GLOBAL EQUITY PLANS

A Research Study of the

Certified Equity Professional Institute

GPS

guidance | procedures | systems

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Introduction

In 2007, the CEPI launched an initiative to provide unbiased, university based research to address risk assessment and identify best practices for the equity compensation community. The project was titled GPS – or Guidance, Procedures and Systems. Since that time, the CEPI has published six research documents, each addressing a different facet of equity compensation. This publication – previously titled "Global Stock Plans" – was orginally released in 2009. Since that time, the use of global equity plans has become much more common, as companies are operating in multiple countries. Emphasis has been given to areas of risk that are independent of a specific country. Country specific information is provided through links to information available on the internet, ensuring the information is updated The title has also been updated to reflect the use of all types of equity awards (not just stock plans.)

The original publication was authored by Carol Rutlen (see bio) and updated by Valerie Diamond of Baker McKenzie. This current release was updated and edited by Marlene Zobayan of Rutlen Associates LLC, with assistance from Denise Glagau of Baker McKenzie and Elizabeth Dodge, CEP, of Equity Plan Solutions, LLC.

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1.1. Overview.

Special attention must be paid when implementing and maintaining equity plans for non-US employees. Although most companies administer grants and other equity award transactions from corporate headquarters, company actions must conform to local requirements. Local country tax/legal requirements may be different. Local country resources (e.g., Human Resources, Payroll, system functionality, etc.) may be different. While corporate processes may be replicated in each country, local country adjustments may be required which can be costly and time-consuming.

1.2. Scope.

1.2.1. This publication addresses the key concepts and challenges associated with awarding equity compensation to non-US employees of US-headquartered, publicly-traded companies.

For purposes of this publication, non-US employees are employees working in a country other than the US. A non-US employee may be a citizen of his or her work country, a citizen of the US or a citizen of a non-work, non-US country. Previous GPS publications addressed the administrative requirements and internal controls for awards granted to US employees working in the US. (Note – Previous GPS publications can be accessed at www.scu.edu/business/cepi/.)

1.2.2. This publication focuses on awards with time-based vesting such as nonqualified stock options, restricted stock, and restricted stock units. Where appropriate, administrative complexities and local country requirements are noted for employee stock purchase plans. A discussion of performance awards is outside the scope of this publication. See Appendix B for a glossary of common equity compensation terms used in this publication.

1.2.3. While the administrative processes associated with grants, equity award related transactions, and tax/payroll issues are discussed in detail, no country-specific information is provided. In addition, the design of plans for non-US employees, legal issues, accounting issues, and other related items are summarized at a high level. Thus, these sections do not provide comprehensive information and some Key Considerations noted at the end of the section are not covered in the narrative. Where appropriate, internal controls are identified, alternative approaches discussed, and best practices summarized. At the end of each section Key Considerations are summarized for subsequent review with a company's service provider(s). The final section provides guidance when converting the concepts addressed in this publication into an action plan.

1.2.4. Effective for interim and annual periods ending after September 15, 2009, the FASB Accounting Standards Codification (ASC) is the single source of authoritative reference for nongovernmental US generally accepted accounting principles (US GAAP) for financial statements. As a result, existing references to US GAAP standards are replaced by new references to ASC Topics. In general, the codification retains the existing rules of US GAAP. Stock compensation as addressed in FAS 123R is included in ASC Topic 718.

Equity awards and associated processes can be varied and complex. This publication is not intended to cover every possible contingency. The processes described represent standard practice, but each company's processes may differ to reflect their unique needs and resources. These

In certain cases equity awards may not be a suitable reward vehicle for non-US employees.

recommendations should be considered general guidelines and applied as appropriate. Topics covered in this publication may need to be considered within the particular facts and circumstances of a company. Consult tax and/or legal counsel to determine applicable requirements in specific countries. Refer to the other GPS publications for equity compensation basics and general administration. All GPS publications are available on the CEPI website at cepi.scu.edu.

1.3. Public Comment.

1.3.1. The CEPI invited individuals and organizations to send written comments on all matters in the draft publication. All comments received were reviewed and incorporated as appropriate into this final document.

Design of Plans

2.1. Overview.

2.1.1. Designing a total rewards package that includes equity compensation for non-US employees can be very challenging. The use of US-based equity plans for non-US employees may seem to be a simple solution, but in certain cases the results are inefficient and ineffective for such employees. Alternatively, the use of country-specific plans may recognize the unique needs of each employee group or the local culture, but these plans are frequently time consuming and costly to administer. This section discusses factors to consider when designing a total rewards package that includes equity compensation for non-US employees.

2.1.2. Usually the design of equity plans for non-US employees is the responsibility of Corporate Human Resources with input from the local Human Resources department and others. (See paragraph 2.5 for a discussion of the team approach.) The first step in choosing the right equity vehicle is to define the role of equity compensation in the total rewards package. The purpose(s) may be to attract and retain employees, to provide long-term incentive compensation, to provide similar benefits to all employees, to align employees' interests with those of the shareholders, etc.

2.1.3. The next step is to analyze the demographics of the non-US employees. Factors to consider include –

- Country of eligible employees
- Number and level of employees in each country
- Average salary by country
- Anticipated employee growth by country
  (e.g., the Company is building a new facility in a country)
- Anticipated employee attrition by country
  (e.g., the Company plans to sell a portion of the business in a country)
- Employee perception of the "value" of equity compensation
- Company culture

2.1.4. In certain cases equity awards may not be a suitable reward vehicle for non-US employees. The employee demographics or the tax consequences of equity vehicles may be different in non-US countries. US tax-advantaged plans such as Incentive Stock Options (ISOs) and Section 423 plans do not carry the same tax benefits outside the US. For example, many countries tax restricted stock at the grant date rather than the vest date. The country-specific labor laws may have a significant impact on how an award is treated when an employee terminates or takes a leave of absence. In addition, administrative costs such as compliance with securities registration requirements may be substantially greater in other countries. In countries with such limitations a cash bonus may be a more suitable incentive than an equity award.

2.2. US vs. Non-US Employee Characteristics.

2.2.1. Non-US companies may grant different types of equity awards or equity awards with different terms and conditions than those granted by US companies and, as a result, equity awards granted by US companies may be less familiar to non-US employees. Communication with non-US employees regarding equity awards may need to be tailored for key countries and in many countries more basic education regarding equity programs may be required. In some countries written communication, which can include legal plan documents and award agreements in addition to employee communication, may be legally required to be translated into the local language.

2.2.2. Frequently the size of awards to non-US employees may be less because total competitive compensation is less. In addition, when equity is directly linked to base salary, awards in low-base-salary countries may result in very small awards that are costly to administer when compared to the value delivered to the employee. For example, a non-US employee may participate in a Section 423 plan, but only be able to acquire 20 shares of company stock in each purchase period because the contributions are limited to a percentage of base salary. When the employee sells the shares, the transaction fees associated with a sale of 20 shares may be significant. The net proceeds and the perceived benefit received by the employee may be significantly less than that of an average US employee. In such cases, a company may balance the benefit to the employee against the cost of administering such a plan and decide not to offer the same benefit to employees in certain countries.

2.3. Due Diligence.

Prior to designing an equity compensation plan or extending current equity awards to non-US employees, a company should have a high-level understanding of the impact on employees and the cost to administer a plan. By undertaking country-specific due diligence and estimating the cost of the Plan before making final design decisions, future problems and costs can be avoided.

2.4. Design Flexibility.

Any equity plan should incorporate flexibility to accommodate the needs of non-US locations.
For example –

- The definition of fair market value, for purposes of taxable value calculations may vary under local law (e.g., see Section 4.5.3 for further details)
- The local country may specify how a company must withhold tax and forbid certain withholding tax methods
- Restrictions may impact the employees' ability to remit funds to exercise options
- Certain types of equity awards may have tax advantages in some countries similar to ISOs or Section 423 plans in the US
- Employment termination benefits under local law may conflict with vesting and post-termination provisions (e.g., retirement, death) in the Plan
- Beneficiary designations may be ineffective in some countries
- Payment of dividends and dividend equivalents may create tax or securities issues
- Forfeiture and clawback provisions may be illegal or unenforceable in certain countries
- Retirement provisions that accelerate vesting or continue vesting may be discriminatory (e.g., in the European Union)
- Excluding part-time employees, employees on a leave of absence, or temporary employees from participating in equity plans may violate local law
- Local labor law may override Plan provisions (e.g., extend the vesting schedule) resulting in a modification under ASC 718

Wherever possible, design the Plan to provide maximum flexibility to incorporate country-specific requirements. In some cases it may be necessary to modify a Plan for certain countries where tax benefits or regulatory requirements create the need for specialized terms or provisions. This can be done by an addendum to the Plan or by the use of country-specific plans, subplans or agreements, with proper considerations to address employee transfers into or out of such locations. Occasionally countries require that the Plan be approved by the local tax or regulatory authority prior to making any grants. The Plan may give the company's board of directors or compensation committee, rather than its shareholders, authority to adopt the addendum or subplan. However, if the addendum or subplan modifies the terms of the Plan in a material respect, shareholder approval may be required. Consult legal counsel to determine if shareholder approval is required to adopt the addendum or subplan.

2.5. Team Approach.

Designing an efficient and effective Plan for non-US employees requires a team approach. Most companies utilize outside legal or tax counsel to determine the local country legal and tax requirements. Country-specific administrative requirements should be reviewed by the stock broker(s) and/or third-party administrator. As the chart below illustrates, team members and appropriate responsibilities typically include, but are not limited to:

Group	Responsible For
Human Resources	Purpose of the Plan, specific award types, size of awards and the employee's perception of the benefit
Equity Compensation	Issues associated with administering the Plan
Local Payroll	Processing withholding and reporting through the local country payroll system
Corporate and Local Finance	Financial reporting, valuation and the accrual of the expense associated with the award
Legal	Country-specific legal requirements, including plan filings, and litigation
Local Country Representation	Needs of the local entity, including Human Resources, to administer the Plan and facilitate employee communications
Treasury	Cash flow issues
Tax	Impact on the Company's tax provision/agreements to charge the equity costs to the local company and identification of appropriate tax rulings

KEY CONSIDERATIONS

- What are the goals of using equity compensation as part of the total rewards package for non-US employees?
- In which countries are the eligible employees located and how many are in each country?
- Is the intent to mirror current Plan provisions on paying dividends (or dividend equivalents), accelerating or continuing vesting upon retirement, methods of paying applicable tax, and achieving specific tax advantages?
- In which countries will the number of employees increase in the future?
- In which countries will the number of employees decrease in the future?
- Are there certain countries where the current employee population does not warrant the cost associated with implementing an equity compensation plan?
- Is it a priority to minimize the tax costs of equity benefits to non-US employees?
- Is it a priority to maximize corporate or subsidiary tax benefits from equity plans?
- Is the goal to provide the same equity benefits to all employees or will the benefits be modified to incorporate country-specific benefits?
- What are the important cultural differences regarding compensation?
- Has preliminary due diligence been completed to determine the major tax and legal consequences (including a review of pending regulatory or tax law changes), impact on employees, and the cost to administer the Plan?
- Are country-specific administrative requirements supported by the stock brokers(s) and/or third party administrator?
- What Plan provisions need to be modified to address the needs and requirements of non-US employees?
- What Plan provisions can be added without shareholder approval?
- What Plan provisions require additional shareholder approval?
- If different types of awards (e.g., stock options, restricted stock,or cash) are considered, what are the accounting implications?
- Can the existing administration system handle the proposed Plan design, including the timing of taxable events?

Legal Issues

3.1. Overview.

3.1.1. Companies and employees are subject to a variety of legal requirements relating to equity awards. Each country has different legal requirements that govern equity compensation. It is important to understand and follow the requirements in each country where employees will be receiving awards under the Plan. In many cases the legal issues must be addressed and resolved before the first grant is made.

Since each country may have different requirements, best practice is to develop a country-specific administration guide summarizing the key requirements.

3.1.2. The responsibility for addressing the legal requirements usually resides with General Counsel and the corporate legal group. The Equity Compensation department may assume responsibility for certain legal requirements and may be responsible for administering filing requirements. The local entity also may be involved in meeting the legal requirements.

3.1.3. This section reviews the most common legal issues and discusses various requirements. Determining the legal requirements in each country can be challenging. Most companies use outside legal counsel to determine the local country requirements. Since each country may have different requirements, best practice is to develop a country-specific administration guide summarizing the key requirements and update this guide on a regular basis or as legal requirements change. See Appendix C for an example of a country-specific administration guide.

3.2. Securities Law.

3.2.1. Securities law requirements may exist in each country or jurisdiction (e.g., EU) where employees receive equity compensation. Equity compensation (e.g., transferable and non-transferable options, restricted stock/restricted stock units for no cash consideration, ESPP rights/options, and various plan structures/trust arrangements) may be considered a security under local law. An Issuer (i.e., Company) offering a plan or rights under a plan may need to comply with a variety of securities law requirements. These requirements include registering the Plan and/or the shares, preparing a prospectus, including an exemption notice in a sub-plan or grant agreement and/or filing for exemption from registration/prospectus. (For a link to a current list of countries that may require local country securities filings or other requirements, see Appendix D.) The Issuer also may need to be licensed as a broker/dealer in the jurisdiction or use a licensed broker to place shares in the local jurisdiction. Employees may be subject to resale restrictions, currency repatriation requirements, or a requirement to obtain an exemption to sell shares. Directors of Issuers' foreign subsidiaries may be subject to special reporting requirements when they acquire rights to shares or sell shares.

3.2.2. The filings may be dependent on a variety of factors including number of employees receiving a grant, type of award (e.g., options vs. RSUs), total value of the grants, type of shares offered (i.e., treasury vs. newly issued), or the qualification for specific-country exemptions. Registration fees may be assessed on the initial filing. In addition the Company may be required to make appropriate disclosures to employees. Subsequent filing and employee disclosures may be mandated and the

Caution – This section is an overview of the legal issues associated with global equity plans and is not intended to address country-specific requirements. Noncompliance with local law may result in civil and criminal penalties. Consult with legal counsel to determine the country-specific requirements and the risks of noncompliance.

associated fees may be significant. Special care must be taken to monitor changes in corporate structure since certain changes such as mergers and acquisitions may trigger or modify filing requirements.

3.2.3. Securities requirements and the penalties for noncompliance vary by country. It is imperative to understand the securities requirements and the cost of complying with the requirements. In many countries securities filings must be completed prior to granting awards to employees. Develop a process to monitor the securities laws in each country in order to timely identify what impact a change will have on the Company.

3.3. Employee Trading Restrictions.

3.3.1. Certain employees are subject to additional legal requirements when trading shares. A non-US employee may be a Section 16 officer and required to file SEC Forms 3, 4, and 5 in the US. Individuals (US and non-US) are not permitted to buy or sell company stock while in possession of material, nonpublic information of that company regardless of how the information was acquired. Trading restrictions may also exist in non-US countries and impact the timing of when a non-US employee can receive grants, acquire shares or sell shares.

3.3.2. Employees need to understand their personal responsibilities (under local law and US law) to comply with the appropriate requirements. Develop and implement a program to educate US and non-US employees of their responsibilities. Educating employees is the cornerstone of compliance and should not be underestimated.

3.4. Labor Law.

3.4.1. Equity awards are typically granted to employees at the discretion of the Issuer. In certain countries, any benefit made as part of the employment agreement or regularly offered by an employer is an "acquired right" which cannot easily be taken away or adjusted. The value of that benefit could be and is automatically included in the calculation of severance benefits on termination. If a company regularly grants awards or communicates their value as part of compensation paid by the employer (not the Issuer), the award may be considered an acquired right of employment. In that instance, the award may no longer be deemed discretionary and the employee may acquire the right to receive such awards in the future. Publishing grant dates in advance may increase a company's exposure to "acquired rights." Charging the cost of the equity program to the local entity as discussed in paragraph 8.2 may also increase exposure.

3.4.2. Proper structuring of equity awards, appropriate wording of the Award Agreement, and closely monitoring other employee communications discussing equity awards (e.g., the local employee handbook) can minimize exposure of the award being treated as an acquired right. Appropriate action will vary by country but may include specifying that the award is not part of compensation or is not a reward for past service. In some countries it may be appropriate to specify the equity award is specifically excluded from severance or to terminate vesting when the active employment period ends. When hiring a new employee, do not reference the equity award in the offer of employment. Communicate the award in a separate letter on Issuer (usually the parent company) letterhead.

3.4.3. Discrimination rules differ in each country and equity awards may be structured differently in response to local country rules. For example, some Plans include provisions that awards vest or continue vesting upon retirement. If the retirement provisions are age-based, local law may consider the provisions discriminatory against younger workers. The retirement provisions in equity awards may need to be revised to reflect local country discrimination rules. Some countries regulate the exclusion of part-time employees. Participation in an ESPP may be restricted to employees working 20 hours or more a week. Such restrictions may not be acceptable under local law, thereby requiring a revision in restrictions on plan participation.

3.4.4. Many countries have different legal definitions of what constitutes part-time employment, full-time employment, or Leave of Absence. Certain countries also provide legal protections when an employee changes employment status (e.g., a company may not be allowed to extend the vesting schedule for awards when an employee changes from full-time to part-time status). Review the local country requirements carefully and incorporate the requirements into the procedures in that country.

3.4.5. Other labor issues that should be addressed under local law, if necessary, include –

- Consulting with or notifying labor unions or works councils regarding implementing, changing, or terminating an equity plan
- Continued vesting or extended exercise periods for terminated employees
- Restrictions on changes to or termination of an equity plan

3.5. Exchange Control and Foreign Ownership Limitations.

Some countries monitor or restrict the flow of money and securities in and out of the country. The conversion of local currency to/from another currency or the purchase/sale of stock may require prior approval or reporting of the transaction after it has occurred. Approval may be required for each transaction or may be secured once and apply to all similar transactions of the local entity and/or the employee. The employee may be required to repatriate funds immediately to the home country. All funds may need to be transferred through a designated bank account. In some countries exchange control and foreign ownership limitations may effectively eliminate the use of equity awards as part of the total rewards package. In some countries, foreign currency restrictions can be avoided through the use of cash-settled awards paid by the local employer.

3.6. Data Privacy.

In the EU and other countries, personal data (i.e., any data that identifies the individual) is subject to certain protections with respect to the collection, processing and transfer from one country to another. The transfer of personal data may be problematic if adequate data protection is not considered to exist in the country to which data is transferred. For example, the US is not considered by the EU to have adequate protections in place for personal data, so transfers of data from an affiliate in the EU to the US and onward to third-party service providers may violate data privacy laws unless there is a valid basis on which the company can rely to transfer the data and/or certain measures are taken to protect the data. These protections may apply to the employee data that is collected, processed and transferred cross-border when initiating or processing equity awards and should be considered before offering an equity program outside the US.

3.7. Employee Communications.

3.7.1. A country may specify what employee disclosures are required regarding equity awards. Each country may mandate what information must be included, if the information must be translated into local language, and the communication medium (e.g., electronic vs. hard copy).

3.7.2. The documents supporting change of life events such as divorce and death will vary country to country. The process that requires the submission of appropriate documentation to substantiate the event should be flexible to acknowledge country differences.

An employee stock purchase plan (ESPP) is a plan that allows an employee to buy stock in the employer company. Employees who are US taxpayers participating in an ESPP will have preferential US tax treatment if the Plan meets the requirements of IRC Section 423. Such plans are typically referred to as Section 423 plans. The US tax advantages provided by Section 423 plans do not apply in other countries. In some cases companies may implement an ESPP plan that will not qualify as a Section 423 plan for US and non-US employees. Care should be taken to include specific requirements needed to address international issues and country-mandated processes in ESPP plan documents.

3.8. Employee Stock Purchase Plans.

3.8.1. Certain legal restrictions may apply when administering an ESPP for non-US employees because a stock purchase plan involves collecting funds from the employees to pay for the purchase of stock. Usually, employees pay for the stock through a payroll deduction. In some countries, the Company must seek the approval of the local union or works councils to take a payroll deduction from the employee. In other countries a payroll deduction is not permitted, but the employee can make a cash payment to the employer to purchase the stock. Local law may require the Company maintain a separate bank account to hold the funds collected from the employee or pay interest on the funds held for the employee. Local labor law may also require the Plan be open to all employees, rather than restrict participation of part-time employees. Review the Plan to determine if these actions are permitted under the Plan. If appropriate, a subplan may be used for non-US participants in the ESPP to accommodate local requirements. The subplan may not need to meet the technical requirements (e.g., $25,000 annual limit) under IRC Section 423 if the offering is to foreign subsidiaries outside of the 423 offering restrictions.

3.8.2. Currency conversions can also impact how the Plan is administered. For example, funds will be withheld from the employee in local currency, while the payment for the shares will occur in US dollars. Determine when the local currency will be converted to US dollars and what exchange rate will be used for the conversion. Common practice is to convert the funds contributed during the applicable purchase period to US dollars at the date of purchase and use the exchange rate on that day.

3.8.3. If the Plan has a US dollar limit on the amount of shares that can be purchased, determine how the limit will be applied to non-US employees. Fluctuation in exchange rates during the period may have a significant impact on calculating the US dollar limit.

3.9. Implementation Strategy.

Understanding and meeting the various legal requirements under local law is difficult and costly. Closely monitor legislative and regulatory changes in each country. Carefully assess the risks associated with noncompliance. Enforcement of the requirements may change in the future and result in retroactive assessment of penalties. In some countries it may be cost effective to avoid certain types of equity awards or use cash bonuses in lieu of equity.

KEY CONSIDERATIONS

- Are securities or exchange control filings or notifications required?
- Have the required filings been made and approvals received before granting awards?
- What are the costs of the appropriate filings?
- Does the calendar of important dates include requirements for all countries?
- Are employee/award recipient headcounts being tracked in each country?
- Are employees advised about applicable trading restrictions?
- Does the grant of equity compensation become an acquired right and entitle the employee to future grants?
- What action can be taken to minimize the likelihood of equity awards being treated as an acquired right?
- Does equity compensation require special consideration to be excluded from the calculation of severance payments or retirement benefits?
- Are equity awards to new hires excluded from the offer of employment?
- Do discrimination laws permit the exclusion of part-time employees from participating in certain equity plans?
- Do the vesting schedules or exercise periods extend beyond termination?
- Are there any restrictions on changes to the Plan (including terminating the Plan)?
- To what extent are labor unions or works councils required to be involved in the use of equity compensation?
- Can/must the employee convert funds into local currency from the sale of stock?
- Is a local financial institution required to be an intermediary for cash flows in or out of the country?
- Can the employee continue to hold company shares after exercising an option or the vesting of restricted stock/restricted stock units?
- Are there any restrictions on the transfer of funds from the local entity to the issuer?
- Do data privacy laws restrict the flow of information related to the administration of the equity plan?
- Have the appropriate releases been received from employees to allow for the required flow of data to administer the equity plans?
- What documents are required to be supplied to the employees?
- What documents are required to be translated into local language?
- Can employee communications be electronic?
- Does the Company need permission of the labor authorities to take payroll deductions for ESPPs?
- Are there any restrictions on withholding payroll deductions from employees for ESPPs?
- Are the employee contributions to the ESPP required to be held in a separate bank account?
- Is interest required to be paid on employee contributions to the ESPP?
- Are employees allowed to hold company shares after an ESPP purchase?
- What are the risks for noncompliance with legal requirements?
- How will changes in local tax laws and regulatory requirements be monitored for ongoing compliance?
- Do other types of equity compensation (or cash awards) have the same legal requirements?

Grant Process

4.1. Overview.

When an employee receives compensatory equity awards accounted for under the equity method as provided in ASC 718, the fair value of the award is determined at the grant date. Confirmation of the details of the grant term is critical to validate the expense and establish the proper accrual period. The general grant process for US employees, including common areas of risk and illustrative controls, was discussed in previous GPS publications, but may be equally applied to non-US employees. This section discusses additional issues applicable specifically to non-US employees. The grant process for non-US employees is usually controlled at the corporate level with input from the local entity.

4.2. Grant Size.

The size of the grants to non-US employees may be determined by –

- Adapting the US standard to a local application (e.g., a percentage of the US standard)
- Applying a global standard (i.e., the same job gets the same award regardless of the location of the employee)
- Using a local standard (e.g., a percentage of salary)

When applying the grant guidelines, the actual work country of the employee is normally used to determine the appropriate grant size. For mobile employees, however, the size of the award is often based on home country guidelines rather than on those of the work country or payroll processing location.

4.3. Administration.

4.3.1. Although the majority of the grant administrative process is at the corporate level, the local entity may be involved in initiating the grant (i.e., recommending employees for the award), and reporting the award (i.e., reporting the grant to the local tax or other regulatory authorities). Exhibit 1 summarizes the key grant processes and responsibilities. Note, however, that the involvement of the local entity in the plan administration may impact the taxation and/or employer tax responsibilities in some countries.

EXHIBIT 1 - GRANT PROCESS AND RESPONSIBILITIES

Grant Process	Responsibility of	
	Corporate	Local Entity
Initiating the Grant – Recommending the equity award for an employee	X	X
Authorizing the Grant – Approving the award by the appropriate party	X	
Recording the Grant – System of recording awards in the equity plan database	X	
Processing the Grant – Finalizing the Award Agreement, notifying the employee, and processing appropriate disclosures	X	
Managing compliance for the Grant – Completing compliance filings and obtaining securities, exchange control and other approvals	X	X
Reporting the Grant – Providing information for financial statement purposes and to local tax authorities	X	X

Since each country may have different requirements, best practice is to develop a country-specific administration guide summarizing the key requirements of each location.

4.3.2. Internal controls implemented for the grant process to US employees generally apply to non-US employees since the plans are administered in the US. When certain responsibilities for administering aspects of the Plan are handled by the local entity, appropriate internal controls must be implemented by the local entity. For example, updating employee status and demographic data is frequently handled by the local entity. Keeping this information up-to-date requires close coordination between the local and corporate Human Resource groups. To minimize errors, develop a standard process to update employee data and, where possible, automate updates from the human resource system to the equity plan database. Use unique global identification numbers for all employees. Communicate the importance of updated data to the local entity and establish critical dates for data to be updated. Personnel in the local entity should work with the Equity Compensation department to periodically compare employee data in the equity plan database to the local country human resource system and/or payroll system. See paragraph 6.10 for the unique requirements of mobile employees.

4.3.3. Administrative processes will vary by country. Some countries may require the grant of an award be reported to the tax authorities. Some countries may tax the award at the grant date. Since each country may have different requirements, best practice is to develop a country-specific administration guide summarizing the key requirements of each location. Some of the items to be addressed in the guide are –

- Definition of FMV for tax purposes
- Exercise price restrictions for tax-favored awards
- Restrictions on timing of the grant
- Restrictions on the sale of the underlying shares
- Required tax and legal filings
- Considerations on available or mandated tax withholding settlement methods
- Corporate tax deduction position
- Taxability of awards, including favorable tax treatment
- Reporting the grant to the tax, securities or exchange control authorities
- Required income and/or social tax withholding
- Required communications and legal disclosures
- Trustee requirements
- Holding periods
- Letters of Authorization
- Special documents and communications provided to employees at the time of grant such as applicable exchange rates, trustee agreements, country-specific tax documents, or Frequently Asked Questions (FAQ) approved by the local tax authorities.

See Appendix C for an example of a country-specific administration guide.

4.3.4. Awards that are taxable at grant are problematic. In most cases the award is subject to restrictions that preclude the sale of some or all of the underlying shares to pay the associated tax. An employee is required to pay the tax from other personal assets. Such awards may not be viewed as desirable by employees. Best practice is to avoid awards that are taxable on grant and use awards with a more favorable tax treatment.

4.3.5. Many companies use country-specific coding when recording grants in the equity plan database to allow for easy identification of awards that require special handling in certain countries. For example, to identify employees who move between the grant, vest, and/or exercise date the process may include using a country-specific prefix when numbering grants (e.g., FR456 for an award to a French employee or UK789 for an award to a UK employee) or a country-specific code recorded at the grant level. At the taxation point, compare the current location of the employee to the country-specific coding of the grant. If the current location and code do not match, investigate locations where the employee has moved between grant to taxation point and determine if the transaction requires special handling.

4.3.6. Companies may utilize a third-party administrator to handle all or part of their equity plan administration. For an outsourcing arrangement to work effectively, the Company and the third-party administrator must work closely together. Processes, responsibilities, and specific handoffs must be clearly defined. Any special requirements for handling non-US employees and country-specific requirements must be highlighted.

4.4. Legal Issues.

4.4.1. Certain legal issues discussed in Section 3 must be considered when granting an award. For example, avoid granting awards that vest during a period when employees may be restricted from trading shares. Data privacy requirements may impact what information can be transmitted from the local entity to the parent. (See paragraph 3.6.) A company may wish to limit the involvement of the local entity in the grant process to minimize exposure to "acquired rights" issues. (See paragraph 3.4.) Minimizing the involvement of the local employer may also impact tax withholding and reporting requirements in addition to the payment of employer social tax. (See paragraph 6.4.2.) Some companies require Board approval for country-specific terms in the Award Agreement.

4.4.2. To minimize "acquired rights" issues, the Issuer should advise non-US employees of equity awards instead of relying on the local entity or management. The written communication of the award may include appropriate local country language; however, it should be prepared by the Issuer. In addition when hiring non-US employees, grants by a US Issuer to employees of a non-US affiliate should not be included in the standard offer letter from the local employer. The award should be offered in a separate document from the US Issuer reflecting appropriate language for the local country.

4.4.3. If an exchange control, securities, and/or other filing/approvals are necessary, the Issuer should plan for this in advance of the grant. Filing and approvals normally must be obtained before grant documents are prepared and distributed to employees and the timing/disclosure requirements should be incorporated into the grant process.

4.5. Terms of the Award.

4.5.1. Any award made to non-US employees must meet the Plan requirements. As noted in paragraph 2.4, the Plan should be flexible to accommodate the tax and legal needs of non-US countries. For example, a four-year cliff vest may be utilized to meet the requirements for a tax-favored plan in a specific country even though the standard vesting schedule is a graded vesting over four years. In some cases, a local subplan may be required. Wherever possible, standardize award terms to minimize the potential of human error when processing the grant.

4.5.2. Some countries may require the use of a trustee to administer the Plan or hold the shares that have been granted in order to secure specific tax benefits. In countries where a trustee is utilized, review all country-specific requirements. Highlight additional administrative requirements such as the drafting of Letters of Authorization in the country-specific administration guide.

4.5.3. It is important to note the distinction between the definition of FMV in the Plan and for local tax purposes as the definitions may differ and the application of each must be understood for proper equity plan administration. For example, the Plan definition of FMV may be the price at market close and the Plan may limit an option exercise price to a price no greater than FMV using the Plan definition. A local country definition of FMV may be different (e.g., the average stock price over the month preceding the grant) and it may be applicable to determine whether an award receives tax-favored treatment. The Plan also may use a definition of FMV for purposes of determining the value of shares withheld to cover tax withholding and that definition may differ from a local country definition of FMV used for tax valuation calculations. Both FMV definitions must be understood to operate withholding properly. As discussed in paragraph 2.4 the design of an equity plan should incorporate flexibility to accommodate the country-specific definition of FMV where necessary to grant tax-favored awards or to manage tax withholding or settlement.

4.5.4. Prior to establishing the grant price of a stock option, review the definition of FMV under local law and the provisions of the applicable Plan. If the country-specific definition of FMV is not permitted under the Plan, investigate alternatives. If the FMV under local law is less than the FMV for US purposes, additional steps may be required to avoid accounting issues associated with granting options at a discount, as well as tax issues for US taxpayers. Many companies set the grant price as the higher of FMV on the date of grant or FMV as defined under local law.

4.5.5. Some countries also may require a certain period of time during which options are not to be exercised or shares are not to be sold to obtain a tax benefit. These holding periods should be carefully considered when determining the timing of a grant and built into the Award Agreement and/or the subplan.

4.6. Award Agreements.

4.6.1. The Award Agreements for non-US employees must be tailored to incorporate country-specific requirements. Companies use a variety of approaches in developing Award Agreements including –

- One Agreement for all US employees and one Agreement for all non-US employees
- A standard Award Agreement for all employees with an appendix for country-specific terms for awards to non-US employees
- Specific Award Agreements for each country

In deciding which approach to use, balance administrative ease with country-specific requirements. Ensuring the correct version of the Agreement is utilized is critical since Award Agreements change periodically. More companies are using standardized Agreements with an appendix for country-specific terms to minimize the need to maintain various Award Agreements and to manage mobile employee compliance.

4.6.2. Some provisions that should be incorporated in Award Agreements for non-US employees are –

- International date format (or clarification on date format used)
- Clarification of currency used (many countries use the term "dollar" to denote their currency)
- Appropriate provisions regarding the collection, processing and transfer of employee personal data in accordance with data privacy regulations
- Different grant dates, vesting schedules or exercise restrictions to reflect country-specific blackout periods
- Different expiration dates to reflect country-specific requirements
- Flexibility to withhold taxes or pay purchase price in a variety of ways (e.g., selling shares or withholding shares to pay required tax)
- Flexibility to change or add tax withholding or shift employer social tax liability to the employee
- Flexibility to implement different terms for grants to non-US employees (e.g., cash settled restricted stock units)
- Restrictions on the issuance or sale of shares in compliance with non-US securities and exchange control rules
- Deletion of or clarification regarding references or statements applicable only to US taxpayers (e.g., 83(b) elections and ISOs)
- Appropriate disclaimer language for "acquired rights" and other labor law issues
- Identification of appropriate governing law and venue for legal disputes
- Validity of electronic delivery of Plan information
- Validity of electronic acceptance of an award
- For any translated Plan documents, a notation that the English version supersedes the local language version
- Impact of change of status of employee (e.g., leave of absence)
- Impact of part-time status on vesting schedule
- Clarification of the termination date and notice period for purposes of determining the grace period under the Plan (i.e., the termination date may be defined differently under local law)
- Definition of "eligible compensation" for contributions to an ESPP
- Flexibility to segregate contributions and hold in bank account until purchase of ESPP shares

Consult legal and/or tax counsel to determine what provisions should be included for each country. Note – Certain grant terms may affect the value of the award for accounting purposes or the accrual period.

4.7. Employee Communication.

4.7.1. ASC 718 requires that the key terms and conditions of an award be mutually understood by the employer and employee at the grant date. The key terms and conditions of the award are expected to be communicated to an employee within a relatively short time after the date the award was approved. Notifying employees on a timely basis takes into consideration the location of the employee, the complexity of the company, global use of equity, etc.

4.7.2. Some companies require an employee accept a grant to document that the employee was notified of the award and to agree to tax withholding and other grant terms. Companies use a variety of methods to indicate acceptance. The format for accepting an award may be specified or restricted in certain countries. Many companies require non-US employees to accept an award, even though US employees may not be required to accept awards. Requiring acceptance may be helpful to provide support for the Company's position with regard to "acquired rights" issues discussed in paragraph 3.4. Formal acceptance may also avoid potential problems under local law. Electronic signatures may not result in an enforceable award agreement if there is uncertainty as to the employee's identity or consent. There also may be some terms in the award agreement (e.g., data privacy consent) that are not legally binding if electronic acceptance is used. Many companies still use electronic signatures for simplicity and consistency even though electronic signatures may be problematic as they may not carry the same weight as formal signatures under local law. It may be difficult to obtain employee acceptance for grants that do not involve voluntary participation or exercise (e.g,. restricted stock units). Consult legal counsel to determine the requirements for each country and the risks of noncompliance.

4.7.3. Employee communication is critical to ensuring the non-US employees understand their award, the potential benefits of the award, how to participate in elective programs (e.g., ESPP), the way the award will be administered, and employee tax treatment of the awards and filing requirements. Many countries have implemented specific regulations on what information must be distributed to employees and what documents must be translated into local language. Employee communications may need to be tailored for each country.

4.7.4. Date and time differences can be problematic for employees working outside the US. Communication regarding expiration dates should clearly indicate how the date and time will be administered (e.g., local date/time vs. headquarters date/time). Common practice is to use headquarters date/time for all employees.

4.7.5. Some companies limit employee communication to that required under local law. Additional communication is viewed as an expense that can be avoided. The attractiveness of reducing current administrative costs should be balanced against the benefits of a strong communication program and the long-term cost of employee misunderstandings. A country-specific communication strategy recognizing cultural differences can increase employees' perception of the benefit provided and understanding of the process. Best practice is to develop a communication strategy incorporating local input for all key countries and translate documents into local language when English is not widely understood. Headquarters should drive the process to ensure the local input is appropriately incorporated and local translations properly reflect Company policy and procedures.

4.7.6. US regulations may require the key terms of the awards, including any non-US terms, be communicated to non-US employees in a prospectus document. The regulations are unclear as to whether companies must include the tax consequences for non-US employees in the prospectus. Best practice is to include the following general information for each non-US country as a prospectus supplement –

- A description of the taxable event
- Income and social tax consequences
- How the taxable amount is calculated
- The timing of tax payments
- How tax will be collected
- What information will be reported to the tax authorities
- Exchange control and foreign account or shareholding reporting requirements
- A statement that employees should consult their own tax advisors

4.7.7. Effective employee communication must balance the needs of the employee against the cost and benefits to the employer. It is not appropriate for the employer to provide tax advice to employees. At the same time providing employees with general information of their responsibility regarding their associated tax liabilities could reduce the employer's responsibility regarding non-compliant employees.

KEY CONSIDERATIONS

- Have the grant practices for awards to non-US employees been clearly defined?
- Have country-specific administration guides been developed to summarize all key requirements for each country with employees participating in equity plans?
- Have additional controls been implemented to reflect the responsibilities of the local entity?
- Have the specific data privacy requirements been met?
- Are equity awards made to non-US employees excluded from the offer of employment and addressed in a separate document?
- If necessary, are country-specific grant terms included in grant resolutions?
- Are country-specific requirements permitted under the Plan?
- Are country-specific requirements incorporated into the Award Agreement?
- Is the most current version of the Award Agreement used?
- Is a local country trustee required for the Plan?
- Does the country define FMV the same as the US?
- Does the Plan allow for different FMVs in different countries?
- If FMV is determined differently under local law, have the accounting implications been considered?
- Is the employee notified of the award on a timely basis?
- Is the employee required to formally accept an award?
- Is the Company required to furnish the employee with specific Plan information and documents?
- Is electronic distribution of Plan documents acceptable under local law?
- Do employee communications need to be translated into the local language?
- Are electronic signatures acceptable locally?

The majority of non-US employees elect to exercise their stock options using a "cashless" or "same-day-sale" exercise

Transactions

5.1. Overview.

5.1.1. The economic benefit of an equity award becomes available to the employee when restrictions on the award lapse (i.e., the award vests). The timing and mechanics vary according to the type of award. The most common types of equity awards are discussed below –

- Stock option – An employee who holds an option may exercise the option and purchase the underlying shares of stock any time after the option is vested and before the term of the option expires, provided there are no legal restrictions prohibiting the exercise. To exercise the option (purchase the shares at the price specified in the Award Agreement), the employee must pay the grant price that is specified in the Award Agreement. The employee receives the underlying shares and can hold or sell the shares.
- Restricted stock – When restricted stock is granted, shares are issued. The shares are non-transferable and subject to restrictions that lapse at a future date.
- Restricted stock units – Restricted stock units are a commitment from a company to issue stock in the future. The stock is not issued at the time of grant. When restricted stock units vest, shares are issued and released to the employee.

Note – This publication assumes that for restricted stock and restricted stock units the release of the underlying shares occurs at vest and is not deferred to a later date.

5.1.2. The processes associated with these awards, common areas of risk, and illustrative controls for US employees were discussed in previous GPS publications. The processes and associated internal controls from the previous GPS publications are also appropriate for non-US employees. This section discusses additional issues applicable specifically to non-US employees. The associated legal issues are discussed in Section 3. The associated tax and payroll issues are discussed in Section 6.

5.2. Stock Options – Administration.

5.2.1. Generally, a stock option vests over time and requires continued employment during the vesting period. After the options vest, they can be exercised. Although not mandatory in most countries, the majority of non-US employees elect to exercise their stock options using a "cashless" or "same-day-sale" exercise if permitted under local law. This means that the employee exercises the option to purchase the shares and immediately sells the shares received by exercising the option. The proceeds of the sale are used to pay the share price specified in the Award Agreement and taxes, if any. Some countries or companies may impose a holding period for the shares and a same-day-sale may not be appropriate. (See the GPS | Stock Options for a discussion of other methods of exercising stock options.) The steps in the same-day-sale process are –

- Step 1 – Employee exercises the option by purchasing the shares at the grant price
- Step 2 – Employee simultaneously sells the shares acquired in Step 1 with the assistance of a broker
- Step 3 – The proceeds are distributed as follows:
  - o Grant price of the option is distributed to the US company

- o Required tax withholding, if any, is distributed to the local entity or the US company that subsequently distributes the funds to the local entity for remittance to the appropriate tax authorities
- o Net proceeds (less any transaction fees) are distributed to the employee

Exhibit 2 summarizes the steps in a same-day-sale. Paragraph 5.5 discusses the processes and issues associated with opening a US stock plan brokerage account for a non-US employee.

EXHIBIT 2 – SAME-DAY-SALE	
Facts	Option granted to acquire 100 shares of stock at $10/share. FMV on the date the option is exercised = $50/share. Non-US employee is required to have tax withheld at a 30% rate on the difference between the FMV on the date of exercise and the grant price. The amount withheld for tax is distributed to the local entity and the local entity remits the tax to the local tax authorities. No transactional fees are paid on sale of shares.
Step 1	Employee exercises the option Option to acquire 100 shares of stock for $10/share = $1,000
Step 2	Shares acquired are sold 100 shares sold for $50/share = $5,000
Step 3	Proceeds distributed $1,000 US company (grant price of the option) $1,200 Local entity [tax withheld ($5,000 – 1,000) x 30%] $2,800 To non-US employee $5,000 Total proceeds

5.2.2. The same-day-sale process is similar for US and non-US employees. The mechanism for collecting the tax and distributing the proceeds may vary. For example, the method of distributing the sales proceeds may differ in each country. The funds may be distributed directly to the non-US employee, to the local (non-US) entity, to a trustee administering the Plan, or to a special bank account in the country as part of the currency control requirements. Paragraphs 6.5 and 6.6 discuss the most common methods of collecting the tax on the award and distributing the proceeds. Paragraph 5.4.5 discusses the impact of converting the proceeds into local currency.

5.2.3. Some countries provide an opportunity to qualify for tax advantages, such as lowering social taxes or delaying the taxable event. To qualify for these tax advantages the Plan may require that certain conditions need to be met, e.g. a certain amount of time between the award of a grant and the exercise of a grant or between the exercise of the grant and the sale of the shares. Employees in certain countries may also be required to sell the shares immediately due to tax and legal requirements. These restrictions may be included in the country-specific subplan or addendum discussed in paragraph 2.4.

5.2.4. The administration of the vesting and exercising of the awards is at the corporate level. When the option vests, the equity plan database indicates the award is vested. The company-designated broker(s) is updated on the award status either through a manual or automated process. The local entity may be involved in the distribution of the sale proceeds or in reporting the award (i.e., reporting the vest or exercise to the local tax authorities). Exhibit 3 summarizes the key processes and responsibilities.

EXHIBIT 3 - OPTION EXERCISE PROCESS AND RESPONSIBILITIES

Exercise Process	Responsibility of		
	Employee	Corporate	Local Entity
Initiating the Exercise – Employee initiates the exercise	X		
Authorizing the Exercise – Verifying that the option is available for exercise (i.e., the option has not expired, there is no blackout period in place, and the employee status is current)		X	X
Recording the Exercise – Recording the exercise and sale in the equity plan database		X	
Processing the Exercise – Processing the exercise, sale, and distribution of the sales proceeds		X	X
Reporting the Exercise – Providing information to the employee, the local entity, and the local tax authorities	X	X	X

5.2.5. The exercise of the option is initiated by the employee. Date and time differences can be problematic if an option is exercised on the expiration date of the award. For example, an employee in Taiwan may hold an award that expires on 30 June at 11:59 p.m. Pacific Time. 30 June 11:59 p.m. Pacific Time is the same as 1 July at 2:59 p.m. in Taiwan. Communication regarding expiration dates should clearly indicate how the date and time will be administered (e.g., local date/time vs. headquarters date/time).

5.2.6. Non-US employees also may have restrictions on when their options may be exercised. For example, the employee may be subject to legal restrictions (e.g., country-specific insider trading rules) or contractual limits (e.g., restrictions imposed on country-specific plans). See Section 3, Legal Issues, for a discussion of legal issues associated with equity awards.

5.2.7. Companies take different approaches as to advising employees about options that are nearing expiration. In many cases companies are reluctant to assume responsibility for notifying employees because this process may make the Company responsible should the employees not exercise the option prior to expiration. Notifying employees of expiring options may be more important for non-US employees since the employees may be unclear as to their responsibilities in order to exercise an option. Best practice is to adopt a policy regarding notification of employees of expiring options and consistently follow the policy. Some companies have implemented automatic exercise programs whereby an option that is going to expire is automatically exercised (e.g., by a net exercise that does not require the employee to take any action to pay for the shares); this can be problematic for tax or legal reasons in some non-US countries so advice should be sought from the Company's advisor(s) before extending such a program outside the US.

5.3. Restricted Stock and Restricted Stock Units – Administration.

5.3.1. The vest process and subsequent release of shares to the employee requires minimal employee involvement. Close coordination is required between the broker, third-party administrator, transfer agent, Human Resources, Payroll, and the Equity Compensation department. For purposes of this publication we have assumed that the vest of the shares and release of the shares occur at the same time.

5.3.2. The administration of the vest is at the corporate level. Tax withholding may be required. See Section 6, Tax and Payroll Issues, for more details. Shares released to an employee may be subject to local country legal restrictions. See Section 3, Legal Issues, for more details. The local entity may be involved in reporting the award (i.e., reporting the vest to the local tax authorities). Exhibit 4 summarizes the key processes and responsibilities.

Best practice is to develop a country-specific administrative guide that incorporates country-specific vesting requirements.

5.3.3. The vesting process may vary in each country. Best practice is to develop a country-specific administrative guide that incorporates country-specific vesting requirements including –

- Determination of FMV
- Withholding and reporting requirements
- Special instructions to the broker
- Restrictions on distribution of shares or proceeds of the sale of shares

EXHIBIT 4 - RESTRICTED STOCK AND RESTRICTED STOCK UNITS VEST PROCESS AND RESPONSIBILITIES

Vesting Process	Responsibility of		
	Employee	Corporate	Local Entity
Processing the Vest/Release – Processing the vest and release of the shares		X	
Recording the Vest/Release – Recording the vest, release of shares, and collection of applicable tax in the equity plan database		X	
Reporting the Vest/Release – Providing information to the employee, the local entity, and the local tax authorities	X	X	X

5.4. Internal Controls.

5.4.1. Internal controls associated with the exercise of options and vest/release of restricted stock or restricted stock units to non-US employees are similar to those used for US employees. The transactions are normally administered in the US. Generally the corporate Equity Compensation department –

- Verifies the award is valid
- Confirms all securities and exchange control requirements have been met
- Records the transaction
- Determines the FMV of the shares on the transaction date
- Calculates the tax withholding
- Facilitates the disbursement of cash from the sales proceeds, if any
- Facilitates the issuance of shares to the company-designated broker

In addition Equity Compensation works with the company-designated broker to implement procedures to ensure the employee trading restrictions discussed in paragraph 3.3 are followed.

"Termination" as defined by the Plan may be different than the "notice period" defined under local law.

5.4.2. When certain responsibilities for administering aspects of the Plan are handled by the local entity, appropriate internal controls must be implemented at the local level. For example, the local payroll group may be responsible for reporting the transaction to the tax or exchange control authorities. Controls regarding payroll reporting are discussed in Section 6.

5.4.3. The determination of employee status requires special attention when an employee terminates. "Termination" as defined by the Plan may be different than the "notice period" defined under local law. In certain countries, the employee may not work during the "notice period." The termination date under the Plan may be when the notice period ends rather than when the employee ceases work. Consult tax or legal counsel to determine what constitutes termination in accordance with the Plan in specific countries.

5.4.4. Supporting employees in multiple countries frequently means dealing with a separate payroll system with different system requirements and capabilities in each country. Additional controls are required to maintain data integrity. Document all payroll requirements in the country guide, including format of the data and key dates.

5.4.5. Administration of equity awards for non-US employees frequently requires currency conversion. The underlying stock is valued in US dollars. The sales proceeds and/or tax withholding may be in US dollars and subsequently converted into local currency. Taxable income and associated tax withholding are reported in payroll and to the local tax authorities in local currency. See Exhibit 5 for an example of the impact of currency fluctuations on the exercise of an option.

EXHIBIT 5 – CURRENCY FLUCTUATION	
Facts	Proceeds of the sale of shares = US $100 Award is taxable when exercised Sales proceeds wire transferred to the employee Rate of exchange on date of exercise and same-day-sale is US $1 = 28 local currency Rate of exchange on date of wire transfer is US$1 = 25 local currency
2,800 local currency = taxable income (using exchange rate on the date of sale) 2,500 local currency = proceeds wire transferred to employee (using exchange rate on date of wire transfer)	

To accommodate the required conversion to/from US dollars and local currency, work with Treasury and Finance to formalize a currency exchange policy summarizing the methodology used to determine the exchange rate for various activities including, but not limited to –

- Reporting the income and withholding
- Transfer of sales proceeds, if any, to the employee trustee or local bank account
- Transfer of tax withholding to the local entity
- Internal financial reporting

In some countries, there is a prescribed exchange rate that must be used for purposes of calculating the taxable amount for tax withholding and/or reporting purposes.

Identify which party (e.g., the Company or the employee) bears the risk of any currency fluctuation.

5.4.6. Additional controls regarding the handling of cash may be necessary. When a broker is involved in the transaction (e.g., same-day-sale), the broker collects the grant price and the tax withholding, if any, from the proceeds of the sale of stock. The grant price and the tax withholding are transferred to the Company (either the corporate or the local entity). The transfers of funds, including wire transfers directly from the broker to corporate or the local entity, should be reconciled monthly at a minimum.

5.4.7. The Company may outsource certain aspects of Plan administration. The controls discussed above will apply regardless of whether or not the Company outsources Plan administration; however, the group responsible for implementing the controls may differ. In all cases, the Company maintains ultimate responsibility over the activities. Some companies outsource Human Resources and/or Payroll. If these functions are outsourced, additional controls must be implemented to ensure the data transfers are accurate, timely, and complete.

5.5. US Stock Plan Brokerage Account for Non-US Employees.

5.5.1. Establishing a US stock plan brokerage account for non-US individuals can be challenging. A US stock plan brokerage account may be used to hold shares received from an equity award, hold dividends paid on shares, facilitate the sale of shares, and receive the proceeds of sales. When a non-US person opens a US stock plan brokerage account, a Form W-8BEN and appropriate documentation must be completed by the non-US individual and provided to the broker. The Form W-8BEN remains in effect for a period starting on the date the form is signed and ending on the last day of the third succeeding calendar year, unless a change in circumstances makes any information on the form incorrect. (Note – US citizens and residents should complete Form W-9 and not Form W-8BEN regardless of where they reside.)

5.5.2. Generally a stock plan brokerage account must be established for an employee prior to the exercise of an option or the vest of restricted stock/restricted stock units since the shares from the award will be transferred into the account. An account may also be necessary for employees participating in an ESPP. Implement a monthly process to identify which employees have not activated a stock plan brokerage account and follow-up with employees. Develop a process to handle awards where the account has not been activated. This is especially important for restricted stock and restricted stock units as the Company, rather than the employee, initiates the transaction.

5.5.3. Some brokerage firms require 24 hours to open a stock plan brokerage account. This can be problematic if an employee waits until the expiration date to exercise an option and has not previously established an account with the brokerage firm. It may not be possible to establish the account prior to the option expiring. Identify such timing requirements and communicate the requirements to all employees.

Generally a stock plan brokerage account must be established for an employee prior to the exercise of an option or the vest of restricted stock/restricted stock units.

5.5.4. The proceeds of the sale of shares received from an equity award are typically deposited in the US stock plan brokerage account. Frequently the non-US employee transfers the funds from the US stock plan brokerage account into an account (e.g., bank account) in their country of residence. Brokerage firms may support different methods of transferring funds. The most common ways to transfer funds are by wire or check. The transfer can be denominated in US dollars or local currency. A fee may be charged to send and/or receive a wire transfer. Common practice is for the employee to bear the cost of the wire transfer. If the amount is denominated in local currency, the employee usually bears the risk of any currency fluctuation.

5.5.5. In some cases a company account is used to facilitate the sale of shares received from an equity award. With a company account, employees do not open individual accounts with the broker. Instead, the company holds an account which is used to aggregate employee transactions. A company account may be used in various situations, including brokerage limitations on non-US individuals, country limitations on US brokerage accounts, or the reduction of brokerage fees and commissions on equity awards when the number of shares issued to each employee is small. The shares are deposited in the company account and subsequently sold as a block of shares. The sales proceeds are deposited in the company account. The Company (either the corporate entity or the local employer) distributes the sales proceeds to appropriate parties (e.g., employee and local entity) on a prorata basis. The Company may absorb the transaction costs or allocate them to the employees. If a company account is used, additional controls are necessary to document the process and reconcile the distribution of the sales proceeds to the employee. Trades from a company account may be limited to trades at the current market price. Limit orders, orders to sell at a designated price, etc. may not be permitted.

5.5.6. Participants may be required to report their US stock brokerage account and their awards to the local tax authority.

5.5.7. In certain situations a non-US participant may not be able to establish a US stock plan account because of restrictions under local law. In this case other types of accounts, such as participant trusts, may be established to facilitate stock plan transactions. In the unlikely event that the participant is in a country that is on the Office of Foreign Assets Control (OFAC) list of prohibited countries, the participant will be barred from opening any financial services account in the US. Local laws may require the participant to report to the tax or exchange control authorities the establishment of a US stock plan account.

KEY CONSIDERATIONS

- Do the internal controls support the administrative activities handled by the local entity?
- Have procedures been established to update employee status and demographic data for non-US employees?
- How are international date and time differences handled for non-US employees?
- Have restrictions under local law regarding the timing of option exercises been identified?
- Has a policy been adopted and consistently followed regarding the notification of employees with expiring options?
- Does the country-specific administrative guide include required steps in the vesting process?
- How is FMV of the award determined under local law?
- How is the employee's "termination date" determined?
- Has a currency exchange policy been formalized?
- Who will bear the cost of currency fluctuation?
- Who will bear the costs associated with sending and receiving a wire transfer?
- How will the withholding be transferred to the local entity?
- Do the controls surrounding the handling of cash include the intercorporate transfers of funds to the local entity and transfer of funds in other currencies?
- Have controls been established to ensure the US stock plan brokerage account is activated prior to exercise or vest?
- Are there any restrictions on the non-US employee establishing a US stock plan brokerage account?
- How will the net proceeds be transferred to the employee, trustee or local bank account?
- If a company account is used in lieu of individual employee accounts, are internal controls adequate?
- If a company account is used to sell employee shares, have local country reporting requirements been considered?

Caution – This section is an overview of the issues associated with tax and payroll for global equity plans and is not intended to address country-specific requirements. Noncompliance with local law may result in civil and criminal penalties. Consult with legal and/or tax counsel to determine the country-specific requirements and the risks of noncompliance.

Tax and Payroll Issues

6.1. Overview.

6.1.1. Equity awards are considered compensatory and, therefore, taxable in virtually all countries. The type of tax payable, amount subject to tax, timing of the taxable event, tax withholding requirements, tax rates, and the requirement to report the income to the tax authorities vary by country. For example, some countries require withholding and reporting, others require reporting but not withholding, and others require no withholding or reporting.

> Generally accepted accounting principles (US GAAP) are normally used for preparing financial statements of US-headquartered companies. The Financial Accounting Standards Board (FASB) establishes standards for financial accounting and reporting. The statements and interpretations issued by the FASB (e.g.,ASC 718) are recognized as US GAAP. The International Accounting Standards Board (IASB) establishes International Financial Reporting Standards (IFRS) that are required or permitted in over 100 countries.
>
> Historically it was expected that the US will transition from US GAAP to the international standard IFRS, however the SEC has pulled back from an original roadmap for convergence and adoption of IFRS and therefore it is no longer clear whether or when the US will adopt.
>
> ASC 718 addresses the treatment of share-based payments under US GAAP. IFRS 2 addresses the treatment of share-based payments under the international accounting standards. Accounting for share-based payment under US GAAP ASC 718 and IFRS 2 are similar, but not identical. This section assumes that financial results are reported under US GAAP/ASC 718. Where appropriate, differences between ASC 718 and IFRS 2 are noted. See Section 7, Accounting Issues, for a further discussion of the differences in accounting for equity compensation under ASC 718 and IFRS 2.

6.1.2. Countries use different tax years. Reporting the taxable event is typically done on a tax year basis rather than a company's fiscal year. In most cases the tax year is the calendar year (e.g., US). Other countries use different tax years, such as a tax year beginning on April 1 and ending on March 31.

6.1.3. The special US tax advantages of plans such as ISO and Section 423 plans are not recognized in other countries. Outside the US, an ISO is treated the same as any other stock option. Stock purchases under a Section 423 plan are generally treated as a purchase of stock at a discount. Tax is usually due on the difference between the FMV of the stock on the purchase date and the price paid for the stock. These differences in tax timing can create significant issues for mobile employees, particularly where withholding tax is required in the non-US country at the time of exercise or purchase.

6.1.4. Other countries may provide for equity plans qualified under local law that provide certain tax advantages. It may be necessary to modify a plan for certain non-US countries to incorporate country-specific terms or provisions. This can be done by an addendum to the current Plan or by the use of country-specific plans, subplans, or agreements. (See paragraph 2.4.) Some countries require that the Plan be approved by the local tax authority before making any grants. Using country-specific plans may require additional tracking of transactions and employees. For example, a country-specific plan may require tracking and reporting of dispositions of stock after the employee has terminated employment with the Company.

6.1.5. This publication does not discuss country-specific requirements, but addresses how the withholding process works, alternative approaches, determining the appropriate withholding rate, common practices, and considerations in determining how to meet the withholding and reporting requirements. Since each country may have different requirements, best practice is to develop a country-specific administrative guide summarizing the key requirements. See Appendix C for an example of a country-specific administrative guide.

6.1.6. The processes associated with these awards, common areas of risk, and illustrative controls for US employees were discussed in previous GPS publications. The processes and associated internal controls from the previous GPS publications are also appropriate for non-US employees. This section discusses additional issues applicable specifically to non-US employees. The associated legal issues are discussed in Section 3. Corporate tax deductions are discussed in paragraph 8.2.

6.2. Point of Taxability.

6.2.1. The point of taxability may be at grant, vest, release, exercise, when the restrictions (if any) on shares acquired are lifted or when the acquired stock is sold. The point of taxability of the most common equity awards is discussed in Exhibit 6. Consult tax or legal counsel regarding the tax treatment of equity awards in specific countries. See paragraph 6.10 regarding the tax treatment of mobile employees.

6.2.2. In some cases certain types of awards may be taxed at grant. Since the employee has merely been granted the award and does not have access to the underlying shares, meeting the tax withholding requirements is difficult. Frequently an employee would be required to pay the tax associated with the equity award with funds from another source. This requirement makes these types of awards unattractive to employees. To avoid these issues, understand the tax consequences of an award prior to granting the award. Minimize awards that are taxable at the grant date.

6.2.3. As noted above, some countries tax an employee participating in an ESPP on the difference between the FMV of the stock and the price paid for the stock on the purchase date. Collecting tax on this difference can be challenging because the transaction does not generate any funds to pay the tax. An employee may be required to pay the tax with funds from another source or immediately sell the stock acquired. Common practice is to collect the required tax from the employee's next paycheck or to collect the tax directly from the employee.

EXHIBIT 6 – POINT OF TAXABILITY[1]	
Stock Options	Stock options are usually taxed at exercise in most countries, including the US (non-qualified stock options). In some countries options may be taxed at grant, vest, or when the acquired stock is sold.
ISOs	The US tax advantages of ISOs are not recognized in other countries. When ISOs are granted to non-US employees working outside the US, the award is treated as a non-qualifying stock option in the local country.
Restricted Stock	Restricted stock is taxed in the US at vest unless an IRC Section 83(b) election is made to tax the restricted stock at grant. Taxation is delayed from grant to vest (assuming no Section 83(b) election is made) because forfeiture restrictions have been placed on the award. Many countries consider ownership of restricted stock to have transferred at the grant date and, therefore, tax the employee at the grant date. Possible taxation at grant typically makes restricted stock an unattractive equity vehicle from a tax perspective for non-US employees.
Restricted Stock Units	Assuming they comply with 409A, restricted stock units are taxed in the US for social tax purposes (FICA - Social Security and Medicare) in the year there is no longer a substantial risk of forfeiture (i.e., at vest) and are taxed for income tax purposes when the shares are released. In most non-US countries, restricted stock units are taxed at vest/release and restricted stock is taxed at grant. Therefore, restricted stock units are typically the preferred equity vehicle for non-US employees.
ESPP	The tax advantages of a Section 423 plan are not recognized in other countries. When a non-US employee participates in a Section 423 plan and purchases stock at a discount, the employee is usually taxed at the purchase date on the difference between the FMV of the stock on the purchase date and the price paid. Taxation upon purchase makes Section 423 plans less attractive from a tax perspective for non-US employees. (Note – Some countries have tax-advantaged plans similar to Section 423 plans that may be implemented in lieu of Section 423 plans.)

1 Note: This section addresses tax withholding associated with a company's responsibility. Employees may owe additional taxes if shares are held and then later sold.

6.2.4. Some countries delay the tax event to the date of sale of the underlying shares. In these countries, it may be necessary to track the award until the date of sale. Identify the countries that delay the tax event to the date of sale. Develop country-specific processes to meet the tax reporting and withholding requirements. Such tracking is administratively difficult, especially for terminated employees, and may require the use of a trustee or separate administrator to hold the shares after vest/exercise until the date of sale by the employee.

6.3. Administration.

6.3.1. Tax and payroll issues are among the most complex and challenging areas of administration. Close coordination is required between the Equity Compensation department, the local country Payroll, and third-parties such as the company-designated broker or administrator. This coordination is particularly challenging when the Company uses different payroll systems in different countries or outsources the payroll process.

6.3.2. Leverage the procedures and internal controls for the tax withholding process used for US employees. Some of the internal controls that should be implemented for each country are –

- Determine whether there is a payroll reporting and/or tax withholding requirement in the country
- Determine how the FMV is determined for tax purposes in each country
- Establish and document the process to calculate tax withholding and reporting
- Establish and document the process to verify that the correct tax tables and tax rules are being used.
- Develop a schedule to update the tax rates/rules. Audit the tax withholding rates periodically to verify that the current rates are being used
- Clarify appropriate responsibilities between local Payroll, Equity Compensation, and third-party vendors such as a brokerage firm. Establish and document the process to transfer data from the equity plan database into the payroll system
- Verify that tax is withheld for each employee in appropriate countries
- On a monthly basis, verify that tax withheld in the equity plan database for a country agrees with the local country payroll records
- Establish and document a policy on payroll tax deposits relating to equity compensation for each country
- At year end, verify that tax reporting for equity plan income has been completed with local country payroll

6.3.3. Special attention is required when the FMV for tax purposes in the country is not defined as the current market price of the stock. See Exhibit 7. Care should be taken to identify grants made in these countries to ensure that withholding and reporting is made using the appropriate FMV.

6.3.4. Keep the withholding process as simple as possible. Summarize all country-specific requirements in the country guide and update the information regularly.

6.4. Tax Withholding.

6.4.1. Tax withholding is frequently required at the point of taxability. As noted previously, the point of taxability may be at grant, vest, exercise, release of shares, lifting of restrictions (if any) on shares acquired, or sale of shares. Appropriate withholding rates must be determined for each country and potentially for each employee based on the work location of the employee. A variety of civil/criminal penalties, fines, and interest may be assessed for inadequate or untimely withholding. Tax withholding on equity compensation is under increased scrutiny by tax authorities and in many countries this is a high-priority audit initiative. Care must be taken to determine the tax requirements of each country. See paragraph 6.10 for a discussion of the treatment of mobile employees.

EXHIBIT 7 – IMPACT OF COUNTRY-SPECIFIC DEFINITION OF FMV
1,000 shares of restricted stock vest
Tax withholding is required at a 40% tax rate
Shares are sold to pay the required tax
Local law defines FMV as the average of the market price over the previous month
\$10.00 = FMV determined under local law
\$8.00 = current market price on the date shares vest and are sold to pay the tax
\$10,000 = taxable income reported (1,000 x \$10)
\$4,000 = required withholding (\$10,000 x 40%)
500 shares required to be sold (500 x \$8 = \$4,000) to meet the required taxes

6.4.2. The withholding requirements for income tax and social tax may differ. For example, withholding may be required for social tax but not for income tax, or for income tax but not for social tax. Income tax withholding may be required for terminated employees. Some countries require the income be reported to the tax authorities by the employer, but no withholding is required. See paragraph 8.2 for a discussion of chargebacks of equity awards from the parent to the local entity.

Note – For purposes of this publication, the term "payroll taxes" will refer to income taxes and employer/employee social taxes.

6.4.3. Most countries do not have flat withholding rates on supplemental income. Instead tax is required to be withheld at the individual employee's marginal tax rates. Tax withholding rates may be provided by tax or legal service providers or by local country Payroll. Tax withholding may be impacted by the following:

- Company structure
- Grantee employment status
- Local employer involvement
- Award type and terms
- Recharge of equity costs to local entity and claiming a corporate tax deduction
- Transfer of the employer's social tax to the employee
- Whether equity is granted under a tax-favored program
- Employee mobility during the life of the award

6.4.4. Many companies use maximum tax rates or average rates since individual rates are difficult to determine and implement on a timely basis. If a maximum tax rate is used, internal processes and controls at the local payroll level will need to be implemented to ensure that any over-withholding is refunded to the employee via a "true-up" process, as obtaining a tax refund for income tax may be difficult in some countries, and refunds of over-paid social tax are generally not possible in many countries.

6.4.5. In certain countries the employee may reimburse or contractually assume the liability of the employer's portion of the social tax. (If the employee reimburses the liability, the liability remains the responsibility of the employer even though the employee will ultimately bear the cost of the social tax. If the employee assumes the liability, the liability is no longer the responsibility of the employer.) This is accomplished though a written agreement between the employer and employee, which may involve the assumption of liability as a term of the award and the arrangement may need to be approved by the local tax authorities. Prior to the release of ASU 2016-09, share withholding up to a minimum statutory rate did not trigger liability accounting. With the release of ASU 2016-09*, the maximum individual tax rate is now allowed for withholding shares without triggering liability accounting under ASC 718. This may allow greater flexibility within jurisdictions in which no flat tax rate is available but withholding is required. You should discuss potential changes to your processes with your audit firm.

6.4.6. Tax may be collected from the individual in a variety of ways as summarized in Exhibit 8 (page 24). Sell-to-cover and withhold-to-cover are the most commonly used methods of collecting tax from non-US employees and are discussed in more detail in Sections 6.5 and 6.6.

6.4.7. Not all methods of withholding tax may be legally allowed in each country and certain methods may not be practical if the award is taxed at grant. Additional flexibility with respect to tax payment method may be required for non-US employees. Labor law may restrict the way a company collects tax from the employee. For example, an employee may be required to specifically authorize the sale of shares to pay the required tax or the employer may be required to distribute 100% of the sales proceeds to the employee. A blackout period may restrict the withholding to cover or sell to cover tax withholding. In some countries an employee may have restrictions on holding shares thereby requiring immediate sale of all stock received from an award. Some methods may be prohibited to certain employees (e.g., a deduction from 13-month pay may be construed as a prohibited loan to a Section 16 officer). All of these items need to be considered in determining how to collect the required tax from the employee.

6.5. Sell-to-Cover.

6.5.1. When using sell-to-cover, shares are sold from the award (e.g., stock option, restricted stock, and restricted stock units) to pay the required tax. The sales proceeds fund the tax payment. In the US, sell-to-cover is relatively simple to use since the US provides for a flat withholding rate on supplemental income. (In 2018 the supplemental withholding rate for US federal tax was 22% on year-to-date supplemental wages of $1 million or less and 37% on year-to-date supplemental wages of more than

* ASU 2016-09 - Accounting Standards Update 2016-09: Compensation - Stock Compensation (Topic 718) - Improvements to Employee Share-Based Payment Accounting

$1 million). Most countries do not apply flat withholding tax rates to supplemental income such as equity compensation. Income from equity awards is generally subject to tax at regular payroll tax rates. Determining the proper amount of tax to be withheld when using sell-to-cover requires additional effort since a separate calculation is frequently required for each individual, unless a flat maximum tax rate is used.

6.5.2. A variety of methods can be used to calculate the amount of tax withheld and collect the appropriate tax from the employee. The most common methods are discussed below. The processes described represent standard practice, but each company's processes may differ to reflect their unique needs and resources. A comparison of the advantages and disadvantages of the methods is summarized in Exhibit 9. Exhibit 10 compares the methods assuming the exercise of a stock option with a same-day-sale of the acquired shares.

- **Method 1** – Withhold tax at a designated tax rate and adjust the tax when the individual's tax return is filed.

  Shares are sold in the open market to collect the funds needed to meet the required tax withholding. The designated tax rate is either the maximum tax rate for the country or an average tax rate of the employees receiving awards in that country. The broker facilitates sale of shares and collects the tax from the sales proceeds at the designated rate. The employee receives the net proceeds from the broker after the withholding of tax and the payment (if any) to the Company for the shares. The income and the tax withheld are included in the local country payroll in the next pay period. The employee's actual tax on the award is calculated when the employee files his or her annual tax return and receives a tax refund or pays additional tax.

  This method is simple to administer because one tax rate is used for all employees in a country; however, the employee may be required to sell more shares than necessary to meet his tax obligations so the employee

EXHIBIT 8 – TAX WITHHOLDING METHODS

METHOD	DESCRIPTION
Sell-to-Cover*	Shares are sold from an award to pay the required tax. The sales proceeds fund the tax payment. The process associated with sell-to-cover, advantages, and disadvantages were discussed in previous GPS publications. (Note – These publications can be accessed at www.scu.edu/business/cepi/.)
Withhold-to-Cover	Shares are withheld from an award to pay the required tax. The Company makes the required tax payment with company funds. The process associated with withhold-to-cover, advantages, and disadvantages were discussed in previous GPS publications. The accounting treatment of collecting tax using the withhold-to-cover method under US GAAP and IFRS differ. See Section 7, Accounting Issues, for a further discussion of the differences in accounting for equity compensation under US GAAP and IFRS.
Cash	The grantee pays cash (through personal check, certified check or wire transfer) to the Company for the required tax. Collecting cash from non-US employees is difficult administratively, introduces currency and exchange issues, and is not common practice.
Deduction from Salary	Tax is withheld from current salary or withheld on a prorata basis through the rest of the year. This is not practical if the required tax will exceed the employee's salary or where the tax payment is due to the authorities before it can be fully recovered from the employee. Withholding tax from salary also increases the risk of "acquired rights" issues discussed in paragraph 3.4.1. In addition, some countries impose limits on the percentage of tax that can be withheld from each paycheck and/or the total deduction from each paycheck.
Deduction from Bonus	Tax is withheld from a bonus. This method has the same disadvantages as a deduction from salary and is not widely used.
Deduction from 13-Month Pay	Some countries mandate an additional month pay. Tax is withheld from the 13-month pay. This method has the same disadvantages as a deduction from salary and is not widely used.

* When using the sell-to-cover method for stock option exercises, non-US employees frequently use a same-day-sale. The employee exercises the award, sells all the shares received, and does not hold any shares after exercising the award.

should consent to this withholding method. The temporary cash shortfall will be settled when the employee files his tax return. If tax is not withheld at the maximum tax rate, insufficient tax may be collected. Penalties and interest may be assessed to the employee and employer for paying the tax with the return rather than at the point of taxability. This method will require the employee to file an annual tax return. Filing a tax return may be a burden on employees in countries where an annual tax return is not required for regular compensation that is subject to employer withholding. Note, however, that obtaining a tax refund for income tax may be difficult in some countries and refunds of over-paid social tax are generally not possible in many countries. Therefore, best practice is to perform a "true-up" in the next payroll cycle, as discussed in Method 2 below.

- **Method 2** – Withhold tax at a designated tax rate and adjust in the next payroll.

  Shares are sold in the open market to collect the funds needed to meet the required tax withholding. The designated tax rate is either the maximum tax rate for the country or an average tax rate of the employees receiving awards in that country. The broker facilitates sale of shares and collects the tax from the sales proceeds at the designated rate. The employee receives the net proceeds from the broker after the withholding of tax and the payment (if any) to the Company for the shares. The income and the tax withheld from the award are included in local country payroll the next pay period. The payroll system calculates the actual tax due on the award. If insufficient tax was collected from the employee, additional tax is collected through payroll from the employee's paycheck. If excess tax was collected from the employee, the excess tax is refunded through payroll and added to the employee's paycheck.

  This method is simple to administer at the corporate level because one tax rate is used for all employees in a country; however, the employee may be required to sell more shares than necessary to meet his tax obligations so the employee should consent to this withholding method. The temporary cash shortfall will be settled through the payroll system when the employee receives his next paycheck. This method may not be available for a terminated employee because the employee is no longer receiving a paycheck. Significant coordination is required with local country payroll to implement this method and limited functionality in the local country payroll system may prohibit its use. The employee receives the sales proceeds in two parts – part from the broker and the balance as an adjustment through payroll. Communicating the mechanics of this method to employees can be difficult.

- **Method 3** – Withhold at the actual withholding rate for each individual employee.

  Shares are sold in the open market to collect the funds needed to meet the required tax withholding. Required withholding is calculated for each individual employee using the appropriate withholding rates in the country and year-to-date income for each individual employee. These calculations are typically performed outside the payroll system in the equity plan database or by a third party. The broker facilitates sale of shares and collects the tax from the sales proceeds at the designated rate. The employee receives the net proceeds from the broker after the withholding of tax and the payment (if any) to the Company for the shares. The income and the tax withheld from the award are included in local country payroll the next pay period. Withholding is not required to be adjusted since the initial calculation was based on actual income, withholding rates, and employee payroll data. However, small adjustments (up or down) to withholding will generally still be needed, due to payroll-specific considerations that may fluctuate (e.g., benefits or taxable expenses) and, where shares are sold or withheld to cover taxes, due to the fact that generally only whole shares will be sold or withheld.

  This method minimizes overwithholding/under-withholding of required tax from employees. The employee does not sell more shares than necessary to fund the required tax. Significant coordination is required to calculate actual withholding for each employee. This method may be administratively burdensome. More coordination is required with local payroll. Most companies do not have the resources to provide current data and calculate withholding for each employee prior to the close of the transaction. Even where significant resources are dedicated to the process, obtaining a "perfect" tax rate for an employee which results in no payroll adjustment at the local level is often not possible.

- **Method 4** – Distribute sales proceeds through payroll.

  This method is applicable **only** when the employees execute a same-day-sale of the acquired shares. All shares are sold in the open market. The broker facilitates the sale of shares. The gross proceeds less transaction costs and the payment (if any) to the Company for the shares are distributed to the Company. The employee receives the net proceeds through local country payroll. The taxable income is recorded in the local payroll system (similar to a cash bonus) and the payroll system calculates the required withholding. The net amount is paid to the employee. This method may not be available for a terminated employee since the employee is no longer receiving a paycheck.

This method minimizes overwithholding/under-withholding of required tax from employees. Utilizing functionality in the payroll system ensures the appropriate tax is withheld. This method requires significant coordination with local country Payroll and the broker. Distribution of the proceeds to the employee is tied to the pay cycle. Many countries pay salaries monthly. In those countries, the employee may not receive the sales proceeds for a month or more.

Since the amounts are processed by local payroll, this method may change the payroll obligations in some of the countries. This is particularly troublesome in countries that do not typically have payroll reporting or withholding obligations on equity income. Consult tax counsel to determine applicable requirements in specific countries.

6.6. Withhold-to-Cover.

6.6.1. When using withhold-to-cover, shares are withheld from an award (e.g., stock option, restricted stock, and restricted stock units) to pay the required tax. Withholding shares to cover the required payroll tax is commonly referred to as net

EXHIBIT 9 – SELL-TO-COVER: COMPARISON OF METHODS TO CALCULATE TAX WITHHOLDING AND DISTRIBUTE PROCEEDS

Method	Advantages	Disadvantages
Method 1 – Withhold tax at a designated tax rate and adjust the tax when the individual's tax return is filed	• Simplest to administer • Easiest to calculate designated tax rate • Can utilize maximum tax rate • Transfer of proceeds to employee facilitated by broker	• May result in over or under withholding • Receipt of appropriate proceeds may be delayed until tax return filed • Employee may have temporary cash shortfall • Employee may liquidate more shares than necessary • Penalties and interest may be assessed on underpayments • Non-US employees may not be able to obtain refund of over-remitted tax • Employee consent may need to be obtained (since the method may result in overwithholding and employee may liquidate more shares than necessary)
Method 2 – Withhold tax at a designated tax rate and adjust in the next payroll	• Easiest to calculate designated tax rate • Can utilize maximum tax rate • Transfer of proceeds to employee facilitated by broker	• More coordination required with Payroll • May result in over withholding until next payroll • Employee may have temporary cash shortfall • Employee may liquidate more shares than necessary • Employee consent should be obtained • Employee receives proceeds in two installments (i.e., from the sale of shares and through payroll) • More difficult to explain to employees • Difficult to process through payroll for terminated employees
Method 3 – Withhold at the actual withholding rate for each individual employee	• Transfer of proceeds to employee facilitated by broker • No delay in the receipt of sales proceeds by the employee • Employee maximizes the shares held	• More coordination required with payroll • Detailed calculations using current data required for each employee • More complicated to administer and obtain timely information
Method 4 – Distribute sales proceeds through payroll	• Leverage payroll system to calculate actual withholding required	• More coordination required with Payroll • Distribution of proceeds to the employee will be delayed until the next pay cycle • More difficult to explain to employees • Difficult to process through payroll for terminated employees • May require additional tax reporting and withholding obligations

EXHIBIT 10 - COMPARISON OF METHODS TO ADMINISTER SELL-TO-COVER

Facts:	• Employee A receives an option to acquire 1,000 shares of stock for $5 per share • On the date the option is exercised, FMV of the stock is $15 per share • The employee recognizes $10,000 [($15 x 1,000 shares) – ($5 x 1,000 shares)] of taxable income from the exercise of the award • Employee A sells 1,000 shares immediately • Employee A's actual tax rate is 30% and tax is withheld at the maximum tax rate of 45%
$15,000	Proceeds from the sale of 1,000 shares ($15 x 1,000 shares)
- 5,000	Grant price ($5 x 1,000 per share)
$10,000	Taxable income
Method 1 – Withhold tax at a designated tax rate and adjust the tax when the individual's tax return is filed	
$10,000	Taxable income
- 4,500	Tax withholding ($10,000 x 45%)
$5,500	Initial cash distributed to Employee A from the broker
$1,500	Refund received when Employee A files the annual tax return [$4,500 – ($10,000 x 30%)]
$7,000	Net proceeds received by Employee A ($5,500 when the shares are sold and $1,500 when Employee A files the annual tax return)
Method 2 – Withhold tax at a designated tax rate and adjust in the next payroll.	
$10,000	Taxable income
- 4,500	Tax withholding ($10,000 x 45%)
$5,500	Initial cash distributed to Employee A from the broker
$1,500	Refund received in the next pay cycle [($4,500 – ($10,000 x 30%)]
$7,000	Net proceeds received by Employee A ($5,500 when the shares are sold and $1,500 in the next pay cycle)
Method 3 – Withhold at the actual withholding rate.	
$10,000	Taxable income
- 3,000	Tax withholding ($10,000 x 30%)
$7,000	Net proceeds received by Employee A from broker
Method 4 – Distribute sales proceeds through payroll.	
$10,000	Taxable income
- 3,000	Tax withholding ($10,000 x 30%)
$7,000	Net proceeds received by Employee A in the next pay cycle

share withholding. Net share withholding does not involve a sale; the Company credits the current value of the withheld shares to the amount owed. If the Company withholds shares and uses its own cash to pay the employee's tax liability, the Company is effectively repurchasing its own stock from the employee at FMV. Consult legal counsel and accounting/audit advisors to determine if this activity is permitted under relevant local and corporate laws and to determine what impact it may have to the financial reporting requirements.

6.6.2. Until very recently, under US GAAP when shares were tendered from the shares to be distributed to the employee, the tax withholding was required to be limited to the minimum required statutory payment to avoid liability accounting.[2] "However under ASU 2016-09, as long as no more than the maximum required amount is withheld, liability accounting will not be triggered. Allowing employees to tender shares for tax payments in excess of the maximum individual tax rate will trigger liability treatment for the grant in question. If the transaction is part of a pattern, or if the terms of the Plan specifically allow employees to tender shares for payments in excess of the maximum tax rate, liability accounting may be required for the entire Plan."[3] The accounting treatment under US GAAP and IFRS 2 differ. This section assumes that financial results are reported under US GAAP. See Section 7, Accounting Issues, for a further discussion of the differences in accounting for equity compensation under US GAAP and IFRS 2.

Allowing employees to tender shares for tax payments in excess of the maximum individual tax rate will trigger liability treatment for the grant in question.

2 ASC 718-10-25-18.

3 Accounting for Equity Compensation, by Barbara A. Baksa, CEP, and Advanced Topics in Equity Compensation Accounting, by Takis Makridis, CEP.

6.6.3. The payment of applicable tax may require the payment of fractional shares rather than whole shares because the tax payment is not evenly divisible by the share price. Since most companies do not issue fractional shares, the number of shares tendered must be rounded up (resulting in slightly more than the minimum amount required to be withheld) or rounded down (resulting in a shortfall in withholding). The trend is to round up to the next whole share. The excess withholding may be refunded to the employee in the next payroll cycle or added to tax withholding.

6.6.4. A variety of methods can be used to calculate the number of shares withheld to pay the required tax for non-US employees. Some companies withhold tax at the the maximum individual tax rate for the awards and others calculate the actual withholding required for each employee. The most common methods are discussed below. The processes described represent standard practice, but each company's processes may differ to reflect their unique needs and resources. A comparison of the advantages and disadvantages of the methods is summarized in Exhibit 11. Exhibit 12 compares the methods assuming the grant of restricted stock units.

- **Method 1** – Withhold shares at the minimum tax rate and adjust the tax when the individual's tax return is filed.

  A portion of the shares distributed from an equity award is withheld to cover required payroll taxes. The number of shares withheld is based on the minimum tax rate in the country. The employee receives a distribution of the net shares after the shares for payroll tax have been withheld. The income and the tax withheld are included in the local country payroll in the next pay period. The employee's actual tax on the award is calculated when the employee files his annual tax return and pays any additional tax.

  This method is simple to administer because one tax rate is used for all employees in a country. Since the withholding obligations of the Company and the employee may not be met until the employee's tax return is filed, penalties and interest may be assessed on the company for underwithholding. In addition an employee may not manage his or her cash flow properly and sufficient funds may not be available to pay any additional tax when the annual tax return is filed. Failure to comply with withholding obligations outside of the US may result in the local entity becoming responsible for the under-withheld amount (plus penalties and interest), with little recourse under local law to recover these amounts from employees. (If the employee is terminated, recovery may be a significant challenge). If the local entity fails to recover the employee's tax liability, the amount paid by the local entity may be considered additional compensation to the employee on which additional withholding tax will be required.

- **Method 2** – Withhold shares at the minimum or the maximum tax rate and adjust in the next payroll.

  A portion of the shares distributed from an equity award is withheld to cover required payroll taxes. The number of shares withheld is based on the applicable tax rate in the country. The employee receives a distribution of the net shares after the shares for payroll tax have been withheld. The income and the tax withheld from the award are included in local country Payroll the next pay period. The payroll system calculates the actual tax due on the award. If insufficient tax was collected from the employee, additional tax is collected through payroll from the employee's paycheck. If excess tax was collected from the employee, it is refunded by payroll through the employee's paycheck.

  Determining the tax rate for withholding shares is straightforward because the minimum or maximum tax rate is used for all employees in a country. The exposure to penalties and interest is minimized since the temporary shortfall or excess of tax withheld will be settled through the payroll system when the employee receives his next paycheck. If the additional tax due is larger than the employee's paycheck, the employee would not receive a paycheck. This will impact the employee's cash flow and can be difficult to explain to employees. This method may not be available for a terminated employee since the employee is no longer receiving a paycheck. In addition, significant coordination is required with local country payroll to implement this method and limited functionality in the local country payroll system may prohibit its use.

- **Method 3** – Withhold at the actual withholding rate for each individual employee.

  A portion of the shares distributed from an equity award is withheld to cover required payroll taxes. Required withholding is calculated for each individual employee using the appropriate withholding rates in the country and year-to-date income for each employee. These calculations are typically performed outside the payroll system in the equity plan database or by a third party. The employee receives a distribution of the net shares after the shares for payroll tax have been withheld. The income and the tax withheld from the award are included in local country payroll the next pay period. Withholding is not required to be adjusted since the initial calculation was based on actual income, withholding rates, and employee payroll data. However, small adjustments (up or down) to withholding will generally still be needed, due to payroll-specific considerations that may fluctuate (e.g., benefits or taxable expenses) and, where shares are sold or withheld to cover taxes, due to the fact that generally only whole shares will be sold or withheld.

This method minimizes underwithholding of required tax from employees. Significant coordination is required to calculate actual withholding for each employee. This method may be administratively burdensome. More coordination is required with Payroll. Most companies do not have the resources to provide current data and calculate withholding for each employee. Even where significant resources are dedicated to the process, obtaining a "perfect" tax rate for an employee which results in no payroll adjustment at the local level is often not possible.

EXHIBIT 11 – WITHHOLD-TO-COVER: COMPARISON OF METHODS TO CALCULATE TAX WITHHOLDING AND DISTRIBUTE PROCEEDS

Method	Advantages	Disadvantages
Method 1 – Withhold shares at the minimum tax rate and adjust the tax when the individual's tax return is filed	• Simplest to administer • Easiest to calculate the minimum tax rate	• May result in under withholding • Exposes the employee and the Company to potential assessment of penalties and interest for underwithholding of tax • Employees may not manage their cash flow properly and may not retain sufficient funds to pay the tax when the annual tax return is filed
Method 2 – Withhold tax at a minimum or maximum tax rate and adjust in the next payroll	• Easiest to calculate the minimum or maximum tax rate • Minimizes exposure to assessed penalties and interest	• More coordination required with Payroll • Withholding additional tax or refunding excess tax from the employee's paycheck may create cash flow issues for the employee • More difficult to explain to employees • Difficult to process through payroll for terminated employees
Method 3 – Withhold at the actual withholding rate for each individual employee	• Minimizes exposure to assessed penalties and interest	• Detailed calculations using current data required for each employee • More coordination required with Payroll • More complicated to administer and obtain timely information

EXHIBIT 12 - COMPARISON OF METHODS TO ADMINISTER WITHHOLD-TO-COVER	
Facts:	• Employee A receives an award of 1,000 shares of restricted stock units • On the date the award vests and the shares are released the FMV of stock is $15 per share • Employee recognizes $15,000 ($15 x 1,000 shares) of taxable income from the vest/release of the award • Employee A's actual tax rate is 30% and the minimum tax rate is 20%
Method 1 – Withhold shares at the minimum tax rate and adjust the tax when the individual's tax return is filed.	
1,000	Restricted stock units awarded
- 200	Restricted stock units withheld for tax [(1,000 shares x 20%(minimum tax rate))]
800	Net shares distributed
$15,000	Taxable income ($15 x 1,000 shares)
30%	Employee A's actual tax rate
$ 4,500	Actual tax due on award
- 3,000	Value of shares withheld for tax from distributed shares (200 shares x $15 per share)
$1,500	Tax due with Employee A's annual tax return
Method 2 – Withhold shares at the minimum (or maximum) tax rate and adjust in the next payroll.	
1,000	Restricted stock units awarded
- 200	Restricted stock units withheld for tax [(1,000 shares x 20%(minimum tax rate))]
800	Net shares distributed
$15,000	Taxable income ($15 x 1,000 shares)
30%	Employee A's actual tax rate
$ 4,500	Actual tax due on award
- 3,000	Value of shares withheld for tax from distributed shares (200 shares x $15 per share)
$1,500	Tax due from Employee A's next paycheck
Method 3 – Withhold at the actual withholding rate for each individual.	
1,000	Restricted stock units awarded
- 300	Restricted stock units withheld for tax [(1,000 shares x 30%(actual tax rate))]
700	Net shares distributed
$15,000	Taxable income ($15 x 1,000 shares)
30%	Employee A's actual tax rate
$ 4,500	Actual tax due on award
$ 4,500	Value of shares withheld for tax from distributed shares (300 shares x $15 per share)

6.7. Coordination with Payroll.

6.7.1. At the point of taxability, the Equity Compensation department transmits details regarding taxable income and corresponding withholding to local Payroll. Payroll imports the taxable income and withholding in the payroll system. Payroll also makes the required deposits of the payroll tax. To ensure this process works efficiently and effectively, all parties (Payroll, Equity Compensation, the third-party administrator, and the brokerage firm) must understand the process, which group is responsible for each specific activity, and the details of the data transfer. This can be particularly challenging when operating multiple payroll systems or using different payroll vendors in different countries each with different requirements.

6.7.2. In many countries payroll is processed once a month. This can result in a significant delay when a transaction occurs at the beginning of the month and the payroll is not processed until the end of the month. For example, assume a stock option is exercised on March 1, but the payroll does not process the transaction until March 31. The transaction will not be settled or recorded for approximately one month if the employee uses a same-day-sale, tax is collected through payroll, and the sales proceeds are distributed through payroll. This delay may create several issues. The payroll tax deposit may not be made on a timely basis. If the employer funds the payroll tax deposit from Company funds and later collects the tax from the employee though payroll, the Company is essentially making a loan to the employee. In many countries there are tax consequences of making loans to employees. If the employee is a Section 16 officer (which can include non-US officers) for US regulatory requirements, the Company is prohibited from making loans to such employees. In addition, the employee will not receive the sales proceeds until the payroll is processed. Special procedures may be required to be implemented in countries with monthly payroll.

6.7.3. The calculation of taxable income and the determination of the corresponding withholding are usually done in US dollars. The reporting of the income and withholding in local payroll is in local currency. Determine how the exchange rate from US dollars to local currency will be calculated and apply the methodology consistently. Some companies utilize a calculated average monthly exchange rate that is used for other corporate financial transactions. This exchange rate is typically provided by the Treasury department. Some countries require a particular exchange rate be used for tax purposes.

6.7.4. Payroll may not be able to simultaneously process the income from awards with regular payroll. Special input may be required into the payroll system. Include standard error-checking when importing the file into the payroll system. For example, verify that social tax was calculated accurately and withholding occurred for every employee where required. Implement a process to reconcile information from the equity plan database to the local payroll records. On a monthly basis, reconcile total equity compensation reported in the local payroll to taxable income in the equity plan database. Investigate and resolve any discrepancies. Verify the tax withheld in the equity plan database agrees with the local payroll records. Investigate and resolve any discrepancies.

6.7.5. Establish and document a policy on payroll tax deposits. Payroll deposits for stock transactions usually occur separately from other payroll tax deposits. Each country may have different requirements regarding the timely deposit of payroll tax withholdings. For example, payroll tax deposits may be required the next day, in the next pay cycle, or by the end of the following month. Consult with legal and tax counsel to determine the timing of payroll tax deposits on a country-by-country basis to ensure that deadlines are not missed.

6.7.6. Close coordination is also required at month-end and year-end. This can be particularly troublesome when the point of taxability occurs after the last paycheck has been issued for the year or when the tax year varies from a calendar year. For example, many companies have a mid-December payroll cut-off for the final paycheck of the calendar year. The Company must still record the taxable income and taxes for equity transactions occurring after the payroll cut-off and prior to December 31 in the payroll system for the correct year.

6.7.7. Special attention must be given to countries that have annual employer reporting, especially those that only have annual reporting and no monthly reporting or withholding. The Company should coordinate with the local country Payroll to confirm that all the detailed information necessary to comply with the annual employer reporting has been received and to verify that the employer reporting has been completed. In some countries, special annual tax reporting is required for equity award income, separate from payroll annual reporting, so coordination with other departments (such as legal or tax) may also be required to ensure these reporting requirements are met.

6.8. Implementation Strategy.

6.8.1. Understanding and meeting compliance requirements in every country where employees receive equity compensation is difficult. Plan administrators must keep current with legislative and regulatory changes in each country. Monitor significant corporate changes that may impact the withholding and reporting requirements such as a modification of a recharge agreement (see paragraph 8.2) or changes in corporate structure. Best practice is to reevaluate withholding and reporting requirements quarterly.

6.8.2. In some countries there may be a gap between the compliance requirements and common business practice. Local entity personnel may not have the same approach to compliance or may not be familiar with the compliance requirements of US stock plans. A company's decentralized structure may lead to looser or no controls globally. Inadequate and ad hoc procedures can lead to compliance failures and result in significant fines, penalties, and interest. Best practice is for the corporate headquarters to make decisions regarding local country compliance. Audit local country practice periodically to confirm compliance is consistent with corporate instructions.

6.8.3. Many factors need to be considered in determining how a company should collect tax on an equity award. Some of the factors to be considered include:

- Number of employees with equity awards in each country
- Employee demographics
- Availability of company cash
- Company risk profile

- Impact of noncompliance on employee
- Equity plan database functionality
- Payroll system functionality
- Requirements of external auditors regarding withholding rates and practices
- Acceptable withholding methods under local law

Balance the cost of compliance with the benefits and risks of noncompliance. Companies with a large number of employees with equity awards or large equity grants may be more closely scrutinized by the tax authorities than companies with one or two employees with equity awards. Determine the capabilities of the local country payroll system. Frequently the local payroll system will be unable to process additional tax payments or tax adjustments on equity awards.

6.8.4. Companies frequently desire to give employees a choice as to how to pay the required tax on equity awards. When determining how to collect tax on equity awards, allowing choice requires extra administration. Best practice is to mandate an appropriate method of collecting payroll tax in each country. If multiple methods of payment are offered in a country and employees are allowed to elect which method to use, require the employee make the election at least 15 days prior to the exercise of an option or the vest of restricted stock/restricted stock units. If no election is received within the 15 day period, provide a default method such as sell-to-cover. Section 16 officers' ability to choose withholding methods may be limited to avoid short-swing profits.

6.8.5. As noted above, using withhold-to-cover for non-US employees has many challenges and may only be applicable in specific countries. Withholding tax in excess of the maximum individual rate may trigger liability accounting. Since the accounting guidance was only recently revised to allow withholding shares at the maximum tax rate, many companies have used sell-to-cover for non-US employees to minimize these problems. If withhold-to-cover is used for non-US employees, consult with the Company's external auditor to ensure the tax withholding process is not in excess of the maximum tax rate and therefore does not affect the classification of the award as an equity instrument. To ensure the appropriate compliance requirements are met, develop country-specific checklists that highlight appropriate steps in the process.

6.8.6. Payroll reporting and withholding in multiple countries requires coordination of many groups including Equity Compensation, local Payroll, the company-designated broker, and in many cases a third-party administrator. Best practice is to test the process in each country by submitting sample information prior to major transactions such as a vesting of restricted stock units. The test will highlight potential problems before the actual transactions occur and will allow time to modify the process to avoid problems with the actual data.

6.9. Dividends and Dividend Equivalents.

6.9.1. When restricted stock is granted, shares are issued and the employee becomes the shareholder of record. Although subject to forfeiture during the vesting period, restricted stock is considered issued and outstanding stock of the Company. Employees holding unvested restricted stock are shareholders even though they do not take possession of the stock until a future date when the associated restrictions have lapsed. While the restrictions are applicable, the employee may have dividend rights, but these rights are not mandatory. The majority of US-headquartered companies that pay dividends to shareholders pay dividends on restricted stock. Dividends paid to US employees prior to vest are considered employment income and taxed appropriately. The tax impact of dividends paid to non-US employees is discussed in paragraph 6.9.4.

6.9.2. When restricted stock units are granted, the employee has received a promise to receive shares at some future date. Since the employee does not acquire "shares" and is not a shareholder before vesting, there are no dividend rights. The Company may choose to pay dividend equivalents to mirror the treatment of restricted stock. Dividend equivalents are not actual dividends, but the payments are structured to mirror dividends. Frequently US-headquartered companies that pay dividends to shareholders pay dividend equivalents on restricted stock units. Dividend equivalents paid to US employees are considered employment income and taxed appropriately. The dividend equivalents may be paid in cash when dividends are issued or they may be paid in cash or shares when the restricted stock units vest and shares are issued. The tax impact of dividends paid to non-US employees is discussed in paragraph 6.9.4.

6.9.3. There also may be US tax withholding on the payment of dividends and dividend equivalents from a US-headquartered to a non-US employee. Dividends paid to non-US persons may be subject to US withholding at source by the payor of the dividend (i.e., generally the transfer agent or broker distributing the payment). The amount of withholding may be reduced if the non-US person completes a Form W-8 BEN and if there is a treaty in place with the respective country. In general US tax withholding is not required for payment of dividend equivalents. Section 3401(a)(6) defines wages as all remuneration for services performed by an employee for his employer, except payments for services performed by a nonresident alien individual.[4]

6.9.4. The tax treatment of dividends paid on restricted stock and dividend equivalents paid on restricted stock units varies by country. In some countries the income is considered earned from employment and subject to social tax. In other countries income may be considered unearned income (i.e., not related to employment) and social tax is not required. The dividend may be treated as a new grant and require separate tracking. The withholding rules for dividends and dividend equivalents may be different from the withholding requirements on restricted stock and restricted stock units. Consult tax or legal counsel regarding the withholding and reporting requirements in specific countries. The tax treatment should be summarized on the country-specific administrative guide. (See Appendix C.)

6.9.5. The payment of dividend equivalents on restricted stock units may impact the taxability of the underlying award and facilitate tax withholding. As noted in paragraph 6.2.1 countries may deem that significant ownership rights are transferred when restricted stock is granted. These ownership rights relate to dividends and voting rights. In those countries, restricted stock may be taxed at grant, rather than at vest/release. On the other hand, restricted stock units are usually taxed at release. The award is viewed as a promise to distribute stock in the future, but no ownership rights are conferred at grant. The payment of dividend equivalents on restricted stock units may be interpreted as acquiring ownership rights at grant. Under local law these ownership rights may trigger taxation of a restricted stock unit at grant similar to the treatment of restricted stock. Dividend equivalents paid in cash may be used to offset tax withholding when simultaneously paid with the issuance of shares at vesting of restricted stock units. It may also be necessary to treat the dividend equivalent as a new grant in order to avoid triggering similar tax withholding on the restricted stock unit grant, especially when the tax withholding requirements are different or the restricted stock unit falls under a tax advantaged plan.

4 IRC 3401(a)(6).

6.9.6. It is not common to pay dividends or dividend equivalents on stock option awards.

6.10. Mobile Employees.

6.10.1. Mobile employees are employees who work in one or more countries or states between the grant of an equity award and when the equity award is taxable under local law. Since the employee works in various tax jurisdictions, each jurisdiction may tax some or all of the income associated with an equity award. Mobile employees include –

- Employees that permanently move from one location to another location
- Employees that move from their home location to another location for some time period and then return to their home location
- Employees that work concurrently in more than one location
- Business travelers

6.10.2 Rules in countries regarding the taxation of equity compensation vary. Equity compensation may be taxable to an employee at grant, vest, exercise, lapse on restrictions on shares, sale, or at the point when an employee permanently leaves a country. When an employee moves from one country to another, each country may want to tax the employee on the income from the equity compensation, and the employee may pay tax in more than one country. The tax may be owed at the time of the taxable event or at the time the employee departs the country on a "deemed" basis. The mobile employee may even be subject to tax in a country where the employee no longer works. This is frequently referred to as a "trailing liability." Exhibit 13 includes an example of how equity awards may be taxed for mobile employees. Exhibit 14 summarizes some of the information needed to properly determine withholding and reporting requirements in a country.

6.10.3. Local law controls how equity compensation is taxed. The local law may provide that equity compensation is fully taxed or only a percentage is taxed. The US Federal income rules are quite clear with respect to the taxation of equity compensation for mobile employees. A US tax resident (including citizens, permanent residents (green card holders), and individuals satisfying the "substantial presence" test) is taxed on worldwide income regardless of where the individual is working. (Worldwide income includes all income regardless of where it is earned or paid.) Therefore, a US tax resident will always be taxable in the US on 100% of the equity compensation even though the person is working in another country. (Exemptions, exclusions, and tax credits may apply to reduce the amount of US tax payable.) Note that Double Tax Treaties can override local taxation.

6.10.4. A non-US citizen or permanent resident who moves to the US will generally become a US tax resident within 183 days of moving to the US (on the basis that he or she satisfies the requirements of the "substantial presence" test). (Note – The determination of US tax residency is very complicated and beyond the scope of this publication. An individual's facts and circumstances should be reviewed in detail to determine if the individual qualifies as a US tax resident.) Once an individual is a US tax resident, the individual is taxed on worldwide income. Therefore, a US tax resident is subject to US tax on 100% of equity compensation even if the award was fully vested prior to establishing US residency.

EXHIBIT 13 - TAXATION OF MOBILE EMPLOYEES
1 January 2012 John works in Country A. John receives a stock option from his employer that vests in 3 years. 1 January 2013 John moves to Country B. John's option vests 1 January 2015. 1 January 2016 John exercises his option. Country A and Country B tax stock options when the option is exercised. Country A and Country B have the right to tax John's options.
To determine how John is taxed, look to the tax laws in Country A and Country B. Many countries tax John even though he is no longer a tax resident of that country on the theory that John worked in the country after he was granted the option. Therefore, a portion of the option earnings relates to the period John was working in that country.
Assume Country A taxes a prorata portion of the income at exercise and Country B residents are taxed on their worldwide income. When John exercises the option, Country A taxes 1/3 of the income because John worked in Country A for 1-year during the 3-year vesting period. Country B taxes 100% of the income because John is a tax resident of Country B.

6.10.5. When a US tax resident (who is not a US citizen or green card holder) leaves the US, the individual may still hold equity compensation that has not been taxed. US law provides that when the taxable event occurs, the employee is subject to US tax on the portion of the income earned in the US. For example, an employee may hold unvested restricted stock when US residency is terminated. When the restricted stock vests, the portion of the income attributed to US services will be subject to US tax.

6.10.6. Each country has the right to tax the income, which can result in double taxation. However, there may be ways to avoid double taxation. Some countries tax only a portion of the income. Some tax 100% of the income, but allow a tax credit for tax paid to another country (i.e., foreign tax credits). Tax credits provide an offset for income that is double taxed by reducing actual tax by tax paid in another country. See Exhibit 15 for an example of a foreign tax credit. Some countries have entered into bilateral agreements that provide special handling of double-taxed income. Tax treaties are agreements between two countries that address how each country will tax certain types of income and include provisions to avoid double taxation.

6.10.7. Common methods of allocating equity compensation are –

- Allocating income based on work location/ work days between date of grant to date of vest as compared to total work days from date of grant to date of vest, for each tranche.

EXHIBIT 14 - INFORMATION NEEDED TO DETERMINE TAXATION OF MOBILE EMPLOYEES

- Work country
- Country of residence
- Nationality
- Visa
- US green card status (lawful permanent resident)
- Total time spent in country and in local jurisdictions (e.g., State, Province, Canton)
- Tax residency in country at grant/hire (e.g., resident, nonresident, resident but not ordinarily resident, etc.)
- Tax residency during vesting and at vest (e.g., resident, nonresident, resident but not ordinarily resident, etc.)
- Employer in home country (e.g., US corporation, branch of US corporation, non-US corporation, branch of non-US corporation, etc.)
- Employer in work country (e.g., US corporation, branch of US corporation, non-US corporation, branch of non-US corporation, etc.)
- Special tax treatment
- Date of transfer
- Intended duration of stay
- Applicability of income tax treaty
- Conditions of grant (e.g., grant made on the transfer to the new country)
- Tax equalization policy
- Previous international travel for work
- Certificate of coverage
- Taxable income for income tax purposes
- Taxable income for social tax purposes
- Exit taxes

- Allocating income based on work location/ work days between date of grant to date of exercise as compared to total work days from date of grant to date of exercise

See Exhibit 16 for a comparison of methods of allocating equity compensation. The US Internal Revenue Service has issued regulations regarding the allocation of income for purposes of where income is deemed earned. The regulations address multi-year compensation arrangements including stock plans, transfers of restricted property, and other deferred compensation arrangements that generally relate to services performed over a period of more than one year. The allocation is based on time apportionment and the applicable facts and circumstances. In the case of stock options, income is generally allocated based on the work location between the date of grant and the date of vest.

Some countries and states are targeting mobile employees for audits. Employees and companies that are not compliant may be subject to interest, monetary penalties, and in some cases criminal penalties, i.e., jail time.

6.10.8. Some countries assess an exit tax when the employee leaves the country. To avoid future compliance and collection problems, the individual is taxed as though the equity compensation was taxable when the employee moves. An exit tax can create problems for the employee. Tax may be due even though the equity award has not vested. The exit tax may not be adjusted to reflect subsequent decreases in the value of the award. An exit tax may also complicate the foreign tax credit calculation.

6.10.9. The rules surrounding mobile employees are very complicated and it is challenging to comply with the tax withholding and reporting requirements in multiple countries and in multiple payroll systems. Tax authorities have started to take an interest in equity compensation of mobile employees and some countries are targeting mobile employees for audits. Employees and companies that are not compliant may be subject to interest, monetary and civil penalties, and in some cases criminal penalties, i.e., jail time.

EXHIBIT 15 - FOREIGN TAX CREDIT

$1,000	Salary income taxed in Country A
$ 100	Stock option income
100%	Stock option income taxed in Country A
30%	Stock option income taxed in Country B
40%	Tax rate in Country A and Country B

Tax paid in Country B is a foreign tax credit in Country A

	Tax Calculation		
	Country A	Country B	Total Tax
Salary income	$1,000		$1,000
Stock option income	100	$ 30	100
Total income	$1,100	$ 30	$1,100
Tax rates	40%	40%	40%
Tax before credits	$ 440	$ 12	
Foreign tax credit*	-12	n/a	
Tax after credits	$ 428	$ 12	$ 440

* Certain limitations may apply

EXHIBIT 16 - METHODS OF ALLOCATING EQUITY COMPENSATION

Mary works in Country A
1/1/20X1 Mary receives a stock option from her employer that vests in 3 years
1/1/20X2 Mary moves to Country B
1/1/20X3 Mary's options vest
1/1/20X4 Mary exercises her option
Total gain on the option is $10,000

Method	Calculation of Income Allocated to Country A
Allocating income based on work days between date of grant to date of vest as compared to total work days from date of grant to date of vest	1 year / 3 years x $10,000 = $3,333
Allocating income based on work days between date of grant to date of exercise as compared total work days from date of grant to date of exercise	1 year / 4 years x $10,000 = $2,500

KEY CONSIDERATIONS

- What are the income tax consequences at the grant of an equity award?
- What are the income tax consequences at the vest of an equity award?
- What are the income tax consequences at the exercise of an equity award?
- What are the income tax consequences at the lifting of any restrictions on the shares acquired pursuant to the equity award?
- What are the income tax consequences at the sale of shares of stock?
- How is FMV defined under local law?
- Is the equity award subject to social tax?
- Can the employer's portion of social tax be transferred to the employee?
- What are the income and social tax withholding and reporting obligations?
- What is the tax year for reporting the income?
- What is the appropriate rate of income and social tax withholding?
- What is the employer's portion of the social tax?
- Can the employer's portion of the social tax be reimbursed by the employee?
- How will the employee's portion of the tax be collected?
- Is the method used to collect tax permissible under local law?
- Does the withholding method affect the classification of the award of accounting purposes?
- Does the withholding process meet the requirements under local law?
- How will the taxable income and withholding be reported to Payroll?
- Does the parent company have any obligations (e.g. financial reporting, withholding) under local law?
- Are the responsibilities of the various constituents (e.g., Payroll, Equity Compensation, third-party administrator, broker) clearly defined?
- Is the tax withheld in the equity plan database reconciled to the local payroll records monthly?
- Are there any tax-advantaged equity plans under local law?
- Does charge of the cost of the award from the parent to the local entity have any impact on the taxation to the employee?
- Should cashless exercises be required to avoid exchange control restrictions?
- How are dividends and dividend equivalents taxed under local law?
- Does the payment of a dividend equivalent affect when restricted stock units are taxable?
- How is taxable income for each country determined for mobile employees?
- Does the country assess an exit tax when individuals leave the country?
- Is the cost of compliance balanced against the risk of noncompliance?

Accounting

7.1. Overview.

7.1.1. This section focuses on the key issues associated with accounting for equity awards to non-US employees. Paragraphs 7.2 to 7.5 consider the reporting issues under US GAAP. Paragraph 7.6 considers the reporting issues under IFRS. A detailed discussion of the specific issues related to the equity-based compensation expense calculation is beyond the scope of this publication.

7.1.2. ASC 718 addresses the treatment of share-based payments under US GAAP. IFRS 2 addresses the treatment of share-based payments under the international accounting standards. Unless a US company elects to adopt IFRS, US GAAP is normally used for preparing financial statements of US-headquartered companies.

7.1.3. In general, ASC 718 requires public companies to measure the cost of awards based on the grant date fair value of the award, with limited exceptions. The cost of the awards is recognized over the requisite service period, usually the vesting period.

7.1.4. Assuming the equity awards are not readily marketable and will be delivered in stock of the Issuer, the fair value of employee stock options is estimated and fixed at the grant date using an option-pricing model. At a minimum the option-pricing model must include the following inputs –

- Grant price
- Expected term
- Market value of the underlying stock
- Expected volatility of the underlying stock
- Expected dividend rate
- Risk-free interest rate

7.1.5. Calculating the fair value of restricted stock and restricted stock units with time-based vesting is easier than calculating the fair value of options. The fair value is the difference between the FMV of the stock at the measurement date (usually the date of grant) and the amount paid for the stock (usually $0). The fair value must be decreased if dividends are paid on the underlying stock, but will not be paid on unvested awards. Any type of equity award may include performance criteria in addition to the requirement of continued service (i.e., the individual remains an employee of the Company). Awards with performance criteria are referred to as performance awards.

7.1.6. Additional information on determining the fair value of the various equity award types can be found in the corresponding GPS publication (e.g. see GPS|Stock Options for more details on the determining the fair value of options, and GPS|Restricted Stock and Restricted Stock Units for details on determining the fair value of restricted stock and restricted stock units).

ASC 718 addresses the treatment of share-based payments under US GAAP. IFRS 2 addresses the treatment of share-based payments under the international accounting standards. Unless a US company elects to early-adopt IFRS, US GAAP is normally used for preparing financial statements of US-headquartered companies.

7.2. Option-Pricing Model.

For determining the fair value of options, the option-pricing model applies to US and non-US employees. Study the demographic information of non-US plan participants to determine if stratification is necessary for purposes of determining the expected term of awards to non-US employees. When valuing options that have non-standardized terms to accommodate local country requirements, such as cliff vesting, review the pricing model being used to value the option as well as the underlying assumptions to ensure the model/assumptions are appropriate.

Study the demographic information of non-US plan participants to determine if stratification is necessary for purposes of determining the expected term of awards to non-US employees.

7.3. Forfeiture Rate.

The recognition of the cost (i.e., fair value) of the award over the service period may be reduced by estimated forfeitures during the service period of the award. Only grants that never vest because service conditions are not met are considered forfeited. Expiration of a vested but unexercised option or SAR is not a forfeiture. Study the demographic information of non-US plan participants to determine if the forfeiture rate differs. Document how forfeitures are estimated and how the amounts are reflected in the reports summarizing the compensation costs associated with equity compensation. ASU 2016-09 removed the requirement to estimate and apply an estimated forfeiture rate. Companies may now choose, as part of a one-time policy election, to true up for forfeitures as they occur.

7.4. Modifications.

With the release of ASU 2017-09, the scope of modifications was limited to changes in the terms of an award that result in a change to the fair value of the award, its vesting, or its classification (liability vs. equity). These modifications may include changes in the quantity of shares subject to the award, or repricing or vesting conditions that are not included in the original Plan and/or the Award Agreement. Modifications to awards may result in additional compensation expense. Document detailed descriptions of various types of modifications and educate local country Human Resource personnel as to what action may trigger a modification to avoid any unintentional modifications. Use a standard form to document the following items:

- The reason for each modification
- The details of the modification
- Approval of the modification
- The associated accounting impact, if any

7.5. Tax Accounting.

7.5.1. The accounting charge for equity compensation must consider the potential tax benefits of a future corporate tax deduction.
The benefits of the anticipated future corporate tax deduction are recognized currently for accounting purposes provided the equity award ordinarily will result in a future tax deduction under existing tax law.[5] A deferred tax asset (DTA) is recorded for the future corporate tax deduction of each grant. This is the amount of expense for the grant multiplied by the applicable corporate tax rate. It is recorded as the expense is recognized. At the time of settlement (i.e., exercise of an option, delivery of shares, or expiration of a non-qualified option), the DTA is adjusted to the actual tax benefit received by the Company. If the actual tax benefit exceeds the DTA, an additional tax benefit is recorded. If the actual tax benefit is less than the DTA, then a tax deficiency is recorded. Excess tax benefits reduce tax expense in the income statement, while tax deficiencies increase tax expense. No DTA is recorded for tax-qualified awards such as incentive stock options and Section 423-qualified ESPPs. If the shares are disposed of in a disqualifying disposition, the resulting tax deduction creates a reduction to tax expense.

5 ASC 718-740-25-2.

7.5.2. The estimated corporate tax benefit and the deduction on the corporate tax return must be tracked on a grant-by-grant basis. As discussed in paragraph 8.2, some countries do not allow a corporate tax deduction for equity compensation. In addition, countries outside of the US may have different tax rates. Therefore if a deduction is allowed in the foreign country, the DTA would typically reflect the tax deduction at the local tax rate, not the US tax rate. Care must be taken to determine the estimated corporate tax benefit in each country when setting up (if appropriate) a DTA and when calculating the excess or deficiency at vesting of full value shares/ exercise of options/expiration of awards.

7.6. IFRS 2.

7.6.1. In February 2004, the International Accounting Standards Board (IASB), whose standards are followed by entities in many countries, issued International Financial Reporting Standard (IFRS) 2, Share-based Payment. IFRS 2 requires that all entities recognize an expense for all services received in share-based payment transactions, using a fair-value-based method that is similar in most respects to ASC 718. The major differences between ASC 718 and IFRS 2 are summarized in Exhibit 17.

EXHIBIT 17 – MAJOR DIFFERENCES BETWEEN ASC 718 AND IFRS 2

Area	US GAAP	IFRS 2
Grant-Date Fair Value	Same fair value for different vesting tranches acceptable	Different fair value for each vesting tranche required
Attribution Method	Straight-line or tranche-by-tranche for time based awards (the latter is also referred to as "Graded" method)	Tranche-by-tranche (aka graded or accelerated) only
Valuation Assumptions	Country-specific stratification required, if material	Country-specific stratification required
Share Withholding	Maximum individual rate can be used without triggering liability accounting	Minimum statutory rate must not be exceeded to avoid liability accounting
Tax Accounting	DTA (Deferred Tax Asset) accrued based on grant-date fair value, trued up at settlement	DTA accrued based on intrinsic value at end of each reporting period (not to exceed fair value)
Accrual of Payroll Tax Liability	At time of taxable event (exercise, vest, release, etc.)	Accrued as award vests based on intrinsic value of grant at end of each reporting period
Non-Compensatory Section 423 plan	5% discount only (no lookback)	No safe harbor, all Section 423 plans considered compensatory

7.6.2. Although IFRS 2 is not currently applicable to financial statements issued under US GAAP, reporting under IFRS 2 may be required for financial statements issued in certain countries. Given the tranche-by-tranche requirement of IFRS 2, companies may also want to rethink issuing awards with monthly or quarterly vesting. IFRS 2 requires the fair value of each tranche to be determined separately and expensed using the graded method. For awards with graded vesting (e.g., vesting monthly), each vesting tranche is valued separately, and each tranche is expensed over its vesting period. In contrast, US GAAP allows a company to expense on either a tranche-by-tranche basis or on a straight-line basis. Changing the vesting from monthly to quarterly will reduce the significant administrative burden of calculating fair values for all tranches (four values per year for quarterly vesting tranches versus twelve values per year for monthly vesting tranches).

Although IFRS 2 is not currently applicable to financial statements issued under US GAAP, reporting under IFRS 2 may be required for financial statements issued in certain countries.

KEY CONSIDERATIONS

- Are valuation assumptions and forfeiture rates (if applicable) developed and applied on a country-by-country basis?
- Are controls in place to assess the accounting impact prior to potential modifications?
- Is a DTA only recorded for grants to employees in countries where a tax deduction is anticipated?
- Is the DTA set up and reversed on the country-specific tax rate?
- If there are significant awards for mobile employees, is the DTA based on the country in which the tax deduction is expected?
- Are statutory financial statements required in any country that is not under US GAAP?
- Which non-US subsidiaries are reporting under IFRS?
- Is expense currently recognized on a straight-line or graded basis?
- Are employees permitted to tender shares to cover taxes and/or the option price?
- Is a Section 423 plan offered?

Other Issues

8.1. Overview.

The detailed information provided in Sections 1-7 addresses the major areas of concern when administering equity plans for non-US employees. There are a variety of other issues that may arise. This section provides a brief overview of some of the ancillary issues and relevant factors to be considered. The issues vary by country and new legislation may generate additional requirements. Therefore, the information provided should not be treated as comprehensive.

8.2. Corporate Tax Deductions.

8.2.1. The non-US entity employing the grantee may be able to take a corporate tax deduction for the cost or intrinsic value of an equity award. The availability and the amount of the deduction are determined under local law. Securing a corporate tax deduction for the equity award may reduce the actual corporate tax that the Company pays in that country and the expense reported for financial statement purposes. A corporate deduction will also affect the tax rate used in the weighted-average share calculation for diluted earnings per share under ASC 260 (Earnings Per Share) and the calculation of the deferred tax asset under ASC 718.

8.2.2. The exact amount of the deduction varies by country but is typically the amount recognized as income by the employee. Some countries allow a deduction for the fair value of an award at grant. Other countries limit the deduction to the actual "cost" incurred by the parent. A corporate tax deduction is usually limited to employees working for the benefit of the local affiliate. For example, Corporation A in Country Z gets a deduction for equity compensation reported by Corporation A employees in Country Z. Corporation A doesn't get a deduction for equity compensation reported by employees of Corporation B in Country X. Corporate tax deductions for mobile employees must be reviewed carefully.

8.2.3. A corporate tax deduction may be available automatically or a formal agreement (i.e., chargeback or a recharge agreement) may be required between the US issuer and the non-US entity whereby the non-US entity agrees to reimburse the US issuer for the cost of equity awards. The availability of the deduction may be impacted by the type of documentation of the charge, the approval of the board or shareholders of the employing entity and the type of shares used to settle the awards (e.g., treasury shares). Confirm that the state of incorporation of the issuer permits treasury shares since some states require repurchased shares be canceled rather than held as treasury shares. The reimbursement payment to the US may require exchange control approval from local authorities.

8.2.4. A chargeback of equity awards will generally have a positive impact on cash flow of the US issuer. The chargeback of costs to a local entity means the repatriation of cash from the local entity to the US on a dividend-free basis. (Note – The payment of the grant price of an option increases cash to the US issuer whether or not the cost of the award is charged to the local entity.) Care should be taken to ensure that the arrangements comply with US requirements for tax-free repatriation.

The non-US entity employing the grantee may be able to take a corporate tax deduction for the cost or intrinsic value of an equity award. The availability and the amount of the deduction are determined under local law.

8.2.5. In many countries a chargeback agreement must be formalized before the award is granted. Claiming a corporate tax deduction for equity awards may trigger social tax (at a rate that may be higher than the corporate tax rate) or withholding and reporting obligations. Taking the deduction may also trigger exchange control or other legal issues. Carefully consider all consequences before implementing a chargeback of equity awards. Review chargeback agreements periodically, especially when plans are modified or added.

8.2.6. The impact of a chargeback may be mitigated by transfer pricing agreements that the Company has in place between related entities in the corporate group. Chargeback agreements may also create additional transfer pricing issues for the Company. The involvement of the corporate tax department is critical when implementing a chargeback of equity compensation.

8.2.7. For US tax purposes dividends paid on unvested restricted stock and dividend equivalents paid on unvested restricted stock units are deductible as compensation expense if paid through local payroll. A corporate tax deduction may be allowed in other countries for dividends and dividend equivalents paid to local employees if paid through local payroll.

8.3. Changes to the Equity Plan.

Changes to the Plan may have unforeseen non-US implications, especially regarding tax and legal issues (e.g., may require re-registration of the Plan under local law). Always consider non-US implications when making changes to a plan. Build flexibility into the Plan to minimize the need for further changes. Additional employee communications may be necessary to advise non-US employees of changes in the Plan.

8.4. Mergers and Acquisitions.

Equity plans require special attention during a merger, acquisition, internal reorganization, spinoff, or other corporate transaction. The following are some of the key areas to be addressed during the due diligence or the transition process –

- Identify areas of noncompliance
- Determine how equity plans will be consolidated
- Summarize tax and legal ramifications for settlement/conversion program
- Identify impact on tax-preferred non-US plans
- Identify new areas of compliance post-acquisition (e.g., increased size of employee base in a country, participants in new countries, new entities in a country)

KEY CONSIDERATIONS

- Are corporate deductions available in each country?
- What steps must be taken to secure a corporate deduction for equity compensation?
- Is the repatriation of cash to the US advantageous and consistent with business needs?
- Has a deduction for dividends/dividend equivalents paid been claimed?
- Have changes to the Plan been reviewed for global implications?
- Have all corporate transactions been reviewed to determine the impact on equity plans?

Next Steps

9.1. Overview.

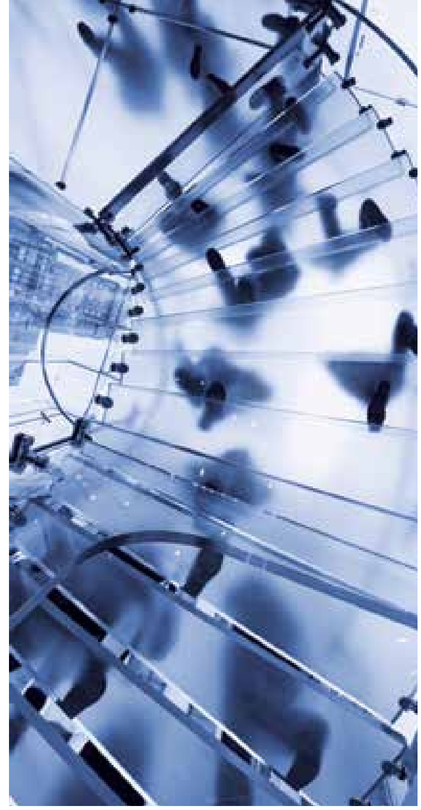
Implementing and administering global equity plans is complicated. The number of processes that must be reviewed and compliance issues that must be addressed for each country is significant. It is difficult to know where to begin and where to focus. This section will provide guidance when converting the concepts addressed in this publication into an action plan.

9.2. Implementing a Plan.

9.2.1. Successfully implementing a global equity plan requires clearly defined objectives and a focused implementation strategy. Establish Company objectives, including the actual/perceived benefits to the employee and anticipated costs of the Plan, prior to designing the Plan. Section 2 discusses factors to consider when designing a total rewards package that includes equity compensation for non-US employees. Utilize a team approach in the decision-making process to ensure all critical issues are addressed at the design stage. Incorporate due diligence in the design process to identify items that may affect plan design such as troublesome tax and legal issues or appropriate planning opportunities. (Appendix D identifies countries that may require tax reporting and withholding for equity awards and countries that may require local country registration. Appendix E identifies significant countries that may have tax-favored equity opportunities.)

9.2.2. The implementation process converts the Plan into reality. Update the due diligence from the design phase and, where appropriate, conduct additional research. In some cases the cost of complying with various legal and tax requirements may exceed the benefit to the Company or the employees. Involve appropriate tax and legal personnel in making risk management decisions to ensure all factors are considered.

9.2.3. Coordinate with local Human Resources and Payroll to identify what data is required and when it is required. Payroll system functionality may impact how the Plan will be administered in a specific country. Document the process in a country-specific administrative guide. See Appendix C for an example of a country-specific administrative guide. Highlight administrative processes that are inefficient or costly. In certain countries it may be necessary to reconsider the granting of equity awards or restructure the type of equity award granted to accommodate local-country requirements.



Successfully implementing a global equity plan requires clearly defined objectives and a focused implementation strategy.

9.2.4. Companies grapple with how to meet the compliance requirements in every country. It may not be possible or practical to be in full compliance. Best practice is to prioritize compliance in key locations. Factors used when prioritizing compliance requirements include, but are not limited to –

- Number of employees impacted
- Anticipated growth in a country
- Level of public scrutiny of business activities
- Exposure to penalties and interest
- Enforcement by local authorities

9.2.5. Develop a strategy to communicate the Plan details and benefits to the employees. The strategy may incorporate written materials, local meetings, and web-based learning. The communication strategy should fit the corporate culture and reflect country-specific requirements.

9.2.6. Equity plan database software, brokers, and third-party administrators have enhanced their service offering and functionality to support global equity plans. When selecting a vendor for a global equity plan, the request for proposal should gather information for the unique needs of global plans. Appendix F is a sample of additional information that may be requested from vendors supporting global plans. Identify areas that may require workarounds in response to system limitations. Review the contract for services closely to ensure the contract incorporates all requirements for global employees.

9.3. Maintaining a Plan.

9.3.1. Frequently a company implements an equity plan for non-US employees before understanding all the legal and tax requirements in a country. In those cases plan maintenance includes many of the steps noted in paragraph 9.2 regarding implementing a plan. Highlight compliance gaps and develop an action plan to ensure compliance. As noted previously in some cases the cost of complying with various legal and tax requirements may exceed the benefit to the Company or the employees.

9.3.2. Companies may use a centralized or a decentralized approach to plan administration. A centralized approach means most administrative processes are handled at corporate. The local entity involvement is limited to serving the needs of the local employees and meeting the country-specific compliance requirements such as tax withholding and reporting. Centralizing administration usually is most efficient and effective. In addition, centralization allows for more control over the administrative process. If the equity plan administration is decentralized, additional internal controls must be implemented. Best practice is to audit local country activities regarding tax and legal requirements to ensure the process implemented by corporate is understood and followed.

9.3.3. Maintaining current tax rates is important to meet the country-specific tax withholding requirements. At a minimum, tax rates should be confirmed on a regular basis (e.g., quarterly) or prior to significant events such as the vesting of restricted stock units. Tax rates are usually not provided by third-party administrators such as brokers. Tax service providers, such as international accounting/law firms, or local country Payroll usually provide this information.

9.3.4. Keeping up with detailed compliance requirements can be difficult. Companies with operations in a large number of countries may have multiple changes in the tax and legal requirements monthly. A company must be aware of legislative changes, changes in the enforcement or interpretation of current legislation, and judicial decisions. Develop a plan to keep current and budget for outside counsel to be involved in periodic review. Best practice is to review the key countries quarterly and to develop a relationship with a service provider to periodically review the risk management decisions and evaluate/resolve troublesome issues. Many service providers provide timely updates on significant law changes. See the "About Our Sponsors" section for helpful websites.

9.3.5. To ensure the administration of the Plan is efficient and effective, review the administrative processes regularly and reexamine the decisions made when implementing the Plan. Involve the appropriate personnel (see paragraph 2.5 regarding the team approach) and the third-party administrator/broker. Identify processes that are inefficient. Review the country-specific administrative guide annually to ensure the details in the guide reflect current practice.

9.3.6. When using a third-party administrator to handle all or part of equity plan administration, implement an annual process to review processes, responsibilities, and specific handoffs. The annual review should include –

- New releases of the equity plan database
- Changes in the Plan
- New country-specific requirements

9.3.7. On a periodic basis review the Plan to determine if the plan objectives are being met. Equity plans are part of the total rewards package for an employee. As changes are made in the total rewards package for competitive reasons or to meet statutory requirements in a country, the role of equity compensation may change. A periodic review of the plan benefits as perceived by the employees can identify opportunities to create a more appropriate rewards package.

To ensure the administration of the Plan is efficient and effective, review the administrative processes regularly and reexamine the decisions made when implementing the Plan.

Appendix A – Acknowledgements

The Certified Equity Professional Institute (CEPI) at Santa Clara University would like to acknowledge the substantial contributions that made this publication possible. The original publication was funded by support from our Title sponsors, Bank of America Merrill Lynch, Fidelity Stock Plan Services, and Transcentive, a Computershare company. Additional support was provided by our Contributing sponsors, Alston + Bird LLP, Baker & McKenzie LLP, Ernst & Young LLP, Global Tax Network US, LLC, James F. Reda & Associates LLC and PricewaterhouseCoopers LLP. As much of this publication leverages that prior work, their contribution was critical to this updated version.

Significant funding for this current document was provided by our Title sponsors, Bank of America Merrill Lynch, Charles Schwab, E*TRADE Corporate Services, Fidelity Stock Plan Services, Morgan Stanley, Solium and UBS Financial Services. By sponsoring this research project, these industry leaders have made it possible for all issuers and service providers to benefit from comprehensive standardized industry guidelines.

It is not possible to complete a project of this magnitude alone. Such an undertaking requires the perspectives and inputs of a diverse group of industry experts. The publication was the culmination of extensive interviews, in-depth analysis and a widespread technical review. This publication was able to build from that research and review, coupled with additional input and review from four additional authors. The guidance and inputs of members of the Technical Oversight Board provided invaluable expertise throughout the project to ensure that the publication captures an industry-wide perspective.

2017 Technical Oversight Board

Merav Brown, CEP	UBS
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Renee Trotta, CEP	Charles Schwab
Marlene Zobayan, CEP	Rutlen & Associates LLC

Additionally, the CEPI is fortunate to have a dedicated and supportive Advisory Board. The Advisory Board initially recommended that the CEPI pursue independent research projects, and the Advisory Board has been actively involved throughout the project.

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Marlene Zobayan served as the primary editor for this update. Marlene is a partner at Rutlen Associates LLC. She has more than 20 years of international tax and benefits experience including global equity plans, mobile employee taxation, global compensation and benefits. She provides a range of services to her clients including global equity plan design, tax reviews and optimization, assistance with local approvals and filings, communications, and designing administrative processes; she is known for her expertise with mobile employee issues.

Marlene is a regular speaker and author on global stock plan and rewards issues. Prior to joining Rutlen Associates, Marlene was the practice leader on the west coast for Deloitte Tax's Global Rewards group. In November 2009, Marlene was awarded the Individual Achievement Award by the National Association of Stock Plan Professionals.

Marlene has a Physics degree from Oxford University; she is a member of the U.K. Association of Tax Technicians, a US Enrolled Agent and Certified Equity Professional. Marlene was Chair of the Advisory Board of the Certified Equity Professional Institute (CEPI) of Santa Clara University, she is currently a member of the Curriculum Committee.

Valerie Diamond
Valerie Diamond of Baker McKenzie served as the primary editor for the 2017 update. Valerie reviewed the entire document, and solicited input from additional subject matter experts as needed. Valerie's expertise in the area of global equity plans was invaluable to the success of this project.

Valerie Diamond is chair of Baker McKenzie's Global Equity Services Sub Practice Group. She assists companies in the design and implementation of international employee stock plans and provides advice on the tax, securities law and exchange control compliance issues that arise when options, restricted stock units or purchase rights are granted to service providers. Ms. Diamond is a member of the CEPI advisory board and the NASPP advisory committee. She has been named a "Leader in the Field" by Chambers USA, which notes that "her international focus and expertise makes her a go-to attorney for large corporations in the US." Ms. Diamond assists clients of all sizes in meeting international compliance obligations relating to all forms of equity awards and long-term incentives. She also is the author of BNA Publication, "Global Share Plans: Issues for Multinational Employers."

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Stacy Hisman, CEP
Stacy served as the coordinator for the 2017 update to this publication. She reviewed and collected the comments from the Technical Review Board and incorporated their comments into the publication. Stacy was instrumental in keeping the project on track.

Stacy Hisman is a compensation leader with over 15 years of experience in executive and equity compensation. She most recently served as Senior Director, Compensation for Cox Automotive where she oversaw a team responsible for designing and delivering competitive compensation strategies and programs for the company's 30k+ employees. Prior to Cox Automotive, Stacy held progressive roles in executive compensation for Cox Enterprises. Stacy has served as a member of the Curriculum Committee for the CEPI since 2008.

Additional Acknowledgements

The CEPI thanks Baker McKenzie for the use of their Global Equity Matrix (referenced in Appendix D). The Matrix is updated on an ongoing basis, ensuring that anyone using the GPS publication has access to the latest information regarding reporting, legal compliance and regulatory registration requirements for most countries in the world.

The CEPI thanks PwC for the use of their data on countries with tax favored equity plan opportunities (included in this publication as Appendix E). In the future, their website will have a link with this same information, again providing GPS users with access to the latest information.

The CEPI acknowledges Carol Rutlen for her vision and significant contributions in making the original version of this publication. Although Carol was not active in this GPS release, much of the vision of the layout and scope of all of the GPS publications and much of the content in this publication must be credited to Carol.

The CEPI acknowledges Dee Crosby, the former Executive Director of the CEP Institute, for her commitment to the CEP program and her dedication to the GPS research projects. Dee acted as the overall project manager for the publications between 2012 and 2017. Without her support, these projects would not exist. Pam Chernoff, Curriculum Coordinator for the CEPI Institute, served as the project manager for the 2019 update.

Additionally, the CEPI recognizes the hundreds of equity professionals who contributed to this project through in-depth interviews, research participation, or thoughtful comments. Without the involvement of these professionals, this publication could not exist.

Appendix B: Common Equity Compensation Terms

Accepted Terminology	Equivalent
409A	Internal Revenue Code 409A
Acquired Rights	Regularly offered employer-sponsored benefit which is deemed non-discretionary and cannot be taken away
Approved Plan	A plan that receives favorable tax treatment in a specific country
ASC Topic 718	Accounting Standards Codification on stock compensation incorporating FAS 123(R)
Award Agreement	Employee Equity Agreement; Grant Agreement; Agreement
Black-Scholes Model	Black-Scholes Option Pricing Model; Black-Scholes
Blackout Period	Period of time in which designated individuals cannot trade securities of a corporation
Board	Board of Directors
Broker	Brokerage Firm; Securities Dealer; Registered Broker; Stock Broker
Chargeback Agreement	Arrangement between an Issuer and its subsidiary where the subsidiary reimburses the parent for the cost of an equity program
Clawback	Contractual right to recover gains from equity compensation in certain circumstances
Cliff Vest	Entire award vests in full on a single date
Common Stock	Capital Stock; Securities
Compensation Expense	Expense; Compensation Cost
Compensation Income	Income; Compensation
Data Privacy Laws	Laws regarding how personal information is collected, processed in a database, and transferred from one country to another
Deferred Tax Asset	DTA; an asset representing anticipated tax benefits to be received in the future
Director	Member of the Board of Directors; Board member
Employee Stock Purchase Plan	ESPP; a plan which permits employees to purchase stock in the employer through regular contributions, often with favorable terms; may be US tax-qualified under IRC Section 423
Employee Trading Restrictions	Restrictions for employees on trading company stock
Exercise	To implement the rights of an option to purchase shares at a predetermined price
Exchange Control	Restrictions on inbound and outbound transfer of local currency
Exit Tax	A tax on equity imposed when an individual terminates residency or leaves a country
FMV	Fair Market Value
Fair Value	Accounting term for SFAS 123(R)
FASB	Financial Accounting Standards Board
Forfeiture	An accounting term for awards which never vest due to a failure to satisfy the requisite service period
Graded Vesting	Incremental schedule over which vesting requirements are met
Grant	Award
Grant Date	Date of Grant; Option Date
Grant Price	Exercise price; cost to acquire the underlying shares of an equity award
Home Country	The country of origin for a mobile employee
IASB	International Accounting Standards Board

IFRS	International Financial Reporting Standards; guidelines and rules for preparing financial statements
ISO	Incentive Stock Option; a US tax-qualified option
Insider	Affiliate
IRC	Internal Revenue Code
IRC Section 423 Plan	ESPP; Employee stock purchase plan that complies with the statutory rules of IRC Section 423
IRC Section 83(b) Election	US tax election to include the FMV of property received (less any amount paid for the property) in the year of transfer
Issuer	Company that "issues" stock; may be privately held or publicly traded
Leave of Absence	Leave; LOA
Mobile Employee	Employees that work in one or more countries between the time they are granted equity compensation and when the equity compensation is taxable under local law
Modification	Change; edit related to a Plan, award or grant of equity
Non-US Affiliate	A corporate subsidiary or affiliate organization in the same group, owned or controlled by the US Issuer
Non-US Employee	Employees working in a country other than the US; may be a citizen of the work country, a citizen of the US, or a citizen of another country
Notice Period	Advance notice required prior to the formal termination of employment; may include a period when the employee is not providing service to the company
Plan	Legal document or rules under which employee equity awards are granted, including employee stock option plan, employee stock purchase plan
Recharge Agreement	Chargeback; agreement where a foreign subsidiary reimburses the issuer for the costs of equity awards
Release	Transfer of shares to the recipient
Restricted Stock Award	RSA; Equity award in which stock is issued, usually at no cost, subject to vesting restrictions
Restricted Stock Unit	RSU; Equity award in which a promise is made to issue stock, usually at no cost, when vesting restrictions have been met
Same-Day-Sale	SDS; exercise of an option and simultaneous sale of shares through a broker
SEC	Commission; Securities and Exchange Commission
Sell-to-Cover	Shares sold from award to cover tax obligation
Shares	Stock
Stock Option	Equity award in which the right to purchase stock at a fixed price for a fixed period of time is granted; may be subject to vesting or other restrictions
Stock Plan Brokerage Account	Brokerage account established specifically for company stock plan transactions
Subplan	Partitioned section of an equity plan to serve particular jurisdictions
Tax Treaty	Bilateral agreements between countries that provide how items are treated for tax purposes
Tax Withholding	Withholding
Termination	Conclusion of an employment arrangement
Transfer Agent	Agent responsible for issuing and transferring shares of a corporation
US GAAP	Generally accepted accounting principles normally used for preparing financial statements of US-headquartered companies
Vest	Award no longer subject to substantial risk of forfeiture
W-8BEN	IRS form to certify ownership of assets by a non-US taxpayer
Withhold-to-Cover	Shares withheld from award to cover tax obligation; net settlement
Works Council	A group representing employees in discussions with employer on working conditions, etc.

Appendix C:
Country-Specific Administration Guide

Country:		
Local Human Resource Contact:		
Local Payroll Contact:		
Topic:	Standard Practice	Country-Specific Requirements (Designate Responsible Party if Applicable)
Plan Design		
Types of awards issued		
Subplan or country specific terms used	YES/NO	
Legal Requirements		
Securities filings required		
Employee trading restrictions		
Labor law issues		
Data privacy		
Exchange control requirements		
Foreign ownership limitations		
Mandated employee communications		
Other		
Grant Process		
Employees covered		
Treatment of part-time employees		
Treatment of employees on leaves of absence		
Update of employee status – timing and process		
Standardized grant terms used	YES/NO	
Special vesting and post-termination provisions		
Special forfeiture provisions		
Special retirement provisions		
Definition of FMV		
Restrictions on timing of the grant/grant dates		
Reporting of grant to tax authorities		
Award agreement format		
Grant package documentation		
Grant acceptance required	YES/NO	
Translation requirements		
Other		
Transactions		
Establishing a stock plan brokerage account		
Require same-day-sale	YES/NO	
Special instructions to broker		
Restrictions on distribution of shares		
Methods of distributing proceeds		
Requirements for handling terminated employees		
Currency conversion		
Other		

Tax and Payroll Issues		
Tax treatment of award		
Withholding method		
Determination of withholding amount		
Key dates - Transmission of income and withholding data to Payroll - Due date of payroll tax deposits		
Format of data		
Rounding of shares		
Taxation of dividends/dividend equivalents		
Provide rates to broker		
Import withholding and reporting into payroll system		
Make tax deposit for tax withheld for equity awards		
Other		
Other Issues		
Corporate deduction available	YES/NO	
Documents required to secure corporate deduction		
Other		

Appendix D: Country Tax Withholding and Reporting, Legal Compliance and Regulatory Registration Requirements

Baker McKenzie's Global Equity Services practice publishes a complimentary Matrix summarizing local country employee tax treatment, employer tax withholding and reporting obligations and registration requirements for US public companies offering stock options, ESPP, restricted stock/restricted stock units and cash awards in 50 countries.

Topics covered in the Matrix for each of the 50 countries and the various awards include:

- Data Privacy Considerations
- Exchange Controls Requirements
- Plan Entitlement
- Securities Restrictions and Filings
- Subsidiary Tax Deduction
- Taxation of Employee
- Tax Withholding and Reporting

A copy of the Matrix can be accessed by visiting www.bakermckenzie.com/GESAPP.

The Matrix is available as a standalone document or as an app available to download for to an iPhone, iPad or Android smartphone or tablet. Downloading instruction are available at www.bakermckenzie.com/GESAPP or by accessing iTunes or Google Play.

DISCLAIMER

The information in the Matrix should not be relied upon for tax/legal advice and is not a substitute for obtaining such advice before a Company offers equity awards to employees outside the US. Although every effort has been made to ensure that the Matrix provides an accurate and up to-date summary based on grants to employees under a public company's plan, the laws applicable to stock plans change frequently and are often unclear in their application to awards offered by a company in another country. Also, specific plan features, structure of legal entities, industry of issuer, types of shares used, specific tax rulings obtained, etc. may affect legal and tax results. Specifically, depending on the terms of the plan/grant, the tax/legal consequences can vary greatly (e.g., dividend equivalent payments may accelerate the taxable event for RSUs). Accordingly, reliance on information in the Matrix for answering specific tax/legal questions is not advised. Instead, the information in the Matrix should be used only as a guide to potential tax/legal issues/consequences, and readers should seek appropriate legal and/or tax advice before making grants.

Appendix E : Significant Countries with Tax-Favored Equity Plan Opportunities

(Effective 31 May 2017)

The following information has been provided by PwC LLP. www.pwcequityplanner.com

Country Name:	Stock Options	Employee Stock Purchase Plan	Restricted Stock Units
Argentina	-	-	-
Australia	-	✓	-
Austria	✓	✓	✓
Belgium	✓	✓	✓
Brazil	-	-	-
Canada	✓	-	-
China	✓	✓	✓
Denmark	✓	✓	✓
Finland	-	✓	-
France	✓	✓	✓
Germany	✓	✓	✓
Hong Kong	-	-	-
India	-	-	-
Ireland	✓	✓	✓
Israel	✓	-	✓
Italy	-	✓	✓
Japan	-	-	-
Korea	-	-	-
Mexico	-	-	-
Netherlands	-	-	-
Norway	✓	✓	✓
Philippines	-	-	-
Singapore	✓	✓	✓
Spain	✓	✓	✓
Sweden	-	-	-
Switzerland	-	-	-
Thailand	-	-	-
United Kingdom	✓	✓	-
United States	✓	✓	-
Venezuela	-	-	-

Appendix F: Vendor Selection for Global Equity Plans

When selecting a vendor to support administration of equity plans, special attention needs to be paid to the needs of non-US participants and the special requirements for plan administration in all jurisdictions. This appendix identifies topics that may be appropriate to include in a Request for Proposal (RFP) for administering a global equity plan.

General Capabilities

- Describe support/services model for non-US participants
  - ✦ Locations and hours of operation for call centers
  - ✦ Web materials and capabilities
  - ✦ Live chat or email support
  - ✦ Real-time trading
  - ✦ Brokerage and other participant services
  - ✦ Funds disbursement/foreign exchange/remittance
    - ❍ Methods of delivering sales proceeds
    - ❍ Delivery charges (i.e., mailed check, wire transfer, overnight delivery)
    - ❍ Currency conversion and fees
- Describe language and translation capabilities, including telephone support and web materials
- Ability to customize participant communications
- Flexibility to customize support to meet country-specific requirements
- Describe data security and privacy to ensure enterprise security
  - ✦ Compliance/certification with European or other non-US data privacy standards
  - ✦ Data security procedures and protections
  - ✦ Data storage
  - ✦ Management of access to participant info
- Describe processing of shares and money (contributions, proceeds)
  - ✦ Ability to accept/send data to/from multiple payroll systems
  - ✦ Processes for managing funds and shares
- Other
  - ✦ Describe the abilities related to Insiders/Executive Services
  - ✦ Describe process for staying abreast of changes in non-US regulatory and compliance framework
  - ✦ Describe process for communicating changes in non-US regulatory and compliance framework to clients
  - ✦ Provide information as to the number of CEPs on staff

Equity Plan Database Functionality

- Describe the scope of the system's abilities for tracking and administering non-US plans, including
  - ✦ Plan participant data and naming restrictions
  - ✦ Requirements for unique global ID
  - ✦ Special processing or limitations for certain countries (i.e., only allowing same-day-sale of options in a particular jurisdiction)
  - ✦ Country-specific definition of FMV supported
  - ✦ Decimal place requirements
  - ✦ Grant expiration dates (midnight of day prior or 11:59 p.m. day of, and time zone used)
  - ✦ Information required for country-specific tax advantaged plans
  - ✦ Mobility tracking for tax withholding purposes
  - ✦ Dividend reinvestment calculation functionality

Equity Plan Database Functionality *(continued)*

- Describe the capabilities for generating and tracking grant/award agreements and packages, including
  - ✦ Types of agreements that can be generated
  - ✦ Ability to restrict transactions pending receipt of signed agreement
  - ✦ Ability to post different grant/enrollment agreements on website and ensure participant accesses correct agreement for his/her grant terms & conditions
  - ✦ Ability to track the grant agreement associated with each grant
  - ✦ Whether award agreements are generic or customized by group or participant
  - ✦ Whether participant grant information is included
  - ✦ Number of agreements/documents that can be posted per grant
  - ✦ Ability for participants to accept or reject awards online
  - ✦ Indicate if there are any countries where this functionality is not available
- Describe the system's ability to track multiple exercise types, including cash, cashless (same-day-sale and sell-to-cover), SARs, and stock swap (settlement in cash, stock, or combination of both)
  - ✦ Describe the method for processing each type of exercise, including
    - ❍ Ability to limit exercise types by demographic region (i.e., specific country location)
    - ❍ Calculation of tax withholding (domestic and non-US)
  - ✦ Describe the communications process for notifying Company when changes or corrections are required
  - ✦ Describe the ability to remit option grant price (and tax withholdings) to Company via multiple wire transfers to varying corporate bank accounts based on corporate entity
- Restricted Stock Awards/Units
  - ✦ Describe the system's ability to track Restricted Stock Awards/Units, including
    - ❍ Vesting dates
    - ❍ Releases/issuances
    - ❍ Tax elections
    - ❍ Calculation and tracking of tax payments due
    - ❍ Variances in definition of taxable event (grant or vest) based on country
  - ✦ Indicate the allowable methods of tax payment that can be supported, i.e., cash funding of account, check received directly from participant, net share issuance, etc.
  - ✦ Describe the process for gathering and tracking tax elections directly from participants and transmitting them to the administration system. Indicate whether online and/or manual election forms are available.
- Terminations
  - ✦ Describe the system's ability to track termination terms by plan and termination type, including the process for tracking non-standard termination terms
  - ✦ Describe the system's ability to implement different rules for various employment termination situations, such as retirement, death, or disability
- Describe the ability to track non-US insiders and executives
- Specifically address administering equity awards in the following list of countries and list any related issues or special services provided for participants in these countries:
  - ✦ Country X
  - ✦ Country Y
- List any countries not supported or for which there is limited support and the associated limitations.

Appendix F: Vendor Selection for Global Equity Plans *(continued)*

Participant Information and Transactions

- Describe the process for participants to set-up and activate accounts
  - ✦ Availability of on-line account set-up and activation. Indicate any countries where this feature is not available.
  - ✦ Process for W-9 and W-8BEN certification
  - ✦ Turnaround time for account activation
  - ✦ User security requirements
  - ✦ Any special requirements for non-US participants
- Transaction Processing
  - ✦ Describe the delivery methods and typical delivery times available for non-US participants. Indicate if any particular delivery methods are not available in all countries.
  - ✦ Describe company's ability to deliver proceeds in foreign currencies. Indicate which currencies are available.

Tax and Reporting

- Tax
  - ✦ Describe the source for tax rates; third party supplied, plan sponsor supplied
  - ✦ Describe the system's ability to capture and apply different tax withholding rates and caps for domestic and non-US participants. Indicate whether multiple tax rates are stored on an individual basis or whether they can be specified as a flat rate for a particular location.
  - ✦ Describe the ability to withhold tax at different taxable events as specified by local law in all countries in which the Company grants equity
  - ✦ Describe the system's capability to track holding periods as required in certain countries and notify the Company if holding periods are not met
  - ✦ Describe the company's process to deliver tax withholdings to the Company
  - ✦ Describe the ability to remit tax amounts to the Company through either a "Pay through Payroll" method or through a special bank account specified by the Company for countries with local income tax withholding and special exchange control requirements
  - ✦ Indicate the turnaround time for loading and processing updated tax withholding data
  - ✦ Describe the tracking and reporting of tax obligations for the various entities
- Reporting/Financial Reporting
  - ✦ Describe support for compensation expense reporting under IFRS2 and ASC 718
  - ✦ Describe support for compensation expense reporting by entity-level or user-specified element
  - ✦ Describe ability to provide data to the Company for expense or other financial reporting via feedback files
  - ✦ Describe ability to track data required for expense chargeback program
  - ✦ Describe audit and controls environment for financial reporting
  - ✦ Describe the system's ability to limit access for reporting purposes based on location and/or function
  - ✦ Describe the system's ability to track country or location code for reporting/tax purposes
- Describe capabilities for tracking mobile participants
  - ✦ Historical data and "As Of" dates
  - ✦ Status changes
  - ✦ Reporting on mobility changes
  - ✦ Support for third party/external services for taxation of mobile participants or expatriates

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[2] Source: Certified Equity Professional Institute, January 2017.

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