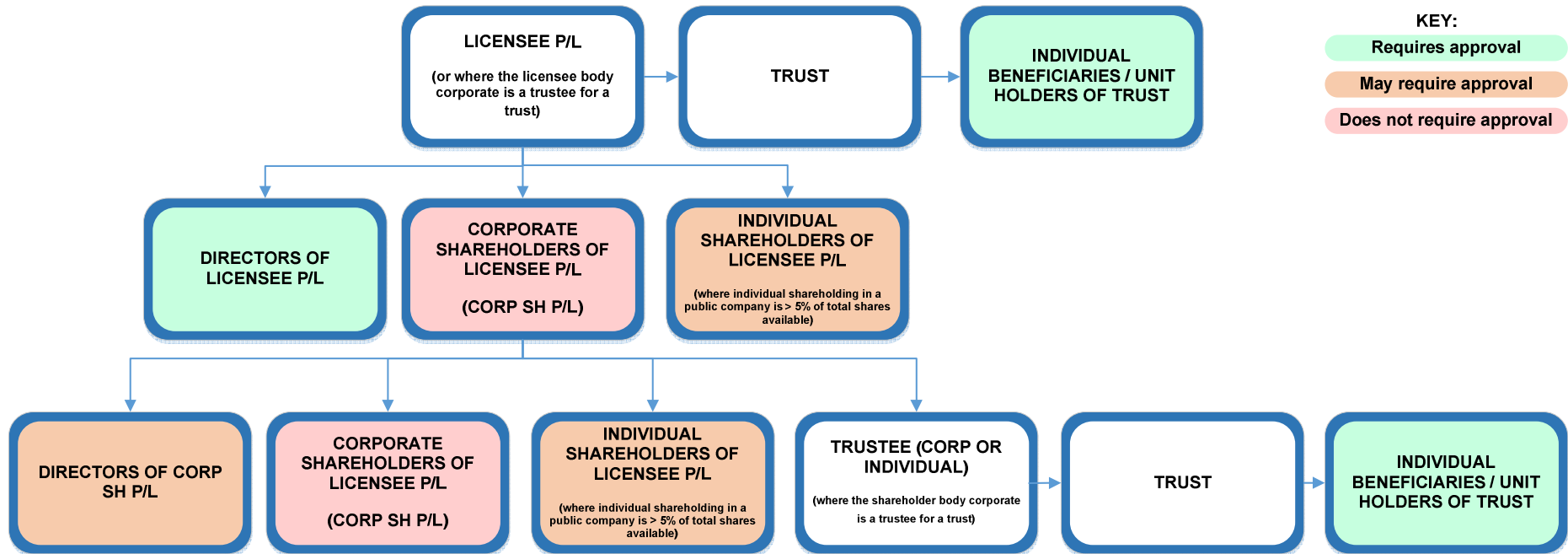


## APPLICATIONS FOR CHANGES TO CORPORATE STRUCTURES



### NOTES:

#### Directors of Licensee P/L

- Directors and Managers are defined as persons in a position of authority under s6(1)(a) and are required to be approved under s71(2)
- Responsible Persons (RP's) may assume a position of authority without any further approvals
- CBS requires to be notified of any changes in Directors and Managers

#### Corporate Shareholders of Licensee P/L (Corp SH P/L)

- The entity itself cannot be approved as s71(3) requires the Commissioner to find that the 'person' to be approved be fit and proper

#### Individual Shareholders of Licensee P/L

- Shareholders are defined as persons in a position of authority under s6(1)(a)(iv) and are required to be approved under s71(2)

## Trust

- Individual beneficiaries / unit holders need to be approved (s6(1)(b)) and s99(6)(c).
- If the trustee of the trust is a corporate entity, then the individual directors and shareholders of the trustee corporate entity also need to be approved.

## Directors of Corp SH P/L

- Only required to be approved under s71(2) if exercising control or substantial influence over Licensee P/L in the conduct of its affairs (s6(1)(ii))

## Corporate Shareholders of Corp SH P/L

- The entity itself cannot be approved as s71(3) requires the Commissioner to find that the 'person' to be approved be fit and proper

## Individual Shareholders of Corporate SH P/L

- Only required to be approved under s71(2) if exercising control or substantial influence over Licensee P/L in the conduct of its affairs (s6(1)(ii))
- **The onus is on the applicant to advise the licensing authority if the individual is in a position to exercise control or substantial influence.**
- Should it be subsequently established that an individual is in a position to exercise control or substantial influence and that individual has not been approved, then this becomes a compliance issue.
- If the individual shareholder is not required to be approved as they are not exercising control or substantial influence, but participate in proceeds of the business conducted under the licence, then an application for approval for the purposes of s99 is required (ie, lodge a PID in order to receive proceeds under s99(6)).
- Shareholders of Corp SH P/L (where individual shareholding in a public company is > 5% of total shares available) simply receiving dividends directly from Licensee P/L, or otherwise sharing in the proceeds, but NOT having any influence over the business operated by Licensee P/L ARE required to be approved (s99).

## Additional notes:

- Individuals involved in the day-to-day operations of the business that can exercise substantial influence or control but are not part of the corporate structure (eg, operations manager, etc.) also need to be approved.
- A copy of the ASIC search is required from the applicant to ensure that they have the directors and shareholders approved as persons in positions of authority.
- As a general rule, CBS does not approve the corporate structure itself (just the relevant people in positions of authority). It is sufficient to simply list the approved persons on the order that have been approved as fit and proper. In unusual cases, or where requested by the applicant, CBS may consider approval of the corporate structure.

## Partnerships

- A change in the individuals in a partnership will generally require an application for a transfer. This is the case where the individuals in the partnership can be said to be in a position of authority and not simply receiving profits. In some cases, depending on the terms of the partnership agreement, a new 'partner' may be receiving profits but not in a position to exercise control or influence, and therefore may need approval under s99.