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it's our business

newspad of the Employee Share Ownership Centre

Centre plans to build on Gulf Pathfinder event

The Centre is planning to hold a major co-sponsored Esops conference in the Gulf region next year following its inaugural pathfinder event, which took place in Dubai last month.

Centre chairman Malcolm Hurlston has launched preliminary discussions with several potential key co-sponsors, both from the West and the United Arab Emirates.

The Centre will present a special paper arising out of Pathfinder to the authorities in UAE, suggesting ways in which the culture of employee equity could enjoy a much higher profile in the region covered by the Gulf Co-operation Council*.

Mr Hurlston hopes that both Pathfinder and its findings will encourage the development of a new legal and regulatory environment, which would favour the establishment of broad-based employee share schemes within the GCC zone.

Carl King, partner in the executive compensation consulting division of Deloitte, who spoke on executive pay issues during Pathfinder in Dubai, is acting as rapporteur – creating a proposal for action based on delegate contributions over two days at the five star Palace Hotel in downtown Burj Dubai.

The venue for the first Centre full-scale conference in the GCC region has not yet been fixed, but it will be one of Abu Dhabi, Dubai or Qatar.

The chairman told delegates that he had thought it extremely important to keep the Eso flame alive in the UAE, despite the sudden and unexpected decision of the Centre's erstwhile conference partner Emirates National Bank of Dubai to curtail its nascent Eso programme and cancel its co-sponsorship of the event. He praised the loyalty of two co-sponsors, global top legal group **White & Case LLP** and Jersey based member **Appleby Global**, which offers employee benefit trust and share plan administration services, for having maintained their commitment to the Pathfinder event. White & Case was represented in Dubai by share schemes partner Nicholas Greenacre, and Appleby was represented by director Patrick Jones.

The event was entitled '*The prospects for employee equity plans in the United Arab Emirates and in the Gulf region*,' but delegates heard that the obstacles to the spread of Eso there were formidable: eg legal restrictions on foreign nationals who want to own shares in UAE companies and on companies preventing them from holding their own shares to use as treasury stock in order to satisfy stock/share option maturities.

Nevertheless, local delegates disclosed that around 20 share option plans had been launched in the UAE area during the past few years, mostly for the benefit of ex-pat staff working in multinational companies who operate in the region.

In his opening speech, *The wider benefits of Esops*, Mr Hurlston said: "The new economies of the Gulf have attracted large numbers of employees from abroad at all levels, up to ten times the domestic population. But because citizenship is harder to obtain than in most other parts of the world, they have become economies of employees, rather than citizens or subjects."

Pressure is mounting for change. Such are the levels of staff turnover in GCC companies, that local business opinion is rapidly hardening in favour of a fresh look at the regulations governing equity and ownership arrangements, both at corporate and individual levels. The frequent need to replace trained staff, poached by rivals, creates instability and imposes heavy additional recruitment costs on such businesses.

Pathfinder proved that Esop needs to be friendly with one

From the Chairman

To mark the success of the Dubai pathfinder and our subsquent plans, international events will now be under the banner of the World Centre for Employee Ownership. We are discussing further opportunities with STEP.

As far as seasonal opportunities go I wonder whether any member would like to join the Centre in supporting the relaunch of Gingerbread, the charity for one person families. The sponsor will have the opportunity to introduce an event at 11 Downing Street, at which the former Gingerbread and One Parent Families will unite. If you would like to support a worthwhile charity and speak in high places, contact me by email at mhurlston@hurlstons.com.

A happy Christmas to all and their families.

Malcolm Hurlston

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of the world's fastest growing financial sectors, Islamic finance, the growth of which – to £300bn pa - has been driven by renewed awareness of faith-based concepts and the global vision of financial markets. As speaker Alan Judes of Strategic Remuneration demonstrated during his presentation, certain forms of Eso – notably phantom share plans - can be Sharia Law friendly. He said: "Phantom plans can be Sharia compliant if they can be shown to represent a share out of the business profits and not a rate of interest." Another solution was broached by speaker Paul Randall, head of employee benefits at Ashurst LLP. He said that an independent special purpose vehicle (SPV) could be set up within a UAE based company to acquire shares in the company. Those shares would be held within the SPV and after vesting sold at the employees' instructions. The SPV could replicate the function of a trust company. Nicholas Greenacre of White & Case, speaking on *Choosing the right law for international incentive plans*, warned that some clauses in international equity plan contracts clashed with local laws, eg when dealing with 'bad' leavers – those who quit in favour of other jobs.

Mark McGinness, director of international relations at the Dubai Financial Services Authority gave a rundown of *Regulatory issues in the UAE*. He said that there were close links with UK and US regulators and that all admitted companies had to have compliance officers – and not just 'brass plate jobs.' Within a special 110 acre zone in Dubai City, many restrictive UAE commercial laws did not apply – eg the 49 percent limit on foreign equity stake ownership of stakes in UAE based companies. Trust law was still a fairly novel concept in the UAE, but consultation was in progress about a potential new law next year which would authorise the establishment of family based trusts, said Mr McGinness. This was a crucial development because around 70 percent of SMEs in the UAE are owned and controlled by families.

Other Centre members who spoke during the pathfinder conference were Grant Barbour of Bedell Group – *Using EBTs in offshore markets* and David Pett of Pinsent Masons – *How Employee Share Plan Participation Works*. Mr Pett spoke for many present when he said: "My own experience of working with companies in the UAE is that locals don't usually approve of big distributions of equity between owners and employees." So a cultural change too was necessary.

Another issue to be raised during the next Gulf region Esop conference concerns the role of sovereign wealth funds (SWF), vis-a-vis employee share ownership. The question is how the owners of such powerful funds can be encouraged to look positively on Eso.

**GCC zone = Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.*

EMPLOYEE SHARE SCHEMES WORK – OFFICIAL

Employee share schemes encourage roughly one worker in every two to stay loyal to his or her company, a government commissioned study has revealed. The HMRC study backs the Centre view that Eso is a key staff retention tool, rather than being a decisive factor in whether or not a job candidate accepts an offer or not. Barely one in 20 employees surveyed said that the existence of either an SAYE-Sharesave or a Share Incentive Plan at their employer company had encouraged them to take the job in the first place.

Overall, both employers and employees were positive about the impact SIP and SAYE had had on the company and the employees. The greatest positive effect was reported on relations between the company and its employees. Companies providing only a SAYE reported a greater positive impact of providing the scheme on relations between the company and employees and employee motivation than companies providing only a SIP. A majority of employers and employees thought that the presence of an all-employee share scheme had improved the company's performance though those who thought their share scheme had improved productivity levels were only narrowly ahead of those who thought that the net effect on productivity was nil. .

Alarm bells rang when HMRC announced that it wanted to learn from employers and employees how the two main tax-advantaged all-employee share schemes - Sharesave and the SIP - are operating in companies and their perceived effects. The Centre lobbied ministers in order to head off speculation that some of Eso's tax advantages might be snatched back by a hard-pressed Treasury. But the risk has receded as the study - entitled 'Evaluation of tax-advantaged all-employee share schemes' - gave the two main schemes a clean bill of health. The study - carried out by Jane Kerr and Clare Tait of the National Centre for Social Research - included interviews with companies that had never provided either share scheme to find out why not. Of the 984 companies participating in the study, 27 percent provided a SIP, 26 percent a SAYE and ten percent provided both a SIP and SAYE. Over a third of companies participating (37 percent) were not providing either scheme. Larger companies were more likely to provide a SAYE or both a SIP and SAYE. Smaller companies were more likely to provide a SIP or not to offer either of these share schemes. Many of the Eso-friendly companies provide other all-employee or discretionary share award schemes (either approved or unapproved) as well as SAYE and/or SIP. Of the 2,253 employees responding, 31 percent participated in a SIP scheme, 25 percent participated in a SAYE scheme and seven percent participated in both a SIP and a SAYE scheme.

Almost all employees participating in SIP or SAYE gave an "easy way to save" as the most common reason for taking part. "A way to make money" was the second most common reason reported by scheme participants. Half of the SAYE participants had used their cash savings to buy shares in the company at the maturity of a contract scheme. The most common reason for non-participation was not being able to afford to take part. The second most common reason was that employees thought they would not make enough money to make it worthwhile. Six percent of SIP participants and five percent of SAYE participants said that the fact the company offered a scheme encouraged them to accept the job. ***Almost half the SIP and SAYE participants said the provision of the scheme encouraged them to stay with their employer.*** More than 80 percent SIP and SAYE participants said they felt loyal to their employer, compared to 70 percent of non-participants. The principal motives for setting up a SAYE scheme were to enable employees to participate in the ownership of the company (34 percent), and to encourage employees to acquire shares in the company (26 percent). A big majority of the employers agreed that increasing employee commitment was a major reason for setting up a scheme. The process of setting up the SAYE was contracted out to an external provider in 69 percent of companies. The initial proposal to set up the SAYE came most often from either the board of directors or management. During the process of setting up, this group was also the most frequently consulted. A qualifying period before an employee could participate in the SAYE was used in more than half of the companies. The most common reason for setting up a SIP was to enable employees to participate in the ownership of the company (30 percent). The most common reasons proffered for setting up a SIP included increasing employee commitment and increasing employee motivation. Just under a third of companies providing a SIP had another SIP or SAYE in place before providing the SIP (30 percent). The process of setting up the SIP was contracted out to an external provider in almost two-thirds of companies. Set-up costs in terms of staff time were reported as moderate by 53 percent of employers and minimal by 25 percent of employers. Partnership shares were used by 75 percent of participating companies and free shares by 57 percent. Just under half of the employers used matching shares (48 percent) and just under a third used dividend shares (30 percent). Free shares were more likely to be used in smaller organisations, and partnership shares were more likely to be used in larger organisations.

SAYE BONUS RATES CHANGE AGAIN

The Treasury has told SAYE carriers that current bonus rates for contractual employee savings schemes, which only came in three months ago, will be withdrawn on Boxing Day, reported HBOS EES (www.hbosees.com). The new SAYE-Sharesave bonus rates will apply from 27 December this year, namely 2.67 percent for three-year contracts: 3.04 percent for five-years: and 3.20 percent for seven-years: The early closure interest will go back down to two percent. The current Sharesave bonus rates are: three year contracts: 4.23 percent; five years: 4.36 percent and seven years: 4.28 percent. For three-year contracts 1.5 monthly contributions (2.4); for five-year contracts 4.8 mcs (seven) and for seven-year contracts 9.3 mcs (12.7). *HMRC has launched a consultation process with SAYE carriers, administrators and other stakeholders about proposed changes to the SAYE bonus setting process and the administration of the scheme. By far the most interesting is a proposed emergency rate change mechanism which is designed to ensure that bonus rates do not get too far out of line with market rates. This is a signal that UK base rates may fall dramatically. If the 30-day moving average of three or five year sterling swap rates moves by 1.25 per cent or more from the rates used in setting the existing bonus rates, an emergency rate change is triggered for all three contracts. HMRC and the Treasury are very keen to hear views by December 24.

PRE-BUDGET REPORT: ESO NIL AND PARTLY PAID SHARES

David Pett of Pinsent Masons writes: “There was confirmation that HMRC will go ahead with making certain technical amendments to the provisions of ITEPA 2003 for which practitioners have been pressing. The first will ensure that no charges to income tax will normally arise if, after an employee has acquired shares to be paid for on a deferred basis, or has acquired partly-paid shares, those shares are sold for a sum which is less than the amount which the employee is obliged to pay for the shares, so that he has made no actual profit on them. This will assist those who have ‘invested’ in shares on a deferred basis only to see the value of those shares fall below the price that the employee has, albeit on a deferred basis, committed to pay for them. The second is intended to remove the (existing) possibility of charges to income tax arising, under when an employee receives scrip or bonus issue shares in relation to employment-related shares which does not involve any acquisition of additional value. In a world of falling share values these changes do at least help to avoid unexpected charges arising when there is clearly no real benefit accruing to the employee,” he added. Deloitte said: HMRC confirmed that these potential charges (announced in the 2007 Budget following the anti-avoidance review) will be removed for transactions taking place on or after Royal Assent to the Finance Act 2009.

CONFERENCES

Davos February 5 & 6: Speakers lined up for the tenth Global Equity Forum at the five star Steigenberger Belevedere Hotel in Davos include: Sarah Pickering (Alvarez & Marsal Taxand); Paul Stoddart (HBOS Employee Equity Solutions), Jean-Nicolas Caprasse (Riskmetrics Group); Kevin Lim (RBC Corporate Employee & Executive Services); Euan Fergusson (White & Case LLP); Alan Judes (Strategic Remuneration); Peter Mossop (Sanne Group); Sara Cohen (Lewis Silkin); John Pymm & Julie Withnall (Watson Wyatt); Dale Giedd and Ulrich Semmler (UBS); David Pett (Pinsent Masons); Rosemary Marr (Investec) & Grant Barbour (Bedell Group) and Marcus Wallman (Al Tamimi & Co). Davos speakers (two more sought, especially case studies) pay only £695 (and no VAT) for the conference with two-day hotel room package deal, instead of the normal member practitioner fee of £875. Please email Fred Hackworth at: fhackworth@hurlstons.com to summarise your presentation.

Cannes 2009: The 21st annual conference of the European Centre in Cannes will take place on Thursday July 9 and Friday July 10 at the Majestic Hotel. The usual conference plus accommodation package deal Majestic Hotel bednights will be Wednesday July 8 and Thursday July 9.

SACKCLOTH & ASHES

UBS, Goldman Sachs and **Barclays** are not paying bonuses this year to executive directors. UBS has realigned its senior executive bonus structure to end 'perverse one-way bets.' Starting next year no more than one third of any cash bonus will be paid out in the year it is earned. The rest will be held in reserve and can be cut back drastically by future losses, risky trading or compliance failings. Share incentives will vest in not less than three years and top executives will have to keep 75 percent of any vested shares. UBS Chairman Peter Kurer will have only a cash salary + fixed allotment of shares which cannot be sold for four yrs. This, it is hoped, will align his reward with group performance, without encouraging excessive risk. Clawback only covers three years and not five. The new regime only applies to the top 12 board members but the plan is to extend the new scheme throughout the managerial sector. However, independent Barclays (and proud of it) will pay out performance-based bonuses to thousands of employees further down the feeding chain. CEO John Varley told staff to be realistic in their bonus expectations and said that the decision by directors to waive their 2008 bonuses had been difficult "given the strong profitability of Barclays year-to-date and our out-performance relative to many of our competitors." **Schroders** will rein in pay too next year. Compensation paid to investment managers will not exceed 46 percent of the income the UK money manager receives. Four top directors at **Deutsche Bank** will forgo their end of year bonuses. Last year DB ceo Josef Ackermann received €12.7m in bonuses and shares – equivalent to 90 percent of his salary. His 2008 bonus will go instead to employees. **RBS** announced that there will be no bonuses for board members this year and any senior executive bonuses next year will be in shares as it has accepted taxpayers' support via the government. Denis O'Brien leading shareholder in **Independent News & Media** called on management to 're-evaluate' their salaries after cutting 90 jobs. INM's five directors got £8m between them in 2007. O'Brien said directors' pay was too high, given group performance and volatile advert markets. Meanwhile, the heads of Ford and General Motors offered to work for US$1 (one dollar) for a year without bonuses and corporate jets if Congress grants their distressed companies a share of $25bn US government bail-out fund.

Peter Montagnon, director of investment affairs at the Association of British Insurers, told the Treasury Select Committee enquiry into bank executive reward that bonuses should be clawed back in an attempt to end the "intolerable culture of rewards for failure." Institute of Directors DG Miles Templeman agreed that there had to be transparency over executive reward below board level, because investors have legal right to vote on remuneration of only executive directors. Following the October letter (see previous newspad) from FSA boss Hector Sant to ceos asking them to review their remuneration policies in light of current market conditions to ensure that they "are consistent with sound risk management," FSA officials are meeting the recipients in preparation for sending out a new message about recommended corporate reward policy structures early next year.

Meanwhile, the political backlash against bonus culture abuses was in full swing. German Chancellor Angela Merkel said that any German bank seeking state bail-out help would have to comply with conditions which may include limits to managers' pay. Her finance minister Peer Steinbrueck said the financial crisis would deeply transform the global financial system. He called for more internationally coordinated regulations to prevent future crises and sharply criticized what he called "irresponsible overemphasis" of the laissez-faire principle of the Anglo-Saxon banking model. The drive for short-term profit and huge bonuses were at the root of the gravest crisis in decades, he added. French finance minister Christine Lagarde said that France and Germany had discussed what could be done short-term to curb the current financial crisis. She cited their move to stop short-selling of financial stocks as an example. In Switzerland a petition demanding that corporate golden handshakes be made illegal, along with excessive salaries and any bonuses not related to performance has attracted more than 100,000 signatures so far and will be put to the vote nationwide in a referendum next year.

COMPANIES

Chris Parkhouse, MD of Cambridge based Centre member **Deyton Bell**, the business development experts, announced the launch of a new corporate concierge service being rolled out across the US. Deyton Bell will help those businesses wanting to attend UK conferences, exhibitions or trade shows, but who have trimmed back their budgets for such initiatives. DB will attend the event on their behalf and will feed back on agreed aspects within a week of the event closure. Contact Chris Parkhouse or Jessica Heavey on 01223 873033.

The **Woolworth** retail chain is facing severe financial difficulty and is now in administration, with 30,000 employees' jobs at stake. Property magnate Ardeshir Naghshineh, who owns ten percent of the retailer, wants to buy the company and turn it into an employee-owned business along the lines of the John Lewis Partnership.

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