



MEMO

To: Board of Directors
From: Company Secretary
Subject: **PARTLY PAID SHARES**

A company may issue shares which are 'partly paid'; i.e., the full subscription amount of the shares is not paid up when the shares are first issued by the company.

There could be various reasons for this, but the most plausible is that the company does not require all share capital at the time when the shares are first issued.

Section 254A(1)(c) of the Corporations Act allows a company to issue partly-paid shares – and shares held by different shareholders can have different amounts unpaid, different times for payment of calls and different amounts payable when called.

If shares in a company are partly-paid, under Section 254M(1) the shareholder is liable to pay calls in accordance with the terms on which the shares were issued or acquired – except where the partly-paid shares are held in a no-liability (NL) company when a call does not have to be met (Section 254A(2)).

The procedure/process for making calls on partly-paid shares is detailed in Rule 12 of our Constitution.

Sections 254Q ~ 254R govern the procedures for calls, forfeiture and redemption of partly-paid shares in NL companies.

If a shareholder does not pay a call (other than in an NL company) then the amount called is a specialty debt payable to the company. The company has a lien on the shares which remains until the call is paid or the shares forfeited (if the company has the power of forfeiture in its constitution) – see Rules 11 & 17.1 of our Constitution.

A company can pursue a shareholder for an amount called but unpaid to try and recover – including taking court action in need – but if the shareholder is bankrupt/ in liquidation then such attempt could be futile.

In some situations it may be possible to have an underwriter cover the uncalled amount on shares, and he will pay the company if the shareholder cannot. But this approach will require appropriate documentation and probably security over the partly-paid shares so that the underwriter can obtain control/ownership in need.



Generally speaking partly-paid shares are of the same class as ordinary shares, with most of the rights of fully-paid shares, although voting rights might not be available whilst there are amounts unpaid or at least may be proportional to those of fully-paid shares. In our Constitution (Rule 19.22) a shareholder has no voting rights until all unpaid amounts – whether called or not – have been paid (i.e., until the shares are fully-paid).

Also, the ASX has specific rules governing listed partly-paid shares – to help protect the rights of shareholders who buy such shares – of which directors need to be aware.

DISCLAIMER

The comments in this memo reflect some commercial aspects and observations on the matter experienced or observed by the writer in practice as he understands them. The information is given as a guide only and does not represent a definitive or legal view of any of the issues raised, covered or referred to and the reader is urged to seek his own professional advice on all aspects of, or pertaining to, this and any related matter.