

Legal alert - Employee share schemes

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From today, it will be easier for employers to incentivise and reward employees through share offers, due to the commencement of the Financial Markets Conduct Act 2013 (FMC Act). Although the bulk of the FMC Act will not come into force until December 2014, a number of provisions were 'fast-tracked'. One of these is a much more liberal regime for employee share purchase schemes, which simplifies existing requirements set out in multiple exemption notices under the Securities Act 1978.

The new regime will apply to offers of shares (other types of financial product are not included within the exemption) that are:

- Made to employees, non-employees providing personal services (such as contractors), or directors of the issuer or a subsidiary of the issuer (for example, employees of a New Zealand subsidiary in terms of an offer of shares of an overseas parent company)
- Made as part of the remuneration arrangements for the recipients, or otherwise in connection with their employment or engagement
- Not made for general fund raising purposes and do not represent more than 10% of the shares of the issuer over a 12 month period.

Employers that wish to rely on the new exemption must provide:

- A written description of the scheme
- A warning statement (with prescribed wording)
- The issuer's most recent annual report and financial statements, or information on how to obtain these from the issuer and/or obtain copies online.

To find out more about how you can take advantage of these changes, contact a member of our team.

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