

Employee Ownership Report

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Reactions to the DOL-GreatBanc Agreement

The November-December newsletter included part of an extensive analysis of the fiduciary process agreement signed by the Department of Labor and GreatBanc Trust Company. Many in the ESOP community have hailed this agreement as the long-awaited clarity they had been hoping for. The agreement provides them a “safe harbor” set of steps to follow so they can be confident that ESOP transactions have met the expectations of the DOL. Some experts, such as independent institutional trustee BTC ESOP Services, see that in the case of their own practice, the agreement either confirmed their existing practices or resulted simply in “incremental modifications and enhancement to existing processes.”

The impact of the agreement is difficult to predict. To the extent it increases the amount of work required to establish an ESOP, it will increase the cost and may discourage ESOP formation, especially in smaller companies. On the other hand, the clarity provided by the agreement will reduce uncertainty about the DOL’s expectations for how to properly establish an ESOP. That uncertainty itself has been an impediment to ESOP creation.

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ANNOUNCING A NEW NCEO MEETING! Equity Compensation for Companies Staying Privately Owned: Plan Design, Liquidity, and Compliance

March 12, 2015 | Santa Clara, CA

Not all successful, entrepreneurial companies will go public or be sold — more and more want to stay private for many years or even indefinitely. Their reasons for staying private may be culture, values, timing, or control, but how can these companies get liquidity for their employees and investors? This meeting will focus on practical solutions, such as redeeming shares, internal markets, secondary markets, and sales to an employee stock ownership plan. It will also explore best practices in plan design, administration, and communications in entrepreneurial companies. It features leading experts on all these issues as well as structured opportunities for participants to share ideas. ■

More information and registration is at nceo.org/r/stayprivate

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