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# it's our business

newspad of the Employee Share Ownership Centre

## Inflation threatens all-employee plans participation

Rapidly rising household prices in the UK economy suggest that most manufacturing or office-based employees will have less spare cash to invest in all-employee share schemes this year than they had a year ago.

However, the squeeze on household spending could benefit one of employee share ownership's most unloved tax-advantaged schemes – the Company Share Option Plan (CSOP), which requires no employee contributions up front.

The other discretionary share scheme which stands to gain from galloping price inflation is the share options based Enterprise Management Incentive (EMI), which can only be used by qualifying SMEs with gross assets worth less than £30m (*a limit unchanged for 20 years!)* and who employ not more than 249 people.

While it is likely that company sponsors will launch more SAYE-Sharesave and Share Incentive Plan invitations this year than they did in Covid-dominated 2021, the levels of participation in new or extended all-employee schemes could prove hard to maintain. New employees in particular could be deterred from joining all-employee plans by the growing squeeze on household budgets. Driven by higher clothing, food, furniture and energy bills, UK price inflation surged by ***5.4*** percent in the 12 months to December, revealed the Consumer Prices Index (CPI) to its highest level since March 1992. The latest rival Retail Price index (RPI) for December showed an annual rise of ***7.5 percent,*** to its highest level for 31 years. Commentators said that UK employees needed pay rises *of more than eight percent this year to maintain their net standard of living*.

However, *average* pay rises towards the end of 2021 were only 4.2 percent higher over the year, said the Office for National Statistics, down from a 4.9 percent increase over the previous three months, confirming that living standards in average households are being squeezed hard. The credibility of Bank of England governor, Andrew Bailey was at stake after he was forced to admit that the pace of UK price inflation was far beyond the "merely transitory," which he had claimed repeatedly late last year. In a *mea culpa* statement, he told the Treasury Select Committee in January that high retail price inflation would be a fixture in the UK's economic landscape until the end of next year.

UK household energy bills could rise from an average £1,277 per year to £1,865 per year, an increase of 46 percent, assuming the price cap is revised shortly (with the increases appearing on household bills from April) predicted energy sector consultants *Cornwall Insights*. Average bills could even top £2,200 p.a., post the quarterly revaluation in August, unless global energy prices fall significantly, it added. In addition, employee shareholders face a 1.25 percentage point rise in their National Insurance Contribution rates from April this year, *though political pressure grew in favour of postponing the NICs increase*, which would cost average earners £256 per year on a £30,000 salary and £500 a year for someone earning £50,000 a year. Council taxes too are expected to rise considerably in the new fiscal

***From the chairman***

*It was a rare privilege to be able to greet John Menke - our direct link to Louis Kelso - at last week's webclave. John was a partner at Kelso when the firm created the Esop and since then John's firm has been the leading advocate, working with Louis and with his widow, Patricia (who still takes an interest). This direct line of succession is a distinguishing feature of the Centre. John was clearly surprised that the EOT was not directed towards real share ownership by employees. I share his view and shall redouble my efforts. Critics claim that the current EOT offers more hot air than real reward; sometimes, methinks, they are not far wrong...*

***Malcolm Hurlston CBE***

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year, starting April, unless the government intervenes. On top of all this, as personal tax allowances are being frozen for five years, 1.3m more employees, many employee shareholders, will be forced, *by fiscal drag*, into the higher 40 percent tax band by 2026, even if their pay increases don't cover the level of general price inflation.

So share plan company sponsors and their advisers are thinking carefully about how much typical employee shareholders can afford to pay in this year to either or both the Share Incentive Plan (SIP), in which participants have to *buy* partnership shares and SAYE-Sharesave, which relies on monthly employee savings contracts to accumulate options in their employer's shares. Sharesave participants can continue to take a holiday from their savings contracts without terminating their participation and losing their tax advantages. HMRC later announced that the 12 months contributions limit would be dropped, *provided the reason for the extra delay was related to the pandemic.* All employees with a savings contract in place on June 10 2020 still can delay the payment of monthly contributions beyond 12 months in these circumstances. *HMRC asks for enquiries about contribution holidays to be emailed to* Shareschemes@hmrc.gov.uk.

SIP participants are not forced to buy more shares monthly and their total share purchases are strictly limited – to either £1,800 or ten percent of income for the tax year, whichever is lower. Employers can give their participating employees up to two *free* matching shares for each partnership share the employee buys. In these straitened times, perhaps the biggest advantage for SIP employee participants is that their employers can award them up to £3,600 of free shares in any tax year, but that is dilutive and, if practised on a large scale, free share hand-outs can attract ire from other shareholders.

Mid-sized company plan sponsors and their advisers may turn instead to the CSOP, in which qualifying employees are each given share options – at market price (*with no discount*) - which they can cash in, provided the value of the shares they can buy has grown by their vesting date. Centre member **Bird & Bird** said that CSOP options should be held for a minimum three years in order to retain the tax advantages, which are – no Income Tax or NICs payable upon exercise, but significant gains will be subject to CGT. The sponsoring company should be in line for a Corporation Tax deduction too. The CSOP was intended to be an executive incentive options scheme, but as the maximum value of options held by individual employees under this scheme is still only £30,000 (*unchanged in 25 years!),* it is increasingly used as an all-employee tax-advantaged employee equity scheme.

Discretionary employee equity schemes, such as CSOP and EMI, offer companies powerful weapons in the bitter struggle to recruit and retain top talent. Large deferred share awards and share option packages may well become the only way of recruiting many IT specialists and middle managers, on top of big salary offers, in the months ahead. Senior service industry and IT professionals are expecting salary rises of up to 25 percent this year, as the economy begins to reopen and as companies fight to hold on to their best staff. Experienced staff with salaries of £80,000 and above across a wide range of disciplines from marketing to finance and IT are beginning to enjoy rises of £20,000 a year or more, according to recruitment firm *Robert Walters.* The hunt for talent extends further down the pay scales as professional services companies budget for an increase in their wage bill of between ten and 15 percent – *the largest increase seen since 2008* and almost three times the inflation rate, the recruiter said in its *2022 UK Salary Guide.*

Once again, EMI is set to hog the limelight as SMEs struggle to find the cash necessary to fund such large salary increases sought by their key staff. What better way for a cash-strapped high-tech start-up to attract, incentivise and retain key employees than awarding them up to £250,000 (*a limit unchanged in a decade!)* worth of share options, to be cashed in perhaps two years later? Already by April 2020, more than 13,000 UK SMEs were using EMI and the number looks set to explode this year.

In addition, fresh ONS statistics show that UK employee productivity is now running at 13 percent behind the average for G7 member countries, giving share plan advisers more ammunition with which to convince companies to operate more employee share schemes, especially those which are performance based to some extent.

As *newspad* went to press, none of the UK's major banks had passed on to customers last December's miniscule interest rate rise, even though several banks had raised their mortgage rates. This behaviour had attracted not one word of criticism from the Bank of England (BoE), which raised base interest rates by 0.15 percentage points to just 0.25 percent. As a result, some employee shareholders will be paying higher mortgage interest rates, while receiving no extra interest on their savings, other than the pittance offered currently. Some bank easy -access savings accounts still pay a risible 0.01 percent interest to savers.

Statistics from one of the BoE's own surveys showed that average family savings levels had

fallen back already to pre-pandemic levels while borrowing had surged. Campaigners called for legal caps on "*exorbitant*" credit card interest rates, which are at their highest levels – more than 20 percent - for more than two decades. Financial experts said credit card interest rates were linked to the risk of consumers defaulting on payments. UK consumers owe ***£57.9bn*** on their credit cards, equivalent to about £2,080 per household. In addition, UK shoppers racked up more than £4bn extra in outstanding debt after using *Buy now, Pay later,* instalment deals during the pandemic, said a new study. An estimated 7.7m Britons had accumulated "significant" debt balances with *buy now pay later (*BNPL) companies - averaging £538 for each user, according to Credit Karma, a financial website that offering access to personal credit scores and credit reports. Controls on bnpl are planned but this new danger is currently growing.

*The ceos of the UK's biggest companies had made more money in 2022 by breakfast time on January 7 than the average employee will earn in the entire year, according to new analysis of the vast total reward gap between FTSE 100 ceos and factory or commercial support staff. The left-leaning High Pay Centre (HPC) said that by 9am on January 7, the fourth working day of the year, a FTSE 100 ceo would have been paid more on an hourly basis than the UK employee's annual salary, based on median average remuneration figures for both groups. Trade unions demanded that firms be forced to appoint a frontline employee to remuneration committees. FTSE 100 ceos were paid £2.7m on average in 2020 (the latest full-year figures available), which works out at *86* times the £31,285 average salary for full-time UK employees, according to Office for National Statistics figures. However, average UK ceo reward fell by 17 percent in the 2020 fiscal year, as many top executives took a temporary pay cut at the start of the pandemic and first lockdown and many had their bonuses cancelled too. So, this was the first year in a decade that ceos had to work into the fourth day of the working year to make the same amount as the average full-time employee in a year. Most FTSE 100 companies have not yet announced ceo pay for their financial year ending in 2021, but 57 percent of those who have done so have recorded an increase on 2020 levels, the HPC report added.

**Nudge Unit sale triggers employee shares windfall**

**Nesta**, the UK's innovation agency, acquired '*The Nudge Unit'*- alias **Behavioural Insights Ltd (BIT)** in a £15.4m deal to accelerate social innovation. By bringing together two leaders in their fields, the acquisition will help Nesta tackle some of the UK's most pressing social challenges. Nesta has announced a ten-year mission to halve obesity rates, eliminate the school readiness gap and slash household carbon emissions by more than a quarter to reach net zero. At the time of the acquisition, BIT's employee benefit trust owned 27.5 percent of the company, offering the 230 or so qualifying employees windfalls of ca. £25,000 each.

Set up by former PM David Cameron in 2010 after he had read Richard Thaler and Cass Sunstein's book '*Nudge'*, BIT's remit is to apply the authors' theory that people's habits can be changed without government regulation, by nudging them in the 'right' direction. In 2014, the unit was spun off from the Cabinet Office into a mutual JV with Nesta, plus BIT's employees and the government each owning 30 percent of the business, though the employees' stake has reduced slightly. As a result of the takeover, each organisation will gain and exchange technical expertise in behavioural science, experimentation, design and data science. BIT will remain a commercial social purpose company, whose profits will be invested in social impact initiatives and help Nesta to advance its social missions. Ceo Ravi Gurumurthy said: "*By coming together, we will accelerate innovation and benefit from BIT's experience of translating behavioural insights into policy impact. Many of the biggest challenges and opportunities facing the UK today are intrinsically linked with behaviour. We won't reach net zero without shifting behaviour on how people travel and heat their homes. To tackle obesity, we need to understand and influence how food environments shape our eating and purchasing habits. Addressing inequalities in education and life chances will require a focus on parental relationships, what motivates pupils, and pedagogical practice among teachers."* BIT has worked with governments in more than 50 countries and owns businesses in the US, Australia, Singapore, Canada and France. It has run more than 700 randomised trials in dozens of countries, influencing policy in areas including health and wellbeing, energy and sustainability, and education and skills, including projects with government bodies and charities to reduce childhood obesity, improve student attendance and encourage people to switch to electric vehicles.

**Bonuses threat to vaccine producers**

A coalition of investment firms want the top executives of coronavirus vaccine makers to have their bonuses withheld if they fail to improve product distribution, reported *BBC Business News*. This could guarantee a more equitable global circulation of the vaccine, said Rogier Krens cio of *Achmea Investment Management*. Drug makers said

they are making sure lower income countries have access. More nine billion doses have been administered worldwide.

Mr Krens said that the group of 65 companies, which collectively control £2.59tn in assets, believes that vaccines are “not distributed fairly at the moment”. Overall, China and India have administered the highest number of doses, with nearly three billion and 1.5bn respectively. The US is third, with more than 500m. Many poorer countries are relying on deliveries from *Covax*, a scheme led by Gavi, the Vaccine Alliance, together with the WHO and the Coalition for Epidemic Preparedness Innovations (CEPI), which is trying to ensure everyone in the world has access to a Covid vaccine. So far the scheme has distributed more than 900m vaccines.

“What we’re asking the companies to do is to tie their remuneration policy and strategy to a more equitable distribution of the vaccine,” Mr Krens explained. If they don’t commit to a fairer distribution, he said the group’s first step will be to vote against any remuneration proposals that don’t take this into consideration. Asked if that means trying to withhold bonuses if the concerns aren’t addressed, Mr Krens, replied “effectively yes”. Figures collated by Our World in Data –a collaboration between Oxford University and an educational charity, show that many of the countries with the lowest vaccination rates are lower income African nations such as Burundi, DR Congo and Chad. Meanwhile, those at the top of the list are wealthier countries such as the UAE, Portugal and Brunei. The head of the World Health Organisation reiterated the importance of vaccines in ending the pandemic. Dr Tedros Adhanom Ghebreyesu warned against “narrow nationalism and vaccine hoarding.”

# EVENTS

**Newspad Awards – submission deadline extended**

Now is the perfect time to tell us about the companies and people who deserve to be recognised for their work and commitment to all-employee share ownership. We have been able to extend the submission deadline to February 25 2022, to allow for further entries.

The newspad awards recognise achievement and reward best practice models which others can follow.

If your company (or your client) has made a notable contribution to employee share ownership, issued an inspirational share plan, showed excellence in its communication and presentation, been creative in using technology, or if your company, project or team leader has upped the game with enthusiasm for employee share ownership … why not shout about it with a *newspad* award nomination!

The results will be announced in *newspad* and award certificates will be presented to the winners at the Centre’s Employee Share Plans Symposium 2022.

Google, BT, Nokia, Telefónica, easyJet, Unilever, BP, BAE Systems, Reckitt Benckiser, Tesco, Marks & Spencer, Siemens Energy, Daily Mail & General Trust, Severn Trent and Dixons Carphone are all recent award winners. You will be in distinguished company.

Companies can nominate themselves or advisers can make submissions on behalf of clients. Entrants can apply for awards in more than one category. Submitting nominations is free and simple. The deadline is 5pm on Friday February 25 2022.

**Share Plans Symposium 2022 speakers line up**

Four confirmed speakers are already in place for the Centre’s fifth share plans symposium, the *in-the-flesh* segment of which will take place in the London offices of senior member **Baker McKenzie** at New Bridge Street EC4 on Wednesday afternoon, April 6, *subject to Covid*.

The speaker list to date comprises: Jeremy Edwards, partner and head of Baker McKenzie’s employee benefits group; Catherine Ramsay of **Gannons**; Stuart Bailey of **Computershare**; and a speaker from **Macfarlanes.** They and other speakers will pre-record their presentations for discussion by the speaker panels and delegates during the Wednesday session.

***Members are invited to submit speaker slot titles with bullet points for this Centre shop window event. Several new speaker slots are about to be filled, so don’t miss out.***

Those who have a presentation in mind should contact the Centre to reserve their speaker slots. Those who plan to deliver a share plan case study can invite client plan issuers to share their slot, free of charge.

Value for money co-sponsorship slots are on offer to members only.

**Programme guide**:

**Panel one**: *The new executive remuneration landscape:*

- Baker McKenzie’s latest FTSE100 remuneration review: what it shows and feedback - *Jeremy Edwards of Baker McKenzie*
- Remuneration committee decisions and shareholder reactions
- The growing impact of ESG on executive remuneration – *Macfarlanes (speaker tbc)*

- To what extent should climate change, local job preservation, other stakeholders and environment issues impinge on corporate strategy?

**Panel two:** *The impact of regulation and governance on all-employee share plans*:

- Why employee share ownership matters: the ESG perspective – A discussion based on issues raised by the recent Esop Centre booklet
- The employee voice: prompting employee shareholders to make themselves heard
- Gig Workers –How can they be brought into shared ownership (inclusive capitalism)?
- Key regulatory developments globally

**Panel three**: *Employee share/share option plans in SME companies*:

- Using the Enterprise Management Incentive (EMI) in a volatile tax landscape – *Catherine Ramsay, Gannons*
- Navigating valuation issues for unquoted UK companies
- Growth shares come of age
- Employee Ownership Trusts: real employee ownership, or just another tax dodge for business owners?

**Panel four**: Top tips for successful share plan launches in 2022:

- Plan objectives, communications data protection and retrieval, plan reach, tax issues for mobile employees and plan participation levels.
- How easy or difficult is it to use employee benefit trusts internationally?

Those who have registered will qualify to receive pre-recordings of all the topic presentations before the event. The presentations will be debated by a speaker panel and then thrown open to discussion. Centre conferences are appreciated for their speaker expertise and networking opportunities.

**Admission prices:** Speakers from practitioner members: £250, Member delegates: £395, Non-member delegates: £595. All prices given attract standard UK VAT.

Speakers and delegates from plan issuer companies will be admitted free of charge.

The symposium will start at 13:30, concluding at 17:20 when participants will be invited to a reception, at which the *newspad* award winners will be announced. To register as a speaker and to suggest a presentation topic, please email Fred Hackworth at: fred_hackworth@zyen.com (cc juliet_wigzell@zyen.com) or phone the team at Centre HQ on +44(0) 207 562 0586. For co-sponsorship opportunities, please contact Juliet Wigzell.

**Esops & trustees conference 2022**

Hold the day for the Centre's first in-person Esops and trustees conference in two years. We hope to be back at the Pomme d'Or Hotel, St Helier for the morning of Friday May 13 for our popular learning and networking event in partnership with STEP Jersey. Further details to follow.

**Webclave on the EOT**

Almost 40 people took part in a Centre members' webclave on how the employee ownership trust (EOT) could be further developed or reformed. Since its creation in 2014, the EOT has become a popular vehicle for transferring ownership of private SME companies to their employees, via a trust. The number of EOTs is growing at 30 percent annually and now stands at an estimated total of 500 in the UK. Now was the right time to review how EOT was working in practice and to decide whether it needed extending or reform, said Graeme Nuttall, partner in Centre member law firm **Fieldfisher.** The Chartered Institute of Taxation (CIOT) had triggered such a review by presenting to the Treasury and HMRC calling for changes in the rules governing the use of EOT, including: *a new provision that the trustee should be resident in the UK (*thereby ruling out offshore trustees)* *a prohibition that the former major shareholders should not form the majority of the trustees of the new EOT *confirmation from HMRC that corporate contributions to fund the acquisition of EOT companies would not be taxed and a *statement of purpose by the new EOT that the company would promote long-term employee ownership within itself. The latter was necessary, said tax barrister and Centre doyen David Pett because he had seen a number of 'abusive arrangements' cross his desk at **Temple Tax Chambers** whereby owners planned to sell into an EOT, but with the intention of selling the company on to a third party tax free, two or three years down the line, using the proceeds to pay off the vendors (themselves). This backed up the CIOT report, which said there was evidence that the big tax advantage for an owner of selling to an EOT – no Capital Gains Tax to pay – was being misused by some owners who were not committed to employee ownership.

In the first Vox Pop, almost half of the participants (46 percent) said that these modifications were necessary in order to emphasise employee engagement; 38 percent said they were necessary mainly to stop CGT tax abuse by owners selling into EOTs and only 15 percent said that no modifications were necessary, as the structure was achieving its objectives.

In the second Vox Pop, Garry Karch, head of EOT practice at Eso lawyers and Centre member **Doyle**

**Clayton**, asked whether the EOT structure should be modified to promote/establish direct employee share ownership by the employees, and 24 percent were in favour. A further 16 percent voted for changes to current share and share option plans in general to facilitate more direct employee share ownership. Although 28 percent of participants said that the fact that EOTs could provide for more direct employee share ownership, with an Eso scheme running alongside the EOT, should be more widely publicised, without rule modifications, 32 percent said that existing share plans were well known and provided enough choice for those wanting a hybrid model, so nothing more needed to be done.

Graeme said that a key driver of EOTs was that there had to be a trustee board well suited to push real employee engagement in the business. Graeme explained that the trustee had custodianship of the trading company, ensuring that employees had genuine engagement and participation in its success. Although employees did not get share awards, the trustee held shares in a discretionary trust for the benefit for all present and future employees. A major *atout* of the EOT was that its employees could receive annual bonuses of up to £3,600, free of Income Tax, though not of NICs.

Garry said that his firm Doyle Clayton made it clear to clients that when setting up EOTs, the vendors should not have more than one of themselves on the new board (i.e. they should not control the trustee) and that employees should have at least one representative on the board too.

However, all had to be clear that EOT status was not necessarily the end of the road in terms of business evolution – it was often simply another stage in business life and that its trustee was obliged to consider seriously an outside offer to acquire the company if it seemed to be in its long-term interest to be acquired, added Garry. When an EOT company was being courted by another, a 'perverse influence' sometimes operated among a group of employees keen to realise their stake in the company. They wanted to realise some value from their often long commitment, but the EOT made this difficult to achieve unless the company was sold, he explained.

One of Garry's repeated comments, as a Centre conference speaker, is that there was still no stand-out UK based cash flow lending facility for EOTs in the banking community, perhaps because there was a greater risk of loss with privately-held SMEs. A new loan facility structure, perhaps a quasi governmental organisation, which offered at least partial loan guarantees, was urgently needed, he told the webclave, similar to that in the United States. Lively interactive discussions about the EOT then ensued among break-out groups.

The event was chaired by Juliet Wigzell, head of the **Esop Centre**. Malcolm Hurlston gave a warm welcome to John Menke from the US, our direct link to Louis Kelso, the lawyer and economist who invented the concept of using an IRS tax-qualified plan as a business succession tool. John Menke co-authored landmark Esop legislation which gave the employee share scheme sector a kick-start. His firm **Menke & Associates** is among the leading US firms who structure Esop transactions.

**Webinar: The future of gig working**

More than 50 percent of the UK workforce will form part of the gig economy before the end of this decade, forecast Centre member **David Craddock** in an **FS Club** webinar: *The future of gig working as a dynamic economic alternative***.** A *sea change* in employment patterns, geared partly to Covid-induced lifestyle changes was taking place rapidly in the US and the UK, said Mr Craddock, who is founder and director of his eponymous consultancy. There were probably 7.5m gig economy workers in the UK already and far more – approaching 60m in the US. He defined gig economy workers as a mix of short-term or freelance workers who were paid by task and who, lacking employment contracts, had no company pension arrangements and who did not receive holiday or sick pay. The third category of gig workers were independent contractors, many of them proud of their liberty to choose their work tasks and working hours, as demand for their services increased dramatically. Gig work often involved connecting with clients or customers via an online platform. The gig economy benefited workers, businesses, and consumers by making work more adaptable to the needs of the moment and demand for flexible lifestyles, as were evolving in the wake of the Covid pandemic. Recent research indicated that almost half of all gig workers had full-time jobs too and for 71 percent of them, gig worker income made up less than half of their total income.

For companies, of course, having gig workers instead of regular employees was a big cost saver and recent technological advances had made gig working even more attractive for them to adopt. For example, colleges and universities could cut costs and match professors to their academic needs by hiring more part-time professors. Gig working even offered advantages for the US government because constant job turnover increased the velocity of money circulation and thus potentially increased tax revenues, claimed Mr Craddock.

Regulators and some governments were being pressured into going after gig economy companies

like Uber, mainly to establish that their drivers were technically employees, entitled to at least minimum wages, as opposed to independent contractors, which is what the UK Supreme Court had ruled. Yet Uber had responded by promising its drivers statutory minimum conditions, but only while they worked and not while they waited for new customers. California's Proposition 22 had gained 57 percent public support by compromising over gig worker' legal status: they were given 'middling' rights – they too were guaranteed minimum earnings, but only while working and were awarded only limited medical benefits. Finally, they were classified as independent contractors and not as employees. It would be 'short-sighted' of the UK government to try and control the gig economy because it was a very powerful contributor to the economy, he warned. More rules would distort the economy and would damage enterprise. Mr Craddock agreed that some categories of gig working presented formidable difficulties over whether they could be brought into the share scheme environment and profit sharing was probably the best solution for many.

Mr Craddock forecast that within a time-span of 10 -20 years, gig working would expand into all aspects of work and that part-time working and job sharing would overtake the traditional jobs market. Experts expect the number of gig workers to rise further, as these types of positions facilitate independent contracting work, with many not requiring a freelancer to come into an office. The webinar was chaired by Ian Harris, md of **Z/Yen Group**.

## MOVERS & SHAKERS

*"*What better way to start the year than with the opening of our New York office as we continue to expand our presence in the US*," writes Grant Barbour, md, private client division of Centre member trustee, **Ocorian**. Its new office provides companies, private clients and fund managers with direct access to structuring and fund domiciliation hubs in Europe, the Middle East, the Caribbean, Latin America, Africa and Asia Pacific, connecting them with Ocorian's pro-active administration and compliance solutions across the debt, private and capital markets. Marc van Rijckevorsel, Martin Reed, Edward O'Connell and the team are at 505 5th Avenue, Suite 1501, NY, New York 10017. Find out more about its expansion in the US on Ocorian's website.

*Around one in 12 (eight percent) of personal current accounts are now held with a digital challenger bank, up from just one percent in 2018, according to City regulator the Financial Conduct Authority (FCA), It said these banks have "attracted customers in part by offering innovative mobile apps which make the experience of banking easier and more convenient and to help consumers manage their money". While there are signs that some of the historic advantages of large banks may be starting to weaken amid innovation and changing customer behaviour, the big players are still in a strong position, the regulator added.

## UK CORNER

**Foreign takeovers to be probed regularly**

Ministers have greater powers to block foreign takeovers of UK firms after new rules came into effect in January giving them more scope to unpick deals that have the potential to harm national security. The National Security and Investment Act, which enhances existing powers, was described by the government as the "*biggest shake-up of the UK's national security regime for 20 years,*" reported *The Guardian*. Ministers have already intervened in deals where a foreign-led takeover could affect economic stability, media plurality, the UK's pandemic response, or national security. However, the Act builds on the government's ability to deploy the national security rationale for "calling in" a takeover. It identifies 17 areas of the economy that warrant greater scrutiny when overseas investors seek to make an acquisition. In addition to defence and military technology, ministers will be able to examine deals in many sectors, such as advanced robotics, artificial intelligence, the civil nuclear sector, transport and quantum technology. Officials will be notified that a deal is worthy of examination when a buyer takes its stake above three trigger points: 25, 50 and 75 percent. The government can block these transactions and *even unwind them retrospectively* if they were completed on or after November 12 2020, the day the Bill was introduced to parliament. The new Act will carry implications for employee share schemes in those companies which will be

open to ministerial intervention if they are targets of (say) US-led private equity based takeover attempts.

The Act is viewed by some as a response to concern about Chinese takeovers of strategically important technology businesses, with some deals already being pored over by officials under existing rules. Much larger foreign buyouts by US companies came under the microscope last year, owing to concerns about national security or intellectual property. Takeovers of the defence suppliers **Ultra Electronics** and **Meggitt** attracted government scrutiny, as did the proposed £56bn takeover of the world-leading chipmaker **Arm** by its rival **Nvidia** – a deal that is the subject of lengthy competition investigations in the UK, US and Europe. Many shareholders still await the outcome of these investigations.

The new investigative power will apply regardless of the size of a company by revenue, or where the prospective acquirer is based, even if it is in the UK. The government has said that while up to 1,800 deals a year would be notifiable under the new powers, fewer than 100 would be called in for a full review. Reviews are intended to last a maximum of 30 days, faster than is typical at the moment, thanks to a new investment screening unit.

**Public sector pay troughing**

*The number of NHS senior executives, who work mostly in NHS trusts, earning more than £250,000 a year increased from 23 to 36 during the past year, official statistics revealed. This number will swell further this year after health secretary Sajid Javid announced that 42 ceos will be recruited to run new integrated care boards in England at an average salary of £223,000pa. Furthermore, the Senior Salaries Review Board came under pressure to recommend substantial pay increases for Very Senior Managers (VSMs), who either sit on NHS trust boards or who report direct to their ceos. Meanwhile, medical unions criticised a three percent pay for medical staff as insufficient, which did not even include junior doctors.

*Senior civil servants will have to serve at least two years in post, before moving on, in order to reduce Whitehall 'churning,' – job changing - which can disrupt major projects with which they have been involved, said the Cabinet Office. A new £45m *Capability* based pay freeze exempt scheme for mandarins should remove the current incentive for them to change jobs within the Civil Service in order to seek higher pay or promotion, it added.

**ESG corner**

*The UK's biggest private pension fund is shifting £5bn of its investment in equities to an index avoiding the worst polluters, thereby reducing carbon emissions associated with the shareholdings by 30 percent. The **Universities Superannuation Scheme (USS),** which manages the pensions of UK academics, will introduce a climate bias to the money, shifting it to companies that are making efforts to cut emissions. USS owns assets worth £82bn on behalf of 470,000 members from the UK's higher education institutions, of which 40 percent is held in equities. It is facing pressure from members to decarbonise. The £5bn stake is being moved to **Legal & General Investment Management (LGIM**), which will invest it according to a climate transition index developed by *Solactive,* a German company. The passively held investments were previously managed by **BlackRock,** the world's largest asset manager. The move will cut management costs. As well as the initial 30 percent fall in emissions associated with the investment, Solactive will ensure that portfolio carbon emissions fall by seven percent every year thereafter. This calculation will take into account emissions associated with companies' products, such as oil or gas sold by fossil fuel producers. "*We think this is a significant first step*," said Simon Pilcher, ceo of USS, which manages the pension scheme's money. "*We are committed to the ultimate decarbonisation of the total assets."*

***Aviva Investors** wants top executives' reward to be linked to sustainability goals. It was the latest major investment institution to ramp up the pressure on corporations to make them clean up their acts. Aviva Investors, which has £262bn of assets under management, set out its expectations in a letter being sent to 1,500 firms in 30 countries. The fund said it had broadened its definition of sustainability and would now focus on issues such as biodiversity and human rights, alongside existing priorities like climate change and executive pay. "*We will hold boards and individual directors accountable where the pace of change does not reflect the urgency required*," said the letter from Aviva Investors ceo Mark Versey. In his annual open letter, BlackRock ceo Larry Fink called on other ceos to find a purpose and to take account of issues — including climate change — as part of stakeholder capitalism, where companies seek to serve the interests of all connected to them. "*Stakeholder capitalism is not about politics*," he wrote, adding that it was not "woke" and did not have an ideological agenda but was capitalist in that it was based on mutually beneficial relationships. Asset managers increasingly analyse corporate performance on environmental criteria, establishing benchmarks as potential deciders as to whether to retain investments in companies who only *boxtick* ESG (Environmental, Social & Governance) factors.

*Two fraudsters who laundered £70m, scammed £10m from the government pandemic ***Bounce Back***

***Loans*** business support scheme while they were on bail. Russian Artem Terzyan, 38 and Deivis Grochiatskij, 44, from Lithuania, were jailed for 33 years. They headed an international criminal network which used fake companies to move money around to clean illegally obtained cash. Even after they were arrested they carried on committing offences, using their bogus firms to claim and receive Covid support *Bounce Back Loans,* of up to £50,000 a time, generating more than £10m in total; £3.2m of that was claimed from one UK bank alone. At the height of the pandemic, due diligence checks on the business credentials of applicants nationwide were minimal.

A judge demanded an investigation after an organised crime gang successfully applied for £145,000 in Covid 'bounce back' loans. Asif Hussain, the ringleader of an international 'chop shop' ring, which exported stolen Range Rovers and other expensive cars to Dubai, secured £50,000 in funding offered by the government to help businesses struggling during the pandemic. Another gang member, Ibraaz Shafique, received two big loans, firstly for the maximum £50,000 and then a second for £45,000. Both men had previous criminal convictions, Manchester Crown Court heard. Judge Anthony Cross QC said 'the most basic of checks' would have revealed the fraud as he demanded an explanation from the authorities within two weeks. The judge said it *defied belief* that Hussain, who had 48 previous offences on his record and was previously jailed for four years for drug dealing, had been given funding.

Details of these and many other *Bounce Back* frauds were hugely embarrassing for chancellor Rishi Sunak, who devised the loan scheme to give businesses emergency cash transfusions during lockdown. MPs on the Public Accounts Committee criticised the government's measures to stop the scheme being abused as *'too little too late'*.

Labour chairwoman Meg Hillier said the *Bounce Back* loan scheme came with colossal risks of fraud and error which were only now becoming clearer' and as a result up to *£17bn* of taxpayers' cash may never be recovered, she claimed. More than £4bn of taxpayers money taken by Covid fraudsters during the pandemic could be written off by the Treasury. Statistics released by HMRC show that at least £5.8bn had been criminally siphoned off from furlough and other business relief schemes since the pandemic struck. A taskforce set up to get the money back has so far secured around £500m and is projected to have received a further £1bn by the end of 2023.

*MPs and anti-corruption experts warned that the UK government must not delay legislative measures to tackle economic crime, after a minister


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resigned over the government's failure to prevent more than £4.3bn in fraudulent claims for Covid business loans, reported *The Guardian*. Lord Agnew quit as a Treasury and Cabinet Office minister, with oversight of fraud prevention, after revealing that a key piece of legislation, the Economic Crime Bill, had been rejected for consideration during the next parliamentary year. He described the decision as "foolish". The Bill had been expected to bring forward measures, among others, to improve almost non-existent oversight of the UK's business register, Companies House, and finally bring in a public register of beneficial ownership of property – revealing the individuals behind offshore companies used to hold valuable UK homes and land. Tougher laws on fraud and changes to McMafia-style legislation to target the un-explained wealth of kleptocrats had been expected. Lord Agnew was applauded on all sides of the House when he took his leave.

Responsibility for planning bills to be included in the annual Queen's speech lies with Jacob Rees-Mogg, the leader of the House and head of the parliamentary business and legislation committee. Many of the measures expected in the Bill have cross-party support, and the PM told the Commons that the government was bringing forward a "register of beneficial interest" as part of its efforts to "track down Russian money" in the UK, amid concerns that Russia could invade Ukraine. Mr Sunak launched a £100m taskforce to crack down on Covid fraud in February last year. It came after criticism that the furlough and business loans schemes have been left wide open to exploitation by fraudsters. The Taxpayer Protection Taskforce has 1,265 staff and is based within HMRC.

***Credit Suisse** (CS) chairman **António Horta-Osório** left the global bank following a board investigation into his '*double fault'* travel, which included Wimbledon tennis, and the Euro soccer finals during pandemic lockdown, reported the *Wall Street Journal.* Credit Suisse said that Mr Horta-Osório had resigned following a board investigation which examined his conduct, including travel that breached Covid-related government rules and his questionable personal use of corporate aircraft. He flew from Zurich to London in July to attend the Wimbledon tennis finals without spending ten days in isolation and flew to London again last November, despite the lockdown rules. CS investigators examined another claim that Mr Horta-Osorio had asked to be dropped off from a company jet, after a business trip to Singapore, to visit his family in the Maldives. He had been appointed less than a year ago to clean up the Swiss bank's problems. Eyebrows rose when it emerged that his pay-off for going quietly could reach *£3.8m* – comprising his

WHITE & CASE

base salary of £2.2m, his 'chair' fee of £1.2m p.a. and various benefits worth £200,000, reported *The Telegraph.* Credit Suisse and its clients lost an estimated $5.5bn from the implosion of hedge fund *Archegos Capital Management* and from its involvement with the collapsed finance firm *Greensill Capital.* On arrival at CS, he had said he would re-evaluate the bank's risk taking; review its culture, pay and incentives and *focus on personal responsibility and the accountability of staff.* He claimed the November breach had been unintentional and that it had been reported to health authorities and Swiss financial regulator Finma. He apologised and said it wouldn't happen again. "*I regret that a number of my personal actions have led to difficulties for the bank and compromised my ability to represent the bank internally and externally,*" Mr. Horta-Osório said in a Credit Suisse news release. "*I therefore believe that my resignation is in the interest of the bank and its stakeholders at this crucial time."* While ceo at Lloyds Banking group earlier, he had promoted a new *code of responsibility*, which asked staff to consider – '*Would I be happy to tell my colleagues, family and friends about my actions?'* CS said board member Axel Lehmann was appointed to take over as chairman immediately. Mr Lehmann, a former executive at **UBS,** joined the Credit Suisse board in late 2021 and is chair of its risk committee.

*More than ten million British employees disinvested from the biggest US oil and gas company after their pension fund sold all its shares in the company. The **National Employment Savings Trust (Nest),** the government-backed default pension fund, said that it had sold all its shares in **Exxon Mobil** after the company failed to demonstrate that it was transitioning itself towards being a low-carbon business. Nest has sold shares in Hong Kong-listed **Power Assets**, which owns UK Power Networks, the main electricity distribution network for London and the southeast. Shares in three other energy companies — Marathon Oil, which is the third biggest US oil company by revenue, Canada-based Imperial Oil and the Korea Electric Power Corporation — have been sold too.

*Gordon Taylor left the *Professional Footballers' Association (PFA)* with a £1.4m bonus which took

his total final pay last year to £3.1m. He received a double bonus of £700,000 linked to a broadcast deal he had negotiated with the Premier League. In addition to his £1.2m annual salary as ceo, Taylor, now 76, was paid £500,000 for five months of un-worked notice, but later announced that this 'notice' payment would be donated to a footballers' charity. The PFA is refusing to publish the results of an independent report into its operations during Taylor's leadership. *The Daily Telegraph* revealed that 190 current and former players are demanding that the report is published in order to show that the PFA was a "fair and transparent" players' union.

*****Standard Chartered* must pay a £46.5m fine for failing to report its liquidity in dollars to the regulator in an accurate and timely way. The UK based bank, which does most of its business in Asia and Africa, was not "open and co-operative" with the watchdog and displayed "*failings in its regulatory reporting governance and controls"* between March 2018 and May 2019. The fine was the largest to be imposed by the *Prudential Regulation Authority* (PRA) on a bank so far. Standard Chartered made five errors when reporting the amount of ready cash it had on its books to the Bank of England between March 2018 and May 2019, thus blurring the latter's assessments of SC's financial strength, said the PRA, which monitors the safety and soundness of large banks and only rarely imposes fines on institutions, unlike the Financial Conduct Authority, which oversees firms' actions towards customers.

*Senior executives of **water companies** who continue to dump untreated or partially treated raw sewage and chemicals into the UK's rivers and coastal waters should have their bonuses capped, urged the parliamentary environmental audit committee. The use of combined sewer overflows that pout untreated sewage into rivers and the sea "*appears to be increasingly routine*," the audit committee report warned. "*A chemical cocktail of sewage, agricultural waste and plastic is polluting Britain's rivers*," it added. Water companies were breaching the terms of permits which only allowed them to dump sewage into rivers in really exceptional circumstances. The Oxford Rivers Improvement Campaign claimed that the River Thames was becoming 'an open sewer' as untreated sewage was dumped in the river because local treatment plants could not cope with increasing quantities received from businesses and homes. Executive bonuses should be capped for companies which persistently broke the rules, the audit committee said. Its report urged Ofwat to examine the powers it had to limit the payment of bonuses to water company executives whose employers regularly broke the discharge rules.

TRAVERS SMITH

# COMPANIES

*__Aldi__* increased the hourly pay rates for its 28,000 members of staff from February 1 in a bid to maintain its position as one of the UK's highest-paying supermarkets. All UK-based store assistants at the German-owned grocery chain are set to receive at least £10.10 an hour, while those located inside the M25 will get a minimum of £11.55. This exceeds the Living Wage Foundation's (LWF) recommended Real Living Wage rates of £9.90 an hour outside London and £11.05 an hour in the capital. The LWF increased its rates last month (November). Aldi claimed it was the only supermarket to offer paid breaks, which it says are worth £750 a year for the average store employee. Meanwhile, the government-set *National Living Wage* for people aged 23 or older is set to go up to **£9.50** an hour from April 1, a *6.6* percent increase on the current rate of £8.91. The *National Minimum Wage* for those aged 21 to 22 will rise from £8.36 an hour to **£9.18** an hour, while those aged 18 to 20 will see an increase to **£6.83** from £6.56.

*A TV sports event supplier subject to a fraud investigation secured millions of pounds of taxpayer-backed pandemic loans in the run-up to its collapse. *Arena Television* arranged credit with state guarantees attached as it ran up debts in excess of £280m from many lenders, drawing the government's emergency loan schemes and much of the commercial lending industry into the emerging scandal. Administrators from Kroll are suing two directors for breach of fiduciary duty. More than 70 employees are owed almost £1.3m in unpaid wages and salaries after the firm collapsed into administration amid the allegations. Other creditors are owed tens of millions. Administrators to Arena said it had secured more than £280m in loans against assets which did not exist. The company's former directors, Richard Yeowart and Robert Hopkinson, have not been seen at the outside broadcaster's premises since December 2020 and have left the country. The collapse was

set in motion when an auditor, acting for one of Arena's lenders, attempted to verify serial numbers for company-owned equipment used as security for loans. Arena TV was borrowing huge sums purportedly to buy heavy equipment, such as helicopters, trucks and film industry cameras used by outside broadcasters for sports events and other spectacles. The auditor who called the equipment suppliers was told that those serial numbers did not exist. "*It is potentially the biggest fraud of this kind the UK has ever seen*," a source said. Lenders faced questions over *due diligence*.

*Turbulence in key markets reduced revenues at employee-owned *Arup*, but that did not stop the construction, design and engineering consultancy increasing its annual profits. In its annual results for the year to March 31, its 75th anniversary, Arup said that it had shown resilience in a challenging year for the building industry. Arup recorded revenues of £1.7bn, a decrease of 5.1 percent from £1.9bn in 2020, but its pre-tax profit of £54m rose marginally from £53.5m in the previous year.

**Barclays* offered to pay its new ceo CS Venkatakrishnan £6,550 a month to cover his accommodation costs for almost two years on top of his £2.7m salary, as a hint that the New York-based banker will have to relocate to London. Venkatakrishnan, known as Venkat, was promoted suddenly to the top job last November as a result of the resignation of Jes Staley, 65, who fell out with regulators over the way in which he characterised his relationship with the late sex offender Jeffrey Epstein.

*Two big private equity firms are ready to join forces to bid for *Boots*, which is expected to be sold by its US owner this year for up to £10bn. The US group *Bain Capital*, which recently bought the bakery chain Gail's and made a failed bid for the British insurer *LV* last year, is believed to have teamed up with UK-based *CVC Capital*. A one-time owner of the failed department store chain *Debenhams*, CVC now owns the *Moto* service station group, the *RAC* and the luxury watchmaker *Breitling*. *Walgreens Boots Alliance (WBA)*, the US health group, which has owned a stake in the UK's dominant pharmacy chain since 2012, is considering a possible sale this year. Then petrol station kings, the Blackburn-based *Issa* brothers, who last year swept up supermarket giant *Asda* in a debt-fuelled £6.8bn takeover, announced that they too were taking an interest in a potential acquisition of Boots. Any bid involving CVC and Bain is likely to mean a key role for Dominic Murphy, the CVC managing partner who sits on the WBA board. Murphy is likely to have to disqualify himself from board discussions about the sale. His association with Boots dates back to

2007, when he teamed up with the Italian billionaire Stefano Pessina to take the chemist private. Then working for the private equity group KKR, Murphy helped negotiate an £11bn takeover of Alliance Boots, which had been formed by the merger of Pessina's Alliance Unichem and Boots only the year before.

*Three executives at *Daily Mail and General Trust* are in line for pay-outs worth £27m in total, as part of the deal to take the group private. Paul Zwillenberg, 54, ceo since 2016, Tim Collier, 58, cfo, and Kevin Beatty, 64, the outgoing ceo of DMG Media, held almost a million bonus and performance shares, worth about £10.4m under the cash-and-shares deal. In addition, this month the trio sold almost all their shareholdings for a combined £16.6m in cash. Zwillenberg sold shares worth £5.2m, Collier £4.9m of stock and Beatty, who is reverting to a non-executive role next month, stock worth £6.5m. Lord Rothermere saw off an investor backlash and clinched his full takeover of DMGT.

*Train operator *Go-Ahead's* independent director and ex-chairman of its audit committee Adrian Ewers resigned after it was revealed that he had failed to survive agm shareholders' votes against his re-election to the board. Initially, it looked as though he had scraped through by securing 53.5 percent of voting shareholders' approval, but it later emerged that proxy votes, largely against him, had not been counted. Go-Ahead's dealing in its own shares was suspended on January 3, because it could not repay tens of millions of taxpayers' loans/ cash. Former ceo David Brown and his top finance officers were paid £4.8m in cash and share bonuses between 2015-19, though no bonuses were paid in 2020. Go-Ahead and its JV partner Keolis were taken off the Southeastern railway line because the board still had not repaid £25m which was owed to the Treasury back in 2014. An internal Go-Ahead probe revealed that "serious errors" had been made over several years.

**Goldman Sachs* paid its 43,900 bankers collectively £12.5bn last year, a 33 percent increase on 2020 as the investment bank celebrated a more than doubling of pre-tax profits to $27bn thanks to frenzied deal-making on both sides of the Atlantic.

The pay and bonuses increases raised average reward to about $403,000 for each employee, up from about $328,000 a year ago.

*The corporate restructuring group *Hilco* took a £25m dividend payment from the DIY chain *Homebase* last year, despite accepting at least £10.6m in government aid, reported *The Guardian.* Hilco, which bought Homebase for £1 in 2018 from its Australian owner, Wesfarmers, said it had accepted business rates relief for the Homebase chain on top of £10.6m in furlough payments and grants for the *Bathstore* chain, which was forced to close for weeks under government-imposed high street lockdowns. The total amount of taxpayer assistance received by Homebase has been estimated at up to £40m. The group operates about 150 DIY stores and owns 15 Bathstore outlets and two *Decorate by Homebase* stores. The taxpayer support pay-outs came as Homebase rang up a £48m pre-tax profit in the year to December 27 2020, compared to a £8.2m loss a year before. Its highest paid director, ceo Damian McGloughlin, received a *14 percent* pay rise to £1.42m. Homebase's decision to hold on to taxpayer support, including business rate relief, contrasts sharply with other large retailers. *Kingfisher*, which owns Homebase's rival *B&Q,* pledged to repay the £130m it received in business rates relief last December after benefiting from a boom in DIY trade during the pandemic. The business has handed back already at least £23min in furlough payments.

**JPMorgan* is recruiting for its new UK digital bank, outlining plans to take staff numbers above 1000. Sanoke Viswanathan, head of JPMorgan's international consumer business, told *Reuters* that the venture had hired 200 staff since launching in September to take its headcount to 800, and planned to hire hundreds more as it expands into digital wealth management (via its acquisition of *nutmeg)* and consumer lending. JP Morgan is building up staff numbers too at its new Paris HQ to 800, including 300 Euro market traders, by this year's end. They will be joined shortly by many of its back-office staff who will migrate across the Channel in their wake. Rival Goldman Sachs has tripled its Paris staff levels over the past year or so and Bank of America Merrill Lynch too is building up its staffing within the EU. A 'desk mapping review' unit based in the European Central Bank (ECB) aims to stop banks in the City of London from using tactics like '*back to back'* EU based transactions booking, where the risk is assured in London. Frankfurt plans to close down small satellite ex-pat financial services operations which rely mainly on junior staff in the wake of the UK losing its EU financial passport post Brexit. *Either UK FS will have to big up their EU operations or they will lose them*. Within three to four years, the number of additional FS employees in Amsterdam, Frankfurt or Paris will have surged by more than 30,000, forecast the London-based think-tank *New Financial*.

*Further changes to executive pay policy and continuing efforts to appoint a new head of its remuneration committee were promised by *JD Sports***,** reported *The Times.* The FTSE 100 sportswear retailer said that there would be "additional amendments" to its remuneration structures to "further align executive pay with the long-term interests of shareholders" and that it had hired three new independent non-executive directors — Bert Hoyt, a former Nike executive, Helen Ashton, a former finance chief at Asos, and Mahbobeh Sabetnia, who worked at Amazon and Mars. The previous chairman of JD's remuneration committee was ousted last July, when 54.6 percent of investors who voted at the company's agm were against the re-election of Andrew Leslie, 74.

*Supermarket giant *Morrisons* axed sick pay for unvaccinated employees who have to isolate after being exposed to Covid. It followed similar moves from retailers including *Ikea, Next* and *Ocado* as staff absences rose. Unjabbed Morrisons staff who have to isolate but test negative get statutory sick pay of £96.35 a week. The firm pays staff at least £10 per hour. However, any Morrisons' employee who tests positive is paid full sick pay while they isolate, regardless of vaccination status. The *AA* scrapped sick pay entirely for unvaccinated staff who are forced to isolate for ten days after contact with an infected person.

**Sainsbury's* announced that its store staff would earn at least £10 an hour. The retail giant will increase the basic rate of pay in its supermarkets and Argos outlets from £9.50 an hour from March 6, with the first pay day to reflect the change being April 8. Its minimum hourly rates for workers in outer London will rise from £9.75 to £10.50, and in inner London, from £10.10 to £11.05 – an overall rise of 5.3 percent. Moreover, Sainsbury's will be boosting its grocery drivers' pay by ***12 percent*** as a result of a recruitment struggle, which it says has been exacerbated by the pandemic and by Brexit. Grocery delivery drivers will now get £11.50 per hour, while Argos Fast Track Delivery drivers will receive £11 per hour. All told, the higher rates will apply to 150,000 employees across the company, and represents a £100m investment in its stores employees. In addition, Sainsbury's staff will get a 15 percent discount in stores for five days around each payday. Argos, Sainsbury's and Habitat staff will continue to get a ten percent discount at other times. The new rates of pay exceed the legal minimum wage for people aged 25 and older, which rises from £8.91 to £9.50 an hour from April.

*Shares in Oxford-based *Sensyne Health* plunged by more than 70 percent in value after it announced an emergency funding round to prevent it collapsing, reported *The Times*. The AI company uses artificial intelligence to analyse patient data and to discover new medicines. The AIM listed business was fined £408,000 last year for breaching stock exchange rules over bonus payments just three months after its 2018 flotation. Ceo Lord Drayson and his then fd Lorimer Healey received £850,000 and £200,000 respectively for post IPO bonuses, even though the company had failed to outline any detailed plans to award such large bonus payments. Brokers Peel Hunt had advised against the bonus payments and the LSE complained that the bonuses had been described by the company in a way which implied that they were only a proposal, which had not been finalised.
***Sugar Street:** *The Apprentice* star **Alan Sugar** once shared a photo of a cheque he had written to the taxman for £58.6m, so chancellor Rishi Sunak can look forward to a major boost to the Exchequer's coffers this year too. Mr Sugar paid himself *£390m* last year — one of the biggest pay cheques ever handed to a UK company owner. The payout was disclosed as a dividend in accounts filed for his holding company, Amshold Ltd (AMS are his initials: Alan Michael Sugar). The dividend is not based on the company's performance over the past year, but on previous successes. Winners of his BBC show receive an investment sum of £250,000, so Lord Sugar has been paid enough to cover more than 1,500 series of The Apprentice. Amshold's principal activities are described as '*property trading and investment*' as well as the provision of '*management services'* and '*media activities'* too. It returned a £47m pre-tax profit on turnover of £79m in the year to last June. Amshold is reported as being 'wholly owned by Lord Sugar', while his sons, Simon and Daniel, are directors. His wife, Ann, was a director until May last year, when her half-share in the business was transferred to her husband. It was reported that 26 staff were employed, comprising five directors and 21 administrative staff. Total staff costs were recorded as £2.6m, of which £502,000 went to the highest-paid director, Lord Sugar. The dividend put him just behind Denise Coates, joint ceo of online gambling firm Bet365, who hit the headlines last year when she became the highest-paid woman in the world. She received £469m in salary and dividends.
*Matthew Moulding, billionaire and co-founder of *THG (The Hut Group)* came under pressure as the ecommerce group warned investors that profit margins would fall short of market forecasts and revenue growth would slow. Despite announcing annual revenues of £2.2bn and assurances that the year had started well for the group, its shares crashed, falling eventually to c.125p. This was bad news for those employee shareholders who had not cashed out already, as THG had been floated in September 2020 at 500p per share, valuing it then at £5.4bn. There was speculation that Moulding, 49, could take the group private, reported *The Times.*
*News and stationery retailer *WH Smith* and its shareholders are at loggerheads over plans to hand its ceo a £550,000 bonus after influential City advisory groups expressed concern over its use of taxpayer-funded pandemic support. Three proxy advisers have signalled their opposition to the proposed pay deal for Carl Cowling ahead of the FTSE 250 high street chain's agm, *Sky News* reported. WH Smith took financial assistance from the government to pay furloughed staff as Covid-19 put pressure on trading. The company benefited from business rates relief too. The chain, which began life in 1792, has a market value of £2bn. It has 11,000 employees and more than 540 stores on UK high streets and hundreds more at airports and hospitals.

**Employee Ownership Trusts**

**Family Law Group* will transfer ownership to its staff in order to become an EOT. Three-quarters of the group, which currently has more than 130 employees in ten offices, will now be owned by the EOT. All staff, regardless of seniority, will receive equal annual bonuses based upon the firm's performance. The day-to-day running of the business will remain with the existing management team, with any future decisions made being made for the benefit of all employees. Simon Leach, director of Family Law Group, said the firm intended to become 100 percent employee owned as it grew. The transition to EOT was aimed at empowering the lawyers to take ownership of the business regarding its direction and commitment to its core values and purpose, as well as having a greater input in to the day-to-day running of the firm and decisions that were made, he added. **Formative Content* announced its transition to an EOT. The digital marketing and communications agency said the move would enable more than 70 employees to share in the future direction and success of the business. Ceo Gay Flashman and md Paul Muggeridge transferred all their shares to the EOT. Both said that they remained committed and would stay in their current roles. The EOT will enable employees with six months or more continuous service to own an indirect stake in the business. Its structure comprises the current management team, as well as an elected employee council which will represent staff. ***Highland Home Carers (HHC)** allocates more than 1,000

shares, worth about £500, which can be sold back to its SIP tax-free in five years' time, to employees who work 30-hours per week or more. HHC supports people living in their own homes with highly complex health and social care needs. It has a roster of more than 400 employees and has been an employee-owned organisation since 2004, rewarding staff with shares for working in challenging roles. The company has £300,000 worth of schemes in place to both recognise staff efforts and help motivate them. In addition, HHC awards those employees who have been with the business since July 1 last year a £500 profit-share payment, which is based on average working patterns and uses 30-hours per week as a full-time equivalent cap. In March last year, HHC increased its carer pay rates by more than 11 percent and increased its employer contributions to staff pensions by 33 percent. *Yorkshire-based law firm **Ison Harrison** became 100 percent owned by its employees after the three shareholder directors agreed to sell the business to an EOT. Ison Harrison, which has 16 offices in the region, employs more than 230 staff. Its directors decided against a traditional business sale or merger, opting instead for an EOT. Md Jonathan Wearing explained that converting into an EOT meant that all had a stake in the business and could share its success and profits, while the structure offered stability, job security for dedicated members of staff and a platform for further growth. "*Employees will have a greater influence over the future direction of the firm and will financially benefit from its on-going success*," he said.

**Inclusive capitalism**

One commentator who will not be winning a *Newspad* Award any time soon is *The Telegraph's* columnist **Allister Heath** who, in mid rant (*January 20 edition*) about the '*mass impoverishment of middle England'* took a swipe at employee ownership. He blamed ex PM David Cameron and ex chancellor George Osborne for having taken the UK leftwards during the Coalition government, focusing on the '*shared proceeds of growth'* by allegedly taking economic growth for granted. They had embraced '*gimmicks*,' such as **employee ownership** to appeal to the metropolitan elites, claimed Mr Heath. Was he referring mainly to the popular Employee Ownership Trust, launched in 2014 to encourage unlisted company owners to transfer ownership to their employees, or Mr Osborne's hugely unpopular *Shares For Rights* scheme, launched in 2012, which sank without trace?...so much for inclusive capitalism.

**Financial regulation**

The UK's post-Brexit system of financial regulation is to have a greater focus on growth and international competitiveness under new plans outlined by chancellor Rishi Sunak. The Treasury said it was an almost unique opportunity to reform the way in which financial services are supervised and policed, reported *The Guardian.* The proposals would involve the scrapping of EU FS law retained after Brexit but no longer deemed appropriate. It will be replaced by new rules drawn up by the UK's two watchdog bodies – the FCA and the Prudential Regulation Authority. Ensuring financial stability would still be the prime goal for the FCA and the PRA, but the two bodies are now to be given the additional task of boosting growth. Mr Sunak believes the insistence on EU rules being followed has limited the government's ability to set requirements best suited to the needs of UK markets. FS were not included in the Brexit deal agreed by with the EU and the government is under pressure to prevent more business being lost to Frankfurt, Paris or Amsterdam. The government said it recognised the need to ensure regulation supported the "*future strength and viability of the UK as a global financial centre"*.

*The **Financial Reporting Council (FRC)'s** annual review of corporate governance, reporting against the background of the UK Corporate Governance Code 2018, noted that there was still room for further improvement in areas such as substantive disclosures on board appointments, succession planning and diversity.

**EQ's** latest bulletin reported the following key points:

- Companies need to improve the transparency of non-compliance reporting and provide more informative explanations. The use of boilerplate or declaratory statements was discouraged in the report.
- There had been an improvement in reporting on environmental and social issues, with better quality information on the issues under consideration and how this has been considered at board level. However, very few companies reported on areas where they underperformed or failed to meet targets.
- Diversity and inclusion and succession planning at board level and through the pipeline remained a concern.
- Very few companies explained how remuneration aligns with company purpose and values.
- Nominations committees appeared to receive less focus within the annual report than audit or remuneration committees did.
- The low quality of corporate reporting on

*Modern Slavery* was a matter of concern. Although the lack of disclosure may not necessarily reflect a lack of action, companies were encouraged to build trust with investors and wider stakeholders by explaining how they were fighting *Modern Slavery* in their supply chains.

Several expectations were detailed in the FRC report including:

•Companies must report clearly and transparently any non-compliance with any provisions of the Code and provide clear and meaningful explanations of departures from it; •There should be further improvements in the quality of disclosures of how purpose, values and strategy are connected; •Engagement should be with a wide range of shareholders, not only the largest few, to understand and try to address shareholder concerns as far as practically possible. Additionally, views received from shareholders and other stakeholders, and actions taken, need to be communicated in a clear manner and within a specified timeframe; •Companies need to report on how the board oversaw stakeholder decisions. Issues include how, and on what basis, stakeholder information is passed to the board, as well as on how often the board reviews engagement methods and identification of any issues discussed; •Companies either need to describe their diversity policies in full in their annual report or summarise them and link them to the full document on their website for easy access; •Companies should promote and recruit on merit and the FRC expects to see an improvement in reporting on **succession planning**. This was particularly the case for companies that highlighted succession planning as an outcome of a board evaluation as an area in which to improve. For more detail: Review of Corporate Governance Reporting

# WORLD NEWSPAD

***China**: Shares in **Evergrande Group** were suspended from trading, the embattled property developer announced. It came amid media reports that the world's most indebted developer was ordered by authorities in southern Hainan province to demolish 39 buildings in ten days because the building permits were illegally obtained. The order concerned the huge Ocean Flower project, which is a resort-style development built on islands off the coast of Hainan. Regulators in Danzhou city said that they would block Evergrande's plan to repay debts to contractors and other creditors by giving them properties, Caixin reported. Evergrande is struggling to repay *£222bn* in liabilities including $38bn scheduled loan repayments in the first six months of this year and was forced to quit its large HQ in order to save money.

*Cambridge based micro-chip maker **Arm** was investigating suspicious payments made to top executives at its Chinese joint-venture partner. Arm is in a Mexican stand-off with the head of the joint venture, Allen Wu, whom Arm failed to dismiss two years ago. The allegations concern large payments made by senior Arm China executives. Arm was sold for £24bn to Japanese Softbank, which in turn set up the Arm China JV, with Chinese state backed Hopu Investments, which owns 51 percent of the equity. The stand-off threatens the sale of Arm to US computer chips designer giant **Nvidia** for $40bn, as regulators from three continents pored over the detail of who sent how much to whom and when, as well as the national security implications.

***Equity compensation snapshot: Denmark:** Equity based compensation in the form of shares, share options and warrants awarded to employees in the course of their employment may be taxed under the 7P tax scheme – i.e. not taxable until the employee sells the shares he/she has acquired. The proceeds are taxed as capital gains and not as personal income, so the tax rate is capped at 42 percent and not at 56 percent, which applies to employment income. The lower level of taxation on employee share sales is counter-balanced by the fact that the value of the equity-based remuneration is not deductible for the employer. A new employee share scheme has been in force in Denmark during the past year. It permits certain new companies and SMEs to award employee shares, options and warrants of a value of up to 50 percent of the employee's annual salary to be taxed as share income, instead of personal income. The aim of this new scheme is to improve the opportunities for new and small companies to use shares as a part of their incentive programmes and it is basically an add-on to the existing 7P tax scheme. To qualify for the 7P tax scheme, several conditions must be met, namely: •when the equity-based compensation is awarded, the employer and the employee must agree in writing that the award is subject to the 7P tax scheme. The terms of this agreement must comply with conditions; •the value of the equity-based compensation awarded may– as a starting point– not exceed ten percent of the employee's annual pay. However, if the equity-based compensation is offered on equal terms to at least 80 percent of the employer's employees, the maximum value of the equity-based compensation awarded is raised to 20 percent of the employees' annual pay; •the equity-based compensation must

be awarded by the employer company or one of its group companies in the form of either shares– or share options and warrants entitling the holder to acquire shares– in the employer company or one of its group companies; •share options and warrants may not be transferred to a third party, except on the holder's death; and •the employer must report various details about the equity-based compensation to the Danish tax authorities, reported lawyers *Norrbom Vinding*. For equity-based compensation *not* subject to the 7P tax scheme, the value of the awards will be taxed in the same way as other forms of employment income. Awards of stock options and warrants will normally meet various requirements to be taxed on exercise, but some awards *may be taxed on grant*, which will be tax-disadvantageous to the employee. Depending on the terms governing the award, deferred share awards will either be taxed on grant or on vesting, in practice, most often on vesting.

*__Finland__: Helsinki based **Caverion** approved a new round (2022-2024) of its share-based long-term incentive scheme (LTIP), which is based on a performance share plan (PSP) structure targeted to Caverion's management and selected key employees. The Board at the same time approved a new round of the Restricted Share Plan (RSP) structure, which is a complementary share-based incentive structure for specific situations. Any potential share rewards based on these plans will be delivered in spring 2025. The share-based incentive plans form part of the incentive and commitment programme for key employees of Caverion Group, which enables better performance and well-being in smart and sustainable built environments. The aim of the plan is to align the interests of shareholders and key employees in order to promote shareholder value creation, to commit the key employees to the company and its strategic targets and to offer them a competitive reward plan based on the ownership of the company's shares. PSP 2022-2024 includes a maximum of 90 key employees of Caverion Group. It comprises a three-year performance period. The performance target criteria, based on which potential share rewards will be paid, are the relative total shareholder return of the company's share and earnings per share. If all targets will be met, the share rewards based on PSP 2022-2024 will comprise a maximum of approximately 1.6m Caverion shares (gross before the deduction of applicable taxes). Final participant selection and their maximum share allocations will be decided early this year. The estimated aggregate gross value of PSP 2022-2024, based on the closing price of Caverion's share on December 13 2021, was €9.7m. Share allocations within the RSP 2022-2024 will be made for individually selected key employees in specific situations. Each RSP plan consists of a three-year vesting period after which the allocated share rewards will be delivered to the participants provided that their employment with Caverion continues until the delivery of the share reward. The maximum number of Caverion shares that may be allocated and delivered within the RSP 2022-2024 totals approximately 85,000 shares (gross before the deduction of applicable taxes).

*__Venture capital in France__: **Overview (Lexology):** In France, the private equity (PE) market has been structured for more than 25 years. The PE market is still developing and regularly breaks records for fundraising and investments. It comprises more than 400 management companies (*366 of which are registered with France Invest, the association that brings together all the funds in the market*). All these raise nearly €30bn per year from their financiers and invest about the same amount each year. The PE market is now the key growth driver for innovative SME companies in France. Almost 8,200 companies are currently supported by investment funds (of which 2,027 were financed in 2020). The investment fund ecosystem is divided between a limited number of large funds specialising in LBOs and a large number of funds operating in the venture capital and growth equity markets. The most important funds in the LBO market are: Ardian, Advent International, Astorg, Cinven, Eurazeo, Montagu Private Equity and Apax Partners. This market is still significantly buoyant. For example, last year Ardian raised its new €7.5bn LBO fund, an all-time record in France and 60 percent higher than its previous funding raised in 2016.

The current period is very favourable too for venture capital funds (Bpifrance, Kima ventures, Idinvest partners (which became Eurazeo Capital), Elaia Serena Capital, Partech, Alven Capital, Daphni etc). Digitalisation and technological innovations are bringing about a particularly exceptional period for this market, symbolised by the establishment of the French tech, an ecosystem financed and supported by public funds. A Secretariat of State has been set up to deal with the digital transition, the minister being Mr Cédric O. Thirty-three funds invested more than €5.3bn in 121 infrastructure projects (mainly renewable energy sites) in 2020 reported UGGC & Associés for Lexology.

*__Switzerland:__ The number of global dollar millionaires jumped by more than ten percent to 56m last year, according to a *Credit Suisse* bank report. The US led the *billionaire* league table with a total gain in their wealth of $945bn in 2021 and

India second with a $210bn increase in its billionaire wealth, followed by Russia with a $145bn increase, China $80bn and fifth came France with a $70bn billionaire wealth rise, added Credit Suisse.

***US: Fatca non-compliance** One of the most common forms required from US Taxpayers for offshore reporting of foreign assets is Form 8938 which came into effect with the introduction of Fatca – the **Foreign Account Tax Compliance Act.** The purpose of Fatca is to promote reporting and disclosure by requiring cooperating foreign financial institutions that have entered into IGA (Inter-governmental Agreements) with the US to provide account holder information. That information can then be used to ensure US taxpayers are in compliance with reporting requirements. One of the first misconceptions about filing for Fatca is that it is *only* required for US citizens or US taxpayers who reside in the US — but that is incorrect. Anybody who is considered a US person may be required to file a Form 8938 (if they meet the threshold) and report under Fatca, whether or not they reside in the US or in a different country, said international tax lawyers *Golding & Golding*.

The FBAR (Foreign Bank and Financial Account Reporting) is a similar type of international reporting form but different. FBAR is a US law that is developed for US based people to comply with the IRS' international reporting rules. The FBAR is a FinCEN Form and not an IRS form. It is regulated differently from Form 8938/Fatca. The FBAR is regulated under Title 31 (Money and Finance) and not Title 26 (Internal Revenue Code). While there are some assets that overlap and are required to be disclosed on both forms, there are some items that are only reportable on Form 8938 in order to comply with Fatca — such as individually held shares of stock. Some taxpayers may have to report both the FBAR and Fatca Form 8938 in the same year.

There has been a recent surge in the number of taxpayers who have received querying letters involving inaccurate information the IRS has on file for taxpayers involving Fatca. In a common scenario, the foreign financial institution reports one set of values and the US taxpayer either does not report or reports a completely different set of values. In comparison to the FBAR and other penalties, at first glance, the Fatca non-compliance penalty for individuals filing Form 8938 seems light— a *$10,000* penalty - but, there is a *continuing penalty* upwards of $50,000 for a continuing failure to file Form 8938 each year. In addition, the US government has been beginning to use Fatca non-compliance as a criminal tool and about a year ago, obtained its first criminal conviction for Fatca non-compliance.

As with most penalties, when taxpayers do not comply with Fatca, they may be able to minimise or abate penalties if they can show that they acted with *Reasonable Cause* and not wilful neglect. There are very specific limitations on *Reasonable Cause* when it comes to taxpayers who are non-compliant with Fatca. Taxpayers are required to disclose Fatca assets, even if it would violate their own country's laws. The fear of violating a person's own country's laws is not a sufficient reason to establish *Reasonable Cause* to the IRS. Taxpayers out of compliance for not reporting under Fatca may still qualify for one of the voluntary disclosure programmes in order to get into compliance.

**Bettcher Industries*, a leading US manufacturer and supplier of food processing equipment, was acquired by Centre member **KKR,** the leading global investment firm, from MPE Partners. Dan Daniel, a KKR executive adviser, is now chairman of Bettcher and he will support ceo Tim Swanson in setting the strategic direction of the company and in overseeing Bettcher's performance. KKR is helping Bettcher by implementing KKR's broad-based employee engagement model at the company. Since 2011, KKR's Industrials team has focused on employee engagement as a key driver in building stronger businesses. The strategy's cornerstone has been to allow all employees to take part in the benefits of ownership by granting them the opportunity to participate in the equity return alongside KKR. Beyond sharing ownership, KKR supports employee engagement by investing in training across multiple functional areas and by partnering with the workforce to give back to the community. *KKR is leading a £1.3bn takeover of Dutch based Accell Group, which owns Raleigh bicycles and other biking brands, such as Sparta. Accell's board agreed to a cash offer of €58 per share, about one quarter higher than its closing price when the bid was sealed. Raleigh is still based in Nottingham.

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e-mail your latest news - new share schemes, vestings and appointments - to Fred Hackworth, editor, *newspad,* at: fred_hackworth@zyen.com

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