 2 tables setting out the information that is required on public documents for licensees and for ARs that can be used for ease of reference when preparing public documents.

DOCUMENTS PROVIDED BY A LICENSEE

Company name

A company must set out its company name on all of its public documents. The licensee's company name must therefore be noted on all of the following documents:

- letterhead;
- invoices/ renewal invoices;
- SoAs;
- advice disclosure documents;
- FSGs;
- PDSs and Supplementary PDSs (where the PDS is prepared by the licensee, for example, under a binder agreement); and

- all other public documents such as broker produced application forms and proposals/surveys. There may not be many of these types of documents generated by brokers, as insurers will produce most of these. As well as marketing material and websites.

DLA Piper also recommends including the company name on 'with compliments' slips.

Where a licensee has a business name that is different to the licensee's name, the business name can be included on public documents so long as:

- the licensee's legal name is also stated;
- the business name is clearly stated to be the trading name of the licensee (eg 'ABC Pty Ltd trading as XYZ'); and
- it is done in such a way that it is not likely to confuse or mislead clients.

ACN AND ABN

A company must set out its Australian Company Number ("ACN") on all of its public documents. The licensee's ACN must therefore be noted on all of the following documents:

- letterhead;
- invoices/ renewal invoices;
- SoAs;
- advice disclosure documents;
- FSGs; and
- PDSs and Supplementary PDSs (where the PDS is prepared by the licensee, for example, under a binder arrangement).

DLA Piper also recommends including the ACN on business cards and other public documents, such as brochures.

Where the last 9 digits of the licensee's ABN are the same, and in the same order, as the last nine digits of its ACN, the licensee can quote its ABN instead of its ACN on its public documents.

The licensee must disclose its ABN on all invoices and renewal invoices. Where the last 9 digits of the ABN are different from the last nine digits of its ACN, it will also be necessary for the licensee to include its ACN on invoices and renewal invoices.

AFS LICENCE NUMBER

Licensees are required to quote their AFS license number on the following documents:

- SoAs;
- FSGs; and
- PDSs and Supplementary PDSs (where the PDS is prepared by the licensee, for example, under a binder arrangement).

However, DLA Piper also recommends disclosing the AFS license number on the following public documents:

- letterhead;
- invoices/renewal invoices;
- advice disclosure documents; and
- all other public documents.

DOCUMENTS PROVIDED BY AN AR

There are similar requirements for ARs in terms of the information that must be included on the public documents that the AR provides to its clients, as well as including additional information relating to the AR's authorisation.

DETAILS OF AUTHORISING LICENSEE

The details of the AR's authorising licensee must be included on all of the following documents:

- letterhead;
- invoices/ renewal invoices;
- business cards;
- SoAs;
- advice disclosure documents;
- FSGs;
- PDSs and Supplementary PDSs (where the PDS is prepared by the AR, for example, in a binder situation); and
- all other public documents including marketing material and websites.

DLA Piper recommends including the authorising licensee's details on 'with compliments' slips.

Where the licensee's details are required, it is necessary to clearly identify who the licensee is. The licensee's business name, where different from the

name of the licensee, can be included on such documents so long as:

- the AR's legal name is also stated;
- the business name is clearly stated to be the trading name of the AR (eg 'ABC Pty Ltd trading as XYZ'); and
- it is done in such a way that it is not likely to confuse or mislead clients.

AR'S COMPANY NAME

The AR's company name must be noted on all of the following documents:

- letterhead;
- invoices/ renewal invoices. The licensee's trust account details will need to be those recorded in the ARs invoice;
- SoAs;
- advice disclosure documents;
- FSGs;
- PDSs and Supplementary PDSs (where the PDS is prepared by the AR, for example, under a binder arrangement); and
- all other public documents.

DLA Piper recommends including the company name on 'with compliments' slips.

AR'S REGISTERED BUSINESS NAME

An AR may also include its own registered business name on its documents so long as:

- the use of that name does not create the impression that the AR is conducting a financial services business in its own right; and
- the use of the AR's business name is not confusing or misleading to clients.

Where the AR has a business name that is different to the AR's name, the business name can be included on public documents so long as:

- the AR's legal name is also stated;
- the business name is clearly stated to be the trading name of the AR (eg 'ABC Pty Ltd trading as XYZ'); and
- it is done in such a way that it is not likely to confuse or mislead clients.

AR'S ACN AND ABN

The AR's ACN must be noted on all of the following documents:

- letterhead;
- invoices/ renewal invoices. The licensee's trust account details will need to be those recorded in the ARs invoice;
- SoAs;
- advice disclosure documents;
- FSGs; and
- PDSs and Supplementary PDSs (where the PDS is prepared by the AR, for example, under a binder arrangement).

DLA Piper recommends including the ACN on business cards and other public documents, such as marketing brochures and websites.

Where the last 9 digits of the AR's ABN are the same, and in the same order, as the last 9 digits of its ACN, the licensee can quote its ABN instead of its ACN on its public documents.

The AR must disclose its ABN on all invoices and renewal invoices. Where the last 9 digits of the ABN are different from the last 9 digits of its ACN, it will also be necessary for the AR to include its ACN on invoices and renewal invoices.

AFS LICENCE NUMBER

The AR must quote the AFS licence number of its authorising licensee on the following documents:

- SoAs;
- FSGs; and
- PDSs and Supplementary PDSs (where the PDS is prepared by the licensee, for example, under a binder arrangement).

DLA Piper recommends disclosing the authorising licensee's AFS licence number on the following public documents:



- letterhead;
- invoices/ renewal invoices;
- advice disclosure documents;
- all other public documents, such as application forms and proposals/ surveys; and
- marketing material and websites

AR NUMBER

The AR is also required to quote its AR number on its FSG.

DLA Piper recommends that the AR number be included on the following public documents:

- letterhead;
- invoices/ renewal invoices;
- business cards;
- SoAs; and
- advice disclosure documents.

AR'S CAPACITY

It is prohibited under the Act for a person that does not hold an AFS licence to hold out that they are an AFS licensee.

To ensure that an AR's public documents do not create the impression that the AR is conducting a financial services business in their own right, it is necessary to include a statement, in clear and easy to understand terms, that they act on behalf of the licensee in the following documents:

- letterhead;
- invoices / renewal invoices. The licensee's trust account details will need to be those recorded in the ARs invoice;
- SoAs;
- advice disclosure documents;
- FSGs;
- PDSs and Supplementary PDSs (where the

PDS is prepared by the AR, for example, under a binder arrangement); and

- all other public documents including marketing material and websites.

DLA Piper recommends disclosing the AR's capacity on 'with compliments' slips.

This disclosure can be achieved, for example, by including the following statement on all public documents:

"XYZ [AR number] is an authorised representative of ABC [licence number] ."

MORE INFORMATION

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ATTACHMENT 1

Information required on public documents and materials - LICENSEES

	ABN/ACN ¹		Licence number		Company name ²	
	Required	Recommended	Required	Recommended	Required	Recommended
Letterhead	✓			✓	✓	
Invoice/renewal invoice	✓			✓	✓	
Business card		✓		✓	✓	
'With compliments' slip						✓
SoA	✓		✓		✓	
Advice disclosure document	✓			✓	✓	
FSG	✓		✓		✓	
PDS and supplementary PDS (for binders)	✓		✓		✓	
Email ³		✓		✓		✓
Websites ⁴		✓	✓		✓	
Marketing material ⁵		✓	✓		✓	
Other documents (eg application forms, proposals, quotes, reports and surveys)		✓		✓	✓	

¹ For invoices and renewal invoices, it will necessary to disclose the licensees ABN. Where the last 9 letters of the licensees ABN are different from the last 9 digits of its ACN, it will also be necessary to include the ACN on the invoice or renewal invoice.

For all other documents, the licensee's ABN may only be used on the document instead of its ACN if the last 9 digits of the ABN are the same, and in the same order, as the last 9 digits of its ACN.

² The licensee's business name, where different from the name of the company that holds the AFS licence, can be included on documents so long as:

- (a) the legal name of the company is also stated;
- (b) the business name is clearly stated to be the trading name of the licensee (eg 'ABC Pty Ltd trading as XYZ'); and
- (c) it is done in such a way that it is not likely to confuse or mislead clients.

³ Although the definition of 'document' includes documents in electronic and other forms, the company name and ACN provisions of public documents does not apply to electronic data interchange, such as emails. Therefore, the full name and ACN does not need to be included in documents in electronic form (i.e. email) or other forms that are not directly legible. For this reason, including the ACN and License Number to an email is not required but optional.

⁴ See e-advice 76 for further information

⁵ See e-advice 76 for further information

Information required on public documents and materials - AUTHORISED REPRESENTATIVES

	ABN/ACN ¹		Licence number		Licence details ²		AR number		Capacity ³	
	Required	Recommended	Required	Recommended	Required	Recommended	Required	Recommended	Required	Recommended
Letterhead	✓			✓	✓			✓	✓	
Invoice/renewal invoice	✓			✓	✓			✓	✓	
Business card		✓		✓	✓			✓	✓	
'With compliments' slip						✓		✓		✓
SoA	✓		✓		✓			✓	✓	
Advice disclosure document	✓		✓		✓			✓	✓	
FSG	✓		✓		✓		✓		✓	
PDS and supplementary PDS (for binders)	✓		✓		✓			N/A	✓	
Email ⁴		✓		✓		✓		✓		✓
Websites ⁵		✓	✓		✓		✓		✓	
Marketing material ⁶		✓	✓		✓		✓		✓	
Other documents (eg application forms, proposals, quotes, reports and surveys)		✓		✓	✓			✓	✓	

¹ For invoices and renewal invoices, it will necessary to disclose the AR's ABN. Where the last 9 letters of the AR's ABN are different from the last 9 digits of its ACN, it will also be necessary to include the ACN on the invoice or renewal invoice. For all other documents, the AR's ABN may only be used on the document instead of its ACN if the last 9 digits of the ABN are the same, and in the same order, as the last 9 digits of its ACN.

² Where the licensee details are required, it is necessary to clearly identify who the licensee is. The licensee's business name, where different from the name of the company that holds the AFS licence, can be included on documents so long as:

- (a) The legal name of the company is also stated;
- (b) The business name is clearly stated to be the trading name of the licensee (eg 'ABC Pty Ltd trading as XYZ'); and
- (c) It is done in such a way that it is not likely to confuse or mislead clients.

An AR may also use their own registered business name in the documents so long as the use of the name does not create the impression that the AR is conducting a business in their own right and the display of the business name is not confusing or misleading to clients.

³ To disclose capacity, for example 'XYZ [AR number] is an authorised representative of ABC [licence number]', an AR must disclose in clear and easy to understand terms that they act on behalf of the licensee and must not create the impression that the AR is conducting a business in their own right.

⁴ Although the definition of 'document' includes documents in electronic and other forms, the company name and ACN provisions of public documents does not apply to electronic data interchange, such as emails. Therefore, the full name and ACN does not need to be included in documents in electronic form (i.e. email) or other forms that are not directly legible. For this reason, including the ACN and License Number to an email is not required but optional.

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