REGULATORY GUIDE 49

Employee share schemes

Related instruments — [CO 00/222], [CO 03/184]

Chapter 5C — Managed investment schemes

Chapter 6D — Fundraising

Chapter 7 — Financial services and markets

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From 5 July 2007, this document may be referred to as Regulatory Guide 49 (RG 49) or Policy Statement 49 (PS 49). Paragraphs in this document may be referred to by their regulatory guide number (e.g. RG 49.1) or their policy statement number (e.g. PS 49.1).

What this guide is about

RG 49.1 This guide sets out our policy on relief from the disclosure and licensing provisions of the *Corporations Act 2001* that we will give to employee share schemes.

RG 49.2 This guide discusses:

A our general policy on granting employee share scheme relief

see RG 49.3–RG 49.14

B disclosure relief available for employee share schemes

see RG 49.15–RG 49.55

C licensing and other relief available for employee share schemes

see RG 49.56–RG 49.69

Contents

A Our general policy on relief for employee share schemes

Our policy

RG 49.3 Where the *Corporations Act 2001* (the "Act") applies to an employee share scheme (ESS) we will give conditional relief from the disclosure and licensing provisions of the Act for offers of shares or interests in that scheme. This will only apply if we believe the purpose of the offer is not fundraising (but rather to enable employees to participate in the ownership of a corporation) and if there are otherwise adequate protections for employees.

Underlying principles

RG 49.4 In deciding whether to grant the relief outlined in this guide, ASIC has taken into account the commercial benefit and the net regulatory detriment that would be expected to flow from granting such relief. The disclosure provisions and the Australian financial services (AFS) licensing requirements of the Act may apply to ESSs in a way that is disproportionately burdensome where financial products are made available in order to promote a relationship between an employer and employee that is ongoing and substantial with a perceived common goal.

RG 49.5 In many ESSs, the commitment of the two parties is based on a mutual interdependence and is offered for the long-term benefit of both parties. Participation by employees in the corporation through share ownership may be a significant component of the employer – employee relationship. This relationship is additional to, and distinct from, the interest a shareholder may have in an issuing corporation. The existence of this mutual interdependence reduces some of the risk that the disclosure provisions and the licensing provisions were intended to address.

Explanations

Application of the Act to offers in an ESS

Fundraising

RG 49.6 The Act regulates offers of securities and other financial products to employees. In many cases Ch 6D or Pt 7.9 of Ch 7 of the Act require a prospectus or a Product Disclosure Statement (PDS) to be provided to an offeree.

RG 49.7 The purpose of the prospectus and PDS provisions in the Act is to ensure adequate investor protection and promote market efficiency. The provisions require the disclosure of information that investors and, in the case of a prospectus, their professional advisers, would reasonably require or expect to enable them to make informed investment decisions.

RG 49.8 Under s741(1) of the Act, ASIC has the power to grant relief from the prospectus provisions in Ch 6D subject to conditions. ASIC has equivalent power under s1020F(1) to grant relief from the PDS requirements. ASIC has granted conditional class order relief from the prospectus and PDS requirements for ESSs. It should be noted that ASIC has no power to provide relief from the liability provisions contained in Pt 7.10 of Ch 7.

Advertising

RG 49.9 Advertising of offers to investors is regulated by s1041H, 734, 1018A and 1018B of the Act, which prohibit advertisements or publicity prior to an offer or an intended offer. These provisions may also apply to notices of ESS offers circulated by employers.

Hawking

RG 49.10 Hawking is regulated by s736, 992A and 992AA of the Act. These provisions prohibit the issue or sale of securities and financial products arising out of unsolicited contact with investors, including offers made to employees.

Licensing

RG 49.11 Some ESS plans (especially those that involve a trustee) may involve providing a financial service. The *Financial Services Reform Act 2001* (FSRA) provisions will apply if a financial service is provided in relation to a security or another financial product. A person provides a financial service if they:

(a) provide financial product advice;

(b) deal in a financial product;

(c) make a market for a financial product;

(d) operate a registered scheme;

(e) provide a custodial or depository service; or

(f) engage in conduct of a kind prescribed by certain regulations.

Note: see s766A of the Corporations Act.

General policy considerations in granting relief

Benefits of ESSs

RG 49.12 ASIC recognises that opportunities under ESSs are often offered to employees of a corporation to participate in the ownership of the corporation for the purpose of enhancing the relationship between the employer and the employee for their long-term mutual benefit.

RG 49.13 Often shares acquired by an employee pursuant to an ESS are required to be held for a long period with restrictions on the ability to trade such shares immediately. Option schemes often involve an extended period before the options can be exercised.

RG 49.14 ASIC is also aware of the difficulties facing foreign issuers, making offers to relatively few Australian employees under a multinational ESS, where it is necessary to comply with the prospectus or PDS requirements. ASIC is of the view that if appropriate relief is not granted in respect of ESSs, Australian employees may not receive employment-related benefits that their employers (domestic or foreign) would otherwise offer.

B Disclosure relief for employee share schemes

Our policy

RG 49.15 Relief from the disclosure requirements for offers of shares under ESSs is the central focus for relief available for ESS offers.

What financial products can get relief?

RG 49.16 We have granted class order relief from the need to produce a prospectus for offers of shares or options over unissued shares under an ESS. The relief also applies where offers involve a trust or a contribution plan.

RG 49.17 We have not provided class order relief to partly paid shares. Particular risks associated with these offers mean that reduced disclosure will not always be appropriate.

RG 49.18 We have also provided class order disclosure relief from the PDS provisions for options over already issued shares and stapled securities. Like shares, these products contribute to a relationship of mutual interdependence between employee and employer through a common basis in participation in the ownership of the corporation.

RG 49.19 We have not extended class order relief to other financial products more generally, but will consider giving case-by-case relief for other kinds of offers if they substantially satisfy the same policy objectives.

Conditions attaching to disclosure relief

RG 49.20 The disclosure relief in our class orders is conditional. The relevant conditions are designed to ensure that:

(a) the aim of the relevant offer is not fundraising—for example, we have imposed a limit on the number of shares that can be issued under an ESS. This limit is 5% of the total number of issued shares in that class of the issuer at the time of the offer;

(b) the offer sufficiently supports the long-term mutual interdependence between the offeror and the offeree. The nature of the relationship between employer and employee is relevant in determining if the offer will sufficiently support mutual long-term interdependence between the parties. Another key factor is the nature of the product and whether it is likely to be held for a long period; and

(c) adequate disclosure is provided to investors—in particular, we require that the issuing corporation has a history of disclosures to a well-regulated financial market.

RG 49.21 We have imposed additional conditions of disclosure relief in regard to contribution plans and offers made through a trust.

Additional fundraising relief

RG 49.22 We have also provided additional fundraising relief from the disclosure provisions of the Act to allow for a prospectus to be in more than one document, to allow for personalised application forms and to provide for disclosure for certain options to occur at the time of their exercise rather than at the time they are issued.

Underlying principles

RG 49.23 Where there is a reliable market price against which employees can compare the amount they have to pay, disclosure tailored to the ESS context provides a basis for ESS disclosure relief.

Explanations

What financial products can get relief?

RG 49.24 Our ESS class order relief is primarily in regard to shares and options over unissued shares. These products typically allow for a more complete alignment of employer and employee interests than with other financial products, and they are more likely to be offered in the context of a well-regulated market.

Partly paid shares

RG 49.25 ASIC has generally not extended disclosure relief to offers of partly paid shares because the risk that employees might be exposed to liabilities by such arrangements outweighs the benefits from allowing reduced disclosure. However, ASIC will continue to consider case-by-case relief in instances where, despite the issue of partly paid shares in ESS plans, the arrangements cannot lead to any loss of money contributed by employees or any future liability other than in respect of forfeiture of the securities issued under the arrangement.

Options over issued shares

RG 49.26 Before the commencement of the FSRA, options over issued shares were securities and could obtain the benefit of our ESS relief. Post-FSRA these interests are usually treated as derivatives and are subject to the disclosure and licensing regime in Ch 7 of the Act.

RG 49.27 In the case of derivatives that are simply options over issued shares there is a strong degree of mutual interdependence created by the offer. If the exercise of an option would necessarily lead to the transfer of shares then this would allow an employee to directly participate in the company through share ownership. ASIC has therefore granted class order relief for these products if the other conditions of its class orders are met.

Stapled securities

RG 49.28 ASIC has also provided class order relief to allow the offers of stapled securities quoted on the ASX that otherwise meet the terms and conditions of our class orders.

RG 49.29 Relief has been extended to these products because they are subject to the ASX continuous disclosure regime, and the share component of stapled securities will allow employees to directly participate in the company through share ownership.

Other financial products

RG 49.30 ASIC has not extended its ESS class order relief more generally to other forms of derivatives or other financial products, such as interests in listed managed investment schemes, foreign collective investment schemes or phantom share plans. Offers of other financial products may not lead to the same level of mutual interdependence of the parties as an offer of shares or options over shares. In particular, offers of other financial products may not allow employees to directly participate in the ownership of the corporation for the purpose of enhancing the relationship between the employer and the employee for their mutual long-term benefit. Offers of shares and options are often subject to transfer or vesting restrictions. These ensure that the products are held over a long period. These features may not exist in other financial products.

RG 49.31 However, ASIC considers that there may be circumstances in which it is appropriate to grant relief for offers of other financial products. We will consider case-by-case relief for other financial products where the offer otherwise falls within our general ESS policy on granting relief, satisfies the key conditions of our disclosure class order relief, and granting relief would not unduly compromise consumer protection.

Conditions attaching to disclosure relief

The aim of the offer is not fundraising

RG 49.32 As a condition of our class order relief we have imposed a 5% limit on the number of shares that can be issued under an ESS. An ESS offer cannot exceed 5% of the total number of issued shares in that class of the issuer as at the time of the offer. This limit is in place because the relief from the disclosure provisions has not been granted to facilitate the raising of capital, but rather to enable corporations to enhance their relationship with employees by offering them the opportunity to participate in the ownership of the corporation.

RG 49.33 For the purposes of the 5% limit ASIC includes:

(a) all shares issued (or which might be issued pursuant to the exercise of an option) under the current offer;

(b) the number of shares in the same class that would be issued if offers under the ESS were accepted or if options over them were exercised; and

(c) the number of shares in the same class issued during the previous five years pursuant to an ESS.

RG 49.34 ASIC does not include:

(a) offers received outside Australia;

(b) excluded offers or invitations (made prior to 13 March 2000);

(c) offers that do not need disclosure because of s708; and

(d) options over shares where the option has expired.

RG 49.35 The limit applies only to shares issued to employees pursuant to ESS plans. It does not include shares issued to employees incidentally as a result of separate fundraising activities undertaken by the corporation.

RG 49.36 Because we do not regard ESS offers made under our class orders as fundraising we may provide case by case relief to disregard offers made under our class orders for the purposes of calculating the number or value of offers made under s708(1) dealing with small scale offerings.

There is mutual interdependence

RG 49.37 ASIC takes into account the nature of the employer–employee relationship when considering if the offer has the necessary level of mutual interdependence to justify relief. Our class order relief extends to schemes whereby shares (or options over unissued shares) are offered to any or all full or part-time continuing employees (including directors) of the issuing corporation, of a related body corporate or an associated corporation, who are employed at the time of the offer of the shares or options.

RG 49.38 ASIC will consider extending the definition of employees who are eligible to participate in ESSs to include relief for casual employees or contractors, on a case-by-case basis. In considering the relief ASIC will take into account the past relationship and likely ongoing relationship between the parties.

RG 49.39 To qualify as a casual employee for case-by-case relief, the staff who are offered shares must:

(a) have been in employment with the company for more than one year; and

(b) be employees whom their employer regards as equivalent to either full or part-time employees.

RG 49.40 ASIC will also consider extending relief to contractors on a case-by-case basis where the contractor has:

(a) worked for the company for more than one year; and

(b) received 80% or more of their income in the preceding year from the company.

Adequate disclosure is provided to investors

RG 49.41 To ensure that employees are offered shares that are priced on the basis of reliable alternative market information (including information about price), disclosure relief will apply only where the shares offered to employees are in a class listed on the ASX or an approved foreign exchange. In the case of an offer and exercise of options over shares, the options must be issued free or for nominal consideration and the underlying shares must be in a class listed on the ASX or an approved foreign exchange.

RG 49.42 In addition, at the time of the offer the issuing corporation generally must have been listed for at least 12 months.

RG 49.43 In some exceptional circumstances (eg a merger of companies where each company has been individually listed for more than 12 months or the demerger of such a company) ASIC may grant case-by-case relief to reduce the 12-month requirement.

RG 49.44 In the case of ESS options we will reduce the 12-month listing period for the underlying shares in cases where:

(a) the shares that are subject to the options are or will be listed on the ASX or an approved foreign exchange;

(b) the options are provided to employees for either no monetary consideration or nominal consideration;

(c) the options may not be exercised until the underlying shares have been listed on the ASX or an approved foreign exchange for a period of 12 months; and

(d) the fact the options may not be exercised until the underlying shares are listed for 12 months is disclosed to employees.

RG 49.45 We have provided relief in these circumstances because at the time employees decide whether or not to purchase the shares (the time of the exercise of the option) the shares will be priced on the basis of reliable alternative market information. Until that time consumer risk is reduced, as the employees do not contribute any monetary consideration for the securities.

RG 49.46 Our class order relief also requires additional disclosure to be provided to employees. For example:

(a) An ESS offer document must include or be accompanied by the rules or a summary of the rules of the ESS. Where a summary is provided to employees, the employer must make available, upon request, a copy of the rules without charge to the employee within a reasonable period of time.

(b) In the periods during which employees may subscribe for or purchase shares under the ESS, the employer must provide, within a reasonable period of a request by an employee, the current market price and the offer price (in Australian dollars) of the shares on offer. The manner in which this information will be made available must be explained in the offer document. This is to assist employees to decide whether to acquire shares. An employee considering whether to acquire shares is able to simply compare the price of the shares on offer and the prevailing market price of those shares.

(c) If the issuer or any of its associated bodies corporate offers the offeree any loan or other financial assistance for the acquisition of the shares offered or subject to the option, the offer document must disclose the conditions, obligations and risks associated with such loan or financial assistance.

(d) The offer document and a copy of any other offer documents provided to employees participating in the ESS must be provided to ASIC by the issuer no later than seven days after the provision of this material to employees. We consider that the provision of these documents is necessary to ensure that ASIC is put on notice of the offer for the purpose of monitoring compliance with the class orders

Note: Under the terms of our class order [CO 03/184] while ESS offers must be provided to ASIC they are not 'lodged' with us. No fee is payable and the documents provided are not placed on the public record.

Additional conditions for contribution plans and offers made through a trust

RG 49.47 ASIC has provided specific relief from the fundraising provisions of the Act for offers of units of shares through a trust structure where the issue and purchase of units is governed by a trust deed.

RG 49.48 Relief for these offers is subject to specific conditions including covenants that should be included in any trust deed setting out trustee obligations to employees. Underlying shares must be listed on the ASX or an approved foreign exchange.

RG 49.49 Share and option contribution plans are plans under which employees may save money by regular deductions from wages or salary towards paying for shares offered for issue or sale under an ESS. This is distinct from the repayment of a loan in respect of the shares.

RG 49.50 ASIC acknowledges that ESS contribution plans are often structured through salary sacrifice arrangements for tax purposes. We have granted class order relief for contribution plans involving salary sacrifice arrangements provided that offers comply with certain additional conditions of relief. See the definition of contribution plan in class order [CO 03/184].

Additional fundraising relief

RG 49.51 We have given miscellaneous fundraising relief to facilitate ESS offers in disclosure documents. Our class orders provide conditional relief so that:

(a) A prospectus or offer information statement may comprise not more than four documents, one of which—being that which includes the material required by s711(2), (3), (6), (7) and (8), s715(1)(f) and (j) and s716(1) of the Act (in each case if applicable)—lists and describes all accompanying documents, and notes that such documents constitute part of the prospectus or offer information statement.

(b) Personalised application forms or prospectuses are permitted.

(c) Some offers in an ESS disclosure document may be distributed in the course of an unsolicited meeting with that offeree without breaching the sharehawking prohibitions in the Act.

(d) Some ESS offers may be made without a prospectus and without breaching the sharehawking prohibition if s707(3) does not apply.

Relief to allow provision of a prospectus on exercise of an option

RG 49.52 After the reforms introduced by the *Corporate Law Economic Reform Program Act 1999* an offer of an option over an unissued share is an offer of a security and generally requires a disclosure document to be provided at the time of the offer.

RG 49.53 Many ESS plans offer options to employees with either no monetary consideration or only nominal consideration payable at the time of issue of the option. The need for disclosure for an ESS at the time of the issue of these options is questionable. This is because no "purchasing" decision is being made at that stage and because many ESS options may involve long periods before the option may be exercised.

RG 49.54 We have therefore provided class order disclosure relief so that a prospectus can be provided before the exercise of such options rather than at the time of their issue. We believe that options should be given relief from the usual timing of disclosure under s702 given the particular characteristics of these offers. This includes the benefit to investors of updated disclosure information at the time their investment decision will be made (ie the time of the exercise of the option). This relief is available to companies that have not yet listed at the time the offer is made.

Electronic offers under our class orders

RG 49.55 Our class order relief in [CO 03/184] contemplates disclosure being provided by electronic means. If an ESS offer is made through a prospectus, disclosure can be made electronically if the requirements in Class Order [CO 00/44] are met. See Regulatory Guide 150 *Electronic applications and dealer personalised applications* (RG 150).

C Licensing and other relief available for employee share schemes

Our policy

RG 49.56 Where an ESS has disclosure relief so that a prospectus or PDS is not required (granted either by way of class order or an individual instrument based on our class order), ASIC will also provide relief from:

(a) the need to hold an AFS license for persons involved in the operation of the scheme. This relief extends to the provision of a financial service that includes the provision of financial product advice, dealing in a financial product or a providing a custodial or depository service. However the relief is only available subject to conditions to ensure that employees are adequately protected in regard to the financial service provided;

(b) the provisions requiring the registration of a managed investment scheme for contribution plans where the scheme is only an incidental part of the employee share offer and if employees are otherwise adequately protected; and

(c) the advertising and hawking provisions in Ch 7 of the Act.

Underlying principles

RG 49.57 Where an ESS has disclosure relief we will extend the relief available to include incidental financial services provided as part of the ESS if specific conditions designed to protect investors are met.

Explanation

Licensing relief

Advising

RG 49.58 Where an ESS offer document contains advice about the scheme, the FSRA licensing requirements may require that the issuer hold an AFS licence for the giving of that financial product advice.

RG 49.59 We believe the issuer should not require a licence for simply circulating or explaining the terms and conditions of the ESS offer at a presentation or during discussions with employees if the advice given is general advice only. A warning must be given, however, that the advice provided is general advice and that employees should consider obtaining their own financial product advice.

Dealing

RG 49.60 Where the ESS involves the offer of securities an issuer may be exempt from the need for a licence to deal in those securities under the Act. Subsection 766C(4) generally provides a self-dealing exemption from licensing in the case of a body corporate dealing in its own securities. Issuers of financial products other than securities will not be able to take advantage of the self-dealing exemption.

RG 49.61 In addition, because the self-dealing exemption only relates to a body corporate's own securities, where the ESS involves the offer of financial products or securities through a trust the self-dealing exemption will not be available for a custodian. The exemption in the Act may therefore not extend to many situations involving a trustee.

RG 49.62 ASIC will grant relief from the need to hold an AFS licence for dealing that is incidental to the operation of the ESS. Where an ESS involves the purchase or sale of securities or financial products on market by a person appointed by the issuer, ASIC will grant relief from the need to hold an AFS licence for dealing if there appear to be other adequate protections for investors. In particular, as a condition of relief ASIC will require that:

(a) for products quoted on the ASX, that the dealing activity is outsourced to a licensed securities dealer or AFS licence holder; and

(b) for products listed on an approved foreign exchange, that the dealing be carried out by a person either licensed or authorised to trade in the relevant jurisdiction.

Custodial or depository services

RG 49.63 If an ESS involves a trust structure, relief from the requirement to hold a AFS licence may also be required for providing a custodial or depository service, and for dealing in a financial product in the course of providing a custodial or depository service.

[*Historical note:* RG 49.63 amended 4/2/2004 by inserting at the end of the para the words ", and for dealing in a financial product in the course of providing a custodial or depository service".]

RG 49.64 ASIC will grant relief from the need to hold a licence in these circumstances where the financial service is merely an incidental part of the operation of an ESS if there appear to be other adequate protections for investors. In particular, as a condition of relief ASIC will require that:

(a) the custodial service is provided by the issuer or an associate of the issuer; and;

(b) the custodian performs its duties lawfully and in good faith, and has sufficient resources to perform its role.

[*Historical note:* RG 49.64 amended 4/2/2004. The para formerly read:
"RG 49.64 ASIC will grant relief from the need to hold a licence for providing a custodial and depository service that is merely an incidental part of the operation of an ESS if there appear to be other adequate protections for investors. In particular, as a condition of relief ASIC will require that:

(a) the custodial arrangement is not governed by s 1012IA;

(b) the custodial service is provided by an associate of the issuer; and

(c) the employer undertakes in the ESS rules that the custodian will perform its duties lawfully and in good faith, and have sufficient resources to perform its role."]

Relief for managed investment schemes

RG 49.65 If the offer of shares listed on the ASX or an approved foreign exchange involves a managed investment scheme as an incidental part of the ESS we will consider case-by-case relief from Ch 5C of the Act (dealing with registration of schemes).

Other relevant provisions

Advertising

RG 49.66 When we give relief from the disclosure provisions requiring a PDS or prospectus we will include relief from the advertising provisions where the offer is directed only to employees.

RG 49.67 Where an ESS is to operate at the same time as an offer that is not limited to employees, ASIC is not prepared to provide further advertising relief to permit pre-prospectus publicity in relation to ESSs except in accordance with ASIC's general advertising policy: see Regulatory Guide 158 *Advertising and publicity for offers of securities* (RG 158).

Hawking

RG 49.68 When we give relief from the disclosure provisions requiring a PDS or prospectus we will include conditional relief from the hawking provisions in Ch 7.

Contribution plans and salary sacrifice arrangements

RG 49.69 For contribution plans, we have granted relief in Class Order [CO 03/184] from:

(a) the provisions requiring the registration of a managed investment scheme; and

(b) the need to hold an Australian financial services licence for dealing in an interest in that managed investment scheme.

This relief is for the avoidance of doubt only and merely extends to the operation of any managed investment scheme(s) arising out of an ESS that involves either pooling or the use of contributions in a common enterprise as part of a contribution plan.

[*Historical note:* RG 49.69 amended 4/2/2004. The para formerly read:
"RG 49.69 For contribution plans, we have granted relief from the managed investment scheme provisions in Class Order [CO 03/184]. This relief is for the avoidance of doubt only and merely extends to the operation of any managed investment scheme(s) arising out of an ESS that involves either pooling or the use of contributions in a common enterprise as part of a contribution plan."]

Key terms

RG 49.70 In this guide, a reference to:

"AFS licence" means an Australian financial services licence under s913B that authorises a person who carries out a financial services business to provide financial services

"Approved foreign exchange" means any of the following financial markets: the American Stock Exchange, Deutsche Borse, Euronext Amsterdam, Euronext Paris, Italian Exchange, Kuala Lumpur Stock Exchange (Main and Second Boards), London Stock Exchange, New York Stock Exchange, New Zealand Stock Exchange, Singapore Exchange, Stock Exchange of Hong Kong, Swiss Exchange, Tokyo Stock Exchange or the Toronto Stock Exchange

"ASIC" means the Australian Securities and Investments Commission

"ASX" means Australian Stock Exchange Ltd

"Ch 7" (for example) means a chapter of the Corporations Act after FSR commencement (ie 11 March 2002) (in this example numbered 7) unless a contrary intention appears

"CLERP" means the *Corporate Law Economic Reform Program Act 1999*

"[CO 02/184]" (for example) means a reference to an ASIC class order (in this example numbered 02/184)

"Corporations Act" means the *Corporations Act 2001* as amended by FSRA and includes regulations made for the purposes of the Act

"ESS" means employee share scheme

"FSRA" means the *Financial Services Reform Act 2001*

"FSR commencement" means 11 March 2002, the date fixed by proclamation under s2(2) of FSRA on which Schedule 1 of the FSRA commenced

"financial product" means generally a facility through which, or through the acquisition of which, a person does one or more of the following:

(a) makes a financial investment (see s763B);

(b) manages financial risk (see s763C); and/or

(c) makes non-cash payments (see s763D).

Note: See Div 3 of Pt 7.1 for the exact definition.

“issuer” means the body who is issuing the products that are the subject of the ESS offer

“Part 7.9” (for example) means a part of the Corporations Act after FSR commencement (ie 11 March 2002) (in this example numbered 7.9), unless a contrary intention appears

“PDS” means a Product Disclosure Statement

“phantom share plan” means an incentive, bonus or other scheme offered to employees for no or nominal consideration where a cash or other payment based on the share price of the issuer or other index becomes payable to employees after a period of employment with the issuer

“regulations” means the *Corporations Regulations 2001*

“s912A” (for example) means a provision of the Corporations Act after FSR commencement (in this example numbered 912A), unless a contrary intention appears

Related information

RG 49.71

Headnotes

Employee share schemes, phantom share plan, contribution plan, disclosure, prospectus, PDS, licensing, hawking, managed investment scheme, small scale offer, securities, options, stapled securities, financial products

Class orders

[CO 03/184] *Employee share schemes*

[CO 00/222] *Employee share schemes—miscellaneous fundraising relief*

[CO 02/1180] *Disclosure for on-sale of securities and other financial products*

[CO 02/264] *Employee share schemes—contribution plans*

[CO 00/220] *Employee share schemes*

[CO 00/221] *Employee share schemes*

[CO 00/223] *Employee share schemes—offers of shares through a trust*

Regulatory guides

RG 150 *Electronic applications and dealer personalised applications*

Legislation

Corporations Act Chapters 2L, 5C, 6D, 7, Parts 6D.2, 6D.3, 7.6, 7.8,7.9, s283GA, 708(1), 708(5), 734, 736, 766C, 766E, 911A, 992A, 992AA, 1018B, 1041H.

Information releases

[IR 00/39] *ASIC fine tunes its employee share scheme policy*