

## INTERNATIONAL COMPENSATION AND BENEFITS TRENDS:

### A CROSS-BORDER SUMMARY

#### ABOUT THIS SUMMARY

Using the expertise of its member firms across the world, ius laboris has produced a global study of current trends and topical issues in compensation and benefits. The study involves 15 different countries: Argentina, Austria, Belgium, Brazil, Canada, Denmark, Finland, Greece, Mexico, the Slovak Republic, Sweden, Switzerland, Turkey, the United Kingdom and the United States of America.

This cross-border summary complements the study. It aims to provide a framework for identifying the current trends occurring in the 15 countries and to draw attention to issues of particular importance. It outlines the current scene for compensation and benefits in each jurisdiction, and highlights “points to watch out for”. It also addresses two specific elements of compensation and benefits which, from the study as a whole, emerge as pressing issues: stock options and retirement benefits.

The structure of the summary, along with its ‘quick reference table’, is intended to give an overview of current issues in all the countries, as well as to facilitate comparison between different countries on similar issues.

Of course each country has unique features in its compensation and benefits landscape. In the detailed study which complements this cross-border summary, such individual points are addressed. For each country, expert lawyers have selected the trends and topical issues they consider to be most significant for employers currently considering compensation and benefits packages in their jurisdiction.

We hope you find this summary and the accompanying study to be valuable resources in assessing compensation and benefits issues you may be encountering in the changing global marketplace. Contact details for the lawyers in each jurisdiction are included at the end of this summary.

December 2006

**QUICK REFERENCE TABLE**

	<b>Watch out for...</b>	<b>Stock options</b>	<b>Retirement benefits</b>
<b>ARGENTINA</b>	Significant tax and employment consequences of distinction between benefits and salary.	Increasing amount of claims by employees for damages or for treatment of options as salary.	Favourable tax treatment for contributions to certain additional retirement plans.
<b>AUSTRIA</b>	Works council participation in determining incentive plans.	Employee share plans becoming increasingly common.	Increasing emphasis on individual pension plans.
<b>BELGIUM</b>	Conditions for granting stock options have been made more favourable.	Employees can choose between taxation at grant of option or at exercise.	Supplementary pension schemes are popular.
<b>BRAZIL</b>	Current steps to modernise labour legislation and proposals for trade union/collective reform.	Stock option plans and benefits realised are unlikely to be treated as salary.	Recent trends in case law have increased the impact of retirement in employment severance payments.
<b>CANADA</b>	New corporate governance guidelines and disclosure requirements for executive compensation.	Unfavourable tax treatment of Restricted Stock Units	Concern over pension deficits is leading to new legislation. Significant recent litigation concerning pensions.
<b>DENMARK</b>	Major trend towards flexible compensation schemes. Various conditions must be complied with from a tax point of view.	Legislation sets out circumstances where employees retain rights to exercise options after termination.	Normally, both employer and employees make contributions (fully tax exempted) to a private pension scheme.
<b>FINLAND</b>	High levels of income tax and social security contributions.	No contributions relating to social security or pension are payable on stock options. Recent ruling may change the current treatment of stock option income e.g. when calculating severance payment.	Voluntary pension arrangements now less attractive.

<b>GREECE</b>	New trend towards multilateral compensation packages and variable payment.	Stock awards and stock purchased from options must be included in calculation of severance payment.	Collective retirement plans (defined benefit and defined contribution) becoming popular.
<b>MEXICO</b>	New trends in social welfare benefits (capped to allow tax deductions) and flex plans.	Stock options, incentives and bonus plans becoming more popular.	Pension plans becoming popular in large companies.
<b>SLOVAK REPUBLIC</b>	Employer obligations to contribute to Social Fund.	Currently unregulated area. Value of option is considered as employee income and subject to tax.	Employer can contribute to employee pension saving scheme. Limits are set for tax purposes.
<b>SWEDEN</b>	High taxes make equity-based compensation more attractive than salary or bonus.	Different rules apply to stock options and to employee stock options.	State pension system has been reformed. Employees normally also covered by occupational pension schemes.
<b>SWITZERLAND</b>	Large variable payments such as bonuses may require to be paid at termination of employment and lapse clauses may be void.	New federal law clarifies tax treatment. Prospectuses may have to be issued.	Limits set for employee contributions to company pension funds for tax purposes.
<b>TURKEY</b>	Benefits considered to be "acquired rights" cannot be withdrawn by employer.	No particular difficulties to note.	Major reform due in 2007.
<b>UK</b>	Numerous changes in tax legislation. Age discrimination law now in force. Prospective Directive may affect share awards by non-EEA employers.	Growing trend towards long-term incentive plans; decrease in popularity of stock options.	New legislative regime for pensions.

USA	New SEC disclosure rules for publicly held companies on executive compensation.	SEC disclosure rules impact on stock option back-dating. ISS Guidelines have provoked trend towards performance-based vesting. Stock option plans must comply with new tax laws on deferred compensation.	Significant new laws have come into force aimed at increasing pension protection for employees and requiring 100% funding over next 7 years.
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## **ARGENTINA**

### **1. Current scene for compensation and benefits**

Current legislation and case law on benefits and compensation is complex. A number of recent judgments have had a significant impact on the attractiveness of certain benefits.

Question of whether a benefit is part of salary or not is a crucial one, which determines social security contributions and impact on the 13<sup>th</sup> month payment, vacation bonus, advance notice and severance payments. Employers who wrongly treat benefits as separate from salary can face claims from employees and from tax authorities and face very large financial penalties.

### **2. Watch out for...**

Increasing amount of litigation over the distinction between benefits and salary. Recent judgment of Supreme Court led to the removal of caps on severance payments, which has instigated more claims by employees that benefits should be treated as salary. Recent cases have concerned cell phones and company cars, and claims have arisen concerning parking and gym fees.

### **3. Issues concerning stock options**

Legal challenges by employees concerning stock plans have become more common. Employees may seek damages for the loss of ability to get benefits under the plans due to dismissal by the employer, or they may argue that the difference between the market value of the stock and the amount effectively paid by the employee should be treated as salary, and as a consequence, social security taxes, proportional part of 13<sup>th</sup> month payment and vacation bonus should have been paid.

### **4. Issues concerning retirement benefits**

Some employers contractually agree to provide additional retirement benefits, where employer and employee contribute to a private fund. Employer's contributions are not treated as salary for income tax purposes as long as the purpose of the additional retirement plan is to provide a supplementary retirement payment to the employee, and certain other conditions are met.

## AUSTRIA

### **1. Current scene for compensation and benefits**

Collective bargaining agreements are main determinant of compensation levels and benefits packages. Most influential factor is therefore the economic and employment situation of the particular employer's office or branch.

Variable pay components traditionally account for only a small part of overall annual pay, although the share for senior management is rising.

### **2. Watch out for...**

Traditional incentive compensation plans (used by most SMEs) fail to meet current strategic needs of employers. New plans are being introduced which are based on performance and/or have an emphasis on long term reward.

Participation of the works council in determining an incentive compensation plan (such as bonuses or stock option plans) is mandatory if the plan is performance-related rather than based on purely subjective criteria.

### **3. Issues concerning stock options**

No particular difficulties to note. Employee share plans are becoming increasingly common in large companies and particularly in public limited companies, although they remain rare in SMEs.

### **4. Issues concerning retirement benefits**

Recent pension reforms have led to massive reductions in expected public pensions. This has greatly accelerated the trend towards individual pension plans, putting increasing emphasis on employers' responsibilities for pension plans. However, there remain few tax incentives for employers to offer such plans.

## BELGIUM

### **1. Current scene for compensation and benefits**

In Belgium, ordinary salary is subject to a 13.07% social security charge and an employer charge of +/- 35%. Income tax rates go up to 50% (plus communal charges).

Given these high rates, employers continuously look for benefits that are taxed more favourably. Very often salary packages include company cars and luncheon vouchers. Other benefits which are seen in practice are pension schemes and equity based compensation.

### **2. Watch out for...**

More favourable conditions currently for granting stock options to employees. See below.

### **3. Issues concerning stock options**

Previously stock options awarded to employees were taxed at grant, which could result in financial loss. Now, employees can be offered a choice. If they accept the stock options within a period of 60 days, the options will be taxed at grant. In this case there is most often a full exemption from social security contributions. If the employees accept the stock options after the expiry of 60 days, the options will normally be taxed at the moment of exercise and subject to social security contributions.

Stock options awarded within twelve months of termination of employment amount to a benefit which must be taken into account in the calculation of severance pay. There are different methods for evaluating this benefit, and ways of reducing the risk that the employer must include grants of stock options in calculating severance pay.

### **4. Issues concerning retirement benefits**

Supplementary pensions schemes are popular, due to the social security and tax incentives. These incentives are restricted with regard to individual pension plans. At present the legislation regarding pensions vehicles and regarding discrimination is being reformed.

## **BRAZIL**

### **1. Current scene for compensation and benefits**

Brazil is undergoing an important time of social, political and economic development. As a consequence of the high cost born by companies related to labour charges, the number of companies adopting outsourcing has grown, as has the flexibilization of labour rights resulting from Collective Bargaining Agreements. There is a clear tendency in recent decisions rendered by the Superior Labour Court accepting flexibility as an important factor in the current phase of development of employment relationships.

### **2. Watch out for...**

Stock option plans. See below.

### **3. Issues concerning stock options**

Stock option plans tend to be considered as a financial operation of a commercial nature and separate from the employment relationship. Labour Courts tend to consider that stock option plans, and the profits realised from them, are not salary (although there is no clear consensus in the case law). Profits realised from stock options are subject to income tax but not to social security contributions.

If stock options constitute a “free benefit” to the employee, then they must be included in the calculation of severance pay. Employers should require employees to pay for stock options to avoid this risk.

### **4. Issues concerning retirement benefits**

Retirement pensions are assured under a public system, supported by social security contributions. Recent trends in court decisions have increased the impact of retirement in

employment severance payments concerning the monetary compensation of 40% over the deposits made to the employee bank account.

## CANADA

### **1. Current scene for compensation and benefits**

Federal and provincial governments share legislative jurisdiction for labour, employment standards and pensions. Certain industries are governed by federal laws, others by provincial laws.

Ageing workforce and impending labour shortage will impact in the near future on pensions, attraction and recruitment and compensation.

### **2. Watch out for...**

Growing controversy over provision of private health care insurance.

Corporate governance guidelines and disclosure requirements recently introduced in relation to executive compensation by Canadian Securities Administrators.

### **3. Issues concerning stock options**

While stock option plans are prevalent in Canada, particularly among the senior ranks of employees, there has not been a trend toward Restricted Stock Units, as has been the case in some other jurisdictions. The reason for this is the unfavourable tax treatment of RSUs in Canada.

### **4. Issues concerning retirement benefits**

There is increasing concern over deficits in defined benefit pension plans. Pension funding has been pivotal to several recent high profile corporate restructurings. Regulators are considering amendments to pension legislation to address deficits in funding.

Significant court cases recently (many of them class actions) have dealt with issues such as: members' rights to surplus assets on a partial wind-up; members' ability to terminate a pension plan trust and be entitled to distribution of its assets; duty to communicate pension plan amendments to members when amendments were pending.

## DENMARK

### **1. Current scene for compensation and benefits**

There is a major trend towards flexible compensation schemes providing employees with an opportunity to "buy" benefits by giving up part of their salary. Tax treatment has been modified so that many tax-privileged benefits may be included in such a scheme, thus giving financial advantage to employees.

Another trend concerns the increasing use by employers of stock options (and other equity compensation) as incentive pay and the way stock options are granted (see below).

## **2. Watch out for...**

Major trend towards flexible compensation schemes. Such a scheme must comply with various conditions in order to be approved from a tax point of view. These conditions can normally be complied with.

The nature of equity compensation granted and the way such compensation is granted are of essential importance when determining employees' rights in case of termination of employment (see below).

## **3. Issues concerning stock options**

The Danish Act on Stock Options was adopted in 2004, which sets out the circumstances in which employees retain rights to exercise stock options (and some other kinds of equity compensation) after termination. Although this legislation is considered too favourable for employees, employers have started to increase the use of stock options as incentive compensation.

Employers have also started to change the basis on which stock options are granted, in an attempt to reduce the effect of the Act and limit the number of options an employee can exercise after termination.

If the nature of the equity compensation granted does not constitute compensation being subject to the Act on Stock Options, based on other legislation the employees may have better rights in case of termination of employment than what applies according to the Act.

Depending on the nature of the equity compensation granted, the equity compensation may be subject to taxation either at the time of grant, the time of exercise or the time when the employee disposes of the compensation.

## **4. Issues concerning retirement benefits**

Normally, both employer and employees make contributions to the employees' private pension schemes established by the employer in a pension insurance company. The total contribution amounts to 12 - 18 % of the cash salary. Such contributions are normally fully tax exempted.

## **FINLAND**

### **1. Current scene for compensation and benefits**

New pay systems have been developed in the last few years, with recent trends towards multiple elements of pay, and the use of different pay systems and different practices within the same organisation.

Almost half of employers currently use pay systems based on job evaluation, and more than half use systems based on performance. An increase in results-based and performance-based pay systems is predicted in the future.

Shares and stock options are the most common financial benefits, with many employers now offering stock options to their entire workforce and not just to senior management. New



bonus-based compensation systems have also gained increasing popularity, as have staff funds (owned and controlled by the entire workforce save for senior management).

## **2. Watch out for...**

Employee income tax can be as high as approximately 58% and employer social security contributions are also high.

## **3. Issues concerning stock options**

Recent changes in the law create exemptions from social security contributions for shares and stock options that meet certain conditions. These changes are likely to increase the use of shares and stock options as benefits.

Finnish Supreme Court ruled in May 2006 that employee stock options must be included as part of salary when determining the amount of compensation for unlawful termination of employment. This ruling may have wider and serious implications.

## **4. Issues concerning retirement benefits**

Voluntary pension benefits are used only at executive level. Because of recent changes in tax legislation and in the retirement age provisions (the previous fixed retirement age of 65 has been replaced with a flexible retirement age of 63 to 68), voluntary pension arrangements are now less beneficial for employees.

## **GREECE**

### **1. Current scene for compensation and benefits**

Global corporate trends such as increasing investment in human resources management and emphasis on performance-related compensation have impacted on the compensation and benefits scene in Greece, with a number of new practices and trends emerging.

Multilateral compensation structures are becoming more common, involving not only basic salary but also bonuses, benefits in kind and incentive plans.

### **2. Watch out for...**

New trend of “variable payment” in compensation structures. Variable payment is a transparent and objective payment scheme which focuses on individual performance and the achievement of measurable goals. It is increasingly replacing discretionary bonus schemes commonly used in the past.

### **3. Issues concerning stock options**

No particular difficulties to note: Greek law allows employees to participate in stock option plans and there are no relevant restrictions. The difference between the stock exchange price and the pre-determined price paid by the employee is treated as taxable income, but is not subject to social security contributions. Employee stock options have become a widespread element of incentive compensation. Stock options must be included in calculation of severance payment.

#### 4. Issues concerning retirement benefits

New collective retirement plans are becoming popular. There are two types: defined contribution plans and defined benefits plans. These plans aim to cover a range of needs, offering advantages not only to the employee but also to family members in the case of the employee's inability to work. The retirement plans are often accompanied by health and accident plans.

#### MEXICO

##### 1. Current scene for compensation and benefits

Compensation schemes have been significantly affected by NAFTA and its accompanying labour agreement, and by global market factors such as commercial practices, influences from the ILO and the OECD and the rising profile of corporate social responsibility.

The Mexican Federal Labour Law stipulates certain un-waivable mandatory benefits for employees, such as a Christmas bonus (15 days), vacation (6 days for the first year of services), vacation premium (25%), holiday pay and profit sharing (10%).

Compensation tends to be divided into two categories: fixed (elements which are determined at the commencement of employment, such as salary and mandatory benefits), and variable (such as commission, incentives, performance bonuses).

Many employers are moving towards incentive plans or bonus schemes which are based on the achievement of certain goals, personal and team performance, which effectively have as main purpose the motivation of the employees.

##### 2. Watch out for...

The concept of "social welfare", which creates a favourable tax treatment for certain benefits, has been subject to significant change in recent years. Employers can deduct the costs of providing social welfare for tax purposes, up to certain limits. Previously, social welfare involved the employer giving boxes of essential foods to employees. This has evolved and now an emerging trend is to give employees store cards issued by the store, which can be used there for essential and non-essential purchases.

The definition of social welfare given in tax legislation is very broad, defined as all the expenditures incurred by employers in favour of their employees, which have the purpose of satisfying present or future employee's contingencies or needs, as well as the granting of benefits for employees tending to their physical, social, cultural and economic improvement.

"Flex plans" are becoming increasingly popular. These plans allow employees more choice in respect of their variable compensation, so that they can obtain the types of benefits best suited to their individual needs, without affecting the mandatory un-waivable benefits.

Employers must be aware of that severance payments in case of termination of the labour relationship must be calculated with the employee's composite salary, meaning the employee's total income, including commissions, incentives, bonuses, etc.

### **3. Issues concerning stock options**

Stock purchase plans are becoming more widely used although this tends to be limited to large employers who compete in the international market.

Income derived from the exercise of an option to purchase stock or securities at a lower price than that prevailing in the market must be treated as salary. As a result the employer must withhold the income tax in connection with income earned. In this case, the income is the difference between the market value of the shares and the price established when the option is granted.

Those making payments for salaries must file, no later than February 15 of each year, a report with respect to the persons who have exercised their option to purchase stock or securities free of cost or at a lower price than the market value during the preceding fiscal year.

### **4. Issues concerning retirement benefits**

No particular difficulties to note. They are an attractive benefit granted by large companies and are based on the employee's age and number of years of service rendered. These benefits can be an important "carrot" when negotiating termination of employment.

## **THE SLOVAK REPUBLIC**

### **1. Current scene for compensation and benefits**

Currently little legal regulation of compensation and benefits. Incentive schemes are relatively uncommon, and not subject to any reporting requirements even in listed companies. A decision to grant incentive compensation is however subject to the principle of non-discrimination and must be based on objective grounds. Most commonly, incentive compensation is based on employee performance.

### **2. Watch out for...**

Employers are obliged to contribute to a "Social Fund". The employer can only use the Social Fund for purposes specified by law. Employee income from the Social Fund is subject to income tax, but is exempt from social security payments. However, the employer may only contribute a limited amount to a Social Fund as a tax-deductible expense.

Future development of tax and employment legislation is likely given EU membership and the need to approximate national laws to EU standards.

### **3. Issues concerning stock options**

Employee stocks - a special type of stock regulated by the Commercial Code - ceased to exist after 2001. Employers may provide shares to employees at preferential rates but this is an unregulated area. Income tax is charged on the difference between the real-market value of the stock at grant and the exercise price, minus the amount paid by the employee to purchase the option.

#### **4. Issues concerning retirement benefits**

An employer may make tax-deductible contributions to its employees' pension savings, life insurance or to special-purpose savings accounts. However, to be considered as a tax-deductible expense of the employer, such contributions can be no more than 6% of the employees' total salary and wage compensation.

### **SWEDEN**

#### **1. Current scene for compensation and benefits**

Over the last ten years employers have increasingly used equity compensation to motivate and retain employees.

#### **2. Watch out for...**

Swedish taxes on labour are relatively high. Equity-based compensation is often an attractive alternative to salary or bonus because it receives a more favourable tax treatment.

#### **3. Issues concerning stock options**

There are two major types of options: employee stock options and stock options. Each has advantages and disadvantages from both the employer and employee perspective, in terms of tax treatment and incentive value.

#### **4. Issues concerning retirement benefits**

Sweden was one of the first countries in Europe to reform its pension system in 1999. A main feature of the new system is that it includes a right for the employee (for part of the pension entitlement) to choose the pension fund that best suits his or her investment preferences.

Employees are normally also covered by occupational pension schemes ("OPCs"). In the private sector, the dominating OPC is the ITP plan. For employees born before 1979 the ITP plan is a defined benefit plan with certain elements of flexibility for the employee to freely invest a part of the pension contribution in for example unit-link funds. The fact that both the state pension and the OPC's include elements of personal choice between different pension funds has brought about a major boom in the pension industry.

### **SWITZERLAND**

#### **1. Current scene for compensation and benefits**

Employee compensation schemes have developed rapidly over the past few years.

The tendency is for employers to minimize the fixed part of compensation and to maximise the variable part, which can include cash payments, stock options and pension contributions.

## **2. Watch out for...**

A growing consensus in case law that variable payments which form a considerable part of overall compensation must be paid to the employee in the last year of employment or in the notice period, irrespective of whether they were earmarked as variable. Contractual clauses stating that there is no entitlement to variable payments which become due after termination of employment or in the notice period have been declared void.

Bonuses which are paid regularly risk becoming part of fixed rather than variable compensation, even if the bonus scheme is clearly expressed to be at the employer's discretion.

From 1 January 2007, stringent disclosure obligations enter into force and will require listed companies to publish the compensation packages of senior management. Less strict disclosure obligations are also being considered for non-listed companies.

## **3. Issues concerning stock options**

Previously there was uncertainty over the tax treatment of stock options. However, new federal tax legislation has clarified the tax treatment of stock allocation and the grant of stock options.

Companies which offer stock to employees must publish offering prospectuses if the circle of addressees is "not limited", which means twenty or more people. This obligation applies equally to stock offerings of foreign companies, for example the parent of a Swiss employer. A prospectus prepared in compliance with the rules of the foreign jurisdiction is not sufficient.

## **4. Issues concerning retirement benefits**

Employer contributions to a company pension fund are not taxable. Contributions made by the employee may be deducted from taxable salary to a certain extent. Legislation introduced in 2006 set a maximum limit for these purposes.

## **TURKEY**

### **1. Current scene for compensation and benefits**

There are some compulsory social benefits which must be provided to employees, and some which may be provided at the entire discretion of the employer. Employers give importance to "social benefits", e.g. health benefits and family benefits. The social security system provides a retirement pension, protection from certain social risks and access to medical treatment without charge. Employees may also opt to participate in the private pension system, which supplements the social security system. There are tax incentives for participation. Significant reform in the social security system will take effect in 2007.

### **2. Watch out for...**

Benefits identified in the employment contract and which the employer undertakes to grant for the duration of the employment are considered by law as "acquired rights" and cannot be withdrawn by the employer. If the employer wishes to change the nature of a benefit

provided to an employee during employment, then it must stipulate from the outset that the benefit is subject to the will of the employer.

Turkish laws do not limit the benefits that an employer can provide to its employees, although regulations may stipulate different tax treatment for different benefits.

### **3. Issues concerning stock options**

No particular difficulties to note.

### **4. Issues concerning retirement benefits**

Significant reform in social security and retirement due in January 2007. The three existing social security institutions - for employees, for artisans and self-employed, and for government officers - will be merged into one institution and all employees will then have the same rights and obligations regarding social security.

## **UNITED KINGDOM**

### **1. Current scene for compensation and benefits**

Traditional structure is salary plus specific benefits in kind such as pension contributions, company car and private health insurance.

Increasing cost for employers of providing some benefits (in particular private health insurance and critical illness cover) together with changes to the pensions legislation and pressure from employees for greater flexibility and a work life balance has led to a rethinking of the traditional structure.

Around two-thirds of employers now offer “flexible benefits”, particularly to junior and middle-ranking employees. These allow employees, by means of salary sacrifice, to obtain certain benefits such as additional holiday or private health care. Such schemes can significantly reduce tax and social security costs.

### **2. Watch out for...**

Numerous changes in tax legislation have sought to ensure that tax is charged on all forms of disguised remuneration, and legislation has been introduced to require disclosure of certain arrangements if a main objective is to avoid tax.

On 1 October 2006 new legislation came into force prohibiting age discrimination. Employers should review their pay and benefit structures to ensure that they are not in breach of the law.

The implementation of the Prospective Directive may affect whether non-EEA employers continue to award shares to their EEA staff, because of the requirement to publish a full prospectus when offering shares of a certain value.

### **3. Issues concerning stock options**

Share awards are a common element of compensation packages. In recent years, stock options have decreased in popularity due to three main factors: changes in accounting rules, stock market volatility and an increasing demand to better align the interests of employees with those of investors. Although stock options are likely to remain a popular incentive tool, there is a growing trend towards the use of long-term incentive plans (LTIPs).

### **4. Issues concerning retirement benefits**

Previously a number of different tax regimes for different types of pensions resulted in inconsistencies and anomalies. A new regime was introduced in April 2006 which should be simpler to operate in respect of the majority of employees. These changes affect both registered and unregistered schemes. For high earners and internationally mobile employees, the new regime may result in significant tax charges.

## **UNITED STATES OF AMERICA**

### **1. Current scene for compensation and benefits**

Compensation packages typically include some combination of the following components: base salary, bonus (if any), long-term incentives (if any), retirement benefits and medical benefits. Differentiation and trends in the first three occur most often at the executive level.

Recent trends have been primarily driven by changes in the executive compensation disclosure rules for publicly held companies, changes in the tax laws relating to nonqualified deferred compensation plans and changes to pension plan funding and disclosure reforms.

### **2. Watch out for...**

New SEC disclosure rules on executive compensation for publicly held companies, which became effective in June 2006. Employers are now required to report total compensation provided to executives, along with a detailed breakdown of the various components.

The new SEC disclosure requirements which now force companies to report in some manner “wealth accumulation” of its top executives is likely to have a chilling effect on compensation awarded in the future. It is anticipated that employers will ultimately have to identify an upper cap in terms of reasonable wealth accumulation for executives during the course of their employment.

Additionally, perquisites of amounts exceeding \$10,000 must now be disclosed and as a result, many employers are opting to reduce or eliminate perquisites and merely increase base salary, to that they do not have to record and report these details.

### **3. Issues concerning stock options**

New SEC disclosure rules include requirements to report and identify stock option backdating practices.

Changes in ISS Guidelines have provoked a move away from time-based vesting of long-term incentives in favour of performance-based vesting.

Changes in tax laws concerning deferred compensation now affect stock options, stock appreciation rights, restricted stock units and other performance-based units forcing compliance charges that are not necessarily intuitive.

#### **4. Issues concerning retirement benefits**

New law took effect in August 2006 aiming at increasing pension protection for employees. The law introduces significant changes, such as the requirement for an employer with a defined benefit plan to make contributions to the plan to ensure that it is 100% funded over the next 7 years.

Some of these new requirements may prove too burdensome for employers to be able to comply. Whilst it is certain that these changes will impact on retirement benefits offered to employees, the resultant trends remain to be seen.



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