



Australian Government



Australian  
**Small Business and  
Family Enterprise**  
Ombudsman

30 April 2019

Ms Nathania Nero  
Senior Policy Adviser  
Consumer and Corporations Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600

**By email: [ESSreforms@treasury.gov.au](mailto:ESSreforms@treasury.gov.au)**

Dear Ms Nero

### **EMPLOYEE SHARE SCHEMES**

Subject to our comments below, we support the proposals to simplify and consolidate into the Corporations Act the fragmented pieces of regulation that employers must navigate to establish an Employee Share Scheme (ESS). Time and resource poor small businesses will be better able to consider and receive advice on an Employee Share Scheme where the framework is consolidated.

We also support lifting the annual employee cap for ESS to \$10,000, together with the same increase in the cap for the use of contribution plans to participate in an ESS.

However, we do not support a requirement for unlisted companies seeking to establish an ESS to obtain an independent market valuation of their business. The problem with the approach is that a valuation is a point in time assessment, which can only be relied on for three months. The cost and time to obtain such a valuation, where that valuation does not properly account for the medium to long term risk of participating in an ESS, is unnecessary red tape with no real benefit to either the business or its employees.

Finally, we support expanding the types of ESS eligible for the exemption from public access to disclosure documents. The benefits, to attract employees to invest, would be outweighed if otherwise private commercially-sensitive material were made public and available to competitors.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Jill Lawrence on 02 6121 5312 or at [jill.lawrence@asbfeo.gov.au](mailto:jill.lawrence@asbfeo.gov.au).

Yours sincerely

**Kate Carnell AO**  
Australian Small Business and Family Enterprise Ombudsman

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