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it's our business

newspad of the Employee Share Ownership Centre

Share Centre calls for voting rights

Gavin Oldham of member firm Share Centre has called for action on section 9 of the Companies Act designed to make it easier for shareholders to access voting rights. Fewer than half of all shareholders with nominee accounts believe they have voting rights and Oldham calls on the FCA to make section 9 mandatory rather than optional for all regulated nominee operators.

In addition the government should extend section 9 to cover AIM stocks and company boards should communicate better about shareholding and voting.

Gavin Oldham makes clear that capitalism works best when shareholders take an active interest and points to the success of church investors who have engaged with energy companies to tackle fossil fuels.

Nominee holdings are prevalent in employee share ownership but Gavin Oldham points out that only a few nominee operators have chosen to operate section 9. In previous conversations with the Centre leading administrators have stated readiness to pass through voting rights. See https://bit.ly/2Jj6mJG

From the chairman

Employee share ownership will never exert its full effect unless employees have full voting as well as economic rights. I welcome the clarion call from Gavin Oldham, not just on behalf of employee ownership but on behalf of all of us for whom employee shareholding is more than an 'industry'. Things have not worked out as envisaged when the Companies Act was passed in 2006 and I shall be urging all administrators to make their position clear. All of us who are shareholders in any form often fail to make use of our rights (it is the same with elections, particularly council elections). But that does not mean that administrative convenience should come first. Administrators have told me they are keen to make voting available to employee shareholders but what is the situation in practice? Are companies unenthusiastic? Let's determine that, then see whether effective passing through of voting rights should not be a condition for tax breaks.

Malcolm Hurlston CBE

EMI resurrected by tax relief extension

The UK's hugely successful tax-approved **Enterprise Management Incentive (EMI)** share options based incentive scheme, aimed at boosting SME gazelle companies, sprang back to life after the European Commission (EC) extended its state aid ban waiver after a near six week hiatus.

Alarmed Centre practitioners told how much of their EMI work with SMEs had ground to a near halt after HMRC issued a shock warning, giving only 48 hours' notice, that the tax advantages enjoyed by EMI participants might not be honoured until the EC had renewed the state aid ban exemption which had expired at midnight on April 5.

Recriminations set in after Brussels took the best part of six weeks to prolong the original approval granted in 2009 to the EMI – to exempt it from the usual ban on state aided tax relief schemes. The Commission's statement added: "Our assessment found that the prolongation of the measure is necessary to help UK SMEs attract and retain talented and skilled personnel. It found that the measure contains a number of safeguards, such as a cap on the value of the share options that can be subject to the tax advantage both at the employee and employer level, ensuring that potential distortions to competition are limited. On this basis, the Commission concluded that the measure is in line with EU state aid rules."

For good measure, Brussels added a Brexit reference: "Without prejudice to any provisions of the Withdrawal Agreement, which is under negotiation, this Commission decision **only** applies until the UK ceases to be a Member State."

Centre member **Bird & Bird** said that it was likely that EMI options granted during the gap between April 6 and May 15 would qualify for tax relief: "*Neither the Commission nor HMRC have formally confirmed the approval is retrospective but the better view seems to be that options will qualify because all the Commission were required to decide was whether to raise any objections on state aid grounds (not whether the arrangements were 'approved' as such)''* said Bird & Bird. "The Commission concluded the prolongation of the tax relief is necessary to help UK SMEs attract and retain talented and skilled personnel. It found the legislation contains several safeguards

(such as the cap on the value of share options) that ensure the potential distortions on competition are limited.'' The formal decision letter should be published shortly and will be accessed on the Commission's Competition website through the public case register under case number SA47789.

Those SMEs who had granted EMI scheme options before April 6 2018 were unaffected, as the tax advantages were still applicable and remained unchanged. However, those who were considering setting up an EMI scheme in mid April, or who were in the process of doing so, were advised by many Centre service providers to consider delaying the grant of EMI employee share options until Brussels' approval had been given, clarifying the position of EMI schemes, in case the tax advantages offered by the scheme were not re-approved under EU state aid rules.

These state aid rules are designed to prevent member states introducing measures which may otherwise distort competition within the single market. Broadly, a measure constitutes state aid if it is an advantage granted by a member state on a selective basis to any organisation that could distort competition and trade in the EU. State aid rules can apply to direct grants or loans and also to tax breaks provided selectively to certain sectors.

"It probably came as a shock to many that the EMI scheme is treated as a state aid, but when you consider the HMRC statistics for 2017 which show that the estimated income tax and NICs loss was ***£160m*** for the EMI scheme for the 2015-16 tax year alone and in total circa ***£1.4 bn*** since 2003, it is easier to understand," said *Penningtons Manches*. "State aid rules apply where benefits are provided to taxpayers selectively and as the EMI scheme is only available for SME companies within defined limits, state aid approval is required for the scheme."

In principle, state aid is not allowed in the EU. However, where a member state believes that a form of state aid would deliver growth or other important objectives they can request approval from the EU.

The **Association of Taxation Technicians (ATT)** highlighted the difficulties caused by HMRC giving employers only two days advance warning that a new EU state aid approval would not be in place for the EMI share option incentive scheme by the time the previous approval lapsed. **Yvette Nunn,** co-chair of ATT's Technical Steering Group, said: "The timing of HMRC's announcement was very unhelpful, coming only two days before the existing state aid approval was due to expire. This caused real problems for employers looking to grant EMI options, who had to apply the brakes to their plans very quickly to ensure that their employees did not end up with an unexpected tax bill."

EMI allows SME employers to grant share options in their business (worth up to £250,000) to employees as a reward for their efforts. It was introduced by ex Labour chancellor Gordon Brown in the Finance Act 2000. The total value of the company's gross assets must not exceed **£30m**. In addition:

- The company must have a permanent establishment in the UK.
- The company must be a trading company (i.e. not an investment company).
- The company must not be a subsidiary of or controlled by another company, however, parent companies can qualify for EMI.
- There must be fewer than 250 employees at the date the EMI options are granted.

The general rule is that if an employer grants an employee shares, employees will be charged on the market value of the shares or options through Income Tax and NICs. However, under an EMI approved scheme, no income tax or NICs will apply, *provided that the exercise price is set at the same or a higher price than the agreed market value of shares on the date that the option is granted, and the date of exercise is no more than ten years after the option grant date.* The only costs are set up costs and the requirement to pay capital gains tax (CGT) when the shares are eventually sold, which will be ten percent on gains above the exercise price. It is believed that EU consent was given retrospectively, but as Nigel Mason of **RM2** has already pointed out, it is relatively straightforward to surrender an unapproved option and grant a new EMI option if approval is not given retrospectively.

All aboard for *newspad* PARIS summit

A galaxy of global employee equity plan issuers have registered to attend this year's *newspad* summit in Paris on **June 21-22**, including: **Airbus**, **Saint Gobain, Societe Generale, Sopra Steria,** the info technology consultant and **Thales.**

Pan-European plane manufacturer **Airbus,** which employs 133,000 people, will present a major all-employee plan case history at this event**.** This not-to-be-missed extended speaker slot is led by **Jennifer Rudman** and **Graham Avinou** of **Equiniti**, together with Toulouse and Munich based **Angelina Lederle,** group compensation & benefits specialist at Airbus. They will describe the Airbus Esop and its Share Incentive Plan (SIP) and discuss: why the plans were set up, what their features are and reveal how they provide benefits for Airbus' global employees.

Additional all-employee share plan histories will be presented in Paris by the French global manufacturing giant **Saint Gobain**, which employs 180,000 worldwide and by Centre member **Solium**, whose speakers will deliver insights from a recent survey of 120 global companies.

Dominic Jacquesson of Centre member **Index Ventures,** has devised a new slot, entitled

Comparing Pan-European & US ESO Start-Ups, to explain why Europe's entrepreneurs need to increase all-employee ownership in their businesses if they are to have any hope of creating their own type of *Google* or *Facebook* world-beating business. **All**-employee ownership is a key element in successful US start-ups – stock option grants not just for the few at the top, as in many European start -ups, but option grants, often without performance conditions, for all employees - to motivate everyone in the team, he will say and will ask: "*The US knows how to do this, so why not you too?"*. Index Ventures is a venture capital firm with a dual HQ in San Francisco and London, investing in technology-enabled companies, focusing on e-commerce, fintech, gaming, enterprise software, productivity, and security.

This *newspad* summit is being hosted and sponsored by senior Centre legal member **Linklaters** at its offices at **25 rue de Marignan**, **Paris 8,** just off the Champs Elysées. The nearest metro station is **Franklin D Roosevelt.**

On the regulatory front, **Ras Berglund** of **Linklaters** will take us through both GDPR and MifidII (*Markets in Financial Instruments Directive II*) to see how they are bedding down in the employee equity world. The Linklaters' team includes **Lionel Vuidard** and **Géric Clomes**, from its Paris based employment and incentives division, who will discuss President Macron's financial reforms, including new tax reliefs for profit-sharing companies employing less than 250 people.

On the vexed issue of **Brexit, Nicholas Greenacre** of **White & Case** will discuss the Great Repeal Bill, securities law exemptions, the Prospectus Directive and the post Brexit appetite for employee equity plans.

A potentially sulphurous debate on executive equity rewards will be preceded by a presentation by **Damian Carnell,** director and remuneration adviser at **Willis Towers Watson.** Damian will examine the role of equity in the executive package and the executive personal portfolio. He will discuss what investors want, why and where we are going next. Other confirmed speakers include: **David Craddock Consultancy Services**; **Esop Centre**; **ETUC (European Trade Union Confederation)**; **Linklaters (Paris)**; **Pett Franklin** and **RM2.** The Centre's Paris based associates, **FONDACT** and the **International Association for Financial Participation** *(of employees in business)* will explain other developments in French multinational all-employee equity plans.

The comprehensive educational programme contains more than a dozen slots and open debates, spread over two days, including:

- GDPR and MIFiD II – How recent regulatory changes have affected share plans.
- Global employee equity plan communication techniques.
- The role of equity in the executive package and the executive personal portfolio.
- French employee financial participation (Eso): latest developments.
- President Macron's labour reforms and the financial sector.
- How inactive share accounts can trap employee shareholders.
- The implications of Brexit for international equity plans.
- EBTs: 'tax havens' blacklist and trustee administration.
- Employee (share) ownership in European SMEs.
- Guide to stock options for European entrepreneurs.

Centre chairman **Malcolm Hurlston** will open the summit on **Thursday** at 1040 am *(to allow travel time from Gare du Nord for delegates arriving in Paris by Eurostar on Thursday morning. The 0701 from St Pancras fare on June 21 was only £76 (return 1443 June 22 £109) as this issue went to press (www.eurostar.com).*

Linklaters offers a buffet lunch, with the afternoon session finishing at 1740. This will be followed by a drinks reception with invited guests. Later, informal dining groups will head off to restaurants of their choice. Our Friday morning session starts at 0915, ending at 1310. To register for this event, email global@esopcentre.com without delay. Information about hotels in Paris 8 is available.

Delegate fees: Centre member practitioners **£395**; Non-member practitioners **£615**;

Trustee members **£320**; Plan issuer delegates FREE. The fee is a single payment, covering your attendance on both days. *VAT is not charged on these fees, as this event takes place outside the UK.*

****Special Offer:** A **£75** fee reduction is offered to any new registered delegate who works for a Centre member service provider **which does not normally attend Centre conferences**. This offer reduces the delegate entrance fee for qualifying member registrants to **£320**.

Book now to avoid disappointment.

Linklaters

An informal dinner where delegates can get to know each other is planned in a central Paris restaurant on **Wednesday** evening (June 20), rendezvous c. 2045 hours. If you'd like to join us, please notify Fred Hackworth.

The *newspad* summit programme e-brochure is logo co-sponsored by Centre trustee member **ZEDRA,** the independent, global specialist in trust, corporate, employer solutions and fund services which is based in 14 key jurisdictions worldwide. The **Zedra Employer Solutions** team, established more than 20 years ago, provides specialist trustee and administration services to employee share ownership plans worldwide. Its clients include FTSE 100, 250 and internationally listed companies, as well as private companies and private equity-backed companies. The team is valued by Zedra's clients and its advisers for its extensive legal and tax compliance expertise as well as its ability to handle complex transactional company life cycle events. Zedra's motto is "*We believe in doing more, so that our clients can.*" **Elaine Graham** is a director and head of employer solutions at ZEDRA Guernsey. *Her direct line is: +44 1481 881409 and e- address is: elaine.graham@zedra.com. The office address is PO Box 341, Third Floor Cambridge House, Le Truchot, St. Peter Port, Guernsey, GY1 3UW.*

EVENT REPORT

Jersey trustees seminar

The Centre held its annual Jersey share schemes and trustees seminar, jointly organised with the **Society of Trust & Estate Practitioners (STEP),** at the Pomme d'Or Hotel in St Helier last month. Opening the event, Centre chairman **Malcolm Hurlston** congratulated Jersey on being ahead of the game with international compliance in a way which business rarely achieves. Mr Hurlston said: "With Jersey's international reputation and reach, Brexit becomes a sideshow, rather than an existential problem for the Crown dependencies. Share schemes meanwhile in the UK are showing their age: new thinking will define international employee equity in the future - as led by Index Ventures, KKR and Tencent." He advised film buffs to see *Barbarians at the Gate* (from where KKR has moved on) and *The Nasty Girl*, the film which inspired GDPR.

Paul Malin, partner at **Haines Watts**, outlined the latest challenges for trustees, including the revised settlement terms and the disguised remuneration loan charge (which will be introduced in April 2019), the Digital Disclosure Service, and the Worldwide Disclosure Facility.

Graham Muir, partner at **CMS**, spoke on GDPR and its impact on employee share plans. "Consent is a bad legal basis for processing share plan data" said Mr Muir. Instead a) *processing necessary for performance of contract to which the data subject is party,* or b) *processing necessary for the legitimate interests of the controller - with the exception of if this is overridden by fundamental rights or freedoms,* are likely to serve as alternative legal bases, he noted.

A panel discussion featuring **Colin Powell**, of the **States of Jersey**, and **Rosemary Marr** of **STEP**, explored Jersey's evolving relationship with the UK and EU. Mr Powell argued that Jersey, which is not in the EU, will remain *business friendly* once the UK leaves the Union. Although uncertainty results from the island's close relationship with the City of London, this provided new opportunities for the crown dependency. Jersey's complementary relationship with the City meant it would be well placed to offer services, such as trust services, which it could provide better than London, to new investors to the City from growth areas outside the EU. He warned that for Jersey more pressing was the EU's identification of non-cooperative jurisdictions. He stressed that Jersey based organisations would have to prove that real economic activity, including corporate decisions, took place on the island. Nonetheless he had confidence in Jersey's capacity to overcome these challenges: "The picture is not that different from the past, and Jersey has been successful at overcoming issues" said Mr Powell.

David Craddock, founder of David Craddock Consultancy Services, explored underwater options and share price volatility. Delegates were guided through key challenges, such as companies' need to ensure that employees stay motivated when their work efforts were not reflected in an upward movement in share price. **Stephen Woodhouse**, partner at Pett Franklin, addressed challenges and opportunities for EBT trustees. He praised Jersey's push to improve its transparency. It reinforced the need for quality, giving Jersey's trustee community the opportunity to be considered the "best in class".

The UK's first Esop barrister, **David Pett** of Temple Tax Chambers, provided an update on **Enterprise Management Incentive (EMI)** share options

WHITE & CASE

following the expiration of EU State Aid ban exemption on April 6 and went on to explore recent cases of interest especially the current *Cyclops Case (2018).* It is a lead case because some 100 other appeals have been stayed pending its outcome) and centres around the questions: *In what circumstances can HMRC/the courts ignore the clear wording of a statute*; and *in a parliamentary democracy, should taxpayers be permitted to take advantage of shortcomings in legislation pending their correction?*

MOVERS AND SHAKERS

Centre leads valuations worked examples service

The Centre has provided the secretariat to develop the *Worked Examples Group.* which brings together experts from representative bodies, with William Franklin of **Pett Franklin** in the chair and Tony Spindler of **HMRC** in attendance. The move was prompted after HMRC closed its valuation service.

Mr Hurlston said: "We agreed a worked example process: once signed off, they can be published with revenue approval on the Centre's website under the rubric *Understandings* and republished by the Centre, other constituent bodies of the Group and member firms. The format will follow the Understanding between the Centre and the Financial Reporting Council. HMRC will publish formally after a more complex approval. This is a vital but sensitive and complex area." The first example was submitted by Graeme Nuttall OBE of **Fieldfisher.**

Computershare acquires Equatex

Computershare is to acquire **Equatex** from **Montagu Private Equity**, subject to regulatory approvals. Equatex is a Zurich based employee share plans administrator with a strong business throughout Europe. Equatex's 220+ employees provide a range of employee share plans administration solutions for more than 160 clients, covering around 1.1m plan participants in 168 countries and administering around US$40bn in assets. Equatex is an expert in managing deferred equity compensation plans for global businesses, with clients in major industries including financial services, healthcare, industrial, pharmaceuticals, energy and IT. All employees are expected to transfer to Computershare as part of the acquisition, which is expected to be completed within six months.

"We're delighted to have signed this contract and look forward to welcoming Equatex's experienced and dedicated staff to the company later this year", said **Naz Sarkar**, ceo of Computershare's UK, Channel Islands, Ireland and Africa region. "We are confident this acquisition will deliver enhanced service opportunities for both Equatex and

Computershare clients over the coming years and are especially pleased to benefit from the wealth of knowledge and expertise that Equatex has across Europe, which will complement our well-established UK footprint."

On the move

Eva Simpson-Fryer has joined the **Pett Franklin** team in Birmingham. Eva has previously worked at a global management consultancy and joins Pett Franklin as a share scheme assistant who will study for the ICAEW Chartered Accountancy qualification. Founding partner, **William Franklin**, said that Eva's recruitment was a key step in strengthening Pett Franklin's uniquely integrated legal and accountancy share scheme practice: "It will help us to continue to grow our national employee share scheme service and take advantage of the many local opportunities in Birmingham and the wider region, which is increasingly recognised as an ideal location in the UK to scale up new businesses due to its combination of skilled people, moderate cost base, room for expansion and its status as the hub of the UK rail network," added William.

Shervin Binesh is now client director, within the performance & reward management team, at Centre member **Intertrust Group** in Jersey**,** *having moved from **Link Asset Services**.*

Centre members need no longer be puzzled at seeing the name **Osiris Management Services** on conference delegate lists, as the **Jersey** based trustee has changed its name to **Fiduchi**. Osiris was identified in ancient Egypt as the god of the afterlife, the underworld and the dead and was worshipped publicly until the christianisation of the Roman Empire. Md David Hopkins admitted that one of several reasons for the name change was that: "*As we start to focus on new markets, especially in the Middle East and Asia, the Osiris brand may not be appropriate to support the development of new business with specific clients in these regions."* So why Fiduchi? Hopkins explained: "Fiduchi is a derivative name and a play on two words. First, fiduciary, which is a term closely associated with our industry. The Latin word 'fiducia' which is from where fiduciary derives, means trust and confidence. Secondly, "chi", a word from Chinese cultures,

referring to a person's life force or energy." The Centre's contact at Fiduchi is **Maxine Atkins**, head of employment services, who will be attending our Paris employee equity summit on June 21-22.

ProShare moved home by transferring to **ICSA** - the rival governance institute to the troubled Institute of Directors - on the basis that, increasingly, employee share ownership was a part of the corporate governance agenda. The **London Institute of Banking & Finance (LIBF)** had been ProShare's home since 2004. Alex Fraser, ceo of the LIBF, said: "There's a real need to ensure employee voices are heard at board level." Simon Osborne, ceo at ICSA, said: 'Our position as the membership and qualifying body for the wider governance audience creates opportunities for both ICSA and ProShare. There is an increasing recognition of the importance of the employee stakeholder and consequently of the role of responsible employee share ownership in good corporate governance. We look forward to leveraging our joint lobbying reach to strengthen our voices in the governance debate."

UK CORNER

Reward: more tales from the trough

Thirty nine top executives received a total of £243.3m in total reward last year, the **Labour Research Department** *Fact Service* examination of the remuneration reports of FTSE 350 companies revealed. The average (mean) package for the 39 was £6.24m, which reflected the distorting effect of the top four packages, each worth £42m or more. The midpoint (median) package was **£2.04m**. On a weekly basis, the average package was worth £119,670 and the median package £39,310 a week. The latest official figure for a full-time worker's weekly salary is £550, so the 39 received on average at least 71 times the average worker. **Melrose Industries**, the buyout group successful in the recent hostile takeover bid for rival GKN, dominated the list. Ceo Simon Peckham received a package worth £42.7m or £822,390 a week. Chief financial officer Geoffrey Martin's package was worth £42.58m or £818,770 a week. The group's chair, Christopher Miller, picked up £42.34m or £814,140 a week. And deputy chair David Roper's package came to £42.33m or £814,115 week.

Xavier Rolet, ex ceo of the London Stock Exchange (LSE), was in fifth spot with a £5.56m package. He left his post abruptly last November. Year-on-year comparisons could be made for 30 of the 39 executives, of whom, 22 saw their reward packages increase last year. The increases ranged from 4.8 percent up to the increases for the four Melrose executives, which worked out at 4,232 percent or more. Meanwhile, average earnings for the UK economy as a whole only increased by 2.8 percent at most in the same period. The fifth highest increase was the 117 percent hike received by Stefan Bomhard, ceo of car distributor and retailer **Inchcape,** putting him on £3.05m or £58,595 a week. Mark Dixon, ceo of workspace group **IWG,** saw his package shrink by 63 percent, but it still gave him £1.12m or £21,560 a week. The total remuneration figure given in the table includes: basic salary, cash bonus, long-term share bonuses, golden hello, golden handshake, cash pension payments and a cash figure for other benefits that directors receive, such as use of company car, life insurance, private health benefits and housing allowance.

Share scheme reporting errors still common

Basic errors, on a considerable scale, in annual UK corporate employee share scheme reporting have been revealed by HMRC. One of its recent publications contains information on share plan registrations with *incorrectly identified plan types*, as well as common drafting errors which HMRC has found in the rules of tax-advantaged share plans. Business tax inspectors find plans newly registered on the **Employment-Related Securities** online system under the incorrect scheme type, it said. The publication set out how to identify the scheme type. For example, HMRC emphasised that Company Share Option Plans (CSOPs) are often registered incorrectly as non-tax advantaged share option schemes. HMRC emphasised that options granted under a CSOP must be granted by deed or for current/future consideration (past consideration is insufficient under UK law), so that employees acquire a *legally binding right* to acquire shares under the CSOP plan. Accordingly, HMRC may view a CSOP plan whose rules do not provide for grants by way of deed or current/future consideration as a serious error.

Other issues identified by HMRC included provisions relating to the exercise of options under SAYE and CSOP plans in the event of a change in control or other acquisition. Companies considering the establishment of a tax-preferential share scheme in the UK should review these new publications for insights and guidance

*As revealed in the May issue of newspad, companies' annual share plan returns must be filed online with HMRC on or before **July 6 2018** by the local company/adviser who registered the plan, using the plan's unique reference number.*

The return must report:

- the grant (including a rollover/assumption), exercise, assignment or release of options or receipt of a benefit in money or money's worth for the options
- the grant (including a rollover/assumption),

vesting, assignment or release of RSUs or receipt of a benefit in money or money's worth for these said awards

- the purchase of shares under the ESPP (and potentially the grant of purchase rights). As the files are format sensitive, companies are encouraged to check their files for formatting errors prior to submission by using HMRC's checking service.

Open company registers move excludes Crown Dependencies

The **Sanctions and Anti-Money Laundering Bill**, which started in the House of Lords, had its remaining stages in the Commons on May 1. New Clause 6, a non-government clause which had substantial cross-party support, was accepted by the government and was added to the Bill without a vote. The new clause would require the UK government to '*provide all reasonable assistance'* to the UK's Overseas Territories to establish public registers of beneficial ownership information of companies registered in each jurisdiction. It requires the Secretary of State, no later than **December 31 2020**, to prepare a draft Order in Council requiring the government of any British Overseas Territory that has not already done so to introduce such a publicly accessible register. The UK has 14 Overseas Territories, including Anguilla, Bermuda, British Virgin Islands (BVI), Cayman Islands, Gibraltar, Montserrat and the Turks and Caicos Islands. The new clause does **not** apply to the Crown Dependencies (Jersey, Guernsey and the Isle of Man). A separate clause, which would have placed a similar obligation on the Crown Dependencies *did not proceed,* said Centre member **Deloitte**. The Bill went back to the House of Lords to consider the Commons amendments, including the new clause. For the Commons debate see https://deloi.tt/2jnDlO6

Announcements under the MAR, Disclosure, Guidance & Transparency Rules:

*On May 2, the **Ocado Group**'s issued share capital was 663.5m ords of a nominal two pence each, none of which were being held in treasury. Each ord carries the right to one vote at company agms. Of these issued ords: (1) 2,327,415 shares are held by **Yorkshire Building Society**, the trustee for Orcado's employee Share Incentive Plan, who must vote, at the request of a participant, regarding ords held by the trustee on behalf of that participant; (2) 27,983,942 shares are held by Wealth Nominees on behalf of **Estera Trust (Jersey),** the independent trustee of Ocado's employee benefit trust (EBT). The EBT trustee has waived its right to exercise its voting rights and to receive dividends in respect of these 27,983,942 ords, although it may vote in respect of 27,907,910 ords which have vested under the joint share ownership scheme and remained in the trust at May 2, at the request of a participant.

***AIM-listed redT energy**, the energy storage solutions company, announced that it was granting share options to subscribe for ords, worth a nominal one penny each, to be awarded under the redT energy 2018 Employee Share Option Plan, which includes a CSOP, EMI and an unapproved part, and the redT energy 2018 Consultant Share Option Plan. Options over a total 25.9m ords will be granted under the plans; 12.4m under the CSOP part with an exercise price of 7.05p per ord (*market value*), 10.5m under the EMI part with an exercise price of 5.9p (being the price at which the company completed the placing as announced on April 13), 1,000,000 under the unapproved part with an exercise price of 5.9p each, and 2,000,000 under the Consultant Share Option Plan with an exercise price of 5.9p. The options will vest between two and five years from the date of grant and are exercisable for a period of three years from the date at which they first vest. As part of the options, 3,000,000 options under the EMI part will be granted to Fraser Welham as a director and 1,000,000 options under the unapproved part will be granted to David Stewart as a director. The Board approved a plan for 35m options under the 2015 Share Plan to be surrendered and re-granted under the 2018 Employee Share Option Plan, subject to the surrender of the existing options and on the same commercial terms as the original options.

***Synectics plc** was notified that the Trustee of its HMRC Approved Employee Share Acquisition Plan (ESAP) had purchased 7,482 ords of a nominal 20p each on behalf of all ESAP participants. The shares were purchased on April 25, at a price of 185p each in respect of the six-month accumulation period ended on March 31. Under the terms of the ESAP, participating members contribute a fixed amount to the Trustee on a monthly basis. As a result of these purchases, Synectics was notified that Paul Webb and Mike Stilwell, Directors and PDMRs of the company, had acquired interests in 486 and 162 shares respectively, and that Greg Alcorn, a PDMR, acquired an interest in 487 shares.

GDPR - what it really means...

The EU's General Data Protection Regulation (GDPR) has delivered a fees bonanza to lawyers, said the online magazine *Politico* (the Centre's favourite daily read). Lawyers refer to the 88-page law as the "gift that keeps on giving" due to the rich stream of billable hours and contractual work that comes with it, said Politico writer Laurence Cerulus. GDPR, the biggest overhaul of data protection rules in a generation, prompted an explosion in tech lobbying in Brussels and elsewhere. Silicon Valley web giants have expanded across the EU, partly in response to the new privacy rules. Despite its global consequences, few people know what the GDPR is really about, and how it will impact their companies and lives. So what does it say – and what does it mean?

Right to be forgotten

What the text says: Officially called "the right to erasure," the GDPR says "the data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay." (Article 17)

What it means: Europeans can ask companies to tell them everything they know about them and delete it all. Businesses will have to set up their datasets in ways that they can trace and delete all the data they have on someone — a challenging engineering task. The right to be forgotten goes back to a 2014 lawsuit in Spain by someone who complained that Google's search engine linked his name to an incident long ago. While the case concerned search results, EU lawmakers took the concept further by imposing a *"right to erasure"* across the bloc. The extent to which Europeans can take this is still being litigated. Two cases against Google are to be heard by the EU's highest court later this year. One involves the right to have info about past criminality and other affiliations removed and the other will decide whether such info should be accessible outside the EU.

Consent

What it says: A company or authority "shall be able to demonstrate that the data subject has consented to processing of his or her personal data" and the consent has to be "freely given" and asked in an "intelligible and easily accessible form, using clear and plain language."

What it means: Websites have been sending internet users pop-ups asking if they agree to the terms and conditions. Clicking "*I have read [these] and agree*" has been dubbed "the biggest lie on the internet" by academics. Under GDPR, internet service providers will have to ensure users understand what they're signing up to, including whether Facebook and Google etc use their data to target ads or sell it to others. The question is: *What is meaningful, "freely given" consent*? Some start-ups have even specialised in designing new ways to catch people's attention.

Data breach notification

What it says: A company suffering a hack or breach of its data "shall without undue delay and, where feasible, not later than 72 hours after having become aware of it, notify the personal data breach to the supervisory authority" and "shall communicate the personal data breach to the user or customer without undue delay." (Articles 33 and 34)

What it means: Since the regulation was adopted, the world has learned of a Yahoo data breach that affected three billion users, an Uber data breach that affected 57m users, an Equifax breach that hit more than 143m people and many more. Lawmakers devised a framework to put responsibility onto companies for holding data and protecting it from falling into the wrong hands. Companies have to set up a crisis management process in case an intruder manages to snatch the personal data they hold — and they'll have to be open and transparent about what happened.

Data protection authorities

What it says: Each EU country "shall provide for one or more independent public authorities to be responsible for monitoring the application" of the GDPR. It comes with the power to conduct investigations, ask companies to "provide any information it requires" and fine them. (Chapter VI)

What it means: Europe's privacy watchdogs will bite. The European data protection authorities gained attention, as they launched probes into data breaches at Yahoo and Uber or challenged WhatsApp's data sharing with its parent company Facebook. These authorities are getting more powers and resources to probe big companies that venture into big data analytics.

The Board

What it says: "The European Data Protection Board (the 'Board') … shall ensure the consistent application of this Regulation." (Articles 68 to 76)

What it means: A new EU super-watchdog, ***the European Data Protection Board***, includes representatives of the national data protection bodies, but with a lot more teeth. The chair of the Board has one of the highest-profile jobs in European privacy, acting as the voice and face of data protection authorities as they challenge tech giants.

Four percent fines

What it says: Certain "infringements [shall] be

subject to administrative fines up to €20m, or in the case of an undertaking, up to four percent of its worldwide annual turnover, whichever is higher." These fines would be "effective, proportionate and dissuasive." (Article 83)

What it means: Regulators will hold a stick that's worth millions, in some cases billions, of euros. For privacy regulators, fining companies billions is a brand new power. It's scaring many companies into complying with the GDPR.

Privacy by design

What it says: A company or organisation gathering personal data has to ensure that, "by default, only personal data which are necessary for each specific purpose of the processing are processed." (Article 25)

What it means: Everyone from browser services like Mozilla Firefox and Google Chrome to fridge makers and the "internet of things" industry has had to tweak its products to make sure the default setting doesn't hoover up more data than is needed, and protects personal data immediately. The rule has kick-started a redesign effort by online service providers.

Data protection officer

What it says: Companies handling data that "require regular and systematic monitoring of data subjects on a large scale" need to have a "data protection officer." (Articles 37, 38 and 39)

What it means: Larger businesses need a point person to manage your personal data, a go-to person that knows the risks to working with data and has the ear of the executives in an organisation

Profiling

What it says: A user "shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects." (Article 22).

What it means: Having computers make important life decisions, like whether you can get insurance or how quickly a doctor should treat you, is not always a good idea, EU lawmakers think. Companies and authorities using algorithms to speed up or decrease the workload will have to either ask for users' explicit consent (see above) or double-check a decision made by an algorithm if the user asks why he/she was treated in a certain way.

Employee shareholders in need of advice

Not even a quarter of employee stock plan participants in a survey by US banker & stockbroker **Charles Schwab** said they had conducted any transactions in their holdings. Only 24 percent had actually exercised employee stock options or sold shares acquired from equity compensation. Furthermore, only half of the respondents said they were confident in their ability to make the right decisions about their stock compensation by themselves.

"Knowledge is power. Most importantly, it reduces the fear of the unknown. The survey suggests that improved education and guidance would reduce this fear factor," according to the US survey of 1,000 stock plan participants by **Schwab Stock Plan Services.**

The survey found that while half understand the long -term value of their equity compensation, many were hesitant about exercising stock options or selling shares because of anxiety that they will make a costly mistake. More than a third admitted to being worried about selling in adverse market conditions, and another 34 percent said they feared the tax consequences of making an uninformed or bad decision. Almost half (48 percent) were afraid of making a mistake when exercising or selling.

Among the reasons given why participants had never sold any of their equity compensation were: waiting for more favourable market conditions (34 percent); concerned about tax implications of selling (34 percent); waiting for equity comp to fully vest; not sure how to sell or exercise equity comp (17 percent).

Schwab's survey suggests that many stock plan participants would benefit both from better stock plan education and from seeking the assistance of financial advisors to help them navigate investment and tax details. About 80 percent of the respondents said they would be much more confident about their stock compensation with the help of a financial advisor. Many participants said they would like advice on:

- tax consequences (50 percent)
- retirement planning (44 percent)
- the right timing for exercise/sale decisions (35 percent)
- how to diversify company stock holdings (33 percent)
- using equity comp to build wealth (32 percent)
- how to exercise or sell equity comp (29 percent)
- info about the vesting schedule (27 percent)

The survey revealed that 76 percent of participants consider equity compensation to be part of their long -term financial plan. More than a third (36 percent) reported that stock compensation was one of the reasons why they took their current job. Most said equity compensation helped to keep them at their company, an example of stock compensation's employee-retention value.

Many participants viewed equity compensation as part of their overall financial strategies. Among those who were unafraid to undertake transactions using their employee stock holdings, reasons for selling company shares included: getting needed cash (35 percent); making a big purchase (28

percent); being fully vested and wanting to cash out (24 percent); under financial stress (22 percent); worried about the future of the company (15 percent) and planning for retirement (11 percent).

Centre chairman **Malcolm Hurlston** said: "This survey confirms the need for something I have been urging here for some time – sophisticated online tailored financial planning help for Esop participants." **The Esop Institute** is setting up a seminar later this year about providing online tailored financial planning advice for employee shareholders.

Share buybacks are corporate 'cocaine'

Global banking giant **HSBC** announced plans for another **$2bn** worth of *share buybacks*, the third in three successive years. The share buyback announced alongside the first quarter 2018 results follows a $2bn buyback in August last year and a $1bn buyback made the previous February, but HSBC said the next round would be the only one this year.

The Economist called share buybacks "*an addiction to corporate cocaine." Reuters* called them "*self-cannibalisation*;" the *FT* called them *"an overwhelming conflict of interest"* and *Harvard Business Review* has called them "*stock price manipulation*." Steve Denning, writing in *Forbes* magazine, said: 'These influential media make a powerful case that wholesale stock buybacks are a bad idea — bad economically, bad financially, bad socially, bad legally and bad morally." Money spent on buybacks is money that isn't invested in projects which fuel longer-term success.

Many companies, like German energy trading house **RWE Technology,** buy back their own shares to fund their employee share scheme obligations, but on a relatively small scale, in this case acquiring €7.6m of its own shares for that purpose last November.

Major corporate share buybacks are good news – in one sense - for employee shareholders in ***existing*** schemes, especially those nearing maturity, because the company share price goes up – as the supply of shares on the open market goes down, though many long-term shareholders prefer higher dividend payouts.

Buybacks can be good news for executives too – making some bonus targets easier to achieve. However, the news is not so good for share scheme managers hoping to improve the employee participation rate in planned ***new*** Eso schemes, as savvy employees perceive that the potential share price upside a year after the shares buyback is not obvious, unless the company keeps on buying back its own shares.

Credit reporting agency **Experian** saw its share price rise by more than five percent after announcing a US$400m new share buyback programme, just months after completing another US$566m worth of share buybacks.

Luxury fashion brand **Burberry** too announced plans for £150m worth of share buybacks after store closures and other cost-cutting efforts helped it post a rise in profits last year. Pre-tax profits grew 4.6 percent to £413m after it closed 34 of its 450 shops, including some outlet stores and concessions, and found £44m in cost savings on top of £20m already slashed in its cost and efficiency programme. The profit growth allowed Burberry to raise its full-year dividend by six percent to 41.3p per share, while it confirmed the shares buy back this year.

Lloyds Banking Group started a £1bn share buyback programme by hiring **UBS** to buy back the stock over the course of this year. The bank has 2.3m small shareholders, some of whom are wondering why at least some of the £1bn isn't being spent on a higher dividend. The bank said: "The sole purpose of the programme is to reduce the ordinary share capital of the company."

The government is investigating how share buyback programmes are being used and whether action is required to prevent abuses. **Business secretary Greg Clark** said that, although there were a number of valid reasons why a company would buy back its shares from the market, the government was concerned that some companies could be doing so to artificially inflate executive pay and could result in other investments that might be made by the company being crowded out, reported Centre member **Pinsent Masons**.

Research firm ***Birinyi Associates*** said that share buybacks are at a record-high for this point of the year and more than double the $76 bn that Corporate US disclosed at the same point of 2017. **Goldman Sachs** estimated S&P 500 firms will return $1.2 trillion to shareholders via buybacks and dividends in 2018, increasing share buybacks by 23 percent to **$650 bn** this year.

COMPANIES

***Bonuses for breathing:** An activist investor criticised the management of **Gloo Networks** – the doomed listed vehicle which failed to buy digitally focused media companies – for pocketing millions in salaries and bonus payouts despite failing to strike a single deal in three years. Gloo Networks, which is chaired by **Vivendi**'s ceo, Arnaud de Puyfontaine, put itself into voluntary liquidation after burning through the majority of the £30m raised when it listed on London's **AIM** share index in 2015. The company, which is run by Rebecca Miskin, the former digital strategy director and "change agent" at *Cosmopolitan*'s publisher Hearst Magazines UK, spent millions reviewing 90 potential assets and had in-depth discussions with 11 but admitted last March

that it was giving up on a takeover of its latest potential target. However, the company's top executives – who included Juan Lopez-Valcarcel, the former digital chief of **Pearson,** the world's largest educational publisher – were well rewarded. Gloo paid out *£4m* in salaries and benefits, including more than ***£1m in bonuses over two years***, to top management from the time it was incorporated until March 31 last year, according to recent publicly available accounts.

"The politest word I can think of for paying yourselves bonuses of £750,000 in one year from a loss-making cash shell is that it is unprecedented," said Richard Bernstein, the founder of the AIM-listed activist fund **Crystal Amber**. *"There shouldn't be any bonuses paid for not actually delivering a deal. It looks like almost every director got one and it seems they got it on two criteria, breathing in and breathing out,"* he added.

***AstraZeneca** was rocked by a major shareholder revolt over executive pay, after more than a third of investors failed to back the pharmaceutical company's remuneration report. More than 37 percent of shareholders voted against or abstained at the company's agm. The rebellion opposed a £9.4m pay package for ceo Pascal Soriot, even though this was a drop from £14.3m a year earlier, when the company suffered votes against its pay policy and warnings from shareholder advisory groups over its bonus plans. The advisory group **International Shareholder Services** had advised investors that a £1.9m bonus for the ceo was "not suitably aligned with performance", while another group, **Pirc**, advised shareholders to vote against the pay report, arguing that targets set by the remuneration committee were not challenging enough. AstraZeneca revealed a 46 percent drop in operating profits for the first quarter, with earnings tumbling to $896m, which was much worse than feared by City analysts. It was hit by competition from generic drugs to its cholesterol fighting drug Crestor, as well as higher costs. The board receiving a grilling from investors, with one, John Farmer, saying that despite the revolt over pay in the previous year, "remuneration is still far too high". He added: "The ceo is being overpaid for underperformance. It's a collective shambles." Graham Chipchase, chairman of the remuneration committee, replied saying the company was mindful of a public debate over high executive pay and the board had to support its managers through a turnaround phase, started by Soriot in 2012. "If Pascal and his team had not come along when they did, we would have been in a far worse position than we are in today," he said.

***Cineworld** went into the **Investment Association**'s reward *sin-bin* after more than a third of its voting shareholders rejected its executive pay plans, even though the cinema chain had already backed down on an earlier, more generous policy. Of those voting, around 34 percent did so against the remuneration policy, which Cineworld said it had amended due to the "scale and complexity" of the business after its reverse takeover of US giant **Regal Entertainment**. Under the new policy, ceo Moshe Greidinger, will receive a nine percent increase to his base salary, to £630,000, with the deputy ceo to be handed a 28 percent rise and chief financial officer 36 percent more. Cineworld proposed increasing the maximum annual bonus potential to 150 percent of the salary, up from 100 percent currently. It said it was not planning to increase the long-term incentive plan opportunity, but did intend "to utilise the maximum opportunity of 200 percent of salary in future years". This would take Greidinger's maximum pay packet to above £3m, the deputy ceo's to £2.4m and chief financial officer's to £1.9m. The UK chain had backed down on earlier remuneration plans, after shareholders fought back against a controversial bonus scheme which would have awarded millions of pounds worth of shares to its directors. Although Cineworld noted shareholders had approved the new policy yesterday, it said it "recognises that a significant minority of shareholders voted against it" and said the board would reflect on the "feedback received".

***Cramo** plc on April 24 decided on a directed share issue regarding the matching share payment of its employee share savings plan *One Cramo Share Plan 2014*. Accordingly, 6,738 Cramo shares held by the company were awarded free of charge to participating employees. At the recent agm in Helsinki, shareholders authorised a maximum 400,000 shares to be issued as part of Cramo's share -based incentive programmes. Cramo, Europe's second largest construction materials rental services company, still holds 116,581 of its own shares.

***Deliveroo** is to hand out £10m worth of shares to 2,000 employees – but not to the thousands of couriers who deliver takeaway food for the company. All permanent staff, present and future, will receive shares but couriers will miss out because Deliveroo classes them as self-employed contractors rather than employees. Will Shu, the ceo and founder of Deliveroo, said the move was his way of thanking staff at the company; "a way of making sure this truly is our company in every way". He said: "Our phenomenal growth and success has been made possible thanks to the hard work, commitment and passion of the people who make this company what it is, and that deserves recognition, which is why I want all employees to be owners in Deliveroo and to have a real stake in the company's future as we expand and grow." The share handout is seen as a first step towards a potential flotation for the company, which is valued at more than $2bn after a fundraising round last year. The float would crystallise a huge fortune for

Shu and potentially mean big handouts for those staff who receive shares. Shu, a former investment banker who set up Deliveroo from his London flat in 2013, increased his salary to £124,999 in 2016 when he handed out close to £4.5m in share bonuses to directors and other head office staff, despite a 300 percent-plus increase in losses, according to accounts filed at Companies House.

*Rebellious shareholders claimed their first scalp of the agm season as executive pay at satellite operator **Inmarsat** was voted down amid claims of short-termism. Almost 60 percent of shareholders rejected the company's remuneration report, which revealed that ceo Rupert Pearce was paid £1.9m in a year that saw the company's stock market value more than halved. *The vote was advisory and does not require Inmarsat to act,* but it will be viewed as an embarrassment for a company that has repeatedly faced shareholder protests over executive pay. Under recent corporate governance reforms, Inmarsat must hold a binding vote on remuneration policy next year. It won the vote on its remuneration report last year by the narrowest of margins, and Pearce's pay this year was 20 percent lower. In the wake of the defeat, shareholders said the board, chaired by Andrew Sukawaty, should have taken more radical action. Ashley Hamilton-Claxton of fund manager **Royal London**, which owns a stake in Inmarsat worth £8.8m, said: "It seems that the board of Inmarsat did not go far enough to address the dissent."

***L'Oréal** announced the launch of its first all-employee Eso plan, which will be rolled out in 52 countries. The cosmetics giant, which employs 83,000 people worldwide, said the employee share purchase plan will give its staff the chance to be more closely linked to the group's development. The share purchase price will be set on June 1 and L'Oréal said it will be equal to the average of the opening price of the company's shares on the Euronext Paris exchange over the 20 trading days ahead of the decision, after a *20 percent discount*. The plan will be limited to 500,000 shares, including employer contributions. Jean-Paul Agon, chairman and ceo of L'Oréal, said: 'L'Oréal has always intended that its employees benefit from the group's success and prosperity. This first employee share ownership plan will give employees who want to participate a new way to support the company's development and be involved in its strategic projects.' L'Oréal, which owns 34 brands, generated sales of £23bn last year.

Melrose** was another company which faced a shareholder revolt over executive reward, with ***Glass Lewis and **Pirc** urging investors to vote at the agm against "excessive" executive payouts. In the event, Melrose backed down over its controversial potential £170m executive bonus plan following the turnaround group's takeover of GKN. Melrose said that "given the recent acquisition of GKN, the board intends to review the existing Melrose remuneration arrangements". Despite this, investors still fired a warning shot, with almost a quarter of the votes cast going against the remuneration report. Of the 69 percent of investors who voted, 23 percent of them were against the pay and bonus structure, which means that Melrose's name will go down in the **Investment Association**'s *Sin Bin* book – which has a 20 percent adverse agm executive reward vote as a trigger point for inclusion. Melrose's four top executives – Simon Peckham, David Roper, Christopher Miller and Geoff Martin – masterminded the £8.1bn hostile takeover of GKN, narrowly winning over the car and aircraft parts manufacturer's investors with 52.5 percent backing after promising to improve its performance. They each received more than £40m last year as a five-year bonus plan paid out and are in line for another pay bonanza if they deliver on their turnaround plans for GKN. The team would then receive 7.5 percent of any increase in the value of the combined business over and above a five percent annual hurdle to account for inflation lifting the value of the company – a plan that would pay out in 2020 and which was backed by Melrose investors at a special meeting last year. Melrose said it would "consult with shareholders about pay in the coming months". The current pay deal has been in place for over a decade. Melrose has been labelled an "asset stripper" by some but its plans have delivered huge returns for investors – some £4bn to date.

***Ocado** deliveries will soon include the largest ever executive bonus for the boss of a London-listed company, and a multimillion-pound surprise windfall for its chairman.

Tim Steiner, Ocado's co-founder and major shareholder, will pocket a bonus totalling **£110m** for last year after the online grocer's share price surged following its tie-up with US supermarket giant Kroger. Ocado will hand Steiner stock options worth £32m and the former Goldman Sachs bond trader will be able to pick up the remaining £78m owed to him through a decade-long golden handcuffs deal in early 2019, *The Sunday Times* reported. The technology behind Ocado's online grocery store and warehouse automation has caught the eye of a string of rivals in recent months. Kroger agreed to take a five percent stake in exchange for using its systems across 20 robotic warehouses in the US. The milestone Kroger deal, which added billions to Ocado's market value at a stroke, will add £3m to the wealth of its chairman and former Marks and Spencer boss, Lord Rose of Monewden.

*Mike Coupe, ceo at **Sainsbury's,** trousered almost £1.8m in shares just days after unveiling a £15bn supermarket mega merger with **Asda.** Mr Coupe dropped a PR clanger after the deal was announced when he was filmed singing '*We're in the Money*,'

has been awarded 608,700 shares worth around £1.79m. The shares were handed over in two tranches, 279,024 and 329,676, and are linked to long -term incentive awards from 2014 and 2016, which have now vested. Coupe sold 286,663 shares, valued at £845,655. A spokesman for Sainsbury's said: "Mike is not selling any shares for cash and is not making any immediate profit. He is selling a portion of shares to meet tax and NI obligations." The mega merger, which is slated for completion by the middle of next year, would see the combined group commanding 2,800 stores across the UK.

*One in five of FTSE 100 companies have received more than 20 percent adverse votes against their executive pay resolutions, compared to only seven percent in 2017, said a **PwC** report, based on the first 24 companies to have held agms so far this year. One third of ceos had their base salary frozen this year, compared to 42.5 percent last year, with a median base salary of £1,007,000 (£997,000 last year). The median single figure (total) pay has increased by 1.7 percent from £4.279m to £4.35m. Moreover, 61 percent of ceos received an increase in their total pay last year, compared to 2016, while 39 percent suffered a decrease.

Tom Gosling, PwC reward and employment partner, said, "The 2018 agm season is in full swing and early signs are that shareholders are coming down hard on any signs of pay inflation returning. This is despite data showing no material movement in the median level of overall pay for ceos, continued restraint on salaries, and even some emerging suggestion that pay levels may be trending down.

"Companies need to take this year's season as a warning against returning to the ways of the past, but at the same time investors need to find a way of ensuring that fruitful innovation is encouraged, and that the good doesn't get thrown out with the bad," he added. PwC found that the Institutional Shareholder Services had almost tripled its 'against' voting recommendations this year, due to concerns over perceived large bonuses compared to performance, disclosure concerns and increases in salaries or incentive opportunity. Major shareholder revolts have occurred in several UK companies during the last few months. Back in March, 36 percent of **Unilever** shareholders voted against approving the new directors' remuneration policy. More recently, 25 percent of **Shell** shareholders voted against their directors' remuneration and **Bovis Homes** suffered a sizeable revolt when almost 38 percent of investors who voted at the agm gave its pay report the thumbs down. Trade show organiser **Informa** suffered a 36 percent investor revolt over its executive reward report too.

Advisers must report aggressive X-border tax planning

The EU's Economic and Financial Council has agreed amendments to the Council Directive 2011/16/EU aimed at tackling aggressive tax planning. Under the new regime, intermediaries who design, market, organise or manage cross-border tax planning schemes *(eg tax advisers, accountants and lawyers in private practice and in-house)* will be required to report to national authorities certain information regarding tax planning schemes considered to be potentially aggressive. This report must be made within 30 days from the date after implementation of a reportable scheme (or the date after the scheme is made available or ready for implementation, if earlier). For marketable arrangements, intermediaries must thereafter provide updates every three months. The information collected will be logged on a centralised directory and automatically shared across EU member states every three months.

The landmarks listed in the annex to the Directive will be decisive in determining whether a disclosure needs to be made and these continue to be rather widely drawn and in places ambiguous. Intermediaries who fail to comply with these reporting duties will face sanctions ranging from financial penalties to other measures to be decided at EU member state level, such as '*naming and shaming*.' The level of penalties is to be determined by each EU Member State on the basis of what it considers effective, proportionate and dissuasive. The proposed amendments to the Directive are now being finalised in all official languages and will thereafter be fully adopted. EU member states will have until December 31 2019 to give the amended Directive national effect with reporting requirements to apply from July 1 2020, said Centre member legal group **CMS.**

Robocalypse is not on the way, says Prof Shackleton

Robots are not about to steal half the jobs of the western world any time soon, said Centre speaker and dinner guest **Len Shackleton**, Professor of Economics at the **University of Buckingham** and a research fellow at the **Institute of Economic Affairs.** For claims being made of massive and unprecedented job losses in the pipeline – due to robots, algorithms and AI - were based on highly contentious technological assumptions and were contested by economists who pointed to flaws in the methodology, wrote Prof Shackleton in an article for the IEA.

The story was that these developments, unlike past bouts of technical change, threaten rapidly to affect even highly-skilled work and lead to mass unemployment and/or dramatic falls in wages and living standards, while accentuating inequality. As a result, we were threatened with the 'end of work' and should introduce radical new policies such as a robot tax and a universal basic income.

However, in reality, the future of the world at work was much brighter, he maintained, because to date there was little evidence that technology was having a strongly negative effect on total employment. "The problem at the moment may be a shortage of key types of labour rather than a shortage of work," wrote Prof Shackleton. In any case, 'technological determinism' ignored the engineering, economic, social and regulatory barriers to adoption of many theoretically possible innovations. Even successful innovations were likely to take longer to materialise than optimists hoped and pessimists feared.

Moreover history strongly suggested that jobs destroyed by technical change will be replaced by new jobs complementary to these technologies – or else in unrelated areas as spending power is released by falling prices. Current evidence on new types of job opportunity supported this, he said.

The proposal for a robot tax was ill-judged: "Defining what is a robot is next to impossible, and concerns over slow productivity growth anyway suggest we should be investing more in automation rather than less. Even if a workable robot tax could be devised, it would essentially duplicate the effects, and problems, of Corporation Tax."

The idea of introducing a universal basic income was flawed too, he said. "Despite its appeal, it would be costly to introduce, could have negative effects on work incentives, and would give governments dangerous powers."

Prof Shackleton added: "Politicians already seem tempted to move in the direction of these untested policies. They would be foolish to do so. If technological change were to create major problems in the future, there are less problematic policies available to mitigate its effects – such as reducing taxes on employment income, or substantially deregulating the labour market''

Kenya

Oil marketer **KenolKobil** paid its former ceo, Jacob Segman, Shillings 707m (**£5.2m**) to settle a long-running dispute over his stock-based compensation, making it corporate Kenya's largest ever single executive payout. The **Nairobi Securities Exchange**-listed firm disclosed Mr Segman's final compensation in its latest annual report, published in line with the new reporting regulations requiring detailed account of money paid to individual directors. *"A legal dispute arose on validity of the Esop options, with legal proceedings commencing in courts of law in Kenya and in the State of Delaware, US. In December 2017, the company settled the matter out of court, making payment to Mr Segman possible,"* the report said. The amount is nine times the Sh77m the oil marketer had earlier provided for in its books for Mr Segman's compensation, but which was not disclosed as such. Mr Segman, a former group md who resigned in 2013, had been granted Esop option tranches between 2005 and 2010. "The options vested at various dates between 2008 and 2013," KenolKobil said in the report. It did not disclose what Mr Segman earned in salary but his settlement is enough to pay his successor, David Ohana, for another 13 years based on his (Mr Ohana's) annual salary of Sh52.9m. Settling Mr Segman's claims reveals the heavy price the oil marketer has paid in the controversial Esop. At Sh707m, the settlement is equivalent to redeeming about 40.2m shares or 2.7 percent of the company's 1.4 bn issued shares based on the current market price of Sh17.6. Weeks before paying Mr Segman, KenolKobil had gone to court seeking a ruling as to whether it was legal for him to exercise his share options. Mr Segman left KenolKobil in July 2013, three months after announcing a record net loss of Sh6.2 bn for the year. He had served in a senior position in the company for 23 years.

South Africa

One of the companies to have benefited most from a recent High Court ruling on the principle of "once empowered, always empowered" is DRDGOLD, followed by Sibanye-Stillwater and, in the pure-play platinum sector, Impala Platinum (Implats).

According to a report by Nedbank Corporate and Investment Bank analysts, DRDGOLD has current direct black economic empowerment (BEE) of 11 percent – including 'readily direct shareholdings' as well as employee share ownership schemes." Sibanye-Stillwater's current identifiable BEE count is nine percent. Had the High Court supported the government's contention that mining firms had to top up their BEE shareholdings, even in the event of a black-owned partner selling its shares, the dilution to Sibanye-Stillwater would have been 13 percent. The same applies for Implats: 13 percent on a nine percent direct holding.

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