

Corporations Act Part 6D.2, Section 708: Offers That Do Not Need Disclosure

Section 708(8) Sophisticated Investors

An offer of a body's securities does not need disclosure to investors under this Part if:

- (a) the minimum amount payable for the securities on acceptance of the offer by the person to whom the offer is made is at least \$500,000; or
- (b) the amount payable for the securities on acceptance by the person to whom the offer is made and the amounts previously paid by the person for the body's securities of the same class that are held by the person add up to at least \$500,000; or
- (c) it appears from a certificate given by a qualified accountant no more than 6 months before the offer is made that the person to whom the offer is made:
 - (i) has net assets of at least \$2.5 million; or
 - (ii) has a gross income for each of the last 2 financial years of at least \$250,000 a year; or
- (d) the offer is made to a company or trust controlled by a person who meets the requirements of subparagraphs (c)(i) or (ii).

Sections 708(10) Offers through a financial services licensee

An offer of a body's securities does not need disclosure to investors under this Part if:

- (a) the offer is made through a financial services licensee; and
- (b) the licensee is satisfied on reasonable grounds that the person to whom the offer is made has previous experience in investing in securities that allows them to assess:
 - (i) the merits of the offer; and
 - (ii) the value of the securities; and
 - (iii) the risks involved in accepting the offer; and
 - (iv) their own information needs; and
- (v) the adequacy of the information given by the person making the offer; and
- (c) the licensee gives the person before, or at the time when, the offer is made a written statement of the licensee's reasons for being satisfied as to those matters; and
- (d) the person to whom the offer is made signs a written acknowledgement before, or at the time when, the offer is made that the licensee has not given the person a disclosure document under this Part in relation to the offer.

Section 708(11) Professional Investors

An offer of securities does not need disclosure to investors under this Part if it is made to:

- (a) the person is a financial services licensee;
- (b) the person is a body regulated by APRA, other than a trustee of any of the following (within the meaning of the Superannuation Industry (Supervision) Act 1993):
 - (i) a superannuation fund;
 - (ii) an approved deposit fund;
 - (iii) a pooled superannuation trust;

- (iv) a public sector superannuation scheme;
- (c) the person is a body registered under the Financial Corporations Act 1974;
- (d) the person is the trustee of:

(e) the person controls at least \$10 million (including any amount held by an associate or under a trust that the person manages);

(f) the person is a listed entity, or a related body corporate of a listed entity;

(g) the person is an exempt public authority;

(h) the person is a body corporate, or an unincorporated body that:

(i) carries on a business of investment in financial products, interests in land or other investments; and

(ii) for those purposes, invests funds received (directly or indirectly) following an offer or invitation to the public, within the meaning of section 82, the terms of which provided for the funds subscribed to be invested for those purposes;

(i) the person is a foreign entity that, if established or incorporated in Australia, would be covered by one of the preceding paragraphs.