# Global benefits and compensation

## Top 10 actions for your 2023 agenda

### 1. ESG factors

ESG issues are playing an ever-increasing role in businesses and have an impact right across the employment, retirement benefits, tax, executive compensation and share incentives space. This trend of growing focus is expected to continue into 2023 and beyond. As such, when designing and reviewing compensation and benefit packages, it is increasingly important for companies to do so with its ESG strategy in mind.

**Action:** Review your benefits offering to consider whether it is aligned with your ESG strategy and consider the use of ESG-based performance targets in employee incentive plans to promote the delivery of the company's ESG strategy.

For further information, see our ESG considerations in compensation and benefits strategies webinar recording, our ESG and pensions guide and our ESG and employment global insights guide.

### 2. New ways of working across jurisdictions

The last few years have seen a growing number of employees working under more location-fluid arrangements, including working remotely across jurisdictions. Such arrangements can pose additional legal challenges, not only from an employment law, immigration and tax perspective, but also in terms of ensuring that compensation and benefits arrangements are appropriately tailored and aligned to that new working landscape.

**Action:** Consider whether the benefits provided to workers working abroad continue to be effective, are not compromised or prohibited by overseas laws, and operate as intended in the overseas location.

For further information, see our working across jurisdictions webinar recording.

## 3. Supporting workers with the increased cost of living

The cost of living and energy issues are increasingly having an impact on the world of work. Where salaries are not keeping pace with inflation, this can have a significant impact on productivity and engagement. One-off discretionary payments can help support employees' financial wellbeing, but require careful planning to mitigate the knock-on effects on other issues, including pensions, other benefits entitlements, collective bargaining, contract variations, and tax. Other services such as the provision of independent financial advice, insurance / mortgage brokering, and other non-financial support can also have wider implications.

**Action:** Consider what steps can be taken to support staff financially at this time, including highlighting existing benefits and exploring the possibility of new measures that can help workers both financially and emotionally.

## 4. Diversity, equity and inclusion (DEI)

With ESG and responsible business practices continuing to be in spotlight, DEI has been a constant boardroom theme throughout 2022. With no sign of slowing, it will be important for companies to continue to embrace DEI and ensure effective DEI strategies as they move through 2023. Inclusive benefits, DEI-compliant retirement benefit plans, diversity in the management board of trustees / fiduciaries responsible for plans and avoiding bias in discretionary decisions when awarding benefits, are just some of the themes being seen.

**Action:** Analyse available data to understand disparities across workforces and identify which benefit changes might be most effective from a DEI perspective.

For further information, see our Creating diverse, equitable and inclusive benefits packages webinar recording.

## 5. New types of pay arrangements

The use of Earned Wage Access (EWA) for employees is a relatively new concept globally, although it has been seen for many years for certain contractor-type positions. EWA models often work on a loan-type basis, similar to a payday loan. Although giving increased financial freedom and control for workers, such schemes do carry legal and practical challenges and potential pitfalls for both employees and employers.

**Action:** Employers considering EWA arrangements should consider not only the legal implications, but the practical implications too. Employee welfare, payroll logistics and legal requirements will all need to be considered, as well as wider considerations around responsible business practices.

## 6. Non-financial benefits influencing recruitment and retention

Particularly in the current environment where there are ongoing labour shortages and economic uncertainty, employers are under immense pressure to attract qualified candidates and retain top talent. Ensuring that compensation and benefits packages are competitive is a key element of this. Although annual salary and bonuses have been the main drivers traditionally, recent shifts have been seen in non-financial benefits influencing movement in the job market, including flexible working, holiday entitlement and an organization's DEI record.

**Action:** Review reward strategies to ensure they align with the current priorities in the market for compensation and benefits and think innovatively in terms of non-traditional benefits that can be offered to attract new talent.

## 7. Pay transparency

With clear links to DEI, pay equality and transparency is an issue that continues to gain momentum globally. Many countries now have legislation requiring equality of pay between men and women. Some jurisdictions have also legislated for diversity monitoring and/or reporting, including gender pay gap reporting. With the EU Pay Transparency Directive continuing to progress through the EU legislative process, this is a topic that will continue to be high on the agenda for global employers during 2023 and beyond.

**Action:** Develop a strategy to properly understand pay practices and identify any pay differentials.

For further information, see our Global wage transparency briefing.

## 8. Ensure annual bonus and incentive plans are compliant with new US rules on clawback

At the end of 2022, the US Securities and Exchange Commission finalized rules on the recovery or "clawback" of incentive compensation. National securities exchanges in the US will need to adopt new listing standards mandating listed companies adopt the policies and make required disclosures, including annual disclosure of company clawback policies. The new rules will apply to US listed companies as well as certain foreign issuers subject to US securities laws (subject to exceptions).

**Action:** US listed companies and certain foreign issuers need to review their incentive plans to ensure they are compliant with the new rules, especially to understand how they will apply to non-US citizens located outside the US.

For further information, see our Alert SEC adopts "clawback" rules for erroneously awarded executive compensation.

## 9. Taking advantage of statutory enhancements to the Company Share Option Plan Regime

The UK Chancellor has confirmed that the Company Share Option Plan (CSOP) regime will be revamped in 2023 by increasing the statutory limit on the value of shares that may be subject to CSOP options held by any individual from £30,000 to £60,000 and by removing previous restrictions which prevented many companies that have more than one class of share from implementing a CSOP. The changes will come into effect in respect of options granted on or after 6 April 2023.

**Action:** Companies with UK resident employees already operating a CSOP will need to check that the rules of their plan will accommodate the statutory change without needing to be amended and then consider how to utilise the increased generosity under the CSOP regime to best assist employees with the rising costs of living and the announced reduction of the income level at which the UK 45% income tax rate will apply. Companies that do not currently operate a CSOP should give consideration to implementing and operating one so as to take advantage of the new CSOP regime.

For further information, see our Alert Company Share Option Plan (CSOP) changes – an attractive prospect for businesses.

## 10. The Dutch Future Pensions Act

The pension system in the Netherlands will face a major reform. A new Pensions Act is expected to take effect from 1 July 2023. With the new Pensions Acts, all pension schemes and the executions will be different. Defined benefit agreements are no longer allowed for future accruals, and all accrued pension benefits will be converted to defined contribution by default. Part of this major operation is that several groups must be compensated, but there is no clarity on the amount of compensations, so this must potentially be negotiated between the employer and Works Councils.

**Action:** Be prepared! The transition will be very complex and time-consuming. The transition period has been shortened by six months and is ending on 31 December 2026. It is important to start preparations in time.

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