A woman with curly hair, wearing a grey blazer, is looking at a laptop screen. The background is a soft, out-of-focus office setting.

WHEN STOCK PLANS MEET LEGAL: COMPLIANCE LESSONS TO MAKE YOUR LIFE EASIER

CERTAINTY

INGENUITY

ADVANTAGE

 **Computershare**

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Housekeeping

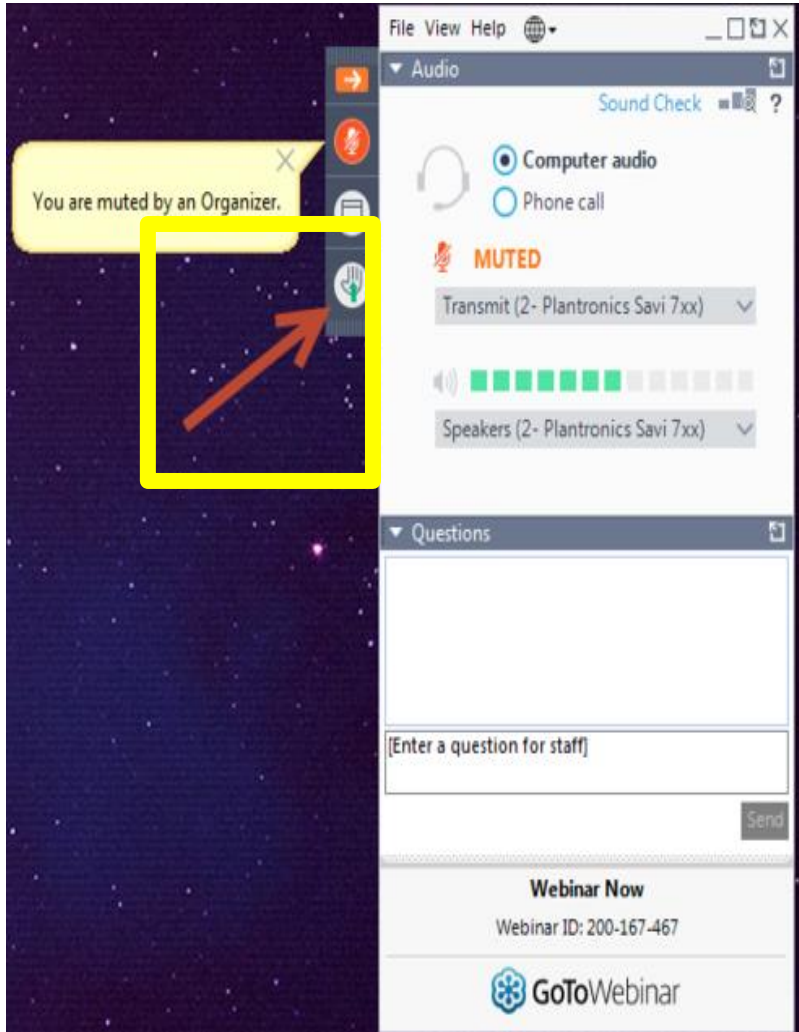
Please raise your hand if you can hear us →

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Asking Questions

The screenshot shows a software interface with two main panels. The top panel, titled 'Audio', contains a telephone icon, radio buttons for 'Computer audio' and 'Phone call' (the latter is selected), and dialing information: 'Dial: +1 (631) 992-3221', 'Access Code: 764-626-987 #', and 'Audio PIN: 57 #'. Below this is a link 'Problem dialing in?'. The bottom panel, titled 'Questions', is highlighted with a yellow border and contains a text input field with the placeholder text '[Enter a question for staff]' and a 'Send' button. The interface also displays 'Computershare Webinar', 'Webinar ID: 123-456-789', and a recording status indicator.

Enter your question into the Questions pane on the GoToWebinar Control Panel



Speakers



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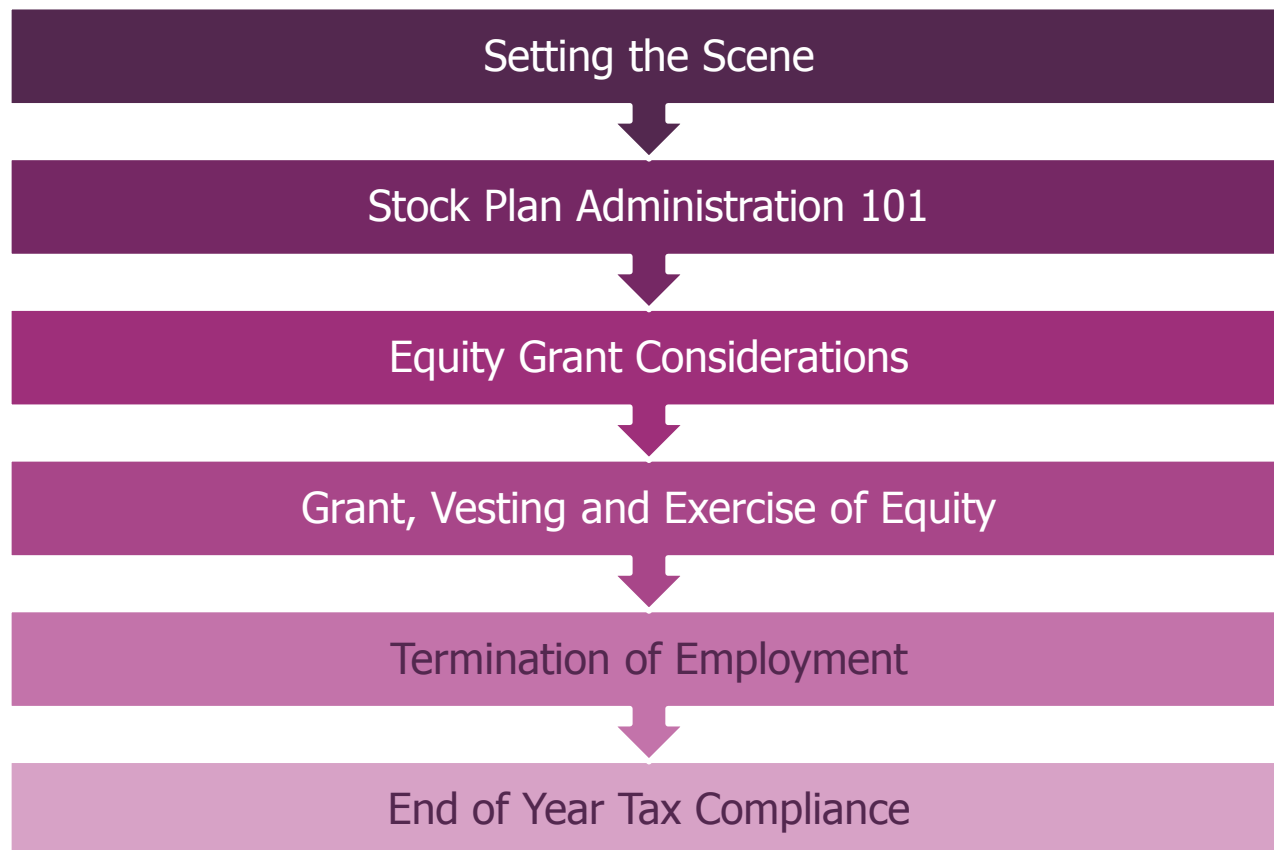
White & Case



Victoria Rosamond

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Agenda



When Stock Plans Meet Legal

Compliance Impacts

Key considerations:

- > Plan design
- > Administration processes

Tailored approach

Applying specific treatment

- > Material Risk Takers
- > PDMR's
- > Malus & Clawback

Differing jurisdictional emphasis

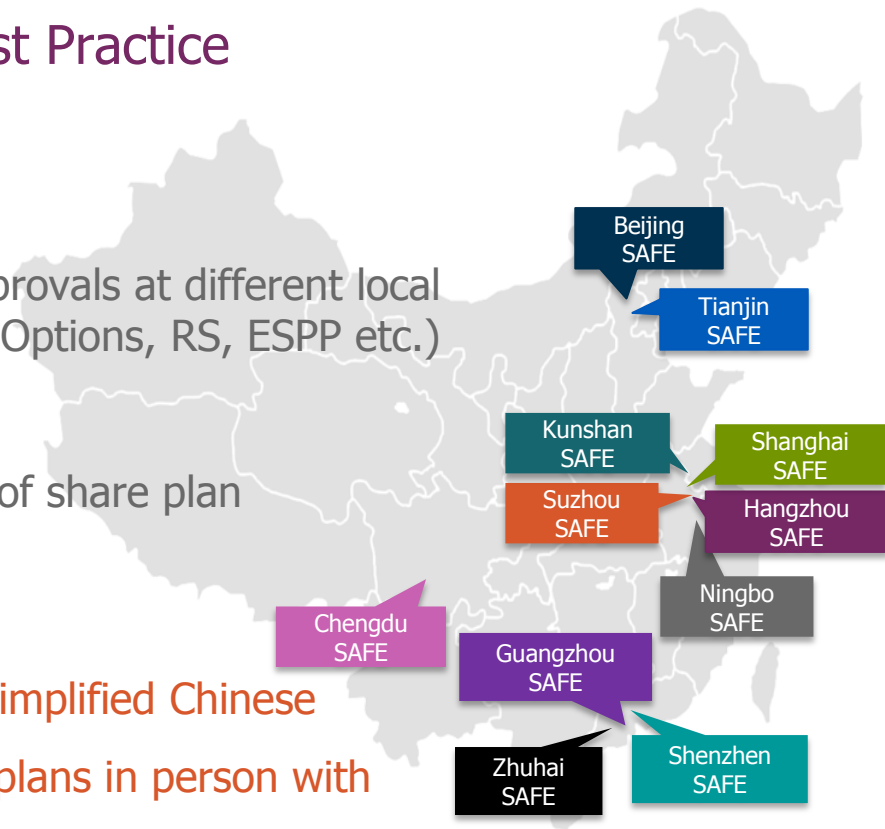
- > What needs to be completed
- > How it needs to be completed
- > Wet signature / Electronic acceptance

Reporting and filing requirements

- > China Safe

China SAFE - Registration: Sharing Best Practice

- > Hands-on experience from 50+ successful approvals at different local branches for a wide range of plan types (e.g. Options, RS, ESPP etc.)
- > Majority of challenges usually stem from lack of share plan understanding by local HR staff:
 - ▶ Preparing the required documentation in Simplified Chinese
 - ▶ Ability to communicate detail about share plans in person with local SAFE officials (in Chinese)
 - ▶ Ability to demonstrate appropriate controls are in place for fund remittance
 - ▶ Be aware of SAFE jurisdictional differences



The 4 key local trends

driving demands for Equity Plans in China

- ❖ Use of Employee Share Plans significantly increased in China over the past 10 years
- ❖ Dominated by executive plans - Share Options and RS/RSU awards
- ❖ Emerging trend of contributory plans design in Asia
- ❖ Stringent regulatory controls drive companies to outsource

Stock Plan Administration Tips

Administration Tips

- Prepare a well designed plan
- Involve an administrator early in the process
- Prepare employee communications
- Identify potential international participant issues
- Work with administrator to create a timeline and adjust as needed

Equity Grant Considerations

Actions to Take Prior to Approval of Equity Grants

- Consider location of grantees
- International securities laws
 - numbers of grantees and value of awards
 - EU Prospectus Regulation
 - some problem countries
 - Russia
 - China
 - Australia

Securities Laws and Equity Grants

- US securities laws
 - SEC
 - blue sky laws
 - reporting/public companies: S-8
 - non-reporting companies/foreign private issuers: Rule 701
- Understand number of shares reserved under plan

Tricky Tax Issues

- Section 409A and Equity Grants Generally
- Exercise Price = Fair Market Value
- Section 409A Safe Harbors for Valuation
- International tax issues
 - qualifying regimes
 - onerous rules

Grant, Vesting and Exercise of Equity

Actions to Take Upon Grant, Vesting and Exercise of Equity

- Sign
 - and file 83(b) elections
 - and keep on file 431 elections
- review option exercise forms
- calculate income and employment tax withholding
- consider impact of exercise

Termination of Employment

Actions to Take Upon Termination of Employment

- Consider impact on unvested and vested awards
 - forfeiture
 - exceptions
 - clawbacks
- Constraints

Termination of Employment (2)

□ Review

- severance agreements and/or change in control agreements, if applicable
- timeline for exercise of awards
- potential acceleration of awards

□ Restrictive covenants

- one size does not necessarily fit all
- key-off termination of employment
- for global plans, keep separate from equity grants

End of Year Compliance

End of Year Tax Compliance

- Review each jurisdiction carefully
- Australia
- UK
- US
 - delivery of Forms W-2 and Forms 1099 to Employees and Contractors
 - special requirements for ISOs

Questions?

Thank You

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Thank You

Thank you for attending our webinar. We hope you enjoyed this session.

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