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it's our business

newspad of the Employee Share Ownership Centre

SMEs urged to step up their employee equity involvement

More than 30 people have already registered for the Centre's national employee share ownership workshop and seminar, which takes place in London on **Friday May 20**, at the behest of the European Economic and Social Committee (EESC).
Representatives from Small & Medium Sized Enterprises (SMEs), quoted companies, service providers, politicians, academics, employers' organisations, trade unions and media will gather to discuss aspects of Eso, with a focus primarily on SMEs.
This event, backed by the institutions of the European Union, forms part of this year's 'Employee Financial Participation (Eso) in the EU 27 project'. The workshop and seminar - for which attendance is free of charge - is being hosted by Centre legal member Travers Smith at 10 Snow Hill, London, EC1 from 9:30am to 5:30pm (nearest tube stations are Farringdon and Chancery Lane).
EESC is backing this project because it wants to encourage broader and deeper uptake of employee share ownership throughout the UK. For although Eso, or employee financial participation, as the EU calls it, is widespread in the UK quoted company sector, its presence is far more patchy – or even non-existent – in large areas of the privately-held company sector, not to mention its near total absence in the public sector. Barely four million UK employees are members of one employee equity scheme or another out of a total full-time UK workforce of more than 30 million.
Specifically, the aims of the workshop are to help: communicate the many benefits of employee share ownership to the millions of UK employees who are still unaware of the concept; disseminate studies/research about Eso and increase awareness of the EU 20:20 strategy; facilitate the growth of Eso among SMEs; examine the role of Eso in the public sector and promote a common platform for Eso within the EU.
The programme features presentations from Eso plan experts, an employers' organisation and EESC representatives. Topics that will be covered include: a 'How To Do It' Eso Tool Kit for SMEs; the advantages of employee share ownership for businesses & employees; a look at how Eso can be used as a succession tool; a summary of the tax-advantaged schemes; installation and operational costs; communication strategies and case studies of equity plans in action.
EESC is worried about the future of "sustainable public services" within the EU. It wants companies, ministries and employees to be mutually committed to providing accessible and effective services and says that the role of employee FP (Eso) in this context has been "under-explored" so far. For example, there is great interest in Brussels over the UK government's announcement that at least ten percent of the equity of a soon-to-be privatised Royal Mail will be offered to postal services staff.
Another major concern is the fact that almost 700,000 SMEs throughout the EU will either change hands or go into liquidation during the next decade. Almost three million jobs will be at stake, especially since a trade sale is not always possible if founder owners don't have siblings or other leading shareholders to whom the business can be passed on when they retire or exit. Delegates will discuss how employee share ownership can be used in business succession – often to keep the assets/plant and jobs in place.
Confirmed speakers include: Centre chairman Malcolm Hurlston; Prof Jens Lowitzsch of Frankfurt University, who is the project leader; Prof Andrew Pendleton of

From the Chairman

The Centre held an excellent first meeting with the Office of Tax Simplification whose chairman Michael Jack was an active minister in Centre's early days. We had the opportunity of putting forward our ideas for share scheme simplification to strip away accretions and anomalies. We had an encouraging reception and will know more later. I see this as a great opportunity to relaunch share schemes in a fresh and coherent guise. We and the government will be able to work together and additional money will not be needed, just a mixture of better detail and fresh presentation.

Malcolm Hurlston

The ESOP Centre Ltd, 65 Kings Cross Road, London WC1X 9LW
tel: 020 7239 4971 fax: 080 8280 1938 e-mail: esop@hurlstons.com
www.hurlstons.com/esop

York University; Mike Landon of the MM & K consultancy; David Craddock of the Craddock Consultancy and Mahesh Varia of Travers Smith. Mahesh will deliver an SME employee share ownership case study, Mike will cover the advantages of Eso for employees and employers respectively, while David will speak about the UK tax advantaged Eso schemes. Media representatives and trade unionists have been invited.
Members wishing to attend should contact Centre assistant director Dave Poole at Centre HQ Tel + 44 20 7239 4971: dpoole@hurlstons.com with copy to esop@hurlstons.com Members who wish to speak at the seminar/workshop should contact Dave asap. Travel expenses of some non-London based delegates will be refundable, within defined limits, subject to presentation of receipts.

Annual conference Cannes July 7 & 8
A case study from leading world education group Pearson will be one of the highlights of the Centre's 23rd annual conference in Cannes on Thursday July 7 & Friday July 8 at the five-star Majestic Hotel. The speaker will be Steve Leimgruber, Pearson Group share plans manager and his presentation is entitled: *"The challenges of operating an international all-employee share plan from the perspective of an in-house share plans manager."* Centre member Pearson owns the *Financial Times* and the book publishers *Penguin.*
Another major presentation will be given by Patrick Neave from the investment affairs department of the Association of British Insurers (ABI), which represents insurance companies and key investment houses. Patrick will discuss the Association's latest guidance on executive remuneration incentive reward schemes. Institutional shareholders are increasingly demonstrating their stewardship responsibilities, sometimes by voting against controversial remuneration reports at company AGMs. Delegates will be able to question him on the implications of the ABI's remuneration guidelines and in private, about specific cases.
Centre international director Fred Hackworth will moderate a 40-minute open debate on the regulation of executive equity incentives. Among the questions he will pose to delegates are: Is risk being factored out of the game by raising base salaries and reducing the role of performance equity bonuses? Have the regulators gone too far? Can claw back for 'under-performance' ever work? and Reward schemes – the new benchmarks. A very lively discussion is promised.
Other confirmed speakers include Sara Cohen from Lewis Silkin LLP, Justin Cooper from Capita Registrars, Joe Saburn from Squire, Sanders & Dempsey (USA); David Craddock, who runs a UK share scheme consultancy and Centre chairman Malcolm Hurlston.
Service providers and corporate plan issuers are invited to this key event, for which a few speaking opportunities remain. Speakers will benefit from our reduced package deal attendance price, which includes two nights (July 6 & 7) accommodation in the Majestic Hotel, plus breakfasts, lunches, refreshments and cocktail party invitation for **£895** per person (no VAT added). This is an excellent offer, as the hotel rooms (two nights), conference facilities and day delegate rate package, including lunches and the cocktail party, cost the Centre £600 per delegate. If speakers bring with them a plan issuer client, to deliver a joint plan case history, the package deal charge for a co-speaker *issuer* will be only **£525**, or the client can attend free of charge, provided he/she finds and funds his/her own accommodation. Centre service provider delegates will pay **£995** (no VAT) each, provided they register before April 11 and £1050 thereafter. Non-member provider delegates pay **£1,450** each for the same package. Centre member *issuers* pay **£599** each as delegates or **£780** if non-members.
The programme is European and global in flavour, with equity plan case histories; executive reward trends in both the EU and USA under the new regulatory regimes; the impact of government intervention, disguised remuneration, corporate governance, options expensing and other accounting issues, cross-border tax strategies, EBTs, trusteeship, communication strategies, the Prospectus Directive, aspects of plan administration and wealth management. For latest updates, go to the Centre website at: www.hurlstons.com and click onto 'news' and 'events.' The audience comprises plan issuers and practitioners, as well as regulators, EU officials and Eso academics. This two-day conference provides an ideal forum for reviewing latest employee equity developments, forging new business opportunities and networking. Please email Fred at fhackworth@hurlstons.com to reserve a delegate place or speaker slot and copy in esop@hurlstons.com See you in Cannes.

Centre member **David Pett**, tax lawyer and partner of Pett, Franklin & Co.LLP, explained the workings of employee share ownership, UK-style, to a large audience of Polish businessmen and politicians in Warsaw in the week after Davos. The ministry of finance in Warsaw had asked the Centre to send an expert to inform Poles about the nuts and bolts of Eso, including a quick run through the approved and non-approved schemes. Since at least one member of the Pett household speaks fluent Polish, David was happy to oblige. Not too many Centre speakers can present their Powerpoint slides in Polish!

Eaga trust U-turn after employees protest

Around 4,000 staff at environmental services company Eaga will receive a windfall from the company's sale to support services giant Carillion, just weeks after being told they would not receive payouts. Employees at Newcastle-based Eaga scooped around £140,000 each on average when it floated on the stock market in 2007, but some were dismayed when they discovered the company's £306.5m impending sale would not trigger another pay out However, they will now receive up to £9,000 each in cash *and* shares after the Eaga Partnership Trust changed its mind. The money will come from the £60m cash reserves of the partnership trust, which holds more than a third of company shares on behalf of Eaga's staff, known as partners. Rather than break up its assets among employees while the company was being sold, the trust opted to ask for Carillion shares, but many staff signed a petition voicing anger and arranged to meet the union Unison.

Trust chairman Ken Temple said initially that the EPT's focus was on continuing benefits for employees, such as emergency financial assistance, discounted rates on holiday homes, and an employee share scheme in which the trust's dividend is used to buy shares for every staff member. He said the trust has now decided to make the payout after a staff survey by the Eaga Partners' Council, the only staff representative recognised by Eaga. While 74 percent of the 2,328 surveyed approved of the Carillion deal, only 27.5 percent valued the EPT's benefits, while 62 percent wanted the EPT broken up and 78 percent said the acquisition should prompt a cash award for staff. As a result, staff will now get up to £6,000 in cash before tax and nics if they have been at the company since June 2007, *plus* the £3,000 maximum which HMRC allows companies to put into the tax-approved Share Incentive Plan.

The windfall will be extended to the 700 staff who have taken redundancy this year as Eaga cuts back its work on the Warm Front scheme as the government reduces funding for it. Partners with only a year's service will receive £1,500 plus shares.

Temple said: "The reason we decided to change our stance was that it came through very strongly from our briefing meetings that Eaga partners did not yet properly realise the value to them of the share incentive plan, as they are not able to release any of its value until at least October this year. The cash payments will be made at the end of April, while the SIP award will depend on the timing of Carillion's dividend payment in the summer. We were very pleased that in the survey the partners saw the benefit of the takeover, but the other results were perhaps not surprising, coming against the background of the expectation that the change of management would result in a big cash payout. The re-building of engagement is now something that the Trust, the Partners' Council and Eaga believe is necessary and we'll work together to secure that."

Royal Mail told employees that their phantom employee share scheme 'ColleagueShare' will be virtually worthless when it matures next year, dashing hopes of a windfall for staff. Having carried out a valuation of the scheme, new ceo Moya Greene has blamed the group's financial position and lower than expected cost savings. The maximum payout would have been £3,000 but the scheme now seems unlikely to pay anything. Former chairman Allan Leighton set up the share scheme along with former ceo Adam Crozier in 2007 to give staff an incentive to boost productivity and compete with private sector rivals. 'Shares' were offered free of charge, but only half the eligible employees took the offer up as the Communication Workers Union didn't back it. Dave Ward, deputy general secretary of the CWU, said in a letter to members that the value of each worker's holdings in the scheme had fallen from around £1,400 in September 2010 to zero. The pension fund deficit, which is taken into account for the valuation of the phantom shares, has ballooned.

However, the failure of *ColleagueShare* has nothing to do with the impending offer of at least ten percent of the equity in Royal Mail to the posties. The legislation is not going to give specific details of the share scheme because ministers want to leave it as flexible as possible for attracting investment. Employment relations, consumer and postal services minister Edward Davey still hasn't given many details, but he has talked about a possible mix of two trust pots. He told MPs: "So, how am I minded? As was debated on Second Reading, longevity in the employee share relationship is important. Therefore, there is a lot of attraction in the employee share trust model, so that the benefits to productivity and to individual Royal Mail employees are ongoing. But that is not to say that we should completely discount individual share ownership as well—or, more likely, a mix of the two. We should not be tying our hands here; we should be looking at the options. We might not have an initial public offering and not sell shares in the open market—individual share ownership does not look quite right there. However, if we were to go to an IPO, there is no reason why we could not do a mix and keep the advantage of the trust for the longevity I referred to earlier, as well as potentially offering individual shares. We are quite open and we want to have a good debate. I look forward to hearing colleagues' views." Royal Mail announced that it is cutting 3,500 jobs as part of its ongoing cost cutting and modernisation programme.

Eso companies' shares outperform

Employee owned companies outperformed the FTSE All-Share in 2010, according to the UK Employee Ownership Index (EOI) published by Centre member law firm **Field Fisher Waterhouse LLP**. Employee owned companies' share prices were up 16.3 percent, performing better than the FTSE All Share companies' share prices, which went up by 11.3 percent over the year. The EOI, compiled by the firm's equity incentives team, monitors the share price performance of listed companies, comparing the performance of

FTSE All-Share companies with companies *that are more than ten percent owned by employees*.
Analysis of 2010 shows that in the final quarter employee owned companies also outperformed the FTSE All-Share, with shares up 11.5 percent compared to FTSE All-Share company share prices, which were up 6.8 percent. This evidence of long-term out-performance helps support the Coalition government's aim of substantial change in how public sector services are provided - encouraging instead their provision by employee-owned mutuals, said Field Fisher Waterhouse. The EOI shows that over 18 years, employee owned companies have outperformed FTSE All-Share companies each year by, on average, 11 percent. Over successive three-year periods they have outperformed by 38 percent and over five-year periods by 74 percent. An investment of £100 in the EOI in 1992 would have been worth £860 at the end of December 2010 whilst the same investment in the FTSE All-Share Index would be worth £249.

Budget disappointment
As predicted, there was almost nothing for employee share ownership in Chancellor George Osborne's Budget.
Entrepreneur's relief: The lifetime limit on capital gains qualifying for entrepreneur's relief is to be increased from £5m to £10m with effect from April 6 2011. Entrepreneur's relief gives a CGT rate of ten percent on the disposal of shares in a company but only where the individual is a director/employee of that company and owns a five percent stake in the company. While the increase was welcomed, the disposal of shares acquired under an employee share plan will not usually qualify for the tax relief. Some accountancy firms said they were disappointed that there was no extension of the relief to employees. "It is rare that an employee owns five percent or more of the shares in a company (the minimum share holding required for qualification) and holders of Enterprise Management Incentive share options do not qualify. Changing both these requirements would have encouraged greater employee share ownership in their employer companies," said one.
Disguised Remuneration: No significant changes to the draft legislation were announced in the Budget. The Treasury announced that amended legislation would be introduced in the Finance Bill 2011 - to reflect concerns that the draft legislation published last December was broad and that arrangements which were outside the scope of the policy intention were inadvertently caught. HMRC wants to close down certain tax-planning arrangements for employee bonuses, termed 'disguised remuneration,' said Centre member **Deloitte**. The revised legislation will include: Loans from a third party (such as trustees of an EBT) on the full amount lent and making available of assets for use by an employee or certain related people. However, the legislation will be amended to exclude**:** certain short term loans, possibly in connection with share option exercises and deferred remuneration schemes. The rules come into full force from 6 April 2011 but anti-forestalling legislation applies from 9 December 2010 for certain transactions, including the making of new loans. Regulations will be introduced shortly to apply NICs to amounts chargeable to tax. Centre member **PwC** said it was good news that the government had listened to the criticisms and would amend the legislation to protect legacy pension schemes and employee share plans. Bonuses which could be deferred and clawed back in the event of poor performance were seen as important by many stakeholders, but the proposed legislation had been so 'catch all' that employees could have ended up paying 52 percent tax and NICs even – in some cases – without ever receiving any bonus.

On the move
A reminder that Centre member **Pinsent Masons** has moved into its new international headquarters at 30 Crown Place, London EC2A 4ES, Tel + 44 20 7418 7000 DX 157620 Broadgate 3. Direct dial numbers and e-addresses remain the same.

COMPANIES
Hargreaves Lansdown, the Bristol based wealth manager, has created a major windfall for 660 staff who hold ten percent of the equity. When HL floated nearly four years ago, the subscription price was 160p per share, but that had turned into 635p when it joined the FTSE 100 index of Britain's largest companies last month. HL was set up in a spare bedroom 30 years ago by Peter Hargreaves and Stephen Lansdown.
John Lewis Partnership staff received a cash bonus worth more than nine weeks' pay after one of the most successful years in the partnership's history. The 75,000 staff who co-own the department store group and sister chain Waitrose, will each pocket a bonus equal to 18 percent of their annual pay. All permanent staff, from chairman Charlie Mayfield down to shop assistants and shelf-stackers, get the same percentage payout from this year's bonus pot of £194.5m. "It is totally driven by the results of the organisation," said md Andy Street. "Everyone has put the £195m bonus pot together and collectively they are sharing in it," The partnership reported a 20 percent leap in pre-tax profits to £367.9m. It said it would create around 4,300 jobs this year through a £600m expansion plan.

Final salary pensions winding down
Private-sector employers are closing down their final-salary schemes at a record rate, according to a report that reveals huge numbers of existing staff are losing the much-coveted benefit along with new employees. The **National Association of Pension Funds** (NAPF) said the end-game for final-salary pensions was approaching as employers shifted staff into cheaper retirement plans. The NAPF's annual survey showed that 17 percent of schemes have now

shut their pension to both new and existing members. This is a record jump from seven percent in the 2009 survey and just three percent in 2008. About a third of employers are planning to make a similar move or make cuts to previously guaranteed benefits. The association, which represents schemes with about £800bn of funds under management, said the findings pointed towards "a new phase in the decline of final-salary pensions", as schemes that have already closed to new entrants block existing members from building up benefits. While some, mainly older workers, have kept their guaranteed benefits, employers have made dramatic cuts in contributions for younger staff. The NAPF said schemes had come under enormous pressure in recent years to cut costs due to rising life expectancy and poor market returns. Just 21 percent of private-sector schemes are now open to new joiners, compared with 88 percent ten years ago

Lord Hutton, the former Labour minister, recommended in a report to the government that public sector staff move from a final salary based pension scheme to a career-average pension and a uniform retirement age of 65, rising to 66 by 2020, except for police, fire and armed services personnel who, he said, should be able to retire at 60. This move should be possible to enact by the end of this Parliament in 2015, he said.

INTERNATIONAL

The 41m shares owned by **Telecom Argentina** employees could be put on sale in the coming weeks, newspaper El Cronista reported, citing FOETRA union spokesperson Vito Di Leo. According to Di Leo, a series of court rulings will shortly lead to the sale of shares by current and retired Telecom Argentina employees. These shares are part of the ESOP created at the privatisation of the company in the 1990s. The sale of employee shares, which account for more than four percent of Telecom Argentina's total stock, has to be organised by Comafi Bank and the Nicholson y Cano law firm. **TI** president Franco Bernabe said that the Italian telecoms operator plans to increase its stake in the Argentine operator if the opportunity arises, but added that there were no concrete plans for this purpose. "We believe that the first share package that will be put on sale will include around 15m shares", said Di Leo. The sale of the ESOP shares has been blocked by legal skirmishes over the past 12 years because of disagreements within this group. However, according to the same source, an agreement among employees has now been reached and the sale can proceed.

Clock ticks on PD changes

Member **Clifford Chance** updated clients on the Prospectus Directive: "We reported that the EU Council of Ministers and the EU Parliament had agreed that a number of changes should be made to the EU Prospectus Directive and that some of those changes should be able to assist companies operating employee share plans. The good news is that those changes came into force at the EU level on December 31 2010. Member states now have 15 months (i.e. until July 1 2012) in which to implement the changes within their own jurisdictions. The amendments include changes to the scope of the employee share plans exemption so that a wider variety of companies will be able to take advantage of it. The exemption from the requirement for a company offering employee share plans to publish a prospectus is to be extended to all companies whose head office or registered office is within the EU. This applies regardless of whether or not the company is listed, or where that listing is. This is clearly very good news for, in particular, non-listed companies within the EU.

"Companies which are established outside the EU will qualify for the exemption if they are listed on an EU regulated market (as is the case under the original exemption wording) or if they are listed on a "third country market" which is recognised by the EU Commission as being governed by a regulatory regime equivalent to the EU regulatory regime. The EU Commission has asked ESMA (the European Securities and Markets Authority, formerly CESR) to provide advice on the criteria to be applied in the assessment of equivalent regulatory regimes outside the EU. The current employee share plans exemption remains in force until member states implement the change referred to above. In the meantime, companies which do not qualify for the exemption may still take advantage of the 'light-touch' prospectus regime, which allows them to prepare a short form prospectus. It remains to be seen whether this light-touch regime will continue once the revised exemption has been implemented in member states," said CC's *Employee Benefit News.*

Carry on working!

On and after April 6 2011, it will no longer be possible for an employer to notify an employee of the company's intention to retire that employee, said Centre member legal firm **Bird & Bird**. On or after that date (subject to the transitional arrangements below) it would amount to age discrimination and unfair dismissal to dismiss an employee for reasons of age (i.e. retirement). Employees will be entitled to carry on working until such time as they choose to retire voluntarily or are dismissed for another reason, regardless of whether they qualify for a state or company pension.

Bonus corner

Goldman Sachs revealed the other side of the 'bonus excess' story when it told 1,800 employees, five percent of its global workforce, that their services would no longer be required. Although Goldman's top traders can gain regularly more than £1m in annual bonuses, others who fail to hit internal performance targets are shown the door. Goldman is not alone

among City banks who have reacted to the trading slowdown by awarding many staff zero bonuses, nicknamed *'doughnuts,'* this year.
The UK public service handed out £200m in bonuses to employees for having achieved performance targets last year, the **National Audit Office** revealed. Despite staff numbers falling by one per cent since 2000, there has been a ten percent increase in real terms of staff costs, amounting to £16.4bn last year, it said. In its annual report, the watchdog revealed that bonuses for the best-paid had risen to £200m in total, compared to virtually zero ten years ago. It said half of the increased costs had been due to a two-thirds increase in the number of middle management grades 6 and 7 an extra 14,000 posts. Bonuses paid to civil servants increased by five percent to £136m, with some senior civil servants netting £50,000 extra on top of their normal salaries. The MoD paid out £43m in bonuses, while the Dept of Work & Pensions paid out more than £27m in bonuses. While mandarins' pay is increasing, the bottom third of civil servants remain on salaries of between £15,000 and £20,000. The government promised that performance-related pay for top civil servants and NHS managers will be cut by two-thirds in 2011-12.
Banks receiving state support in the **Netherlands** would be barred from paying bonuses under a draft law due to be presented later this spring, Dutch Finance Minister Jan Kees de Jager has announced. Parliament voiced outrage at news that Jan Hommen, head of Centre member **ING** was to receive a bonus of €1.25m while the bank still owed the state billions it received to avert bankruptcy. Under pressure, Mr Hommen rejected his bonus, although ING reported profits this year. The bonus would have represented 92 percent of his regular salary of €1.35m. He said in a statement: "I am very sorry to note that the performance-related bonuses for the board over 2010 threaten to damage the recovering confidence from customers and the general public." He and the ING board of directors "had underestimated the signal" that these bonuses would give society at large. The finance minister said the bonus met current guidelines but was excessive in view of salary developments and sacrifices demanded of most employees to reduce the budget deficit. Former ING executive Cees Maas pointed out that staff pensions had been frozen and salaries were to grow by just one percent, as part of budget cuts. Seen in this light, Mr Hommen's proposed bonus, he said, was "not really justified". Dutch banks said that a parliamentary proposal to claw back bonuses that were paid out by bailed-out companies wasn't feasible, and that it was the wrong measure to allay public anger on bankers' pay. "We regret that it has been adopted. It is impossible to enforce and it raises the wrong expectations," a spokesman of the Dutch Banking Association said. A majority of Dutch lawmakers have voted in favour of a motion under which certain financial companies have to pay a one-time 100 percent levy on the bonuses they paid after being bailed out by Dutch taxpayers.

Nationalised UK lender **Northern Rock** said it was paying staff around ten percent of their salary as a bonus for 2010 despite posting a multi-million pound loss for the year. Most of the bank's 4,500 staff, who on average earn £25,000 a year, will receive a payout of around ten percent of their salary. Executive chairman Ron Sandler, who is paid £250,000 a year, is not eligible for a 2010 bonus. The state-owned bank posted a £232m loss, weighed down by restructuring costs, holding high levels of liquidity, and costs incurred from government guarantees, which have now been removed. Mr Sandler said he was confident the bank was on the road to profitability, and that a £92.4m loss in the second half marked an improvement from a £140m loss in the first six months.
Royal Bank of Scotland awarded its top nine directors bonus packages for 2010 worth a combined £28m, including a £6.5m deal for ceo Stephen Hester The state-backed lender disclosed that the top team will share £9.6m in bonuses and can earn a maximum £18.4m under the long-term incentive plan (LTIP) if they hit performance targets over three years. Mr Hester's £4.5m LTIP comes on top of his £2m bonus and £1.2m salary, both of which have already been announced, taking his whole package to £7.7m. Mr Hester's deal, which is entirely in stock and will not be paid out before the end of 2012, is less than the £6.1m in pay and bonus received by HSBC ceo Stuart Gulliver, who is eligible for a further £8.75m under that bank's LTIP. RBS's awards were made at 44.49p and will increase in value if the shares start to rise. For every 1p rise, the state – which owns 83 percent of the bank – benefits by £900m. Bruce van Saun, RBS's fd, received the second largest package – worth £4.14m. John Hourican, ceo of RBS's investment bank, earned a £2.5m annual bonus. The two co-heads of Barclays' investment bank each received a £10m bonus last year. An RBS spokesman said: "These awards follow exhaustive consultation with our shareholders and we believe they appropriately balance demonstrating restraint while remaining fully supportive of our leadership through the RBS turnaround plan." For RBS, executive pay is a particularly thorny issue, given its status as a taxpayer-backed bank, with 83 percent of shares owned by the Government. PM David Cameron has insisted the group should be a "back-marker" for pay, while recent results revealed the bank remained in the red last year, despite an improved performance, with losses of £1.1bn in 2010.
Barclays revealed that one of its key bankers - Jerry del Missier - received shares worth almost £33m last month. The bank reported that 231 of its key staff were paid a combined £554m in 2010 - an average of £2.4m each. Bob Diamond ceo, has been awarded a £6.5m bonus. But Diamond's total pay structure is more complex than that, and what he gets is based on performance in prior years. The remuneration report shows that he was also awarded £2.25m in a long-

term incentive plan deal that could pay out in three years time and that £7m of shares were given to him from deals going back to 2007, although the bank insisted these had been reported last year. A separate announcement showed that he received £14m through cashing in share performance deals that were granted to him in previous years. Del Missier, ceo of the Barclays Capital investment banking arm and a close lieutenant of Diamond, had shares worth almost £33m that were accrued from deals handed to him over the previous five years. There were ten top Barclays earners whose share deals vested in 2010. However the bank does not have to identify the five highest earners who report to the ceo, under the terms of the Project Merlin deal between the banks and the government, under which banks agreed to set lending targets and show restraint on pay. However, Barclays employs traders earning more than that £10.9m awarded to the 'highest paid senior executive officer.' Diamond, who has been at Barclays for more than a decade after building its Barclays Capital investment bank, has been awarded more than £60m in performance-related shares and cash in the five years since his pay was first revealed. He became ceo on January 1 and was appointed to the board five years ago, when his pay had to be published.

HSBC was asked by the Association of British Insurers to explain a new executive reward scheme, which could give £12.5m to its ceo Stuart Gulliver. Some institutional investors said that the revised long-term incentive plans were too generous, but HSBC rem com chairman John Thornton said the new scheme would lower total executive reward over time. The proposed new compensation structure contains claw-back provisions, to be enforced if directors under perform or leave the company. HSBC said that talks were still in progress between its rem com and leading shareholders. "Fundamentally, the principles underpinning the reward structure review include incentivising long-term sustainable performance linked to risk and continued improvement of alignment with shareholders" said a bank spokesman. HSBC was the first bank to comply with the Project Merlin - and expose the fact that Merlin allows banks to hide its highest paid staff as traders are not included. Under disclosure demanded by the authorities in Hong Kong, HSBC said that the five "highest paid individuals globally" – including a non-board director who took home between £8.4m and £8.5m – received a combined £34.3m in salaries, bonuses and pension contributions. But, under Project Merlin disclosure, the total of the five highest paid senior executives was £12m.

Staff bonuses at **UBS** will be ten percent lower this year than in 2010, despite the leading Swiss bank returning to profit. At least 60 percent of the bonuses paid out by UBS this year will be paid in the form of shares, deferred over three years for those with base salaries over £155,000. Some UBS incentive payments will be subject to claw-back for five years.

A group of 104 investment bankers are to sue **Commerzbank** for failing to pay out full bonuses at the height of the financial crisis in 2008. Commerzbank, which received an €18bn bail-out from the German government, has lost a bid to dismiss the case brought by bankers in its Dresdner Kleinwort division. The case, thought to be the biggest bonus dispute to have come out of the financial crisis, is being carefully watched by other banks that cut bonus pools during the crisis. The bankers claim that Commerzbank, which bought Dresdner Kleinwort, had to honour an agreement to provide a €400m bonus pool. Commerzbank denied the claims, explaining that Dresdner's losses for 2008 - which amounted to €6.3bn - materially changed its responsibility to pay bonuses. It is alleged that just ten percent of the figures initially announced were paid. The case rests on Commerzbank's claims that the contracts were discretionary, not guaranteed. The Court of Appeal in London said the bankers can use evidence dating from before a December 2008 letter to staff of the investment bank regarding their bonuses. Andrew Morritt, High Court chancellor, said in the ruling*: "I see no reason why a promise of a guaranteed minimum bonus pool cannot be contractually binding even though the individual employees cannot at that time point to an entitlement of a specific bonus payable out of it. At the very least, each of them would be entitled to nominal damages."* Commerzbank said: "While we are disappointed with the court's resolution to require more evidence for a decision on this matter, Commerzbank as the new owner of Dresdner Bank intends to defend these claims vigorously. We are confident that we will demonstrate at a full trial that Dresdner Bank was entitled to reduce its employees' 2008 discretionary bonuses."

Network Rail executives will be awarded zero annual bonuses this year, the rail infrastructure company announced. There was an outcry last year when Network Rail awarded its most senior staff more than more £2m in bonuses. Last year's bonuses came despite the call from Transport Secretary Philip Hammond for financial restraint. The board of Network Rail suspended the "management incentive framework" for executive directors for this financial year. It will soon be unveiling a new scheme to take effect from 2011-12 onwards. "There remained only the question of the basis on which any 2010-11 annual bonus should be awarded," said the remuneration committee's chairman, Steve Russell. "In a decision reached jointly by the remuneration committee and the executive directors, no consideration will be given to any such annual award mechanism and thus no payments will be made."

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