



EMPLOYEE SHARE PLANS AND TRUSTEES CONFERENCE 2022

After a three-year gap, it was good to be back in Jersey. Z/Yen Group's executive chairman **Michael Mainelli**, who was chairing the conference, said in his introduction, "What Malcolm brought back from the United States changed the lives of many, but Eso has the power to change the lives of many more. My aim today is to discover what you think the Centre should be doing."

In his message from the founder, **Malcolm Hurlston CBE** reminded delegates that Jersey is renowned for its good jurisprudence and the all-important quality of trustworthiness. On the other end of the scale is the British Virgin Islands. He hoped the conference might give some insight into the recent BVI troubles in the context of overseas territories generally.

Keynote speaker, Jersey Information Commissioner, **Paul Vane** reflected on how the pandemic had changed the way we live and work; how we have all had to adapt. "With the coming of new technology is the need to work out how best to utilise it. We need compliance with regulation, and to understand how data should and could be used. The fear of technology comes from lack of knowledge of it.

"Businesses are going through a transformation using technology. There are several projects being trialled in Jersey, including stewardship services and a cycle system, turning tech to lucrative advantage

and benefitting the community at the same time. On the other side, there will always be bad actors wanting to take advantage for their own gain only, but you should look on this as providing a learning opportunity for your business."

He emphasised that in a globalised world Jersey needs to, and can have a voice on the world stage. "The global economy has become dependent on digitalisation and businesses reliant on data transfers - so there is a need to think in much broader terms than we are at present.

"Data protection is about people and privacy and the need to change the power balance between corporate and personal. **Trust** is needed – legislation can't do it alone; *it needs all of us to take part.*"

In his talk: 'Employee trusts: a look back at their uses and abuses', Eso barrister **David Pett** concluded that we, in particular the Esop Centre, need to do more on disguised remuneration. Tax expert **Paul Malin** suggested that HMRC needs to pull up its socks, in his presentation: 'HM Revenue & Customs has had a lot of catching up to do while unravelling the mess left behind after Covid'. CMS's **Graham Muir**'s update on developments in employee share schemes, drew attention to the changing world we face amid the Ukraine crisis and Covid. And, chairman of Central Associates, **Helen Hatton**'s observations on the current economic climate and international

regulation drew our attention to recession, inflation, logistics and the need for increased vigilance.

Michael Mainelli concluded the conference by telling delegates that he is guided by the saying 'Let's be optimistic; pessimism is for better times', adding "What we take away from today's discussions is that there is a lot to do, and we have a wonderful community, both in Jersey and the UK; and while we are doing this to make money for ourselves, we are, too, doing it for a wonderful social goal; and we hope to get that message out over the coming months."

A full report of the event will be published in the June edition of newspad.

ESOP CENTRE WEBINAR

Share schemes and the impact of inflation

Thursday June 23 15:00.

Share schemes expert David Craddock will outline his research into **how inflation will impact share plans** in a 45 minute webinar for the Centre. There will be plenty of opportunity to put your questions to him and we look forward to seeing you there. **Registration is open.**

Here is our library of broadcasts: **The Future of Gig Working As A Dynamic Economic Alternative; The Employee Voice: Share Plan Votes ; Esop Sofa: Hot Topics In Employee Share Ownership – Newspad Review IV; Innovative Tax Techniques For Employee Share Schemes; Share Schemes For Non-Employees & The Gig Economy; Esop Sofa: Hot Topics In Employee Share Ownership; Building Back Better With Your Employees Through Shared Ownership ; EOTs: The Credible Alternative To**

Succession; The Role of Employee Share Schemes In Achieving The UN Sustainable Development Goals ; Esop Sofa: Hot Topics In Employee Share Ownership - Newspad Review ; Beyond Brexit: EU-UK Social Security Contribution Rules; Esop Sofa: Hot Topics – newspad Review; The Share Valuation Worked Examples Group In The Changing Valuation Landscape ; Looking Ahead To 2021: Moving Beyond Brexit In Financial Services Regulation; Insights Into Share Valuation for Employee Share Schemes: Revealed Through Dynamic Case Studies; Lessons From Lockdown: Re-Assessing How You Manage Share Plans In A Digital Way; Employee Share Schemes: Innovative Communication Strategies Guaranteed To Increase Employee Take-Up ; Selling Your Company To An EOT - How It Differs From An MBO; Institutional Investors' Views On The Use Of Share Plans; Esop Sofa – Hot Topics; Employment-Related Securities: The Complexity Unravelling Into Practical Application; Employee Ownership & The Future Of Capitalism; Could Equity Be Used To Replace A Portion Of An Employee's Salary?; The Case For Employee Share Ownership: The Heart Of The Matter Revealed; Esop Sofa Lockdown Stories; Share Valuation: The Wisdom On Price-Setting For Your Employee Share Schemes; Tools Of Engagement: The Power Of All-Employee Plans; Awarding Shares To Employees In A Covid-19 World; The Employee Share Trust: Establishing A Dynamic Market For Your Employee Share Schemes; How To Ensure All-Employee Share Plans Remain Relevant; Esop Sofa - What Are Today's Big Employee Share Ownership Questions?; Enterprise Management Incentives (EMIs) – Powerful Lessons From Five Practical Case Studies; Enterprise Management Incentives (EMIs) – Igniting Your Business By Sharing Success; Esop's Tales: The Foundation Of The Esop Centre.

Broadening horizons, Z/Yen Group Limited is hosting a range of webinars over the coming weeks. For a full listing of Z/Yen, Long Finance, FS Club, and Esop Centre webinars look here - <https://fsclub.zyen.com/events/webinars/> - or sign up for mailings - <https://fsclub.zyen.com/#Subscribe>

CENTRE & MEMBERS' NEWS

NCEO blog: EY study shows Esop participants fare much better

NCEO's **Corey Rosen reported** that a new study, "**Contribution of S Esops to participants' retirement security and employee-owner benefits**," prepared for the Employee-Owned S Corporations of America (ESCA) by EY found that:

- ◆ The average cumulative return per participant in S corporation Esops from 2002 to 2019 was over \$300,000, for a compound annual growth rate of 12.1 percent, which is approximately one-third higher than returns from the S&P 500 over this time period.
- ◆ Net assets in S corporation Esops were 678 percent higher in 2019 (\$94 billion) than in 2002 (\$12 billion), and the number of participants increased by 286 percent, from 244,000 in 2002 to 941,000 in 2019.
- ◆ The average S corporation Esop account balance was over \$100,000 in 2019. The average increased 100 percent from 2002, and the average S corporation Esop account balance was higher than any previous point in the last 15 years. (The NCEO found a different number in its study of S corporation Esop account balances in 2019, with a median account balance of \$134,000.)
- ◆ Distributions to participants totalled over \$77 billion from 2002 to 2019, and annual distributions increased almost 13-fold during this period.
- ◆ S Esop companies were more likely to offer two retirement plans than all private sector companies were to offer a single retirement plan in 2018 (the latest year for which data is available).
- ◆ Employee-owners received an estimated annual benefit of more than \$25,900 from working for an S Esop company in 2019.

The study was based on an analysis of Form 5500 returns.

CMS: release of draft rules on certification for cross-border personal data transfer in China

Cross-border data transfers are a hot topic and China is the latest country to release draft rules on the Certification for Cross-Border Personal Data Transfer. Nick Beckett and Kelly Chen from the Beijing office summarised it in a **CMS web article**.

MM&K: Spring statement and recent HMRC publications

MM&K has summarised Eso related points from **April's Spring Statement**, along with a guide to:

- ◆ Employment Related Securities Bulletin 41 (March 2022)
- ◆ Employment Related Securities Bulletin 42 (March 2022)
- ◆ Spotlight 59 – Employee Bonus Schemes: Growth Securities Ownership Plan (GSOP) tax avoidance and similar scheme update

EQ releases its 2022 consumer borrowing report

Consumers are expressing an increasing and sustained interest in environmental and ESG matters.

EQ's latest consumer borrowing research, **Pinch + Purpose**, revealed that 45 percent of respondents thought a company's 'green credentials' are either 'very important' or 'extremely important'.

The six most common pitfalls of stock plan management and how to avoid them

There are many potential pitfalls associated with setting up and then managing an employee stock plan by yourself.

Global Shares' new eBook highlights some of the hurdles that can arise when a company decides to go it alone by setting up and managing its own stock plan and gives tips on how to avoid them, including:

- ◆ The spreadsheet trap
- ◆ The administration burden
- ◆ Communication confusion
- ◆ Understanding employees' needs
- ◆ Measuring plan effectiveness
- ◆ Stock plan knowledge
- ◆ Meeting regulations

Getting the best out of your employee benefit trust

In an Out-Law guide, **Pinsent Masons' Lynette Jacobs** focuses on:

- ◆ Free shares to employees
- ◆ Warehousing shares
- ◆ Funding
- ◆ Administrative benefits of an EBT
- ◆ Creating an internal market for shares

Gannons' guide to alternatives to EMI

In a recently published **guide**, **Gannons' Catherine Ramsay** says that the Enterprise Management Incentive is not always the answer for private companies looking to incentivise their workforce, and reflects on tax efficient alternatives to EMI, including:

- ◆ Nil paid shares
- ◆ Growth shares
- ◆ Joint share ownership arrangements

Ogier: BVI Court freezes crypto wallets

A recent judgment by the BVI Commercial Court will bring **welcome news to those who fall victim to cryptocurrency theft**, an issue that is unfortunately becoming far too common.

Chainswap – a BVI company providing synthetic transfers of cryptocurrency tokens between different blockchains – recently sought urgent ex parte relief in the Commercial Court in an effort to recoup the stolen assets and repair its reputation following at least one hack of its systems. In a rather novel decision, the Honourable Justice Jack granted the relief sought but only after the previously unknown wrongdoers were identified by reference to the wallets that were caught up in the theft.

Requirement for Listed companies to report on diversity targets

The FCA has confirmed that **listed companies will have to report** whether they have met specific board diversity targets and provide other diversity information as part of their annual financial report. Companies will be required to make these disclosures for accounting periods starting on or after April 1 2022 but are encouraged to report voluntarily for earlier periods. **Doyle Clayton's** employment expert Robert Maddox explains what relevant companies need to report and what this might mean for non-listed companies.

VG unveils brand evolution

VG has unveiled the evolution of its brand identity signalling **an important milestone** for the firm.

The aim of its new look is to reflect the dynamism of its reinvigorated leadership team, while also nodding to its heritage as an independent Jersey trust company, which will celebrate its 40th anniversary later this year.

Congratulations!

LGL Group's Emily Hotton has been shortlisted in the Trust and Corporate category of the 2022 Jersey Finance Rising Stars Awards. Hosted by Jersey Finance, these awards aim to reward and celebrate the successes and achievements of the young talent working within Jersey's finance industry. Shortlisted too are **Sanne's** Oliver Beresford (CSR category); Chelsea Mason (Trust and Corporate category); and Corey Bisson (Funds category).

Pinsent Masons' Tax Disputes and Investigations team won the Tolley's Taxation Awards Best Tax Disputes & Investigations Team award.

UK NEWS

BrewDog announces £100 million staff share award scheme

BrewDog co-founder and chief executive James Watt is donating a five percent stake in the business - worth £100m at its most recent valuation.

Watt's total shareholding will fall from 24.2 percent to 19.2 percent, after transferring **3,727,201 shares to an Employee Benefit Trust** that will distribute 1.25 percent of the company evenly among all 750 salaried crew members every year for the next four years in the form of share options, or conditional cash entitlements based on the value of the shares.

Don't miss the July 6 2022 deadline to file your annual share plan returns

An annual return needs to be submitted by all companies **who have an active employee share plan** registered with HMRC. This includes tax-advantaged share plans such as EMI, CSOP, SAYE and SIP as well as any non-tax advantaged plans or arrangements such as unapproved options, conditional share awards (or restricted stock units), growth share plans etc. A separate return is needed for each share plan registered with HMRC.

WORLD NEWS

Australia: Employee share scheme reforms to start from October 1 2022

As part of the Budget 2022/23 announcements, a raft of changes to the Corporations Act 2001 (Cth) will come into effect on October 1 2022 which are designed to **expand the availability of employee share schemes** and allow more employees to share in the growth and success of the business. The reforms will be of particular interest to start ups and other 'cash poor' businesses looking to be more competitive in recruitment and retaining staff.

Australia: ATO releases guidance on when employees are genuinely restricted from disposing of their ESS interests

Employee share schemes continue to be an area of focus for the Australian Taxation Office (ATO) with the recent release of [two Taxation Determinations](#), TD2022/4 and TD2022/8. Both are important tax rulings that outline the ATO's latest thinking on how employee share schemes can be structured and expensed for tax purposes.

TD2022/4 - "genuine restriction": Taxation Determination TD2022/4 outlines the ATO's views on when an employee is "genuinely restricted" from immediately disposing of an interest under an employee share scheme.

USA: The Twitter shareholders set to make millions from Elon Musk's takeover

The Guardian suggests that Elon Musk's \$44bn (£35bn) takeover of Twitter could lead to multimillion-dollar payouts for its co-founder Jack Dorsey, along with key executives and board members, while staff could also share a \$1bn windfall if stock options pay out.

Twitter's employees have [benefited from a generous share scheme](#), introduced in 2013, taking as much as 50 percent of their earnings in stock options. However the future is currently uncharted.

USA: RSU grants at Amazon, Apple, Google adapt to help retain top talent

According to the *myStockOptions* blog, hiring competition, the Great Resignation, and stock-price volatility are prompting changes in longstanding stock compensation practices for [key performers at big, established tech companies](#) such as Amazon, Apple, and Google. Although

grants at these tech giants are still more likely to be restricted stock units (RSUs) than the stock options that can be wealth-builders at tech startups, features of their new grants are evolving in an effort to retain top employee talent.

The changes that these industry leaders are making in their stock grant designs will be widely observed and may be emulated by other companies.

Underwater options

With stock markets in decline at the start of 2022 and IPOs underperforming, concerns about underwater stock options have resurfaced. Martin Peers, New York bureau chief and columnist at *The Information*, bluntly expresses both good news and bad news about the volatility in a recent article ([Tech Stock Slump Hits 2021 Stock Comp](#)). The good news? Grants made early this year will have "lots of upside." The bad news? Last year's grants. Even with RSU grants that do not technically go underwater (unless the stock price falls to \$0), the value of grants at some companies has been substantially sliced.

In the author's view, the big decline in tech stocks will have a widespread impact on employee compensation, and companies will need to address that in the upcoming months. He also wonders whether companies will take steps to make up for what employees lost by "beefing up" new grants to increase employee retention.

USA: Employee Ownership: Wall Street agrees that ownership works

Forbes contributor Dean Zerbe wrote recently that a group of private equity firms, companies (including Harley Davidson - employee owners), pension funds and nonprofits – spearheaded by Pete Stavros a partner at KKR— has announced that they are creating an initiative they have titled "**Ownership Works**" that will work to encourage companies to have their employees – especially low-income employees – become shareholders. This makes for a happy day as employee ownership is a cause for which he has long been campaigning.

Some recent press articles about the announcement of "Ownership Works" have highlighted that employee ownership has its downside of "one basket all eggs" variety for employees and their shares. A fair point (and one that Piggly-Wiggly workers saw first-hand). However, the answer is, in part, allowing/encouraging diversification (for example, when there is a job change or approaching retirement). The hard response though is that the real choice is between the opportunity to create significant wealth for low-income workers through employee ownership or nothing.

Employee ownership has tremendous possibilities and opportunities to bring real and significant financial benefit to low-income workers across-the-board – while at the same time strengthening companies. What this good idea has needed is the big push. Here's hoping for "Ownership Works."

Ireland: Q: What tax must I pay on share options from employer?

An employee shareholder asks: "The company that I have worked with for the last 10 years is in the process of being sold to a foreign owner. The company will be registered abroad and continue to operate in Ireland.

"Under the terms of the sale, any eligible staff must exercise any unused share options they have, prior to the sale. I have some accumulated options, and have not ever exercised options to date.

"What are my tax implications?"

Italy: Innovative share incentive plan launched for more than 25,000 group employees

Prysmian Group, world leader in the sector of cable systems for energy and telecommunications, launches an **innovative share-based variable remuneration and profit-sharing plan** in company shares, aimed potentially at more than 25,000 employees between blue and white collar workers of the group, in over 35 countries. Approved by a large majority at the shareholders' meeting, the plan will run over the years 2022, 2023 and 2024 and provide for the allocation of a maximum of 3,000,000 shares.

The main objective of the plan is, in particular, to share with a broad base of employees, mainly blue collar workers, the creation of value that the group will be able to generate in the coming years; the plan also aims to strengthen the engagement and sense of belonging of the group's employees, promoting their stable participation in the company's share capital.

"We are a genuine public company and it is key for us to align the interests of all stakeholders, from employees to shareholders, around the common goal of creating long-term sustainable value. To achieve this goal, it is therefore essential to involve those who are not recipients of share-based incentive plans usually reserved for managers and executives, such as stock options," explains Valerio Battista, group ceo of Prysmian.

India: Zerodha founder warns that Esops of many firms issued in the last three years will be out of money

Earlier this month, Zerodha founder Nithin Kamath warned that employee stock ownership plans issued by many companies and startups over the last three years **would be out of money**.

Essentially, the value of the shares with the employees will be worth much less than the price at which they were vested. The value of the shares has been eroded by the recent market sell-off, particularly in tech stocks, which reminded Kamath of the dot com boom in the 1990s.

India: Are blockchain-based Esops better for startup employees?

Newrl, a public blockchain for mainstream decentralised finance, recently launched token-based equity solutions for unlisted companies. The blockchain platform claims this to be India's **first Web3 innovation for Esops solution** for startups, enabling tokenisation of equity to issue Esops, raise funds and improve governance through smart contracts. In an email interaction with FE Online, Newrl Founder Swapnil Pawar shared how Blockchain-based Esop solution for startups would be better for employees.

Taiwan: TSMC board approves employee stock purchase plan

Taiwan Semiconductor Manufacturing Co said on May 10 that its board of directors approved a proposal to **subsidise employees' purchases of TSMC shares** by covering 15 percent of investments in the chipmaker's latest effort to recruit and retain talent.

Employees of TSMC and its fully owned subsidiaries will be allowed to allocate 15 to 20 percent of their monthly salary for share purchases, based on a company employee stock purchase plan, the chipmaker told the *Taipei Times*.

EOT Round-up

The Board of **LHi Group** has completed the sale of around 80 percent of the company share capital to an Employee Ownership Trust, giving every employee now and in the future "a six-figure stake in the business".

Other new EOTs:

- ♦ Cycling/outdoor equipment distributor **Lyon Equipment**.
- ♦ Labels and sticker printing specialist **Handy Brand**.
- ♦ Tent manufacturer **Terra Nova**.



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ABOUT NEWSBRIEF

newsbrief is the Employee Share Ownership Centre's members-only mid-month publication.

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