

# Directors & Officers Insurance Proposal

# Important Notices

## Understanding the Policy

You should read the entire **Policy** carefully, including the definitions and the exclusions to ensure that it meets your requirements. We (Swiss Re International SE, Australia Branch) recommend that you consult an insurance adviser to ensure a clear understanding of your rights and obligations under this insurance contract.

## Claims Made and Notified Policy

This is a claims made and notified policy which means we will only cover you for claims made against you during the **Policy Period** and notified to us as soon as practicable during the **Policy Period** or any applicable extended reporting period. Except as may be provided by the Backdated Continuity of Cover Extension, the **Policy** does not provide cover in relation to facts or circumstances known to you before the commencement of the **Policy**.

## Your duty of disclosure

When you are completing the **Proposal** it is important that you understand that you are answering questions for yourself and anyone else that you want to be covered by the **Policy**.

Before you enter into the **Policy**, you have a duty to tell us anything that you know, or could reasonably be expected to know, which may affect our decision to insure you and on what terms. You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate the **Policy**.

You do not need to tell us anything that:

- reduces the risk we insure you for;
- is common knowledge;
- we know or should know as an insurer; or
- we waive your duty to tell us about.

## If you do not tell us something

In this **Policy**, we have agreed to waive our rights under section 28 of the *Insurance Contracts Act 1984* (Cth) with respect to non-fraudulent non-disclosure or non-fraudulent misrepresentation.

If your failure to tell us anything that you are required to is fraudulent, we may refuse to pay a claim or reduce the amount we will pay you if you make a claim. However, we are not permitted to rescind or avoid the **Policy**.

## Notification of Facts that might give rise to a claim

Section 40(3) of the *Insurance Contracts Act 1984* (Cth) provides that if you give notice in writing to us of facts that might give rise to a claim against you as soon as reasonably practicable after you become aware of such facts but before the insurance cover provided by the **Policy** expires, then we are not relieved of liability under the **Policy** in respect of the claim, when made, by reason only that it was made after the expiration of the period of the insurance cover provided by the **Policy**.

## Privacy Statement – Privacy Information

We are bound by the Australian Privacy Principles set out under the *Privacy Act 1988* (Cth) when we collect and handle your personal and or sensitive information. We will collect personal and or sensitive information that is necessary in order for us to process and administer the **Policy** and any claims made under the **Policy**. Where possible, we will collect personal information directly from you or, where that is not reasonably practical, from other sources. We may also use your personal and or sensitive information for the purpose of designing or underwriting new insurance products, for research and analytical purposes, to perform administrative functions, and to comply with our legal obligations.

We may disclose your personal and or sensitive information to third parties for the purposes described above, including insurers, reinsurers, reinsurance brokers, loss adjusters, external claims data collectors, investigators and others involved in the claims handling process, agents and service providers and related entities some of whom may be located in overseas countries, including Hong Kong, India, Singapore, Switzerland, the United States of America and the Slovak Republic.

In providing personal and or sensitive information, you consent to the collection, use and disclosure, including overseas disclosure of your personal and or sensitive information for the purposes described above. Where you provide us with personal and or sensitive information about others, you represent to us that you have made them aware of that disclosure and of our privacy policy and that you have obtained their consent.

If you do not consent to provide us with the personal and or sensitive information that we request, or withdraw your consent to the use and disclosure of your personal and or sensitive information at any stage, we may not be able to offer or continue to offer you the products or provide the services that you seek including claims assessment and handling.

We realise that this information is often very sensitive in nature and will treat it with the utmost care and security. Information on how we handle your personal and or sensitive information is explained in our privacy policy, including:

- What information we collect and how we use it;
- When do we disclose your information overseas;
- How do we hold and protect your information;
- How we disclose the information;
- How you can check, update or change the information we are holding;
- What happens if you wish to complain.

A copy of our privacy policy is available by contacting your broker or available on our website.

[corporatesolutions.swissre.com/australia-newzealand](https://corporatesolutions.swissre.com/australia-newzealand)

## Contact Details

You may seek access to, and correction of, your personal information we hold about you by contacting our Privacy Compliance Officer on (02) 8295 9500 or by writing to:

### Privacy Compliance Officer

Swiss Re International SE, Australia Branch  
Level 36, Tower Two, International Towers Sydney  
200 Barangaroo Avenue, Sydney NSW 2000  
Email: [complaints\\_anz@swissre.com](mailto:complaints_anz@swissre.com)

We will respond to your request within a reasonable time after we receive it.

## Complaints

If you are dissatisfied with any aspect of your relationship with Swiss Re Corporate Solutions and wish to make a complaint, please contact us at:

### Swiss Re International SE, Australia Branch

Phone: +61 2 8295 9500  
Email: [complaints\\_anz@swissre.com](mailto:complaints_anz@swissre.com)  
Post: Level 36, Tower Two, International Towers  
200 Barangaroo Avenue  
Sydney NSW 2000  
Australia

## The General Insurance Code of Practice

We abide by the General Insurance Code of Practice (Code). The Terms of the Code require us to be open, fair and honest in our dealings with you. The Code outlines the standards by which we have agreed to deal with you in relation to the standards for our employees, authorised representatives, financial hardship, information and education and access to information. The Code aims to:

- Commit us to high standards of service.
- Promote more informed relations between you and us.
- Promote trust and confidence in the insurance industry.

**“Policyholder” in this proposal refers to either a current Policyholder (including all subsidiaries), or a proposed Policyholder (including all subsidiaries), applying for the offer of a contract of insurance.**

**SECTION 1 – Policyholder Details**

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1.1 Name of Policyholder

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1.2 Company Registration Number (ABN/ACN)

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1.3 Country & State of Registration

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1.4 Address of Head Office

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1.5 Website Address

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1.6 Date Established

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**SECTION 2 – Policyholder Operations**

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2.1 Nature of business of the Policyholder and all subsidiaries:

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2.2 Please complete the following approximate breakdown of the Policyholder's business operations:

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<i>Country</i>	<i>Business Activity</i>	<i>Revenue (\$M)</i>	<i>Assets (\$M)</i>	<i>Employees</i>
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If the Policyholder is a publicly listed organisation please ignore this question. If additional space is required please see the end of this proposal form

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2.3. Does the Policyholder have any activities, employees, assets or revenue at all in the United States of America?

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**If yes fully complete USA Exposure Addendum to this Proposal**

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**SECTION 3 - Policyholder Corporate Structure**

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3.1 Is the Policyholder and/or its subsidiaries: Public? Private? Other?

If Other, please provide details below:

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3.2 Is the Policyholder itself a subsidiary or another entity? If it is please specify and describe the ultimate parent entity.

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3.3 Does the Policyholder and/or its subsidiaries have debt or equity securities traded on: Ticker

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Any Australian stock exchange?

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Any Foreign stock exchange?

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Any Unlisted securities market or exempt stock exchange?

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Traded in any other way?

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3.4 Does the Policyholder have any sponsored or unsponsored American Depositary Receipts (ADR's) on issue?

**If yes fully complete USA Exposure Addendum to this Proposal**

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3.5 Does the Policyholder plan to issue any prospectus or public offering of securities (including equities, shares, debt, notes, bonds or debentures) in the next 12 months?

**If yes please provide details below**

3.6 Please detail any shareholder, or associated group of shareholders, who hold directly or indirectly hold more than 10% of the Company's share capital, the percentage held, and if they currently hold board representation?

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<i>Name</i>	<i>Percentage</i>	<i>Board Rep</i>
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**SECTION 4 – Material Changes to Policyholder**

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4.1 Business Changes: Is the Policyholder aware of any actual (past 24 months) or planned (next 12 months):

- a. Policyholder name changes?
- b. Changes to the Policyholder's capital structure?
- c. Sale or divestiture of any of the Policyholder's subsidiaries?
- d. Acquisition, merger, or creation of any new subsidiary or other entity by the Policyholder?
- e. Current acquisition, merger or tender offer pending or under consideration by the Policyholder?
- f. Current or proposed acquisition, merger or takeover of the Policyholder or its subsidiaries by any other party or company?

**If any answer above is yes please provide details below**

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4.2 Business Changes: Is the Policyholder planning in the next 12 months to undertake business changes including  
1) Significant staff reduction or lay-offs (>20% of workforce);  
2) Significant closure or cancellation of business operations (>25% Revenue impact)?; or  
3) Significant financial/legal organisational restructure to business operations?

**If any answer above is yes please provide details below**

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4.3 Financial Changes: Has the Policyholder in the past (past 24 Months) or is there in the future (next 12 months):

- a. Needed to re-state its financial results or are there any plans/need to do so?
- b. Breached any debt/loan covenants or is this anticipated?
- c. Reduced (>50%) or suspended dividends or is this anticipated?

**If any answer above is yes please provide details below**

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4.4 Financial Changes: Since the date of the latest Financial Statement issued have there been any developments which adversely impact the financial position of the Policyholder or its Subsidiaries?

**If the answer above is yes please provide details below**

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4.5 Audit Changes: Has the Policyholder:

- 
- a. Changed its external auditor in the last 24 months or plans to do so in the next 12 months?
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- b. Changed its revenue recognition practices in the past 12 months or plans to do so in the next 12 months?
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- c. Received communication from its external auditor in the past 12 months citing material weakness or concern with the Policyholder's accounting practice or internal control environment?

**If any answer above is yes please provide details below**

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4.6 Directors: Has the Policyholder:

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- a. Had any changes to board members or the structure of the board in the last 12 months?
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- b. Had any executive officer or member of its board forced to resign other than for retirement, poor health, or promotion?
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- c. Had, or continues to have, loans outstanding to any to any director or officer or entities that any director or officers owns more than 20% of the issued share capital?

**If any answer above is yes please provide details below**

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#### **SECTION 5 – Policyholder Outside Directorships**

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- 5.1 Does the Policyholder have any directors, officers or employees who serve in Outside Positions of any Outside Entity?
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- 5.2 If the Policyholder does have directors, officers serving in any Outside Positions are they aware of claims or circumstances that could give rise to a claim related to any Outside Entities?

**If the answer above is yes please complete the Outside Entities Addendum attached to this proposal in full**

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#### **SECTION 6 – Policyholder Continuous Disclosure**

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- 5.1 (a) Does the Policyholder have written policies and protocols in place to ensure compliance with continuous disclosure obligations pursuant to law or regulations?
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- 5.1 (b) Have all relevant directors, officers and employees of the Policyholder been provided with a copy of those policies and protocols and received training in the past two years?
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- 5.2 Has the Policyholder ever been questioned by any regulators concerning its continuous disclosure obligations?
- 
- 5.3 Who is responsible for ensuring compliance with continuous disclosure obligations?

**Please provide any additional required information below**

**SECTION 7 – Policyholder Trade & International Sanctions Exposures**

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7. Does the Policyholder have any operations or dealings which could give rise to a risk or obligation in a jurisdiction which is subject to any sanction, prohibition or restriction under United Nations resolutions or any trade or economic sanctions of the USA or Australia?

**If the answer above is yes please provide details below**

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**SECTION 8 – Policyholder Cyber & Technology Exposures**

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7.1 Does the Policyholder have available cyber insurance or other risk transfer protection to manage and respond to a Cyber incident?

7.2 Does the Policyholder have written policies or procedures in place in respect of IT security, data security, and data privacy?

7.3 Does the Policyholder have IT Security, Chief Security Officer, Chief Information Officer or any equivalent position or team (internal or contracted) that is responsible for IT Security?

7.4 Has the Policyholder experienced any IT Security or Cyber related incidents over the past 24 months?

**Please provide any additional required information below**

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**SECTION 9 – Policyholder Insurance Details**

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9.1 Please detail the Directors & Officers Liability insurance currently purchased by the Policyholder:

<i>Insurer Name</i>	<i>Limit of Liability</i>	<i>Excess</i>	<i>Policy Period</i>
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9.2 Has the Policyholder had an insurer decline indemnity, refuse to renew, or cancel or avoid a policy of insurance in the past 5 years?

**If the answer above is yes please provide details below**

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9.3 Please detail what Limit of Indemnity and Excess is sought by the Policyholder:

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**SECTION 10 – Policyholder Additional Information**

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10. If the following documentation is not publicly available, please enclose with this Proposal Form:

10 (a) The latest Annual Report and audited Financial Statements for the Policyholder and its Subsidiaries

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10 (b) A complete corporate structure diagram

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10 (c) Any prospectus or other similar types of disclosure documents issued in the last 24 months

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10 (d) Audited Financial Statements for any Outside Entities

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**SECTION 11 – Policyholder Stamp Duty & Tax**

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11. Please provide a breakdown of all employees (including directors & officers) in each state below or overseas:

ACT

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NSW

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NT

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QLD

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SA

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TAS

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VIC

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WA

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Overseas

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**SECTION 10 – Policyholder Claims History**

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10. In respect of each question below, enquiries should be made of all parties seeking cover under this insurance policy prior to answering these questions:

10 (a) Have any claims ever been made against the Policyholder (or its subsidiaries), or any director, officer or employee of the Policyholder (or its subsidiaries)?

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10 (b) Has the Policyholder (or its subsidiaries), or any director, officer or employee of the Policyholder (or its subsidiaries) ever had proceedings (criminal or civil), formal investigations, inquiries, examinations or disciplinary hearings instigated against them alleging misconduct or breaches of law?

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10 (c) Is the Policyholder (or its subsidiaries), or any director, officer or employee of the Policyholder (or its subsidiaries), aware of any current or pending claim, investigation, inquiry or prosecution made or threatened against the Policyholder (or its subsidiaries), or any past or present director, officer or employee of the Policyholder (or its subsidiaries)?

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10 (d) Is the Policyholder (or its subsidiaries), or any director, officer or employee of the Policyholder (or its subsidiaries) aware of any fact, circumstance or omission which may give rise to a claim which may be covered under a Director's & Officers Liability insurance policy?

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**If the answer above is yes please provide full details in the Claims Addendum to this proposal**

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## SECTION 12 – Policyholder Declaration

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After reasonable inquiry, we, the Policyholder(s), or proposed Policyholder(s), declare and affirm that the information and particulars contained in this Proposal Form and in any addendums and attachments is/are complete, correct and true and that no material facts have been misstated, suppressed or withheld.

We undertake to inform the Insurer (Swiss Re International SE, Australia Branch) of any changes to any information or particulars provided by or on behalf of the Policyholder, or proposed Policyholder, before the relevant contract of insurance is entered into.

We acknowledge;

1. Our Duty of Disclosure to the Insurer;
2. Receipt of and understanding of the Important Notices enclosed in the Proposal Form;
3. The Insurer has relied on all information and particulars provided in support of the Proposal Form in forming its decision to offer any contract of insurance including the terms; and
4. The insurance applied for shall only take effect once an offer of insurance has been provided by the Insurer and confirmed in writing.

By signing the Proposal Form, we consent to the Insurer collecting, using, storing and disclosing personal information in accordance with the Privacy Statement – Privacy Information notice enclosed in the Proposal Form.

**Signed:**

**Date:**

**Job Title:**

**Signed:**

**Date:**

**Job Title:**

# USA Exposure Addendum

**Please respond to the following questions in respect of the Policyholder (including all subsidiaries), or proposed Policyholder (including all subsidiaries).**

## USA Exposure Addendum – Part 1: Operations

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1. Please state for the Policyholder (including all subsidiaries):

a) Total gross Assets in the USA

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b) Total gross Revenue in the USA

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c) Total number of Employees located in the USA

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1.1 Please detail any subsidiaries or business operations in the USA and describe their activities:

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1.2 Please detail any equity interests, joint ventures, partnerships that the Policyholder has in the USA and please describe the name of the entity, the business activities, the Policyholder's percentage interest, and who owns the outstanding percentage interest

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1.3 Is the Policyholder, its subsidiaries, or any other entity in which the Policyholder maintains an equity interest in, considering any public offering of securities (debt or equity), or considering any acquisition, merger, divestiture or cessation of businesses?

**If the answer above is yes please provide details below**

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## USA Exposure Addendum – Part 2: Employees

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2. Please provide a breakdown of USA employees set out below:

<i>State, Province, Territory</i>	<i>Full Time Employees</i>	<i>Part Time Employees</i>	<i>Independent Contractors</i>
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2.1 Is "at will" employment wording included in employment applications, employment contracts and employee handbooks?

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2.2 Does the Policyholder and all of its subsidiaries in the USA have a Family and Medical Leave Act (FMLA) policy?

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2.3 (a) Are severance packages provided to terminated, redundancy or laid off employees?

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2.3 (b) Do severance packages include a waiver of release on an employees right to bring a claim against the Policyholder or its subsidiaries?

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2.4 In the last 5 years has the Policyholder or its subsidiaries been involved in or become aware of any actions, changes, inquiries, investigations, grievance filings or other administrative hearings by the Equal Employment Opportunity Commission, National Labor Relations Board, Department of Labor, or any similar federal, state, or local government agency?

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**If the answer above is yes please provide full details in the Claims Addendum to this proposal**

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### USA Exposure Addendum – Part3: Securities

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3. Does the Policyholder have any stock, shares, debentures, bonds or debt traded on any securities exchange in the USA?

**If the answer above is yes please provide full details below**

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3.1 Does the Policyholder have any stock, shares, debentures, bonds or debt on issue in the USA which is privately issued, traded or held?

**If the answer above is yes please provide full details below**

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3.2 Has any offer of stocks, shares, debentures, bonds or debt on issue in the USA by the Policyholder been subject to the United States Securities Act of 1933 and/or the Securities Exchange Act 1934 or any amendments thereto?

**If the answer above is yes please provide full details below**

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3.3 What forms if any is the Policyholder required to file with in accordance with the United States Securities Act of 1933 and/or the Securities Exchange Act 1934 or any amendments thereto?

**If the answer above is yes please provide full details below**

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3.4 Does the Policyholder or any of its subsidiaries have any American Depository Receipts (ADR's) on issue?

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What level is the ADR program (s144a, Lv 1, Lv 2, Lv 3, Other) – Please specify

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Is the ADR program or facility sponsored or unsponsored?

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What date was the commencement date of the ADR program (if known)

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Where are the ADR's traded and what is their ticker? (if known)

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How many ADR's are currently on issue? (if known)

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What value is the ADR program in terms of current market capitalisation? (if known)

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What is the ratio of ADR's to ordinary shares? (if known)

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Please list the 3 largest holders of ADR's and their respective %'s ? (if known)

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## Claims Addendum

Please provide full details of any claim, circumstance or allegations, the date they were made, whether notified to the insurer(s), amount of any claim(s) paid, or potential claim amount to be incurred (including estimated split between defence costs and damages), and amount of any outstanding claim(s) or reserves

## **Additional Information Addendum**

Please provide any additional information in response to any question in this Proposal form above:

Swiss Re International SE  
Australia Branch

Registered Office  
Tower Two International Towers  
Level 36  
200 Barangaroo Avenue  
Sydney NSW 2000  
Australia ABN: 38 138 873 211