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it’s our business

newspad of the Employee Share Ownership Centre

Top pay showdown at Centre BI share schemes symposium

At the Centre’s British Isles employee equity symposium this autumn, four executive remuneration experts will discuss in detail whether or not top pay in the UK is too high. **Professor Len Shackleton**, of the **Institute of Economic Affairs**; **Paul Jackson,** of the **Investors’ Chronicle**; **Damia n Carnell** of **Willis Towers Watson** and **Damien Knight** of **MM & K** will give delegates their views on the key question: - *Are UK executives really paid too much?*

This hugely controversial issue will dominate the programme at this second Eso symposium, which takes place in **White & Case**’s auditorium at its UK HQ in **Old Broad Street, EC2,** on **Thursday & Friday, November 16 & 17.**

During an initial panel session, led by Prof Shackleton, the experts will give their reactions to the government’s recent proposals aimed at curbing executive reward levels. These proposals include:

- creating ‘sin bins’ – administered by the **Investment Association** - to expose quoted companies who attract shareholder ire for allegedly paying their top executives too much.
- requiring companies to compel their executives to hold equity awards for a minimum five years, including vesting & retention periods
- forcing quoted companies to publish annually the ratio of ceo *versus* average worker pay in their businesses.
- requiring companies to consult more with their employees on a range of issues, including top pay.

Some remuneration consultants suspect that dissatisfaction with UK executive reward levels has become an *unstoppable train* and that Prime Minister May’s proposals won’t alleviate public anger and disquiet.

Damien Knight will disclose why he thinks many of the government’s executive reward ideas are based on dis-information. Damien told newspad: “Companies need to take back control. Executive pay design and levels is primarily a matter for company boards and shareholders should trust them to get it right or replace them. Remuneration plans should be designed to suit the needs of individual companies.”

Paul Jackson, former global head of reward at HSBC Insurance, will call for a clearer definition of executive ‘pay.’ He will say that the value of a share award as at *the time of award* should be counted as pay. Paul will ask why quoted companies are always the scapegoats on high pay, while huge reward packages - in private companies and private equity (BHS); mutual societies; universities and academies (Bath University); fund managers’ pay (never publicised); celebrities and professional sports stars go largely unremarked.

Speakers will ask – and will be asked by delegates: ‘*What is propaganda and what is the reality regarding ‘top pay’? Should reward be based solely on performance, or should other stakeholders have a say too?’*

However, it’s not just the public and employee

From the Chairman

Surprise news of the month has been advocacy of all-employee share ownership from perhaps the most unexpected quarter. KKR is best known as the private equity baddie in the classic book and movie Barbarians at the gate. Now it is giving the whole workforce 10 percent of its Gardner Denver company. Md Pete Stavros has told me he is a keen advocate and I hope members will be able to meet him when he is next in town. Bloomberg commented: "Front-line workers know best where operational inefficiencies exist and how to fix them, and equity ownership lets them share in the fruits of their efforts" and I made sure Phillip Hammond at the Exchequer, who is looking for productivity gains, knew where they could come from. Only this month, with BVCA, I have been putting to the Treasury new ideas, from Esop barrister David Pett about how the nearly one million workers in the UK'S PE sector might access equity rewards here.

Malcolm Hurlston CBE

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shareholders who are worried about aspects of executive reward packages, for institutional investors are getting uptight too. Dividend cover is coming under pressure in many corporates and when total aggregated reward among directors in a large public company can reach £25m-£30m (including variable equity reward and pension provision), the scope for economies is obvious.

Two major presentations are lined up in the corporate governance and compliance sector: Data privacy in Eso plan administration, focusing on the application next year of the EU's General Data Protection Regulation (GDPR), which will be tackled by **Nicholas Greenacre**, supported by **Tim Hickman** and **Helen Levendi,** from **White & Case** and 'Staying compliant with the looming MiFID II,' which will be explained by **Jennifer Rudman** of **Equiniti**.

Several listed plan issuer companies are among the 30 already registered to attend, including **Thales (UK)**, the French multinational electrical systems and defence giant, which employs 6,500 in the UK; **Merlin Entertainments plc** and **Signet,** the world's largest retailer of diamond jewellery, which employs 29,000 worldwide.

Leading Centre member **Solium** will deliver a three-hander case study to illustrate the taxation of international employee share schemes, led by speakers **Mike Pewton**, who is based in Barcelona and **Jaume Guix.** Sharing the podium will be **Kelly Smith,** compensation director at **Merlin Entertainments,** the UK based company with a £1.5bn a year turnover, which operates 127 attractions, 19 hotels and seven holiday villages in 24 countries.

Centre chairman, **Malcolm Hurlston** will welcome delegates and deliver the opening address: '*Whither share schemes?*' Other speakers include: **Colin Powell CBE**, adviser to the **Government of Jersey** on Brexit**; Louise Jenkins, FTI Consulting**; **William Franklin, Pett Franklin; Jennifer Rudman, Equiniti; Garry Karch** of **RM2, John Hunter, UK Shareholders Association,** with **Mick McAteer** of the **European Commission Financial Services User Group.**

This event is hosted by global lawyers **White & Case.** Channel Islands based trustees, **Estera Trust** and **Intertrust** are symposium e-brochure logo co-sponsors.

Estera *is a leading global provider of fiduciary and administration services. Established more than 25 years ago, Estera (formerly Appleby Fiduciary) provides corporate, trust, fund and accounting services to clients across the world. It has 400 highly qualified professionals in 11 jurisdictions: Bermuda, BVI, Cayman, Guernsey, Hong Kong, Isle of Man, Jersey, Luxembourg, Mauritius, Seychelles and Shanghai. Estera collaborates with clients and their advisors to deliver smart, considered and above all, practical solutions, whether in a single location or across multiple jurisdictions. Its commercial focus, attention to detail and responsiveness coupled with a resolute commitment to the delivery of service excellence, is what sets it apart. For more info contact: Patrick Jones, Group Director +44 1534 844 807*

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Intertrust *is a leading provider of corporate, fund, capital market, private wealth and employee benefit services, with 2,500 specialists based throughout a network of 41 offices in 30 jurisdictions. Intertrust's share plan team provides trustee and plan administration services in a wide range of shareplans to a global client base. The team has extensive experience of managing plans and particular expertise in corporate actions and the role of the trustee. The Firm's team of technical experts have a wealth of practical experience. Intertrust's clients include FTSE, AIM and internationally listed companies, private companies and private equity backed ventures in a range of industries and global locations. Its market-leading share plan admin and reporting system enables it to provide bespoke solutions for clients and offers participants and company coordinators access and control. Contact: Shane Hugill Tel: +44 1534 673786 shane.hugill@intertrustgroup.com*

The rest of the programme covers:

- Are employee share schemes worth the effort?
- What US Esop transactions can teach us here in Europe
- Taxation of international employee equity schemes;
- The long road to the Roadchef motorway services Esop disaster
- Democratic rights for employee shareholders?
- The Employee Ownership Trust - *how far can it go?*
- Crown dependencies and Brexit; what's to fear? What can we learn?

The draft agenda can be downloaded from: www.esopcentre.com

Delegate prices:

Centre member practitioner **£415**; non-member practitioner **£625**; Member trustee **£330**; non-memb er trustee **£500**; non-member plan issuer: **£75**.

All attendance fees are subject to standard VAT.

You can register a **delegate** by sending an email to: britishisles@esopcentre.com. Just two speaker slots remain to be allocated.

Practitioner **speakers** pay **£290** for admission, which includes a buffet lunch and a drinks reception. Trustee speakers will pay **£230**, while plan issuer *speakers* will not be charged, so that advisers can team up with clients for joint presentations. Please contact Fred Hackworth at: fhackworth@esopcentre.com asap if you would like to speak at this popular event.

The Centre thanks White & Case for hosting the symposium.

CONFERENCES & EVENTS

Guernsey share schemes and trustees' seminar: Friday October 6

There is still time - just- in which you can register for the Centre's annual Guernsey share schemes and trustees' seminar, organised jointly with the **Society of Trust & Estate Practitioners (STEP)**. This will be held at the St Pierre Park Hotel in St Peter Port on **Friday October 6**. This half-day event is an industry-leading networking and learning opportunity for all those interested in employee share schemes and EBT/EOT/Esop trusteeship. Centre chairman **Malcolm Hurlston** will chair the seminar. Programme:

Welcome: *Deputy Andrea Dudley-Owen, Guernsey States*

Employee share ownership for management buyouts: *David Craddock, David Craddock Consultancy Services*

Employee Ownership Trusts: challenges and opportunities for trustees *Charlotte Fleck, Pett Franklin and Elaine Graham, Zedra*

Update on market trends and share plan developments: war stories, pitfalls and best practice processes for trustees *Juliet Halfhead and Matthew Maltby, Deloitte*

…and so to the future: what can advisers and HM Government do to facilitate sharing with employees growth in corporate value? *David Pett, Temple Tax Chambers*

The ever-increasing reach of the taxman *Paul Malin, Haines Watts*

Tax treatment of Employee Benefit Trusts: Rangers go into extra time *Graham Muir, CMS*

Legal update for share schemes trustees: *Alison MacKrill, Appleby Global / STEP*

Delegate Prices: Centre / STEP members **£375**; and non-members **£480.** To register, please email the name and email addresses of your delegate(s) to events@esopcentre.com or call 020 7239 4971.

World Centre Awards 2017: Tuesday October 31

The panel of judges has met and, without naming names, *newspad* can reveal that some of the world's biggest corporate names feature along the winners. However as no nomination has come in for the education category (see below) there is an extended deadline till Oct 10 for that alone. We are also inviting nominations for Esop personality of the year. The sixteenth awards reception and dinner will be held at the **Reform Club**, in Pall Mall, on **Tuesday October 31**. This annual stylish black-tie event brings together members and guests – representing UK and international plan issuer companies and their expert advisers – to recognise the best in employee share ownership.

This year the host is **Sir Graham Melmoth,** former chairman of the National Council of Voluntary Organisations and ex chief executive of the Co-op Group.

Attendance is the perfect way to celebrate the year with clients, colleagues and peers. Both individual and group tickets are available. Table of ten*: £1,800; Member £195; Non-member £270 (plus VAT). *Tables of ten can only be purchased by Centre members. To purchase tickets, please email: events@esopcentre.com or call 020 7239 4971.

These awards recognise the achievements of companies which offer broad-based employee share plans and hold up best practice models for other companies to follow. Applications will be reviewed by two judges, experts in the use of employee equity, together with Centre chairman Malcolm Hurlston.

Categories:

- Best all-employee international share plan (1)
- Best all-employee share plan (2)
- Best financial education of employees
- Best share plan communications
- Best use of video communication
- Best use of technology
- Most creative solution

Visit the World Centre Awards 2017 webpage for further details, including descriptions of each award category at: www.esopcentre.com/event/awards-2017.

(1) In a company with more than 5,000 employees

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and participants in at least three countries.
(2) In a company with fewer than 5,000 employees and participants in no more than two countries.
Entries should be made using the Centre's secure online application form.

This year's '**Employee share schemes for SMEs'** conference, jointly organised by the **Esop Centre** and the **Institute of Directors**, was held at the London offices of Centre member **Travers Smith** on September 14**.** Centre chairman ***Malcolm Hurlston*** welcomed speakers and delegates from dozens of small and medium-size companies who are interested in finding out how to install employee share schemes into their workplaces. The speakers were:

Introduction to employee share schemes **-** ***Stephen Woodhouse, Pett Franklin***

Enterprise Management Incentives **(EMI) -** ***Liz Hunter, Mazars***

EMI case studies **-** ***David Craddock, David Craddock Consultancy Services***

Alternatives to EMI **-** ***David Pett, Temple Tax Chambers***

Beginner panel **-** ***Chaired by Mahesh Varia, Travers Smith***

Share schemes and succession planning **-** ***Stephen Woodhouse***

Financing employee ownership **-** ***Garry Karch, RM2 Partnership***

Employee Ownership Trusts **-** ***Nigel Mason, RM2 Partnership***

Advanced panel - *Chaired by* ***Mahesh Varia***

MOVERS AND SHAKERS

Paul Anderson, formerly of Centre member **Ocorian**, has joined **Mourant Ozannes Corporate Services** as a client services director to lead the development of the employee incentives business. Paul can be contacted on +44 (0) 1534 676013 and his email is paul.anderson@mourantozannes.com

David Pett, former head of tax at Pinsent Masons and latterly founding partner at **Pett, Franklin & Co.** has transferred to the Bar and now practises as a member of **Temple Tax Chambers**. David specialises in all forms of remuneration, incentives, employee ownership trusts, employee share plans and employee-owned companies. He is author and co-editor of *Employee Share Schemes*, the two volume loose-leaf textbook published by Thomson Reuters. David advises a range of accounting and law firms and has 'public access rights' enabling him to take instructions directly from companies and others seeking specialist tax advice.
His mobile and VOIP phone numbers remain: 07836 657658 and 0207 078 0205 and he can be contacted too via: clerks@templetax.com Tel.: 0207 353 7884. From now on, please address your emails to david.pett@templetax.com

Centre trustee member **SANNE** announced the appointment of **Oliver Morris** as head of private equity - EMEA. He will be based in SANNE's Jersey office

UK CORNER

Employers and trustees face enforcement notices in Rangers EBT case

Fortified by the Supreme Court judgment in favour of HMRC in RFC 2012 Plc (in liquidation - formerly The Rangers Football Club) Appellant v Advocate General for Scotland (Respondent) [2017] UKSC 45**),** HMRC has begun to issue enforcement notices to sponsoring employers for the payment of tax and National Insurance **(**NIC) liabilities generated by employee benefit trusts (EBTs) on the basis that the arrangements facilitated forms of disguised remuneration to employees. HMRC's response was not unexpected. When the judgment was issued in July, it issued a strongly-worded statement, describing the ruling as having *"wide ranging implications"* and underlining its determination to *"always challenge contrived arrangements that try to deliver tax advantage never intended by Parliament*"**.**

Where enforcement notices have been issued, sponsoring employers may try to recover the amounts owed from the trustees or the beneficiaries of the EBT in question. *Trustees of EBTs that find themselves in this position must consider whether any such liability to income tax and NIC is rightly payable from the trust fund of the EBT, or by the sponsoring employer*, said the article's authors, Katherine Neal and Richard Laignel of Centre member **Ogier.** Precisely where the liability sits will depend on the provisions of individual trust instruments constituting the EBT in question –

there is no common ‘one-size-fits-all’ answer, it said. The issues that affected trustees should now consider are:

- Whether or not the tax and NIC liabilities are rightly payable from the trust fund. Commonly the liabilities will actually fall on the sponsoring employer. If a sponsoring employer claims that the liability falls to be met from the trust fund of the EBT, the trustees may wish to ask that the sponsoring employer share with them the legal advice which brought them to that conclusion.
- Whether the terms of the trust deed setting up the EBT specifically exclude the sponsoring employer from benefit. Trustees should take advice as to whether or not the terms of the trust would therefore permit them to settle these liabilities from the trust fund or whether there is, in fact, a total prohibition against such payment.
- As the trustees have fiduciary duties, is it in their best interests to pay from the trust fund a liability that the sponsoring employer is obliged to pay?
- Whether the sponsoring employer has a ‘right of restitution’ to recover from beneficiaries. Advice should be taken by trustees on this specific point. If such a right exists it may be in the beneficiaries’ best interests to pay HMRC directly to avoid any enforcement action being taken against the beneficiaries individually, even if such payment might constitute a breach of the term of the EBT.

Sponsoring employers do not want to be left with liability for tax and NIC payments in the wake of the Rangers case – but the question of whether it is right that the trustees should bear the cost of such liabilities is one ***that will hinge on the specific terms of the trust documents and the specific circumstances of the case.*** Trustees should seek appropriate advice, both UK tax advice and advice in the jurisdiction of the proper law of the EBT, before taking any action.

Roadchef

A parliamentary motion, signed so far by 13 MPs of all parties, demands justice for 600 **Roadchef** motorway service station employees who have yet to see a penny of the promised High Court ordered compensation for their Esop shares in trust, which were transferred out and then sold under their feet almost 20 years ago.

The latest MP to sign the Commons Early Day Motion was Tory **Graham Brady** (Altrincham & Sale West), who is chairman of the powerful Tory backbench ‘1922 Committee.’ Six Scottish Nationalists, two Labour MPs – Paul Farrelly,

(Newcastle-under-Lyne) and Neil Kinnock’s son Neil, (Aberavon) - Democratic Unionist Party MP Jim Shannon and Plaid Cymru MP Jonathan Edwards have signed it, as have two other Tory MPs, Fiona Bruce (Congelton) and Jeremy Lefroy MP (Stafford).

Their motion said: “*That this House supports the development of employee share ownership, as such schemes reward loyalty and hard work and give employees a stake in their company; commends the Roadchef Employees Benefit Trust, established by chief executive Mr Patrick Gee in 1986, to give employees at Roadchef Motorway Services a John Lewis type scheme in such locations as Watford Gap, Strensham, Clacket Lane, Stafford, Killington Lake, Taunton Deane, Magor, Sandbach and Hamilton; notes with concern, however, that his successor Timothy Ingram Hill paid £10m to HMRC as tax on Roadchef share sale proceeds of over £26m, which he obtained in breach of trust; believes that these funds, and its interest belonged to the Trust, as the High Court ruled in* ***January 2014****; agrees that this is a serious issue for the beneficiaries, many of whom were low-paid catering and cleaning staff, some of whom have sadly since passed away; and calls on the Government to review HMRC’s position on this issue to ensure that, to the extent HMRC has the discretion to do so, that the Trust’s money is repaid, so that 4,000 Roadchef beneficiaries can receive their just entitlements, of which the High Court has already found they were wrongly deprived.*”

This much is safe for *newspad* to report, as publication of the EDM is protected by parliamentary privilege. However, *newspad* and the Esop Centre have been threatened with legal action for having published certain financial and legal details – later withdrawn under pressure from last month’s issue - about aspects of the court action. Newspad editor Fred Hackworth said: “*Not only are the trustee and its lawyers apparently gagged by court orders from giving the long-suffering beneficiaries a comprehensive report on how and when they will receive their promised compensation and how much, but now newspad is too.*”

Some of the original Roadchef employee Esop participants are complaining to *newspad* that it is deeply upsetting and farcical that they still have not yet been paid. One such told us: "I can't see us getting settled anytime soon it is a total farce and there is not a thing we can do about it, as we near the end of yet another year. It's really shocking." Another told us: "It feels is if we are never going to get settled. I got an update some weeks ago saying HMRC had not made a decision but gave three options, one of which was a tax free settlement, but have heard no more"

Centre chairman Malcolm Hurlston, has already met one of the signatories, Martyn Day, SNP MP for Linlithgow and East Falkirk, to discuss what more could be done to step up the Roadchef compensation campaign. He told Mr Day: "I shall be writing to the dramatis personae, offering them the opportunity of explaining themselves at our British Isles conference in mid November." Parliamentary business allowing, Martyn Day will join Fred Hackworth for the public "hearing" at the Centre's British Isles event.

Eso schemes after takeovers

China-backed fund Canyon Bridge swooped on Centre member **Imagination Technologies** in a planned £550m deal which soured Theresa May's pledge to intervene in 'sensitive' foreign takeovers. Imagination said it had agreed to a takeover by Canyon Bridge which, although based in Silicon Valley, is funded by authorities in Beijing. Shares in the group - which employs 1,300 - had fallen after news earlier this year that **Apple** would stop using its graphics technologies in the iPhone. The Government had voiced its concern – apparently in vain - over the potential takeover of Imagination by Canyon. British microchip designer **ARM,** taken over last year by the Japanese telecoms group **SoftBank**, reportedly had been circling Imagination, and was reportedly ready to act as a *white knight*, should the Canyon deal be stopped by the UK regulators. Ministers came under pressure to review it too. Canyon said it had "no plans to make any changes to the continuing employment of employees and management, nor does it intend to change the principal locations of Imagination's places of business, or redeploy any fixed assets of Imagination."

Imagination Technologies is the last of the UK's four major listed microchip companies to fall prey to a foreign buyer. The agreed takeover may allow Canyon to crawl under the wire before proposed reforms to the **Takeover Code** come into effect. No such prevarication by **President Trump** - he rejected Canyon Bridge's planned $1.3bn acquisition of Oregon-based **Lattice Semiconductor**s on the grounds that such a takeover might "impair the national security of the United States."

Under the new Takeover Code, bidders for UK publicly-listed companies would be required to publish earlier, more specific 'statements of intention' for their targets, under the proposed reforms. Successful bidders would be forced to report back one year after completing their acquisition on their compliance with the plans they had announced during the bid process. Although employee share schemes were not specifically mentioned in the Takeover Panel's consultation, share plans and incentives expert Suzannah Crookes of Centre member **Pinsent Masons** said that bidding companies tended to cover these as part of their statements of intent. "Currently, the amount of detail around the intention varies to some degree, and we anticipate variations in approach to remain, given the differing circumstances of the relevant transactions," she said. *"However, if there is a move towards more developed proposals around pensions and other elements of reward at an earlier stage, we may well see practice evolving in a similar way for equity incentives where this will not cause undue delay or complexity."*

The Centre has long complained that successful all-employee share schemes in UK companies taken over by foreign companies, particularly those from both the Middle and Far East, are closed down within weeks or months of the takeover. Of course, predators terminate the employee share schemes of their acquisition victims because they want to own 100 percent of the equity, **but the real issue is whether or not the now merged 'successor' company launches replacement Eso schemes or not - and far too often they don't.** The acquisition of **P & O** by **Dubai Ports World** in 2006 was a case in point.

Business secretary Greg Clark confirmed that the government would shortly publish its proposals to "address the national security concerns that can arise from foreign investment", as set out in the Queen's Speech in June. Under current rules, bidders are required to publish non-binding 'statements of intention', setting out their plans for certain aspects of the target company including staff, fixed assets, pension schemes and strategic direction. The Takeover Panel proposed expanding the topics covered to include the company's research and development, the balance of skills and functions of the company's employees, and the location of the company's HQ.

The **Finance Bill** had its Second Reading in the Commons on September 12. See http://

deloi.tt/2vUfUkr On October 11, a committee of the whole House will consider: Clauses 5 (termination payments etc: amounts chargeable on employment income), 15 (business investment relief), 25 (trading profits taxable at the Northern Ireland rate) and any new Clauses or Schedules related to these. The remainder will be committed to a Public Bill Committee, which will start on October 17 and must conclude by October 26. Written submissions to the Public Bill Committee are now invited, said Centre member **Deloitte.** Submissions must reach the Committee before it finishes its deliberations (which may be earlier than October 26). There is further guidance at http://deloi.tt/2xp9bCp Draft Clauses have been published for the next Finance Bill. Comments are invited by October 25. The clauses cover: changes to the scope and administration of the bank levy; *disguised remuneration*: *avoidance schemes;* income tax: debt traded on a multilateral trading facility; landfill tax: disposals not made at landfill sites; *offshore trusts*: anti-avoidance; partnership taxation; pension tax registration and termination payments (removal of foreign service relief). *See* http://deloi.tt/2f4P0TQ These clauses encompass legislation for measures announced at Spring Budget 2017 and were released as part of the transition to the new Budget/Finance Bill timetable, said **Treasury Financial Secretary, Mel Stride.**

UK corporate governance reform

"Although the Government claims the reforms comprise a 'world-leading package of corporate governance reforms,' with the exception of the mandatory reporting of the ratio of ceo pay to the average pay of the company's UK (not worldwide) workforce and a proposed new Governance Code requirement that companies adopt (or explain why they have not adopted) one of three mechanisms for enhancing the voice of the workforce at board level, they largely involve incremental development of existing principles of corporate governance," said lawyers *Shearman & Sterling*. "To that extent, many companies may feel that most of these reforms do not represent a serious challenge to their existing governance processes, although most of the negative response to the Government's *Green Paper* came from companies likely to be affected by the reform proposals *and many companies will be concerned about the amount of yet more corporate governance reporting that will now be required*. This may be particularly the case for those large privately-owned UK companies that are not currently subject to any mandatory or "soft law" corporate governance regulation. *Under these reforms, they would have to start disclosing their corporate governance arrangements."* The Government thinks that allowing for exemptions for large companies already required to report under the Governance Code, or subject to corporate governance disclosure under the FCA's Disclosure Guidance and Transparency Rules, almost **1,400 companies** would become subject to these new requirements.

The headline reform will be the mandatory disclosure in a quoted company's directors' remuneration report of the ratio of ceo pay to the average pay of the company's UK workforce, plus a narrative explaining changes to the ratio from year to year and how the ratio relates to pay and conditions across the wider workforce. The so-called '***Goldman Sachs/Waitrose*** supermarket' flaw has been repeatedly voiced – the pay ratio for the ceo of a company like Goldman Sachs may appear much less extreme, because of the generally high level of pay of much of the superbank's workforce, than that of a supermarket company (say) where shop floor pay will be considerably less than that of the ceo. This could distort the significance of a company's executive remuneration. *Unsurprisingly, 75 percent of quoted companies commenting on this proposal were opposed to it.* The ratio will be calculated by reference to UK employees only and will be based on the ceo's total annual remuneration (i.e. the 'single figure' set out in the directors' remuneration report). Multinational companies will be free to publish, in addition to the 'UK ratio,' a broader ratio covering non-UK employees as well. This new ceo pay reporting requirement will sit alongside the existing requirement – in place since 2013 – for the directors' remuneration report of UK quoted companies to have to disclose the annual *increase* in ceo pay over the previous year when compared to the annual increase in the average pay of the entire workforce. However, in contrast to the proposed ceo pay ratio disclosure, a company can use a different comparator group of employees to cover this annual increase disclosure if it considers the comparator of all employees inappropriate. The company must then explain why that different group has been chosen.

The Government proposes, through secondary legislation, to introduce a requirement that quoted companies provide a clearer explanation in their remuneration policies (which, under UK law, have to be approved by shareholders by simple majority vote) of the range of potential outcomes from what the Government and many others now regard as the increasingly complex shared-based incentive schemes that companies typically adopt as part of the remuneration package for senior executives. The other reforms involve changes to the Governance Code for which the **Financial Reporting Council (FRC)** has primary responsibility and oversight. The Government will be asking the FRC, as part of its review of the Governance Code planned for this autumn, to revise and/or consult on the following changes to the Governance Code (and related guidance):

- A new provision setting out the steps to be taken by a company when it faces significant shareholder opposition to its directors' remuneration report. The Government considers that a 20 percent vote against the report would be significant.
- In addition, the Government is inviting the **Investment Association** to implement its proposal to maintain a public register of all those companies which encounter a significant shareholder vote against their executive pay policy (a 'sin bin'), together with a record of what these companies have said they will do in response. *Remuneration committees will be required to: accept greater responsibility for demonstrating how pay and incentives align across the company and to explain to the workforce each year how decisions on executive pay reflect wider pay policy in the company and members should have had at least 12 months' experience of sitting on a remuneration committee before being appointed.
- ***Increase from three years to five years the minimum vesting and holding periods for share-based remuneration currently stipulated in the Governance Code***.

Before the Government's green paper was published, there had been discussion about the possibility of the UK introducing a requirement, as in some other EU member states, for a 'worker-representative director' to be appointed to company boards. The green paper instead proposed that companies should adopt ***one*** of three possible 'employee/other stakeholder-engagement' mechanisms to help give the workforce and other stakeholders (customers or suppliers, for example) greater input at board level: (i) at least one of a company's existing non-executive directors to be designated as responsible for ensuring that stakeholders' voices are heard by the board, (ii) the creation of a stakeholder advisory panel, and (iii) the appointment of individual stakeholder representatives to the board.

The Government's response summarises the objections – for example, their potential to create conflicts of interest, the difficulties of selecting the right individuals to take on this role and the negative impact they could have on the unitary nature of UK boards and their effective functioning. It nevertheless decided to ask the FRC to consult on the inclusion in the Governance Code of a new requirement for major listed companies to adopt, on the Code's '*comply or explain'* basis, one of three employee-engagement mechanisms – i.e., a designated existing non-executive director, a formal employee advisory council or a director from the workforce. The government intends to introduce secondary legislation requiring *all* companies of significant size (private as well as public) to explain how their directors comply with the requirements of Companies Act *section 172*, to consult employee and other stakeholders and disclose their corporate governance arrangements in their directors' report and on their website, said Centre member **Deloitte**. See http://deloi.tt/2wip6lb

Private and public companies with (in the Government's initial view) at least 1,000 employees will be forced to disclose how their directors have complied with their section 172 duty, concerning employee and other stakeholders' interests. The Government said this new requirement would be studied further and so it is difficult to know how onerous or difficult it may be for companies to provide this sort of disclosure. *The Government envisages that the disclosure would involve explaining how key stakeholders have been identified, how their views have been sought, why the company's engagement mechanisms were considered appropriate and how the information obtained from them influenced the board's decision-making.*

Ministers will require, by means of secondary legislation, all companies (including ***private*** companies) with, probably at least 2,000 employees, to disclose their corporate governance regime in their directors' report and on their website. For private companies with 1,000 (or more) employees this would be in addition to the reporting on how they have discharged their section 172 duty mentioned above. Significantly, the Government said that it would consider extending this requirement to limited liability partnerships. ***Since the employee threshold does not seem to be limited to UK employees, this could include certain large professional services firms.*** The Government will ask the FRC to work with others, including the Institute of Directors, the Confederation of British Industry and the British Venture Capital Association, to develop a new voluntary set of corporate governance principles for large private companies.

COMPANIES

Superdry offers staff target based equity.

The multi-millionaire co-founders of **Superdry** launched an innovative bonus scheme to share a fifth of future significant share price gains with the fashion brand's 4,500 employees worldwide. Julian Dunkerton and James Holder said they would share their share prices gains with *all* staff if and when the share price hits a £18-per-share target. Above that point, they said they would transfer 20 percent of all gains to the new employee share scheme. The shares of **Supergroup**, which owns the Superdry global lifestyle brand, were changing hands at around £15.80 in late September, as compared to its £5 float price on the stock market in 2010. If the shares rise by £5 above the £18 target the staff would share a £30m bonus - some in cash, but mostly in shares. This would mean a £2,000 bonus for the company's 2,600 full-time shop staff and junior head office employees. Store managers would collect between £28,000 and £75,000 and executive team members would get at least £300,000. Part-time employees will be included on a pro-rata basis, but board members are excluded. The scheme, which will run until September 2020, will pay out in two vesting periods in 2021 and 2022. Superdry has 863 stores or concessions in 62 countries and made a pre-tax profit of £84.8m in the year to April 29 – an increase of more than 53 percent on the previous year. Dunkerton, who began his retailing career with a market stall funded by a £2,000 loan from his father in the 1980s, said it was important that all staff shared in the firm's success. *"James and I passionately believe that the success of the Superdry brand is down to the combined work of all our people,"* he said. *"As the founders of the business, we remain significant investors and it is important to us that we share our on-going success with all colleagues."* Dunkerton, 52, who has a £366m fortune, holds 26.7 percent of Supergroup's shares. Holder holds 10.6 percent of the shares.

Sports Direct gave £43m in share bonuses to almost 2,000 permanent staff who participated in an incentive scheme launched in 2011. The full-time employees received on average £21,000 worth of the company's shares for what founder and owner Mike Ashley described as their "magnificent achievements and fantastic loyalty." However, detractors point out that the Sports Direct employee share scheme rewards only those eligible to participate - a small proportion of the 29,000 people who work for the firm. Many of those employed at the firm's Shirebrook warehouse remain on zero-hour contracts.

Royal Mail SIP maturity looms: Around 140,000 postal workers are only a year away from being able to cash in their free shares without having to pay any Income Tax or National Insurance Contributions (NICs). For in October next year, **Royal Mail (RM)** employees will celebrate the fifth anniversary of the launch of their Share Incentive Plan (SIP), which is the UK's largest all-employee share plan. However, celebrations will be muted unless the RM share price recovers from its recent steep fall to around 385p-390p by late September – way adrift of its early 2014 peak of £6 each- and even from its price of £5 per share a year ago when RM employees could first sell their free shares, incurring tax and NICs charges as they did so, because they had not waited the full five years – under SIP rules - before selling. To make matters worse, RM has been ditched from the FTSE100 largest companies index – and demoted to the FTSE250. Furthermore, an industrial relations dispute over pensions and pay may end in strike action. With letter writing in severe decline, Royal Mail is expanding its parcels business and investing in technology. Its restructuring plan involves cutting costs, not least the wage bill of the workforce at its core UK business. The decision to close a pension scheme has angered the **Communication Workers Union**, whose members have been voting on whether to take industrial action.

When RM was privatised, just short of 150,000 postal workers were offered up to 729 **free** shares each, depending on whether they were full-time or part-time employees, as 100m free shares were allocated to eligible employees. The free shares were automatically placed in a tax-advantaged, HMRC-approved SIP for eligible employees. The plan rules mean that postal workers had to hold their free shares in the SIP for at least three years before they could be sold (except in certain circumstances). In the event, a large majority of postal workers held onto their shares after the third anniversary of the scheme.

Intriguingly, postal worker loyalists have amassed a lot more than the original 729 free shares they were awarded. This is because they have received more free shares each by way of RM's shares recycling scheme, whereby surrendered shares owned by *bad leavers* are put back into the SIP trust, to be distributed among eligible staff. Most of the many thousands of postal workers who have left their jobs since privatisation, have had to surrender their free shares – unless they were classified as 'good leavers' i.e. they had a serious illness, or had to nurse a very sick relative, or were divorcing, in which case they could take their shares with them. The job turnover rate at Royal Mail has always been relatively high, even before privatisation. So eligible loyalist employees have been receiving surplus shares, based on the number of unallocated

shares and the shrinking number of eligible employees. New Royal Mail employees do not qualify for the free shares, though they can buy into both the SIP and SAYE schemes operated at the company.
Thus RM employees who've stayed in post have amassed **at least 913** free SIP shares each. They were granted 729 shares each at privatisation. Then they were gifted a further 103 free shares each in October 2015 and a further 81 shares in October last year. Those eligible RM employees who have remained loyal stand to gain almost **£4000** each, pre dealing costs – with no Income Tax or NICs to pay - if they sell all their free shares in October next year and the share price does not tumble further.

Troubled engineer **Carillion** introduced tougher rules to protect bonuses paid to senior executives – just months before it was embroiled in an accounting crisis that wiped £600m off its shares. The firm changed the wording of its pay policy to make it harder for investors to claw back bonuses paid to executives in the event that it ran into financial difficulty. The annual report said that the "minor" changes were designed to give "sufficient flexibility to support succession planning and potential changes to business needs over the next three years". From now on bonuses can be clawed back only in two specific circumstances: if either the results for the year covered by the bonus award have been misstated, resulting in a restatement of the company's accounts; or if the participant is found to be guilty of gross misconduct. However, in the 2015 report, the claw-back provision allowed the remuneration committee the right to recover all elements of bonuses over 'corporate failure.' Carillion declined to comment.

Doorstep lender ex ceo faces claw-back
Peter Crook, former ceo of **Provident Financial** is to forfeit pay and bonuses worth up to £4m after a shock profit warning which sent the doorstep lender's shares into a tailspin. Mr Crook, who presided over a disastrous change to the company's century-old business model, will give up cash, shares and benefits, some as part of a voluntary agreement and some enforced by senior executives. He agreed to give up contractual notice pay, pension and benefits, worth at least £1m according to Provident Financial's annual report. The company cancelled share awards for three previous years that would have been worth a combined £1m at today's share price and would have become available to him over three years starting in 2018. Crook, who left immediately after the profits warning, will lose outstanding long-term bonus payments worth £1.5m at Provident's current share price. A further £500,000 in shares already granted to him could be under threat too, under claw-back provisions, although he is still technically entitled to them at present. Crook, whose pay and bonuses deal was worth ***£6.3m*** last year, could theoretically have earned a £3.7m bonus in 2017, the majority of which is a variable bonus that he would have been highly unlikely to qualify for, given the company's financial problems.

Announcements under the MAR and Disclosure, Guidance & Transparency Rules:
The trustee of the **British American Tobacco** Share Incentive Plan (SIP) reported that on September 6, six executive directors and others discharging managerial responsibilities purchased small numbers of 25p ords at £48.05 each in the company by way of its SIP partnership share scheme.
Cohort plc was notified by the trustees of the Cohort EBT that they had purchased 200,000 ords of ten pence each in the Company on September 5 at a price of £3.75 pence per share. The shares held in the EBT are intended be used to satisfy awards made under the Cohort employee share schemes. The EBT is a discretionary trust for the benefit of employees of Cohort plc and its subsidiaries. The executive directors are included in the class of beneficiaries and are classed as interested parties. Following these transactions, 320,888 ords, representing 0.78 percent of the Company's total voting rights, are held in the EBT.

Keywords Studios plc applied for a block admission to trading on AIM for 1,112,561 ords of one penny each in the company's share capital. This became effective on September 1. The new ords will be issued from time to time, linked to exercises of options under the company's employee share incentive and option plans, namely the 2013 plans (732,561 shares), the 2014 plan (50,000 shares) and 2015 plan (330,000 shares). The new ords will be credited as fully paid and rank alongside the existing ords. Keywords Studios is an international technical services provider to the global video games industry. It provides integrated art creation, software engineering, testing, localisation, audio and customer care services in 50 languages and on 14 games platforms to a blue-chip client base in 15 countries.

Ceo Tim Steiner participates in the **Ocado** Share Incentive Plan (SIP), which permits employees to purchase Ocado ords of two pence each at market value (Partnership Shares), using deductions from salary each month, and receive allocations of matching ords of two pence each (Matching Shares). Mr Steiner purchased 50 partnership shares at a price of £2.98 per share, and was granted seven free matching shares. All are held by the EBT for the SIP. Three other Ocado directors bought similar amounts of shares under the SIP plan and received free matching shares.

GDPR nears

The UK Government published proposals for a new Data Protection Bill, to replace the current Data Protection Act 1998, reported Centre member **Bird & Bird**. With the **General Data Protection Regulation (GDPR)** due to take effect next year, the new Bill will, amongst other things, extend the GDPR to non-EU matters, implement domestic powers of exemption/derogation and create two new criminal offences. Employers should note that:

- the GDPR will take direct effect in the UK on **May 25, 2018**, and will be consolidated into national law by the proposed Repeal Bill so as to remain applicable post-Brexit;
- the new Bill will be consistent with the GDPR, but suggests a cautious stance on domestic exemptions and a desire to minimise departures from the approach taken under the existing Data Protection Act;
- derogations will be extended in specific areas, such as research, significant automated decision-making and the promised social media right to be forgotten; and
- data controllers (along with their officers and employees) who 'alter records with intent to prevent disclosure following a subject access request' may be subject to criminal proceedings and an unlimited fine, as well as those who retain personal data without permission, even if such data was originally obtained lawfully.

The UK government spoke of changes to ensure 'less bureaucracy' and 'simpler rules', but continuity with the existing regime (as far as is possible) and a smooth Brexit transition appeared to be the key message. This may disappoint some employers who were hoping for more extensive derogations and allowances to accommodate the GDPR's more demanding regulatory requirements, particularly in relation to the processing of sensitive personal data. More detailed analysis from Bird & Bird's data protection team can be found here.

WORLD NEWSPAD

Capgemini, a global leader in consulting, technology and outsourcing services, announced the launch of a fourth Esop offer to its 190,000 strong workforce and the strengthening of the share buyback programme in order to neutralize its share value dilution for existing shareholders. Almost all Capgemini's employees are eligible to participate. Its employee shareholders already hold ***5.3 percent*** of Capgemini SE's share capital following the success of the previous Esop plans. The new plan will be implemented via a capital increase of up to 3,600,000 shares - reserved for Capgemini employees, with settlement-delivery no later than December 18. The directors of Capgemini at its meeting of September 19 decided to authorize an additional share buyback programme of up to 3,600,000 shares, with the objective of cancelling them in order to neutralize the dilutive effect of this capital increase. Capgemini is present in over 40 countries and celebrates its 50th Anniversary this year. The Group reported global revenues last year of €12.5 bn.

French multinational **Vallourec,** which makes tubes for energy markets, announced a new Eso offer for the tenth consecutive year. This offer, called 'Value 17,' involved a maximum 6,750,000 newly-issued shares representing 1.50 percent of the company's total share capital. It was open to Vallourec employees in 11 countries, covering 95 percent of the group's employees. The nine previous 'Value' Eso offers generated a high participation rate among employees and were all successful. Employee shareholders already held ***3.42 percent*** of Vallourec's share capital on June 30 this year and are represented on the Supervisory Board. The subscription price was discounted by 20 percent for the classic formula and 15 percent for the leverage formula. The subscription/revocation period will be from November 13 to and including November 16, 2017. The new shares will carry dividend rights from the date of issue. Two formulas will be offered in France: a classic formula (i.e. share subscription with a 20 percent discount, supplemented by an employer contribution through an FCPE), and a leverage formula (i.e. share subscription with a 15 percent discount, supplemented by an employer contribution through an FCPE). Outside France, only a leverage formula will be offered. In France, Germany, Brazil, the United Arab Emirates, Mexico and the UK, the leveraged formula will be supplemented by an employer contribution in cash invested in the specific leveraged FCPEs and in Canada, China, the US, Malaysia and Singapore by a grant of free shares, newly issued or existing shares (up to a maximum of 15,000 shares), or a deferred cash bonus. Shares or FCPE units subscribed for by the employees or the cash deposits made by employees will be locked up until June 30, 2022 inclusive, except in cases of early release. *The supervisory board of each FCPE holding shares will exercise voting rights associated with such shares*. The financial institution, which subscribes for shares under the SAR formula, has undertaken to vote in the same manner as the supervisory board of the leveraged FCPE being offered to French, UK and German employees. The financial mechanisms underlying the leverage formula require hedging transactions to be carried out on the open market.

Are executives worth it?

For shareholders, it can be hard to answer the basic question: Are executives worth it? A study by *Handelsblatt* and *Goettingen University* has a try, ranking the 30 leading companies that make up Germany's DAX stock market index. Based on data from 2012 to 2016, the study produced some surprising results. The highest salaries do not guarantee the best results. The best paid managers — the superstars who run software giant SAP and the automaker Daimler — don't give the best shareholder value. That crown goes to the ceos, mid-ranking in compensation, who run chemicals behemoth **BASF,** insurer **Allianz** and chemicals and pharmaceuticals giant **Bayer.** At the bottom of the rankings came the bosses of banks and energy giants, who actually destroy shareholder value while pocketing multi-million euro packages.

Top of the charts is BASF ceo Kurt Bock, who saw the company's value soar by billions over the five-year period. Although he earned a handsome €25m during that time, the company's value increased by a factor of thousand. Mr. Bock's big idea was the networked factory, in which ancillary products are fed into the value chain. Waste heat, for example, provides energy for other BASF plants. This has helped BASF's bottom line, but Bock questioned simplistic measures of shareholder value. As he said at the BASF agm in May, "Do we invest in the future, or do we cash in now?" Handelsblatt's survey compares executive pay with both external and internal value. External value reflects changes to a company's earnings per share (EPS) and market capitalization, the numbers that bring immediate financial reward to its shareholders. Internal value uses the principle of 'economic value added,' which measures net operating profits minus capital costs — a widely used yardstick of value-oriented company leadership. Companies' internal and external results can vary. BASF ranks top on internal value-creation, but second on external value. Rival Bayer ranks first for external value creation, but came seventh on internal value. Measured against total executive pay, this puts the company third for overall value for money.

The results suggest middle-ranking managers are often better value for money than the highest fliers. Dieter Zetsche, ceo of carmaker **Daimler**, created roughly the same overall value as Mr. Bock at BASF, but took home twice as much pay. Telecoms giant **Deutsche Telekom** ranks similarly in terms of overall value created, but this conceals the absolute figures, with ceo Timotheus Höttges, in charge since 2013, overseeing €196 of loss in internal value for every euro of executive pay, even as external value rose by €1,631 for every euro the boss was paid. Many companies directly reward increases in value with pay-for-performance. "Executives are not paid for effort," said compensation consultant Michael Kramarsch. "They get it for results." At firms where results fail to correspond with exorbitant pay, shareholder anger is evident. **Volkswagen** is the classic example, with executive bonuses continuing even after the *Dieselgate* scandal knocked billions of euros off the company's value. In companies' estimates of external value, EPS remains the dominant index. But more and more firms are adding other criteria. Half of the 30 corporations listed on the DAX now include goals on reputation and sustainability, including customer and employee satisfaction and environmental targets. **BMW** offers executives a success bonus linked to cuts in overall CO2 emissions from the cars it produces.

Swiss executive reward discord

Shareholder rebellion over executive pay at **Credit Suisse** earlier this year is just one example of growing dissent by Swiss company owners. While agms are hardly a hotbed of revolutionary unrest, shareholders are slowly - but perceptibly - demanding more accountability. One activist shareholder, the **Ethos Foundation,** has counted all voting patterns at Switzerland's largest 200 companies from this year's agm season. The headline result is a 95.4 percent approval of all items put to shareholder vote at these firms, but Ethos, which manages pension fund investments according to sustainable principles, has delved beneath the figures. It found falling support for a range of agm proposals, even those that received majority approval. For example, *a fifth* of remuneration package votes received less than 80 percent support, compared to 16 percent in 2016. Opposition to pay at the largest Swiss financial companies was particularly significant. Fund manager **GAM Holding** saw shareholders reject pay proposals while executives at **Credit Suisse** were forced to take a 40 percent bonus cut to see its remuneration package eventually creep through. This is because executive reward at the top financial firms increased four percent, despite a **16 percent average drop** in profits, said Ethos. "The dis-connect between levels of executive remuneration and company performance is rightfully sanctioned more and more by the shareholders," said Ethos ceo Vincent Kaufmann. Furthermore, votes in some other companies were skewed by most stock being held by the firms' owners (or descendants) or by a single large shareholder. Companies such as **Swatch, Schindler, Roche** and **Sika** are cushioned against shareholder activism by such a structure. The most obvious (and bizarre) example is that of the Sika family descendants, who control voting despite owning a minority of shares. A long-running takeover battle pitched the family against other shareholders and the company's board of directors. As a result, the family has blocked pay plans for directors at three consecutive agms. Swiss shareholders were given a bigger voice in the running of the company by a revision of Swiss laws following a 2013 vote to accept the so-called Minder initiative against '*rip-off executive pay*.' Parliament is again looking at company law changes and Ethos is lobbying hard for specific items to be included. Top of the wish-list is to abolish votes on future pay *before* the company's results are known. All shareholders should be able to measure pay and bonuses retrospectively against the actual performance of their company, Ethos insists, and not have to guess whether proposed future remuneration is fair. Only then can shareholders properly display opposition to bonuses, which is what happened at Credit Suisse in April.

US private equity giant loves Eso

Centre chairman **Malcolm Hurlston** wrote to Peter Stavros, head of **KKR**'s industrials team, to say how impressed he was to read on *Bloomberg* how Mr Stavros gave employees ten percent of **Gardner Denver Holdings's** stock. "It would have been good news in any company but especially in a company owned by private equity," Mr Hurlston told him. "As it happens I am currently lobbying to open government-approved Employee Management Incentives to PE. I have taken the opportunity to bring your move to the attention of our Chancellor of the Exchequer, for whom productivity gains are currently at the top of the agenda. There is much research on the benefits of employee shares but most of it is partial and little comes from high ranking institutions." **Gardner Denver**, a maker of gas compressors and vacuum systems, went public and awarded shares collectively worth $100m to almost 6,000 employees who weren't already included in the company's employee equity plan, including hourly workers and customer service and sales staff. As its executives rang the bell at the **New York Stock Exchange**, employees learned they would each get shares equal to about 40 percent of their annual salaries. The move was the brainchild of Pete Stavros, who is chairman of Gardner Denver too. He's betting that turning rank-and-file employees into shareholders will improve the bottom line, an idea that's entrenched in the technology industry but rarely found among old-fashioned, blue-collar manufacturers. "*It goes against the stereotype that private equity is all about making money at the expense of workers*," Stavros said. "*Treating employees like owners and business partners—that's how you can create value and make this more than just a feel-good story.*" Employees, including managers, now own about ***ten percent*** of the company, compared to only 1.4 percent before KKR bought it in 2013. Post the IPO last May, KKR owns 75 percent. As is typical of a buyout firm, it funded most of its $3.9 bn purchase of the Milwaukee-based company in 2013 with borrowed money—almost $3bn in loans and bonds. Debts from a buyout deal generally end up on the books of the target company, and the company went public owing more than $2.7 bn. Shares of the company have climbed 15 percent.

Stavros, who wrote a paper while a student at Harvard Business School about Esops, thinks manufacturers can make good prospects for employee ownership. In tech, for example, success often comes from betting on the right trend or on a single founder or ceo. By contrast, most manufacturers operate in a low-growth environment where they must do "a million things a little better" to excel, such as reduce scrap rates and improve plant productivity. Front-line employees know best where operational inefficiencies exist and how to fix them and equity ownership lets them share in the fruits of their efforts, he added.

US: Make Eso a condition for corporate tax incentives

The Tax Policy Center estimates that the US administration's tax reform concepts will on average save middle-class taxpayers $760 per year, compared to saving the upper fifth of taxpayers an average of $13,600 annually — an 18 fold difference, wrote **Joseph Blasi, Douglas Kruse** and **Richard Freeman** in *Hamodia*, the newspaper of Torah Jewry. "With middle-class real wages mostly flat or declining, there's only one genuinely bipartisan tax-overhaul option for helping average Americans: Making the offering of broad-based profit sharing or employee share ownership a condition for businesses receiving corporate tax incentives," they said. Given that the richest ten percent of citizens have almost 80 percent of capital wealth — such as stocks, bonds and real estate — and well over 90 percent of capital income — such as all capital gains, dividends, interest and profits from businesses — this market-based solution makes sense and could garner support from both political parties. The US is expected to spend more than a trillion dollars every decade on corporate tax expenditure. The proposed corporate tax reform will increase the tax benefits given to corporations beyond this largesse. Businesses expect to get lower taxes and the continuation of older tax benefits, such as accelerated depreciation. All that, however, will not change the income of the tens of millions of current employees of those businesses.

"That's why it's necessary to encourage many types of equity- and profit-sharing that goes to normal workers. Our system of funnelling wealth to the top is the result of decades of mostly unintended shrinkage of federal encouragement of broad-based profit sharing and employee share ownership.

"The Carter administration created the **401(k)** plan, which resulted in the ending of many generous profit-sharing plans. The first Bush administration reversed tax incentives to encourage employee stock ownership plans in stock market companies, a programme designed jointly by President Ronald Reagan and Sen. Russell Long in the last bipartisan collaboration on shares. The second Bush administration tried to reform executive pay after Enron by creating regulations for stock options. That resulted in changes to the accounting treatment of stock compensation but unexpectedly incentivized companies with broad-based equity compensation plans to throw lower grade employees and managers out of their share plans. These changes were never designed to expand the opportunity for the working middle class to participate in broad-base share plans. Our proposal is focused specifically on that. ***What's needed today, as our lawmakers tackle tax reform, is a requirement that certain tax benefits go only to companies that have some form of broad-based profit sharing or employee share ownership. Bipartisan groups in the House and Senate would figure out the details.*** Congress and the administration could instruct agencies to give some preference in federal contracts to companies with employee share ownership or profit-sharing," the authors said. Congress is considering several Eso bills, all of which have components that could make the economy work better and more fairly, they said.

Oz – crackdown on executive reward

The Coalition government plans to crack down on executive pay in the banking industry by giving the regulator power to cap salaries and delay bonuses by years.

The move has been resisted by the major banks, but Malcolm Turnbull has said he will push ahead regardless, in light of the latest money-laundering scandal engulfing Commonwealth Bank. The prime minister plans to introduce measures to prevent bonuses being paid all in one hit and wants 40 percent of the so-called "variable remuneration" for executives working for banks, building societies and credit unions, to be deferred for a minimum of four years. The government wants that figure to be 60 percent for more senior executives, such as CEOs. Turnbull said the plan was "modelled on measures that were taken in the UK". Under the proposed legislation, the banking regulator, the Australian Prudential Regulation Authority, would be given greater powers. APRA would be able to force bank boards to adjust their remuneration policies if they produce inappropriate outcomes, to push directors out of the industry for bad behaviour, and to force all senior executives in the banking industry to register with the regulator so it can keep records of their behaviour.

The move comes after the Commonwealth Bank board announced that its ceo, Ian Narev, would step aside next year. Commonwealth Bank is still dealing with the fallout from claims it committed "serious and systemic" violations of laws designed to combat the funding of terrorism, stretching back to 2015.

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