

it's our business

newspad of the Employee Share Ownership Centre

Postal workers to get up to £2,000 worth of free shares

About 150,000 Royal Mail staff will each get free shares worth up to £2,000 when the state postal operator is launched on the London Stock Exchange later this year, in what will be Britain's biggest privatisation in decades, the government announced.

Royal Mail is to be privatised by being floated on the stock market during the current financial year.

Eligible Royal Mail employees in the UK will receive a ten percent stake in the company - free of charge - at the launch of the Initial Public Offering (IPO), creating the largest employee share scheme of any major UK privatisation for almost 30 years. Contrary to earlier suggestions, opposed by the Centre as inadequate, posties will get real shares not a second-class holding through a trust without the power to vote or sell.

It is expected that every eligible employee, no matter what his or her rank, or period of service, will be offered the same number of free shares.

Although specific details are still under wraps, it is believed that a giant Share Incentive Plan is the most favoured form of approved employee share ownership scheme for the 'posties'

In addition, the postal employees will get first refusal under the impending IPO of the state offer to buy additional shares at whatever discounted price level is set. "This will become the real litmus test for their interest in paying for the shares," said Centre UK director David Poole. The point is far from being academic, as privatisation has been resolutely opposed by the Communication Workers Union (CWU) led by Billy Hayes.

Business secretary Vince Cable announced that under the government's plan, ministers will retain flexibility about the size of stake to be sold via the IPO, depending on market conditions. Members of the public will be offered shares in a scheme that is likely to evoke memories of the 'Tell Sid' privatisation of British Gas under Margaret Thatcher's Tory government in 1986. Mr Cable, told MPs in the Commons that the government would retain a minority stake in the Royal Mail.

Those employees who disapprove of Royal Mail's impending privatisation will be able to opt out of the share ownership scheme.

From the Chairman

Real shares are making a comeback this month after a couple of years of life with the bienpensants. While Co-ops are fighting for their reputation, the government is offering real shares to Royal Mail workers and more significant in quantity than had been expected. In the same month came exceptional news from Sports Direct, Walmart and Interserve, spreading the wages of capital in significant dollops. Let us now have a combined effort to make the CSOP work; perhaps Mike Ashley could take a lead and offer options to zero-hours staff too.

Malcolm Hurlston CBE

Those who hold shares will have the same voting rights as ordinary shareholders and will receive dividend payments in the same way as private investors. They will, however, have to hold onto the shares for at least three years before they can sell them. It is thought that each member of staff will receive a windfall of up to £2,000, if not more, with expectations that the initial public offering will raise £3bn.

Mr Cable said: "Post men and women are at the very heart of Royal Mail making sure that the post is delivered to every address in the UK six days a week. They are absolutely central to the future of the company and so it's important that they too benefit from its success, as decided by Parliament two years ago. "This is why I'm happy to announce the employee share scheme. I was determined to make sure that we offered staff a scheme which is as attractive as possible and gives all eligible Royal Mail employees an opportunity to share in the future success of the company. This is a good deal which will give hardworking employees a meaningful stake in their company when government disposes of shares in Royal Mail."

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The unions have argued that the sale will spark a decline in postal service provision and working conditions for the company's employees. CWU general secretary, Billy Hayes, said: "Nobody outside of government and their potential investors wants their postal service sold. The public consistently oppose the sale and recently 96 per cent of workers voted against.

"The proposals go far further than the Labour government's previous attempt to privatise the Royal Mail in 2008 which ended when Labour backbench MPs threatened to rebel against the then government's proposals. Those proposals would have seen the government retain a majority stake in the service." The government says access to external capital is vital to the firm if it is to continue shifting its business towards a future focused more on parcels.

Welcoming the announcement Centre chairman Malcolm Hurlston CBE said: "The case for any industry being in public or private hands is no longer as clear as it was and to that extent the views of CWU are understandable. They have the public well-being at heart as well as that of members. However if the die is finally cast I hope the union will be able to help members benefit in the way they deserve from this one-off access to the wages of capital."

Centre director to leave UK

UK Centre director David Poole is leaving us - and the UK - on September 6 to live with his Canadian born wife, Vieve, in Toronto.

"I'm moving to Canada in September. After a personal loss in January, we've been thinking hard about the future and have decided to move nearer to my wife's side of the family for a few years," David told *newspad*.

"We're planning to spend time with family from September and then take a break in South America, before landing in Toronto early 2014 to settle."

"I have enjoyed my time with the Centre very much. It has been an exciting time to be working on UK policy for employee share ownership. Seeing so many ideas being acted upon has been rewarding.

"Getting to know so many of the members has been great fun and their help in everything we have done has been invaluable. Without the support of our members, not nearly as much would have been possible. My colleagues, too, have been brilliant and I have learned very much from all of them.

"I'm sure I will be keeping in touch and all are welcome to contact me on david.poole1011@gmail.com."

David joined the Centre in March 2010 since when he has been involved in Centre policy projects including Royal Mail Eso; disguised remuneration; tax simplification; saving the CSOP; financial education for employee shareholders; Eso policy for the Lib Dems; HMRC's ERS Forum; the Nuttall Review and its implementation; and linking CR to employee share ownership.

During this time, the Centre has revamped its website and marketing materials and created social media accounts and introduced the mid-month *newsbrief*, which has been written and produced by David.

Centre chairman, Malcolm Hurlston CBE, paid tribute to David's impact on the Centre and the UK Eso industry generally: "David joined as a researcher and became national director of the Centre in July 2011 since when he has lent pace and depth to our forward trajectory. His intellectual and personal skills have taken us a long way forward. He leaves us stronger and he has all our good wishes for his future. Canada has come a long way since Al Capone asked "What street's it on?" but it can still benefit from David's active presence."

International director, Fred Hackworth, said: "Like many Centre members, I am saddened by the news of Dave's impending departure from the Centre and from the UK. For Dave has been at the heart of the Centre's engine room for almost three and a half years, during which has achieved a great deal, alongside Malcolm, in lobbying resolutely for more broad-based employee share ownership in the UK. Dave has helped widen the Centre's ambit and has increased its influence on the research front. He has been a willing helper at all our international events and has raised the profile of the Centre's Channel Island events too." A new researcher will join the Centre this month.

Bookings high for Centre Awards dinner

More than 90 places have been sold for the Centre's sixth annual awards black-tie reception and dinner on **Wednesday November 6** at the **RAF Club** in Piccadilly, already home to the Centre's prestige dinners. The Centre would like to thank **Ogier Corporate Services**, a supporting sponsor of this year's dinner.

Centre chairman **Malcolm Hurlston CBE** will address the diners and then international director **Fred Hackworth** will announce the names of the winners and runners-up for the three main categories of awards this year, namely:

*Best International Share Ownership Plan (over 1,500 employees)

The finalists for this year's main award are, in alphabetical order: **ARM Holdings**, nominated by **YBS Share Plans**; **Edwards Group**, nominated by **Equiniti**, and **Rio Tinto**, nominated by **Computershare**.

*Best Employee Share Ownership Plan (fewer than 1,500 employees)

This year two entries have been selected as finalists in this category. Again in alphabetical order, these are: **ASOS**, nominated by **Capita**, and **IGas**, nominated by **Equiniti**.

*Best all-employee share plan communications:

Following a successful baptism of this award last year, the Centre is pleased to announce three finalists of the

highest quality. These are: **Morrisons**, nominated by **YBS Share Plans**, **Pearson**, and **Telefonica**, nominated by **Global Shares**.

In addition this year there will be two individual awards:

*Esop Institute student of the year award: to be chosen by the Registrar and the Chief Examiner after the July 31 exams

*Share plan personality of the year award

Mike Ashley, owner of Newcastle United FC and majority shareholder in **Sports Direct** (*see news story further down*) is a recent nomination for this year's new *Esop Personality of The Year Award*. This award is still open for nominations. Please contact the Centre with your thoughts of who has made an impact on employee share ownership in this past year.

Ticket prices for members this key event in the Centre's calendar are: £160 and £1,500 + VAT for tables of ten.

Please contact Centre UK director David Poole - dpoule@esopcentre.com or Tel: + 44 20 7239 4971 if you are thinking of booking either a convivial table or individual seats.

Sponsorship opportunities are available for this year's dinner: download the sponsorship brochure from <http://tinyurl.com/lzh6xnj>

The Esop Institute

The students on the current ESOP Certificate course are writing their exams this week. The course deals with the key aspects of share schemes and employee ownership in a single e-learning module divided into three main sections: overview of employee ownership; technical essentials: legal, tax and accounting; and building a business case for employee share ownership and employee engagement. The materials were thoroughly renewed by David Craddock and given peer review by Kevin Thompson and Sally Robinson of Clifford Chance. Next term at the Institute begins in March 2014, though there's nothing to stop you or colleagues from enrolling now. Early enrolment on the e-learning course costs only **£650 + VAT**, which makes it excellent value for money. Find more details about the course and the simple enrolment procedure at: www.esopinstitute.com.

Sports Direct

Around 2,000 employees at **Sports Direct**, founded by Newcastle United FC owner **Mike Ashley**, are to share a share scheme bonus pot worth £133m. Record pre-tax profits, which rose 40 percent to £207m, mean that an average employee earning £20,000 pa at Sports Direct will pocket 12,000 shares this month, worth more than **£75,000** at current market prices. The 2,000 employees concerned can sell their shares through the free share broker service provided by the management. Ceo Dave Forsey said that the share scheme, introduced in 2009, had been "crucial to influencing staff behaviour and maximising staff behaviour." Mr Ashley, deputy chairman, owns 64 percent of Sports Direct and is not paid a salary. The board said it was reviewing various

ways of paying him a bonus, after last year scrapping a planned super-stretch bonus scheme, which could have netted him ten million shares in 2018, subject to super performance.

SAYE bonanza for Asda employees

More than 19,000 Asda-Walmart supermarket chain employees pocketed a record £61.7m after a three-year SAYE, operated by US parent Walmart, matured. Some employees gained £15,000 on their SAYE investment and even the average gain was relatively high at £3,250 per participant. Walmart shares have jumped 35 percent in three years. In addition, employee participants gained more because they were able to buy share options in Walmart at a 20 percent discount to their then market value.

Since the Sharesave scheme began in 1982, Asda employees have shared more than £650m from the scheme maturities. Hayley Tatum, the company's executive people director, said: "This record bonus pot reflects the success we've seen this year, all of which is down to the hard work and commitment of our colleagues across the business." Teresa Halliday of Asda Crawley, who has worked at the company for eight years, will put her Sharesave money towards a wedding to her partner of 26 years. Susan Newman, who has worked at Asda Weston-super-mare for 14 years, will use the money towards celebrating her 40th wedding anniversary. Asda said the most popular ways for staff to spend their windfalls were holidays abroad, weddings and home improvements.

Ace at Interserve

UK based employees of **Interserve Plc** received good news after a successful maturity of their Sharesave scheme that will see participants receive an average profit increase of £1,122. Last year the same Sharesave scheme for Interserve employees saw the option price rise from 152.5p to 369.8p by the maturity in October 2012 and higher still now. Trevor Bradbury, group secretary of Interserve, said: "Our scheme has proved to be a very positive relationship with hundreds of our employees choosing to take part. It's important to give our staff the chance to own a part of the business they contribute so much to and to be given the chance to share directly in our success. Interserve is a leading support services and construction company, operating in the public and private sectors in the UK and internationally. Based in the UK and listed in the FTSE 250 index, it has revenue of £2.3bn and a workforce of more than 50,000 people worldwide.

The board of **Nokia** mobile phone company has approved a broad-based employee share purchase plan to be launched later this year.

**Please email us your news of share scheme maturities in which participants have made at least reasonable gains. These can be maturities from your own schemes, or via your advisers. We always have room in newspad for such information.*

Tax relief for business owners who sell out to employees?

The Coalition government launched a consultation on its two proposed tax reliefs, aimed at enticing companies to sell themselves to employees in order to create more 'John Lewis' style businesses. The Treasury consultation, which runs until **September 26**, focuses on forms of indirect employee ownership, such as employee benefit trusts (EBTs), where shares are held collectively on behalf of employees.

*Capital Gains Tax relief would be granted to those owners who sold a share in their business to an indirect employee ownership structure. It is likely that this will need to be the disposal of a majority share.

*An Income Tax and NICs exemption would enable indirectly employee owned companies to pay staff annual bonuses – up to a ceiling level – free of tax and NICs.

These tax breaks would be worth £50m a year to UK employee-owned businesses, starting in the tax year 2014-5.

The idea is that if such tax reliefs were available, business owners would not suffer financially if they sold a controlling interest in their companies to employees.

The consultation document can be downloaded from the Treasury site at: <http://tinyurl.com/lqp87qn>

The Treasury said: "The government will publish a summary of the responses to this consultation in the autumn. Responses will help to inform draft legislation which will be published for further consultation at Finance Bill 2014. The legislation needed for the NICs exemptions will be made in 2014 by regulations under the Social Security Contributions and Benefits Act 1992."

*The employee ownership model will be easier to understand and quicker to set up following the publication of new guidance by Business Secretary Vince Cable. Speaking at the Employee Ownership Conference in London, Dr Cable hailed the first national Employee Ownership Day – July 4. He announced the publication of joint government and industry-led guidance, which will help businesses move to the employee ownership model.

The documents aimed at reducing the complexity of moving to employee ownership include:

BIS guidance for employees who want to request a move to employee ownership that has been endorsed by the arbitration & conciliation service, ACAS.

Model documentation on a move to employee ownership by Centre member **Pett, Franklin & Co. LLP** with accompanying BIS and HMRC guidance;

Guidance from the Employee Ownership Association explaining the different models of employee ownership - guidance from Co-operatives UK on how co-operative principles and ways of working can be implemented into employee-owned businesses.

Indirect employee ownership has the potential to benefit the wider economy; therefore the government is seeking

views from people both inside and outside the employee ownership sector to ensure any new tax reliefs are supportive and effective, said Mr Cable.

Deputy Prime Minister, Nick Clegg said: "The benefits of employee ownership are clear. Staff who have a stake are more motivated and are rewarded for thinking in the long-term. That's good for business and good for families, as it means lower absenteeism and lower levels of staff turnover. That's why from next April, the government is setting aside £50m each year to give businesses and employees an incentive to adopt employee-owned models. We'll be providing Capital Gains Tax relief for those who sell a controlling stake in a company to their staff. Giving hard-working people a real stake in their company is a hugely underused tool in unlocking growth. This straightforward new guidance will help firms of all sizes realise their potential, boosting staff motivation and laying the foundations for growth."

Business Secretary Vince Cable said: "As we rebuild the economy, there has never been a more important time to support different ways of running a business. The evidence is that clear that employee owned businesses not only help us build a stronger economy, but boost the retention, innovation and motivation of their employees. The Nuttall Review set us a challenging agenda a year ago. Today we are helping to meet those challenges. I hope more businesses give their employees a greater stake in their future and the success of their company."

Co-operatives UK Secretary General Ed Mayo said: "We are delighted to be supporting Employee Ownership Day and will be encouraging our members to take part throughout the country. Co-operative employee ownership is where the majority of the business is owned by the staff. We will be launching *Simply Buyout*, an essential guide to employee buyouts and becoming a co-operative employee owned business."

Employee Ownership Day is part of the government's commitment to help boost the size of the sector, by ensuring employee ownership is more widely understood and easier to establish. The London conference, held during Co-operatives Fortnight (no mention of the travails of the Bank), showcased the pioneering approach to public service delivery that the Cabinet Office is leading on through public service mutual and outline progress made since the publication of Graeme Nuttall's report into Employee Ownership in July 2012. Mr Cable and Business Minister Jo Swinson visited employee owned engineering company Arup, where they toured the firm's facilities and saw some of the ground-breaking work the firm undertakes around the world.

Broad-based employee share ownership was mentioned at the main event as being the vehicle for achieving direct employee ownership.

David Pett, partner at Pett, Franklin & Co, was thanked personally by Vince Cable and by Jo Swinson for

writing the model trust documents as was **Graham Nuttall** of Field Fisher who has undertaken to write a further pro bono report one year on. Formal thanks are being sent from the Business minister to **Linklaters** for hosting the event at the Centre's request.

The Centre policy group has met to draft a submission and will meet the Treasury shortly. Individual replies are also encouraged.

*Co-ordinates for Treasury consultation replies: Email: jane.page@hmtreasury.gsi.gov.uk

Post: Jane Page, Personal Tax team, HM Treasury, 1 Horse Guards Road London SW12 2HQ

Changes to tax-approved share plans take effect

Many significant changes to tax-approved plans - CSOP, SIP and SAYE - took effect last month (July), with the coming into force of the Finance Act, reported Centre member **Linklaters**. One of the changes is the removal of specified age as an early exercise event and harmonising the retirement early exercise events across the three tax-approved plans. The legislation does not include a definition of 'retirement' but HMRC was expected to publish guidance on this by the end of July.

New seven-year savings periods under SAYE plans were abolished late last month (July). HMRC informed SAYE savings providers that the current SAYE prospectuses would not apply from July 23 and that new SAYE prospectuses would replace them from that date. Seven year SAYE contracts will remain available under invitations sent to employees before July 23 if an application is returned by August 22 (i.e. within 30 days of the change). However, this 30 day grace period may be of little practical use as seven year SAYE options are unusual these days and the bonus rate for all SAYE savings contracts (i.e. three and five years) is currently nil.

Plan rules and employee communications should now be amended to reflect the changes in legislation, added Linklaters. Meanwhile, HMRC plans to implement the final important changes - online registration of plans and a system of self-certification to replace the current pre-approval HMRC process - from April 2014. Any queries on these changes should be referred to: **Gillian Chapman** or **Graham Rowlands-Hempel**.

Eso participation increasing?

There has been a significant rise in the number of employees opting to take shares in the company that they work for, as part of a remuneration package, according to a survey report. Share plans and incentives expert Matthew Findley of Centre member **Pinsent Masons**, said that the results of an industry annual survey demonstrated the "continued resilience and popularity" of employee share schemes despite continuing pressure on disposable incomes. The report claimed that the number of employees participating in both of the major HMRC approved employee share ownership schemes rose in 2012. Employees participating in the SAYE scheme or a Share Incentive

Plan (SIP) saved more on average too. The number of employees with SAYE accounts rose by more than 150,000 to just over 1.2 million in 2012, the survey revealed. Last year, employees saved an average of £105.83 each month; up from £82.02 per month in 2008. The number of employees investing in SIP schemes rose from 908,905 to 960,988, with an average monthly investment of £83.37. "Companies and their remuneration committees should be actively considering their approach to all-employee share ownership," Findley said. "It increases engagement, provides an opportunity for long-term wealth creation to supplement pension planning and demonstrates commitment to any perceived wider responsibilities on pay. The Government should examine how to further increase participation in SAYE and SIP, he added. "The government is clearly very focused on employee ownership - in all its forms - but has concentrated too much effort on deeply unpopular and flawed measures like 'Employee Shareholder' status when a fresh look at, for example, the existing SAYE and SIP limits and their operation would be more productive in increasing employee share ownership."

New prospectus for SAYE savings contracts

HMRC announced new terms for SAYE savings contracts, as of July 23. The new specification, prospectus and appendices have been amended to reflect the removal of the seven-year savings period announced by the government last December. However, the bonus rates remain unchanged - at a historic low of zero percent, as shown below.

| Contract Type : | Bonus (Previous) Rate : | Annual (Previous) Equivalent Rate : |
|------------------------|-------------------------------------|--------------------------------------------|
| 3 year | 0.0 x (0.0) monthly payments | 0.00% (0.00%) |
| 5 year | 0.0 x (0.0) monthly payments | 0.00% (0.00%) |

The Early Leavers' rate remains unchanged at zero percent

On the move

Claudia Yanez has left her global rewards & equity compensation job at **Freescale Semiconductor Inc.**, after accepting a new position at **SunPower**, as senior manager, executive compensation, based in Austin, Texas. Claudia was due to start her new job this week. In the meantime, she can be reached on her personal email: cyanez0909@gmail.com.

Centre member **Abbyss Cadres** announced that **Jonathan Fletcher Rogers** has joined the firm as a compensation and benefits partner. Jonathan was formerly with Allen & Overy, where he spent more than ten years specialising in equity incentives and employee tax. His practice focuses primarily on the design and operation of incentive plans, both in the UK

and globally, including the tax, regulatory and corporate governance aspects.

Jonathan has considerable experience advising on the incentive aspects of a wide range of corporate transactions such as flotations, mergers and acquisitions. He advises on employment tax more generally, as well as the tax and social security issues affecting employees on international assignment. He is a key addition to Abbiss Cadres' growing compensation and benefits team, which includes partners Guy Abbiss and John Mooney, and senior consultants Bina Gayadien and Kate Thompson.

Jay Foley is now md at **Computershare**. Jay was formerly md of Morgan Stanley Smith Barney's global stock plan services for the UK and Europe.

Mike Pewton of **GlobalSharePlans** is away on honeymoon and he'll return on August 6.

Ogier Fiduciary Services' London office has moved, ceo Paul Willing told *newspad*. Its new address is: 6th floor, Old Jewry, London EC2R 8DU. All contact telephone numbers remain the same.

The **Pensions Regulator** confirmed that the millionth employee had been automatically enrolled into a workplace pension. Automatic enrolment was introduced in October last year to ensure that employees have access to an occupational pension.

Travis Perkins Group was among the employers who registered when the one million employee mark was reached. The builders merchants has automatically enrolled around 9,000 of its 24,000 employees into a pension scheme.

Solium confirmed the appointments of **Mike Baker** and **Kevin Lim** to its Europe, Middle-East and Africa (EMEA) division. Mike, who has more than 20 years experience in the share schemes industry, is EMEA sales director and Kevin is UK channel relationship director. Kevin, a solicitor with a banking and professional services background, will focus on supporting Solium's strategic partnership with Barclays Wealth.

Mike Richards contacted *newspad* to update his many former colleagues on life in Wales. "Having left the ESOP world, I left Jersey after 35 years and returned to my home village of Aberdovey on the west coast of Wales at the end of last year. My wife, Linda, and I now own and operate the four-star Cartref Guest House in the village. We have a website www.cartref-Aberdovey.co.uk and our email address is stay@cartref-Aberdovey.co.uk. You can find us on Facebook by typing in the guest house name. We would love to welcome any former colleagues and associates as I am sure they would find Aberdovey an enchanting place to visit."

CONFERENCES

GUERNSEY - October 11

Bookings are now being taken for this year's annual ESOP Centre/STEP Guernsey seminar, which will take place on the **morning of October 11** at the St. Pierre

Park Hotel, St. Peter Port. Expert speakers will cover a range of topics, tailored towards an audience mainly comprising employee benefit trust practitioners. The programme will include: *the macroeconomic context for employee share ownership; cross border payment challenges; positive outcomes from EBT exits; the proposed employee shareholding vehicle; EBT trust law update.*

Confirmed speakers to date include: David Craddock, of **David Craddock Consultancy Services**; Christina Hamilton of **Western Union Business Solutions**; Graham Muir of **Nabarro**; Paul Malin of **Haines Watts**; and Alison MacKrill of **Carey Olsen**.

Special offer: reserve before August 11 to receive three places for the price of two!* Make sure you are up to date with the latest developments by attending this **CPD accredited** course.

Attendance prices: £295 for Centre/STEP members; £425 for non-members.

To make a reservation, email esop@esopcentre.com - giving your delegate name(s) and contact details. A member of the Centre team will then respond. *cheapest ticket free.

DAVOS - Feb 6 & 7

Nine speaker slots have been filled to date for the Centre's 15th annual global employee equity schemes conference, which takes place in Davos, Switzerland, on **Thursday, February 6 and Friday, February 7 2014**.

Member service providers can save almost £200 on their package deal admission fee if they opt to fill one of the maximum 15 speaking slots on offer. Plan issuers can make a similar saving if they commit to a speaker presentation too. This popular event will again take place at the five-star Steigenberger Belvedere Hotel, Davos Platz. The two nights accommodation + conference speaker fee for member practitioners is **£955** and no VAT, whereas the same person would pay **£1150** as a delegate.

The programme is likely to include some of the following hot topics:

The reconstruction of executive incentives: institutional investors, media reaction and remuneration committees

Risk as a component in executive incentive plans

Latest legislation and regulatory developments impacting employee equity

Case studies on recent global and international broad-based employee equity plans

Cross-border equity award taxation issues for highly mobile employees and their employers

Corporate governance issues in US and EU employee equity plans

Employee share ownership developments in Europe

Offshore trustees: what can they bring to the party now?

Communicating equity plans to employees in the recession

Speakers may wish to present on other issues.

To date, speaker commitments have been received from:

Alasdair Friend & Narendra Acharya of **Baker & McKenzie LLP**; Fred Whittlesey of **Compensation Venture Group**; Martin Sheridan of **Computershare**; Mike Pewton of **GlobalSharePlans**; Martin Osborne-Shaw of **Killik Employee Services**; Mike Landon of **MM & K**; David Pett of **Pett, Franklin & Co. LLP**; Kevin Lim of **Solium Capital (UK)** and Alan Judes of **Strategic Remuneration**.

Two nights accommodation in the Belvedere Hotel (on half-board, single occupancy, basis) + entrance to all conference sessions + cocktail party + refreshments & bound delegates' handbook:

Speakers - Centre member practitioners **£955**; Eso plan issuer speakers **£695**.

Delegates - Centre member practitioners **£1150**; Plan issuer members **£695**.

Equivalent delegate rates for **non-members** are **£1,495** for practitioners and **£895** for plan issuers. (NB: no sales tax payable).

These fee levels are still well below those applying in commercially run conference operations, so why pay more elsewhere? Please email your Davos speaker proposals or delegate registrations asap to fhackworth@esopcentre.com with copy to esop@esopcentre.com

Why no Esop-lending banks, as in US?

Why are there virtually no specialist UK banks that regularly lend to company Esops to finance share purchases from retiring owners, asked **Robert Postlethwaite**, md of employee ownership lawyers **Postlethwaite**, writing in *The Guardian*. "Like any other business, an employee-owned company will need access to finance and if this cannot be generated internally it will be looking to source this from a third party," said Robert. "Can we learn any financing lessons from outside the UK? In the US, where employee ownership is far more prevalent, there are specialist banks that lend to companies' Esops, to finance purchases from retiring owners. Unlike in the UK, the company can fund the Esop to repay its loan with full relief against corporate taxes, making it far easier to service the loan and so making a sale to an Esop a feasible exit route in many more cases. Increased demand has increased the number of banks willing to lend, although there remain plenty of gaps in accessing finance. In Spain, the Mondragon network of co-operative companies finance innovation through a rigorous policy of profit reinvestment and through their own bank."

Funds may be needed for working capital, development capital or for a transition to employee ownership, in the form of a loan (or a variation on the

theme, such as invoice discounting) or longer-term finance, which in the UK normally means the issue of shares.

"When seeking loans, employee-owned companies face the same problems as more traditionally owned companies; the major barrier being banks' continued caution with lending. In addition, there are only a few specialist providers of finance for employee ownership.

"When an employee-owned company needs finance for a longer term, things do not get any easier. If it wishes to invest in the development of a new product or service, which may take some years to start generating profits, or if it wants funding for a transition to employee ownership that does not require regular repayment and interest charges, the only form of external finance that may be available is venture capital. However, venture capital in its current traditional UK form is often going to be hard to reconcile with employee ownership.

Some employee-owned companies intentionally do not have *individual share ownership*, all shares being owned by an employees' trust, which would clearly be incompatible with bringing in an external shareholder. Where external shareholding is feasible, a UK venture capital investor will generally be looking to get his money back within five to ten years, and typically if the investment has been successful the company is unlikely to be able to afford to buy the shares back itself. So, in many cases, the company will be sold, bringing its employee ownership to an end," added Robert.

There generally will be financing advantages for a transition to employee ownership if a trust is involved, assuming this is the right structure for the business concerned

"The US Esop banks and Mondragon may provide models for building our own financing capability, but other new approaches may contribute, for example bonds (long-term loans) and long-term equity, with the potential for crowd sourcing and peer-to-peer to transform access to capital. For the time being, though, an employee-owned company seeking finance might consider the following practical steps.

In addition to producing a rigorous business plan, it should explain, briefly but clearly, its ownership structure and address head-on any potential concerns that a bank manager might have, for example that the company is run by a stable and experienced management team and not by employees as a collective, that it will only pay out profit share or dividends if its capital requirements are covered and emphasising the strengths that employee ownership brings to its business.

If finance is sought to fund a transition to employee ownership and it is hard to source sufficient external finance, an alternative is for the transition to be vendor financed. Here the vendors agree to receive payment for their shares over a period of time, financed from future company profits. This is a common approach

and vendors can mitigate the risk of non-payment by reserving the right to take back their shares if the agreed payments are not made.

It is worth exploring the small number of UK specialist providers of finance for employee-owned companies, and, if the company is willing to bring in an external shareholder, it might consider an alliance with a trade partner. Here, it might identify a trading company in a related business to make a long-term investment in a minority ownership stake.”

*Postlethwaite has published its annual approved and unapproved share schemes foldaway guide. Call 020 7470 8805 if you would like a copy, or email Robert at: rmp@postlethwaiteco.com

Women shun Eso, claim

An initial sample of customer data shows that averagely only 35 percent of employee share scheme participants are women, according to Louise Drake, of YBS. “We need to understand what women want from share plans,” she said. This was one of the many topics at the Centre’s initial lunch for women in employee ownership, generously hosted by JP Morgan Cazenove last month, at which employment minister Jo Swinson MP was guest of honour.

Regulators undermine pay for performance

Recent regulatory changes may undermine the concept of pay for performance in banks and insurers and increase risk within businesses, Mercer warned, after witnessing significant pressure from institutional investors on FTSE100 firms to reduce or freeze pay. European banks and insurers are subject to more regulatory requirements than competitors in North America and the emerging markets, the consultancy said in its *Global Financial Services Executive Remuneration Report*. Europe has been particularly affected by regulatory developments, such as *say on pay* and bonus caps. However, Mercer said this has encouraged firms to plan to increase base salaries instead, severing the link between performance and pay. Mercer senior partner Vicki Elliott said: “The clearest trend in the face of bonus caps is an increase in base salaries. Organisations are looking at other ways of maintaining pay levels to support staff retention. However, reducing the amount of variable pay, like bonuses, weakens the link between performance and pay. With less variable pay that can be linked to performance, there will be less pay that can be deferred and aligned with the risk time horizon of the business. This is contrary to the principles developed by the Financial Stability Board (FSB) after the financial crisis. Rewards in banks and other financial organisations should be tied to multi-year performance to help manage risk.”

The report said 68 percent of companies had not yet set a fixed/variable compensation ratio cap, and many indicated it was not on their agenda. Companies said they may increase the vesting period for deferred

compensation to five years or introduce new long-term incentive programmes to take advantage of the discount the Capital Requirements Directive (CRD) IV allows on 25 percent of variable pay.

Centre pushes for Eso to feature in CR reports

Government has proposed developing a voluntary set of metrics for businesses to use to report on their corporate responsibility as part of a consultation into improving CR more generally. Minister Jo Swinson MP announced that the Department for Business, Innovation and Skills (BIS) was opening up a consultation into precisely how companies can be encouraged to engage more in positive action in their communities, and how they can better report on it. The BIS consultation puts forward the business case for such activity and reportage: “Customers have increasing expectations about the ethics and behaviour of businesses. UK firms can potentially take advantage, if they embrace corporate responsibility at least in part.” Centre chairman Malcolm Hurlston, CBE, said: “All-employee schemes should be a natural constituent of quoted companies CR reporting. We have taken this up with the Department and there is much support. Such reporting will have the effect of raising consciousness of the scale and importance of the all-employee plans which are the Centre’s *raison d’être*.”

Companies at the Parliamentary inquiry, including BT, McDonalds and Google, said they had experienced a distinct business benefit from their CR programmes. But at the inquiry some charity participants wondered whether the business case for corporate philanthropy had been made adequately – or whether it undermined the expectation that companies engage with charity simply because it is “the right thing to do”. This lack of consistency in reporting is one of the issues the BIS consultation is looking to address, but former MP Tom Levitt suggested that standardised corporate responsibility reporting could be an issue in the review of the Companies Act 2006, which presently requires only the largest companies to report on their social impact in their annual reports. Chair of the inquiry Labour MP David Blunkett told the group: “We’d like companies not to boast about what they’re doing, but to put it in the public arena.” This sentiment the consultation echoed: “We want to encourage greater transparency on corporate responsibility and for information to be more accessible to a range of stakeholders.” The consultation closes in late September.

RTI costing SMEs a packet

Despite government promises to reduce the amount of time and money businesses spend on compliance costs, the average SME in 2013 pays substantially more than two years ago, claimed new research by the Forum of Private Business. It put the total cost of compliance at more than £18.2bn – an 8.5 percent increase compared to 2011. The Forum research showed firms are paying 11 percent more to external providers of payroll and tax

support compared with two years ago, which the employer support organisation said was probably due to the introduction of Real Time Information (RTI) – a new HMRC payroll process introduced in April this year, which all firms with employees have to use. As in 2011 when the Forum did its last cost of compliance study, taxation compliance remained the single biggest outlay for small firms, followed by employment law, with health and safety third.

JSOPs

There is increasing interest in Joint Share Ownership Plans (JSOPs) as a way of rewarding key executives, but that may be justified only if the company share price has the potential to rise considerably, said Mike Landon, executive compensation director at Centre member **MM & K**. This may be the case in company start-ups, reorganisation or new product launches, wrote Mike in *Board Walk*, MM &K's latest briefing for remuneration committees.

However, pitching a JSOP against conventional unapproved options may only work in terms of net gain at maturity, say three years later, if the share price has risen by more than 50 percent, he showed in a detailed examination of the potential net gains.

The main attraction of the JSOP is that much of the potential gain will be subject to capital gains tax (CGT), currently at 28 percent for higher and additional rate taxpayers, as opposed to income tax at 40 or 45 percent) and national insurance contributions (NICs) – two percent for executives and 13.8 percent for companies). Under a typical JSOP, executives are awarded an interest in a specified number of shares equivalent to any future increase in the value of those shares above a hurdle rate of, say, five percent per year. The remaining interest in the shares is held by the trustee of an employee benefit trust. An executive's interest in the JSOP is treated as an interest in restricted securities. The executive agrees with his employing company, under section 431 of the Income Tax (Earnings and Pensions) Act 2003, to be subject to income tax on the unrestricted market value of his interest at the acquisition date, which results in any future gain being subject to CGT. The taxable value of the interest is calculated in a similar way to the fair value of a share option at the date of grant. When the underlying shares are sold in due course, the executive becomes entitled to any sale proceeds in excess of the hurdle share value. "The JSOP is therefore only likely to be attractive to executives if there is the potential for a substantial increase in the share price – for example in a startup, turnaround or launch of a significant new product," said Mike.

Other points to watch were: **share ownership rights**: The executive may be given some voting and dividend rights under a JSOP, but not normally for a share option .

Valuation: The executive's interest in a JSOP can be complex to value and HMRC is less willing to agree very low values than they have been in the past. **Corporation**

Tax Deduction: This is only available to the employing

company for the part of the gain, which is subject to income tax, which is usually very small for a JSOP. The direct link can be found at: <http://tinyurl.com/lkxj2jn>

In the same issue of the MM & K bulletin, Damien Knight published a table of 'winners and losers' arising from the government's new regime for directors' remuneration reporting and binding votes on executive pay policy. The new legislation requires quoted companies with year ends of September 30 2013 or later to put their remuneration policy to a 50 percent-plus majority vote at their upcoming agm. Thereafter companies can only provide remuneration or loss of office payments that are consistent with the policy unless they obtain shareholder approval at a general meeting to a revised policy or to the specific payments.

Knight lists the **winners** from the changes as:

Large accounting firms, who will get endless compliance and more audit work

ISS and other major voting advisory companies

Lawyers – due to the threat of civil action against directors

Institutional shareholders' corporate governance staff
Fat cats because there is nothing in the changes to worry them

Financial Reporting Council's influence has been reinforced, since its proposals have been adopted wholesale.

Losers

Smaller quoted companies because their admin burden will escalate considerably

Retail shareholders because it will be much harder for them to work out what's really happening on the remuneration front

General public because the perceived excesses of executive pay will carry on

Beneficial shareholders generally because none of this reporting burden will add to shareholder returns

Specialist shareholder and company advisers because companies will increasingly use low value tick box tactics

Remuneration committees because who would want that job now?

Farewell FSA and welcome FCA, PRA and FPC.....

The UK Financial Services Authority (FSA) was abolished on April 1 this year and replaced by three new regulators. The Financial Services Act 2012 introduced the Financial Conduct Authority (FCA), the Prudential Regulatory Authority (PRA) and the Financial Policy Committee (FPC). This new regime not only provides a clearer division of responsibilities between regulators, but new enhanced investigation and enforcement powers show a clear commitment by regulators to investigate and take enforcement action, said lawyers Dechert LLP. However, readers may be forgiven doubts about who does what. Below is a file-away guide to the new UK regulatory set up:

The **FCA** is responsible for regulation of the conduct of

firms authorised under the Financial Services and Markets Act 2000 (FSMA). It is also responsible for:

- regulation of conduct in retail and wholesale financial markets;
- supervision of the trading infrastructure that supports retail and wholesale financial markets; and
- prudential regulation of firms not regulated by the PRA.

The FCA has three operational objectives:

- to secure an appropriate degree of protection for consumers (*the consumer protection objective*);
- to protect and enhance the integrity of the UK financial system (*the integrity objective*); and
- to promote effective competition in the interests of consumers in the markets for regulated financial services and services provided by recognised investment exchanges in carrying on certain regulated activities (*the competition objective*).

The FCA has responsibility for taking regulatory action to counter financial crime:

The **PRA** is responsible for the authorisation, prudential regulation and day-to-day supervision of all firms that the government considers should be subject to significant prudential regulation. These include banks, building societies, insurers and certain systemically important investment firms. Firms that fall within the regulatory scope of the PRA are known as 'PRA-authorised firms', or as 'dual-regulated firms', as the FCA is their conduct regulator. The PRA's general functions are:

- making rules under FSMA (considered as a whole);
- preparing and issuing codes under FSMA (considered as a whole); and
- determining the general policy and principles by reference to which it performs particular functions under FSMA.

The **FPC**, a committee of the court of the Bank of England, monitors the stability and resilience of the financial system as a whole. It considers prudential regulation issues across the UK financial system, in contrast to the PRA's micro-prudential role, and may direct the PRA and the FCA to take action to address systemic risks. Consequently, unlike the PRA or the FCA, it does not have direct regulatory responsibility for any particular type of firm.

Bonus corner

Private equity company **3i**, which owns companies such as fashion chain Hobbs, has pledged to change its pay policies after shareholders staged a

rebellion at the agm. The company is to lengthen the time over which its long-term bonuses pay out after more than one in three investors failed to support the remuneration report. Sir Adrian Montague, 3i's chairman, said the company had heeded concerns by institutional shareholders about a change to the vesting of long-term incentive plans made last year, which accelerated the timeframe over which the schemes paid out to top directors – including ceo Simon Borrows who received £2.5m in salary and bonuses last year. Under that plan, directors would have to wait only three and half years rather than five. Montague said that change would be reversed and the bonus scheme pay out in future as it had done previously, with 50 percent vesting after three years and then 25 percent in each of the subsequent two years. The results of the vote of the agm showed that 21 percent of investors voted against the remuneration report, a level of dissent which rises to 35 percent when deliberate abstentions are included.

Barclays' ceo, **Antony Jenkins**, hired a Wall Street investment banker as his right-hand man and agreed to put him on a pay and pension package potentially worth more than £6m a year. **Tushar Morzaria**, a Ugandan who came with his family to the UK in 1971 when he was a boy, will replace Chris Lucas as finance director in a move that sees the last of the Barclays old guard replaced in the boardroom. The 44-year-old will be on a salary of £800,000 with a potential 250 percent bonus of £2m. On top of that, he will go into the Barclays long-term incentive plan scheme, which can pay up to four times' salary.

Three senior **Network Rail** executives are set to pocket £300,000 each in retention payments to stop them being poached by rival firms, the company admitted. The proposed *golden handcuffs* payments have rekindled the row over executive reward at Network Rail, the non-profit company limited by guarantee which is responsible for running Britain's track infrastructure. The board already had announced bonuses for the top five executives, including an LTIP, worth 100 percent of base salary and payable in 2015, subject to performance. This was in addition to a separate performance bonus arrangement, worth up to 60 percent of annual salary, plus substantial pension and other benefit add-ons. The Transport & Salaried Staffs general secretary, Manuel Cortes, said: "The idea of paying retention bonuses at what is effectively a public monopoly is ridiculous. No one pays for golden handcuffs if there is nowhere to escape to. We only have one national network, so where is the competition? - This looks like a ploy to get round the fact that these people were not entitled to huge bonuses last year because of missed performance targets."

Days later, ceo Sir David Higgins announced his

resignation and will leave next January without a severance payment and without the £577,000 LTIP bonus.

Dennis Hone, former ceo of the **Olympic Delivery Authority**, received £929,000 in pay, bonuses and pensions during just two years in the job. He left with a pension pot worth £1.9m. He was made redundant at the end of March, with a golden goodbye worth £80,000, as well as an immediate pension of £373,000. He then walked into a new job as ceo of the London Legacy Development Corporation. According to the accounts Mr Hone was entitled to receive statutory redundancy pay and a pay-off bonus equivalent worth 60 percent of his £233,000 salary. It was agreed he would receive a lower 'terminal bonus' of 49 percent of his salary and half of it will only be paid once the sale is completed on the East Village, the athlete's village which is being turned into homes, schools and shops. Matthew Sinclair, ceo of the TaxPayers' Alliance, said: "It beggars belief that the Olympics quango employed staff on permanent contracts. Taxpayers' money has been wasted on payouts that were entirely avoidable had staff contracts reflected the fact that working on the Olympics was quite obviously a temporary role." Four former ODA executives received a total £261,000 in exit payments last year. Many newspaper readers questioned why the ODA executives had not been hired on fixed term contracts.

EU to stamp on bank executives' reward again

Senior executives at bailed out banks could face drastic reductions in their pay under new EU rules on state aid. The *Financial Times* reported that Brussels will try to cap the pay of executives at 15 times the average national salary or ten times the salary of an average worker at the bank from next month. The EU has already capped bankers' bonuses at two times the fixed salary under CRDIV financial stability rules. Chancellor George Osborne privately opposed the new rules as it would make it more difficult to attract a new Royal Bank of Scotland chief executive to replace Stephen Hester. The FT calculated that if the pay curbs were imposed in full, senior RBS staff would see their total pay including bonuses and share awards capped at about £471,000 – 15 times the UK national average salary of £31,413.

Swiss citizens voted last March in a referendum to impose severe restrictions on executive compensation and will vote again this autumn on a proposal that the salaries of executives should not exceed by more than 12 times the amount paid to lowest-paid employees in companies. Opinion polls suggest that the result of the second referendum could be 50 percent approval. In the US, the pay gap

between an average ceo in an S & P 500 company and the lowest paid employees in that company is around 204 to one.

Jersey helps UK plc

Jersey helps the UK generate around £2.3bn per year in tax revenue and supports up to 180,000 British jobs, claimed a report by Capital Economics, which was commissioned by Jersey Finance. Overall, Capital Economics estimates that Jersey is custodian of £1.2 trillion of wealth: of which £200bn is in banks; £400bn in trusts established by private individuals; £400bn in specialist structures for businesses and institutions; and £200bn in administered or managed funds.

"We estimate that three quarters of it originates from ultimate beneficial owners (as depositors, investors and settlors) who are not domiciled in the UK – with North America, Asia Pacific and the Middle East all being major contributing regions," said the report. "More than £150bn are the foreign assets of individuals currently resident in Britain but not liable for UK tax on their foreign source income, the so-called 'non-doms'. This makes Jersey a major conduit for non-dom foreign wealth, which has been a consistent plank of British policy for attracting wealth and talent under successive governments.

"But the uses of these funds disproportionately benefit the UK. We estimate that almost one half of the combined value held in the stewardship of the island's trusts and other structures, funds and banks has been invested in assets located in Britain. By this, we mean ultimately located in Britain, and not assets with funding simply intermediated through the City of London. Overall, Jersey's financial services sector intermediates almost one pound in every twenty of investment by foreigners into the UK. This scale of investment could potentially support 112,000 British jobs.

"Much of this investment into Britain depends upon the status of Jersey and the other Crown Dependencies. Jersey's practitioners believe that four-fifths of their business would leave the sterling zone if the Crown Dependencies didn't exist and relocate to other offshore centres. These other centres are unlikely to have the same affinity with the City of London and the UK as Jersey; their locus of operation could just as easily be New York, Hong Kong or Dubai.

"Jersey's banks largely service the needs of the expatriate affluent and internationally footloose high net worth individuals, as well as associated corporate and institutional clients. They attract deposits and funding from across the globe. Almost three-fifths of the island's £200bn of banking funds come from deposits and other instruments ultimately provided by customers from beyond the European Union, while less than a quarter arise from the UK. There is, though, little

it's our business

lending business conducted from the island. Instead, the banks upstream the bulk of funds to their parent companies which are typically in London. The UK's banking sector is bolstered by almost £120bn of funding received this way, which is equivalent to 1½ per cent of its total balance sheet or two-fifths of the overall customer funding gap. The up-streaming model brings real economic benefits to the UK, both through the extra liquidity it provides and through the revenue it generates from intermediation. Moreover, in recent years, the ability of the part-nationalised banks to secure funding through Jersey has eased the burden on British taxpayers. "Our own calculations, based on cautious assumptions and prior to the adoption of a new FATCA-type reporting regime, suggest that the maximum level of tax evasion plausibly facilitated through Jersey was £150m per annum in 2011. The actual level was probably much lower. Automatic information exchange will not necessarily banish all evasion of British tax from the island – but, given the States' tough anti-money laundering regulations and its criminalisation of the handling of the proceeds of tax evasion as well as the comprehensive coverage of the FATCA regulations, whatever will be left will likely be immaterial.

"There is, though, the open question of tax avoidance, which may be defined as the lawful under payment of tax through means that are against the spirit of the law and/or intention of parliament. HMRC's tax gap analysis suggests that there is £2.9bn of tax lost annually through avoidance of income tax, NI, capital gains tax, inheritance tax and stamp duty. Even on the basis of the most aggressive assumptions, we calculate that no more than £0.4bn of this can be mediated through Jersey and, in all likelihood, it is much less. Furthermore, as a 2009 report commissioned from Deloitte by HM Treasury demonstrated, Jersey does not offer firms operating in the UK meaningful opportunities to mitigate their corporation tax liability there. "Overall, we judge that, based on 2011 data, a maximum of £0.6bn per annum of British taxes can leak through evasion or avoidance using Jersey vehicles – although, in all probability, the actual number is much lower," added Capital Economics. *Our thanks to Davinia Smith, of Jersey based Alter Domus, for bringing this report to our attention.*

French Govt seeks higher social taxes on employers paying high earners

The French Finance Act of 2013 was enacted by the Parliament last December after several provisions of the draft legislation were rejected by the French Constitutional Court, including one that would have added an 18 percent surtax on high income earners (i.e., individuals earning more than €1m per year), which

would have raised the total tax burden for such individuals to 75 percent on income over €1m. The Hollande government responded to this rejection with an alternative method of imposing increased tax rates on high earners; namely, *to increase taxes due by those companies who employ staff who are high earners.* There is currently no draft law available and, therefore, the actual format and impact of these proposals remain to be seen, said Barcelona speaker **Narendra Acharya** of **Baker & McKenzie**. However, companies with operations in France should anticipate a proposal calling for increased employer-paid social taxes in France for payments made to high earners, potentially up to the 75 percent level the French government originally sought to impose on individuals. It is uncertain if or how this increase tax will affect equity award income, but companies will need to monitor these proposals closely as this could (again!) impact their decision whether or not to grant French-qualified awards.

Wider employee share plan exemption for non-EU/EEA listed companies stalled

The EU Prospectus Directive has been amended to broaden the application of the Employee Share Plan exemption, which currently applies only to issuers with securities listed on an EU-regulated exchange. Under the amended Directive, which has largely been implemented into local law by the EU member states, the exemption applies now to issuers who are listed on an exchange that is considered equivalent to an EU-regulated exchange. However, to make the exemption effective, the EU Commission will need to determine which exchanges are to be considered equivalent. This process has stalled and the Commission is unlikely to make a decision until late 2014 or 2015. This means that issuers who are not able to rely on another exemption or exclusion from the prospectus filing requirements will need to continue their annual prospectus filings at least until the end of next year, added Baker & McKenzie's client briefing.

Finance Bill: Royal Assent

The Finance Bill had its Second Reading and remaining stages in the House of Lords on July 15. The debate is at <http://deloi.tt/15Gysk6> The Act received Royal Assent on July 17 and is now Finance Act 2013 (Chapter 29), said Centre member **Deloitte**. It is available at <http://deloi.tt/1515pce>

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

newspad of the Employee Share Ownership Centre