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Mpowerment Quarterly

News & Issues of Interest to Equity Compensation Professionals

February, 2009 - Issue 1

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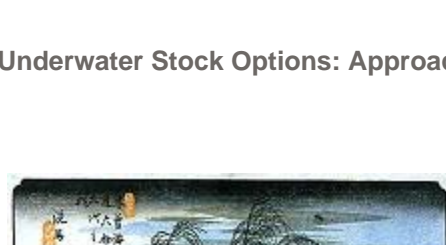
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Underwater Stock Options: Approaches Companies Take



The number of companies, and their employees, with underwater stock options has substantially increased, especially amid the historic drop of the stock markets since October 2008. A survey by the compensation research firm Equilar revealed that as of October 17, 67.8% of the Fortune 500 had underwater stock options, more than twice the number at the end of the 2007 fiscal year. The median value of option holdings among Fortune 500 CEOs had declined by 63%. Almost 60% of the exercisable options held by CEOs were underwater on that date, and 98.8% of all CEO options were underwater when the market reached its lowest point later in November.

Traditional Approaches

Companies have taken various approaches to underwater options, including:

- canceling and reissuing options (i.e., an option exchange)
- granting [restricted stock or restricted stock units](#) (i.e., full-value shares) in exchange for options
- purchasing options for cash, including purchase by a third party under a tradable options program
- accelerating the vesting of underwater options
- extending the option by modifying the expiration date, at least for terminated employees

Option Exchanges: Rising Trend

Equilar found that, by the third week of November 2008, 50 companies in the Fortune 500 had either implemented or proposed exchange programs for underwater stock options during 2008. Given that the number of companies with exchanges grew in each quarter of 2008, this seems to be a rising trend. The different alternatives raise concerns about accounting, dilution, securities law, shareholder approval under stock exchange rules, corporate governance, and investor relations. For the details of how option exchanges work, and the requirements your company must meet, read the [full FAQ](#) at myStockOptions.com. For more about underwater stock options, see the relevant section of the [website](#).

Contingency Planning



The current financial crisis has created situations that, just a few months ago, would have seemed unimaginable. Many major brokerage firms have survived only through merger and government bailouts. Their business models, basing revenue on brokerage, have proven disastrous as the stock market declines.

No one knows what the future holds. But, no matter what happens to your broker or service provider, you need to know that your plan will continue and your employees will continue to receive the benefits of their labor.

For Outsourced & Service Bureau Plans:

We suggest you consider some of the following in your contingency plans:

- Smaller is better.** At one time, it was safest to use one of the big brokers as your administrator. They had the financial resources and the brokerage incentive to provide you with the best of service at the lowest cost. Now it makes sense to separate your administration from your brokerage. A smaller outsource agent whose primary business is stock plan administration can provide you with a safer alternative. Acting now puts you in control of your plan.
- The data are yours.** No matter whom you use as a service provider, you need to protect yourself from their potential bankruptcy. You not only need your data, but you need to keep it in a database ready for you to use. Receiving outsource database backups and loading them onto software you control allows you to continue operating your plans in the event of broker or service provider failure.
- Spread the wealth.** In this environment, the more brokers you have relationships with, the safer your plan is. If you concentrate all your activity with a single broker, what will your employees do if that broker gives up the business? Being able to switch to a different broker with just a file transfer is important to keep your employees protected.

For In-House Administered Plans:

If you run your software in-house, it will continue to run if the software company goes out of business. But where will you turn if something goes wrong? What would you do if your plans change?

- Knowledge is power. At one time, the most popular software packages were viewed by both vendors and clients as industry utilities, not proprietary products. All you needed to know was the name of the vendor to ensure satisfaction. Those days are long gone. It is more important than ever to be aware of every product that is available in the market. You need to examine them in relation to your plans' definitions and requirements as well as how the new software would integrate into your technology infrastructure.

Next Step:

We suggest you consider some form of contingency support from a third party provider. Low cost support programs are available from several vendors. In the event the vendor abandons the product, you would be able to transition to other software on your timeframe, not in crisis mode.

Required Information Statements For Stock Option Exercises & ESPPs



Apart from the requirements of Forms W-2, 1099-MISC, and 1099-B, Section 6039(a) of the Internal Revenue Code requires companies to send an information statement to individuals who have exercised incentive stock options or transferred stock from a tax-qualified Section 423 employee stock purchase plan.

Statements for these exercises and transfers in any calendar year must be provided to employees by January 31 of the following year (e.g. for 2008 transactions these had to be provided by January 31, 2009). In 2010, for 2009 transactions, companies will also need to file this with the IRS. Companies may request an extension of up to 30 days. For details about the information statements, disclosures, and proposed IRS regulations, see the [full FAQ](#) at myStockOptions.com.

Equity Central Inside

- Are you frustrated by the lack of support you receive from your current equity compensation administration software vendor?
- Do you trudge through mountains of manual work caused by your current vendor's failure to meet its enhancement commitments?
- Are your fees rising as your satisfaction plummets?
- Do you long for the days when you counted on a vendor dedicated exclusively to equity compensation software?
- Are you ready to move to a new system but unwilling to lose control of your data?
- Does saving tens of thousands of dollars in license fees sound attractive?

ID	Job Title	Participant Type	Employee Status	Hire Date	Insider?	Director?	Permanent State	Permanent Country
605	Principal Release Engineer	Employee	Current	07/06/2007	No	No	Co. South	Ireland
604	FSE I	Employee	Current	07/25/2007	No	No	MA	United States
603	Sales Program Manager	Employee	Current	07/16/2007	No	No	TX	United States
602	Director of Prod Mktg	Employee	Current	07/16/2007	No	No	NY	United States
601	Sales Program Specialist	Employee	Current	07/16/2007	No	No	MA	United Kingdom
600	Corporate Attorney	Employee	Current	07/16/2007	No	No	CO	United States
609	Engineering Manager	Employee	Current	07/16/2007	No	No	PA	United States
608	Principal SVI Engineer	Employee	Terminated	07/16/2007	No	No	CA	United States
607	FSE I	Employee	Current	07/06/2007	No	No	FL	United States

Mission Mpower is proud to introduce the in-house hosted version of our cutting-edge equity compensation administration software, Equity Central Inside. With Equity Central Inside, you:

- Maintain all your data inside your firewall. Equity Central Inside easily installs on your servers, using open-source applications.
- Select which broker your participants use without paying additional fees.
- Track mobile employees for easier tax withholding.
- Administer all major instruments (e.g., Incentive Stock Options, Non-Qualified Stock Options, Restricted Stock Awards, Restricted Stock Units, Performance Stock Awards, Performance Stock Units, Cash Settled Stock Appreciation Rights, Stock Settled Stock Appreciation Rights, and Employee Stock Purchase Plans, etc.) on a scalable platform. Equity Central Inside's capabilities grow as your plan grows.
- Have access to all your data through our unique "View Window" data access engine.
- Take full advantage of FAS 123(r) reporting that was designed into the software, not added to it.
- Allow for almost unlimited data segregation with a large number of user-defined fields for both Participant (20) and Grant (10) records.
- Simplify your training cycle. We designed Equity Central Inside to make the change from your current software simple and easy.
- Convert your existing platform in hours, using our exclusive, automated conversion software.

These are just a few of the capabilities of Equity Central Inside. But seeing is believing. We are able to demonstrate for you the ease and power of Equity Central Inside. To schedule a web-based demonstration or for more information, please call us at (973) 313-0012. You may also [e-mail](#) or visit our [website](#).

AMT: Now and Next Year



Refundable AMT Credits: New Rules This Tax Season

The vast Emergency Economic Stabilization Act of 2008 (i.e. the "bailout" bill) included modifications to the law governing refundable AMT credits. The new rules are available to employees and executives who have AMT credits more than three years old (for the 2008 tax year, this means AMT credits from 2004 or earlier). The refundable credit is now 50% of any long-term unused minimum tax credit per year over two years. To use the refundable credit, it does not matter whether the AMT liability is greater or less than the regular tax liability in any year, or whether using up the credit in this way results in a tax refund.

Unless it is extended (or the AMT is reformed), this alternative method for using AMT credits will end after 2012. Because the provision pertains only to AMT credits that are at least four years old, any AMT credit generated in 2008 will not be eligible until 2012, so any credits created after 2008 will not be refundable under the current law, unless it is extended. In addition, only 50% of 2008 credits will be eligible in 2012, while the remainder will have to follow the [standard rules](#) for AMT credits.

The amendments also ended the complicated phaseout rules for higher incomes that previously could cancel or reduce the benefits of this alternative way to use up the tax credit. Any interest and penalties paid for failing to meet a past AMT bill are also added to the credit.

For more details on the new rules for refundable AMT credits, see the [full FAQ](#) at myStockOptions.com.

What's Next For AMT In 2009?

In 2009, as in each of the past few years, the income exemption amounts for calculating the alternative minimum tax will fall back to the low levels of 2000 unless Congress takes action. The specter of thus exposing tens of millions of middle-income families to the AMT will prompt at least another temporary legislative "patch" by Congress to extend and raise the amounts of the 2008 patch (\$46,200 for single filers and \$69,950 for married joint filers).

However, more lasting steps toward solving the AMT problem may finally be coming. During his election campaign, President Barack Obama expressed a desire to permanently index the AMT for inflation, essentially enshrining the system of annual patches in the tax code. More boldly, Charles Rangel (D-New York), the Chairman of the Ways & Means Committee in the House of Representatives, has sponsored bills to repeal AMT in the past and is expected to promote similar legislation in 2009. Still, the economic downturn will make it difficult to cut the AMT revenue the government currently enjoys without raising taxes elsewhere to offset the loss, always a controversial political subject in Washington.

For more background and details on the legislation and politics of the AMT, see the [related FAQ](#) at myStockOptions.com.

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Use Equity Central for 90 days free. We're sure you'll agree it is the easiest, most complete administration and financial reporting software available today. If, for any reason, you're not satisfied, just stop using it. It's that simple.

Now you can enjoy the benefits of locking in your costs without the bother and expense of up-front payment. With Equity Central, you can fix the license fee but still pay as you go.

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