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it's our business

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Private equity puts more share schemes under siege

Three **Morrisons** directors could be given up to £35m from the proposed sale of the business, raising questions over whether huge executive incentive share awards are contributing to the wave of *private equity buyouts* sweeping the UK. Morrisons board has recommended a £2.54-per-share takeover offer from a consortium led by **Fortress Investments.** Bradford-based Morrisons' ceo, David Potts, stands to make up to £19.6m if the supermarket's board decides to honour share awards granted to executives under long-term incentive plans. Potts is guaranteed a £9.2m payout from the deal on the shares he already owns.

Concerns about the frantic pace of *private equity takeovers,* culminating in recent bids for Morrisons, which employs 118,000 in the UK, prompted Darren Jones MP, chairman of the Commons business select committee to ask regulators what powers were available to investigate deals and protect jobs and pension shortfalls.

*At stake is the future of Morrisons SAYE-Sharesave scheme, now administered by **EQ**, because if the company is taken private, almost certainly there will be no room for new employee share schemes.*

Asda's popular SAYE-Sharesave scheme, which regularly attracted up to 25,000 employee participants, is doomed in the wake of the rival supermarket group's takeover by the *Issa* brothers, backed by the private equity house **TDR.**

Morrisons' board accepted the takeover bid worth a total **£9.5bn** *(or £6.3bn without its additional offer to swallow its £3.2bn debt pile*) from a buy-out consortium, led by Japanese owned Fortress, owner of Majestic Wine, after secret talks. Fortress made clear commitments not to sell off Morrisons' freehold properties and vowed to protect employees' jobs and pay. Despite the board's support for the Fortress bid, at least 75 percent of Morrisons' shareholders as well as regulators must approve it in order for the planned takeover to take place. Morrison's biggest shareholder, **Silchester Asset Management**, which owns a 15 percent stake, then said it was *"not inclined to support" the Fortress bid, a stance which would make the 75 percent voting hurdle much more difficult to achieve. However, Silchester then gave the game away by suggesting a postponement, beyond August 16, of the planned egm vote on the Fortress bid - to **"allow more time to respond to other parties who might offer better value to Morrison's public shareholders".***

US private equity house **Clayton Dubilier & Rice (CDR)** appeared far from beaten after Morrisons rejected its initial 230p-a-share approach as being too low. Speculation was rife that CDR would come back with an enhanced bid.

Another US investment house **Apollo Global** first said it was considering making a rival offer for Morrisons, but later back-tracked, saying it wanted to discuss with Fortress the possibility of a *joint approach for the supermarket chain.*

From the chairman

Private equity and egregious reward are dominating the news agenda. It is hard to see public benefit emerging from the welter of activity but there is an opportunity to underline the benefits of sharing equity across businesses of all kinds. Niche employee ownership trusts are making progress despite restrictive legislation. It should be made easier for them to flourish and strengthen their localities. At private equity level KKR at least has shown the way forward. The government and the opposition need to make it clear how much RSUs and other incentive rewards are welcomed at a time when the historic share schemes are less fit for purpose. The era of Darren may have arrived - certainly Darren Jones, who chairs the BEIS Committee has stepped forward, as we read in this newspad. It had passed my attention that he was the first Darren to become an MP and that is certainly a sign of the times. Let us work towards a broad alliance of new thinkers across the political spectrum capable of creating a better post-pandemic society.

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Next on the private equity menu is key UK defence company **Ultra Electronics (UE),** which was being wooed again by defence rival, Cobham, now owned by the US buy-out firm Advent International, which has put in an increased, allegedly 'knockout' £2.6bn takeover bid. Greenford, Middlesex, based Ultra Electronics which employs 4,500 worldwide, operates several popular and successful tax-advantaged Eso schemes, including both SAYE-Sharesave and the Share Incentive Plan (SIP). In its SIP, employee share dividends are automatically reinvested into the purchase of more SIP UE shares, which are held in trust for a minimum three years. The future of these employee share schemes is now clouded with doubt, as Ultra Electronics is now '*in play'* as they say in the City. Defence chiefs demanded that likely takeover of UE should be stopped for national security reasons, as it supplies the Royal Navy with sonar systems for anti-submarine warfare and anti-torpedo decoys. In addition, it produces cyber warfare equipment.

However, Ultra's board said it was "*minded to recommend*" Cobham's £35 per share cash offer to shareholders, subject to satisfactory resolution of various terms and arrangements, including safeguards for the interests of Ultra's wider stakeholders. A Cobham spokesman said the company has "*offered assurances that appropriate national security undertakings will be offered to the UK government*", and said the deal would have "strong industrial logic". When Cobham was bought out by Advent for £4bn two years ago, there was an inquiry into claims that the acquisition was against the UK national strategic defence interests, but it went through anyway and much of what Advent bought in Cobham has been sold on, despite its promises to invest and protect jobs.

Business secretary Kwasi Kwarteng requested a meeting with Morrisons' chairman Andrew Higginson to seek assurances over the future of the jobs, company pensions and its UK operations. City institution **Legal & General Investment Management (L&GIM)** warned that despite promises of good behaviour by the private equity bidders, Morrisons risked being loaded with debt and stripped of its property freeholds. Andrew Koch, a fund manager at L&GIM, said: "*If an acquirer makes strong returns, this should come from making it a better business, not from buying its property portfolio too cheaply, leveraging up the company with debt and potentially reducing the tax paid to the Exchequer."* Under the late Sir Ken Morrison, its previous chairman, Morrisons built up relationships with thousands of farmers, fishermen and other local businesses to keep its shelves full of local produce, wrote Ben Marlow in *The Telegraph.* The supermarket chain's environmental credentials were among the most impressive of the major grocers too, having made progress in reducing plastic packaging in its stores. Promises made in the heat of a takeover battle were often worthless, unless backed by legally binding clauses – witness the way Kraft, once it had acquired Cadbury, shifted the latter's HQ from Bourneville to Switzerland, together with its tax domicile status, added Marlow, who appealed to investors to beat off the private equity attack on Morrisons. The chain would be weakened if a victorious private equity acquirer firm pursued an aggressive sale and leaseback of its stores (of which 87 percent are owned freehold), manufacturing sites and fisheries. Morrisons has 497 stores and 339 petrol stations.

Private equity firms have made 345 bids for UK companies since the start of the year, the highest number since records started in 1984, according to *Refinitiv.* Already, this has led to more than 100 UK companies disappearing – many taken private by their new owners - from the stock market since the pandemic began. Most of their employee share schemes have disappeared too. The UK is a happy hunting ground for US-based private equity firms, as British companies are seen as cheaply valued, due to the fall in the value of sterling since the Brexit vote.

*Banking guru **Nat Rothschild** said it was *indefensible* that private equity directors who used *carried interest* were taxed at a lower rate than unapproved traditional stock option awards. He criticised private equity chiefs who were attacking government plans to increase carried interest taxes, whereby their profits are carried interest in the fund, rather than performance-related pay, thus allowing them to pay CGT at only 28 percent maximum, instead of Income Tax at up to 45 percent. In a Twitter message, Mr Rothschild said it was "*totally indefensible that PE execs' carried interest is taxed at a lower rate, 28 percent, than traditional stock option awards (45 percent) given to executives at UK plcs. It is another reason why the pool of listed companies is shrinking."* Yet the Treasury has failed to act on the issue. **The *FT* reported recently that the British Private Equity & Venture Capital Association was lobbying against imposing any extra taxes on carried interest pay-outs.**

EVENTS

Webinar - Esop Sofa: *newspad* review

We hope you will join us Thursday August 12 at 11:00am for our regular panel discussion when guests, Arran Simpson, partner in Deloitte's reward practice, a share scheme expert from Clifford Chance and a plan issuer company share plan manager (to be announced), chew over the pick of issues raised in recent editions of newspad - *It's Our Business*. The discussion highlights the Centre's response to the Treasury's Call for Evidence, on whether and how more UK companies should be able to access EMI schemes. The Centre's evidence urged chancellor Rishi Sunak to reboot EMI by tearing up its archaic and increasingly irrelevant rule book.

Save the day: share schemes & trustees event
The Esop Centre is teaming up with STEP Jersey for its annual *employee share schemes and trustees* conference. This year's event will be in a new format of a 90 minute live on-line panel discussion with breakout group debates on the morning of December 1 2021. Speakers will pre-record presentations and papers as background material for participants. Further details will be announced shortly.

MOVERS AND SHAKERS

On the move
*Consultants **McKinsey** found that the average life -span of companies listed in US Standard & Poor's 500 was 61 years in 1958. Today, it is less than 18 years. McKinsey believes that, by 2027, 75 percent of the companies currently quoted on the S&P 500 will have disappeared.
*Insurance brokers **Aon** and **Willis Towers Watson** have agreed to terminate their $30billion merger agreement and end their litigation with the US Department of Justice. The deal would have put the enlarged London-headquartered Aon ahead of Marsh & McLennan as the world's largest insurance broker.
"Despite regulatory momentum around the world, including the recent approval of our combination by the European Commission, we reached an impasse with the US Department of Justice," explained Aon ceo Greg Case.
*Please email your employee share ownership **news items** (such as, a new share scheme you've helped set up, a key appointment/organisational change, a client technical issue, or news of a successful vesting of a client scheme), to the editor of ***newspad*** at fred_hackworth@zyen.com (*note the underscore between first and last names).* Please confirm whether you or a colleague can be quoted as the originator, or whether you prefer the item to be run in the unattributed third person mode. News from Centre members has preference. Thank you.

UK CORNER

OTS urges deferred compensation tax reform
Centre member **MM & K** gave the Office of Tax Simplification (OTS) a pat on the back for the latter's proposal that tax due on *deferred compensation,* arranged when businesses are sold, should only be paid by the vendor when payments are received and not, *as is the case at present*, upfront. "*This will particularly be welcomed in those situations where the deferred payment is not fixed but is, instead, based on an agreed formula and/or a performance condition being met (frequently termed an earn out)*" said MM & K in its latest client bulletin. "*One should definitely credit the OTS for taking a bold stand on what is an obvious simplification, especially as it will likely mean a delay in tax collection and this recommendation should be fully supported*" said Stuart James. Remuneration consultancy MM & K attacked the current complex rules, plus the risk of a dry tax charge, which push business owners towards wanting all their sale proceeds paid upfront. However, were the rules changed in line with the OTS suggestion, business vendors may be more open to staged payments, because they would not have to pay so much immediate tax. Such a change could give Employee Ownership Trusts (EOTs) a major boost because sometimes there is a major sticking point in transaction negotiations over the EOT's timeline for paying the founder owner what he or she is owed in full.
The second change suggested by the OTS, which MM & K supports, is to help and encourage investment in early stage businesses by making the **Enterprise Incentive Scheme** easier to administer. "*While not as far reaching as some might have hoped, anything which improves the chances of investment into new businesses will be good for the UK economy as we come out of the current economic climate,"* added MM & K.

SIP Free shares bonanza:
More than 100,000 employee participants in the Share Incentive Plan (SIP) have been awarded free shares worth an average *£1,050* per head during the last two fiscal years, it was revealed in the latest **HMRC** share scheme statistics. Of the 450 companies who made SIP shares available to their employees in the 2019-20 tax year, 120 (*roughly one in four)* made free share awards, mainly in addition to the 370 Partnership Share offers –shares which employees have to buy. In that same fiscal year, 240 companies offered matching SIP shares, while 210 offered dividend shares. The HMRC statistics show that between the fiscal years 2017-8 and the two succeeding years the value per employee of company free SIP share offers leapt by almost one quarter. The average £1050 value per employee of the free SIP shares compares to an average of just £110 per head for Partnership Shares, £80 for matching shares and £160 per head for dividend shares.

*More employees exercise SAYE options than CSOP or EMI share options, covering the fiscal year 2019-20. While the number of employees exercising options in EMI schemes has increased slightly in recent years, there was an overall decreasing trend for SAYE and CSOP, said HMRC. For the tax year ended April 6 2020 there was no change in the *total* number of employees exercising share options compared to the previous year. (*SIP awards shares, rather than granting share options)*. SAYE schemes had the highest total ***value*** of options granted for tax year ending 2020 at approximately £1.8bn. However, the average value per employee for SAYE was lower than for EMI and CSOP at £5,910 which is due to SAYE having a large number of participants. This is the case in the other all-employee scheme, SIP with the per person value at £220. Although the total value of EMI and CSOP options granted are lower, the average amount granted per employee is higher. CSOP had an average value of £6,440, but the maximum award is limited to £30,000 per employee. The average EMI options award per employee is £13,470. The higher values for CSOP and EMI reflect the higher maximum value of options that can be granted under those schemes. These are discretionary schemes whereas SAYE and SIP must be offered to all employees.

HMRC admitted that there are far fewer option exercises than grants in each year. A drop-off between the numbers granting and exercising will be seen if companies cease operating, thus removing the possibility for employees to exercise options to buy the shares, it said. This is certainly the case with EMI awards, because many are granted on an Exit Only basis – there must be either an IPO, outright sale or other change of control for the options to be exercised.

***RM2 Partnership** pointed out that companies using SIP can offer their employees differing amounts of *free* shares, based on salary, hours worked and/or length of service without losing their tax-advantaged status, but this is not so for SAYE-Sharesave.

Pensions

Speculation grew that the Treasury was examining a new metric which could help it reduce next April's **state pension** rate increase without being seen to break the Triple Lock Guarantee), which ensures that the state pension rate rises every year by the *highest* of either: average wage growth, the consumer prices index (CPI) measure of inflation or a *minimum 2.5 percent*. However, the Office for National Statistics, said that by adjusting for inflation, total and regular pay were now growing at a faster rate than price rises, at positive 5.6 percent for year on year for total pay and 4.9 percent for regular pay (excluding bonuses). Although the unadjusted rate of annual pay growth for total pay was 7.3 percent and regular pay was 6.6 percent in March to May 2021, those higher numbers were distorted because many lower paid employees had lost their jobs in spring last year and had been replaced by higher paid staff with fewer hours were being worked, it said.

"*This strong growth is being affected by base effects and compositional effects. As such, average pay growth rates have been affected upwards by a fall in the number and proportion of lower-paid jobs compared with before the pandemic and by the base effects where the latest months are now compared to low base periods when earnings were first affected by the pandemic,"* warned ONS.

Average pay settlements were in the region of 1.5 percent to 2.5 percent during the second quarter of this year, said Bank of England agents. There have been average rises of up to nine percent in starting pay and bonuses in sectors facing recruiting difficulties, like construction and catering. UK starting salaries are rising at their fastest rate in seven years, a recent survey revealed. A recent ONS survey suggested that by late June, the proportion of the UK workforce still on full, or part -time, furlough had shrunk to five percent, or less than 1.5m. Consequently, some companies and economists are urging the chancellor to end the taxpayer funded jobs furlough scheme by the end of this month.

Paul Johnson, director of the Institute for Fiscal Studies, said that, for reasons of fairness and fiscal sustainability, it would be '*ludicrous*' to increase the state pension by almost eight per cent (*average earnings in the three months to July, year on year, were forecast to have risen by this percentage)*. He claimed that such an uplift would discriminate unfairly against other groups in society, yet many pensioners have seen the real value of their bank deposits decline, as they attract miniscule rates of interest.

The government was preparing for trouble, as it is certain that an average wage/earnings metric of some sort will be used to increase the state pension. So the chancellor may try to convince parliament that pensioners should get no more than a ***three to four percent*** pension rise. A four percent hike in the *new* state pension rate of £179.60 per week would give those pensioners who have paid ***full*** NICs, an extra **c £8 weekly**, still at significant cost to taxpayers. The chancellor could mitigate the impact of such a hike by announcing plans in his next Budget to raise the full pension rights retirement age from 66 to (say) 68, from April 2024, after the next General Election.

*UK couples typically need £26,000 and single people need £19,000 a year for a comfortable retirement, new research from the consumer group *Which?* revealed. This amount would cover essential bills plus regular short haul holidays, leisure activities, alcohol and charity giving. A couple would have to save private pensions worth £154,700 between them to hit their retirement target, while an individual would need to build a pot worth £192,290.

*The nation's stark pensions pay divide was exposed in a *Daily Mail* survey, revealing gold-plated state-backed schemes pay three times as much as the battered private sector. Ranking the UK's top pensions pound-for-pound, the NHS scheme topped the lot, paying out up to £10 for every £1 saved. At the other end of the scale, the millions of employees saving into basic private sector schemes could receive as little as £3 for every £1 they pay in, said *The Mail*. Traditionally, public sector pay deals were generally lower than in the private sector, though generous pension packages made up for this - but no longer. Statistics from the Office for National Statistics show the average public sector wage is *£580* a week, compared to *£530* in the private sector. The private sector faced heavier job losses in the pandemic. ONS figures show the redundancy rate in the accommodation and food industry hit 27 per 1,000 last year, while the manufacturing sector had a peak of 22. Actuaries and pensions consultants, *Lane Clark and Peacock (LCP),* calculated that the NHS is the UK's pension champion — with every £1 saved at the start of a career worth more than £10 over a 20-year retirement, based on the assumption that employees are saving at the start of their career, and stay until they retire aged 68. The calculations take into account income promises some schemes make, as well as tax relief on pension savings, employer contributions and investment returns. The Treasury was reported to be studying plans to reduce tax allowances on pension savings to pay for the pandemic recovery or social care. *One idea said to be being considered by chancellor Rishi Sunak is to slash back the lifetime tax-advantaged allowance to £800,000 from just over £1m. Public sector schemes like the NHS still offer pension promises linked to average career salary that provide a guaranteed rate of retirement pay which rises with inflation. They are now far more valuable than private sector pension schemes, which are largely defined contribution (DC) — pots of money invested on the stock market that the saver can spend when they retire. Latest figures from the ONS show that the average employer contribution for a DC scheme is 3.5 percent, compared to 22.2 percent for salary-related, or defined benefit (DB), schemes. However, the gold-plated, salary-linked pensions enjoyed by most retirees are a rarity among today's employees. NHS employers pay in almost 21 percent of employee salaries into the scheme, while staff pay anything between five percent and 14.5 percent. More than 1,700,000 staff pay into the scheme, and just 27,056 stopped paying into the scheme in the last financial year. In a report published last month, the committee said there was a 'concerning' drop in enrolment by younger and possibly hard-up public sector workers such as nurses and teachers. The report warned: 'The cost of supporting this generation will fall on future taxpayers.' One in four pensioners and 16 percent of the working-age population are members of one of the four largest public service pension schemes. The teachers' pension scheme is second best to the NHS as it rewards savers with almost £10 for every £1 saved. Teachers and school staff pay between 7.4 percent and 11.7 percent but their employer now has to pay almost 24 percent. *This new rate has forced many independent schools to pull out of the scheme.* Those in the Civil Service scheme pay in between 4.6 percent and eight percent, while employers are asked to pay as much as 30 percent. Local government employees pay between 5.5 and 12.5 percent, while employers contribute around 19 percent.

In contrast, the auto-enrolment schemes used by most major private employers require minimum employee contributions of five percent and just three percent from the employer. Those with private pots can either draw down an income in retirement or exchange the money for an annuity that will pay a guaranteed income until death. Steve Webb, a partner at LCP and former pensions minister said: '*The generosity of different public service pension schemes varies considerably, but in all cases they can be expected to generate more pension per £100 contribution than a newly enrolled private sector worker would get. The main reason for this is the substantial employer contribution in the public sector which can exceed 20 percent of salary, but which is often largely invisible to the scheme member."* About 7.6m people pay into a defined benefit pension, but the vast majority are in the public sector. There are more than 23m members of defined contribution schemes, up 900,000 on the year before.

*Almost one in three people aged 40-55, dubbed

Generation X, are saving inadequate sums and will achieve only a minimum standard of living in retirement, while one in four will rely on the state pension or have no savings at all, reported *The Mail*. Some 60 percent of people in this age group with defined contribution pensions may not achieve a modest income in retirement, according to research by the *International Longevity Centre* carried out for **Standard Life.** Middle aged savers missed out on auto enrolment in their early careers and have weathered two financial crises - when some will have faced periods of unemployment - in the middle of their working lives. Final salary pensions, which used to provide a relatively generous and guaranteed income in old age, have been replaced by stingier 'defined contribution' pensions where employees bear the investment risk. The state pension is currently worth £9,300 a year for those who have a full NI record. The ILC found: About 44 percent of people aged 40-55 with defined contribution pensions have gaps of at least ten years in their contributions, rising to 48 percent for women *More than a quarter, or 28 percent, will mostly or solely rely on the state pension to fund their retirement, or don't have any pension savings at all *Only seven percent are saving enough - defined as 21 percent of salary - for a moderate lifestyle in retirement. Meanwhile, almost one quarter expect to have other sources of wealth to generate income in retirement, such as having other savings and investments, expecting an inheritance, planning to downsize or release equity from the property they live in, expecting support from a partner or family member or having other property investments. The ILC surveyed more than 6,000 people aged 40 to 55 last autumn, and the figures were weighted to be representative of all UK adults in this age group.

ESG Corner

Almost 30 organisations joined forces to call for the UK to follow in the footsteps of its European partners by introducing *corporate accountability laws* requiring companies to undertake human rights and environmental due diligence across their supply chains. These groups, including the TUC, Friends of the Earth and Amnesty International, said that systemic human rights abuses and environmentally destructive practices were commonplace in the global operations and supply chains of UK businesses, and that voluntary approaches to tackle the problem had failed.

Countries such as France, Germany and Norway have already passed laws on supply chain due diligence, while the EU is to introduce obligations on all companies operating in the Single Market, reported *The Guardian.* Those backing a new law say that without it, UK companies operating in the Single Market would be obliged to meet such obligations but those outside it would not. Mark Dearn, the director of the *Corporate Justice Coalition*, said: "It's not possible to ensure respect of human rights without binding laws tackling business abuses of rights – which occur with impunity in the global supply chains of multinational corporations. There are no UK laws to hold corporations liable for human rights abuses and the Modern Slavery Act doesn't guarantee that supply chains are free from modern slavery. Meanwhile, European countries were creating new laws that would go far beyond any obligation placed on UK companies." The 29 groups said it was vital to ensure the delivery of the UN's' sustainable development goals and to meet G7 commitments to respect human rights. At the G7 summit, hosted by the PM, the leaders committed "to ensure that global supply chains are free from the use of forced labour".

*Will there be EU level legislation mandating some form of linking executive variable pay to **ESG** factors? asked Mirit Ehrenstein of Centre member **Linklaters,** writing in *Lexology*. The Commission is considering whether the existing EU green taxonomy (under the Taxonomy Regulation) should be extended to cover social issues. A group of EU experts called the *Platform on Sustainable Finance (PSF)* has been tasked with helping the Commission decide this. The group has published, for consultation, a draft report on a social taxonomy, including a discussion on linking ESG to executive pay (pp. 45-47). The consultation closes on *August 27*. The PSF will submit its final report to the Commission in the autumn so that the Commission can publish its own report by December 31. Post Brexit, this is not immediately relevant to UK businesses, but organisations operating in the EU may well be affected. There may well be a spill-on impact in the UK. The draft report states that a study of 365 issuers from major indexes in continental Europe *and the UK* found that 68 percent have at least one ESG metric in their incentive plans. The PSF report said that that ESG issues sat at the heart of good business practice, and for some companies this had become a central strategic pillar. As a result, many companies worldwide were linking executive remuneration to ESG goals: e.g. *reducing carbon emissions, customer welfare or workforce diversity. So the PSF concluded that executive pay linkage to ESG should be part of the EU taxonomy as it is a reflection of what is happening in the real economy.* The PSF said that businesses were concerned that linking ESG to pay could interfere with companies' autonomy, but they could choose their own sustainability targets and would not need to incorporate a fixed list of indicators. An option would be to link ESG factors to the long term incentive (LTIP) structure and performance measures, possibly along with *malus* and *claw-back* (withholding pay at the point of vesting, or recovering after payment). It would be necessary to manage any unintended consequences of linking ESG to LTIPs, which might lead to, for example, *green-washing.* The PSF draft report identified some challenges to this linkage: *The difficulty of developing criteria to increase diversity on boards because, for example, in some countries gathering information on employees' ethnicity or sexual orientation is unlawful. *How this initiative would fit alongside the Commission proposal on sustainable corporate governance, which is expected to address issues related to sustainability expertise in boards and make it compulsory to include sustainability metrics. *How it would fit alongside the proposed regulatory technical standards for the *Sustainable Finance Disclosure Regulation (SFDR*), which already obliges financial market participants to take into account and disclose board gender diversity. *Setting criteria on executive remuneration may prove to be extraordinarily complex due to the variety of long and short term variables and schemes, and could lead to unintended consequences. All this interlinked with companies' own business models. *It was tricky to compare companies on sustainability-linked remuneration, especially if the targets varied between companies. The PSF identified an alternative option of having rules around compensation structure, transparency and policy that responsible investors already apply when deciding whether or not to approve executive compensation at agms. However, it added that this could be perceived as disproportionate and infringing national corporate governance models.

*As many as 208 companies of FTSE4Good are at risk of being deleted from the index after failing to meet new climate performance standards, reported the latest **EQ bulletin**. FTSE Russell used the Transition Pathway Initiative (TPI) Climate Change scores to make the assessments. The companies involved have until next June to meet the required standard, or be deleted from the FTSE4Good Index Series.

*The use of *private settlement agreements* to end shareholder activist disputes is becoming increasingly popular in the UK, just as the nature of activist campaigns has continued to evolve, said **Macfarlanes**. Settlement agreements provide a means to avoid the significant drain on resources that a protracted public proxy battle may entail. Typically, such agreements will include an agreed set of actions to be taken by the company, such as the appointment of the activists' nominees to the board. In return, there may be a standstill agreement in relation to the activist's shareholding in the company. One notable example in the UK was the settlement agreement made between Elliott Management and Alliance Trust. Under the terms of that agreement, Alliance Trust undertook to appoint two non-executive directors, nominated by Elliott. In return, Elliott agreed to support the board on all other resolutions and not to agitate publicly against the company until after its next agm. Institutional investors in the UK were becoming much more proactive over activist campaigns than they would traditionally have been. As a result, investors were increasingly aware (and vocal) about the dangers of a company settling with an activist too soon. Sometimes, short-term, event-driven strategies of some activists were at odds with the more long-term focused investment horizon of the typical institutional investor, Macfarlanes added.

*Investors who believe that investing in a sustainable manner will deliver higher returns over the long run should be prepared for an imminent change in that narrative, academic research suggests. Abraham Lioui, professor of finance at **Edhec Business School**, an expert in investing according to good environmental, social and governance principles, believes that he and his co-authors have found signs that the ESG market is reaching maturity and could become a victim of its own success. "*We are going to the zone where the positive impact of the ESG buzz on prices is coming to the end of its cycle*," Lioui told the *FT*. "*Soon we will be at the stage where the relationship between ESG and performance will be negative as it [logically] should be."* There had been exponential growth in '*flavour of the month'* ESG and impact investing, partly due to a huge rise in passive investment, buoyed by mounting evidence that a corporate focus on material ESG issues led to improved returns. An analysis by NYU Stern of almost 250 studies published between 2016 and 2020 found only *eight percent* discovered a negative correlation between ESG and financial performance at a corporate level. Indeed, Lioui and his colleagues found that according to most data sets, the accumulated alpha, or out-performance, for the E and S pillars of ESG was above one percentage point per year, supporting the thesis that companies can do well by doing good. "*However, we identify a downward sloping pattern in this out-performance*," the paper said. The academics looked at three ESG ratings providers to inform their analysis, which provided a range of results. Data from Refinitiv Asset4 *showed that an inflection point for ESG out-performance may have been reached and that investors hoping to gain a climate premium from investing in companies with high environmental ranking lost that strategy as a route to out-performance more than two years ago,* the article warned. Statistics from data provider KLD paint a similar picture, in terms of returns from ESG, but those from MSCI do not show any recent declines in alpha for high-rated ESG companies. *"It should not be a surprise if, in the long term, ESG investing does come at some cost to investors*," said Greg Davies, head of behavioural science at Oxford Risk. He said that while early investors had been able to benefit from the rise in interest in ESG, companies were likely to incur costs by trying to improve environmental and social scores, leading to less profitability in the long term. In addition, ESG's popularity was likely to drive up the prices of companies with better scores, without bringing any changes in their profitability. "*Paying a higher price for the same profits means lower investor returns. This is true of any assets that are 'popular'*," Davies said. Kenneth Lamont, senior fund analyst for passive fund research at Morningstar Europe, agreed: "The results suggest that *as assets have piled into stocks with the strongest ESG credentials, the expected out-performance of these stocks have dwindled away in recent years*," he said. "***To many in the financial industry this news won't come as a surprise, as an ESG label doesn't exempt stocks from fundamental market laws***."

Banks hunt pandemic loan cheats

Banks, acting on behalf of the Treasury, are hunting pandemic loan cheats who have fled with billions worth of *Bounce Back* loans cash after closing down their phantom companies. The Treasury admitted to the parliamentary Public Accounts Committee (PAC) that it expects to write off almost **£23bn** worth of pandemic *Bounce Back* loans after having told the banks to suspend their normal *due diligence* processes when assessing applicants, in order to get the loans out quickly.

Although an as yet unknown number of distressed firms subsequently closed because of their debts after receiving *Bounce Back* loans of up to £50,000, it is already clear from Companies House *strike-off* statistics that many thousands of phantom companies were set up and then closed, once their 'directors' had received their loans.

Strike-offs increased **nine-fold** during the first quarter of this year, as criminals dissolved many thousands of fake companies formed in order to cheat taxpayers by applying for distress pandemic loans and then did *a runner* with the cash in their pockets. The alert was sounded by lawyers *Boodle Hatfield*, who told *Lexology* that the number of companies removed from the Companies House register in the first quarter of this year sky-rocketed to **39,601**, compared to just **4,695** during the same period last year. "***The staggering jump backs up fears of a wave of Coronavirus Business Interruption Loan Loan Scheme (CBILS) and Bounce Back Loan Scheme (BBLS) loan fraud*,"** wrote Boodle Hatfield. "*The government is proposing to enhance the powers granted to the Insolvency Service to enable it to investigate and disqualify the directors of dissolved companies*."

Companies House paused its strike-off process in April last year until October in response to the pandemic, but stayed further strike-offs for a second time on January 21, this year, until March 8, so there were relatively few weeks during the first quarter in which company dissolutions could be registered anyway. *This points to another huge number of additional strike-offs of fake companies, enriched with 'Bounce Back' cash, which were probably recorded in the second quarter too.*

The Treasury, acting through its agent, the British Business Bank (BBB), told bank lenders that they must make determined efforts to recover most of the total **£73bn** worth of loans handed out via to 1.67m UK businesses in order to save them from bankruptcy during the pandemic. As said, a proportion of this tidal wave of newly dissolved companies was due to genuine business problems which could not be resolved, owing to the pandemic. "*However, it is thought many companies are shutting down purely to avoid CBILS and BBLS repayments*," Amy Reed and Rahul Thakrar of Boodle Hatfield told *Lexology.* "*The pressures of the pandemic, combined with the speed of the CBILS and BBLS roll-out meant that many of the standard underwriting checks were not carried out before lenders wrote these loans. BBLS, which provided up to £50,000 in loans to assist the smallest businesses through lockdown, is thought to have been the most open to abuse*," they said. Taxpayers guaranteed **1,560,309** *Bounce Back* Loans worth *£47.36bn*, revealed BBB in a media release. Around 80 percent of all BBL applications were granted, with the majority going to micro businesses.

In addition, a further 109,877 loans worth *£26.39bn* through the CBILS and 753 loans worth £5.56bn through the Coronavirus Large Business Interruption Loan Scheme were awarded to businesses allegedly in distress and 106,660 more loans were approved under the BBLS 'Top-Ups' worth almost £1bn more, added BBB.

The PACs report said: "*Treasury referred specifically to the Bounce Back Loan Scheme, which accounts for £22.8bn of the forecast total write-off costs of £26bn. It told us that the first loan schemes had been too slow to grant loans to small businesses with no borrowing history and therefore no existing borrowing relationship with a bank or other lender. Even where there were existing relationships it had taken too much time for the lender to go through the approval process, introducing the major risk that a large number of businesses would not be able to survive long enough to get accredited for a loan. It was an explicit policy decision to set up a scheme that would disburse loans quickly, and lenders were asked to set aside their normal processes for*

approving loans. However, HM Treasury stated that it expected loans to be repaid given the generous repayment terms offered, including repayment periods lasting up to ten years."
While the government ultimately pledged to guarantee almost all of the value of pandemic-related loans (80 percent in the case of CBILS and 100 percent for BBLS), lenders (banks) are likely to have to exhaust their recovery options before turning to the Treasury for huge compensation on defaulted loans.

Reward: The median total reward of top UK executives slumped last year from £3.33m to £2.85m, due to the pandemic, said **Deloitte**'s annual FTSE100 executive remuneration report. Almost one third of top executives received no bonus at all last year, compared to the six percent who were denied bonuses in the previous year.
*Dividend payments by UK companies doubled from £12.7bn to almost £26bn during the second quarter, said **Link Group's** *Dividend Monitor.* Mining companies and banks were the biggest contributors to the big rise in payouts, Link explained. Banks are paying full dividends after the *Prudential Regulation Authority* deemed them financially resilient. The regulator gave the green light for corporate share buy-backs to resume, a move which may well add legs to share prices generally. Dividend payments to shareholders jumped 51 percent year-on-year in the second quarter, added Link.
***Rising prices:** Fears over price inflation mounted as the CPI (Consumer Price Index) rate spiked again to 2.5 percent - the highest level in almost three years. The headline annual rate for June was up from 2.1 percent the previous month, with food and motor fuel major factors. This overshot analysts' expectations and was the fourth consecutive month in which CPI increased, although many prices were rising from a low level due to the pandemic. Worse still, the dusty old Retail Price Index (RPI), which the Treasury has discarded, was up by 3.9 percent, year-on-year in June.

COMPANIES

*Cardiff based insurance group **Admiral** almost doubled its half-year profit forecasts after Covid lockdowns forced more customers to stay home and off the road, resulting in fewer car accident claims. Employee share ownership standard bearer Admiral said the "*unusually positive development*" meant pre-tax profits would probably reach between £450m-£500m for the first six months of the financial year, compared to £286m it reported for the same period in 2020. Admiral's Group EBT owns 8.66 percent of the company equity, with its Share Incentive Plan (SIP) participants owning a further 4.17 percent. Last autumn, Admiral Group gave its 10,000 qualifying employees shares worth up to £1,800, under its SIP – in line with its annual free employee share award scheme, with the shares being placed in an EBT. Employees receive dividends bi-annually and can sell their shares after three years. Throughout the pandemic, no Admiral UK employees have been furloughed, received a pay cut or have been made redundant. It looked at various initiatives to support its staff including buying office equipment for employees working from home. Admiral has slashed insurance premiums for customers. It gave £110m back to policyholders in May last year, covering 4.4m vehicles. It plans to give back £400m to shareholders, including employee shareholders, after the sale of its comparison website business, which included Confused.com, to the owner of its rival Uswitch. Most of the proceeds – £400m of the £460m earned from the sale, after costs – will be distributed through special dividends throughout this and next year, starting with an interim dividend of between 110p and 125p a share, linked to the half-year results.

*Mid-sized **Alliance Disposables**, a supplier of catering disposables and equipment in both the UK and Ireland, has become 100 percent employee owned, via an Employee Ownership Trust (EOT). The business, which employs c.600 people between its Crewe headquarters and 12 depots, was previously majority owned by its founder directors. Alliance Disposables (AD) said that the directors wanted to ensure that business maintained a long-term relationship with customers and staff. This necessitated taking a more progressive approach, by transferring ownership to its employees. Those employees who have worked for Alliance for more than a year are members of the trust and entitled to an annual dividend, which is tax free up to £3,600. They will get a share of the profit on the sale of the business in the future too. AD's md David Elder said that often the sale of a business resulted in significant disruption and change, but the team saw the EOT as a solid way of maintaining stability, and to continue the growth and development of the company: "We look forward to our employees sharing in the future success. Prospects for future growth are looking exceptionally positive," he said.

*Trucking company **Axle Haulage** became employee owned too, with a new employee ownership trust (EOT) owning the majority of the business. Former majority stakeholder Barry Jordan will remain chairman of the Dunstable-based firm, which specialises in civil engineering, construction and railway industries transport, and has operating licences for a fleet of around 45 trucks and 30 trailers. He retains a minority shareholding. Jordan said he had received numerous offers for the business over many years but wanted to secure its future, continue its legacy and reward the contribution of employees who had made it successful.

*__Archie Norman__, former boss of Asda, was given a signing-on fee of £1.75m to join the board of buyout group **Bridgepoint** as the senior independent director. Ex Tory MP Mr Norman was awarded the "*initial fee*" on top of his normal annual remuneration of £200,000 for the part-time job, according to Bridgepoint's IPO registration document. Norman, 67, steered Asda from near-collapse in the early 1990s to a £7bn sale to Walmart, the US retail giant, just before the millennium. He is required to use the after-tax proceeds of £962,500 to buy Bridgepoint shares, which were worth £1.24m after the first day's trading. Three other new directors, including ITV ceo Carolyn McCall, received signing-on fees of £500,000 each before tax. Mr Norman is the current chairman of Marks & Spencer. Corporate governance experts expressed surprise at the size of the payment, but UK supermarket directors feared it was a signal that Bridgepoint, now armed with Mr Norman's retailing expertise, would shortly come after one, or more, of them. Management at Bridgepoint received an average payout of more than £2m as they sold shares amid strong demand at the flotation. Bridgepoint shares rose in value by 29 percent on their first day, adding to the wealth of those who had retained a stake in the London-headquartered company. It floated at 350p per share, but surged to 452p by the close of the day, giving it a £3.7bn valuation, miles above what was initially expected. As only 20 percent of the firm is owned by an outside investor, Dyal Capital, senior Bridgepoint employees made a killing. *The rest of its equity is owned by staff* and the 144 partners and other top executives own the bulk of that. Bridgepoint said that its listing would give even more of its employees the chance to own shares in the company. The value of their shares *(not to be confused with the "carried interest" bonuses on investment gains*) is the fruit of 20-odd years' work since Bridgepoint was spun out of NatWest via a management buyout. *A group of Bridgepoint employees and former staff received almost half a billion pounds two years ago after the private equity firm's funds recorded bumper profits. The awards came from a scheme that allows Bridgepoint employees, from investment managers to junior colleagues, to invest their *own money* in funds managed by the firm. The buyout group earns most of its revenue via fees for managing funds. It receives carried interest — a 20 percent cut of fund profits above a hurdle rate of return, once fees and expenses are deducted. Employees are allowed to invest directly in the funds through carried interest partnerships (CIPs), allowing them to receive hefty *bonuses* if their employer's managed funds substantially out-perform the market.

*The owner of **Altice**, French telecoms billionaire Patrick Drahi, who has acquired a **12 percent** stake in **BT**, is busy reassuring UK ministers, Ofcom and BT unions that he has no further designs on the company. He has ruled out a takeover bid, at least for the time being, but there was speculation that he could try to force either a spin-off or a part sale of its network arm, Openreach, said *The Telegraph.*

*Liverpool-based environment consultancy **Curtins** became employee owned to give its staff greater influence in decision making. Previously, employees owned 25 percent of the business via its share ownership scheme, which was first introduced in 2002 after ceo Rob Melling joined the board. It allowed people from outside the board to own shares in the company, based on eligibility criteria, or to receive them as gifts as a reward for long service. However, the new employee ownership trust (EOT) will result in every member of staff having a share in the business' financial performance, with a forum set up for the 350 employees, comprising 28 representatives from Curtins' 14 UK offices. Board members and other staff shareholders transferred their shares to the EOT as they were confident that this was a positive step for the business. Mr Melling said that the EOT was aligned with founder Bill Curtin's philosophy and principle of ensuring people were at the heart of the company. *"We believe that being part of the EOT will give an even greater desire to achieve our company objectives, and serving clients is at the very heart of that. We believe that this EOT is the best for the business and our people, and I believe that the company and the individuals who work within it will flourish in a truly collaborative structure,"* added Mr Melling.

*The Rothermere family was poised to make a £810m bid to take the owner of the *Daily Mail* news group private. A formal offer was dependent on the **Daily Mail and General Trust (DMGT)** selling its insurance and Cazoo financial arms. The family founded the Daily Mail, which listed on the London stock market in 1932 and expanded into a multi-media business. A DMGT statement said the directors *were minded* to accept the Rothermere's offer. Lord Rothermere is the controlling shareholder of DMGT through a 36 percent stake, including *all* the voting shares, owned by his family trust, RCL. During the last peak of the pandemic, the Daily Mail briefly became a Centre poster child for introducing a *Shares for Salary* scheme, in which journalists and other employees agreed to sacrifice up to 30 percent of their normal salaries in return for holding free shares in the company to an equivalent value of the respective salary sacrifice. The take-up was so strong that it obviated the need for redundancies. In addition, when the scheme ended, the employee shares were worth more than when they were awarded and the participating employees made overall gains. Clearly, this strategy could not be used again were DMGT to be taken private.

*Angry **JD Sports** shareholders booted out non-executive director Andrew Leslie as chairman of the sportswear retailer's remuneration committee at its recent agm. Almost *55 percent* of independent shareholders' votes were in favour of sacking him from the committee. They were upset over its decision to pay large bonuses to executive chairman Peter Cowgill, despite JD Sports having accepted more than £100m in taxpayer support during the first and second waves of the pandemic. This went against guidance from the *Investment Association* that executive bonuses should ***not*** be awarded if the company had accepted taxpayers' money during the worst of the pandemic. Mr Cowgill received *£4.3m in bonuses* in the last financial year ended April, taking his total pay to £5m—even after a voluntary 75 percent salary cut. More than 31 percent of voting shareholders refused to back the remuneration report, which included Cowgill's bonus payments. JD Sports defended the bonus, saying it reflected the group's "sustained outstanding performance." It is predicting pre-tax profits of at least £550m, compared to £324m in the previous financial year. Yet the board had refused to pay rent for successive quarters at many of its UK and Irish stores and pushed its *Go Outdoors* subsidiary into administration, reported *The Telegraph.* JD Sports obtained £86m in direct taxpayer support via the furlough scheme and benefited from about £38m in business rates relief. 83 percent of voting shareholders gave their backing to a new share-based bonus, while only 79 percent backed JS Sports' new remuneration policy.

*Trust-owned **John Lewis Partnership (JLP),** which owns *Waitrose*, plans to cut 1,000 more jobs as part of a shake-up of store management. The move follows the closure of eight more John Lewis shops earlier this year. JLP is cutting costs as shopping habits change and more people shop online. It said it would help affected staff find new roles and wanted to avoid compulsory redundancies. Earlier, JLP announced plans to build 10,000 homes for rent over the next few years. The struggling department store chain said it wanted to address the national housing shortage and support local communities. It said the rented housing project would give the firm a stable, long-term income, as well as providing new job opportunities. Tenants would have the choice of renting fully-furnished with John Lewis products or using their own. The company said 7,000 of the initial 10,000 homes would be built on its own sites, including car parks, ranging from studio flats to houses. *JLP is using some of its profitable *Waitrose* supermarkets as supporting collateral for its employee defined pension fund, which had a *£647m deficit* as of last January.

***Kingsland Drinks Group**, including Kingsland Drinks and Ten Locks, is now 51 percent employee owned, via an Employee Ownership Trust (EOT). Its four shareholders will remain active in the business as executive members of the board and will retain an equity interest while moving the majority of the company into the EOT, giving employees indirect ownership status. The remaining 49 percent will continue to be held by the owners. There will be a board of trustees, comprising one external independent member, two founders and two employees, who will look after the best interests of the company co-owners. It's business as usual, with the board of directors and management accountable to the board of trustees.

*Bankers blamed investor fatigue for shares in **Made.com** slipping on their first day of trading, despite the furniture retailer's IPO being priced at the bottom of its range. Floated in mid-June at 200p, it had given the business a valuation of £775.3m, but a month later, it was well down at 186p per share. The online furniture retailer had been hoping for a £1bn market capitalisation, with advisers guiding investors towards a price range of 200p to 265p, at which level it would have given employee equity holders good rewards. One banker said that there had been a determined effort to price the listing sensibly after investors had been "stuffed with European listings" since the start of the year. Some institutions had questioned the track record of Made because it had not yet made an annual profit, he added.

*The government is to sell off another chunk of its 55 percent remaining stake in **NatWest**, starting this month, through a trading plan that it used to return most of its holding in Lloyds to the private sector. The Treasury will "dribble out" NatWest shares over the next year to interested buyers, selling up to 15 percent of daily trading volumes at a price deemed to be "*fair value*" for taxpayers. Based on recent trading in NatWest, that could mean selling up to three million shares a day, which would add up to about five percent of the bank, or £1bn worth of shares, by next summer. NatWest was saved from bankruptcy 13 years ago by a £46bn government bail-out, at a price to taxpayers of 502p per share during the global financial crisis. Its share price has climbed back from the abyss so far this year to 200p, implying a substantial loss for taxpayers.

***Next** decided to repay £29m of business rates relief to the government, after reporting strong revenue growth as shoppers returned to its clothing stores after the Covid-19 lockdown reopening. The clothing and home-ware retailer's full-price sales over the past 11 weeks, between early May and 17 July, were almost 19 percent higher than during the same pre-pandemic period two years earlier. The company had previously forecast a three percent increase.

*Privately-owned **Renishaw** precision engineering has not found a buyer for the £3.65bn business, reported *The Telegraph*. Chairman Sir David McMurtry and his deputy John Deer, both in their eighties, between them own almost 53 percent of the Gloucestershire based business, which employs 4,000, more than half of them in the UK. Prospective buyers were asked for solid guarantees that the new owner would protect jobs and research at Renishaw and keep its HQ in Gloucestershire. The owners said that, for the time being, they had no intention of selling their shares after Swedish company Sandvig and US engineer Danaher pulled out of acquisition talks. Have they considered yet establishing an Employee Ownership Trust (EOT), backed by a long-term bank loan, for selling 52 percent of Renishaw's equity to its employees?

*Accounting software firm **Sage** has achieved an overall participation rate of 64 percent in the UK part of its global share option plan and 31 percent globally among its 12,000 employees, reported *Employee Benefits*. The plan, similar in design to an SAYE-Sharesave scheme, allows employees to invest up to £500 a month into a savings account with the option of buying shares at a discounted price, set at launch, in three years' time, or two in the US. The scheme has operated annually, with employees able to contribute to multiple plans, as long as they do not pay in more than the maximum amount overall. Take-up in the UK has been strong, starting at 51 percent in 2017, compared to a global average of 21 percent, but a concerted effort globally, led by **Julie Shepherd**, Sage's director of share plans, witnessed UK employee participation reach the dizzy heights of 64 percent. The business has an educational hub on its intranet which includes a myth-busting section: "*We have had people say they're not going to join because they could lose money,*" said Julie. "*We make it clear [they] can take [their] money out at any time. Another one is people saying they won't be with us for that long, but the average length of service in Sage is about six years, so they might be here longer than they think*." During the pandemic, Sage created a video, featuring employees on Zoom calls. "We have had a range of people from management down to an apprentice, who was going to join the plan for the first time," said Ms Shepherd. Previous campaigns in the office have included posters and 'lunch and learn' sessions, where people could come along and find out more about it. To date, the global plan has had one maturity, enabling those participating to make a profit by exercising the option to buy shares. "People used it for deposits for mortgages, to pay off student loans, buy cars or fund holidays," she added. *An *Employee Benefits* employer survey claimed that one quarter of UK employers offer shares or share options to all qualified staff, while 40 percent of employers offer a long-term incentive plan (LTIP), mainly to executives. The e -magazine reported that 25 percent of employers offer an all-employee Sharesave or SAYE scheme, while 21 percent of employers offer a company share option plan (CSOP) and the same proportion offer a SIP with matching or free shares.

***SAP,** the German multinational software corporation based in Walldorf, Baden-Württemberg, is to open new offices in London and Manchester this year, creating many hundreds of new jobs. This is good news for employee share ownership because SAP, which supplies payroll technology and accounting programmes, has been offering all-employee plans to its employees since the 1990s. Its Eso jewel is its SAP share purchase plan, in which employees can invest between one and ten percent of monthly base salary (gross) in SAP shares. SAP immediately matches employee investment by a 40 percent (matching contribution) and adds a subsidy of €20 per month. Fractional SAP shares are purchased with the monthly investment, the 40 percent matching contribution and the €20 subsidy. Employees can sell their voting shares, which carry dividend rights, at almost any time, as there is no holding period. The SAP contribution (including the monthly subsidy of €20) is capped at €6,000 per year per person. After the cap is reached, participants automatically continue to purchase shares via their self-investment only. In addition, managers and executives participate in SAP's Restricted Stock Units (RSUs) and Performance Stock Units (PSUs), which are basically virtual shares. Last year SAP, which already employs around 2,500 in the UK, announced that it would dedicate a budget of €400m with which to launch an additional equity awards programme - *Grow SAP.* The company said: '*We want to acknowledge the commitment of our employees who give their best for SAP every day, and we want to foster a shareholder mentality across the company.''*

***Severn Trent** ceo **Liv Garfield**, who won the Centre's recent award for *Outstanding company leadership -for chairman or ceo personally associated with company employee share plans* - permitted retail investors to participate with City institutions on equal terms in a £250m green funds placement in May. Private investor participation in quoted company fund raising had been very low because until the arrival of a special app, potential private investors knew that they could not get the same terms as the pension fund institutions. Liv said: "*Treating all investors fairly is fundamental to our corporate governance commitment and so we were delighted to include a retail component to our fund-raising to give everyone the same opportunity to participate*." Deliveroo, Ocado and PensionBee all used the app - *PrimaryBid* – to include stakeholders in their fundraisings. PrimaryBid, which was created by ex-banker and UK citizen Anand Sambasivan, has been involved in almost 70 fund-raisings so far this year and has more than 200,000 subscribers.

*The proposed £1bn+ takeover of **Spire Healthcare**, the private hospital chain, by an Australian competitor was ditched by shareholder institutions. In a pandemic delayed investor vote on the planned acquisition by Ramsay Health Care, almost 70 percent of shareholders voted in favour, but this was below the 75 percent minimum threshold required. The deal had been recommended by Spire's board, led by Sir Ian Cheshire, but two of its largest institutional investors - Toscafund and Fidelity - controlling almost 20 percent of the stock, were opposed to a sweetened final 250p per share cash offer, claiming it undervalued Spire.

***Winch Design**, a design studio for the yachting, aviation and architecture sectors, is fully employee owned, via an employee ownership trust (EOT), which is now the sole shareholder. The Winch Design EOT was established in line with its ethos of placing the highest value on its staff, with their

"loyalty, talent and commitment" playing a vital part in the company's success. Winch Design said the move was a natural progression, making the company one of more than 470 live EOTs in the UK. Winch will remain privately held under the current team. The EOT will be governed by a board of trustee directors, whose role is to represent Winch employees' interests and to ensure high levels of employee engagement. The operating board will continue to act as a decision-making board, overseen by the trustees.
*Ceo, Jozsef Varadi, of Hungarian owned low cost carrier **Wizz Air** will qualify for a £100m bonus if he doubles its share price from £48 to £120 during the next five years. For just under two-thirds of the votes at Wizz's agm were cast in favour of the controversial bonus scheme, with about a third voting against. However, the agm votes represented just ***16 percent*** of the company's issued share capital, far below the average for a UK-listed company and much lower than the previous agm turnouts. Late last December, Wizz significantly reduced the voting rights of investors from outside the European Economic Area, to comply with EU rules over airline ownership following Brexit. Irish carrier Ryanair took similar action. EU regulations demand that airlines with EU operating licences are majority owned and controlled by nationals of the bloc, plus Switzerland, Norway, Iceland or Liechtenstein.

Global accord to hit Corporation Tax shifting
Officials from 132 countries agreed to overhaul the global tax system to ensure big companies pay a *fair share* wherever they operate. The Organisation for Economic Co-operation and Development (OECD) said that negotiators had backed a proposed minimum corporate tax rate of at least 15 percent. US Treasury Secretary Janet Yellen said: "*Today is an historic day for economic diplomacy*." Tax on big tech firms has been a source of friction between the US and others. The OECD, which led the talks, said that the plans could generate globally $150bn (£109bn) globally in tax revenues per year. Of this amount, high tech giants, including *Amazon* and *Google* face a collective bill of £20bn per year from the global *Corporation Tax* reform, aimed at making such companies pay taxes in the countries where they make their revenues. The reforms are backed by US president Joe Biden. The new tax regime will apply to 87 of the world's top 500 companies, by turnover and profits. However, the Paris-based organisation confirmed that **Ireland** and **Hungary** - countries with low corporate taxes – refused to sign the deal on a global minimum. All G20 countries, including the US, UK, China and France, did back the agreement. Participating governments are expected to try to pass relevant laws to bring in the minimum, although details, such as possible exemptions for certain industries, are still up for negotiation. "*A detailed implementation plan together with remaining issues will be finalised by October 2021*," said a statement signed by 130 out of 139 countries and jurisdictions involved in the talks. Countries signed up to new rules on which jurisdictions the biggest multinational companies are taxed in. They would see taxing rights on more than $100bn of profits shift to countries where profits are generated, rather than where a business might have its headquarters. Ms Yellen, said the agreement sent a sign that a "race to the bottom" on tax rates was coming to an end: *The EU will suspend its plans to tax online tech giants in the light of the global efforts to agree a minimum corporate tax rate of 15 percent. The EU said putting its own plan on ice would make it easier to achieve the *last mile* of the international deal. Ms Yellen urged all 27 EU countries to join the global deal: "*We need to put an end to corporations shifting capital income to low-tax jurisdictions, and to accounting gimmicks that allow them to avoid paying their fair share,*" she said.
Nevertheless, Ireland declared it would stick to its lower tax level of just 12.5 percent. Ireland's deputy prime minister, Leo Varadkar, said Ireland's 12.5 percent corporate tax rate had "*worked for Ireland"* and claimed that the reform plan was about "*big countries trying to get a bigger share of the pie* (!!) *We've taken about €10bn a year in corporation profit tax, double what the average European country does per head,*" he said. "*It's one of those examples of where low taxes result in higher revenues, in a world where wealth capital, labour, [and] corporations are very mobile."*

WORLD NEWSPAD

China's biggest Uber-style ride hailing company, **Didi Chuxing,** warned there would be an adverse impact on its revenues after its app was forcibly removed from Chinese stores. China's internet regulator ordered stores to stop offering Didi's app. It said the firm, which facilitates 20m rides per day, had illegally collected users' personal data. The surprise announcement came just days after the tech giant had begun selling shares on the NY Stock Exchange. The removal did not affect existing users, but will prevent new users registering on the country's biggest ride hailing platform. *"The company will strive to rectify any problems, improve its risk prevention awareness and technological capabilities, protect users' privacy and data security, and continue to provide secure and convenient services to its users,"* Didi said in a statement. **Cyberspace Administration of China (CAC**) said: "*After checks and verification, the Didi Chuxing app was found to be in serious violation of regulations in its collection and use of personal information.*" Two days earlier, the CAC had announced it was investigating the firm to protect "national security and the public interest", prompting Didi's shares to drop by five percent. Didi gathers vast amounts of real-time data every day. It uses some of the data for autonomous driving technologies and traffic analysis. China's answer to Uber had a market valuation of almost $74.5bn (£53.9bn) when it listed on the NYSE. The company raised $4.4bn in the IPO, in what was the biggest listing in the US by a Chinese company since **Alibaba**'s debut in 2014. However, the CAC attack on Didi's business model resulted in its stock losing 25 percent of its value, within weeks of the flotation. *China's state council said it intended to crack down on securities violations and would increase supervision of Chinese companies listed abroad.* Chinese companies holding data on more than one million users from now on must apply to the CAC for approval when seeking a listing in another country, which they do mainly to raise more capital. City critics claimed that the Chinese authorities were punishing web-based private companies systematically by launching 'investigations' either just before, or just after, their planned IPOs. *Bloomberg* reported that Didi had been warned by Chinese regulators some days beforehand that it should postpone the scheduled float due to concerns over cyber security.

*Shares in **Tencent** fell after its Chinese regulator ordered the technology giant to end exclusive music licensing deals with record labels around the world. The move was aimed at tackling the company's dominance of online music streaming in the country. Employee stock ownership fan Tencent was fined 500,000 yuan (£56,000) for unfair practices in the online music market. Tencent controls more than 80 percent of China's exclusive music streaming rights after an acquisition in 2016. The ***State Administration of Market Regulation (SAMR***) said the firm's activities in the Chinese online music market broke the country's anti-monopoly rules. Tencent bought China Music Corporation in 2016, giving it an unfair advantage over rivals, the SAMR said in the ruling. The company and its affiliated businesses were told that they could no longer engage in exclusive deals over music rights and must dissolve any existing agreements within 30 days. They can retain exclusive deals with independent artists, as they expire after three years.

*The **European Commission** published new *standard contractual clauses* (SCCs) for the transfer of personal data from the EU, reported Centre member **CMS**. The new EU SCCs ***cannot*** *be used for transfers of personal data from the UK*, so organisations transferring personal data from the UK relying on standard contractual clauses (and supplementary measures as required), must for the time being use the old EU SCCs or versions of them, changed in line with guidance from the UK Information Commissioner's Office **(ICO**) so they can make sense in a UK context and *provided the legal meaning of the Old EU SCCs is not changed.* The ICO is expected to publish for *consultation* new standard contractual clauses for transfers of personal data from the UK within the next few weeks. Once adopted, these clauses are expected to replace the old EU SCCs (and modified versions) for use in the UK, however, the timescales for doing so are not yet known. The New EU SCCs are more onerous, especially on the data importers, than the old EU SCCs. They should be read carefully by the parties to ensure that their provisions can be, and are, complied with, added CMS. The parties must agree on and stipulate the governing law for the new EU SCCs together with the jurisdiction for disputes. *Other than for processor to controller transfers, the governing law must be that of a stipulated EU Member State that allows for third party rights, and disputes must be resolved in the courts of a stipulated EU Member State (or for cases brought by a data subject, in the courts of the country of their habitual residence if in the EU).* Organisations can continue to use the old EU SCCs, or use the new EU SCCs, as per choice, until **September 27** this year but after this deadline, only the new EU SCCs must be used.

*The **German** tax treatment of disposals of so-called *sweet equity* had until recently been unclear: While the German tax authorities often tried to apply the top income tax rates of up to 48 percent, taxpayers usually aimed for the more beneficial so-called partial income method (*Teileinkünfteverfahren*) which is a beneficial taxation regime for certain capital gains and typically results in an effective tax rate of c. 31 percent, reported *Herbert Smith Freehills.* In two recent decisions, the German Federal Tax Court (*Bundesfinanzhof*) sided with taxpayers, when it held that the disproportionate subscription of capital instruments by a financial investor and management, hidden behind the term *sweet equity*, generally does not justify taxation at the top income tax rate – if the relevant participation has been acquired at the market value and certain other requirements are met. The decisions will hopefully result in more predictability for holders of sweet equity, said HSF. Sweet equity aims at incentivising the management of portfolio companies. This is achieved by letting management subscribe to a special class of equity, to which exit disposal proceeds are allocated only after the (debt and equity) instruments held by other investors-- but if the exit is successful, the proceeds allocated to such sweet equity can be disproportionately greater compared to the management's initial investment. As a result, the management bears a higher risk of loss, but at the same time has greater potential upside–the sweet equity.

While the acquisition of the sweet equity does not result in a tax charge if certain requirements are met (in particular if it is acquired at fair market value), it has so far been unclear if disposal proceeds of sweet equity represent regular (self) employment income of the managers. The German Federal Tax Court (*Bundesfinanzhof*) said that, in order to achieve such CG tax treatment, it was crucial that the sweet equity proceeds were based on the use of **a source of income** that was independent of the manager's employment relationship, and the court presumed this to be the case *inter alia* if: *the sweet equity was acquired and disposed of at fair market value; *it conveyed the full risk of loss; and *the contractual relationship governing the terms of the managers (self-) employment with the portfolio company did not, itself contain a contractual obligation to subscribe for and allocate the sweet equity.

***US**: A new survey by John Zogby Strategies on behalf of the **Employee-Owned S Corporations of America (ESCA)** tells *a tale of two economies* during the pandemic, during which workers at employee-owned S corporations (S Esops) report being on significantly more stable financial ground than other US workers. During the Covid emergency, Esop employees have experienced dramatically less financial adversity, have had more stable jobs and better housing security and retirement savings than their non-Esop counterparts. Zogby surveyed a sample of mid- and lower-level employees at employee-owned private companies and a sample of other non-Esop employees and "*found a world of difference between the two groups*" in key measures, including: *Non-Esop employees reported experiencing job losses or downsizing at *six times the rate* of their peers at employee-owned companies *Non-Esop workers have been adversely affected by the pandemic economy at *more than three times the rate* of employees at Esop companies **Twice as many* non-Esop respondents as Esop respondents are concerned about their ability to pay down debt **Three times as many* Esop employees say they are able to cover an emergency $500 expense, compared with their non-Esop counterparts **Twice as many* Esop workers expect to retire by the age of 60 compared with workers at non-Esop companies. **No* Esop respondents reported being behind on their rent or mortgage, compared to *more than 25 percent* of their non-Esop peers.

The findings support decades of research showing that working for a private Esop company helps US employees be better equipped to weather financial challenges or economic downturns, and that Esop companies tend to weather economic storms better than other businesses. "*Policy-makers would be wise to incentivise the Esop structure for as many working Americans as possible so that financial strength and independence may be fostered and achieved*," Zogby wrote in the report. "*With a debt crisis looming, the Esop path may provide a lodestar for weathering such a potential storm."* These findings follow study findings released earlier by economist Jared Bernstein, a member of president Biden's White House Council of Economic Advisers, which affirmed the employee benefits of Esops. Dr Bernstein urged lawmakers to explore ways to encourage the formation of more employee-owned businesses. In a previous study, reported by *newspad,* he demonstrated that employee ownership helps to close the wage and wealth gap between managers and workers in Esop-owned companies. At a time when many Americans are struggling with job losses, the research reveals that job growth among employee-owned S corporations historically outpaced that of the private sector as a whole. Demonstrating the continued broad, bipartisan support for employee ownership, senator Ben Cardin (D-Md.) and senator Rob Portman (R-Ohio), along with 25 original Senate co-sponsors, recently introduced the "*Promotion and Expansion of Private Employee Ownership Act of 2021"* in the Senate. The legislation would help extend the substantial benefits of employee ownership to more Americans. Since Congress created the S corporation Esop structure through bipartisan legislation 20 years ago, more than 3,000 private US companies have become S corporation Esops, enabling one million employees to have an ownership stake in the businesses where they work.

The Employee Share Ownership Centre is a membership organisation which lobbies, informs and researches on behalf of employee share ownership.