



MEMO

To: Board of Directors
From: Company Secretary
Subject: **REMUNERATION CONSULTANTS**

I need to let you know about changes to the Corporations Act which impact the company in relation to the use of remuneration consultants.

These changes impact all Disclosing Entities, whether stock exchange listed or not.

Remuneration Consultancy Contract

Many companies contract with consultants who make recommendations in relation to the remuneration of Directors and senior executives (collectively 'Key Management Personnel'). Such a contract is defined in section 206K(1) of the Act as a 'remuneration consultancy contract'.

Board Approval

Under s.206K(2), a remuneration consultancy contract cannot be entered into unless it has prior approval of the Board or, if it has one, the Remuneration Committee (on the basis that such Committee is one appointed by the Board).

Consultant's Report

Under s.206L the consultant must provide any remuneration recommendations directly to either:

- a) the Board; or
- b) the Remuneration Committee

and, in particular, such recommendations cannot be given to an executive Director nor to any person who is not a member of the Board or the Committee – s.206L(3) & (4).

Declaration by Consultant

The remuneration consultant is required by s.206M(2) to provide a declaration that his recommendations are made free of undue influence from any KMP to whom the remuneration recommendations relate.



Disclosure of Consultant

Pursuant to s.300A(1)(h), companies are required to disclose in their Remuneration Report (being part of the Directors' Report accompanying a company's annual financial statements) any detail relating to the use of remuneration consultants, to allay concerns that remuneration consultants may be placed in a position of conflict if asked to express an opinion on the remuneration of KMP that are in the position to determine if the consultant's services will be retained.

Specifically, the section says that if a remuneration consultant made a remuneration recommendation in relation to any of the KPM then the Remuneration Report must state all the following:

- (i) the name of the consultant;
- (ii) a statement that the consultant made such a recommendation;
- (iii) if the consultant provided any other kind of advice to the company or entity for the financial year – a statement that the consultant provided that other kind or those other kinds of advice;
- (iv) the amount and nature of the consideration payable for the remuneration recommendation;
- (v) the amount and nature of the consideration payable for any other kind of advice referred to above;
- (vi) information about the arrangements the company made to ensure that the making of the remuneration recommendation would be free from undue influence by the KMP to whom the recommendation relates;
- (vii) a statement about whether the Board is satisfied that the remuneration recommendation was made free from undue influence by any KMP to whom the recommendation relates;
- (viii) if the Board is satisfied that the remuneration recommendation was made free from undue influence by KMP – the Board's reasons for being satisfied of this.

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.