

# Loi Eckert

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# Loi Eckert

1. What is it?
2. How does it affect employee shareholders?
3. Are shares held by employees in French companies affected differently, depending on the structure of the share scheme?
4. Why are non-French employees more likely to be affected negatively?
5. Why should shares be sold if the account is dormant?
6. Why is it so difficult to access funds held in Ciclade (CDC)?

# Loi Eckert

- This is a French law applicable to banks in France. That means that a French employee of a non-French group (eg. Unilever) is not affected by it.
- A report by the Cour des Comptes stated that the authorities were not satisfied with the way the banks handled dormant accounts (making little effort to contact their customers but levying charges of up to €50 per year).
- A law was passed (called the Eckert Law) and it came into force on 1/1/16
- This new law covers not just bank accounts but also share accounts, safe deposit boxes and insurance policies. It specifies what actions banks should take to contact their customers and what action to take if the accounts continue to be dormant after a certain period.
- The dormant balances are to be transferred to Caisse des Dépôts et des Consignations (CDC), a state-owned institution, where they are held for a further period, before the funds revert to the French Treasury.

# Share Accounts

- The Loi Eckert required that banks should after five years' dormancy make annual attempts to contact their customers for a further five years. Dormancy could only start to be counted from when the shares were unblocked (typically five years from subscription). That means that after a total of 15 years, the banks were required to sell the shares and transfer the proceeds to CDC. This measure was retrospective, so there was a flood of such transfers in 2016-17. CDC (via its Ciclade website) has been struggling to cope with the volumes.
- Claims on Ciclade can only be made on-line, and the process is slow and cumbersome and only available in French or English.
- €3.7bn of balances were transferred to CDC in 2016, but only €18.6m (ie. 0.5%) was restituted in the first half of 2017.

# Share Scheme Structures

- FCPE, PEE, PEI and PEG are affected by the Loi Eckert, but not apparently PERCO and CCB.
- Where shares are held outside France for non-French employees eg. within a trust structure, it seems the Loi Eckert does not apply.
- If shares are held directly in the employee's name with the company's custodian (ie. not via company share plan), it would seem that the Loi Eckert does not apply either.

# Non-French employee shareholders

- These seem to be much more affected than French employee shareholders.
- French employees tend to make savings for their retirement via tax-efficient accounts which may hold cash, diversified shares or company shares. In addition they receive annual profit-sharing, which may be switched into shares. The Loi Eckert specifies that any movement on any of these accounts will reactivate all accounts and therefore avoid dormancy.
- Non-French employees do not enjoy the French statutory profit-sharing (Participation and Intéressement) nor can they invest in such shares schemes in their retirement which French pensioners can do.

# Problems

- The French banks are not always familiar with foreign names and/or addresses, so sometimes errors creep into the data.
- The French banks may create separate accounts for the same employee as each new share scheme is launched, so they are not always able to consolidate the ones in the same name. Of course names change (eg when a lady marries) and addresses change (as people move house or accept a posting to a new country). Employees and particularly ex-employees may forget to notify the bank running the share schemes of any changes or may inadvertently only re-activate some accounts and not others.
- Some ex-employees do not read the bank communications (particularly if they are in a foreign language) either because they consider the shares to be an investment for their retirement or because they consider it Spam eg. when the bank changes its name (eg. CREELIA →AMUNDI)

# Conclusions

- It seems harsh to require the banks to sell off the shares. The sums may be considerable if the employee has participated in many such schemes and/or the company's share price has risen significantly over the 15 year period and/or the dividends are reinvested. What started as a few hundred Euros may turn into many thousands.
- Clearly the primary responsibility rests with the investor (the employee) but it can be argued that some moral responsibility lies with the company, which publicised the share scheme. The bank understandably wishes to minimise its costs and therefore does not go to great lengths to find its dormant customers. The non-French customers are totally unaware of the Loi Eckert, which did not exist when they subscribed.
- These problems create negative publicity, which can adversely affect participation in future share schemes by both existing and new employees.