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it's our business

newspad of the Employee Share Ownership Centre

EXCLUSIVE: Roadchef - Esop compensation next summer?

The 20 year battle for compensation by former Roadchef motorway services staff, whose Esop shares were used to complete the sale of the company to Japanese investors, may at last be in sight of the finishing post.

Newspad understands that the trustee of the former Roadchef Esop has received a substantial sum of money from HMRC, which the latter had been holding, in a bitter dispute over ownership of £20m in tax paid by former Roadchef ceo and chairman, Tim Ingram Hill after he banked the proceeds of the sale.

Newspad understands that, if all goes well, the Roadchef employee beneficiaries can hope for a major compensation pay day next summer. However, although a substantial slice of the tax payment has been handed over to the Esop trustee, the trustee still has to reach agreement with HMRC whether tax will be payable on this additional compensation.

Assuming agreement is reached, the last step would be for the trustee to go back to the High Court to seek permission for the final distribution of the original compensation pot – believed to be c. £20m - **plus** the additional slice of the tax paid by Ingram Hill to HMRC.

Exact details are hard to come by because the Roadchef EBT1 trustee – headed by Chris Winston-Smith of lawyers Reed Smith – continues its policy of media silence.

Waiting in the wings for payment are at least 350 surviving ex-Roadchef Esop participants, many now in their 70s; perhaps 250 other original employees who did ***not*** participate in the Esop and (*believe it or not)* an estimated 3000+ people who have worked for Roadchef in more recent times, but who were never involved in the Esop.

One of the beneficiaries told *newspad: "This is a step forward for us after all this time and it could be the beginning of the end of our battle. A lot of us are now in our 70s and we ask ourselves whether we will be still alive to see this money which we are rightfully owed."*

Sadly, a number of the former Esop participants have died without seeing a penny.

The only group who actually lost money were the Esop participants because they lost the marked

From the chairman

Vesting of the first tax-approved Royal Mail Share Incentive Plan in mid-October should have been a time of celebration for 140,000 postal employee shareholders and for the Conservative ministers such as potential prime minister Sajid Javid and Sir Michael Fallon who backed all-employee ownership. Under HMRC rules, postal employees could sell – if they so chose - the first 613 of their free share allocations without incurring either income tax or NICs charges on their gains. Instead, the eagerly-awaited vesting turned into a near disaster. Even in late September, when the share price – though off its peak of 603p - was still a respectable 480p per share, would-be sellers could look forward to a tax free profit of almost £*3000 on selling two-thirds of their free shares. Then came the hammer-blow of a major profits warning, causing the share price to collapse by almost 30 percent just before vesting day, when it stood at only 348p. Suddenly, they faced a* ***£900*** *reduction in their expected reward.* Some *posties who had booked holidays on the back of anticipated larger gains from their share sale, could not afford to make their final payments, or repay debts. They felt betrayed by the timing of the profit warning and tempers rose, fuelled by the news that the new ceo had been awarded a* £6m *'golden hello' payment because his previous job had been based in Switzerland and that their previous ceo had been given a £1m 'golden goodbye.' Understandably, many posties decided not to sell any of their free shares at all.*

I would like to mark also the death last weekend of Sir Dennis Landau, first chairman of Unity Trust, which funded the first esops in the UK. Perhaps Royal Mail had lessons to learn from him - although Roadchef (also in this edition) came on his watch. For true believers in employee share ownership the lessons are that risk is inseparable from the gains which are worthwhile.

Malcolm Hurlston CBE

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increase in the value of the shares, which Ingram Hill had transferred from their EBT into another trust of his own creation, before they were sold. Most employees had no idea that their shares were being lined up for the sale of Roadchef to Nikko in 1998. The service station employees' trades union, **GMB,** claimed at the time that ***some*** qualifying employees (Esop participants) should have received north of **£60,000 gross and pre-tax**, *depending on how many shares each held,* when Roadchef was sold, but in the event some were reportedly given as little as £2,400 for their holding.

Furthermore, the final compensation payments to the former Esop *Share Participation Scheme* members – and other employees, past and present – will be reduced by legal and case funding costs expected to top £4m in total. It was only after a change in the law, which allowed litigants to use commercial legal funding to mount their case if they lacked the means on their own, that the trustee and its legal adviser, Cardiff-based **Capital Law,** were able to take action. That is why it took so many years even to reach the High Court.

Four years ago, in January 2014, **Mrs Justice Proudman** (now retired) ruled in the High Court that the transfer of employee shares from EBT1 to a new 'management performance' trust after a board meeting in February 1995, EBT2, was void. She declared that there had been a breach of fiduciary duty in the transaction process and subsequent share sale and ordered Ingram Hill to pay due compensation, net of his reasonable transaction and other costs.

However, a bizarre outcome of the case was that the '*loose*' definition of the term 'beneficiaries' in the trust deed was later interpreted to warrant the inclusion of more recent, as well as original, Roadchef employees.

Crucially, the judge had said in her ruling: "Clause 1 (4) of EBT1 defines the expression 'the Beneficiaries' to mean: "*the employees from time to time* of the company [namely Roadchef] and any subsidiary of the company…**which is a participating company in relation to any profit sharing scheme established by the Company** and approved in accordance with part I of schedule 9 to the Finance Act 1978 **and 'Beneficiary' has a corresponding meaning.''** The point here is that Nikko abolished the Esop as soon as it acquired Roadchef in 1998 and never replaced it.

However, lawyers and others in the case agreed to divide the compensation pot – financed by Ingram Hill – into the three groups: the Esop participants collectively entitled to **61 percent** of the pot's net value; the non Esop participants, including part-time employees, **nine percent** and finally more recent non-Esop Roadchef employees the remaining **30 percent**. Was this the first case in British post-war legal history in which a party who has suffered no loss, financial or otherwise, is awarded financial compensation?

If ever there were a case of an EBT which trainee share plan trustees should be required to study in detail, this is it.

For months, the compensation process was at a standstill because HMRC refused to transfer any of the Ingram Hill 'tax' payment proceeds to the beneficiaries, via the trustee, who accused it of arm-twisting, as HMRC had offered to pay the beneficiaries the estimated c. £20m separate compensation pot **tax free**, ***provided the trustee allowed HMRC to keep the Ingram Hill 'tax' payment.***

The Roadchef EBT1 trustee condemned the offer as outrageous, arguing that the 'tax' payment belonged to the beneficiaries because the High Court had ruled that there had been no legal sale of their Esop shares. The trustee warned HMRC that it would fight to the last ditch to obtain that part of the tax payment which belonged to the Roadchef Esop beneficiaries. It has not been made public how much of the £20m TIH tax payment the Roadchef trustee reclaimed or how much it has received, though it is thought to be a large sum. However, it should be remembered that Ingram Hill owned about a quarter of Roadchef's shares in his own right at the time of sale.

The tax battle was to have been aired at a parliamentary Treasury sub-committee meeting on July 9, but the meeting had to be postponed in the chaotic aftermath of the resignation from the Cabinet of former foreign secretary Boris Johnson MP.

Centre chairman Malcolm Hurlston said: "To the shame of the mainstream media, *newspad* has been the only publication to stay aligned with the Roadchef esop participants throughout their marathon battle for justice. That is thanks to the indefatigable efforts of *newspad* editor Fred Hackworth who has quizzed and queried the trustees, lawyers and powers that be throughout the process, as well as to the former employee shareholders who gave him their trust. But even if the reduced payout takes place with the summer wine, there are lessons to be learned by UK trustees and judiciary as well as by the esop world and the trades unions.

"You may be sure that *newspad* will follow through the story to its end, be fearless in reporting and ensure lessons are learned"

Tighter entrepreneurs' relief rules

Chancellor Philip Hammond tightened the rules on tax relief for entrepreneurs (ER) in his 2018 budget, by extending the qualifying period of the tax break from 12 months to two years, with the aim of encouraging longer-term investment in British business.

Entrepreneurs pay tax at a lower rate of ten percent, compared to the standard rate of 20 percent, on capital gains when they sell all or part of their business, above the annual exemption of £11,700.

ER is already used by some business owners to sell more than 50 percent of their company to employees via an Employee Ownership Trust.

Alex Henderson, tax partner at Centre member **PwC**, said: "Tucked away in the Budget detail is a significant change effective immediately to entrepreneurs relief which will affect smaller employee shareholders. Under the change the relief which is worth up to £1m on the sale of qualifying shares will be more narrowly targeted at employees who have at least a five percent stake in their company's profits and net assets; those who own less will not receive any relief. *The aim is to make the relief more targeted on those with significant stakes as being more entrepreneurial but it risks creating two tiers of employee shareholders which could have an overall disincentive effect for the business as a whole."*

From on or after April 6 2019, in order to qualify for ER you must be a sole trader or business partner and have owned all or part of a business for at least 24 months before you sell. The relief is claimed by around 50,000 business owners, including some who sell at least 50 percent of their business equity to their employees.

However, Hammond said he wanted the UK to be a leading global player in global technology, so would not scrap the relief entirely. Instead, from October 30, shareholders have to be entitled to at least five percent of the net profits and distributable profits and net assets of a company to claim a relief, a*s well as five percent of the ordinary share capital. This will complicate advance tax planning. Documents show the government expects to generate an additional £5m in tax revenue from 2019/20 through the measure, rising to £10m in 2020/21 and £90m by 2023/24.*

Centre member **RM2** said: "The changes mean that **Enterprise Management Incentive (EMI)** share options will now need to run for two years before the magic ER ten percent tax rate kicks in – but ER has been made more difficult for non-EMI participants, particularly if the shares to be sold no longer meet the more stringent tests set out by the chancellor.

"Extending the minimum period throughout which certain conditions must be met to be eligible for ER to two years will apply to all disposals on or after April 6 2019 (except where a business ceased before October 29 2018 where it remains one year).

"This change is of particular relevance to EMI options as the two-year period will now apply to shares acquired under an EMI option plan. For EMI options, this period starts to run from the date of the grant of the option and not the later date that the relevant shares are actually acquired following exercise.

The chancellor added two new tests to the definition of a personal company, requiring the claimant to have a five percent interest in both the distributable profits and the net assets of the company. This measure will apply to disposals on or after October 29 2018. **Here, RM2 note the particular advantage of EMI schemes in that they do not have to comply with the five percent tests**.

"RM2 advise that those who are intending to benefit from ER revisit their arrangements with their tax advisers to ensure that they will comply with these new requirements to claim ER on a future disposal."

EVENTS

Guernsey trustees seminar: register NOW

The Esop Institute, in partnership with **STEP* Guernsey**, will host this year's Guernsey share schemes and trustees seminar at the Old Government House Hotel St Peter Port, Guernsey, on **Friday November 30**.

Presentations under the heading of '**Leading the way – the Channel Islands as a global hub of ESOT specialism'** - will include:

- Taking the ESOT to emerging markets – challenges and opportunities
- JSOPs – the role of the trustee: an outline of current issues and the future of JSOPs
- "Information overload – now what?"-focusing on tax avoidance/evasion
- The application of the 'disguised remuneration' and 'outstanding loan' legislation to employee trusts
- General economic environment: analytical position with Channel Islands in mind + current state of LTIPs.

Given recent developments, such as the introduction of the UK Trusts Register and the growth in the establishment of Employee Ownership Trusts (not to mention Brexit), it has never been more important for those interested in employee share schemes and trusteeship to stay informed with expert views and enjoy the continuing education which our Institute seminars offer.

Top-ranking speakers include: Elaine Graham, **Zedra;** Graham Muir, **CMS**; David Pett, **Temple Tax Chambers**; Paul Malin, **Haines Watts**; Charlotte Fleck, **Pett Franklin;** David Craddock, **David Craddock Consultancy Services** and Alison MacKrill, **STEP/Appleby.** The seminar will be chaired and introduced by Centre chairman and founder, **Malcolm Hurlston**.

Be sure not to miss out on this excellent learning opportunity. The seminar starts at 9:00am and the topic presentations are followed by a networking lunch.

Tickets: STEP/Centre members: £375; non-members: £480

To book, email events@esopcentre.com or call the Centre team on 020 7239 4971

*__Society of Trust & Estate Practitioners (STEP)__.

Centre share plans symposium, March 7

A star-studded line-up of speaker expertise is already in place for the Centre's third **British Isles share schemes symposium,** which will be in **London** on Thursday, March 7 2019. Speaker commitments have been received from: **Colin Kendon** of **Bird & Bird**; **David Craddock** of his eponymously named **Consultancy Services**; **Bill Cohen** and **Martin MacLeod** of **Deloitte**; **William Franklin** of **Pett Franklin**; **Sue Wilson** and **Elizabeth Bowdler** of **PwC**; **Nigel Mason** of the **RM2 Partnership; Nicholas Greenacre** of **White & Case; Damian Carnell** of **Willis Towers Watson**; Guernsey based trustee **Zedra** and **Elissavet Grout** of sponsor **Travers Smith.**

Only three speaker slots remain unallocated, so member advisers/practitioners and/or their share plan sponsor clients wanting to book speaker slots too should get their skates on. Consult the Centre website to see what is available from our topic list, or propose your own presentation subject.

The full-day event is being hosted by senior legal member **Travers Smith** at its London offices in Snow Hill, EC1.

Centre chairman and founder, **Malcolm Hurlston** will welcome delegates and introduce the programme, which includes talks and debates on:

- employee equity plan case histories with focus on both large and SME UK companies
- regulatory & compliance issues; GDPR and Mifid II
- is it right that EMI is producing massive *El Dorado* almost tax-free rewards for key employees in SMEs? - How best can EMI be improved? - Exit-only EMIs
- alternatives for SMEs who cannot qualify for EMI tax-approved options.
- Employee Ownership Trusts - What kind of businesses are using EOT and why? Are EOTs really employee share plans?
- hybrid EOTs: the new way to structure MBOs & employee ownership
- latest developments in international share plans
- employee share plans in volatile markets
- interactive share plan communications – what works best?
- impacts of Brexit on employee share schemes
- how to re-energise other tax-approved share plans - the Company Share Option Plan (CSOP); SAYE -Sharesave and the Share Incentive Plan (SIP).
- executive equity reward packages: new design parameters, performance share plans & shareholder activism
- employee equity trustee concerns

Speaker slots cost Centre members **£240** each, compared to a **£395** admission charge for member practitioner (service provider) delegates. Non-member service provider delegates will pay **£595** for admission. *Speakers and delegates from plan issuer companies will be admitted **free of charge***. All fees are subject to VAT.

If you are a Centre member wanting to make a ***topic presentation*** *and/or a* ***share plan case study***, **get your speaker bid in now**, in order to avoid disappointment. Please email Fred Hackworth at fhackworth@esopcentre.com or call the team on +44 (0)207 239 4971. If you would like to attend as a delegate, rather than as a speaker, you can still book your seat now.

Partner **Mahesh Varia,** who is head of incentives and remuneration at **Travers Smith**, is helping to draw up the programme. Travers Smith is a member of the '*Silver Circle'* of leading UK law firms. This symposium will include a buffet lunch and finish with an informal drinks reception on site in the late afternoon.

Symposium co-sponsorship packages are available: please contact the Centre.

MOVERS & SHAKERS

***newspad* awards 2018**

Thank you to everyone who has already submitted their award entries - the judges will have plenty to get their teeth into. However, do not despair if you missed the October deadline, as the Centre is seeking more nominations for the ***newspad* 2018 awards** for the best UK employee equity plans, either already operating, or about to launch, either at home or abroad, or both. This annual share plans *fashion show* permits members, share plan advisers and their clients to display their best all-employee equity plans to the worldwide readership of *newspad.*

Award certificates, kudos and publicity await the winners, *so do ensure that you, and/or colleagues, submit at least one entry for a newspad award this year.*

This year's categories for which you can submit entries are:

- Best all-employee international share plan
- (companies with more than 5,000 employees)
- Best UK centred all-employee share plan
- (companies with fewer than 5,000 employees)
- Best employee financial education programme
- Best share plan communications
- Best use of video communication
- Best use of technology in employee share plans
- Creative solutions to employee cultural, jurisdictional or social diversity issues when launching international all-employee share plans
- The ***Laurie Brennan*** award for astounding achievement

You can enter share plans in more than one category.

Entries involving employee share plans in non-member companies will be accepted directly or through advisers, but advisers must be Esop Centre members in order to submit entries.

Entries involving executive/managerial equity reward schemes will be accepted at the editor's discretion, provided at least 250 executives/ managers participate in the shares or share option arrangements. For details how to enter see: www.esopcentre.com/awards. The process is simple. The judges of the 2018 *newspad* awards will be: **Damian Carnell,** director at Willis Towers Watson, specialist in executive reward and employee share plans; **Anna Watch**, head of executive share plans (governance & compliance) at member firm BT, **Robert Head,** director of Neo Reward and formerly head of global share plans at Pearson, with **Malcolm Hurlston** chairing.

Winners and commentary about the finalists will be published in a special edition of *newspad* and the awards will be presented in the new year.

On the move

International law firm **Pinsent Masons** strengthened its executive compensation expertise with the appointment of **Fleur Benns** to the firm's share plans & incentives team in its London head office. Fleur, who joins from Bird & Bird where she was a legal director, has extensive experience advising listed and private companies, including VC funds, on structuring tax efficient forms of share incentives and the drafting, implementation and day to day operation of all forms of executive and broad-based share plans. She works with UK and overseas companies on the roll out of international share plans and the share plans aspects of corporate transactions. Lynette Jacobs, who leads Pinsent Masons' share plans & incentives team, said, "I look forward to welcoming Fleur to the firm. She joins at a time of growth for our market-leading team and her recruitment will add strength and breadth to our full service share plans & incentives offering."

Peter Boon is celebrating this month his first anniversary working as client services director at **Link Asset Services** in Jersey.

Rasmus Berglund will join **Macfarlanes'** incentives team as senior counsel on Monday November 5. He joins from **Linklaters** and aims to continue his work with the Esop Centre and, in particular, the Centre's steering committee.

UK CORNER

UK shareholders victory in Unilever HQ battle

Unilever, which makes Marmite and Dove soap, abandoned plans to move its joint headquarters from London to Rotterdam, after finally bowing to investor pressure. As a result, the shares of the consumer giant will remain listed on the FTSE 100, thus remaining a constituent of most institutions' portfolios.

Centre chairman **Malcolm Hurlston** lobbied hard on the issue – alerting *Wall Street Journal* and others to the risks facing UK based shareholders if Unilever upped sticks. Mr Hurlston supported the case made against the move by Centre members the **UK Shareholders Association** and by Cliff Weight of **MM & K.**

Investors said the move could have forced UK shareholders to sell their Unilever shares, probably at a lower price and was unnecessary. Unilever said it recognised "the proposal has not received support from a significant group of shareholders. The board will now consider its next steps and will continue to engage with our shareholders." Unilever's current dual-headed structure has existed since 1930, when Dutch margarine firm Unie merged with soap maker Lever Brothers. It is one of the biggest firms in the UK's FTSE 100 share index, valued at about £124bn. Announcing the decision, which was a major blow for the board, Unilever's chairman Marijn Dekkers, said: "*The board continues to believe that simplifying our dual-headed structure would, over time, provide opportunities to further accelerate value creation and serve the best long-term interests of Unilever. We will proceed with the plan to cancel the NV preference shares, further strengthening our corporate governance.*"

Royal Mail

Hundreds of **Royal Mail (RM)** staff complained they had been short-changed after a dramatic fall in the privatised company's share price. They alleged that RM deliberately issued a profit warning just weeks before many were planning to sell the free shares they were given during its privatisation. Since the announcement on October 1, the shares have fallen by 26 percent. However Royal Mail said it had no choice but to tell the City as soon as it realised profits would be lower.

Some of the 140,000 postal staff had waited five years to sell ***up to 613*** *of the maximum* 913 free shares they were given – and held in a **Share**

Incentive Plan (SIP) - at the time of privatisation and October 15 was the first day they could do so without having to pay tax or National Insurance. They could not sell all their RM shares, even if they had wanted to, because the last 300 or so of their allocations have not yet vested in a tax-approved manner.

The shares have fallen by 45 percent since they peaked at 632p in May this year, with some staff seeing the value of their holdings slipping by more than £2,500. The shares now hover around **355 - 360p** each, not much above the flotation price of 330p five years ago. Some *posties* complained that the sudden collapse in the share price had forced them to cancel holidays and wrecked plans for other spending and debt repayments. Gary Anderson, 39, who works at a Royal Mail office in Plymouth, said he had planned to sell his shares to pay to take his wife on a "*rather late honeymoon, 16 years after we actually got married. My wife and I booked our first ever holiday this year. We perhaps mistakenly relied on the free shares to pay for this. Suffice to say the massive drop in value just as we were ready to pay for this has hit us hard*." Anderson said he was going to sell all of his shares to fund a cruise to New York, but has now decided to keep them and hope they recover. "*I just can't sell them when they're this low," he said. "But it means we just won't have the money to pay for the trip and we will lose our deposit."* Mike Beckerleg, a post worker in Cornwall, said RM staff had suffered "a considerable loss." He added: We have been patiently waiting for five years to fully benefit from the free shares." Des Arthur, a postman from Coventry, complained too about the company's announcement to the City: "The timing of it could be viewed as extremely cynical," he told the BBC. "It's going to look like it's not right." Other employees said they were happy just to have been given free shares in the first place. "I'm not annoyed," said Adam Alarakhia, a postman from Leicester, whose holding is now worth around £2,700. "The price will shoot up again in our busy period."

The **Communication Workers Union (CWU)** said hundreds more postal staff had expressed their anger: "Our members certainly believe it's just been done to deflate what they would get if they sold their shares," said Terry Pullinger, deputy general secretary of the CWU. "You know what people are like; people in some ways have already spent that money in anticipation." He added: "When workers have absolutely no say in advanced predictions on profit – *which may be overly optimistic* - the share is worth less the moment reality kicks in."

RM said it understood the disappointment felt by its staff, but said it had no choice over when to release the profit warning: "We had an obligation to tell the market, and that's what we did," a spokesperson told the BBC. "There's no link between that and the free shares." **However the company said anyone who pre-elected to sell their shares before October 1 would be able to cancel their transactions.**

The employees, who have been awarded further free shares since the flotation, owned 12 percent of the company before the SIP maturity, making them the largest shareholder group. Before the profits warning, 913 shares were worth £4,482; a week later they were worth £3,132. On September 26, the share price stood at 477p, but a week later it was 132p down to 345p.

Shadow chancellor John McDonnell said the collapse in the value of employees' stakes was another reason why Royal Mail should be re-nationalised. "These figures show the need for real investment in this vital public service, which is not happening under its current management," he said.

Last July, Royal Mail suffered one of the biggest shareholder revolts when nearly 75 percent of those voting refused to back a pay package awarded to new ceo Rico Back. He will be paid up to £2.7m and was offered a £6m *golden hello* as compensation for leaving a subsidiary of the RM in order to take the job. Mr Back finally decided that he could do his job by commuting from his family home in Switzerland. Investors were incensed too by a £1m *golden goodbye* handed to his predecessor, Moya Greene. The Canadian businesswoman earned more than £11m during her eight years in charge. The average postman earns £26,000. The spokesman said Back was "of course disappointed" that the share price collapse had left some of his employees in difficult financial circumstances.

Stockbroker promises staff free shares

About 750 staff at stockbroker **AJ Bell** will share a £2m windfall when the investment giant goes public later this year, reported *The Sunday Telegraph*. Founder Andy Bell, who is targeting a £500m stock market listing in the coming months, has told his workforce that they will each receive free shares worth £750 after the fund shop floats. Bell promised staff too that they can buy shares up to the value of £1,800 when the business floats and pay the firm back over 12 months. He said the windfall would encourage employees to "*think like business owners*" and will act as an incentive to grow. "*Following the norm and doing our offering behind closed doors* *didn't feel right to me,*" said Bell. "Some of our staff have been with us for over 20 years." Bell set up the business in Manchester with a colleague and £10,000 of personal loans in 1995, two years after he took a career break to teach football and tennis in the US. He is selling three percent of his holding in the float, leaving him with a 25 percent stake. The 2007 listing of the Bristol-based fund supermarket **Hargreaves Landsdown** netted windfalls of £81.6m and £70.4m for its two founders and made millionaires of 20 of its employees.

But….IPOs run into trouble….

The perils of inviting employees to ***buy*** shares in their own employer's stock market flotation were cruelly exposed by the disastrous IPO of luxury car maker **Aston Martin**. Investors, including employee shareholders, were dismayed by a heavy fall from its debut price of **£19** a share, followed by a further dive on its first day of full trading. Staff at the Warwickshire-based marque, famed for its links with James Bond, were invited to take part in the recent float. Employees were invited to buy between £250 and £10,000 of shares in Aston and the company said 40 percent of 2,200 shop floor staff had put their own cash in. Since floating, Aston shares have sunk by a quarter, standing at just **£14** each by October 23. Even if those staff who bought the minimum number of shares, collectively they were sitting on a paper loss of £55,000. The party-poopers were speculators who quickly piled in, according to the *Sunday Telegraph.* Analysts at **S3 Partners** said that short-sellers – who profit if the shares drop – collectively hold 16 percent of Aston's shares in circulation. "This is not what those on the shop floor expected to see happen to their hard-earned money," said one source. "It's quite a small workforce and you have to wonder what impact it's going to have on morale." Of course, Aston's share price could well double in the next three to five years, but the participating employees are entitled to feel miffed. The £19 float price valued Aston Martin at £4.3bn at the time of its IPO, *but industry experts and analysts questioned the frothy valuation Aston was seeking, which was at a higher multiple than more profitable rival* ***Ferrari.*** The Italian marque is larger too: Aston sold about 5,200 cars last year, generating revenues of £876m and an £87m pre-tax profit, against Ferrari's 8,400 sales producing revenues of €3.2bn (£3bn) and €537m profit. An Aston spokesman said staff had shown "long-term confidence" by investing. He added: "Morale regarding the share price has not been raised as an issue by employees. It's more a 'let's prove the doubters wrong' mentality."

Another company which suffered a rocky ride during its flotation was peer-to-peer lender **Funding Circle,** whose share price fell by a quarter at one stage during its first full-day of trading on the London Stock Exchange, denting the City's hopes of becoming a financial technology hub. The shares fell 24 percent from the float price of 440p to a low of 335p, before recovering slightly. It fell again to 327p – more than 100p below its float price – as some institutions bailed out. However, a few weeks later, the value of Funding Circle's shares had clawed their way back up to 360p after it revealed good lending numbers to SMEs during the third quarter. Analysts complained that Funding Circle, that collects a pool of funds from individuals and companies, which it lends out to small businesses, was seriously over-valued and questioned its claim to be a disruptive force in business lending. Founded in 2010, Funding Circle has lent more than £5bn to 50,000 small businesses, with funds collected from more than 80,000 investors.

Compulsory Eso – time for a 'seat-belt' law?

Shadow chancellor, **John McDonnell**'s announcement that he wants to compel every company with 250 or more employees to establish an ***Inclusive Ownership Fund,*** holding up to ten percent of a company's equity collectively on behalf of employees, has created shock waves in politics and in the media.

Mr McDonnell told Labour's annual conference that when Labour wins power again he would consult over forcing larger companies to surrender one percent of their equity annually for up to ten years, in order to give staff a share of profits, a say in how the business is run and to finance certain Government spending plans.

Former government adviser on employee ownership (EO) **Graeme Nuttall OBE**, partner at **Fieldfisher,** said: "The knee jerk dismissal of Labour's Inclusive Ownership Fund idea by many commentators is disappointing and misses the point. The key question is: *Does the continued lack of awareness of the tremendous benefits of employee ownership justify some form of compulsory employee ownership?* In other words, has the time come for the equivalent of a '***seat belt law'*** to change behaviour? The answer is: Probably not, but how to better promote employee ownership does need to be given serious thought. Take up of employee ownership remains muted because so many businesses and their advisers lack awareness of this business model and its benefits.

“The benefits of EO to companies, their employees and the economy as a whole have been shown through repeated studies, including the *Nuttall Review of Employee Ownership* and this year’s **Ownership Dividend Report,** which draw on a wide-range of industry experts and business leaders. *There is frustration in the EO sector at the lack of substantive progress and a wish for new ‘big ideas’ to promote employee ownership.* Supporters of employee ownership have previously shied away from compulsion, but is some state intervention justified to achieve a major breakthrough? The Inclusive Ownership Fund can be seen as building on tried and tested concepts. Many larger companies have successful discretionary cash bonus plans.”

Mr Nuttall added: “Listed companies often allow staff to acquire up to one percent of a company’s equity each year through employee share plans. Hundreds of private companies have successfully adopted the trust model of employee ownership. Commentators and policy makers should wait to see the Labour Party’s detailed proposal and, if it doesn’t work for them, respond with their own big ideas on how to boost employee ownership into the mainstream of the UK economy”.

Labour in government would set up a public and community ownership unit at the Treasury. Mr McDonnell cited the **John Lewis Partnership** as an exemplar for employee-ownership, but nowadays, it is professional services firms like architects and even lawyers who have led the way. They have long operated on a partnership model, which makes conversion into employee ownership easier. “We believe that workers, who create the wealth of a company, should share in its ownership and, yes, in the returns that it makes,” said McDonnell, as he set out the plans. “*Employee ownership increases a company’s productivity and encourages long-term decision-making*.” However, terrible financial results from John Lewis earlier in September showed that EO is far from a panacea. Partners took home a bonus worth just five percent of their salary last year, the lowest since 1954, and then JLP revealed that its profits had all but evaporated in the first half of this year.

Some companies grant or sell shares directly to employees, affording them a legal say in the company’s decisions and the chance to cash in on a company’s increased value when they leave. Others are more arms-length, with the shares locked in a trust, notionally owned by the employees and run for their benefit by a self-appointed board of trustees. Regardless of their model, all insist that giving employees a greater stake in the company encourages a better-functioning business.

Mr McDonnell said Labour wanted to bring private finance initiatives back in house in addition to bringing water, energy, Royal Mail and rail into public ownership. “We are setting out our plans for a new publicly owned water system that puts this essential service back in the hands of local councils, workers and customers.”

Hugh Facey, who converted Sheffield-based wire-joiner manufacturer **Gripple** into an employee-owned company with more than 700 staff and £75m in revenues, is a big advocate: “As a management team we don’t do stupid things because it’s not like we’re playing with somebody else’s money. We never have trouble recruiting,” he told *The Sunday Telegraph*, “and about half of the employees don’t take a single sick day in a year.” Keith Howells, the chairman of engineering consultancy **Mott MacDonald**, which with more than 15,000 staff is Britain’s second-largest employee-owned company behind JLP, said: “It’s very good for employee buy-in and motivation – people are proud to be part of the ownership structure”. The model is said to improve decision-making, helping bosses focus on the long term. Alex Jan, chief economist at employee-owned consultancy, **Arup**, said: “Because we don’t answer to external shareholders and we don’t have quarterly reporting or traditional measures of success such as growing turnover, profit or volumes just for the sake of it … we collectively shape the way the firm grows to suit the needs of our clients and ourselves.” Howells said that EO works well for professional services firms like Mott MacDonald, whose value is mostly tied up in their people, but is less appropriate for those that are more capital-intensive. “That is a big constraint of employee ownership – it’s quite hard to raise capital if you have need of it,” he added.

Jan admitted that Arup’s structure can slow down decision-making, but insists that’s not always a bad thing. “The disadvantage is we’re arguably not as fleet of foot, but the big advantage is when we make decisions they tend to stick.”

Under Labour’s *Inclusive Ownership Fund***,** employees would receive an equal portion of their company’s dividends, whatever their work status, but the amount would be capped at £500 per person and the rest would be taken by the Government to pay for public services. Employee co-owners wouldn’t be allowed to sell the shares either, meaning the benefits from improving the company’s performance would be limited. Howells warned that the scheme could have unintended consequences, discouraging companies below the 250-employee threshold from taking on more staff and leading others to pursue private-equity ownership. “I’m delighted that the Labour Party is talking about it, but it doesn’t work if you do it in a tsarist way – thou shalt do it,” added Facey. “*It’s got to be something you believe in and that your people believe in – and if they do then you just fly.”*

Publishing ceo pay ratios nears

On January 1, next year, legislation comes into force requiring UK quoted companies with more than 250 employees to publish the pay ratio between their ceo and the ‘average’ employee. Together with the pay ratio, companies must publish supporting information, including the methodology used to calculate the ratio and the reasons for any changes year-on-year. Ceo pay ratio legislation fits into a wider trend of pay transparency and increasing pressure on companies to justify ‘excessive’ executive remuneration. The new laws aim to prompt debate around appropriate levels of executive pay for personal performance and business results, said *Reward & Benefits Association* online magazine. They will provide an interesting data point for debates around growing inequality in the UK. Like gender pay before it, ceo pay ratio reporting is provoking disquiet, as the deadline creeps ever closer. Concerns include:

Communication – making sure diverse groups of stakeholders, from employees to customers, understand the results and what they say about how pay is managed at the organisation in question. **Scrutiny** – the media, public figures, and employees probably will not hold back criticism of gaps they perceive to be unacceptably high.

Companies are required to publish the ratio of their ceo latest **Single Total Figure of Remuneration (STFR)** to: *the median (50th percentile) full-time equivalent (FTE) remuneration of the company’s UK employees; *the 25th percentile FTE remuneration and *the 75th percentile FTE remuneration.

Companies must provide supporting information and explanation as to why the chosen approach was used and reasons for any changes to the ratios year-on-year. Start to gather all the relevant information. Executive pay structures tend to be more complex than those lower down the organisation, with base pay, pension, benefits, and incentive plans all in contention. The results will inevitably have an impact on perceptions of the company. Bonus payments and share incentives may skew the data from one year to the next – share values can fluctuate or a long-term incentive plan vests in a certain year.

FTSE100: no swing towards restricted share plans

Baker McKenzie has reviewed results to see how the 2018 reporting season for executive incentive reward shaped up for the FTSE 100 companies. Despite the FRC Corporate Governance Code and Investment Association guidelines moving away from favouring one type of plan, the number of FTSE 100 companies that have actually moved to using a restricted share plan for their executive directors are few and far between, it found. The predominant share plan for rewarding executives in the FTSE 100 remains the LTIP or performance share plan. More popular is the use of restricted share plans below executive level or for one-off awards. In practice, shareholder reaction to new restricted share plans has been varied and so it is only companies with the most compelling reasons that feel it is justified to spend the time and expense to push through a change of plan at board level. Combined with the new register to record significant votes against, this is making companies think twice before putting such a plan to a shareholder vote. When testing performance within an LTIP, FTSE 100 companies tend to use a range of performance measures, predominantly financial, rather than focussing on just one measure. *A wider spread of measures are used to test performance as companies have taken on board investor feedback to identify measures that are relevant for their business.* Alongside LTIPs, deferred bonus plans are widely used and are an established feature of executive pay, particularly as companies seek to defer a greater portion of their executives’ pay. Following the new FRC corporate governance code, post-employment shareholding requirements are becoming a matter of focus, with already 14 out of the FTSE 100 companies operating a policy (*with, for example, a requirement that executive directors must maintain half of their shareholdings in the company for two years after retirement).* During employment, whilst there is a wide spread in shareholding requirements, 200 and 300 percent of base salary are common thresholds. Most companies choose to impose higher thresholds for their ceos compared to other directors.

Brexit

***The Bank of England** called on the **EU** to do more to protect cross-border financial services from the risks of a hard Brexit. The Bank’s financial policy committee said that the need for action is now pressing. It warned in a statement of risks for *insurance, derivatives and the transfer of data*. It said: “In the limited time remaining, it is not possible for companies on their own to mitigate fully the risks of disruption to cross-border financial services.”

*****Organisations are starting to review their contracts in light of Brexit. For some businesses, notably in the financial services sector, this has involved amending contracts in order to ensure continuity of supply. For businesses moving goods cross-border, changes may need to be made to incoterms (*a set of rules that define the responsibilities of sellers and buyers for the sale of goods*) to ensure these accurately reflect which party is the importer of record. Other considerations include the jurisdiction over disputes and whether definitions will need updating for example those that refer to EU law, said Centre member **Deloitte.** The tax implications of such changes will need to be considered. This might start with a review of how the tax clause is drafted; is the seller or the buyer responsible for taxes such as **VAT,** duty and withholding taxes? Where contracts require updating as a result of business restructuring, there are likely to be numerous tax implications – from valuation and potential exit charges to the VAT treatment of any transfer of business. For contracts governing cross-border sales of goods, businesses will need to consider the duty and VAT implications of current or updated incoterms. Reviewing new and existing contracts from a tax perspective, and updating template clauses where necessary, should be considered as part of a business's planning activities.

WORLD NEWSPAD

Centre briefs multi-nationals in Brussels meeting

Newspad editor **Fred Hackworth** delivered a keynote speech in Brussels at a round table meeting of multinational companies, convened by the Paris-based **International Association for Financial Participation.** The issue Fred explored in depth with sponsors of broad-based employee equity plans was: ***Legal and fiscal barriers to transferring such plans to other countries and how to deal with them.***

The companies who sent senior representatives to the seminar included: **Cap Gemini, Essilor-Luxottica, Siemens** and **Thales.** The French global company **Saint Gobain** distributed a paper discussing the barriers and the problems these presented when the company launched employee equity plans across borders. Several companies were concerned that their employee equity plan communications had to be more complicated than otherwise needed, due to the varying national rules. This tended to crowd out the strong message that employers wished to disseminate about the advantages and value of participating in their employee share plans.

Mr Hackworth first explained the work of the Centre and its founder **Malcolm Hurlston** and then said that two recent additions to the problem areas were the General Data Protection Regulation (GDPR) and the Markets in Financial Instruments Directive (Mifid II). GDPR was forcing companies to send out data policy notes to all their employees, while Mifid II demanded the recording of all phone conversations and/or electronic communications when transactions, such as employee share sales, were involved. All Eso companies had to provide encrypted personal shareholding accounts for every participating employee. At least once a year, they had to receive valuations of their employee holdings, key dates in the life of the plan and info on the tax implications of cashing in their holdings at certain times.

To avoid compliance failures, corporate HR, finance, legal and tax teams all needed to work together, said Fred. Regulatory pressures were such that companies installing employee equity plans across borders needed powerful and user-friendly high tech systems to improve their accounting and financial reporting. Their accounting systems had to be compliant with **IFRS** and **US GAAP**.

Most fiduciary obligations were obvious – transparency; maximum and minimum contributions had to be stated in advance in a stock purchase plan; voluntary participation was axiomatic – no pressure on employees; appointing an independent custodian and so on, but key was the recognition that ultimately the company was itself responsible for foul-ups – and not its trustees, or local agents.

Taxation of employee equity plans across borders was the biggest challenge, said Mr Hackworth. The US Foreign Account Tax Compliance Act (Fatca) had rattled cages when it was introduced. IRS agents had demanded that UK based plan administrators and others send it copies of passport photos to prove that certain employees were not US citizens trying to evade their cross border tax liabilities. Due to differences in national tax codes, the taxation of *highly mobile employees* in different jurisdictions could be a nightmare. Those who held stock options might be subjected to double taxation, whilst others weren't taxed at all. This was because there was still no EU competence on tax convergence. Employers found it increasingly difficult to determine their tax withholding obligations in each jurisdiction for such employees, despite the automation of such calculations.

Securities laws and exchange controls were other danger areas for a cross-border plan sponsor to watch carefully, said Fred. In Germany, only €12,500 max could be sent abroad to purchase shares from a foreign parent without telling the German Federal Bank first. Exemptions within the EU were available on awards of free shares and the grant of share options, but this was only available if the company was based in the EU, or its shares were listed on a main member state stock exchange.

Employment legal issues were on the '*watch out*' ledger too – especially whether an employee could acquire rights to continue participating in equity plans after he/she had left the company, which was why companies added express wording to the rules of equity plans stating that participation in them was quite separate from their employment contracts. This prevented them from claiming future participation rights, or compensation for lost rights, added Hackworth.

IAFP president David Hildebrandt said that after hearing Fred's speech, he thought it was a wonder that any global companies were still prepared to launch new broad-based employee equity plans across borders.

CbC reporting filing and notification deadlines

For groups with a December 31 year end within the scope of country-by-country reporting (CbC), a number of important UK deadlines are coming up, including: - for groups planning to file a country-by-country report with HMRC for the year ended December 31 2017, a reminder that the report filing deadline is December 31, this year - notifications in respect of this calendar year ending December 31 will be due by December 31 too. HMRC's template is available at http://deloi.tt/2AAGnGz. - Certain overseas-based groups will be required to file a second notification giving HMRC details of when and where the group's report has been filed for the year ended December 31 2017. This can apply where the group's ultimate parent is resident in a jurisdiction which has not introduced mandatory CbC reporting, or in a jurisdiction which does not have an exchange relationship in place with the UK. The deadline is again December 31. HMRC's 'exceptions template' is available at http://deloi.tt/2AXfyz5.

Channel Islands in the clear over CRS

The **Organisation for Economic Co-operation & Development (OECD)** published its ***black list*** of jurisdictions worldwide in which the quality of financial information exchanged/reported and the integrity of due diligence procedures allegedly still leave much to be desired. It analysed more than 100 residence and citizenship offers via investment schemes and declared the following as being: "high-risk" to the integrity of the **Common Reporting Standard (CRS)**. The high-risk schemes OECD identified were in: Antigua and Barbuda, Bahamas, Bahrain, Barbados, Colombia, Cyprus, Dominica, Grenada, Malaysia, Malta, Mauritius, Monaco, Montserrat, Panama, Qatar, Saint Kitts and Nevis, Saint Lucia, Seychelles, Turks and Caicos Islands, United Arab Emirates and Vanuatu**.**

None of the **Channel Islands** feature on the list of alleged offenders who, typically, have dozens of *brass plates* representing obscure companies on the front walls of modest buildings. The CRS calls on jurisdictions to obtain information from their financial institutions and automatically exchange it with other jurisdictions on an annual basis. It sets out the financial account info to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers covered and due diligence procedures to be followed.

In addition, the OECD published practical guidance (frequently asked questions section) that is intended to enable financial institutions to identify and prevent cases of CRS avoidance through the use of such schemes.

COMPANIES

Amazon** came under attack for slashing annual share loyalty awards for UK warehouse workers, offsetting at least half a big pay rise. The removal of employee share and incentive schemes could cost thousands of employees £1,500 in a single year, according to the GMB union, which accused the online retailer of imposing "a stealth tax on its own wage increase." The move helps Amazon pay for increasing minimum staff pay in the UK by £1.50 an hour to **£9.50** outside London and by £2.20 to **£10.50** in the capital. Its warehouse workers currently receive one Amazon share, worth around £1,500, at the end of every year they work there and an additional share once every five years. If they hold on to the shares for two years, they can cash them in tax free. The loss of that payout would be equivalent to roughly half the £3,120 rise in pay promised to the average Amazon warehouse worker outside London. These employees earn about £17,000. Amazon has reduced its net Corporation Tax bill – up until now – by offering employees substantial ***restricted stock units (RSU) awards. Amazon said the equity incentives were being withdrawn because employees preferred to have extra cash, but would replace them with a ***SAYE-Sharesave*** scheme.

myStockOptions.com said: "We are very curious about the internal calculation, evaluation, and (hopefully) debate that Amazon went through before its decision to eliminate the RSU grants and cash incentive bonuses. When your company's stock price has skyrocketed and is expected to remain strong, as at Amazon, that is often when employees want equity the most. That is when stock compensation can play its most powerful role in recruitment, retention, and motivation, whether in the executive suite or in the warehouses. It is often the lower-level employees who most appreciate how equity pay increases their wealth. Not surprisingly, some hourly employees at Amazon were disappointed by the company's elimination of bonuses and RSU grants. The New York Times reported that some employees "were saddened to lose the sense of ownership that the stock compensation provided."

Aviva** ceo Mark Wilson will walk away with a pay and benefits package of up to ***£6.5m when he leaves the insurance company next year. Announcing Mr Wilson's surprise and abrupt resignation, the firm said it was "time for new leadership to take the group to the next phase of its development". He stepped down from his top role immediately, but will stay with the group until April to facilitate the transition. Aviva said its aims under Wilson had been achieved. His *golden goodbye* package includes a minimum of one year's salary, three years of bonuses, legal fees and other benefits.

*****Industrial and telecoms group **Bouygues** launched a new leveraged Esop, *Bouygues Confiance n°10,* which involves a capital increase of a maximum €150m (inclusive of share premium) reserved for employees of French companies belonging to the group, via a dedicated mutual fund – an FCPE – with a five year lock-up period, except where early release is allowed. Up to 5.1m new Bouygues shares will be issued at a subscription price of **€29.3** each. The FCPE will exercise the voting rights attached to the newly issued shares. The subscription price is discounted by 20 percent and employees can buy in from November 12 to December 3 2018. The company said: "This plan gives Bouygues employees a stake in the group's development and performance over the long term, and demonstrates our proactive approach to Eso, which is a core component of the group's culture and values."

Danske Bank** is under pressure to get rid of ceo Thomas Borgen, as shareholders voiced dismay at his continued presence, given his role in one of Europe's worst money laundering scandals. The 54-year-old resigned after acknowledging his bank may have helped launder much of the ***€200 bn, some allegedly belonging to Russian oligarchs, that flowed through a tiny Estonian unit between 2007 and 2015. Borgen said that he, as ceo, was responsible. However, the board asked Borgen to stay on until a replacement was found, for which no date has been given. He is set to receive 12 months' pay when he leaves. At **MP Pension**, a Danske shareholder with $20bn in assets under management, director Jens Munch Holst said he didn't understand why Borgen hadn't already been escorted out the door. "He needs to stop immediately -- anything else is impossible to understand and unsatisfactory," he said. Danske won't say how much Borgen is set to get in his 2018 remuneration package. In 2017, he was paid $2.4m. Roughly a quarter of that was in the form of variable pay, which may now be clawed back.

Facebook**, the world's fifth-biggest company, with a market value of £348bn, received a gross tax bill of only £15.8m, which was more than halved by its receiving £8.4m in tax credits *from granting its employees* ***generous share awards *in the company.* So Facebook's net tax bill was £7.4m, which represents just 0.6 percent of its total UK sales. It boosted its **UK** revenues to **£1.26bn** for the year ending December 2017, up from £842m in the previous 12 months. The social networking giant's declared UK profits increased from £58.5m to £62m. Chancellor Philip Hammond threatened to announce in his **October 29 Budget** a new digital services tax on tech companies, based on their sales revenues and no longer on their 'local pre-tax profits'.

*After **Gardner Denver Holdings** granted $100m in shares to 6,000 employees, including UK hourly paid staff and those in customer service and sales, a Bloomberg report quoted chairman **Pete Stavros,** who is also head of the industrials division at **KKR,** about the reasons. He explained that employee ownership at manufacturers can be effective at improving operations in which the company needs to do a "a million things a little better." He said: "It's the workers on the front lines that often know where the inefficiencies are to fix and they share in the success through their equity stake." This is why broad-based equity grants, particularly to those in front line and hourly positions, are often a smart compensation approach. Mr Stavros told *Newspad's* sister publication *Newsbrief* recently: "Over the past 7-8 years, we have instituted broad-based employee share ownership at a number of our US industrial portfolio companies. It is extremely rewarding when we pay a dividend on the equity or ultimately sell a company and it becomes clear what a difference it has made in people's lives. It is very rewarding when you see specific examples of employees' changed behaviour and see them acting like owners. The biggest challenges we have faced relate to poor communication, ***which has resulted in people not understanding the equity plan and therefore not valuing it. In a few cases, frankly, some employees did not even know it existed.*** We have figured out ways of more effectively communicating the equity programme and explaining it in a way such that people truly grasp the value."

*Larry Culp, **GE**'s new ceo, will receive a compensation package of up to $21m a year in salary, bonuses and stock for the next four years. Beginning next year, GE will annually give Culp a salary of $2.5m, a bonus of about $3.75m and equity awards valued at $15m. If GE's stock rises more than 50 percent, he gets a payday of $47m and even more if it rises further. "If we get up 150 percent, we're talking $300m," David Faber, who reported details of the contract, noted on CNBC's *"Squawk on the Street*." The final pay out at the end of the third quarter in 2022 will be based on performance metrics for Culp, marked by increases in GE stock.

*The group ceo of rail operator **Govia Thameslink Railway (GTR)** is set to pocket a £582,000 bonus on top of his £1m salary – despite a summer of chaos on the network. Passengers faced delays and cancelled trains when GTR brought in a new timetable. It runs franchises which carry almost 30 percent of passenger traffic on UK railways, including Great Northern which operates services between King's Lynn and London.

In its annual report **Go-Ahead**, the parent company of GTR, reported pre-tax profits of £145.7m in the year to June 2018, up from £136.8m in 2017. Ceo David Brown earned £1.175m and group chief financial officer Patrick Butcher £630,000. Both received a 2.7 percent pay rise from April. Go-Ahead's annual report revealed Mr Brown received a £582,000 bonus on top of his salary. A spokesman for the company said: "Due to the disruption experienced by GTR customers for the eight weeks following the May timetable change, the executive at Go Ahead Group chose to decline 25 percent of their bonus. We are very sorry for the poor service our customers experienced during the timetable change."

*Shareholder advisory group **ISS** recommended that toy maker **Hornby** shareholders vote down the remuneration report at its agm after the troubled Aim-listed toymaker provided "no sufficient explanation" for ex ceo Steve Cooke's surge in pay last year. He enjoyed a 29 percent pay jump yet only served for half of the year. Despite its financial difficulties, Mr Cooke trousered a £156,000 exit fee plus £365,000 for his salary despite failing to revive the iconic toymaker's fortunes. However, only ten percent of voting investors gave the thumbs down to Hornby's remuneration report at the agm.

*Centre member **Intertrust** launched a survey into disruptive technology in the employee benefits sector. **Tania Bearryman** and **Shane Hugill**, head and director respectively of performance & reward management, invited clients to complete a survey with anonymity guaranteed. They said: "The adoption of advanced technology in financial services has reached every sphere of business and we want to know your views: how is technology and innovation impacting the employee benefits sector? We need to gain more insight on the impact of Artificial Intelligence application, what the perceptions of new technologies are and which roles are under the greatest threat from these advances."

*Van hire company **Northgate** suffered a major shareholder rebellion over the way the company's senior executives are remunerated. Shareholders speaking for almost **58 percent** of Northgate voted against the hire group's pay report at its agm after it tried to scrap the link between executive bonuses and the company's earnings per share. Investors argued that if they were to suffer lost earnings, so too should directors. Richard Bernstein, founder of fund manager ***Crystal Amber***, said: "*As a shareholder, I think it's shambolic. They spent a lot of time and money and it's a complete loss, because the owners of the business have rejected the pay scheme*." The planned changes would have removed the earnings per share (EPS) performance measure from senior executives' long-term incentive (LTIP) plans. Instead, the awards would have been judged on total shareholder returns. Investors' disapproval of the new bonus structure - the fifth biggest rebellion this year, according to *Proxy Insight* - was revealed in a regulatory statement on the following day.

*Opened to 115,000 employees in 29 countries, *Sequoia 2018*, the eighth share ownership plan reserved for **Veolia Group** employees, saw its overall subscription rate exceed **33 percent**. Thus **38,000** Veolia employees chose to participate, for a total outlay of €34m. Sequoia 2018, whose objective was to associate as many employees as possible with the company's performance, has proved the most popular among Veolia's Esops so far. The resulting capital increase generated the issue of 2.23m new shares. As of September 20 2018, the new issue had brought the total number of Veolia Environnement shares outstanding to 552.7m. These figures do not include a SIP offer still available in the UK. Veolia, which employs 169,000, is the global leader in optimised resource management. The group designs and provides water, waste and energy management solutions.

Australia: Quickstep introduce share plan

Australian independent manufacturer of advanced carbon fibre composite components **Quickstep Holdings** introduced an ***Employee Exempt Share Plan*** to recognise the contribution that Quickstep's employees make to the growing success of the business. All eligible employees will be offered **free** Quickstep Holdings shares to the value of A$750 each in year one. This offer provides employees with a financial share in the company and, through share ownership, Quickstep employees will have further incentive to contribute to the company's financial performance.

Share ownership will align employees' interests with those of Quickstep's shareholders and with the company's overall performance. Quickstep believes that Eso drives increased focus on individual contribution to the company's overall performance. Quickstep ceo, Mark Burgess said, "In August 2017, I outlined a new strategic direction for the company; the OneQuickstep initiative. This was implemented to accelerate profitability and growth for the company through six key segments. A principal component of this programme is focused on building a positive culture that drives our business."

Given the current number of eligible employees and recent share price, the company expects to issue up to 1,875,000 shares in total under this inaugural offer. The company intends to expand the opportunity for employees to grow their share ownership within the terms of the share plan.

"The Board decided to grant shares to each employee as a testament to the wonderful work our valuable employees do in achieving great results for our customers. We want our employees to be proud to work at Quickstep and with this new share plan, we will continue to build the great culture we have and continue the growing success of the company and its overall performance,” Burgess added.

US: Proposed SBA Regulations seem to weaken Main Street EO Act

The California based **National Center for Employee Ownership (NCEO)** has warned that The Main Street Employee Ownership Act, drafted to encourage loans to facilitate Esop and worker cooperatives, looks about to be hamstrung by bureaucracy. Esop advocates expected that the law would allow banks qualifying under the SBA’s *7(a) Preferred Lender Program* to make loans for Esop transactions without each loan having to get prior approval from the SBA. Approving loans on a case-by-case basis adds a cumbersome layer of processing that can discourage using the SBA programme. The Act states that the SBA *may* drop the existing requirement that Esop loans go through this process, allowing approved lenders to create loans with an SBA guarantee. In proposed regulations posted on September 28, the SBA said it would continue to require case-by-case approval of Esop transactions due to their complexity.

US: **Tax Cuts and Jobs Act**

On December 22 2017, **President Trump** signed into law the **Tax Cuts and Jobs Act of 2017,** initiating the most sweeping changes to the Internal Revenue Code since 1986. Total rewards professionals are now reconsidering the value of various compensation vehicles and employee benefits programmes, reported *Taxand*. In the wake of President Trump’s signature tax reform, **non qualified deferred compensation (NQDC) plans,** which have long provided businesses a competitive advantage in attracting and retaining high-level performers, look even more attractive for many companies. Savvy business leaders are increasingly taking advantage of the new tax landscape and making NQDC plans part of their total rewards strategy.

Like a more traditional qualified retirement plan - eg. a 401(k) plan - an NQDC plan is a programme that allows employees to earn compensation in one year but not recognise the income – and not pay income tax – until a designated time in the future when the compensation is distributed from the plan. Similar to a qualified retirement plan, an NQDC plan allows deferred compensation to grow, tax-deferred, until the compensation is later paid to the participant. Qualified retirement plans provide sponsoring employers and participating employees with very beneficial tax treatment. Employees who defer compensation to an employer-sponsored qualified plan do not pay income tax on their contributions and are generally only taxed later when they receive a distribution. Additionally, employers can take an immediate tax deduction at the time the employees make their deferrals. To receive this beneficial treatment, qualified retirement plans must comply with a litany of rules that, among other things, require the plan to benefit a large portion of the employee population and limit the amount that employees can defer into the plan in a given year.

NQDC plans constitute a valuable tax planning tool reserved for top executives and other highly-compensated key employees. Like qualified plans, employees that defer income into NQDC plans do not have to pay income taxes on the deferred amount until the money is later distributed. Employers, however, cannot deduct the deferred amounts at the time of deferral. Instead, the employer takes the deduction on the deferred compensation when the income is recognised by the participant (ie. upon distribution). As such, the employer and the employee have counterbalanced interests, in that the employer won’t get a deduction until the employee recognises the income. Prior to the passage of the TCJA, these interests were roughly equal in value, as the corporate tax rate and top marginal individual tax rate were within a few percentage points (ie. 35 percent vs 39.6 percent).

Another key distinction between qualified plans and NQDC plans is that NQDC plans are not subject to the deferral limits of qualified plans. In 2018, the employee deferral limit for a 401(k) plan is $18,500, an amount that is generally inadequate for a highly-paid employee’s retirement goals. For example, a key employee who earns $1,000,000 in 2018 can only defer $18,500, less than two percent of their income. On the other hand, depending on the specific NQDC plan terms, the same participant could choose to defer a much larger percentage of compensation into an NQDC plan (up to 100 percent).

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