EQUITY COMPENSATION IN MERGERS & ACQUISITIONS

May 17, 2018

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Upcoming Events

Webinar Series

- All Things ESPP @ www.computershare.com/allthingsespp
- All Things Equity Plans @ www.computershare.com/allthingsequityplans

ESPP Day

- November 8, 2018, San Jose, CA
- Sign up for alerts at www.computershare.com/esppday

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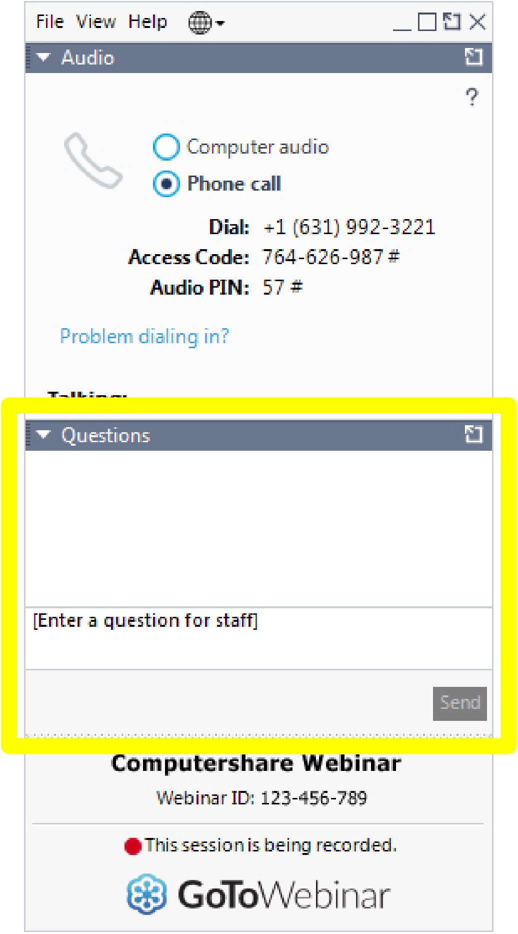


Housekeeping

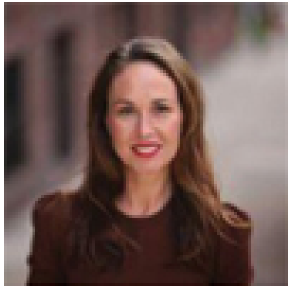
Presentation is being recorded

- Email will be sent to all attendees with link to recording and presentation

Presentation qualifies for one CEP credit

Please take our survey!

Introductions



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Equity Compensation in Mergers and Acquisitions

The Team

- Plan Sponsor - Target Company
- Equity Plan Administrator
  - ESPP
  - Stock Options & Restricted Stock/ RSU Plans
- Employees
- Other Partners
  - Plan Sponsor - Acquiring Company (if applicable)
  - Legal
  - HR
  - Finance
  - Payroll

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Plan Sponsor – Target Company

- Prepare from the start with a good plan design
  - Plan documents
  - Individual grant agreements
  - Grant acknowledgement
  - Accelerated vesting? Single trigger or Double trigger?
  - Severance plans/ agreements

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Plan Sponsor – Target Company

- Involve Plan Administrator early in the process
    - Communicate details as they unfold
    - Identify your primary points of contact for the event
    - Schedule regular meetings
    - Review plan terms & conditions for a Change in Control
    - Participate actively in the development of a flexible project plan
    - Identify legal contacts for the event

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Plan Sponsor – Target Company

- Prepare effective employee communications
  - Decide when and how formal communications will go out
    - Website
    - Email
    - White Mail
  - Hire assistance with communications if needed
  - Prepare call center with answers and alert them to increase in volume of calls
  - Provide clear, calm messaging with instructions for directing questions
  - Minimize stress with education

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Equity Plan Administrator

- Plan Administrator
  - Communicate on a need-to-know basis
  - Communicate with legal teams from both entities, if possible
  - Develop a solid, flexible project plan that allows for last-minute adjustments of dates and other deal changes
  - Prepare contract agreements and make arrangements for payment

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Considerations

- Plan Design
- The Announcement
- Event Details
- Shareholder Meeting
- What Happens to Outstanding Equity?
- New Grants at Close?
- Taxation of Outstanding Equity?
- Communication to Employees
- Deal Closing

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Accelerated Vesting

Employee Questions

- What happens to my equity awards?
  - Vested awards
  - Unvested awards
- Will the vesting schedule and/or other terms be changed?
- Will I still receive the full value of my equity awards?
- How will my equity awards be taxed due to the transaction?

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Accelerated Vesting

› Will Awards Vest?

No	Maybe	Yes
Acquiring company assumes grants (Conversion) • Grant details (number of shares and price) may be adjusted based on deal conversion ratio • Awards remain outstanding and terms carry over Grants are cancelled (usually for cash payment based on value of award)	Board of Directors has full discretion	Automatic vesting of awards at the Change in Control date

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Accelerated Vesting

› When Will Awards Vest?

Single Trigger	Double Trigger	Modified Single Trigger
Change in Control • Unvested options immediately exercisable • Restricted Awards /Units immediately vest and are not subject to forfeiture • Performance based awards vest and are paid out according to governing document(s)	Change in Control AND Employee is terminated within stated period of time • (usually 1-2 years) without cause or resigns for “good reason”	Walk Away Provision • An executive may leave for any reason after the Change in Control in a specified time period (commonly 13 months)

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Accelerated Vesting

› How Much of the Awards Will Vest?

Full	Partial
All unvested awards become vested	Only a portion of unvested awards become vested PSUs may vest: • At target level • Above target level • Based on actual performance as of the Change in Control and/or pro-rated based on the time elapsed in the performance period as of the Change in Control • Based on board discretion

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Taxation of Awards

› How will the Awards be Taxed?

Cash Out	Assumption of Awards with No Accelerated Vesting	Assumption of Awards with Accelerated Vesting
Change in Control • Generally treated and taxed as a cash bonus and tax withholding and reporting required	Change in Control • Generally the change in control event will not be a taxable event	Change in Control • Depends on type of award and country. If vesting is the normal taxable event (i.e., RSUs), then the change in control will result in vesting which is a taxable event.

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Additional Tax Considerations

- Tax on conversion of Awards (e.g., Australia)?
- Loss of ISO status for conversion?
- Loss of other tax favored treatment in foreign countries (e.g., France, Israel, UK)?
- Corporate tax deduction available and if so, which company gets the deduction?

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Regulatory Considerations

- Securities filings required?
- Exchange control filings in some countries?
- Securities notifications required?
- Labor law/ payroll deduction approvals?
- If new grants will be made, same regulatory filing considerations

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Final Tips!

- Collaborate early with relevant teams/ workstreams, i.e. Stock Plan Administration, Finance, Legal, Payroll, outside consultants, etc.
- Review equity agreements and plans to understand CIC T&Cs to know what will happen to equity awards on the closing date
- Research any international participant issues
- Taxation issues, i.e. State-to-State, Global Mobile, 280g, etc.
- Ensure accounting team is involved as accounting treatment is complex
- Create a timeline/project plan and review/adjust frequently
- Be flexible as closing date is often a moving target!

Questions???

Contacts

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