

Rt Hon Rishi Sunak MP
Chancellor of the Exchequer
HM Treasury
The Correspondence and Enquiry Unit
1 Horse Guards Road
London, SW1A 2HQ

23 June 2022

Dear Chancellor,

TREASURY INVITATION - REFORM IDEAS FOR THE COMPANY SHARE OPTION PLAN

The Employee Share Ownership (Esop) Centre made representations to you in the consultation regarding possible improvements to the EMI. Herewith, we suggest changes to the Company Share Option Plan (CSOP), in response to the request you made in your Spring Statement for suggestions which could help align CSOP more closely with EMI, so that SME companies no longer qualifying for EMI status, for example by reason of size, still could incentivise *selected* key employees, via tax-advantaged share options, in a coherent and attractive manner.

We suggest **three** changes to CSOP which would, in our opinion, align CSOP more closely with EMI, if that is indeed the object of the exercise:

- i) The current £30,000 limit governing the market value of awards of CSOP share options per individual is derisory when measured against the expectations of senior employees and directors looking for performance orientated gains. The limit has remained unadjusted for 27 years in the face of 80 percent-plus inflation of prices generally since it was fixed. Unsurprisingly, in terms of take-up, the scheme is all but moribund. The Centre calculates that the CSOP options award limit would now need to be at least **£55,000** per individual employee to have kept pace with the rise in UK prices over the period. ***The Centre urges the Chancellor to raise the share options award limit to at least £75,000 per individual - but preferably to £100K.*** The key point is that since CSOP options **cannot** be issued at a discount to market value *without immediately losing their tax advantages*, individual gains by participants are limited and dependant on the value growth of the employee shares over the period they are retained. Taking a simple example: £100K worth of CSOP share options might reasonably be expected to rise in value by an average five percent p.a. over the three year tax-efficient holding period -giving a compound return of c.£15,760, which is attractive, but hardly excessive. Although the limits suggested might sound high, the opportunity for gain is limited because CSOP options cannot be issued with (say) a 20 percent discount to market value, as in, for example, the SAYE Sharesave scheme. By

contrast, the individual limit for EMI is currently £250,000 (again valued at grant), but some believe it would be unrealistic to push for the same high value limit to be extended to CSOP because, were that to happen, the tax loss to the Treasury would be substantial, as hundreds of expanding ex-EMI companies would then incentivise many key new employees with significant CSOP option awards within the raised limits.

- ii) Currently, the tax advantages of a CSOP are only normally available where the options had been held for *at least three years* – too long, given modern working patterns (*and there is no such requirement for EMI*). **The Centre believes that the minimum holding period for CSOP options within the tax-advantaged regime should be reduced to two years.** This would have a powerful motivating effect on many junior/mid managers and IT technical staff within the SME sector.

- iii) CSOP qualification requires certain additional hurdles to be cleared if the company whose shares are being placed under option has more than one class of share (*a frequent occurrence where there are founder, investor and/or employee shareholders*). To qualify to grant a tax-advantaged option under a CSOP, the shares of the company *or, in the case of a group plan, its controlling company*, must either be a listed company or, if unlisted, must be independent and not controlled by another company (*other than the corporate trustee of an employee ownership trust*). If there is more than one class in issue, the majority of shares of the same class as the CSOP shares must be either ‘employee control’ shares or ‘open market’ shares. In addition, shares issued under that option must form part of the ordinary share capital of the company and be fully paid up and not redeemable. Such requirements were originally intended to stop employers creating an inferior class of employee shares, but they look complicated. These tests often stop companies from qualifying for CSOP and furthermore, these features were not included in EMI when that was introduced in 2000. It is the employee control requirement that can make it difficult for a private company to grant options over a special class of non-voting shares. **The Centre believes that the CSOP qualifying hurdles should be drastically reduced to encourage wider share ownership in mid-sized companies.**

The Esop Centre would be happy to connect our share scheme experts with the relevant Treasury official(s) should the need arise.

Yours faithfully,



Professor Michael Mainelli
Chairman, Z/Yen Group

Esop Centre membership comprises companies which sponsor share plans, accountancy practices, major corporate and international law firms, remuneration consultancies, and global trustees.