Maintaining Your Global Plan: Strategies for Managing Ongoing Compliance and Periodic Regulatory Filings

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I. Strategies for Maintaining Compliance

II. Selected Reporting Requirements Tied to Grant Date

III. Selected Periodic and Year-end Reporting Requirements

IV. Related New Developments
I. Strategies for Maintaining Compliance

- You just implemented a new equity plan world-wide
  - Your compensation committee has adopted sub-plans and country-specific resolutions
  - Grant agreements have been “internationalized” with country-specific terms and conditions
  - Regulatory filings tied to plan adoption and/or initial equity grants under the plan have been made
Now, you are ready to just kick back and relax. . .
However, there is still work to be done. . .

- Ongoing reports will soon be due
  > Both periodic and year-end
- Legal changes may require action
  > Tax, securities, labor, exchange control, data privacy
- Form S-8 Prospectus must be kept current
  > Base prospectus and country-specific tax summaries
- New countries may be added to the program
- Program terms may be changed for new grants
  > Award types, clawbacks, vesting schedules
Strategies for Maintaining Compliance (cont.)

- Ongoing and year-end reports
  > Have a checklist and calendar these items
    > Include filing deadlines and a start date for each item
    > Include information required for the filing

Ongoing reports are all about organization
Strategies for Maintaining Compliance (cont.)

- New Legal Developments
  > Various approaches:
    1. Monitor proposed legal changes to lobby for certain outcomes
    2. Monitor new developments 3-4 times a year and substantial changes as they occur
    3. Review countries / headcounts for changes 2-3 months before the next grant date and substantial changes as they occur

Determining the best approach depends on countries involved, headcounts, terms and types of awards, and administrative capacity
Strategies for Maintaining Compliance (cont.)

- New Legal Developments (cont.)
  > Where to find new developments
    > Conferences (e.g., GEO)
    > On-line
    > Service providers
  > Application of the legal changes to your plans and programs is important
    > Generic descriptions of legal changes often don’t tell the whole story
Strategies for Maintaining Compliance (cont.)

- New Legal Developments (cont.)
  > Areas of law most frequently subject to change:
    > Timing of taxation
    > Withholding and reporting requirements
    > Securities registration and reporting requirements (including exemptions)
    > Exchange control requirements
    > Electronic signatures and data privacy compliance
    > Enforceability of non-competition provisions (including clawbacks)
  > Potential consequences of non-compliance
Strategies for Maintaining Compliance (cont.)

- Update Process for Subsequent Grants
  - Should start 2-3 months before the grant date
  - Finalize countries / headcounts (2-3 months before grant)
  - Determine grant types and major terms (2 months before grant)
  - Determine filing requirements (8-10 weeks before grant)
  - Update grant materials, sub-plans and communications
  - Make pre-grant filings
  - Have Committee approve grant resolutions
  - File post-grant reports

The earlier the process begins, the less risk of non-compliance and subsequent consequences
– Common Practice
  > Comprehensive review of grant materials once per year
  > Update grant materials for significant changes as they occur
  > For monthly new-hire grants, incorporate significant changes as they occur
## II. Selected Reporting Requirements Tied to Grant Date

<table>
<thead>
<tr>
<th>Country</th>
<th>Type of Report</th>
<th>Type of Award Covered</th>
<th>Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Lodge Offer Document with ASIC (Form CF08)</td>
<td>All equity awards utilizing the Class Order exemption</td>
<td>Within 7 days after distribution of grant materials</td>
</tr>
<tr>
<td>Denmark</td>
<td>Employer Statement (No prescribed form)</td>
<td>All equity awards</td>
<td>Within 30 days after grant date</td>
</tr>
<tr>
<td>Ireland</td>
<td>Tax Filing (Form RSS1)</td>
<td>Rights to acquire shares and other assets (i.e., stock options) granted pursuant to unapproved share schemes</td>
<td>By March 31 of year following year in which award is granted</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Tax Filing with IRB (Form BT w/ Appendix A)</td>
<td>All equity awards, including purchases under an ESPP</td>
<td>Within 30 days after the grant date / offer acceptance period by the grantee expires</td>
</tr>
<tr>
<td></td>
<td>Securities Filing with SC (No prescribed form)</td>
<td>All equity awards, including purchases under an ESPP</td>
<td>Within 7 days after distribution of grant materials</td>
</tr>
</tbody>
</table>
## III. Selected Periodic and Year-End Reporting Requirements

<table>
<thead>
<tr>
<th>Country</th>
<th>Type of Report</th>
<th>Type of Awards Covered</th>
<th>Deadline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Tax Report</td>
<td>All equity awards</td>
<td>July 14 (employee statement)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>August 14 (annual report to ATO)</td>
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<tr>
<td></td>
<td>NEW in 2010!</td>
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<tr>
<td>China</td>
<td>Quota Renewal</td>
<td>Stock options and purchase rights under an ESPP</td>
<td>December 31</td>
</tr>
<tr>
<td></td>
<td>Quarterly Report</td>
<td>All equity awards</td>
<td>10th day after end of each quarter</td>
</tr>
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<tr>
<td>France</td>
<td>Tax Report</td>
<td>French-qualified stock options and RSUs</td>
<td>February 15</td>
</tr>
<tr>
<td></td>
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<tr>
<td>India</td>
<td>Withholding Certificate</td>
<td>All equity awards</td>
<td>April 30</td>
</tr>
<tr>
<td></td>
<td>Exchange Control Filing</td>
<td></td>
<td>July 31</td>
</tr>
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</tr>
<tr>
<td>Ireland</td>
<td>Tax Report</td>
<td>All equity awards</td>
<td>July 9 (for 2009 tax year); March 31 for subsequent years</td>
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<td></td>
<td>NEW in 2010!</td>
<td></td>
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<tr>
<td>Israel</td>
<td>Quarterly Report</td>
<td>All equity awards</td>
<td>End of Quarter*</td>
</tr>
<tr>
<td></td>
<td>Annual Report</td>
<td></td>
<td>March 31*</td>
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<tr>
<td>Japan</td>
<td>Securities Reports</td>
<td>Stock options and purchase rights under an ESPP</td>
<td>6 months after fiscal year ends (Form 8)</td>
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<td>3 months after Form 8 is filed (Form 10)</td>
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<tr>
<td>Malaysia</td>
<td>Tax Report</td>
<td>All vested equity awards</td>
<td>January 31</td>
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<tr>
<td>Thailand</td>
<td>Tax Report</td>
<td>Stock options</td>
<td>January 14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Purchase rights under an employee stock purchase plan</td>
<td>Varies</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Tax Reports</td>
<td>Stock options and stock transfers</td>
<td>May 19 (PAYE return)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>July 6 (Share Scheme and Benefit returns)</td>
</tr>
<tr>
<td>United States</td>
<td>Tax Report</td>
<td>Incentive stock options and purchase rights under an employee stock purchase plan</td>
<td>January 31</td>
</tr>
</tbody>
</table>

*NEW in 2010! indicates new reporting requirements in the year 2010.
AUSTRALIA – NEW IN 2010!

- Year-end Tax Reports
  > Required for all equity grants to Australian employees made under an employee share scheme (ESS)
  > Employer must issue Employee Share Scheme Statement to employees by July 14
  > Employer must file Employee Share Scheme Annual Report with the Australian Taxation Office (ATO) by August 14
  > Forms are available on the ATO website (www.ato.gov.au)
  > If taxation is deferred until a subsequent year, reporting to employees and the ATO is not required for 2009-2010, but at a minimum, it is recommended that employees be provided with a statement about future reporting requirements
CHINA

- Quarterly Reports
  - Required by SAFE for approved plans
  - Employer must file with local SAFE officials by no later than the 10th business day following the end of each quarter
  - Report must detail the issuer’s equity plan activity (e.g., grants, exercises, share sales and the balance of the designated foreign exchange account) during the previous quarter

- Renewal of Foreign Exchange Quota
  - Required by SAFE for approved plans
  - Employer must complete by the last day of the calendar year immediately prior to the year in which the quota will apply
FRANCE

- **Employee Statement**
  - Required for all French-qualified stock options
  - French affiliate must issue statement to employees and appropriate tax office by February 15th of the year following the year in which an employee exercises his or her tax-qualified stock options

- **Social Security Statement**
  - Required for all French-qualified restricted stock units (RSUs)
  - French affiliate must issue statement to the French social security authorities (Urssaf) before February 1st of the year following the year in which the RSUs vest

- **Special report to shareholders of French affiliate**
  - Only distribute if the affiliate has annual shareholder meetings
  - Report lists the French-qualified stock option and RSU grants that have been made to the ten employees of the French affiliate who have received the most stock options and/or shares upon exercise/vesting of the awards as well as the corporate executives of the issuer company, its affiliates and the affiliated companies of the consolidated group.
INDIA

- Statement with the Reserve Bank of India through the AD Category - I Bank
  > Statement provides details regarding the shares issued to a resident of India during the prior fiscal year
  > Indian affiliate must file with the bank on Form ESOP Reporting (Annex - B and Annex – C) of the Master Circular on Direct Investment by Resident in Joint Venture (JV) / Wholly Owned Subsidiary Abroad no later than July 31st of each year
IRELAND – NEW in 2010!

- Annual Tax Report
  - Required for all employers with respect to equity awards that have vested in the applicable tax year
  - Employers must file the new Form RSS1 by March 31st of each year
    - For 2009 tax year only, filing deadline was July 9
  - Form RSS1 is available on the Irish Revenue’s website (www.revenue.ie)
  - Note that reports are also due in connection with the grant of certain types of equity awards
Selected Periodic and Year-end Reporting Requirements (cont.)

ISRAEL

- Quarterly Tax Reports
  - Local affiliate or trustee must file Form 146 detailing the option, RSU and ESPP grants made during that quarter with the Israeli tax authorities.

- Annual Tax Report
  - The local affiliate or trustee must file Form 156 with the Israeli tax authorities by March 31st of the following year detailing the grant activity and the status of any outstanding grants during the prior calendar year.

* Deadline Extension
  - The Israeli tax authorities have indefinitely extended the deadline for these submissions (until an electronic submission system is operable).
  - It is advisable, however, that companies file these reports by the applicable deadlines in hard copy until the electronic system is operable.
JAPAN

- Annual Securities Report
  - Required for “continuous disclosure companies” that have filed a Form 7 registration statement
  - Must be filed on Form 8 by the 6th month after the end of the issuer’s fiscal year

- Semi-Annual Securities Report
  - Required for “continuous disclosure companies” that have filed a Form 7 registration statement
  - Must be filed on Form 10 by the 9th month after the start of the issuer’s fiscal year
MALAYSIA

- Annual Tax Report
  > Required with respect to any stock option exercises, RSU vesting, and/or purchases under an ESPP that took place during the previous calendar year
  > Report must be filed with the Malaysian Inland Revenue Board on Appendix C of the Form BT/ESOS/2005 (i.e., the same form used to report the grant of equity awards) by January 31st of each year
Selected Periodic and Year-end Reporting Requirements (cont.)

- **THAILAND**
  - Annual Securities Report
    - Companies must report exercises of stock option grants by Thai employees to the Thai SEC within 15 days of the end of the calendar year in which the options were exercised
      - Must also submit summary of the plan pursuant to which the options were granted
    - Companies must report purchases under an ESPP within 15 days of the end of each purchase period under the ESPP
UNITED KINGDOM

- Annual Share Schemes Tax Report
  > Required for all employers (local subsidiary or US parent for non-UK based companies) with respect to stock options that have been granted and/or exercised in the previous tax year pursuant to an unapproved share scheme
  > Report must be filed with the HMRC on Form 42 by July 6th following the end of each UK tax year

- Annual Return of Benefits
  > Required for all employers with respect to stock that has been transferred to an employee in the previous tax year
  > Report must be filed with the HMRC on Form P11D by July 6th following the end of each UK tax year

- Annual PAYE Return
  > Required for all employers with respect to amounts accounted for through the PAYE system in the previous tax year (includes NICs and spread on option exercises)
  > Report must be filed with the HMRC on Form P35 and Form P14 by May 19th following the end of each UK tax year

- All forms are available on the HMRC website (www.hmrc.gov.uk)
Selected Periodic and Year-end Reporting Requirements (cont.)

- **UNITED STATES**
  - Information Statement
    - Required for U.S. companies that have employees who have exercised Incentive Stock Options (ISOs) during the previous tax year or who have purchased shares of stock under an ESPP
    - Information statement for exercised ISOs must be issued to employees and the IRS on IRS Form 3921 by January 31st of each year
    - Information statement for shares purchased under an ESPP must be issued to employees and the IRS on IRS Form 3922 by January 31st of each year
    - Information statement must provide the number of shares purchased, the exercise or purchase price, and the value of the shares transferred from the company to the participant, among other items
IV. Related New Developments

✿ CANADA
  – Elimination of Deferral Election
    > Prior to March 4, 2010, employees could defer tax on spread of stock options at exercise up to the first C$100,000 of options that vest in any calendar year (determined at the time of grant using FMV of shares at that time)
    > After March 4, 2010, employees can no longer defer taxation
    > Change eliminates need to file Form T1212
EUROPEAN UNION

- Amendment to EU Prospectus Directive
  > Approved by EU Parliament on June 17, 2010
  > Will become effective 20 days from publication in the Official Journal, which is expected to occur in September/October 2010
  > EU Member States have 18 months from the publication date to implement
  > Major changes include:
    > Exemption for offers of securities to fewer than 100 people in each Member State is amended to increase the threshold to 150 people
    > Exemption for offers of securities where the total consideration of the offer in the EU is less than EUR 2.5 million over a 12-month period is revised to increase the threshold to EUR 5 million
    > Employee Share Scheme exemption is extended to issuers listed on a non-EU regulated or third country market that is deemed "equivalent" to an EU market
      > Exemption is not anticipated to eliminate requirement to issue a short-form disclosure document
Related New Developments (cont.)

**ISRAEL**
- New election to potentially reduce taxable amount of award
  - Available to employees of companies that have established a trustee plan and have elected capital gains track
  - If made, potentially reduces ordinary income portion of taxable benefit upon sale of shares underlying stock options or RSUs by permitting calculation of strike price and FMV of shares at grant in U.S. dollars rather than in Shekels and no adjustment for Israeli Consumer Price Index is required
  - Company must make election by July 28, 2010
MEXICO

- New federal data protection law
  - Protects personal data relating to Mexican citizens held by individuals and private entities
  - Requires employers to obtain consent for use of personal data
  - If personal data is collected or transferred without an employee’s consent, an employer may be fined up to US$1.4 million
  - Employers should obtain consent with respect to equity grant administration
UNITED KINGDOM

- Increase in capital gains tax to 28% (18% if taxable income is less than £34,400)
  > Effective June 23, 2010
Questions?

Thank you for your participation.
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