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it's our business

newspad of the Employee Share Ownership Centre

SPECIAL EDITION: Esop Stars for Covid year

Exceptionally, this year's Centre-newspad award winners were designated "Esop Stars," to reflect the turmoil of Covid year 2021 in the share schemes sector. The Esop stars, listed below, received their framed certificates from Professor Michael Mainelli, executive chairman of **Z/Yen Group,** which operates the **Esop Centre,** at a reception following the Centre's fifth share schemes symposium, hosted by global legal group, **Baker McKenzie.**

Entrants and would-be entrants had warned that share plan launches had been postponed or delayed and new share scheme invitations cancelled due to Covid, but the Centre decided that the awards should be made - as a support symbol for the share schemes sector.

Centre founder Malcolm Hurlston CBE, who introduced the Esop stars ceremony, told symposium participants: "*For most of us, the year 2021 will soon join those dates we can never forget. It was the year when all our lives were changed. That is why for this year only these awards have been differently judged and take a different format. Normally I am guided by an expert panel of people who can judge the ingenuity and skills of share scheme plans. In 2021 all share plans were affected by the pandemic and we decided to look in preference at how companies achieved success by adaptation to the temporary new world.*"

In the circumstances, his choices, of the companies whose employee share plans had displayed best practice models for others to follow during the pandemic, had been guided by colleagues at the Centre -Fred Hackworth, editor of newspad and by Centre manager, Juliet Wigzell, who announced the names of the Esop Star recipients. They were:

☆ Swedish based worldwide gambling company **Kindred**, whose K2AESP showed rare success in adapting to the covid year, with the plan's international and inclusive reach. K2AESP was rolled out in 16 countries, including the UK. The aims of the plan were to: allow employees to share in Kindred's success; to increase employee engagement around shares and their value; increase employee retention and be market-leading in its reward packages. Employees received the same number of shares, regardless of their job level and work location. The company explained in documentation the tax implications of share ownership for each jurisdiction. Launched in March last year, the AESP has a two year vesting cycle and annual share grants. Staff are building their share portfolios and their level of engagement in the plan rose by 50 percent.

From the chairman

Our upcoming May 13 Channel Island conference on Jersey will be almost entirely face to face. This is a step further following this month's successful symposium hosted at Baker McKenzie, where the degree of personal interaction was a welcome and surprise high spot. I hope that in future most of our events will be in person although on occasion we can still take advantage of the remote infrastructure.

Similar considerations will apply in individual businesses. Here too I expect more face to face contact to be encouraged.

Nowadays, when employers may no longer give advice, employee shareholders have a greater need for opportunities to benefit face to face from the guidance and influence of colleagues

Malcolm Hurlston CBE

☆ SME **Winch Designs** was awarded the Esop star in recognition that the success of the Winch Employee Ownership Trust showed unusual achievement in adaption to the covid year. An employee representative sits on the board of this leading yacht, aviation and architecture design firm, with a £20m annual turnover, based in Barnes, SW London, which is now 100 percent owned by its 140 employees. Ceo Aino Grapin said: "*Employee ownership will enable us to stay true to our colours, serve our clients even better and further empower our next generation of talent.*"

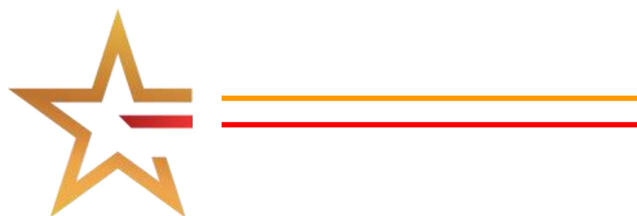
☆ AIM-listed **Ceres,** a fuel cell technology company, received the star for its Ceres SAYE-Sharesave 2021 all-employee scheme, which despite Covid**,** achieved a 74 percent participation rate among eligible employees; no mean feat**,** given that it employs more than 400 people of 33 different nationalities. Its attractive and informative Sharesave communications campaign led to participation levels rising among both male and female employees and first-time Sharesave joiners.

☆ Money transfer and payments company **Wise** was awarded an Esop Star for its inclusive all -employee equity plan in a Covid world. More than 3,000 – *aged mostly under 40* -of its workforce are participating in a global Long-Term Incentive Plan (LTIP), which is normally reserved for executives only. Participants hold an average of 11,560 shares. Its LTIP has a four-year vesting schedule, with up to ten years from grant to buy shares. Uniquely, to help employees feel engaged and benefit as they go along, they receive shares in tranches. After a year, 25 percent of their share options/RSUs vest, with the remaining shares vesting incrementally until their fourth anniversary.

☆ The Esop Star for outstanding company leader, in recognition of his effective promotion of all-employee equity with personal enthusiasm, was **Nigel Le Quesne.** Nigel, a shared ownership believer, is ceo at listed trustee and private client administration services company **JTC,** which employs 1,300 people globally after acquiring RBC cees last year. The company granted share awards worth £20m to its employees last year. Nigel said: "*Shared ownership is part of our DNA and we are committed to it for the long-term.*" JTC's shared ownership culture goes back to 1998, when Nigel secured a ten percent equity stake in the business and immediately gifted half of this to a newly created employee benefit trust (EBT). "*When I took control, I reflected on everything I had disliked about the concentration of ownership at the top and so I spread ownership among my colleagues. We had built the business together and they had stood by me; it just seemed fair. Everyone who contributed should benefit. Looking in the rear-view mirror, some now say this was the best investment I've ever made, but I did not think about returns, it just felt like the right thing to do,*" he said. The initial equity was held in the EBT for all JTC employees and grew into a 19 percent stake until 2012, when JTC took minority private equity (PE) backing and the EBT made its first capital distribution to all employees. £12m was shared between 174 employee-owners, with the average distribution being equivalent to about *twice* annual salary. In 2018, JTC listed via an IPO and a second employee distribution was made. This time, the second EBT, which had been created when CBPE private equity was bought in, was able to distribute £14m among 534 employees, with the average distribution being equivalent to their annual salaries.

In addition to the stars for entries received, Mr Hurlston announced special awards to two people who were pointing the way forward globally. The first was to **Pony Ma**, chairman of the Chinese company *Tencent*. Mr Ma had not only installed share schemes in the company for all employees but in addition gave equity to all employees from his personal holding. Mr Hurlston is sending his award to the China Development Centre in Shenzhen. His second special award went to **John Menke** who was a colleague of Louis Kelso, who created the Esop in California. "I *am delighted that John is here virtually to receive his own award*." Mr Hurlston added.

He thanked the entrants for their efforts in very difficult circumstances and he reserved special thanks for Jeremy Edwards and Denise Peeney at Baker McKenzie for their hard work, alongside Juliet Wigzell, in organising the symposium so well.



Fifth British Isles Share Plans Symposium

Around 60 people attended the Centre's share schemes symposium, its first UK live event in over two years. Although its format was hybrid – with speakers recording their presentations in advance - the *in-the-flesh* debates and Q & As session were well received by all. Half a dozen participants logged in via Zoom from other jurisdictions worldwide.

Jeremy Edwards, partner and head of employee benefits group at **Baker McKenzie,** said he was "*very, very pleased*" to host the symposium, not least because it was the first event which the legal giant (*13,000 employees in 78 offices*) had hosted live in the UK since Covid restrictions had been lifted.

Jeremy kicked off **Speakers' Panel 1,** which dealt with **The new executive remuneration landscape.** Mr Edwards discussed his presentation on *Baker Mckenzie's FTSE100 remuneration review: what it shows and feedback.* He explained that the review was carried out annually in association with **Aon.**

This was the year of '*Justification,*' said Jeremy, as most people outside executive suites were having to deal with a really difficult situation – Covid, rapidly rising price inflation and anxiety over recent global geo-political developments. "*This might not be the year in which to give away a lot of corporate largesse,"* he warned. Even companies which were doing well in this environment had to watch their step too, because general shareholder power, especially from the proxy advisors, would be ready to strike down over-ambitious directors.

UK legislation and regulation had created an executive remuneration platform comprising two main elements – the company's remuneration policy, which had to be renewed by shareholder vote at least every three years and which was binding – and its remuneration report, which was presented annually and which was advisory. However, if there was a big shareholder vote against the latter, the company had to respond. In addition, all premium listed companies had to declare a number – a percentage by which directors' pay had gone up. A key result of the reforms was that investors had a lot more information about remuneration within companies and information was power, said Jeremy. "*We have seen marked changes in corporate behaviour – there is fear that proxy advisers will make recommendations against them,"* he explained. The main trends witnessed in the BM/Aon annual review were: the structure of executive remuneration in FTSE100 companies had not markedly changed in recent years and that the performance share plan was the dominant form of long-term investment plans (LTIPs). Almost 80 percent of FTSE100 companies were still using only performance share plans to crystallise their executive incentive schemes, although a trickle of companies (12 percent) planned to install restricted share plans for their executives, he said. Companies were wary of upsetting the apple cart.

The majority of companies fixed three-year vesting periods for executive awards and now insisted on two years of continuing post-employment shareholding in line with Investment Association guidelines, he said. Similarly, the majority of major UK companies had installed malus and claw-back in their executive reward arrangements. In addition, almost all the companies had aligned incoming executive pension contributions proportionally in line with what they gave the rest of the workforce. Jeremy referred to the Financial Reporting Council message last May in which it accused companies of playing down the size of shareholder rebellions over their executive compensation awards and policies at their agms. Investors wanted companies to explain much more effectively the links between their executive remuneration policies and the delivery of their long-term development strategies, he said. Where TSR (total shareholder return) was above average, people tended not to look too closely, but when it was below expectations, institutional shareholders and others were going to ask why.

Regarding the impact of Covid on executive remuneration, institutional investors had made it clear that directors should not be compensated for salary reductions last year. Ceo pay had fallen 17 percent over the period 2019-21 owing to Covid. Furthermore, existing performance conditions for fresh bonus and LTIP awards should not be tampered with in order to allow executives to 'catch up'.

On the ESG front, premium listed UK companies had been told that they must align their executive remuneration with the recommendations of the international task force on climate change. They all had to watch out for new EU legislation which was imminent – because it looked like Brussels would make it compulsory for big listed companies to include non-financial metrics in their remuneration policies, as part of the drive towards installing more sustainable corporate governance, he added.

**The growing impact of ESG on executive remuneration* was tackled by Rasmus Berglund, senior counsel, and Saba Palizi, senior solicitor, at

Macfarlanes. They had kicked off their presentation by showing a range of press cuttings worldwide in recent weeks about how leading companies were attempting to integrate environmental, including climate, social and governance concerns into their corporate strategy and in particular, into their executive remuneration policies. Private asset management companies were becoming just as involved as public companies already were. ESG was indeed the *hot topic* of the day, although the mining sector for 20 years had been connecting the level of bonuses to health & safety issues, said Rasmus. However, it had been during the last five years that ESG metrics had gained traction throughout the developed world and now more and more companies, including private equity, were jumping on the ESG bandwagon, he said. Of course, questions were being asked, like – *Are you compromising your financial targets if you are using non-financial metrics?* There was a renewed focus on corporate governance because some of its issues like global warming were now widely discussed, said Macfarlanes solicitor Lucy Irwin, but there were awkward comparisons, such as *Which is greener – Tesla or General Motors?- They were both rated identically, but Tesla's production process was maybe not so green,* she added. Another potential problem was that some companies would concentrate on one issue, such as inclusiveness, like women on the board, but wasn't that too narrow in scope for ESG target-setting?

Prof Mainelli gave a fresh example of another kind of ESG in which the South American nation of Chile had adopted a Z/Yen Group idea by issuing the world's first *sovereign* sustainability linked bond (*see detailed story further down)*. The heavily subscribed $2bn sustainability-linked bond, issued on March 2, carried a 4.346 percent coupon, 200 basis points above 20-year US Treasury notes. This tied the Chilean government to deliver on CO2 and renewable sources of electricity generation within a decade, or it would have to pay a higher rate of interest for failing to achieve the targets, he explained.

Key issues around links between ESG and executive pay included time horizon, challenging performance targets, discretion and to what extent investor guidelines fitted in, said Rasmus. Disclosure and reporting requirements covered remuneration policy and its rationale, including performance targets and it was easier to link ESG targets to bonuses, which tended to be of annual duration, whereas LTIPs usually ran for three years, making them more suitable for long-term ESG targets. Macfarlanes was working with asset managers who wanted to know how they could attach ESG targets to the carried interest through which fund managers were paid a fixed percentage of profits (*profit-sharing + a performance hurdle).* Unrealised ESG targets in their case could be donated to appropriate charities, said Rasmus. Asset managers faced far less demanding regulation than companies in the listed sector, but they were adding malus and claw -back to their bonus criteria. More generally, some companies took ESG very seriously, while for others, it was basically a box-ticking exercise. Some like Rio Tinto *(destruction of 46,000 year old Aboriginal heritage site*) and BP *(the Deepwater Horizon Gulf of Mexico drilling disaster)* had got it horribly wrong, but that did not mean that government should step in to regulate, as now there are commercial drivers for companies to get ESG right.

The proportion of FTSE100 companies who were now applying ESG metrics to their executive remuneration policies had risen from 45 percent in 2020 to 58 percent last year, said colleague Saba. Almost half of these top companies applied them to their annual bonus decisions too and one third of them applied the metrics to their LTIPs too, she said. Categories like diversity & inclusion, employee engagement, stakeholder concerns and social commitment had been added recently to the ESG metrics. They cited corporate examples of ESG awareness: at BP, where safety targets had a 20 percent weighting on bonuses, while new environmental measures accounted for a further ten percent. At Unilever, adherence to a new sustainable living plan could affect up to 25 percent of the value of its LTIPs. Meanwhile, at SSE, 20 percent of the value of annual incentive plans was determined by sustainable development goals, such as carbon emissions, renewable energy, electric fleet vehicles and fair tax plus the living wage.

Mr Edwards said that most companies had reward programmes that concentrated on a small number of senior employees, but they had to go much deeper down the organisation from now on. Directors themselves had to feature on their own scorecards to establish whether they qualified of not – based on performance - for annual bonuses. Fundamental changes in compensation structures were needed, he added.

Panel 2: Employee share/share option plans in SME companies

Using the Enterprise Management Incentive in a volatile tax landscape was explained by Catherine Ramsay, partner in executive incentives at Centre member **Gannons.** She said it was 'disappointing'

that the government had decided not to extend the opportunity to use EMI options to more companies. "*EMI options drive SME growth,*" she said pointedly. The generous tax-advantaged discretionary scheme was flexible in the way that its share option packages could be designed. Careful drafting of EMI schemes was key to their retaining tax relief – most notably Capital Gains Tax (CGT). There were two main types of EMI scheme - Exit Only and Pre-Exit – the first only paying out after a change of control event, such as a takeover or an IPO listing and the second could involve hurdles such as the executive's length of service or the achievement of performance targets, said Catherine. As the cost of living was rising fast, including NICs rates, any savings in tax the company and its employees could make was going to be extremely attractive. EMIs allowed participants to obtain a mere ten percent CGT disposal rate with 90 percent of the gains in the pockets of incentivised key staff, who were unlikely to leave before a looming vesting. "Cash does not breed loyalty" is one of my favourite expressions, added Catherine. However, SME owners had to think carefully before fixing the rules of their EMIs, she told the panel. Suppose there was no exit within five years…what then? Would it be prudent to set up an internal market so that good leavers could trade their options in? If owners were still anxious, then putting in *Growth Shares*, with an EMI sitting over them, could be a good idea.

Valuation rules allowed that the option strike price could be set at any level as the individual could choose the time to exercise his or her options and only then was there the tax point. Many start-up companies used it because they could not afford to pay star employees large cash salaries. Unusually, companies could go to HMRC in advance of the option grants and ask whether or not the proposed exercise price was suitable or not. That facility offered companies valuable reassurance, she said. What was wanted was a fiscal, rather than a commercial, valuation and that often meant higher discounts on the strike price could be offered, especially with the background of major global uncertainty, which could well affect trading. Lower value gave more scope for growth. Privately-held companies faced almost the perfect storm – they had to contend with Covid, sharply rising prices, Brexit and now the fighting in Ukraine. They faced huge payroll costs and EMI helped because it took away the PAYE element. Furthermore, using EMI meant that companies had to give away less of the equity and thus retained control. "*We haven't seen uncertainty like this in a long time*," she added. The question of share sourcing was always important – typically, the choice was either new share issues, which meant dilution, or the transfer of shares from existing shareholders. EMI was so flexible that it could be used to supplement growth shares schemes, but there were pitfalls…the worst of which was to over-step the qualifying limits and so invalidate all the tax relief.

*The topics *Growth Shares come of age & Navigating valuation issues for unquoted UK companies* were addressed by Arran Simpson, tax partner and Hannah Tipper, associate director, tax, both of **Deloitte.** They said that as a retention tool, share awards were best, as cash bonuses or even share option awards did not really tie individuals to their company – they could always walk away, whereas shares offering a capital return were a better tie-in. The EMI was a "fantastic" tax-advantaged scheme and it was "disappointing" that the Chancellor had left it unreformed, said Sue Tilstone, a tax partner at Deloitte. Nevertheless, Sue was hopeful that something positive would come out of the Chancellor's promised review (*see later story*) of the Company Share Option Plan (CSOP).

Growth Shares were the next best thing to EMI, which had seen things go wrong with poorly designed schemes, or companies suddenly growing too big for EMI and exceeding its limits, she added. Holding growth shares meant that employees only received the upside value from their employer's shares if their market value at vesting exceeded a starting hurdle. For example, a business was valued at £70m, but the scheme could be drawn up to award participants gains from their growth shares only if the value of the company climbed above £100m within a few years. Such shares would have a lower up-front value because they were more risky, but they would enjoy a better tax environment, they said. Mostly, growth shares were awarded to executives because there was a better fit, but there were some all-employee share plans out there which used growth shares, said Hannah, in her video presentation. As there was no HMRC agreement to valuation with a growth share, the valuation was the key question over any growth shares plan. Most of the problems seen in growth shares stemmed from valuation issues. Clearly, there was pressure to drive down the share option values as low as possible and it was important to ensure that management had "some skin in the game."

Flowering shares were another possibility. In their case, once the hurdle price had been exceeded, the employee participants had access to all the equity they had amassed. Joint ownership too was available.

Up until 2016, HMRC had operated a "very popular" post share valuation service, which was then withdrawn. Now it was all about the submission of completed online templates or as part of a PAYE review. What were the expected returns on capital and the company's expected growth rate and their impact on share option pricing?

HMRC is focused on exit-based methodology – what would someone pay for the company's shares today? So the valuer should explore the assumptions behind financial forecasts. Above all, the documentation is crucial – how would individual employees pay for their shares? How would an exit work – would individuals sell their shares to incoming investors? Would there be put and call options and so on?

Prof Mainelli said the Centre was interested in having conversations with HMRC about employee share valuations and asked the audience for guidance on what the Centre could do.

The *Reward & Management Incentives for EOT-owned businesses* topic was discussed by Elizabeth Bowdler and Andrew Nealey, both senior managers at **PwC,** as part of the SME programme segment. Andrew said that many employee-owned trust businesses, typically lawyers or other professionals, sought to implement a less aggressive management incentive policy than public companies. These EOTs wanted long-term ownership and steady growth, as opposed to a quick exit and were often risk averse. They were quite different from companies in the *Turnaround* sector, like travel, tourism and retail, where often a good reward strategy was to install a highly geared Long Term Incentive Plan, in order to encourage the top deck to attain high performance targets. However, the premise of the EOT was all-employee ownership, so its terms had to benefit all employees equally and the public wanted to be reassured that EOTs were being set up for the right reasons, said Andrew.

Elizabeth said it was important to keep in mind the rules for getting and retaining CGT relief on the EOT construct, namely: the trust had to have more than 50 percent of the ordinary capital and voting rights; it had to be entitled to receive more than 50 percent of profits generated by the company and more than 50 percent of the assets on wind-up. Benefits, such as annual bonuses (*EOT employees are allowed annual bonuses of up to £3,600 within the rules*) to be received by all employees on the same basis. So how did special management incentives, which might be necessary to hang on to top talent, fit in with the company's communications strategy – for example, stressing the benefits of wider ownership of companies? *EOT company employees had to be made to feel that separate management incentives were not taking anything off them,* she added. A range of equity incentive schemes could be put into an EOT covering up to a maximum 49 percent of the total equity, they said. The choices included installing an EMI in smaller SMEs, with only ten percent CGT payable on the first £1m gain; Growth Shares, involving the creation of a new class of shares on which only the value above a particular hurdle would count, with no qualifying requirement, nor limit on gains; CSOP with a maximum holding of only £30,000 worth of options and, like growth shares, a 20 percent CGT bill on gains, or a phantom scheme, paying out as cash bonuses, which faced a 45 percent additional tax rate. Again, whatever the scheme, the key question was who would participate – the broad mass of employees or just the management team, Elizabeth asked?

Another issue to look at was the increase in stakeholders following the transition to an EOT. There would be more people to get on board when determining reward policy – the workforce, the company's advisers, the media, the trustees and perhaps an employee council too.

Panel 3: Top tips for successful share plan launches in 2022

How share plans can support the post-pandemic HR landscape was presented by Stuart Bailey, associate director at **Computershare.** He said it was incredible to think back two years when anti-Covid lockdown was in full force and when companies were uncertain whether or not they would survive. Although life is returning to normal, we are still not quite where we were before the pandemic. Employee share plans are proving useful tools for companies fighting back from Covid chaos. "We saw a number of companies pulling share plans, or annual plan invitations or even discontinuing plans for the short-term, because they thought the pandemic would only last a couple of months," said Stuart. A major challenge to HR has been how to keep employees engaged with the company when their annual bonuses were scrapped and/or share awards were cancelled. "Covid restrictions had given employees an opportunity to think more about their jobs and their life pathways," said Mr Bailey. This tendency has been nick-named *The Great Resignation* and rightly so, since more than three percent of working women and 2.4 percent of working men have left the workforce, probably permanently, during Covid, the largest structural

change in the workforce since World War Two, he added. A McKinsey survey has suggested that up to 40 percent of the UK workforce felt burned out and were thinking of quitting during the next six months. Companies who insisted that staff go back to the office full-time have met resistance. Some employees, who had spent less during lockdown than they usually did, built up substantial nest-eggs which encouraged them to take a break, as part of the life-work balance check. So another HR challenge was how to retain the services of good staff and lock-in share plans was one means of achieving that aim.

*A typical experience was that of a precision engineering company, whose skilled workforce had been placed on furlough with their bonuses scrapped because their work could not be done from home. Stuart said that, for the first time, the company was keen to offer its employees shares in its business. All employees were offered free shares as part of a Share Incentive Plan and in the following year, the same company launched a generous partnership and matching share plan.

*A professional services company, worried about the risk of losing staff, had tweaked its all-employee share plan to make it global. It extended a small restricted shares plan from 50 to almost 1,000 participants, as a way of getting employees to think twice about changing jobs since they would lose their share value if they left. Ditto a global software services company, already using a hybrid working model, with no experience of Eso. During Covid restrictions, it had introduced a generous global free share plan with an obligatory one year minimum retention period, alongside a stock purchase plan offering matching shares after one year. The employee take-up of the latter had been almost 60 percent, he said. The impact of technology during the pandemic had been enormous: to communicate share plans in difficult circumstances, companies had used emails, online messages 24/7, videos, webinars and mobile apps in order to keep their employees onside.

*The case study of the award-winning *Currys Colleague Shareholder Scheme*, was presented by Jennifer Rudman, industry director - employee share plans, and by Kevin Taylor, client relationship manager, both at **EQ** (formerly *Equiniti*). This scheme, which won an earlier *newspad* award for creative solutions to share scheme planning, involved offering more than 30,000 qualifying group employees (*mainly in the Dixons-Carphone division)* one-off grants of between £1,000–£1,500 worth of shares – depending on grade- in the company over three successive years of employment. They have to wait three years to cash out the shares or they can keep them invested in the company. All staff below senior management level could qualify for the share awards after one year of service. Kevin told the symposium that not all Currys' employees were entirely savvy about employee shares and so EQ had had to think very carefully about all the FAQs, including - *what is a shareholder?*- that could be reasonably asked by the workforce. Share certificates were emailed to all participants and the scheme was much appreciated by them. Employees did not have to pay either tax or NICs on grant, but only when they cashed their shares in. Jennifer said that the company was "passionate" about Eso and believed that every employee should be an employee shareholder. The shares award scheme had been "a fantastic way of rewarding employee loyalty in the business," she added.

Kevin explained that communication with staff – digital with all messages by email – had been a key element in the scheme and, where necessary the information about the shares plan had been translated into the Nordic languages and others. Vesting for the three-year scheme was in February this year. The 16,236 vestings to date had resulted in 13,625 'sell all' orders, 330 'hold all' orders and 2,281 'sell to cover' orders (where just enough shares are sold to cover tax and NICs bills). Employee shareholders' election windows would not expire until 2029, so they had plenty of time in which to make up their minds.

How easy is it to use Employee Benefit Trusts internationally?* – In his video presentation, **Sanne's director of corporate services, Shervin Binesh, discussed the issues facing a company looking to establish an EBT e.g. assess intended beneficiaries and associated legal/securities/tax issues that may apply, regulatory consents, trust documentation to ensure sufficient powers to trustee and balance with client indemnities etc, jurisdictional nuances and legal/tax reasons, and practical steps for implementing and set-up of the EBT. Having contracted Covid, Shervin was

unable to attend the symposium in person, though he participated via Zoom. He explained that Sanne was a FTSE250 company which provides fund, trustee and corporate administration services, with 2,200 employees in 23 locations worldwide. The existence and structure of trusts, like EBTs, was most often found in common law systems, said Shervin. They were often used as share *warehouses* in order to satisfy employee share option or share awards requirements or to administer global share plans. Employee share trusts were recognised in both the UK and in Singapore for example but some companies had no share trusts at all. Until recently, they did not exist in French law, but the French tax system had recognised the need for legislation in order to deal with tax avoidance, he said. One case involved a company which used shares, held in trust, to incentivise employees. It had recently undergone a change in ownership, but in Germany such a trust was not recognised, so Sanne had had to bring in a third party nominee in order to smooth things over.

Shervin said that some companies had issued shares directly to employees, perhaps thinking that there was no real need for a trustee. "*We argue however that there are many advantages and efficiencies for companies which do have independent trustees to look after employee shares*," he said. So what were the key considerations to be examined when establishing an EBT? First, who were the beneficiaries who were being incentivised through share plans which were housed by the trust? Next, EBTs acted as *safe harbours* for assets, to hold them outside certain tax nets, but anti-avoidance accusations, such as bearing down on *disguised remuneration* needed to be considered. The profile of the company share ownership was important because consents may be needed to set up the EBT. Similarly there may be institutional investors and guidelines on executive remuneration to bear in mind. Next, who were to be the beneficiaries and what would their rights be? What about the ownership stakes of founder members and their families? What were the powers of the trustee? What was the headroom available for employee equity awards, could they trigger reporting obligations and what about dividends? Indeed, there was much to look at before crystallising the EBT, said Shervin.

Panel 4: Impacts of regulation and governance on all-employee share plans

Elaine Graham, director and Matthew Longson, assistant trust manager, both from Guernsey based **Zedra,** talked about whether regulators should urge companies to encourage employee shareholder voices. Although the answer was an "emphatic yes," said Elaine, we have to look at the practical considerations, such as the best way to go about creating and maintaining a suitable platform for the expression of employee shareholder views. A short *back to basics* exercise involving the meaning of terms like 'shareholder' were useful because, for example, share options didn't carry voting rights. Were employee shares mainly a *token gesture*; did all employees understand what the term 'equity' really meant and did they know that they might be forced to sell their shares when they left the company, she asked? Financial education was the key – for example, was *vesting* properly explained to employees by their employers? Furthermore, a lot of employees didn't understand that they had a vote if they participated in share schemes, nor what having the vote meant, she told the symposium. As reported by the Centre, less than ten percent of employee shareholders actually vote in company agms, said Elaine and it isn't so easy to boost this low level of employee engagement. For starters, quite a lot of companies, usually backed up by their institutional investors, aren't keen on their employees having a meaningful voice in the company's affairs anyway, she said. Those companies have ways of restricting shareholder voting rights, for example by creating special classes of shares which either do not enjoy voting rights, or which give their holders additional voting rights compared to ordinary shareholders, said Matt. Some small companies encourage their employee shareholders to vote at agms, despite the extra expense in alerting them, whereas some large companies don't encourage their employees to vote, he added.

Regulators and the authors of corporate governance guidelines now recognise that employee voices should be heard. Some EOT companies and a few others have appointed employee directors, which go beyond the 'voice' concept towards full employee engagement - a really interesting idea, said Elaine.

On the wider canvas, unfortunately, employee participation in UK share schemes is levelling off. The Corporate Governance Code, which has to be applied by listed companies, is of less interest to unlisted SMEs. EOT companies would always have employee representation at a high level, but how could that governance structure be exported to

other companies, she asked? Some companies do seek their employees' opinions on work matters through internal anonymous surveys but is it done in a meaningful way? A key demand was that employees have to feel that the sense of share ownership is not just a box ticking exercise, she added. So those who promoted employee share ownership have to encourage employee shareholder voting rights too. Those who define best corporate governance structures should stress the importance of employee engagement, including share ownership in their companies, said Elaine.

Gig Workers -How can they participate in shared ownership (Inclusive Capitalism)? was examined by **David Craddock** of **David Craddock Consultancy Services.** More than 50 percent of the UK workforce will form part of the gig economy before the end of this decade, he forecast in his presentation. A *sea change* in employment patterns, geared partly to Covid-induced lifestyle changes is taking place rapidly in the US and the UK. There are probably 7.5m gig economy workers in the UK and almost 60m already 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, have no company pension arrangements and who do not receive holiday or sick pay. The other category of gig workers are independent contractors, customer focused, many of them proud of their liberty* ***to choose their work tasks*** *and working hours, as demand for their services increase dramatically. Gig work often involves 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. Research indicated that almost half of all gig workers have full-time jobs too and among 71 percent of them, gig worker income makes up less than half of their total income. For companies, having gig workers instead of regular employees is a big cost saver and recent technological advances have made gig working even more attractive for them to adopt. Gig working even offers advantages for the US government because constant job turnover increases the velocity of money circulation and thus potentially increased tax revenues, he claimed. Regulators and some governments are being pressured into going after gig economy companies like Uber, mainly to establish whether their drivers are technically employees, entitled to at least minimum wages, as opposed to independent contractors, which is what the UK

Join the Esop Centre

The Centre offers many benefits to members, whose support and professional activities are essential to the development of broad-based employee share ownership plans. Members include listed and private companies, as well professional experts providing share plan services covering accountancy, administration, design, finance, law and trusteeship.

Membership benefits in full:

⇒ Attend our conferences, half-day training seminars, breakfast roundtable discussions and high table dinners. Members receive heavily discounted entry to all paid events and preferential access to free events.

⇒ Access an online directory of Esop administrators; consultants; lawyers; registrars; remuneration advisers; companies and trustees.

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⇒ Publicise your achievements to more than 1,000 readers of the Centre's monthly news publications.

⇒ Instant access to two monthly publications with exclusive news, insights, regulatory briefs and global Esop updates.

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How to join: contact the Centre at esop@esopcentre.com or call the team on +44 (0)20 7562 0586.

Supreme Court has ruled. Yet Uber responded by promising its drivers statutory minimum conditions, but only while they worked and *not* while they awaited new customers. California's Proposition 22 has 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 is a 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 would struggle to be brought into the share scheme environment and so profit sharing was probably the best solution for many. "*If the gig worker is running the customer focused business through a small company, then it can be argued that the share capital in that small company is the gig worker's share scheme. The aim of the gig worker is to grow the value of his or her own company and to invest its profits in credible investments that will prepare for the future. The question then becomes: what is the best way to support the gig worker who has found personal freedom in running a personal company? The answer in most cases is: a gig worker profit-sharing scheme.* After all, EOT annual bonuses represented a form of profit-sharing, said David. However, for the ***supplier-focused*** gig worker – given multiple tasks, dependant on one major supplier for work -there was tendency for a natural sense of identification with the supplier, thereby potentially making some form of share scheme a natural fit." Examples of this type of relationship were Uber Technologies and Deliveroo Holdings, both of which are quoted companies with shares that have a daily public display of their share movements, he said.

He forecast that within 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.

Why Employee Share Ownership Matters: The ESG Perspective – with reference to issues raised by the eponymous Esop Centre booklet, which was written by **Prof Michael Mainelli, Z/Yen**

WHITE & CASE

Group. Its key conclusions included: "*From a policy perspective, Esops can be a powerful instrument for promoting stakeholder capitalism, improving enterprise performance, and delivering societal benefits such as enhanced environmental, social and governance performance. Eso schemes align well with the UN's Sustainable Development Goals (SDGs), and although Esops are not a panacea, they can help to deliver significant marginal gains particularly in the development of sustainable, resilient communities.* Unfortunately, Eso, this rather important concept tends to get pigeon-holed under the tax bracket," he told the symposium. Employee share ownership should encourage longer-term governmental and institutional thinking about using it to improve the UK's poor productivity, but bumping into ministers at the Treasury didn't work because Eso was said to be another department's responsibility. Yet real issues remained – like how to spread all-employee share ownership much wider in business and society. Then there was the ethical and moral compass of Eso to consider too, he said.

To facilitate the establishment of Esops, four areas of public policy required addressing – education, taxation, legislation and research (particularly around benchmarking and statistics). "*Regarding education, in addition to informing employers and employees about the benefits of Eso schemes, policymakers should ensure that participants are aware of the associated risks, particularly if employees will be relying on accumulated Esop shares for their retirement. Taxation issues are not necessarily fundamental to the establishment of Esops, however, they are likely to benefit start-ups and SMEs who are seeking to enhance the recruitment and retention of key staff while keeping costs to a minimum. The most critical aspects of legislation are ensuring that issues such as listing requirements and voting rights do not impede the establishment of Esops. Benchmarking and statistics are important tools for policy makers seeking to formulate a regulatory and fiscal environment which encourages the formation of Esops. Much literature exists examining the human resources effects and economic performance of*

Esop companies worldwide. However, research into the communitarian aspects of Esops, as well as their impact on the UN's Sustainable Development Goals, is much scarcer."

There is evidence that firms with Eso schemes have enhanced long term and strategic thinking, with a reduction of almost a quarter in failure rates for Esop firms as compared to non-Esop companies over a 12 year period in the US. This was confirmed by recent studies which showed that Esop companies were on average more resilient than their non-Esop peers during the pandemic lockdown. Esops can be attractive propositions to senior managers as they provide a means to enhance employee participation while at the same time maintaining 'conventional' management hierarchies and patterns of control. For unions the collective nature of shareholding in Esops allow employees greater influence in management decision making. Capitalism is the greatest engine of human development and prosperity ever invented. However, the 2008 financial crisis had not only challenged society's faith in the free market; but had raised fundamental questions about capitalism's ability to deliver the goods society needed. Financial exclusion, poverty, inequality and the rising tide of environmental problems have all contributed to this existential crisis, and confidence in the ability of capitalism to deliver a better tomorrow has plummeted, said Prof Mainelli.

Centre CSOP consultation

Responding to the Chancellor's request for suggestions as to how the Company Share Option Plan (CSOP) might be reformed, the Centre is opening a consultation among members as to the best way forward.

Much to the disappointment of practitioners, Mr Sunak announced in the small print of his spring statement to parliament that he would leave the share options based EMI scheme untouched, despite having opened a consultation about how to improve and update it. EMI is hugely popular in the SME sector, but many companies either can't use it due to its restrictive qualifying rules, or they are forced to drop it once they grow beyond the £30m gross asset value or the maximum 249 employee limits.

TRAVERS SMITH

The Chancellor, a former investment banker and hedge fund manager announced that he would review the ageing tax-advantaged CSOP instead, with the intention of supporting companies once they grow beyond the limits of EMI.

CSOP employee participants are awarded options to buy up to £30,000 worth of shares at a fixed price. On vesting, they do **not** pay Income Tax or NICs on the difference between what they pay for the shares and their subsequent market value, but they may have to pay Capital Gains Tax if/when they sell the shares. CSOP rules are very restrictive too – options must be awarded at market value with no discount and normally cannot be exercised, while retaining the tax relief, within three years of grant.

CSOP is the *Aunt Sally* of the UK tax-advantaged employee share schemes. The number of employees exercising CSOP options is declining, as the number of employees granted CSOP options in 2019-20, *the most recent tax year for which we have share scheme statistics,* fell to just ***25,000*** compared to an already severely reduced 40,000 employee awards a decade ago. In the 2020 tax year, the cost to taxpayers of Income Tax and NICs relief on CSOP options nationwide was a nugatory £50m, compared to a taxpayer bill of £360m on EMI options exercised in the same year. Of course the average individual gain on CSOP option exercises was only £13,300, compared to almost £81,000 per head on EMI exercises, according to HMRC statistics. However, more than half of EMI options are not exercised within three years, either because there has been no Exit event, such as a takeover or IPO, or because the company went bust.

When the Chancellor launched his EMI consultation, he called for evidence/ideas from share scheme practitioners about how other tax-advantaged share schemes could be improved. Tax barrister and share schemes doyen David Pett told *newspad: "The suggestion made in a number of responses to the Call for Evidence was that CSOP could, and should, be rolled into the EMI scheme with different individual and overall limits for companies of 250 or more employees, and no restriction on qualifying activities, but otherwise operating much in the same way that EMI options do. It seems that this has not found favour. The points which rile the 'private equity' sector re EMIs and which the Chancellor has singularly failed to address are the independence requirement, (meaning that companies under the*

control of PE are effectively disbarred, and the inability (as they see things) to be able to use EMIs as an effective incentive by reserving for the board the discretion to allow exercise (if at all) in any circumstances directors might think appropriate," added Centre member Mr Pett of **Temple Tax** chambers.

The absorption of CSOP into EMI was recommended to the Treasury by the Office of Tax Simplification (OTS) a decade ago, but the proposal was not activated. At one stage, OTS wanted to close down CSOP completely, but the Centre and others lobbied successfully in favour of retaining it.

*The £30,000 options value limit imposed on CSOP participants is absurdly low. By how much do Centre practitioners think the limit should be raised and what other changes are needed in the structure of CSOP? The Centre will send members' views on CSOP reform to the Chancellor, so please email your suggestions asap to *newspad* editor Fred Hackworth at fred_hackworth@zyen.com.

Rumpus over a £510,000 ceo bonus at mutual

Mark Hartigan, ceo of mutual insurer **LV**, was accused of being *rewarded for failure* after being awarded a £511,000 bonus, despite a horrible year in which policyholders rebelled over the company's plan to sell itself to the US private equity group **Bain Capital**. Policyholders and MPs expressed astonishment over the payout to Mr Hartigan, which was made in spite of missed targets for customer satisfaction, staff engagement and investment returns, reported *The Times.* The insurer, founded as Liverpool Victoria in 1843, said that profits fell by £9m to £31m last year, despite an increase in the value of its new business sales from £1.3bn to £1.6bn. Hartigan argued, post a strategic review, that LV could not continue as an independent insurer and pushed for a sale to Bain Capital, instead of a potential deal with fellow mutual insurer Royal London, prompting the ire of critics who said that the private equity route was bad for the company's members and diversity of UK business ownership. Only 69 percent of the 174,240 members who cast ballots on the deal last December approved of the £530m takeover offer, short of the target 75 percent of voting members' approval required. The turnout represented just 15 percent of LV's 1.16m members. The mutual has spent £33m over the past two years on the strategic review and its plan to sell. Peter Bloxham, a long-time policyholder, said it amounted to "reward for failure". Gareth Thomas MP, chairman of the all-party

parliamentary mutuals group and a critic of the de-mutualisation plan, said the bonus payment was "*outrageous*". He added: "*Members of LV will rightly be very angry."* LV said that its ceo had met sufficient financial targets to be awarded just under 70 percent of a potential maximum bonus for the year, while 60 percent of the award would be deferred over the next three years. Mr Hartigan's total salary and bonus for the year was worth a combined £1.1m. A spokesperson said the ceo's bonus was subject to "*stretching individual and business performance outcomes*" and set by the company's board. "*Mark has led the successful turnaround of the business over the last 18 months strengthening the commercial performance and improving the sustainability of the business. We have outperformed both our new business volumes and profitability targets with significant growth in sales and trading profit."*

EVENTS

Centre-STEP Jersey, Esops & trustees - May 13

The Centre's latest Share Plans and Trustees conference, held in partnership with STEP Jersey, is scheduled for Friday morning, May 13, at the *Pomme d'Or* hotel in St Helier. The ever-growing global reach of trustee work and the establishment of more and more employee ownership trusts, makes it doubly important for those interested in employee share schemes and trusteeship to keep up with latest developments. Come and hear the expert views and enjoy the continuing education which our conferences and seminars offer. We'll be joined by **Jersey Information Commissioner Paul Vane**, whose keynote speech will cover emerging threats and opportunities, as well as data protection in Jersey and on the international stage, and key updates regarding data protection in the workplace; **Helen Hatton**, who is widely recognised as the prime architect of the modern jersey regulatory regime, will give an overview of the current economic climate and international regulation.

Tax expert **Paul Malin** will discuss investigations and challenges, the hit and miss nature of disclosures, and why overall tax debts are at an all time high when the Exchequer should be benefiting from tax avoidance penalties, in his talk "HM Revenue & Customs has had a lot of catching up to do while unravelling the mess left behind after Covid". **Graham Muir**, Partner at CMS will update us on recent developments in employee share schemes and content on Spring Statement announcements; Esop Barrister **David Pett** of Temple Tax Chambers will guide us through Employee Trusts with a look back at their uses and abuses; and Professor **Michael Mainelli**, Executive Chairman of Z/Yen Group Limited will tell us about his research which shows "why employee share ownership matters".

The programme is drafted to provide relevant technical information, which we trust will count towards your Continuing Professional Development or Continuing Competence. The presentations will run from 9:00am to 1:15pm (approx.) followed by a social lunch for delegates and speakers.

Don't miss this great opportunity to update your knowledge.

Tickets: In light of the postponement of the Centre's 2020 trustee conference, we are holding our prices at 2020 levels: Esop Centre/STEP members: £375; Non-members: £480. Reserve your place now by emailing delegate details to events@Esopcentre.com or call the Centre on +44 (0)20 7562 0586

MOVERS & SHAKERS

On the Move

*The Centre welcomes three more Channel Islands based trustee companies - **Fairway Trust, Fiduchi** and **Buck Trustees** – into membership. All three sent representatives to the recent Centre symposium – Maxine Atkins from Fairway, Mark Vanderpump from Fiduchi and Tim Lowe from Buck Trustees.

*Jenny Bowles biz services director at Centre member **Howells Associates** was pleased as punch to see ceo Alexander Walsh, a former Army officer whose team rowed across the Atlantic, featured in the recent issue of *The Harrogate Advertiser*.

*All companies who have an active Eso plan registered with HMRC must submit their annual return by **July 6**, as HMRC will issue no reminders and penalties for non-filing will commence from day one after the deadline. Returns must be made separately for all share plans, whether tax-advantaged or not. All reportable events within each share plan, during the tax year ended April 5, must be filed, using their unique reference number, said Centre member **MM & K**.

*In ERS bulletin 41, **HMRC** announced the termination, as of April 6, of Covid easements for *new* contracts/awards in both the SAYE-Sharesave and EMI tax-advantaged schemes. In *Spotlight 59,* HMRC announced that the Growth Securities Ownership Plan (GSOP), an employee bonus scheme, came within the tax net following the decision of the First Tier Tribunal in the Jones Bros Ruthin (Civil Engineering) and Britannia Hotels V HMRC [2022 IKFTT 00026(TC) case earlier this year. HMRC stated that tax avoidance schemes based on contracts for differences and GSOP did not work.

UK CORNER

Bear squeeze on living standards

The official annual rate of inflation shot up to a 30 -year high of ***seven percent*** in March reflecting, for the first time, the effects of the Ukraine crisis, as well as Covid-induced shortages. The Consumer Prices Index (CPI) rose by seven percent in the 12 months to March 2022, up from 6.2 percent in February. The largest contributors to growing inflation were increased fuel prices and energy bills, said the Office for National Statistics (ONS). However, the annual price inflation rate according to the older Retail Prices Index (RPI), which the government is trying to bury, jumped from 8.2 percent in February to **nine percent** in March.

CPI, which is used to calculate state pension and social benefit uplifts, measures the *weighted* average prices of a basket of goods and services consumed by households, while RPI registers *changes* in the prices of the basket of goods and services and movements in housing (mortgages and rental) costs. Yet RPI has been disowned by the ONS. Nevertheless, the RPI annual inflation rate is used as a yardstick in many business contracts and to adjust air passenger, alcohol and tobacco duties. *If prices continue to rise by nine percent every year, they would double in just **eight years** on a compound basis.*

Average petrol prices rose by 12.6p a litre between February and March this year, the largest monthly

rise since records began in 1990. The cost of living crisis moved into its fifth consecutive month, despite a jump in wages and a fall in unemployment to just 3.8 percent, its lowest level since 1974. The ONS said average *earnings* growth of 5.4 percent, in the year to February including bonuses, failed to keep pace with consumer price rises over the same period. Those line-workers and office staff who did not receive an annual bonus felt the pinch even more because average *basic wages* over the year to February increased by only four percent. Darren Morgan, ONS director of economic statistics, said: "*We are still seeing rising numbers of people disengaging from the labour market and as they aren't working or looking for work, are not counted as unemployed. While strong bonuses continue to mitigate the effects of rising prices on total employee earnings, basic pay is now falling noticeably in real terms."* At the same time, there were severe labour shortages in the hospitality sector and parts of the airline industry. BA offered £1,000 *hello* bonuses to tempt experienced working staff to join it from other airlines, while some London restaurants were being asked by would-be staff for £36,000 a year starting pay. In the City, the talent war saw post-university starting salaries for young bankers rise to between £60K-£70K per year, while lawyers with two years post qualification training were being offered starting salaries of £100K by US based investment banks in London. Citigroup was opening a new office in Malaga, Spain, to retain talent by offering them a better life-work balance.

Meanwhile, the basic old age pension rose by a miserly £5.55 per week to £185.15, a 3.1 percent increase on the rate a year ago. Many of those recently retired people who still hold employee shares may feel obliged to cash in their holdings in order to pay rapidly rising household bills.

Middle-class households stood to lose on average £4,600 in a full year due to the imposed cost-of-living increases which came into force last month, economists claimed. The cheapest fixed home heating energy contracts were now costing more than £3,000 per year, at least £800 higher than in January. Council tax and NICs rates went up too, lifting bills by hundreds of pounds. Stiff rises in food, furniture, clothing and vehicle fuel price rises were the dark icing on a bitter cake. Share plan sponsors and advisers waited anxiously for feedback on employee participant contributions to both SAYE or SIP schemes for April to find out whether the sharp increases in household bills had affected plan investment and savings levels. Instead of paying NICs of 12 percent on earnings up to £50,270 and two percent on anything above that, employees now pay 13.25 percent and 3.25 percent respectively. The self-employed saw equivalent rates go up from nine percent and two percent to 10.25 percent and 3.25 percent respectively. Employers pay increased NICs too.

COMPANIES

*Another agm shareholder rebellion over alleged 'excessive' ceo executive reward packages loomed at Anglo-Swedish pharma giant **AstraZeneca.** Proxy advisory group Pirc urged investors to oppose its remuneration plans, despite the company's outstanding performance. A trigger point was that ceo Pascal Soriot's performance share awards came in at almost 700 percent of his basic salary. Other bonuses took his total variable pay up to 924 percent of salary. For last year, Mr Soriot was estimated to have earned total reward of £14m, but this was less than half the sum secured by Pfizer's ceo. Corporate governance troops and outside bodies such as the left-leaning *High Pay Centre* say that total executive bonus awards should be capped at around 200 percent of base salary. The general UK cost of living crisis has sharpened the pens and the voices of executive reward critics. Another trigger point is that investor institutions are targeting the ceo-line/ office worker pay ratio within specific companies, waving the red flag when it nears or exceeds 100:1. By this yardstick, several FTSE100 companies may find their agms this year distinctly uncomfortable.

***Aviva** became only the second FTSE100 company to have women in the top two roles of ceo and cfo, as it poached Charlotte Jones from insurance rival RSA to become cfo in June. Anne Cairns, vice chairman of *Mastercard* and head of the 30 percent Club which campaigns for more women in boardrooms, said that the promotion of women to senior executive roles remained 'stubbornly slow,' reported *the Telegraph.*

***Carnival**, the owner of *P&O Cruises, Cunard* and *Princess*, faced a row with shareholders after the company ripped up its rules on pay to award its ceo £11.4m in total remuneration. The cruise operator, which was forced to suspend operations for months because of Covid-19, awarded a $6m bonus to Arnold Donald even though the usual performance criteria were not met. In addition, Donald, 67, was awarded shares with a value of $7.5m that vest over three years but which seem

not to have any performance conditions attached. In total he received $15m, including $20,399 for personal use of an aircraft. Proxy agency ISS advised shareholders to vote against the pay awards.

***Deliveroo**'s ceo, Will Shu, was given a 16 percent basic pay rise this year after receiving a £519,200 salary and £5.2m share payout last year. The takeaway courier chief will receive basic pay of £600,000 and is set to receive another £5m of shares in April 2023, as part of a *£30m* package over the next six years, revealed the group's annual report. Alex Marshall, president of gig-workers union **IWGB**, criticised the large payouts, which came, he said, at a time when couriers – forced by Deliveroo to pay their own fuel and vehicle expenses – were facing an unprecedented rise in the cost of living and fuel. "*These couriers put in a huge shift, working all through the pandemic to get food out to isolating families, but like many workers, they are paying for the price of the pandemic while bosses line their pockets*," he said. However, the board did cut share executive bonuses in line with the fall in Deliveroo's share price. Shu's latest rise in basic pay came after a 47 percent jump between 2020 and last year, as well as £33.3m of shares he received before the company listed on the stock market a year ago. The £5.2m in shares Shu received last December and those receivable in April next year, are part of an additional 27.1m shares package lined up at the time of the IPO, and which is being handed to him in tranches over the next six years. Those shares were worth £105.6m when first awarded but have dived in value since Deliveroo's flotation in March last year to just over £30m recently. The fall in its share price hit bonus payouts for Deliveroo's cfo Adam Miller as well as Shu. Miller's basic pay rose 14 percent to £500,000. He was due an annual bonus worth 144 percent of his salary by the end of the year, half of which – £360,000 – had been paid in cash, but other half was paid in shares. However, the board reduced the share bonuses by calculating the number of shares he should receive based on the 390p price at which Deliveroo launched on the stock market, rather than the 234p price at the time the bonus was awarded, effectively reducing the payout by 40 percent.

***J P Morgan** ceo Jamie Dimon received almost £43m in company stock after a post-pandemic trading boom. The value of his equity-linked award has soared as the bank's share price climbed to hit several targets for pay-out of the huge package in two years time. Dimon is already one of the best paid bankers worldwide. Last year, he received almost $35m in total compensation.

*The European Commission ruled that the proposed £6.3bn sale of Coventry-based defence company **Meggitt** to US based rival **Parker Hannifin** would satisfy its competition requirements. Parker pledged to sell its Ohio-based aircraft wheel and brakes division as a *quid pro quo* for securing governmental and regulatory approvals. UK Business Secretary Kwasi Kwarteng has been examining national security issues surrounding the planned sale of Meggitt.

***National Grid** (NG) was criticised for its sale of a large chunk of Britain's gas pipeline infrastructure to foreign investors for more than £4bn. The company announced that it had sold 60 percent of its gas transmission business - which sends gas around the UK to heat homes and businesses - to Australia's **Macquarie Asset Management** and Canada's **British Columbia Investment Management Corporation**. NG will receive £2.2bn in cash for the deal and £2bn in debt financing and said the move would help it transition towards electricity, a key component of the UK's 2050 net zero goals. National Grid ceo John Pettigrew said that the new owners had lots of experience owning big infrastructure and a "long-term commitment to the UK. I look forward to our partnership and continuing to deliver safe and reliable gas service at the least cost to consumers." Vince Cable, the former business secretary, weighed in, criticising Macquarie's track record of owning public utilities. He pointed to the company's management of Thames Water, the UK's largest water utility, saying it raised "*questions over its suitability to run a crucial utility"*. Macquarie owned Thames Water for more than a decade, leaving it saddled with debt when it sold the company in 2016. The bank earned billions in huge dividends from the company, while paying next to no Corporation Tax. Mr Cable told *The Times* that Britain's gas networks needed "longer-term investment cycles than [Macquarie is] used to". Meanwhile, Liberal Democrat leader Sir Ed Davey, a former energy secretary, said: "*Any firm seeking to profit unfairly from the gas network needs to be told loud and clear they will be stopped"*.

***Next** ceo Lord Wolfson received total compensation of almost £4.4m for the past year to January, a 22 percent increase on the previous year.

*The private equity group stalking **Pearson** walked away after a last-ditch £227m sweetening of its offer to £6.7 bn (884p per shares) was not enough to interest the educational publisher.

Apollo Global said that it did not intend to make a formal offer for the FTSE100 company after being unable to reach agreement on the terms. Under takeover rules, its declared withdrawal means that it cannot make another approach for at least six months unless a rival bidder moves first, or if it is invited to do so by the Pearson board, reported *The Times.*

*__Royal Mail__ (RM) was warned it could be hit by strikes over plans to cut managers' jobs. *Unite* said the company was aiming to dismiss almost 1,000 managers and bring in lower rates of pay - in another alleged case of "fire and rehire," which RM denied. Unite general secretary, Sharon Graham, said: "*Royal Mail has no excuse for announcing these job cuts, especially at the same time as 'new' bands on lower pay. That is just 'fire and rehire.' They are not even losing money – Royal Mail's private shareholders are doing very nicely out of the UK. Our members are determined to prevent this destruction and they have the full backing of their union every step of the way.*" An RM spokesperson said: "*We are disappointed Unite is preparing to ballot its members. The consultation on this restructure has been progressing well over the last two months. We are now moving the consultation to the next phase so we are unsure why Unite has decided to seek a ballot at this time.*" RM added: "The proposals are designed to simplify and streamline our operational structures to ensure an improved focus on local performance, and devolve more accountability and flexibility to frontline operational managers."

*The UK's biggest institutional investor Legal & General backed rebel shareholders who forced a resolution on **Sainsbury's** calling on the supermarket giant to pay higher wages. The rebellious institutions include Fidelity International and the National Employment Savings Trust, which represents ten million pension savers in the UK. The resolution called on Sainsbury's to pay the so-called *real living wage* to all staff and to third party contractors such as security guards and cleaners. While Sainsbury's already meets real living wage levels for workers in inner London and the regions, it does not do so in all suburban London.

*Rival supermarket chain **Tesco** is introducing a '*thank you*' bonus worth 1.25 percent of annual wages for its store, customer fulfilment centre and customer engagement centre staff. The bonus recognises the hard work of Tesco employees during the challenges of the past year, and will apply to almost 290,000 members of staff. The payment adds to a recent pay agreement reached with the Union of Shop, Distributive and Allied Workers (USDAW), which included a base rate increase of 5.8 percent for hourly-paid store and customer fulfilment centre colleagues, from £9.55 to £10.10, which represents an investment on £200m and a rate increase of more than 40 percent over the past 10 years. Meanwhile, delivery drivers and *Click and Collect* delivery assistants saw their skills payment increase by 90p per hour, taking their hourly rate to £11, as supermarket groups fought each other to retain their staff.

*The world's richest person **Elon Musk**, ceo of **Tesla**, looks set to collect a $23bn ***(£17.6bn***) bonus after the Californian electric car company's first-quarter results exceeded performance targets. Musk, who is already sitting on an estimated *$249bn* fortune, is in line for the bonus share payout after Tesla hit share price and financial growth milestones in its earnings, reported *The Guardian*. Tesla made an adjusted profit of $5bn on revenue of $18.8bn in Q1 of the year – an 81 percent increase on the same period a year earlier. The results, combined with the growth in Tesla's share price performance, mean Musk has hit targets that should lead to a bonus share payout worth about $23bn. The company outlined a challenging deal for Musk in January 2018 that would pay him an unprecedented $55.8bn (£40bn) bonus if he built the business into a $650bn company within a decade. He achieved that milestone early, in January 2020. Tesla today has a market value of $1.1tn, following a 1,300 percent rise in its share price since the target was set. Musk, who collects no salary, should now have unlocked the final three parts of the 12-tranche bonus scheme. Each tranche gives Musk the right to buy 8.4m Tesla shares at $70, a huge discount on the current $977 share price. His profit on each tranche could be $7.7bn or a combined value of $23bn. The payments need to be signed off by the board and he must hold on to the shares for five years before selling.

ESG Corner

*The UK was the first G20 member country to have introduced mandatory Task Force on Climate Related Financial Disclosures (TCFD) requiring 1,300 of the largest UK registered countries and financial institutions to publish, as from April 1 this year, climate-related information, reported Centre member **MM&K.** TCFD recommends that companies disclose their climate related risks against four main principles: Governance, Strategy, Risk Management, Metrics and Targets. For example, such companies are expected to assess the risks to their business model posed by

potentially higher global temperatures and emissions of greenhouse gases. TCFD helps them to disclose climate-related financial risks by presenting a framework of corporate scope which they can apply across these principles and sectors. It is estimated that financial losses due to climate change could be as high as £33trillion. Climate change not only threatens individual firms and local economies but the global economy as a whole. For more detail, contact: margarita.skripina@mm-k.com

*The Investment Association (IA) and Institutional Voting Information Service (IVIS) published their shareholder priorities for 2022, reported the latest **EQ** bulletin. For year ends starting on or after December 31 2021, IVIS *inter alia* will monitor companies against ESG criteria:

- *Accounting for climate change*. Directors should continue to affirm that the financial impact of climate-related matters have been incorporated into the company's accounts, and state in their annual report that they have considered the risks of climate change and transition risks associated with achieving the goals of the Paris Agreement when preparing and signing off the accounts. Auditors should consider the risks of climate change when assessing the accounts, including highlighting climate change-related risks in key audit matters. Companies will be amber topped where they do not make disclosures against all four pillars of the TCFD.
- *Audit quality*. Companies should continue to meet the 2021 shareholder expectations and demonstrate how they have judged the quality of audit received. IVIS will continue to monitor whether the audit committee has demonstrated how it has assessed the quality of the audit and challenged management's judgements.
- *Diversity*. FTSE 100 companies that have not met the Parker Review target of one director from a minority ethnic group will be red topped by IVIS, and they will continue to amber top FTSE 250 companies that do not disclose either the ethnic diversity of their board or a credible action plan to achieve the Review's targets by 2024. It will red top FTSE 350 companies where women represent 33 percent or less of the board or 28 percent or less of the executive committee and their direct reports. It will now red top FTSE Small Cap companies where women represent 25 percent or less of the board or 25 percent or less of the executive committee.
- *Stakeholder engagement*: Companies should continue to identify and disclose their material stakeholders; decide on the most appropriate mechanism to engage with them; clearly articulate how their views have impacted decision making; and report to stakeholders on the engagement. Disclosures should include the impact of increases to the cost of living and inflationary pressures on consumers and suppliers. Stakeholder experience when determining executive remuneration will continue to be critical.

***Chile adopts Z/Yen's policy performance bonds initiative**

Z/Yen Group first proposed the idea 17 years ago: to have 'outcome-based' green bonds, rather than 'use-of-proceeds' bonds. It came when Z/Yen was musing about the applicability of a related performance bond structure already in existence - inflation linked bonds. Over the years the idea took hold with the French government, most notably during *COP 21* in 2015 when the French declared this the best idea they'd heard at the event. The French government pushed Z/Yen to publish a book on the subject, which it did in 2017 - *L'Innovation Financière au Service du Climat: Les Obligations à Impact Environnemental*. This led to several firms issuing such bonds, e.g. Louis Vuitton, Danone, Enel, in 2018. The first such UK bond was issued by TRIG last year. This class of bonds is called, variously, performance incentive loans, positive incentive loans, SDG-linked bonds, ESG-linked bonds, sustainability-linked bonds, index-linked carbon bonds, etc. *Global sales of sustainability-linked bonds, a subset of ESG debt, hit a record $110bn last year, compared to $11bn issued in 2020,* according to Bloomberg data. *"Moody's ESG Solutions issuance of the debt is forecast to hit $150bn this year,*" added Bloomberg.

"*However, our desired outcome was governments, not just corporates. Thus we were thrilled with this month's result: **Chile** issued the world's first sovereign sustainability linked bond*," said Prof Mainelli. The $2bn sustainability-linked bond was issued on March 2, carrying a 4.35 percent rate or 200 basis points above 20-year US Treasury notes. Demand for the bond reached more than $8bn, or 4.1 times the original placed amount among investors in Europe, Asia and the Americas. Finance minister Rodrigo Cerda said "this was a sign of confidence in the economy of this South American country. The bond adheres to the Paris Agreement on climate change, binding Chile to emit no more than 95 metric tons of carbon dioxide and equivalent by 2030 and that 60 percent of electricity production will be derived from renewable energy by 2032."

"*We hope to work with major investors, particularly pension funds and insurers, on how policy performance bonds can be used as tools in their portfolios,*" added Prof Mainelli. An **FS Club** webinar show-casing Chile's issuance department is planned (https://fsclub.zyen.com/events/forthcoming-events).

*****Employee shareholders should be helped to take aim at their board of directors, as part of their potential role in governance, said Peter Parry of the **UK Shareholders Association (UKSA).** **"***Let's push for more employees owning shares in the companies they work for and acting like real shareholders. They have the inside track and know where the bodies are buried. Their potential role in governance tends to be seriously overlooked,*" he told UKSA members recently. **"***Up to now corporate governance has tended to be something of sideshow. However, with rapidly increasing concern about environmental issues (particularly climate change and net zero) it is moving much more centre -stage. There is a serious debate emerging about how companies should be explaining to their shareholders what they are doing on net zero and ESG matters. In short, the structure, focus and purpose of the agm itself are very much under review,*" said Mr Parry, a member of the FRC's working group on agms which is to report shortly. "*We have made it clear that we would like to see significantly closer dialogue and engagement between the shareholders on the one hand and the auditors and audit committee on the other. One suggestion was that there should be a second-half of the agm specifically for this - at which the executive directors would not be present. This would allow shareholders to engage with the non-executive directors (NEDs) and the auditors in a meaningful way. As the auditors are probably going to become responsible for auditing ESG reporting, this adds to the justification for a separate auditor/audit committee meeting.*"

He said he agreed with a proposal that each board should have at least one NED with overall responsibility for shareholder liaison. However, it should be part of a wider architecture of reform of the reporting and governance arrangements for companies.

Employee Ownership Trusts

Not for profit sector recruitment agency **Robertson Bell** transitioned into an EOT. Its move to sell to an EOT was aimed at building a legacy for the 35 employees who will reaffirm its ambition for further growth. Employees will become eligible to be beneficiaries of the trust after 12 months of service. Ceo and founder Stuart Bell will remain in place in order to steer the business, but said he expected his employees to take on more responsibility and leadership.

*An **EOT** transaction is a key and exciting step on the employee ownership journey but is a long way from the ultimate destination, claimed an **RM2 Partnership** Blog.

"Exemplary governance and employee involvement are key to continued growth and to maximising employee ownership's contribution to the UK economy in an environment where we are seeing exponential growth of EOTs towards becoming a mainstream M&A consideration to achieve elegant management succession for many SME business owners," it said. Sue Lawrence, an independent trustee director of several EOT companies, co-authored a paper highlighting best practice in EOT, entitled *"Employee Ownership Trusts, In search of best practice."* It pointed out that EMI options were, in the companies surveyed, more commonly in existence *prior* to transition to an EOT, rather than introduced subsequently and the paper acknowledged that use of EMI schemes were still seen as an important incentive for the leadership team. "EMI schemes in place prior to an EOT transaction will invariably be targeted towards and exercised on completion of the transaction, given that it is a change of control event, with vendors selling more than 50 percent (and often 100 percent) of their shares to an EOT. These EMI shares should deliver a capital gain with 100 percent CGT exemption to the employee option holders and they will be paid in line with the other vendors, typically over a few years following the transaction. However, leavers post transaction (*whether "good" or "bad*") will be paid regardless of length of service after the EOT transaction. RM2 believes that in all but the smallest businesses a well-designed EMI scheme is a key consideration *post-transaction* in order to retain and motivate key employees (who may in fact include the same cohort who may have benefited from an EMI scheme pre-transaction). "The mix of an EOT-owned company with exemplary corporate governance and employee engagement, a well-designed EMI scheme for key employees (which can yield returns to participating employees without necessitating a further sale of the business) and a post-tax profit pool to be shared equitably amongst all employees after repayment of the vendors' initial deferred consideration can provide a powerful incentive for employee owners to outperform non-employee-owned businesses," added RM2.

WORLD NEWSPAD

***Australia:** The Oz government used its Budget to announce a major fiscal boost to employee share ownership in unlisted companies. The challenge for many SMEs until now has been that for employees below manager level, the value of shares which can be offered has been limited to $5,000 (£2,815) per year, making it hard for young and emerging companies to attract and retain talent. The Budget change in cap for employee shareholding from Au$5,000 to Au$30,000 (£16,900) per year may provide the leverage for companies to consider the establishment of an employee share ownership plan, said *The Reward Practice*. In addition, the monetary cap will not apply to the sale of the business, or an IPO. The changes should be on the statute book before the impending federal election. Kate Pounder, ceo of the Tech Council of Australia, said this is "vital reform," and a welcome sign that the government was focused on improving the regulatory framework around employee share schemes. The changes will benefit up-and-coming Aussie start-ups. "*This creates a virtuous cycle that accelerates the creation of new jobs and new companies*," Pounder explained. "*Employees who benefit from such schemes are more likely to leave and found their own companies with share proceeds, and therefore create more new jobs and successful Australian companies*." Until recently, Australia was one of the few countries that taxed employees *when they left a company*, on shares they were often not able to sell, noted Noel Allnutt, md of cybersecurity and digital resilience start-up Sekuro.

While the Budget announcements should boost Australia's competitiveness on Eso internationally, there are further changes needed: a recommendation to increase the tax-exempt plan limit from $1,000 to $5,000 and the relaxation of rules regarding employee share trusts would provide opportunities for listed entities seeking to promote share ownership, said Oz Esop experts. More widely, to help combat the great wave of attrition currently hitting Australia, companies can use share offers as a viable way to 'sweeten the pot' within the recruitment landscape. Shares and options issued by local companies will be treated the same way as those issued by those domiciled overseas, for tax purposes. Peter Dunne, head of venture capital at law firm Herbert Smith Freehills, said this change "removes an anomaly that placed Australian companies at a disadvantage to foreign entities".

***Canada**: '*Excellent news*,' said **Fieldfisher** partner Graeme Nuttall OBE, commenting on the fact that Canada is getting an Employee Ownership Trusts (EOT) law. Its Budget 2022 announced "*a new, dedicated type of trust under the Income Tax Act to support employee ownership*" It's unclear if this will be a US Esop or UK EOT. It could be both! Congratulations Social Capital Partners on your lobbying," he added. The Canadian government is liaising with stakeholders to work out the rules of its proposed EOTs.

France: Shareholders of the giant automobile group **Stellantis** (*Peugeot-Citroën-Fiat*) opposed the huge bonuses being received by md Carlos Tavares in total compensation for last year, after he received €19m total reward for last year. The revelation prompted French president Emmanuel Macron to condemn this "*shocking and excessive*" level of executive remuneration and to promise a crack-down on top pay. On top of a €2m fixed salary, Mr Tavares' variable reward comprised €7.5m linked to his performance, €2.4m in pension contributions, €1,7m linked to the successful genesis of Stellantis and free share awards based on annual targets to 2026, valued at €5.6m for the year 2021, but at much more, claimed others. A majority of voting shareholders rejected the group's management pay policy, chairman John Elkann revealed at the group's agm. Of the voting shareholders, 52.12 percent went against the compensation report and only 47.88 percent approved it. However, the vote is only advisory according to Dutch law, where the manufacturer, created by the merger of Peugeot-Citroën-Opel (PSA) and Fiat-Chrysler (FCA) groups, is registered. Mr Elkann said that it was a "*board belief, as a meritocracy, to reward performance*." This policy was approved by more than 87 percent at the 2021 agm. Tavares should receive a total of €19m euros for the 2021 financial year, insisted Stellantis. During its first year of existence, in a complex Covid context for the automotive industry, Stellantis generated a net profit of €13.4bn, almost triple the results reported in 2020. However, the management company PhiTrust, a minority shareholder in Stellantis, announced that it had voted against the remuneration of Carlos Tavares. It estimates his total reward could reach €66m for the year 2021, in cash and in shares, if ambitious long-term objectives are reached at their maximum in 2028 and if the share price remains at least at its current level.

Jersey: The Channel Islands' Royal Court imposed a £5.3bn freezing order on the assets on Camberely International Investments, which is linked to Russian oligarch Roman Abramovitch. The court issued search warrants over Jersey premises believed to be connected to Mr Abramovitch.

Norway: All-employee share ownership plans in Norway entered the political arena over whether all tax incentives should be abolished for participants -

on the alleged grounds that such plans can lead to *greater inequalities* in society. Apparently, Norway's 40,000 employee shareholders comprise only ten percent of the total workforce of large Norwegian companies, hence the view from some quarters that all-employee share ownership is only for the privileged few. The Norwegian government this year abolished the tax exemption on the purchase by employees of shares *at a discount*. From now on, the benefit from the purchase of shares at a discount is fully taxable. Instead, the government changed the rules of its new share options based tax regime to benefit young SMEs. The gain derived from employee share options is no longer taxed as employment income, but as share capital gain from selling the shares. In addition, employers are no longer liable to pay social-security contributions on gains derived from their employee share option grants. Oslo claimed that such options would be "*more egalitarian*" than blanket tax relief, now abolished, in its conventional all-employee share schemes. Larger and older companies are included in new the scheme: eligible companies can – *have up to 50 employees (up from 25) *have an annual turnover and balance sheet of up to £7m (up from £2.18m) and can *be up to ten years old at the time of granting the option (up from six years).

Russia: A statutory instrument gave the UK government the power to impose sanctions on those "*carrying on business of* economic *significance to the government of Russia"* as well as companies supportive of the Russian government, and sectors of strategic significance, including energy, mining and financial services.

US: Ownership Works (OW) is a new non-profit organisation that partners with companies and investors to provide all employees with the opportunity to build wealth at work. Centre member **KKR,** which aims to install all-employee equity plans in all its manufacturing operations, is substantially involved in OW, Centre founder Malcolm Hurlston told the Centre's fifth share plans symposium. Most of the biggest US banks, plus HSBC and BNP Paribas are partners: *"We've seen broad-based employee ownership create meaningful wealth-building opportunities for employees, uplift families, reinvigorate corporate cultures, and improve business performance. Providing all employees with a stake in the value they help create is not just better business and smarter investing, it's the right thing to do," said OW.* "*Through shared ownership programmes that support better corporate cultures and returns, we aim to generate at least $20 billion of wealth for lower-income and diverse workers over the next decade."* The Rockefeller Foundation donated $500,000 to OW toward the costs of partnering with public and private companies to implement innovative shared ownership programs and to help establish broad-based shared ownership as the preferred model for employee equity plans and in order to extend wealth -building opportunities to all employees and thereby address the wealth gap that underlies economic insecurity among workers in the US.

***Goldman Sachs** bankers witnessed their pay and benefits fall by almost a third in the first quarter of this year, as the end of the investment banking boom contributed to a near halving of profits. The Wall Street lender said it had put aside $4.1bn (£3bn) to cover the costs of compensating staff over the first three months of the year – an average of $91,116 each for its 43,900 global employees. The pay pot, which covers salaries, pensions and benefits as well as the estimated bonuses that Goldman intends to pay at the end of the year, was down 32 percent from $6bn a year earlier. Banker bonuses generally were expected to fall this year as the investment banking boom, sparked by the gradual easing of Covid lockdown measures last year, started to wane. Against the background of Ukraine, fewer firms are raising money on the financial markets and hold back from the mergers and takeovers which together helped push investment banking fees and bank profits to record highs throughout 2021. **Citigroup** reported a 46 percent drop in Q1 profits to $4.3bn and said the economic environment had affected its investment banking income . It was a similar story at the US's biggest bank, **JP Morgan**, where Q1 profits plunged by 42 percent. Global deal-making has slumped by almost 20 percent so far this year, said **Refinitiv** and the City of London is sharing the pain.

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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.