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it's our business

newspad of the Employee Share Ownership Centre

Windfall payouts for TSB employee shareholders after takeover

Thousands of **TSB** staff are in line to share a windfall worth tens of millions of pounds after Spain's Banco Sabadell's surprise £1.7bn takeover bid for Britain's seventh-biggest bank got the nod from owners Lloyds.

TSB agreed the takeover, with Lloyds Banking Group committed to selling its 50 percent stake in the UK bank to Sabadell, who will pay 340p a share, which is almost 31 percent above the 260p price at which TSB floated on the London Stock Exchange last June.

The bank's employees collectively have put millions of pounds into an SAYE-Sharesave scheme in the nine months since TSB's flotation, according to its annual report but, normally, in the event of a takeover, employee share options vest almost immediately, with full benefits going to employee participants. Many TSB staff will be looking to cash in the 6.3m share options they have bought under the bank's employee share scheme, worth £21m at Sabadell's offer price, which otherwise would have been subject to a three-year lockup. As almost half of the bank's 8,000 staff are understood to have signed up to the scheme, this would mean an average reward of more than £5,000 for those who did invest. A £100 -per-employee share bonus awarded when the bank listed in June, as well as a separate share match scheme, mean the total staff reward could be much higher. Some employee shareholders may be able to cash in more than £10,000 worth of share options in total.

In addition, the TSB takeover will trigger another boost for the thousands of staff who worked at Lloyds before the bank spun off TSB, since it could unlock shares that were purchased under the previous employer's SAYE-Sharesave plan. The sale of Lloyds's 50 percent stake in TSB means that TSB staff who invested in Lloyds' similar plan, should be able to sell those share options. Normally such share options would not have vested for up to five years.

In current buoyant market conditions, the TSB employee share ownership windfall may not be the last. Williams & Glyn, with 314 branches, is smaller than TSB and is owned by two capital fund groups and the Church of England! Nationwide, though larger than TSB, is not entirely safe from cash-rich banking predators either. Ditto for the wider UK corporate world, where mergers & acquisitions (M&A) activity, partly driven by large cash reserves, has re-emerged as a leading growth strategy, according to the annual **KPMG** M & A survey.

Lloyds created TSB out of 632 branches which it was forced to sell by the European Commission, as a result of receiving state aid in 2008 following its disastrous acquisition of HBOS. The bank had originally intended to sell the branches to the Co-operative Bank but the deal fell through after a £1.5bn black hole emerged in the Co-op Bank's accounts.

A TSB spokesman said it was too early to say what would happen to staff share schemes after Sabadell takes control, but the bank's prospectus, released around its float last year, said: "Options may generally be exercised early on a takeover, scheme of arrangement, merger or other re-organisation." *Staff may be allowed to exchange their shares for ownership of Sabadell, according to the document. Alternatively, option holders may be allowed or required to exchange*

From the Chairman

Temporary kings....so it is goodbye or au revoir to David Gauke, Vince Cable and Francis Maude who, from our perspective bestrode the quinquennium of coalition. The coalition surprisingly resulted in more ministerial stability. Maybe it was Michael Fallon who helped us most by vetoing the John Lewis model and handing shares to 150,000 posties. But I had the opportunity to shake David's hand and thank him in person on Thursday for having spoken at our dinner and for being the effective minister to whom the Office of Tax Simplification answered. Whoever is in power surely incrementalism will rule. David scarcely had time for a nibble before moving on and out into the campaigning wilderness.

Malcolm Hurlston CBE

Special two nights half-board accommodation package deal offer to plan issuers who would like to attend our annual conference in Rome on Thursday/Friday June 4 & 5: See inside pages for details.

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their options for options over shares in the acquiring company, TSB added.
It was unclear whether TSB's ceo Paul Pester and other executives would be able to sell their shares, although the prospectus said that executive share awards would vest in the event of a takeover. Mr Pester and 11 other senior partners at the bank received around 1.2m shares under various long and short term bonus plans for 2014, when TSB floated and these are now worth £4m under Sabadell's offer price. The TSB share scheme allowed staff to buy share options at a 20 percent discount and the bank's annual report said the average price they were bought at was 225.5p – *115p per share lower* than the Spanish bank's offer.

Employee Shareholder status gains ground slowly
Employee Shareholder, the employment status introduced by the coalition Government for workers to waive certain rights in exchange for a stake in the company, is gaining momentum, according to figures released by HM Revenue and Customs (HMRC).
In a Parliamentary written answer, the Treasury confirmed that HMRC had agreed 350 share valuations in connection with the employee-shareholder status, though this is a fraction of the minimum 2000 companies that the Department for Business, Innovation and Skills (BIS) two years ago assumed would take up the new type of contract.
However, the 350 company share valuations so far agreed, almost all in the SME sector, cover a total 7,830 employees – roughly 22 employees on average in each participating company.
Furthermore, HMRC has evidence that the *Employee Shareholder* status scheme could be a gateway to broad-based employee share ownership in participating companies who have no previous experience of using Eso schemes.
Employee shareholders give up key employment rights in exchange for shares. They surrender the right to claim most forms of unfair dismissal and to receive statutory redundancy pay. The new type of contract was introduced in September 2013, despite widespread opposition in Parliament and among the legal profession.
The jury is still out on whether Employees Shareholder status is being used by some gazelle–like high tech company executives primarily to take advantage of the CGT exemption for ES contract holders.
Susie Munro at XpertHR, told the magazine *Personnel Today* that the complexity around issuing shares and obtaining an accurate valuation may have put many employers off employee-shareholder status, including those who may have seen it as a way of removing rights from their workforce: "Many employers will instead choose to offer more conventional employee share schemes that do not affect employment rights". She said that the statistics did not give a full picture of the employee-shareholder take-up, as HMRC's valuation service is not compulsory: "These statistics still indicate that take-up has been low. A company that doesn't have its valuation approved by HMRC is taking a risk as judging the market value of the relevant shares is difficult."
Lord Stevenson of Balmacara: asked HMG how many British companies had agreed share valuation with HMRC in connection with the award of shares to employees under Employee Shareholder Status; and how many of those had registered a Share Incentive Plan or an SAYE share scheme with HMRC. **Lord Deighton** replied: "HMRC has agreed more than 350 share valuations with British companies in connection with the employee shareholder status. HMRC is not aware that any Share Incentive Plan or SAYE option scheme is being operated by any of those companies."

Not so special Budget
Chancellor George Osborne's last Budget in this Parliament was a damp squib for the Eso industry. There was little in it directly, or indirectly, related to employee share schemes. In the margins, however, there were a few small changes of interest:
*Individuals will be unable to claim **Entrepreneurs' Relief (ER)** on disposal of assets except when the transaction is linked with the surrender of at least a five percent shareholding in the company. This measure was introduced to ensure that shareholders benefiting from ER can only do so if they are making a 'meaningful' withdrawal from the business. This is unlikely to affect EMI option holders (who are subject to their own special rules relating to ER) but employees looking to benefit from ER on the sale of a small shareholding will need to take care to ensure that they still qualify. This applies to disposals too.
***Several small amendments were announced to the **Venture Capital Scheme** rules subject to state aid approval: usually, they must have been active for less than 12 years. Currently, 70 percent of any money raised under the Seed Enterprise Investment Scheme must be spent before Enterprise Investment Scheme (EIS) or Venture Capital Trust (VCT) funding can be raised, but this restriction will be removed. In addition, a cap of £15m, or £20m for 'knowledge intensive companies' on the total investment a company may receive under EIS and VCT will be introduced and the employee limit for 'knowledge intensive companies' will be increased to 499.

Electioneering: Businesses attacked **Labour's** plans to force companies to share profits with employees. Senior Party figures are said to be considering a proposal to compel all firms with more than 50 staff to set up a profit-sharing scheme. Employees would then be handed a regular *cash* sum based on their employers' financial position. Labour said the idea was not official policy, although a shadow minister said it was being considered at the top of the Party. Some business leaders warned the plan would encourage employers not to take on staff. Glen Cooper, ceo of Midlands bollard makers ATG Access, said: "This idea would make companies stop taking on employees rather than grow. I am happy to run my own scheme to motivate my employees, but I don't want to be dictated to by Labour."

Such a policy, if implemented, would mirror the situation in France, where companies with more than 50 employees have extra obligations, such as the establishment of a workers' council. It has been reported that such burdens are costing 140,000 jobs, and that President Francois Hollande wants to repeal them.

Cross-border corporate tax net tightens

On April 1 2015 the UK introduced a new tax, the Diverted Profits Tax (DPT) which has been dubbed the 'Google tax' by the media and is aimed at aggressive tax planning which erodes the UK tax base, said *Taxand UK* . Based on the current draft legislation, the new DPT tax potentially applies to a much broader group of companies and transactions than intended, including some ordinary commercial transactions with no contrived tax avoidance. The draft legislation is likely to be amended before implementation and this will narrow the current scope of the legislation. However the main principles will not change. The new tax applies to all profits diverted on or after April 1 2015. The rate of tax is ***25 percent*** (as compared to the new 20 percent Corporation Tax) and has been set to try and discourage certain types of activity which HMRC wants to target. DPT only applies to large groups (as defined by the EU) and it only applies where sales by the group into the UK exceed £10m. It is not subject to self-assessment, but instead is levied by HMRC issuing a notice. Payment of tax is due within a very short time-frame of the initial assessment being raised by HMRC. There is a notification requirement if the tax might apply. As it is not corporation or income tax, losses cannot be set off against the DPT. In addition, HMRC believe the DPT is not within the scope of existing tax treaties and that it is compliant with existing EU directives and BEPS initiatives.

On a wider front, the Government confirmed that it would introduce legislation in the 2015 Finance Bill to give the UK the power to implement the **OECD** proposals to require standard information from multi-national enterprises (MNEs) regarding their activities in different countries. This is 'Action 13' of the 15-point OECD BEPS Action Plan, aimed at delivering the transparency needed by Governments to examine the allocation of profit through transfer pricing, said DLA Piper LLP. The OECD CbC Report set out guidelines for requirements for MNEs to provide: (1) a *country by country* report available to the tax authorities in every country in which they operate and which would set out information on the global allocation of income, taxes paid and certain indicators of local economic activity (such reports to be finalised within one year of the end of the accounting period of the ultimate parent) (2) *a master file* containing a high level overview of the group's operations and transfer pricing policies, which would be available to each relevant tax administration and (3) a *local file* delivered to each local tax administration, providing more detail on specific inter-company transactions.

Eso still waving loudly at Admiral

Despite Wales-based insurance company **Admiral** having to report its first fall in pre-tax profits since it floated in 2004, about 7,000 staff globally still will receive £3,000 worth of shares in the company employee share scheme. The firm made a pre-tax profit of £357m for the year ended December 2014. This was a four percent drop on the previous year of £371m for the group, which Admiral's cfo, Geraint Jones, attributed to the investment the business made in US comparison business website compare.com. Turnover at Admiral was £2bn for the year, about ten percent down on the year before.

Scottish Salmon Company (SSC) is launching an employee equity incentive scheme to reward and incentivise selected employees. The purpose of the scheme is to enhance SSC's ability to hire the best talent, as well as to provide long-term incentive compensation to those employees who exceed annual performance objectives designed to increase the value of the Company's business, it said. It hopes aligning such valued employees' financial interests with the company's shareholders will motivate them to contribute to the continued success and profitability of the company, as well as deliver outstanding results. The scheme covers up to 3,000,000 shares, and has an exercise period of up to a maximum of nine years from the date of grant. Md Craig Anderson was granted options equivalent to 740,203 shares, on top of the 50,000 he already held. The company will fund the schemes either by issuing new shares, or by transferring treasury shares. Under the scheme, participants will receive, free of charge, share options which, if exercised by the relevant option holder, will be released and transferred to them as shares. One third of the options will be available on each of the first, second and third anniversary of their granting, and they must be exercised within five years of each relevant subscription date.

Strong Eso brew at Whitbread

More than 1,000 **Whitbread** employees shared £10m following the maturity of its three-year and five-year Sharesave schemes in February. The employees, who work for brands including Beefeater, Brewers Fayre, Costa Coffee and Premier Inn, saved between £10 and £500 a month into the schemes. Staff members who saved £250 per month stand to receive around £61,000 from the five-year scheme and around £24,000 profit from the three-year scheme. There were 1,295 participants in the three-year share scheme saving an average of £70.75 a month, with each receiving a bonus of £6,000. The 122 employees in the five-year scheme, saving an average of £48.78, will receive a payout of around £12,000. Whitbread's share price stood at 4990p on February 2. The option price was set at 1339p for employees in the three-year scheme and 1008p for those in the five-year scheme.

Boosting share scheme take-up

How can employers boost Eso schemes take-up in their workforce? Simon Stafford, head of relationship management at Centre member **Capita Asset Services**, told *Employee Benefits* magazine that many employees have come to expect Eso schemes as part of their employee benefits package. "We've noticed that employee awareness of share plans has grown in the last few years, leading to an expectation that they are included in employee benefits," he said. "Share plans can help to boost engagement if they are communicated effectively. Through intelligent plan design and communication, [employers] can encourage employees to share in the organisation's vision and objectives," he added. **Asda** has made its Sharesave scheme an integral part of its reward strategy in order to boost take-up rates. Simon Bell, senior reward manager at the supermarket behemoth, explained: "Our Sharesave scheme plays a key part of our reward strategy and we openly encourage participation throughout our organisation from hourly -paid and salaried colleagues to board members." Before designing its 2014 Sharesave campaign, Asda carried out face-to-face research with a broad section of employees to test their understanding of the company's share plan and how effective they find the communication. "One of the clear messages we received was that now our business is diversifying, colleagues have a strong affinity with their part of the company and want to see things that are familiar and relevant to them reflected in our communications material, even down to the uniforms that [employees] wear," said Bell. "Our material needed to be representative in order to encourage participation across the board. They told us that they frequently make decisions based upon endorsements by their peers. This meant drawing on real-life examples and anecdotes from [employees] in each part of the business to better reflect the experience of their peer group." One of the main challenges was to successfully connect with all 170,000 colleagues. This year, Asda has used a blend of tried-and-tested methods, as well as new approaches. "Of paramount importance was the use of clear, simple language and strong visuals to make the subject matter easy to understand and readily accessible to every [employee]," explained Bell. "Our 2014 Sharesave plan take-up increased by 8.6 percent compared to the previous year." After reviewing enrolment methods to make it easier for staff members to participate, *this year 77 percent of Asda employees enrolled using SMS text compared with 23 percent joining online*. Bell said that Asda's key tips for Sharesave success are to create clear, simple and relevant communication and to create a brand. "Ours is the Sharesave Asda piggy bank that appears in all our communications," he added. Making sign-up as straightforward as possible was key.

Pointing out the tax advantages to employees could work in an employer's favour. Many share schemes, including company share option plans (CSOPs), Sharesave schemes and SIPs, are advantageous for employers and employees alike. For employees, the link to transferring shares to individual savings accounts (ISAs) within 90 days of release can be an effective way of avoiding capital gains tax. And employers offering SIPs are entitled to employer national insurance contribution (NIC) savings, although there is a requirement to expense options under IFRS2.

Accurate Equity taken over

Zurich-based **Equatex** announced the acquisition of **Accurate Equity**, the largest supplier of software and services for share-based compensation plans in the Nordic region. Accurate Equity is a software and outsourcing specialist with an established global reputation for its superior IFRS financial reporting capabilities as well as support for US GAAP and dual financial reporting in its proprietary software. Centre member Accurate Equity services more than 150 clients globally, including some of the world's leading companies. The acquisition extends the capabilities and services of Equatex, a leading provider of international employee and executive compensation plan services that supports clients with participants across Europe, Asia, Australia and America. The combined operation now positions Equatex as a top provider of financial reporting in the employee compensation industry worldwide.

The news came after Montagu Private Equity LLP, one of Europe's longest established private equity firms, announced on March 2 that it had completed the acquisition of Equatex from UBS, the Swiss bank. Terms of the deal were not disclosed.

Equatex ceo Oliver Freigang said: "We are investing heavily in technology and service innovation to enable our clients to deliver the most effective plans efficiently and accurately in today's connected world. There is great synergy between our technologies, employees and corporate strategies. Together we can offer current and new clients state-of-the-art technology within both plan administration and financial reporting."

Accurate Equity's ceo Finn L. Dahl commented: "We share Equatex's vision of delivering world-class solutions for international companies of all sizes. Through this acquisition, Accurate gains access to Equatex's support organisation, enhancing the quality of the services we deliver to our clients. Our main operation will continue as is, and as such all deliveries, employees and contact persons at Accurate Equity will continue as today."

On the move

Gabbi Stopp is to be the new head of employee share ownership at ifsProShare. She succeeds Alan Scott, who has held the position in an interim capacity since last August, pending the appointment of a long-term successor. Most recently, Gabbi, a good friend of the Centre, has been account director and client services at Capita Asset Services, and beforehand she held employee share plan roles at Barclays, Pearson and Tesco.

Treasury minister **David Gauke MP** made his farewell pre election appearance at a Treasury party on March 26 to launch the HMRC online service for approved share schemes.

After a welcome from new head of Charities and share schemes Adrian Cooper HMRC took the risky option of an on screen demo which passed off with scarcely a hitch. The new service which will start on April 7 was welcomed warmly by the assembled esopians and HMRC staff, some from as far afield as Newcastle where the techie work was undertaken.

Through HMRC Online Services companies will be able to register, self-certify and file, making things more efficient all round. The development follows on from the good work of the Office of Tax Simplification (unfortunately absent from the launch owing to pressures of work.)

HMRC revealed the odd stick mixed in with the carrots: financial penalties for late and inaccurate registration and the loss of all csop tax advantages granted before April 6 2014.

A welcome signal was HMRC's use of the CSOP scheme as the working example. More publicity like that and it will become as popular as it deserves to be.

New book **The Debtonator** by **Andrew McNally** was launched at the Mayfair premises of the D Group on March 24 amidst welcoming drinks and classy snacks. McNally cites Kelso and calls for the use of equity rather than corporate debt to combat inequality. Present were esopians Nigel Mason, Leon Boros and Bill Cohen, together with former big beast of the takeover jungle Brian Basham. A full review will be available in members' newsbrief and online.

The need for down-up pressure for employee shareholding emerged at the Centre's high table dinner with ex Hermes boss and labour party treasurer David Pitt-Watson. Also present was ex New Bridge Street Ann Tyler whose Co-operative Party report fed into Labour policy. The consensus was that this was an all party matter and David and Centre chairman agreed to take it forward.

Another share schemes tax defeat for HMRC

The Upper Tribunal has allowed the taxpayers' appeal in the **Tower Radio** lead case on share schemes, reported **Deloitte.** This was a scheme for avoiding tax by paying out company profits to director shareholders in the form of employment-related securities in an SPV. As the legislation then stood, the liquidation of the SPV would not represent a chargeable event in relation to shares held in it. Consequently, if tax could be avoided on the initial award by attaching restrictions there would, it was thought, be no income tax at all to pay. HMRC contended that, although shares were used, to all intents and purposes the employer gave money bonuses to the employees and so income tax and NICs should apply in the normal way. This argument prevailed with the First-tier Tribunal. However, the Upper Tribunal held that the central issue was whether the recipients had acquired 'shares in any body corporate' and hence a security within s 420 ITEPA, rather than money. The case had to be approached in the light of the Ramsay principle as a principle of statutory construction, but not in a way that ignored s 420. There was no doubt that, in company law terms, the recipient acquired shares in a body corporate, which effectively doomed the HMRC to defeat.

CONFERENCES

JERSEY: March 13 report

Centre chairman Malcolm Hurlston CBE, told a large trustee audience in Jersey that the Channel Islands needed a new advocacy body to help regulated jurisdictions stave off the threat of unnecessary legislation. He cited ways in which the Centre and its trustee members had worked together successfully to convince the Coalition government to drop a plan to create an employee shareholding vehicle.

Mr Hurlston was addressing delegates at the Centre's annual share-schemes-for-trustees conference, held jointly in association with the Jersey branch of STEP (Society of Trust & Estate Practitioners). He said: "The evidence several of your leaders and I drafted together helped to ensure that the promised new employee shareholding vehicle in the UK was kicked firmly into the long grass. Your evidence alone could have been dismissed as partial. Together our case was harder to deny. There was a case for a new vehicle but it was nowhere strong enough to justify the risk. Whatever help and concession we get from HMRC for employee share schemes needs to be watertight.

"I believe the Centre and Jersey practitioners need to formalise those arrangements through a permanent and targeted advocacy body in favour of regulated jurisdictions which contribute to the overall well-being of the British Isles rather than threaten the narrow interests of the UK. I have led several such pressure groups with great effect. Focus is all," he added.

The chairman told delegates he was pleased to be returning to the **Pomme d'Or**, where the event was held. On checking in the receptionist had asked the usual question '*Have you stayed here before*?' to which he had replied: '*Yes, in 1956 having travelled as far from my military base in Scotland on the free train ticket given during national service. The main business of the island then was the honeymoon industry, I was the only single person at the table for breakfast*'.

The Employee Shareholder Status, nicknamed the *shares-for-rights* legislation, (*see earlier story in this issue*) will be axed during the lifetime of the next Parliament, unless a Tory (or Tory-led) government is returned after the General Election in May. This was the blunt forecast made by **Graham Muir** of **Nabarro**, who gave delegates an update on employee share scheme developments in recent years. Graham focussed on self-certification of tax advantaged plans, the Office of Tax Simplification (OTS) report on non-tax advantaged plans, the latest on employee shareholder shares (or shares-for-rights), and the early days of the new employee ownership trust (EOT). He said that while self-certification was a minefield easy to fall foul of, the changes have long been signposted. When discussing shares-for-rights, Graham noted that the one year gap from announcement to introduction showed what could happen when there was high-level political support behind new legislation. He reported that take up of the new EOT regime had been small so far, with only 12 schemes introduced in 2014. Graham concluded by saying that while there had been, and continued to be, some uncertainty while the recent rack of changes bedded in, the preliminary outlook was that legislatively, most things would stabilise during the next Parliament.

Steven Meiklejohn of **Ogier Legal** presented a roundup of important trust cases from 2014. He moved through five key cases and a series of '*mistake'* cases from the Jersey courts and one from the Guernsey courts, highlighting the lessons for trustees, which included being vigilant and keeping an open mind. These maxims were longstanding, he said, but recent cases showed that they were still valuable; mistakes could prove costly for trustees when they were left liable. Steven finished by highlighting two of the practical steps trustees must take to protect themselves: take tax advice, and ensure proper note taking and record keeping.

Paul Malin of **Haines Watts** guided delegates through some of the UK tax issues facing problem clients with employee benefit trusts (EBTs). Malcolm Hurlston asked Paul whether these were clients with problems or problem clients, Paul's answer was suitably judicious. He outlined what the UK tax issues may be, who may be a problem client, the pitfalls and the steps which might be taken in minimising risk and finding solutions. Paul advised delegates to be clear from the start what a particular trust structure was for, and to be aware of any assumptions made – note them down and test whether they continued to be sensible. The over-arching lesson was of the importance of communication between adviser and client; making sure all parties agreed on what had been said and that understanding was shared.

Jeremy Mindell of **Primondell** returned to address a Centre conference audience by popular demand following his well-received Davos presentation. Jeremy presented on the recent moves by HMRC to target offshore income for greater tax collection; from offshore bank accounts, dividends, property and trusts. With a fourfold approach by HMRC – investigation, regular intervention, penalties and criminal prosecution – it was Jeremy's contention that the pressure HMRC is exerting on offshore income is greater than ever. Offshore trusts need to up their knowledge of UK tax issues in this climate, he said. Jeremy concluded, by borrowing Donald Rumsfeld's famous typology of knowledge, by warning that offshore trusts should ensure that for their staff UK tax issues were at least 'known unknowns' rather than 'unknown unknowns'. Where there might be a UK tax issue developing, trustees needed to know enough to be able to flag that up.

Toby Locke of **Grant Thornton** discussed the role of EBTs in relation to growth shares, the share buy-back regime and treasury shares. He set out features of the present context which will bear on any decision to operate an EBT including greater pressure on tax avoidance, the increased use of growth shares, the limited take up of EOTs, and the potential that shares-for-rights could be scrapped come May. After surveying the ways EBTs could still be useful against this backdrop, Toby concluded that they do still have a role, particularly when used with treasury shares, and so trustees should continue to refresh their knowledge.

A panel session was chaired by **Rosemary Marr** of **STEP** and **Moore Stephens**, joined by **Nancy Chien** of **Bedell Group**. Nancy led discussion by reporting on her role in lobbying Jersey government to ensure a FATCA exemption for EBTs. The basis of the representations made were that EBTs are fundamentally different from trusts generally, and that this should be reflected in an exemption. There was a worry expressed by a number of delegates that Jersey government did not understand what EBTs are, or what they are used for. Rosemary Marr called for a 'rationalisation' of inter-jurisdictional reporting to reduce the administrative burden of filing different forms for FATCA and each of its sister policies and agreements. Malcolm Hurlston confirmed that the Centre will be taking that concern to the OECD advisory group, of which it is a member.

ROME: June 4 & 5

Twelve speaker presentations are in place and just two slots remain for the Centre's **27th annual European employee equity plans conference,** which takes place at the four-star **Residenza di Ripetta** hotel in **Rome** on **Thursday June 4** and **Friday June 5.** Speaker confirmations have been received from: **Accurate Equity**; **Appleby Global** the **Communications Workers Union** (*who will discuss employee share schemes in the Royal Mail)*; **European Trade Unions Confederation**; **KPMG; Primondell**; **Solium; Strategic Remuneration; Tapestry Compliance; The Investment Association; Western Union** and international lawyers **White & Case**. This event offers updates on latest legal, regulatory and market trends in the employee and executive equity schemes industry; the opportunity for doing business; discussing share plan strategies and networking. Attendance guarantees 11 hours worth of credits under the **Law Society's** Continuous Professional Development programme.

Centre trustee members **Appleby Global** and **Bedell Group** are logo co-sponsors of the conference e-brochure.

Speakers benefit from a significant price reduction on the accommodation + conference package fee. Practitioner **speakers**, who are Centre members, will pay only **£995** and plan issuer **speakers** will pay just **£595**. (No sales tax is chargeable on delegate/ speaker fees). **If you wish to book a speaking slot at this event, you should do so now.**

For **delegates,** the Centre offers a conference package comprising: Entrance to all conference sessions; two nights' accommodation (on single occupancy basis) on June 3 & 4 in the Residenza di Ripetta; breakfasts, lunches and refreshments during coffee breaks; delegate pack with speech summaries and cocktail party early evening on June 4

Delegate fees:

Centre member delegates:

Practitioners: £1,135 Plan issuers: £675

Non-member delegates:

Practitioners: £1,750 Plan issuers: £765

SPECIAL OFFER TO ISSUERS: Three conference package delegate places are offered at our Rome conference for only **GBP 525 each** (no VAT payable)**,** to the first **three** plan issuer companies who e-mail the Centre to reserve a place for their representative. This sum buys two nights half-board accommodation in the four star central Rome hotel **Residenza Di Ripetta** (June 3 & 4) and admission to all sessions at the two day conference. Contact Juliet Wigzell at: jwigzell@esopcentre.com

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The historic Residenza di Ripetta is a converted 17th century convent featuring frescoes, original arches, a Baroque chapel and an inner courtyard with garden, perfect for meals and drinks in the sun, plus a panoramic terrace offering views over central Rome. The hotel is superbly located between Piazza del Popolo, the River Tiber and Piazza Borghese. Spanish Steps, Villa Medici and top shopping quarter Via Condotti are all within walking distance. Flaminio, the nearest Metro station is five minutes away.

*Our special discounted room prices are available to those who want to upgrade their rooms and/or extend their stay (subject to availability) *Supplements charged for two person room occupation are only €20 extra per night.

The rack rate for rooms in our conference hotel is €651 per night = GBP 484 per night approx. However, you will pay a group rate of only c ***€250 = GBP 185*** *(at current exchange rates) per night on a B & B basis if you wish to stay extra nights.* To register, please contact **Fred Hackworth**: fhackworth@esopcentre.com with a copy to: esop@esopcentre.com

Top executives' salaries 'too high' claim

Public anger over the size of top executives' salaries is damaging the reputation of UK firms, according to a recent survey of business leaders. In a poll of more than 1,000 members of the **Institute of Directors (IoD),** 52 percent said excessive pay packets were eroding people's trust in big companies. More than half of those surveyed agreed performance-related pay rewards should be deferred by up to three years. The poll was carried out on behalf of the left-leaning **High Pay Centre** think tank. The High Pay Centre was formed following a report by the High Pay Commission in 2011, which argued that the high salaries of UK executives were "corrosive". It said the disparity between what top executives and average workers earn had been growing for 30 years.

Criticism about the levels of executive reward may be re-ignited in the run-up to the General Election, industry groups warned, after new data showed that top earning FTSE 100 executives are receiving 400 times more than average employees. According to the High Pay Centre, Britain's 10 highest paid ceos earn almost £120m between them, while average pay in the UK languishes at around £22,000 pa. Investors predict that some companies, e.g. **BP** on April 16 and **BG** on May 5, will face big protest votes at their agms just before election day. In 2013, new rules were introduced, forcing listed firms to give shareholders a binding vote on directors' pay. A firm's remuneration policy now requires the approval of more than 50 percent of shareholders for it to be ratified. However, the seven-figure pay cheques awarded to British business bosses have continued to make the headlines in recent months. Last November, the IoD denounced a proposed £25m pay package for the new head of oil and gas giant BG Group, Helge Lund, as "excessive" and "inflammatory", while shareholders in the firm threatened a revolt.

Banking giant **Barclays** paid £16.5m in shares to its top 11 executives, which is half the amount it paid out last year. Its executives received £32m in a share payout in 2014 - sparking criticism over excessive pay when the investment bank's profits were down. The shares were payment for role-based allowances and bonus schemes. The bank faces a probe over alleged manipulation of foreign exchange rates. Barclays said that it has put aside £1.25bn to cover potential fines**.** Tom King, head of the investment bank, was awarded the highest amount in shares, worth £4.7m. The bank's ceo, Antony Jenkins - who took his first bonus –worth £1.1m - in three years, plus a 'role based' payment of £950,00 - received shares worth £4.3m, including £1.8m for his maturing LTIP. Another nine executives were awarded almost 3m shares priced at £2.535 on the day they were paid out, according to a regulatory filing**.** Earlier, a leading pension body had called for the chair of Barclays' pay review committee to resign**,** accusing the bank of "misleading shareholders" over its pay policy. The bank reported a 21 percent fall in its pre-tax profits for 2014.

At **Lloyds**, which is still 24 percent owned by UK taxpayers, Antonio Horta-Osorio's annual bonus was £800,000. The figure would have been higher based on Lloyds' performance, but was cut to reflect the bank's £220m fine for its role in the Libor rate-rigging scandal, a source said. Horta-Osorio received a total reward package of **£11.5m** for 2014, an amount swollen by the proceeds of a three-year LTIP. His basic salary is around £1m. Lloyds' 2014 underlying profit increased by 26 percent to £7.8 bn in 2014. Pre-tax profits rocketed by 325 percent to £1.8 bn. This was despite the group paying £2.2bn in payment protection insurance-related compensation and administration charges and £900m for other litigation-related issues. Meanwhile, Lloyds paid £369.5m in staff bonuses in 2014, which was 3.6 percent lower than the year before. Lloyds' shares have risen by 193 percent since 2012. Mr Horta-Osorio was recruited by the Treasury in 2011 to run bailed-out Lloyds.

Royal Bank of Scotland (RBS) provoked anger after handing out lavish bonuses – including an £859,000 windfall to its former boss. The state-backed lender's annual pay report showed 110 staff received more than euros €1m (£720,000) last year, despite it racking up a £3.5bn loss. This marked RBS's seventh consecutive annual loss since the financial crisis, when it was rescued with a £46bn bailout from taxpayers, who still own 81 percent of the bank. One of the biggest winners was former ceo Stephen Hester, who pocketed £859,000 from a long-term bonus awarded in 2012. He handed in his resignation in June 2013, after being pushed out by Chancellor George Osborne. The bonus awards were branded 'excessive' and 'unacceptable', with campaigners criticising Mr Osborne for failing to stamp out fat-cat pay at RBS. To avoid a new pay row, current ceo Ross McEwan waived his entitlement to a £1m fixed shares allowance introduced last year to bolster his basic pay package and dodge the EU bonus cap. This restricted his total pay for 2014 to £1.85m

Directors of the UK bank **Standard Chartered** declined to take their bonuses after it reported a 30 percent fall in full-year 2014 pre-tax profits - including exceptional items - to £2.76bn.

It paid top managers a total $36.6m last year, a 23 percent decline. Deputy ceo and architect of Standard Chartered's investment and corporate bank Mike Rees was the highest earner on the board with compensation of $6.95m, followed by ceo Peter Sands at $5.1m (£3.5m), down from $6.8m in 2013, after refusing a hefty bonus, according to the bank's annual report. Senior managers received $47.7m in 2013. Sands and chairman John Peace are leaving the bank after they failed to reverse a stock price decline over the past two years and a drop in earnings that ended a decade of growth. More than 40 percent of shareholders voted against Standard Chartered's three year pay policy at last year's agm, reflecting investor fury that pay for Sands and other bosses had risen despite worsening financial performance. They were frustrated by what they described as the bank's indifference and lack of communication over their concerns. The company announced that Bill Winters, a former co-ceo of JPMorgan Chase & Co.'s investment bank, would take over in June. Finance director Andy Halford, who joined the bank last June, was the only executive to get a bonus, receiving $1.7m in variable compensation as part of $4.2m total pay. Peace, who steps down in 2016, got $1.9m in compensation, about the same as a year earlier. Last August, Standard Chartered agreed to pay a $300m fine relating to its poor money laundering surveillance systems.

Eso in Bayer

Under German chemical & pharma giant **Bayer**'s group-wide short-term incentive programme alone, variable one-time payments totalling €900m were earmarked for employees for 2014. In many countries, employee stock programmes enabled staff to purchase shares in Bayer at a discount. This offered them a further opportunity to participate in ownership of the company and its business performance. Bayer offered senior managers throughout the group a uniform stock-based compensation programme known as 'Aspire,' which is based on ambitious earnings targets and – in the case of the group leadership circle members – requires a personal investment by them in Bayer stock. Bayer Group offers stock-based compensation programmes collectively to different groups of employees. As required by IFRS 2 (Share-based Payment) for compensation systems involving cash settlement, awards to be made under the stock-based programmes are covered by provisions in the amount of the fair value of the obligations existing as of the date of the financial statements vis-à-vis the respective employee group. All resulting valuation adjustments are recognized in profit or loss.

The value of the Aspire tranches fully earned at the end of 2014, was €151m (2013: €136m). Total expense for all stock-based compensation programmes in 2014 was €278m (2013: €275m), including €5m (2013: €4m) for the *BayShare* stock participation programme and €10m (2013:€12m) for grants of virtual Bayer shares forming a component of long-term compensation. The fair value of obligations under the standard stock-based compensation programmes was calculated using the *Monte Carlo* simulation method.

Since 2005, the management board and other senior executives have participated in Aspire I, on the condition that they purchase Bayer shares – the amount determined for each individual according to specific guidelines – and retain them for the full term of the programme. A percentage of the executive's annual base salary – based on his/her position – is defined as a target for variable payments (Aspire target opportunity). Depending on the performance of Bayer stock, both in absolute terms and relative to the Euro Stocxx 50 benchmark index during a four-year performance period, participants were granted an award of up to 300 percent of their individual Aspire target opportunity. The four-year tranche issued in 2010 expired at the end of 2013, and payment of the maximum resulting amount (300 percent) was made at the beginning of 2014. Since 2005, other senior managers and middle managers have been offered Aspire II, which is similar to Aspire I, but does not require a personal investment in Bayer shares. This programme was extended to further managerial employees in 2012. The amount of the award is based entirely on the absolute performance of Bayer stock over a four-year period. The maximum award is 250 percent of each manager's Aspire target opportunity. The four-year tranche issued in 2010 expired at the end of 2013, and payment of the maximum resulting amount (250 percent) was made at the beginning of 2014. In addition, all management levels and non-managerial employees can participate in an annual stock programme known as BayShare, under which Bayer subsidises their personal investments in the company's stock. The full discount under this programme was 20 percent of the subscription amount. Employees state a fixed amount, up to annual permitted limit, that they wish to invest in shares. The shares thus acquired must be retained until December 31 of the year following the year of purchase, irrespective of continued employment with the Bayer Group. In 2014, employees purchased 225,000 shares (2013: 242,600 shares) under the BayShare programme.

US stock plan survey 2014

The results of the domestic stock plan administration survey 2014, carried out by the National Association of Stock Plan Professionals (NASPP) and Deloitte, offers insights into how companies administer their employee share plans. The key findings were:

*__Administration__: internally, the human resources department most commonly has primary responsibility for share plan administration. However, 69 percent of companies surveyed reported outsourcing a portion or all of their share plan administration. *__Communication__: disappointingly only 52 percent of respondents provide presentations on share-based compensation to employees, although this is an improvement on the 2011 results. *__Qualified and non-qualified plans__: qualified employee share plans (section 423 plans) are more common amongst respondents than non-qualified employee share plans. Of those offering a section 423 plan, 15 percent is by far the most common discount offered on the purchase price.

*__Participation__: for section 423 plans, 67 percent of respondents offering this type of plan reported participation rates of 21 percent or above and nearly a third (32 percent) reported participation of 51 percent or above. For non-qualified plans, only 36 percent of respondents offering this type of plan reported participation rates of 21 percent or above.

*__Duration of share ownership__: of respondents with a section 423 plan, 81 percent reported that employees, on average, hold their shares for six months or more from the date of purchase and nearly a third (31 percent) hold them for two years or more.

The survey attracted 494 respondents, are all primarily headquartered in the US and who offer some form of employee share plan. This survey included respondents from a wide variety of industries, US regions and company sizes. Most (96 percent) of the participants are publicly-traded companies.

Bonus corner

Two years after **Swiss** voters backed an initiative aimed at curbing the high salaries of 'fat cat' executives the overall result is mixed, said the director of the sustainable investment foundation Ethos, Dominique Biedermann. He said that the highest salaries earned by Swiss managers have hardly moved since the so-called Minder initiative was approved in March 2013 by a majority of Swiss voters. "Up to now only small corrections have been observed," he told the Sonntag newspaper in an interview. At chocolate manufacturer Lindt & Sprüngli and chemicals firm Clariant, managers have lost a small slice of their compensation and the Novartis executive board received lower bonuses. Biedermann said that the excessive salaries of some bank executives, such as outgoing Credit Suisse boss Brady Dougan, who earned CHF 90m five years ago, were a thing of the past. Managers' salaries were now more closely linked to performance and there was greater transparency, he declared. Some high salaries paid to the managers of Swiss companies last year could be explained by the firms' excellent business results, but these salaries were generally too high, he commented: "It takes time to correct these things, especially if performances are good." For many firms the initiative vote on salaries has only been in effect for one year. "We hope shareholders will have the courage to reject dodgy salaries," said Biedermann.

Almost 68 percent of Swiss voters approved the so-called Minder initiative in March 2013, launched by parliamentarian and businessman Thomas Minder, giving shareholders greater say over remuneration of company executives and directors. Swiss firms have until the end of 2015 to phase in all of the voters' wishes, which include binding votes on remuneration packages and an end to certain bonuses. The initiative was seen as a reaction to high salaries paid to Swiss executives and managers.

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