
France

Stock Option Plans

Employment

Labor Concerns

There is a risk of employees claiming that they are entitled to compensation for loss of rights under the Plan where the Plan is amended or discontinued or where their employment is terminated. Any term which provides that an employee whose employment is terminated for cause or gross misconduct will lose his acquired rights is unlikely to be enforceable.

There are laws which prohibit discrimination against, and/or less favorable treatment of, employees on certain grounds, including age, gender, disability and part-time status. Companies should be mindful of this when determining the eligibility of employees to participate in a Plan, the benefits being granted and the exercise of any discretion.

Communications

A disclaimer should be included in the award agreement, which acknowledges each employee's receipt of the Plan documents and the discretionary nature of the Plan, and confirms that termination of employment will result in the loss of unvested rights.

Although there is no legal requirement to do so, it is recommended that the Plan documents be translated into French.

Government filings must be made in French.

Electronic execution of award agreements may be acceptable under certain conditions, which are not onerous.

Regulatory

Securities Compliance

Neither the grant nor the exercise of Options is likely to trigger any prospectus requirements.

Foreign Exchange

Minor reporting requirements may apply for the transfer of currency into and out of France.

Data Protection

Provided employees have been informed in advance, processing of employee data for purposes directly connected to the employment relationship may generally be justified on the basis that the processing is necessary to: (i) fulfill the contract of employment; (ii) comply with a legal requirement imposed on the Subsidiary; or (iii) comply with a legitimate interest pursued by the Subsidiary. Purposes outside these categories need to be assessed on a case-by-case basis, and opt-in consent may be required in some cases. Generally, the Subsidiary must register data processing activities and databases with the local data protection authorities.

Tax

Employee Tax Treatment

An employee is generally subject to income tax at progressive rates (plus additional rates for high earners) on the gain on exercise (i.e., the excess of the market value of the Stock acquired over the aggregate exercise price).

Tax is also payable on any gain upon the net proceeds of sale of the Stock at progressive rates (plus the additional income tax for high earners).

Social Security Contributions

Social security contributions are due from both the Subsidiary and the employee on the gain on exercise of Options.

Tax-Favored Program

- (i) Favorable tax treatment is available for grants made under a French-qualified Plan. A French-qualified Plan is one that meets certain criteria, including being adopted by shareholder approval. A French sub-plan is often adopted to ensure that the necessary changes are made to the Plan in order to meet these criteria. For grants made under a French-qualified option plan, gains on exercise are subject to income tax at progressive rates (plus additional rates for high earners), but will not be subject to social security contributions if the Subsidiary complies with the applicable reporting obligations. The Subsidiary will, however, be required to pay an additional 10 percent social tax on the gain on exercise.
- (ii) Whether or not grants are made under a French-qualified Plan, the taxable gain on sale may be reduced by a progressive allowance depending on the period for which the Stock has been held - 50 percent for Stock held between two and eight years and 65 percent for Stock held for more than eight years.

Withholding and Reporting

The Subsidiary has no obligation to withhold income tax, but may have an obligation to withhold social security contributions.

Reporting requirements apply to the Subsidiary and the employee. The Subsidiary must provide: (i) the employee with an individual information report in connection with the exercise of Options during the reference period, no later than March 1, in the relevant year; and (ii) a copy of the individual information report to the National Tax Service, by no later than April 30. The Subsidiary must also report to the Security and Family Allowance Contribution Collection Offices the identity of the employees benefiting from the Plan and the number or value of Options attributed to them in order to be exempt from social security contributions.

The grant of Options to certain managers or to the ten employees benefiting from the highest Option grants during the year must be disclosed in a report in the annual shareholder meeting.

Employer Tax Treatment

A deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan. A written reimbursement agreement is required (setting out the criteria used to establish the amount to be paid by the Subsidiary). No such deduction is available for Options over newly issued shares.

France

Restricted Stock and RSUs

Employment

Labor Concerns

There is a risk of employees claiming that they are entitled to compensation for loss of rights under the Plan where the Plan is amended or discontinued or where their employment is terminated. Any term which provides that an employee whose employment is terminated for cause or gross misconduct will lose his acquired rights is unlikely to be enforceable.

There are laws which prohibit discrimination against, and/or less favorable treatment of, employees on certain grounds, including age, gender, disability and part-time status. Companies should be mindful of this when determining the eligibility of employees to participate in a Plan, the benefits being granted and the exercise of any discretion.

Communications

A disclaimer should be included in the award agreement, which acknowledges each employee's receipt of the Plan documents and the discretionary nature of the Plan, and confirms that termination of employment will result in the loss of unvested rights.

Although there is no legal requirement to do so, it is recommended that the Plan documents be translated into French.

Government filings must be made in French.

Electronic execution of award agreements may be acceptable under certain conditions, which are not onerous.

Regulatory

Securities Compliance

Neither the grant nor the exercise of Restricted Stock or RSUs is likely to trigger any prospectus requirements.

Foreign Exchange

Minor reporting requirements may apply for the transfer of currency into and out of France.

Data Protection

Provided employees have been informed in advance, processing of employee data for purposes directly connected to the employment relationship may generally be justified on the basis that the processing is necessary to: (i) fulfill the contract of employment; (ii) comply with a legal requirement imposed on the Subsidiary; or (iii) comply with a legitimate interest pursued by the Subsidiary. Purposes outside these categories need to be assessed on a case-by-case basis, and opt-in consent may be required in some cases. Generally, the Subsidiary must register data processing activities and databases with the local data protection authorities.

Tax

Employee Tax Treatment

For Restricted Stock, an employee is subject to income tax at progressive rates (plus additional rates for high earners) on the value of the Restricted Stock when it is granted.

For RSUs, an employee is subject to income tax at progressive rates (plus additional rates for high earners) on the value of the Stock received on vesting.

Tax is also payable on any gain upon the net proceeds of sale of the Restricted Stock or Stock at progressive rates (plus additional rates for higher earners).

Social Security Contributions

Social security contributions are due from both the Subsidiary and the employee on any income from the acquisition of Restricted Stock and the vesting of RSUs.

Tax-Favored Program

- (i) Favorable tax treatment is available for grants of both Restricted Stock and RSUs made under a French-qualified Plan, under which no tax is payable until the sale of the Stock. A French-qualified Plan is one that meets certain criteria including, (a) being adopted by shareholder approval, and (b) a minimum vesting period of one year and a minimum holding period of two years. A French sub-plan is often adopted to ensure that the necessary changes are made to the Plan in order to meet these criteria.

For grants of Restricted Stock or RSUs made under a French-qualified plan, the gain on acquisition of Restricted Stock or on vesting of RSUs up to €300,000 will be subject to income tax at progressive rates after deduction of an allowance of 50 percent for Restricted Stock or RSUs held between two and eight years and 65 percent for Restricted Stock or RSUs held for more than eight years (plus additional rates for high earners) and social security contributions at lower rates. Any gain on acquisition above €300,000 is subject to income tax at progressive rates with no allowance (plus additional rates for high earners) and social security contributions at lower rates.

- (ii) Whether or not grants are made under a French-qualified Plan, the taxable gain on sale may be reduced by a progressive allowance depending on the period for which the Stock has been held - 50 percent for Stock held between two and eight years and 65 percent for Stock held for more than eight years.

Withholding and Reporting

The Subsidiary has no obligation to withhold income tax, but may have an obligation to withhold social security contributions.

The grant of Restricted Stock and RSUs to certain managers or to the ten employees benefiting from the highest grants during the year must be disclosed in a report in the annual shareholder meeting.

Employer Tax Treatment

A deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan. A written reimbursement agreement is required (setting out the criteria used to establish the amount to be paid by the Subsidiary). No such deduction is available for newly issued Stock.

France

Employee Stock Purchase Plans

Employment

Labor Concerns

There is a risk of employees claiming that they are entitled to compensation for loss of rights under the Plan where the Plan is amended or discontinued or where their employment is terminated. Any term which provides that an employee whose employment is terminated for cause or gross misconduct will lose his acquired rights is unlikely to be enforceable.

There are laws which prohibit discrimination against, and/or less favorable treatment of, employees on certain grounds, including age, gender, disability and part-time status. Companies should be mindful of this when determining the eligibility of employees to participate in a Plan and the exercise of any discretion.

Certain French company savings plans (including the French-qualified employee stock purchase plan (“**PEE**”)) must be negotiated with employee representatives if the Subsidiary has union delegates or a works council.

Communications

A disclaimer should be included in the award agreement which acknowledges each employee’s receipt of the Plan documents and the discretionary nature of the Plan and confirms that termination of employment will result in the loss of unvested rights.

Although there is no legal requirement to do so, it is recommended that the Plan documents be translated into French.

Government filings must be made in French.

Electronic execution of award agreements may be acceptable under certain conditions, which are not onerous.

Regulatory

Securities Compliance

It is possible that a prospectus will be required for participation in the Plan to be offered to employees in France. However, certain exemptions, exclusions and interpretations may be applicable and, in practice, a prospectus is rarely required. For example, offers made to no more than 150 persons in any one Member State are exempt and certain Issuers, including those incorporated or listed in a Member State, are required only to publish summary information about the Plan and the Stock in substitution for a prospectus. Where a prospectus is required, the Issuer may be able to take advantage of a short form regime under which certain requirements for the prospectus’ contents are waived.

Any prospectus must be approved by the relevant regulatory authority in the Issuer's Home Member State and filed under the passporting system with the relevant regulatory authority of each Member State in which participation in the Plan is being offered.

Foreign Exchange

Minor reporting requirements may apply for the transfer of currency into and out of France.

Data Protection

Provided employees have been informed in advance, processing of employee data for purposes directly connected to the employment relationship may generally be justified on the basis that the processing is necessary to: (i) fulfill the contract of employment; (ii) comply with a legal requirement imposed on the Subsidiary; or (iii) comply with a legitimate interest pursued by the Subsidiary. Purposes outside these categories need to be assessed on a case-by-case basis, and opt-in consent may be required in some cases. Generally, the Subsidiary must register data processing activities and databases with the local data protection authorities.

Tax

Employee Tax Treatment

An employee is generally subject to income tax at progressive rates (plus additional rates for high earners) on the value of the discount when the Stock is purchased if the discount exceeds 20 percent of the market value of the Stock. No income tax will be payable if the discount does not exceed 20 percent of the market value of the Stock.

Income tax is also payable on any gain from the sale of the Stock at progressive rates (plus additional rates for higher earners).

Social Security Contributions

Social security contributions are due from both the Subsidiary and the employee on any income from the acquisition of Stock and on the discount (if the discount exceeds 20 percent of the market value of the Stock).

Tax-Favored Program

- (i) A tax-favored scheme PEE is available, under which the contributions made by the employee and the Subsidiary into the PEE to acquire shares must be frozen for at least five years. The employee's annual contribution into the PEE is limited to 25 percent of his or her annual gross salary. The Subsidiary's contribution will not be taxable if it does not exceed three times the employee's contributions (subject to a statutory cap per calendar year and per employee), but it remains subject to social security contributions at a lower rate.

Income derived from Stock (in the form of dividends and capital gains) and kept in the PEE until the end of the five-year period will be exempt from income tax but remain subject to social security contributions.

- (ii) Whether or not the PEE applies, the taxable gain on sale may be reduced by a progressive allowance depending on the period for which the Stock has been held—50 percent for Stock held between two and eight years and 65 percent for Stock held for more than eight years.

Withholding and Reporting

The Subsidiary has no obligation to withhold income tax, but is required to withhold any social security contributions due.

Reporting is required, notably in the form of depositing all Plan documents with the DIRECCTE—the Labor administration.

Employer Tax Treatment

A deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan. A written reimbursement agreement is required (setting out the criteria used to establish the amount to be paid by the Subsidiary). No such deduction is available for newly issued Stock.

Under the PEE regime, the Subsidiary's additional contribution (*abondement*) is tax-deductible.