



TWO SEAS TRUST



Briefing: Employee Benefit Trusts

Introduction

The world of executive remuneration and the forms of incentive provided is ever changing and increasingly competitive. Retaining and motivating employees and indeed winning new high profile executives over to your company requires a well structured and effectively administered remuneration package.

Employers need to be aware of the products that are available in the market place and have access to experienced advisors and trustees to effectively manage the risks and rewards associated with executive compensation plans.

This guide highlights the variety of plans in the market and illustrates the fact that schemes can be tailored to meet specific requirements as needed.

Carried Interest

The continuing growth in the funds industry worldwide has driven the need for competitive executive incentive plans and efficient methods for delivering carried interest arrangements. It is important to motivate and encourage senior executives such that their goals are congruent with those of their employer. Share ownership schemes often provide this synergy, but dealing with the carried interest on fund arrangements in a tax efficient manner or through retention arrangements is often an added incentive that will attract Western as well as Middle Eastern talent to an organisation.

These incentives are delivered through trust, company and partnership arrangements and can be tailored to meet each client's needs.

They can also be structured to include standard cash based employee benefit plans as a means of delivering discretionary bonuses to executives of companies and partners in a partnership.

Start-up Companies

One of the most difficult achievements for start-up company owners is the ability to attract and retain high quality employees that are as excited about the business as the founders are.

A shortage of cash flow in the early years, means large cash bonuses and high salary increases often cannot be realised. Employees who are able to participate in share price growth will be



TWO SEAS TRUST



motivated to meet the company's goals as well as act as a retention tool or effective lock-in period if the incentive is high enough.

The structure affords joint participation in the company's equity for the employee and the employee benefit trust. The employee participates in the growth in share value, whilst being bound by certain trigger events that are designed to retain, motivate and stretch the client's management team.

The structure meets the company's need to reach aggressive growth targets, whilst retaining key executives and provides a tax efficient incentive mechanism for delivering equity participation to ex-pats as part of a competitive remuneration package.

Cash Deferral Plans

Cash based incentive plans remain very popular with the financial sector, where traditionally high discretionary bonuses are paid.

Cash deferral trusts such as these provide very strong retention and incentive tools for employers and allows employees access to the trust assets through loans as well as the ability to recommend investment strategies to the trustees.

The use of the trust takes the assets off the employer's balance sheet and out of the hands of any potential creditors of the company; this provides security to key executives. Offshore trust investment returns and income are tax free and trusts assets are currently efficient inheritance tax planning tools for UK domiciled employees and can provide long term incentives in this regard.

Motivating Ex-Pats

Even though tax savings are not a concern for employees working in the Middle East, it may be necessary to consider the way in which incentive arrangements are delivered for ex-pats who may be moving back to their home countries. The use of offshore trusts may assist in mitigating taxes at a later date for these employees and could enhance the company's ability to attract and retain key executives.



TWO SEAS TRUST



Market Maker

Private companies often have the problem of an illiquid market for trading shares. An employee benefit trust can assist in creating a market for a company's shares as part of a share incentive scheme.

The trust fulfils a dual role in addition to the share incentive arrangement. The trust can both create a market in the illiquid shares as well as hedge the company's exposure to its own share price prior to awards vesting, by holding or "warehousing" shares in the company. The delivery of value to participants is therefore capped at the value of the initial shares contributed to the trust and those shares can be "traded" between employees within the trust should an employee leave the company's employ and the articles forbid the holding of shares by ex-employees.

Conclusion

It is possible to tailor employee incentive arrangements to meet employer's specific financial and incentive remuneration needs.

A crucial element to effective remuneration planning is the use of experienced and professional advisors as well as professional, independent trustees and administrators that can deliver the service excellence that your scheme demands.

The Two Seas team provides proactive administrative services that will meet these needs. We are able to draw upon the experience of the Employee Benefit team at Ogier for support and details of the latest developments in employee benefit arrangements in Europe and also the legal team which has significant experience establishing offshore structures.



TWO SEAS TRUST



About Two Seas Trust

Two Seas Trust B.S.C.(c) is a joint venture between Ogier Fiduciary Services (Jersey) Limited and Keypoint Consulting W.L.L.

Two Seas Trust is regulated by the Central bank of Bahrain for trust company business.

About Ogier

Ogier is one of the world's leading providers of offshore legal and fiduciary services employing over 800 professional and support staff. The group has a presence in eleven jurisdictions around the world, namely Bahrain, the British Virgin Islands, the Cayman Islands, Guernsey, Hong Kong, Ireland, Jersey, London, Montevideo, Tokyo and New Zealand.

Ogier provides advice on all aspects of BVI, Cayman, Guernsey and Jersey law and associated fiduciary services through a global network of offices that cover all time zones and key financial markets including the rapidly growing Asian and Chinese markets.

Ogier continues to be recognised as a leading law firm by the leading legal directories, including Legal 500 and Chambers.

In Legal 500 Ogier has more lawyers recommended and more tier 1 rankings for individual practice areas than any other Jersey firm.

In Chambers the firm has more lawyers recommended than any other Jersey firm.

About Keypoint

Keypoint is a leading provider of statutory advisory, accounting, fund administration and recruitment services in the Middle East. Based in Bahrain they currently provide corporate administration and fund administration services to a wide variety of clients including banks, individuals, real estate and private equity houses.

Prior to 2006, Keypoint formed a part of Ernst & Young Middle East and they continue to enjoy a close working relationship.

Keypoint is licensed by the Ministry of Industry and Commerce in Bahrain and where relevant by the Central Bank of Bahrain for the conduct of all aspects of its business.



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