MEMO

To: Board of Directors

From: Company Secretary

Subject: **SHARE PLACEMENT**

One way a company can raise additional share capital – particularly if funds are needed relatively quickly – is to do a "**share placement**"; i.e., by way of 'placing' some shares with an investor/s at a share price that might typically be at say a 15 ~ 25% discount to the most recent share issue price or (particularly where stock exchange listed) market price of the company's shares.

If the company is stock exchange listed it can issue up to an additional 15% of its shares (under ASX Listing Rule 7.1) in a placement without the need for shareholder approval (unless, as required under L/R 10.11, a director or associates participate).

For unlisted companies, the main constraint on issuing additional shares is whatever, if anything, is contained in the constitution or a shareholders' agreement, plus any pre-emptive rights process that might have to be adhered to. Director or associates would generally be allowed to participate if on the same terms as 'public' investors – on the basis of Section 210 of the Corporations Act (i.e., that they were receiving no financial benefit).

However, in both cases, companies must adhere to the Act's requirements for fund-raising. Therefore, it is most usual for companies to seek to place the shares with sophisticated investors to circumvent the need for a prospectus (or other disclosure document).

The placement could also be made to anyone fitting within one of the Section 708 exemptions in the Act (eg, under the 12/20 rule, to professional investors, through financial services licensees, or to associated persons such as directors).

Sourcing investors for a placement is often done through a stock broker, financial adviser or institution, for which they will earn a fee of typically 5 ~ 7%. A benefit of such approach might be to 'refresh' the spread of shareholders by bringing in new strategic investors.

Of course, one disadvantage of making a placement might be that it dilutes the current shareholders' holdings of those who are not offered the opportunity to participate.

To fully inform potential investors it would be usual to prepare some sort of Information Memorandum or Offer Document detailing the company's history/ background, current and projected financial position, and proposed use of funds being sought, etc. For listed companies and other disclosing entities they need to be careful not to disclose information which is not otherwise generally available in the public arena.

Following receipt of placement monies new shares are then allotted (by board resolution), the Share Register is updated and Share Certificates (or Holding Statements if uncertificated) are despatched to shareholders. Also, Form 484 must be lodged with ASIC to update their records within 28 days of allotment.

In addition, if the company is listed there is a need to lodge an Appendix 3B (new issue announcement); and a Section 708A notice (because they were issued without a prospectus) with the stock exchange within 5 business days, otherwise the placement shares cannot be sold/traded for 12 months.