



## MEMO

To: Board of Directors  
From: Company Secretary  
Subject: **FOREIGN COMPANIES OFFERING SHARES IN AUSTRALIA**

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Just as there are restrictions imposed by many foreign countries' securities laws on Australian companies offering shares for sale in those overseas jurisdictions, and on overseas investors buying shares in Australian companies, there may also be reciprocal restrictions.

That is, generally speaking foreign companies cannot seek to sell their shares in Australia and/or Australian residents cannot necessarily invest in foreign companies.

If a foreign company prospectus is registered with ASIC in Australia, then investors can subscribe for shares (just as they can invest in an Australian company with a registered prospectus). However, if such prospectus or other offer document/information memorandum is not registered with ASIC then Australian investors generally cannot subscribe – although there may be scope under one of the exemptions in section 708 of the Corporations Act for some applicants to invest.

A foreign company will usually put a disclaimer of some sort into a prospectus/offer document – as might an Australian company – stating that applicants from other countries may be breaching the securities laws of those countries by investing in that foreign company's shares.

A general statement might be along the lines of:

The distribution of this document in jurisdictions other than Canada may be restricted by the laws of those jurisdictions. Anyone into whose possession this document comes should inform themselves about, and observe, any such restrictions. Failure to comply with any such restrictions may constitute a violation of the securities laws of any such jurisdiction.

A more specific statement, targeted at potential Australian investors might read:

### **Notice to prospective investors in Australia**

This document is not a prospectus under the Corporations Act 2001 (Cth) (Australia) ("Corporations Act"), and the document has not been, and will not be, lodged with the Australian Securities and Investments Commission. The Company will not make any offer of New Ordinary Shares pursuant to a prospectus, offer information statement or other disclosure document pursuant to Part 6D.2 of the Corporations Act.



This document may be distributed to a number of “sophisticated investors” and “professional investors” within Australia (as those terms are defined in the Corporations Act). No person within Australia may apply for any New Ordinary Shares unless they fall within one of these categories, and any application for New Ordinary Shares by those investors will need to be accompanied with appropriate certifications as required by the Corporations Act to ensure that the issue of New Ordinary Shares qualifies as an issue to a “sophisticated investor” or “professional investor”.

This document is not, and should not be construed as, a recommendation to any person to subscribe for New Ordinary Shares, and is not, and is not intended to be, financial product advice for the purposes of the Corporations Act.

No broker, dealer or other person has been authorised by the Company, the Directors, the brokers or the underwriters to issue any advertisement or to give any information or make any representation in connection with the offering or sale of the New Ordinary Shares other than those contained in this document and if issued, given or made, that advertisement, information or representation must not be relied upon as having been authorised by the Company, the Directors, the brokers or the underwriters.

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