Jordan: Employee share option plans

Dana Abduljaleel - Partner - Banking and Finance
d.abduljaleel@tamimi.com - Amman

April 2013

In essence, share options refer to contracts in which public companies commit to giving employees the right to purchase shares issued by that company at a pre-determined price on or before a specified date. Such options are generally given as part of the employee's remuneration package or by way of incentive.

As per the Share Option Instructions, a company that intends to grant its employees such an option must first obtain the approval of its general assembly. The plan proposed must include all the relevant information including the duration of the programs, the names of the relevant employees, the number of shares each employee is entitled to purchase, as well as the price at which the shares are to be offered. Said information shall be translated into the contracts to be entered into between the company and the relevant employees.

As regards the procedures for executing the share option, the Share Option Instructions state that the company must submit an application to issue and register the shares at least one month prior to the due date for exercising the option. The application must specify the number of shares to be issued as well as the names of the employees to whom the shares are due. Further, the company is compelled to set an annual date upon which the employee share options can be exercised; this date must fall between the beginning of April and the end of May.

The Securities Commission shall review the application, and issue its decision to approve or reject the issuance and registration of the shares. The Commission shall only approve the application if it is satisfied that the company has complied with all regulations related to the issuance of shares in accordance with the Securities Law No.76 of 2002 (as amended), the aforementioned Instructions and the Companies Law No.22 of 1997 (as amended).

Share options are not to be exercised until the company has issued its annual report and duly disclosed the same.

The Share Option Instructions further stipulate a number of restrictions to the granting of share options as follows:

(i) companies that are not listed on the Amman Stock Exchange are prohibited from issuing any such options;

(ii) the price at which the shares are offered (or the Strike Price) be equal to or higher than the market price of the company's shares at the time at which the contracts were entered into;

(iii) the company must amend the Strike Price of the employee share options in the event that a new opening price is calculated for the company's shares by the stock exchange, as a result of any change to the company's capital. The amendment is to be calculated so that it maintains the same difference between the strike price and the market price as before the recalculation of the opening price;

(iv) employee share options shall be limited to employees of the company concerned;

(v) the company shall not confer share options to members of its board of directors; and

(vi) the company shall not confer share options on any employee who owns 5% or more of the company's capital.

Further restrictions include the fact that the company is prohibited from offering any single employee share options exceeding 2% of the company's paid up capital; nor of offering stock options totaling more than 6% of the company's capital. The Instructions do, however, allow the company to offer share options amounting to an additional 6% of the company's capital following the elapse of five years from the date of the initial offering.

The company is responsible for informing the Securities Commission, in writing, of the names of employees who were given share options and the number of shares allocated to each of them, and for disclosing this information within 10 working days from the date on which the options were given.

To sum up, public shareholding companies are entitled to confer share option plans on employees in accordance with the aforementioned Share Option Instructions; noting the restrictions in place to ensure that the grant of share options do not have an adverse effect on the market price of the shares or on the transparency of the transaction.