



**ASIC**

Australian Securities & Investments Commission

## INFORMATION SHEET 191

# Unsolicited (or unexpected) offers to buy your shares

This information sheet explains what unsolicited offers to buy your shares are and what to do if you are concerned about an unsolicited offer. This information also applies to offers to buy your holdings in listed investment trusts or funds.

This information does not apply to offers that are part of share buy-backs or that relate to mergers or takeovers.

## What are unsolicited offers?

Unsolicited offers are also known as 'unexpected' or 'uninvited' offers. Put simply, an unsolicited offer is an offer made by an individual, company or group of investors to purchase shares from an individual who was not actively seeking a buyer.

Unsolicited offers are often much less than the current market price. People making these offers sometimes try to take advantage of the fact that you might not know the current value of the shares in order to offer you a very low price.

In accepting an unsolicited offer you risk losing money because the offer may be:

- below market value, or
- above market value, but paid out over a number of years.

## Are unsolicited offers illegal?

Unsolicited offers are legal. However, ASIC will pursue action against individuals making unsolicited offers who do not comply with Division 5A of Part 7.9 of the *Corporations Act 2001*. The law requires the person making the offer to provide you with a written document, such as an offer document, that states:

- the identity of the person making the offer
- the offer date
- the offer price
- how long the offer is open for (you generally have at least a month to accept the offer)
- the market value (or a fair estimate of the value) of your shares on the day the offer is made.

The person making the offer must send you the offer document in printed or electronic form, such as by letter or email.

Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

It is against the law for a person to mislead you into accepting an unsolicited offer.

If the offer is to pay you by instalments, the offer document must explain to you:

- the amount of each instalment
- how, when and how many instalments will be paid
- the present value of the offer.

Even if the total offer price to be paid by instalments is higher than the present market value, the many years you may have to wait for all your instalments means you usually get far less than selling on the market.

## What you should do

<b>Consider your options</b>	If you had not considered selling your shares before you received an unsolicited offer, take time to consider your options. You may decide to simply ignore the offer.
<b>Find out who is making the offer and why</b>	<p>Read the offer carefully to see exactly who is making it. Some offers may use letterhead or names similar to those of your company, and they may arrive at the same time as your company's own letters to shareholders. You should contact your company's investor relations department to find out if they have made any recent offers.</p> <p>If you are a shareholder of a company listed on an exchange (such as the Australian Securities Exchange (ASX)), you should check whether the company has made any announcement on that exchange.</p>
<b>Find out what your shares are worth</b>	<p>Get an up-to-date market price for your shares and compare it with the price offered. If you hold shares that are not sold on ASX or any other exchange, the offer needs to state the fair market value in the offer document. You will then need to make a personal judgement about what they are really worth. As a shareholder, you are entitled to talk to the company whose shares you own about any plans, including possible listing on an exchange that may affect the share price.</p> <p>You can also discuss the offer with your broker or financial adviser to determine whether the price is fair and reasonable, or whether you should accept or reject the offer.</p>
<b>Contact your accountant and taxation adviser</b>	Taxation law can be complicated, particularly when it comes to disposing of and transferring shares. We recommend you talk with your accountant or taxation adviser before accepting an offer.
<b>Seek legal advice</b>	<p>If you are concerned about the legitimacy of a proposed offer, we recommend that you seek legal advice to discuss whether to accept it. It is important that you do your own research on the person or company making the offer and take the time to seek independent legal advice to discuss your options. Do not be pressured to make a quick decision you could regret later.</p> <p>You can contact the Law Society in your state or territory if you are unsure about how to access legal advice.</p>

## ASIC and unsolicited share offers

ASIC is responsible for monitoring and promoting market integrity and consumer protection in the Australian financial system. Our role in helping you resolve any concerns about unsolicited offers is limited to recommending you seek legal advice. Your legal adviser can help you clarify the legal issues involved and advise you of what options you might pursue privately.

While we can take action if there has been a breach of the laws we are responsible for, we exercise our discretion in deciding whether to investigate a report of a potential breach. Generally, we do not act for individuals and will only take action when it will result in a greater impact on the market and benefit the general public more broadly. We do not give legal advice, nor can we recommend whether you should accept an offer to buy your shares.

## Where can I get more information?

- For information about ASIC's role, see [www.asic.gov.au/our-role](http://www.asic.gov.au/our-role).
- For information about the laws we manage, see [www.asic.gov.au/legislation](http://www.asic.gov.au/legislation).
- For information about unsolicited offers to buy your shares, see [www.moneysmart.gov.au/investing/investment-warnings/unexpected-offers-to-buy-your-shares](http://www.moneysmart.gov.au/investing/investment-warnings/unexpected-offers-to-buy-your-shares).
- For information about investment scams, see [www.moneysmart.gov.au/scams/investment-scams](http://www.moneysmart.gov.au/scams/investment-scams).
- Search ASIC registers at <https://connectonline.asic.gov.au/RegistrySearch/>
- To find a licensed broker, see ASX find a broker tool [www.asx.com.au/asx/research/findABroker.do](http://www.asx.com.au/asx/research/findABroker.do).

## Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice. You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases your particular circumstances must be taken into account when determining how the law applies to you.