




Hot Spots


Review of key issues developing in various countries

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Hot Spots

Introduced by Janet Cooper
Presented by Mike Pewton


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International share plans

- **An offer of shares**
 - Options
 - Restricted shares / units
 - Share purchase plans
 - Cash
- **An offer to employees?**
 - Controlled subsidiaries
 - Joint ventures / affiliated companies
 - Consultants

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“Superplan”



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The “perfect plan” or “Superplan”

- Only to employees of controlled subsidiaries
- No remittance required to acquire the shares
- Minimal local company involvement
- Small number of participants
- Does not involve a trust
- Contains data protection and exclusion clauses
- Concur with any local collective bargaining agreements

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“Stumbling blocks”

- Securities laws
- Exchange controls
- Taxation
- Employment law issues
- Data Protection
- Others

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Recent trends


- **A move to restricted share plans?**
- **Accountancy rules, transfer pricing and recharges**



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A move to restricted share plans

- **Securities laws: no payment / no issues?**
- **Exchange controls: no remittance – no exchange controls?**
- **Taxation: options on spread, RSUs?**
- **Employment law issues: no difference?**



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Accountancy rules, transfer pricing and recharges

- **Securities laws: who makes award?**
- **Exchange controls: issues for local company**
- **Taxation: chargeback makes a difference**
- **Employment law issues: chargeback makes a difference**



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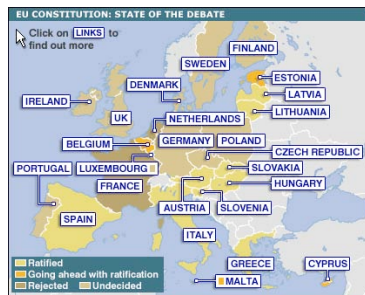
Regions

- Europe
- Africa
- Asia Pacific
- South America
- North America



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Europe



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Europe



- EU Prospectus Directive
- Savings Directive
- Information and Consultation Directive
- Employment Directive
- Taxation
- Employment litigation
- Data protection



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The EU Prospectus Directive

- Due to harmonise the securities laws in Europe
- Due to be implemented by 1 July 2005
- Main features
 - Employee share plans exempt (for EU listed companies)
 - Requirement to produce “mini” prospectus
 - Other exceptions (100 persons, less than €2.5 million, other listings)
 - Number of “unknowns”




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European Employment Directive


- Age discrimination
- Equal treatment
- Long service awards
- Retirement treatment
- Eligibility for grant




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Belgium 


- Securities laws
 - Short form no longer needs approval
- Taxation
 - Options now taxable on exercise
- Approved Restricted Share Plan
 - Possible but not suited to non-Belgian companies



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Italy 

- **Financial intermediary required**
 - Need to use Italian bank
 - Not if no “investment” decision
 - Free share plans
 - Enforced cashless exercise

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Czech Republic 

- **Managerial trades require notifications**
 - Only over Euro 5,000
 - Only affects senior employees

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Ireland 


- **Taxation of options for expatriates**
 - Pro rata taxing for employees not permanently in Ireland
- **Taxation of restricted stock plans**
 - May be on award

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Netherlands 

- **Taxation of options**
 - Previously when exercisable
 - Now on exercise

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Denmark 


- **Acquired rights issues**
 - Must comply with terms of Act
 - Does not apply to senior executives
 - Requirement to translate main terms of the plan
 - Fines for non-translation

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France 

- **AMF approval for 100 employees**
 - Does not apply to option plans
 - Does not apply to free share plans
- **Approved restricted stock plan?**
 - 2 year post-vesting holding period
 - Applies to non-French companies

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Switzerland 

- **Taxation of options**
 - Grant, vesting or exercise
 - Clarifications from Swiss authorities
 - Federal and Cantonal?

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Africa 

- **Securities laws**
- **Exchange controls**
- **Others**

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Zambia 

- **SEC approval is now formally required**
 - Specific fee now payable
 - Difficult to obtain
 - Allow at least 2 months

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Ghana 

- **Bank of Ghana approval**
 - Difficult to obtain
 - Allow at least 3 months

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UMOA countries

- **Securities and exchange control issues**
 - No UMOA approval if no remittance
 - Not a change in law but a change in practice, which is to be welcomed

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South Africa 

- **Securities laws**
 - Exemption currently does not apply to foreign companies
 - Review of securities laws could change this
- **Taxation**
 - Tax on vesting of restricted share
 - Tax when option becomes exercisable
- **Employment**
 - Discrimination, including age discrimination

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Asia




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Asia

- **Securities laws**
- **Exchange controls**
- **Taxation**

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India



- **Foreign exchange regulations**
 - Significant easing of exchange controls
- **RBI approval**
- **Tax approved option plans**
 - Tax deferred until sale

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China 

- **Securities laws**
- **Taxation**
 - New circular effective 1 July 2005
 - Tax on exercise of options as employment income
 - Greater local company / employee reporting

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Investment in China




IT Manufacturers in China

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Saudi Arabia 


- **Capital Markets Authority approval now required**
 - No specific fee
 - Takes 4 to 6 weeks

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Iran 


- **Exchange controls**
 - Iranian nationals can acquire foreign shares
 - \$5,000 limit on “foreign accounts”

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Malaysia 

- **Exchange controls and securities laws easing**
 - Bank of Negara approval no longer required

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Taiwan 

- **Options**
 - New reporting obligations
- **Taxation**
 - Tax on exercise


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Pacific


- **Securities laws**
- **Tax**
- **Employment**



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Australia 

- **Securities laws**
 - Amendments to class order
- **Taxation on rollovers**
 - No longer a deemed disposal tax charge on rollover
- **Employee litigation**



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New Zealand 

- **Securities laws**
 - Number of continuous filings
- **Taxation**
 - Restricted Share Plans can trigger tax charge



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South America



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South America

- **Exchange controls**
- **Employment law issues**
- **Taxation**

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Brazil



- **Exchange controls eased**
 - **No limit to awards**
 - **No specific approval for remittances**
 - **Notifications still required**

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Chile and Mexico 

- **Withholding tax issues**
 - Whether or not there is a chargeback
 - Chargeback still triggers social security and employee rights

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The Americas

- **USA – Jobs Act**
- **Canada - multilateral instrument, will it apply to Quebec?**
- **Advice is always needed**

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What you need to know

- **Are any filings required before launch?**
- **Are there any actions the company should take before launch?**
- **Are there any filings/actions after launch?**

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“Flexiplan”

- **Elastigirl**



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The “flexible plan”

- **Options (nil cost options) or free shares**
- **Remittances or not (cashless exercise, exercise to sell)**
- **Newly issued shares or existing shares**
- **Local company or parent making the award**
- **Involvement of trust or not (holding periods)**



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Thank you for your participation



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