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# Japan

## Stock Option Plans

### Employment

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#### 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. It is recommended that the Plan documents are kept separate from the employment contract and work rules.

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.

Awards cannot be made in lieu of salary.

#### 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.

Government filings must be in Japanese.

No rule or regulation prohibits electronic execution of awards agreements.

### Regulatory

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#### Securities Compliance

Neither the grant nor the exercise of Options is likely to trigger any notification or registration requirements as an exemption (the share option certification exemption) applies to Options.

#### Foreign Exchange

If an employee pays ¥30,000,000 or more to exercise Options under the Plan, then a payment report must be filed with the Ministry of Finance via the Bank of Japan.

An additional report on the acquisition of securities must be filed with the Ministry of Finance where the value of the underlying Stock exceeds ¥100,000,000.

#### Data Protection

Employee consent for the processing and transfer of personal data is required to comply with existing data privacy requirements.

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# Tax

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| <b>Employee Tax Treatment</b>        | <p>An employee is generally subject to income tax on the gain on exercise (i.e., the excess of the market value of the Stock acquired over the aggregate exercise price).</p> <p>Capital gains tax is generally payable on any gain upon the net proceeds of sale of Stock.</p>  |
| <b>Social Security Contributions</b> | <p>Social security contributions should not be payable, provided that the Plan benefits are not treated as salary for labor performed by the employee.</p>   |
| <b>Tax-Favored Program</b>           | <p>There is no tax-favored program applicable to options plans.</p>  |
| <b>Withholding and Reporting</b>     | <p>The Subsidiary does not have any withholding or reporting requirements if it is not involved in the operation of the Plan and does not reimburse the Issuer for the costs of the Plan.</p> <p>The Subsidiary must submit an annual report to the Japanese tax authorities.</p> <p>If a Japanese resident has assets (which include Stock) which are worth over ¥50,000,000 located outside of Japan, then the individual must also submit a report.</p> |
| <b>Employer Tax Treatment</b>        | <p>A deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan, subject to prescribed requirements for deduction. A written reimbursement agreement is required.</p>  |

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# Japan

## Restricted Stock and RSUs

### Employment

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#### 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. It is recommended that the Plan documents are kept separate from the employment contract and work rules.

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.

Awards cannot be made in lieu of salary.

#### 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.

Government filings must be in Japanese.

No rule or regulation prohibits electronic execution of awards agreements.

### Regulatory

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#### Securities Compliance

It is unclear as to whether the same exemption that applies to stock option plans and employee stock purchase plans would also apply to Restricted Stock and RSU plans. It is likely that the exemption will apply, in which case neither the grant nor vesting of Restricted Stock or RSUs will trigger any notification or registration requirements. However, if the exemption does not apply, a securities notification will be required where grants of Restricted Stock or RSUs with a value of between ¥10,000,000 and ¥100,000,000 are made to 50 or more employees. A prospectus will also be required where grants of Restricted Stock or RSUs with a value of more than ¥100,000,000 are made.

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**Foreign Exchange**

If an employee pays ¥30,000,000 or more, then a payment report must be filed with the Ministry of Finance via the Bank of Japan.

An additional report on the acquisition of securities must be filed with the Ministry of Finance where the value of the Stock exceeds ¥100,000,000.

**Data Protection**

Employee consent for the processing and transfer of personal data is required to comply with existing data privacy requirements.

## Tax

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**Employee Tax Treatment**

For RSUs, an employee is likely to be subject to income tax on the value of the Stock received on vesting, provided there remains a risk of forfeiture until vesting.

For Restricted Stock, if an employee has dividend and voting rights from grant, income tax is likely to be payable on the value of the Restricted Stock on grant.

Capital gains tax is generally payable on any gain upon the net proceeds of the sale of the Restricted Shares or Stock.

**Social Security Contributions**

Social security contributions should not be payable, provided that the Plan benefits are not treated as salary for labor performed by the employee.

**Tax-Favored Program**

There is no tax-favored program applicable to Restricted Stock or RSU plans.

**Withholding and Reporting**

The Subsidiary does not have any withholding or reporting requirements if it is not involved in the operation of the Plan and does not reimburse the Issuer for the costs of the Plan.

The Subsidiary must submit a report to the Japanese tax authorities.

If a Japanese resident has assets (which include shares in a foreign entity) which are worth over ¥50 million located outside of Japan, then the individual must also submit a report.

**Employer Tax Treatment**

For Restricted Stock, a deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan, subject to prescribed requirements for deduction. A written reimbursement agreement is required.

For RSUs, no deduction is available.

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# Japan

## Employee Stock Purchase Plans

### Employment

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#### 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. It is recommended that the Plan documents are kept separate from the employment contract and work rules.

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.

#### 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.

Government filings must be in Japanese.

No rule or regulation prohibits electronic execution of awards agreements.

### Regulatory

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#### Securities Compliance

Neither the grant nor the exercise of purchase rights is likely to trigger any notification or registration requirements as an exemption (the share option certification exemption) applies to purchase rights.

#### Foreign Exchange

If an employee pays ¥30,000,000 or more for Stock under the Plan, then a payment report must be filed with the Ministry of Finance via the Bank of Japan.

An additional report on the acquisition of securities must be filed with the Ministry of Finance where the value of the Stock exceeds ¥100,000,000.

#### Data Protection

Employee consent for the processing and transfer of personal data is required to comply with existing data privacy requirements.

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# Tax

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| <b>Employee Tax Treatment</b>        | <p>An employee is generally subject to income tax on the value of the discount when the Stock is purchased.</p> <p>Capital gains tax is generally payable on any gain upon the net proceeds of sale of Stock.</p>  |
| <b>Social Security Contributions</b> | <p>Social security contributions should not be payable.</p>  |
| <b>Tax-Favored Program</b>           | <p>There is no tax-favored program applicable to employee stock purchase plans.</p>  |
| <b>Withholding and Reporting</b>     | <p>The Subsidiary does not have any withholding or reporting requirements if it is not involved in the operation of the Plan and the does not reimburse the Issuer for the costs of the Plan.</p> <p>The Subsidiary must submit an annual report to the Japanese tax authorities.</p> <p>If a Japanese resident has assets (which include Stock) which are worth over ¥50 million located outside of Japan, then the individual must also submit a report.</p> |
| <b>Employer Tax Treatment</b>        | <p>A deduction is available if the Subsidiary reimburses the Issuer for the costs of the Plan, subject to prescribed requirements for deduction. A written reimbursement agreement is required.</p>  |