



## ESOP Structuring Series 4 / 4

# ESOP Structuring – Effective Employee Communication

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This write-up is a continuation of our ESOP Structuring Series 3 / 4 on structuring of Exercise/ Sale/ Monetisation parameters. An ESOP (including all its forms) broadly has 4 key stages/ aspects i.e. (i) Grant, (ii) Vesting (iii) Exercise/ Sale/ Monetisation, and (iv) Effective employee communication (“**ESOP Stages**”) which have been narrated in these separate write-ups.

Planning for Employee communication may come at last but never the least. Generally, employees are considered as the “end user” of an ESOP Plan. Needless to say that a Plan (i) not meaningfully structured, (ii) not meaningfully communicated, or (iii) not understood by the end users may have a doubtful fate. The whole castle of ESOP structuring may fail due to faulty communication.

Planning for employee communication is not given that much importance as it rightfully commands. Empowering ESOPs means empowering employees through relevant education.

ESOP Plan is an offspring of law or contract denoting ownership; thus, there is an unavoidable requirement to mention and narrate the terms like Grant, Vesting, Exercise, Sale of shares, and other vital terms and conditions. This becomes even more intricate in case of unlisted companies where some terms like Tag-along, Drag-along, Right of First Refusal (“RoFR”), etc. are used. Thus, in many cases (particularly in unlisted context), ESOP Plans do not look like a story book.

An ESOP Plan may come out in whatever form or shape depending upon the legal/ commercial/ investors’ requirement, but the task is to make all the ESOP related documents meant for the employees, simple yet effective. The task here may be to:

- a) draft the ESOP Plan keeping in view that one of the user classes of this document is Employees besides others like Investors, Auditors, and Regulators. Thus, the plan may be made in simple language yet maintaining all its effectiveness in terms of desired conditions of grant/ vesting/ exercise/ sale;
- b) draft the Grant letter with minimum critical figures/ details sufficient to enable the recipient employee to understand the commercials;

- c) plan some optional compilation like FAQs tailor made w.r.t. to the ESOP Plan with instances, instead of a generic google document;
- d) have interactive session with the employees to demonstrate all about ESOPs particularly upon/ after Grant.; and
- e) have periodic sessions (in an unlisted context) particularly including [at least some hints about] the company's financials/ business outlook/ share price as these are not available in public domain.

The sessions, whether one-time or periodic, may be undertaken internally or by an external consultant (just to rule-out any biases), or jointly.

Among others, the following contents of (written or verbal) communication may be targeted to demonstrate:

- primary objectives of the Grant;
- mutual expectations;
- terms, conditions, rights and liabilities specifically upon separation from job;
- circumstances (financial/ performance) that may give a windfall or leave the ESOPs valueless;
- instances as to value and wealth creation potential in different performance or growth scenarios;
- real life case studies of wealth creation; and
- employee taxation.

The benefits of appropriate employee communication are many. It is not limited to knowing the inside out of the ESOPs; but also helps:

- employees to know the commercial aspects (or limitations) of their company;
- avoid rumours/ unrealistic expectation/ mis-understandings of the employees (*e.g. aware employees understand that wealth is created in long-term and not instantly*);
- in developing long-term thoughts about their finances promoting retention and loyalty.

**Appropriate Employee communication on an ESOP Plan is one of the critical factors in ensuring that the plan successfully delivers its intended value on time, helping achieving a win-win for all the stakeholders. Thus, it is necessary that the such communication be planned carefully.**

*Our write-ups on other fine-tuned aspects of ESOPs are available in our website and social media.*