

Case study: US Holdings Inc

US Holdings Inc

US Holdings Inc (USH) is the worldwide leader in its field. USH wished to implement a conventional US style employee stock purchase plan (ESPP) to coincide with its flotation on the New York Stock Exchange.

The company has a number of subsidiaries based throughout Europe, and wished to extend a US style ESPP to all those subsidiaries at the same time as the parent company's planned IPO.

The company's advisers were familiar with the details of the US ESPP but extending a similar type of plan into a number of European jurisdictions required advice on an international basis.

The relevant jurisdictions

The jurisdictions included:

- Estonia
- France
- Germany
- Hungary
- Ireland
- Netherlands
- Poland
- Russia
- Sweden
- Turkey
- United Kingdom

How the ESPP works

An employee stock purchase plan combines a share option plan with a pay-roll saving facility. It gives employees a chance to buy shares, via payroll deductions over relatively short periods. In this way

it is different from the UK style Save-As-You-Earn (SAYE) option scheme, which requires employees to save money for a minimum of 3 years and a maximum of 7 years.

The price of shares bought under the ESPP can be discounted by up to 15% (again, this differs from the SAYE which allows a discount of up to 20%).

Employees have the choice of buying shares either at the price at the start of the savings period, or at the end, whichever is the lower.

Issues arising

There were a number of issues which needed to be addressed in respect of the ESPP, including:

- Were there any significant tax disadvantages to implementing a US style ESPP in each jurisdiction?
- What regulatory steps were necessary to ensure compliance with local law?
- Was electronic enrolment in the plan permitted in the jurisdiction?
- Would there have been any difficulties in setting payroll deductions aside in separate accounts in order to purchase shares on a set purchase date?
- Were there any issues specific to the jurisdictions which had caused problems to US based businesses setting up such a stock purchase plan in the past?

International expertise

Equity Incentives Limited was selected to provide and co-ordinate this international advice, which included legal advice beyond the range of share plans law, for the following reasons:

- Field Fisher Waterhouse (FFW). We can use lawyers in our parent firm, FFW, to provide legal advice on wide ranging issues including employment, corporate finance and data protection. The level of advice is of the quality to be expected from a City based law firm. All

the FFW lawyers have international experience in their particular fields of expertise.

- European Legal Alliance. In 2002, FFW set up the European Legal Alliance, a formal group of law firms with offices in Germany, France, Ireland and Scotland as well as in the UK. Equity Incentives therefore has strong links with lawyers in each of these countries whose expertise covers a wide range of corporate and commercial law.
- Global Reward Plan Group (GRPG). Equity Incentives has contacts in other jurisdictions as a founder of this Group. GRPG provides a co-ordinated specialist global advice service on all legal and tax aspects of establishing and maintaining global and regional reward plans.

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Completion of project

Equity Incentives' experience in the design and implementation of international share plans enabled us to provide advice to our client quickly and efficiently. The client was able to extend the plan overseas within the time limit allowed without any concerns about hidden regulatory or taxations issues which could otherwise have arisen at a later point – to be avoided at all costs, and in particular at a busy time for a company approaching flotation.

Who are we?

Equity Incentives has substantial experience in all aspects of employee benefits, including equity incentives. The Managing Director, Graeme Nuttall, is a member of the HM Treasury advisory group which helps the Inland Revenue introduce new share schemes including EMI and SIP. He drafted the Employee Share Schemes Bill which was enacted with Government support as the Employee Share Schemes Act 2002. Through membership of the **Global reward plan group** we implement international share schemes.