



Employee Stock Option (ESOP)

FAQ Series (III)

Scope of the Presentation

- The Presentation is the 3rd part of the Series on ESOP:
 - I: Conceptual queries (<https://lnkd.in/gc7e6tN>)
 - II. Who can participate? (<https://lnkd.in/geNsy4W>)
 - **III. Key terms & Procedure**
 - IV. Tax aspects, Exit and Miscellaneous.
- This presentation is for informational purposes.

Series III: Key Terms & Procedure

- *Q1: What is Grant, Vesting and Exercise of Options?*
- *Q2: Is there any limit (maximum or minimum) prescribed for grant of options to any employee?*
- *Q3: What is Vesting and is there any particular time prescribed?*
- *Q4: What are unvested options?*
- *Q5: When Option can be exercised?*
- *Q6: Whether ESOP Plan requires approval from Shareholders of the Company and how to change the terms of ESOP Plan?*

Key Terms: Q1

► *What is Grant, Vesting and Exercise of Options?*

Grant, Vesting and Exercise are the 3 most important phases of any ESOP Plan.

- **Grant** is the process by which the Company issues **Options** under any ESOP Plan. The Option gives the employee a right to purchase OR subscribe the shares offered by the Company *at a future date* at a *pre-determined price*.
- **Vesting** means the process by which the employee becomes entitled to Exercise the Options granted to him.
- **Exercise** means the process by which the Employee makes an application for issue/purchase of shares at the pre-determined price.

Key Terms: Q2

- *Is there any limit (maximum or minimum) prescribed for grant of options to any employee?*

No, there is no limit (minimum or maximum) prescribed for grant of Options to any Employee.

However, if the number of Grants post exercise can result in 1% or more of the paid share capital of the Company, such Grant would require Shareholders Approval through a special resolution in the Shareholders meeting.

Key Terms: Q3

➤ *What is Vesting and is there any particular time prescribed?*

Vesting means the process by which the employee becomes entitled to Exercise the Options granted to him. Once Options are vested, the Employee can exercise his rights to purchase/subscribe the shares of the Company.

There is a minimum period of 1 year between the Grant and Vesting prescribed under the Law. However, there is no upper time limit prescribed under the Law and is governed as per the Plan Documents.

Generally we have seen Vesting Period between 3 to 5 Years with equal or varied percentages of Options being vested at each interval.

Key Terms: Q4

➤ *What are unvested options?*

Unvested Options are such Options who are ***yet to complete the Vesting Period*** prescribed as per the Plan.

E.g. if there are 1000 Options which are vested 25% on each anniversary from the Grant date (i.e. at the completion of 1st, 2nd, 3rd and 4th year from the Date of the Grant) and the Employee resigns at 2.5 years, he would have vested 50% of the Options and the balance 50% i.e. 500 Options shall be considered “Unvested Options”.

Unvested Options are dealt in accordance with the terms of the ESOP Plan.

Key Terms: Q5

➤ *When Option can be exercised?*

Once Options are Vested after completion of Vesting Period, a time period (called ***Exercise Period***) is offered within which the Employee shall make an application to get the shares allotted/transferred to his name by paying the pre-determined price (also called ***Exercise Price***) for the shares.

Failure to exercise the right to subscribe/purchase the shares within the Exercise Period may lead to lapse of the right available to the Employee.

Procedure: Q6

- ***Whether ESOP Plan requires approval from Shareholders of the Company and how to change the terms of ESOP Plan?***

Yes, to implement an ESOP Plan, a Pvt. Ltd. Company is required to take shareholders' approval through an Ordinary Resolution (for Public Company, special resolution is required).

Any change in the terms and conditions of the ESOP Plan should require Shareholders approval by way of a Special Resolution and such change should not be "pre-judicial" or adverse to the interest of the Employees. Eg. Any increase in vesting period or reduction of exercise period may be treated as adverse.

What to expect next?

- The last FAQ (Series IV) on June 10, 2021.
- In case of any query/clarification, please write to us at interact@linkjuris.com
- In case you wish to attend ESOP Workshop, Please indicate your interest by filling up the form at: <https://forms.office.com/r/FBh1piq9cF>.
- This information contained in the presentation is *not a legal advise*. In case of any specific legal query, please seek necessary professional help.

Thank You!!!!