

Proposed changes to Employee Share Schemes for Small Businesses

20 November 2018

The Federal Government's proposed changes to Employee Share Schemes for Small Businesses

On 13 November, the Government announced proposed changes to employee share schemes for small businesses with the aim of simplifying the current regulatory framework. Currently, many small businesses struggle to offer employee share schemes to their employees due to stringent disclosure and licensing provisions relating to the offer of shares, rights and options under the Corporations Act 2001.

The Government proposes to simplify the current regulatory framework by:

- creating a dedicated exemption for disclosure, licensing, advertising and on-sale obligations under the Corporations Act 2001;
- increasing the value limit of eligible financial products that can be offered in a 12 month period from \$5,000 per employee to \$10,000 per employee;
- expanding employee share schemes to include contribution plans, where an employee can make a monetary contribution to acquire eligible financial products; and
- allowing small businesses to offer employee share schemes without publicly disclosing commercially sensitive financial information unless they are otherwise obligated to do.

Back in 2014, ASIC released Class Order CO 14/1001 which provides an exemption from the disclosure and licencing provisions for unlisted companies that offer up to \$5,000 worth of shares or rights to employees in a 12 month period. For many companies, this limit was far too low. One of the proposed changes above is to increase this limit to \$10,000. While this is an improvement, we think \$10,000 per employee is still well below the value that most companies are looking to award to their employees.

As the details of the proposed changes remain to be seen, it is difficult to evaluate what impact these proposed changes will have on the use of employee share schemes in small businesses. It is hoped that the dedicated exemption in the Corporations Act 2001 referred to above may include an exemption for shares, rights and options that are offered to employees for no consideration (and excludes consideration in for form of employment services).

We will provide further information on the proposed changes when they become available.

More information

Read the Government announcement [here](#)

Let's talk

For a deeper discussion of how these changes might affect your business, please contact:

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