



5 August, 2014

Mr Jason McNamara
Executive Director
Office of Best Practice Regulation
Department of the Prime Minister and Cabinet
One National Circuit
BARTON ACT 2600

Dear Mr McNamara

REGULATION IMPACT STATEMENT FOR EARLY ASSESSMENT

I am writing in relation to the attached Regulation Impact Statement (RIS) prepared for Employee Shares Schemes and Startups.

I believe the RIS meets best practice requirements and is consistent with the ten principles for Australian Government policy makers.

The RIS provides answers to the seven RIS questions.

In particular, the RIS addresses the first four RIS questions:

- *What is the problem?* – The 2009 changes to ESS arrangements appear to have reduced the popularity of options issued under the relevant provisions in the tax legislation by all companies; however the impact appears to have been felt more keenly by startups, which lacked the capacity to implement alternative ways to remunerate employees through shares or options. The current ESS arrangements put Australian startups at a competitive disadvantage in international markets, and impact the ability of startups to attract and retain the skilled employees needed to grow the company;
- *Why is government action needed?* – The problems identified in consultation primarily relate to the existing legislation, and in particular, to the amendments associated with the 2009-10 Budget measure. These problems can only be addressed by changing the legislation to make the use of ESSs more attractive and accessible, an outcome which is essential to encourage a flourishing startup sector, and which itself is an important element of ensuring Australia is a thriving hub for innovative industry;
- *What policy options are you considering?* – Options being considered are to do nothing/retain the status quo; to remove special tax treatment of ESS entirely; to deliver a package of amendments to the tax treatment of ESS arrangements for all companies; to further supplement such a package with additional changes for small companies; and to provide direct funding of small companies to assist with the costs of setting up ESSs; and
- *What is the likely net benefit of each option?* – The first two options do not provide any relief to companies or their employees; the third and fourth options have positive benefits for both companies and their employees; the last option has positive benefits for companies but not for their employees.

In addition:

- the change in regulatory burden on business, community organisations and/or individuals has been quantified using the Regulatory Burden Measurement framework; and
- an appropriate consultation plan is described.

I submit the certified RIS to the Office of Best Practice Regulation for early assessment, consistent with best practice.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Heferen', with a long horizontal flourish extending to the right.

Rob Heferen
Executive Director
Revenue Group