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it's our business

newspad of the Employee Share Ownership Centre

Coalition clamps down on disguised remuneration

The Government is introducing legislation to tackle complex arrangements involving employee benefit trusts (EBTs) or other vehicles used to reward employees, which seek to avoid or defer the payment of income tax or NICs.

This was announced to Parliament by David Gauke MP, Exchequer Secretary to the Treasury, in a ministerial written statement last month. David Gauke was keynote speaker at the Centre's 2009 awards dinner.

"The draft rules are primarily targeted at EBT family sub-trust arrangements and employer-financed retirement benefit schemes. However, the draft rules are complex and in places very widely drawn. The worry is that any anti-avoidance measures could potentially be drafted very widely and so might inadvertently catch standard employee trusts which are integral to the operation of many employee share plans," explained Kevin Thompson, share schemes partner at Clifford Chance.

"Having failed to successfully challenge the tax/NIC treatment of these arrangements in the courts, HMRC have now decided to take legislative action (although they have reserved the right to continue to challenge arrangements under the existing law). It is hoped that, at the very least, HMRC will be issuing guidance on how it intends to apply the new rules in practice," he added.

However, sponsor companies and employee participants in approved employee share schemes will be protected: exceptions to the imminent legislation will include: EBTs operated in-conjunction with HMRC approved share plans and those unapproved share plans taxed under the normal tax rules for such plans in ITEPA 2003.

"On this basis, many *standard* employee share plans should generally not be affected by this legislation, although this should be confirmed on a case-by-case basis," added Clifford Chance.

HMRC estimates that around 5,000 employers are currently using such schemes, with 50,000 employees thought to be indirectly benefiting. In fact, the take-up is likely to be larger than this as there has been extensive marketing and widening accessibility of these arrangements over the last few years.

Most employees affected will be higher rate or additional rate taxpayers. This legislation will mean that employees benefiting from such schemes will have to pay more tax and NICs – in line with those employees for whom these arrangements have not been implemented. The income tax charge will be collected through PAYE via their employers.

David Pett, partner at Pett, Franklin & Co. LLP, said that the tripwire will catch people if there is an arrangement involving an employee and it is "reasonable" to suppose that it is a means of providing rewards, or recognition, or loans connected with the employee's work and if a relevant step is taken by a third person (ie trustee, custodian or any other third party, including the employer itself) and that this has a connection with the arrangement, even when the third party – say the trustee – is unaware of the arrangement itself. The most troublesome part of the draft legislation was the concept of a trustee (or similar) 'earmarking' any sum of money or asset (with a view to using it in such an arrangement). What did this really mean, asked Mr Pett,

EBT trustees were burning the midnight oil in the run up to Xmas, working out what impact, if any, there will be, or could be, on their client accounts and tax structures utilized therein.

This crackdown is expected to increase Treasury receipts by up to £500m per year. The final costing will be subject to scrutiny by the Office for Budget Responsibility and will be set out at the Budget.

HMRC warned that there will be continuing challenges

From the Chairman

I am glad to be welcoming Ivo Jarofke of the Committee of European Banking Supervisors to Davos this year. It will be an unmissable event for reward specialists. Bankers may feel they are taking a haircut but in the current climate they are still judged lucky by the public to have escaped with their heads. Nonetheless many branch bankers in particular have suffered unfairly from vicarious stigma and the impact of the crunch on employee shareholders. The Centre plans to highlight their deserving plight in the course of 2011 as well as keeping members in the forefront of hot debate.

Malcolm Hurlston

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to existing EBT arrangements through the courts, said Centre member Deloitte "Some clients may have already received letters seeking a significant amount of information about their arrangements and in some cases, HMRC has issued Regulation 80 Determinations and Section 8 Decisions to formally recover the PAYE and NIC they consider due. "We will, therefore, consider the strategy that clients should adopt in their dealings with HMRC in such matters and the action that should be taken," added Deloitte.

The arrangements covered include the provision of a tax-advantaged alternative to saving beyond the annual and lifetime allowances available in a registered pension scheme. In many cases, these third party arrangements allow an employee to enjoy the full benefit of a sum of money paid or assets provided while arguing that, because of the structure of the arrangements, there is no legal right to the money or assets. This argument is used to support a proposition that income tax and NICs are due (if at all) only on the use of the money or assets during the period of the employee's employment and not on their full value.

The legislation inserts a new Part 7A into ITEPA 2003. This ensures that where a third party makes provision for what is a reward or recognition, or a loan, in connection with the employee's current, former, or future employment, an income tax charge arises. Income tax is charged on the sum of money made available and on the higher of the cost or market value where an asset is used to deliver the reward or recognition, for example by transferring or otherwise making available an asset for the employee's use and benefit as if the employee owned the asset. The amount concerned will count as a payment of employment income and the employer will be required to account for PAYE.

The type of businesses involved range from large employers in the financial services industry to single-employee limited companies. Only a minority of employers have implemented these arrangements and although the legislation creates a new income tax charge it is not expected to have a material impact on the tax obligations of the vast majority of compliant businesses.

Some small businesses will be affected by the proposal if they are using these remuneration arrangements to reward employees. To exclude small businesses from the legislation would create unfairness and further opportunities for tax avoidance, said HMRC.

On the assumption that most businesses will discontinue the use of these arrangements, compliance costs to business overall are thought to be insignificant.

There will be protection for specified types of arrangements involving third parties – including registered pension schemes, *approved employee share schemes* and ordinary commercial transactions, added HMRC. The tax treatment of benefits packages which are available across the employer's workforce will be unaffected by the measure, provided that the benefits are genuinely available to substantially all employees and cannot be accessed by only specially selected individuals.

There is a consultation on the draft legislation, which runs until 9 February (although this is limited to the technical drafting aspects and not the underlying policy).

The legislation will take effect from 6 April this year and apply to rewards, recognitions or loans which are earmarked for the benefit of an employee, or former or prospective employee, or otherwise made available on and after that date.

HMRC said: "We shall be circulating in due course a considered note on the new rules and their impact upon existing arrangements which companies may have already established. ***Please note that, although the new rules take effect from 6 April 2011 there are anti-forestalling provisions intended to prevent action being taken after today to "get in under the wire."***

The anti-forestalling charge will arise on 6 April 2012 if sums paid have not been repaid, or readily convertible assets used to secure the payment of a sum have not been returned before that date, or not otherwise charged to tax under section 62 of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA). Any sum paid to which these anti-forestalling provisions apply, less a deduction for any amount which has been repaid, will count as employment income. The employer will be required to account for income tax under PAYE as if the amount concerned was a payment made on 6 April 2012. The value of any readily convertible asset provided (to which the anti-forestalling provisions apply) will also count as employment income. The employer will be required to operate PAYE, as if the amount concerned was a payment made on 6 April 2012.

Questions about this change or comments on the legislation, should be directed to Peter Robinson on 020 7147 2423 (email: peter.w.robinson@hmrc.gsi.gov.uk) or David McDowell on 020 7147 0175 (email: david.mcdowell@hmrc.gsi.gov.uk).

Regulations will be brought forward to apply NICs to the amounts charged to tax by this legislation. Further details are contained in a draft explanatory note published on HMRC's website, together with the draft legislation.

Disguised remuneration: employees' trusts, and efrbs (employer-funded retirement benefit schemes) – **the new tax regime.** At 1800 hrs on **Thursday 10th February 2011**, Centre member Pett Franklin & Co. LLP is hosting a seminar at The Grange Hotel, Godliman Street, London EC4 at which the proposed new legislation will be examined and the consequences for employers, trustees and employees explained. A senior representative of HMRC will explain the policy intent behind the new rules.

Warning over HMRC Eso service

The UK tax service to the employee equity industry has so far remained "remarkably good," despite massive enforced cuts in its manpower, said Centre member ***The RM2 Partnership***. However, fears are rising that yet more job cuts in the pipeline could put user companies and even some advisers in difficulty. In recent years HM Revenue & Customs has lost more than 30,000 jobs, most of which resulted from the merger of the Inland Revenue with Customs and Excise. Leslie Straithie, HMRC's ceo, announced that, as part of the Coalition cuts, a further 13,000 jobs will be lost among full-time staff over the next five years. "There is a backlog of 15m open tax cases and errors are endemic, but despite this, the level of service the administration of employee share schemes - has remained remarkably good," said RM2.

Small Companies Enterprise Centre (SCEC): this looks after the administration of the Enterprise Management Incentive (EMI). It administers the Enterprise Investment Scheme and Venture Capital Trusts. Usefully, SCEC provides a phone helpline on which callers can obtain informal advice from officials about the relevant tax rules and HMRC's interpretation of them (written confirmation is supplied on request). Contact SCEC on 0115 974 1250. This service, now based in Nottingham, is still available and the advice given is of a high standard. If the helpline service is withdrawn, greater pressure will be placed on companies and their advisers; errors in documentation or procedure could come to light after a scheme is established, causing loss of tax benefits.

Employee Share and Securities Unit (ESSU): this administers the three UK approved schemes: the Company Share Option Plan, Share Incentive Plan and SAYE Sharesave. In principle, officials are prepared to answer queries over the phone, but they can sometimes be hard to track down. ESSU shares an office with SCEC and can be contacted on the same number: 0115 974 1250.

Shares and Assets Valuation (SAV): This unit negotiates agreed values of shares and securities for tax purposes. Companies or their advisers normally submit an initial written valuation and SAV will either accept it or decline it, giving their reasons. Valuations for approved schemes are normally agreed within two working weeks, unless there is fundamental disagreement. The post transaction valuation check PTVC may be withdrawn as an economy measure, according to latest speculation. This would create special problems in relation to PAYE, for example where an employee must make a refund of tax to the employer. If not paid within 90 days the unpaid amount will be grossed up and taxed again as a benefit in kind. If a PTVC is not available, PAYE could be underpaid and a (large) unexpected penalty could arise later. ***Companies and/or their advisers will wish to contact Centre members: Evans Appraisal Ltd (Mark Evans) Tel 020 7153 1019 and/or Parmentier Arthur (Steve Lygo) on 020 7849 3349 to discuss in detail the implications of the SME share valuation process before trying to cope with HMRC SAV procedures.***

"In general HMRC provides a good service in relation to employee share schemes. There is concern however that this could be eroded by the ongoing job cuts and low morale. Without access to informal guidance from HMRC, unintentional errors could lead to very costly consequences for employers and share scheme participants," said an RM2 spokesman. "If there is a problem with HMRC service standards, it occurs at the level of the local tax office. Here it is usually difficult to find an official with any knowledge of employee share schemes. In a recent case involving an RM2 client, a local office refused to give an opinion on a PAYE matter until after the deadline for paying the tax had passed. This exposes the taxpayer to substantial, and largely avoidable, risk. For further information, call RM2 on 020 8949 5522.

Eso caught up in City investment row

One of Britain's leading shareholder activists will go hostile in its row with Alliance Trust, the £2.4bn investment firm. Laxey Partners is calling for Alliance to buy back shares and change a controversial employee share scheme that could be used to force through management decisions. After its first approaches to the FTSE 100-listed trust were rebuffed, Laxey decided to go straight to shareholders. Laxey has split its 1.3 percent shareholding in the company between 100 different registered companies in a ploy that gives it the ability to put a resolution to the trust's agm. It has set up an action group to muster support from the trust's thousands of private shareholders. Colin Kingsnorth, ceo of Laxey Partners, said: "We will put forward our resolution for the agm. I really can't imagine why anyone would vote against it, as no shareholder benefits from the huge discount in the trust. It's a straightforward question of shareholder value." The rebellious shareholder, Laxey, has long called for the firm to buy back shares and alter its staff share scheme, which Laxey believes hands too much power to management. Lesley Knox, chairman of Britain's largest investment trust, denied Laxey's arguments in a letter to the shareholders, but Laxey has vowed not to let the matter lie. Alliance, run by Katherine Garrett-Cox, is Britain's biggest investment trust and has been run from its HQ in Dundee since 1888. Lesley Knox, the trust's chairman, wrote to Laxey disputing the key points. The trust owns big stakes in blue chip giants such as BHP Billiton, HSBC, Rio Tinto and BP. Laxey's key complaint is that shares in the trust have been trading at a discount of about 20 percent to the aggregated value of its investments.

On the move

Non-executive director at Hargreaves Lansdown **Jonathan Davis** will join the **Association of British Insurers** as director of investment affairs in the new year. Davis is taking up the role in January, succeeding **Peter Montagnon** who left the ABI to join the Financial Reporting Council earlier in the year. He will lead a team of 12 people and will work closely with Alain Dromer, recently appointed chairman of the ABI's investment committee. Davis founded Independent Investor, a specialist website for private investors, and has been closely involved in capital markets for 30 years. ABI members have £1.6trn invested in assets, including control of almost 14 percent of investments in the London stock market and £200bn in government bonds.

Global human capital consulting and outsourcing firm **Aon Hewitt** announced the appointment of **Paul Rangecroft** as ceo of Consulting Services in Canada, based in the firm's Toronto office. Hewitt Associates merged with Aon Consulting on October 1st. Prior to the merger, Mr. Rangecroft led Hewitt's retirement and actuarial practice in the east region of its US operations, consulting with clients on a wide range of retirement projects over his more than 16 years with the firm. Mr. Rangecroft is one of Aon Hewitt's leading experts on employee ownership vehicles. He co-authored the National Center for Employee Ownership's book on employee stock purchase plans, as well as the Cash Balance Plan Answer Book for Aspen publishers. In addition, Mr. Rangecroft, who was born in the U.K., spent two years with Hewitt as part of its international benefits consulting team in London before returning to the US in 2009.

Richard J. Balaes ex SalomonSmithBarney (Citigroup) has moved from Canary Wharf to Mayfair where he is now md of AAG Corporate Services.

Centre member **Global Shares**, a leading provider of global share plan administration and consulting services, announced the addition of **Lukas Kolff** to the board of Global Shares plc and welcomed Bowline Capital Partners investment to supports its future growth. Co-founder and board Member Maoiliosa O'Culachain says, ""Not only does Lukas bring immense expertise from the world of private equity to the Company where Global Shares is increasingly extending its footprint, but he has also experienced the Global Shares' expertise and service first hand as a client for several major buy outs led by him, when he was at Apollo. Global Shares supported Apollo with the roll out of complex management participation arrangements, which had never been done before on such large scale. Lukas will be a very valuable addition to the Board and we also welcome Bowline's investment in the Company, which shows the continued support for the growth of our business."

Centre member **Sanne Group** celebrated its move into new offices in the Dubai International Finance Centre with a reception at the Capital Club attended by both customers and intermediaries from across the MENA region. The move marked a continued development of Sanne's Middle East capabilities.

CONFERENCES

DAVOS Feb 3 & 4: Banking remuneration regulator **Ivo Jarofke** will be a star speaker at the Centre's 12th annual Global Employee Equity Forum at the Steigenberger Belvedere Hotel in Davos Platz on **Thursday February 3 and Friday February 4.** Ivo, who heads the remuneration and liquidity risk desk at the Committee of European Banking Supervisors (CEBS), monitored the recent tense discussions with finance houses over the future shape of banking bonuses. Centre practitioners will want to seize the chance to listen to and debate with Ivo as he explains the ins and outs of the Europe-wide CEBS guidelines on 'bankers' remuneration, which will be enforced in the UK by the Financial Services Authority (see bonus corner in this edition). Agreed by the CEBS on December 10th, the new rules, which will apply to almost 260 finance houses, including hedge funds, amount to the world's toughest restrictions so far on reward in the financial services industry.

Shell International, the winner of the 2010 Esop Award for 'The Best International Employee Share Plan,' together with its plan adviser, Computershare, will deliver a joint presentation on the nature, evolution and reach of the winning plan, focussing on design, communication and admin process simplification. In addition, Alasdair Friend, senior associate in the employee benefits division of global law firm Baker & McKenzie, will deliver a key presentation on the recent evolution of executive reward packages. Alasdair will present a comprehensive overview of trends and developments in this field. The Centre's first ever speaker from Norway will be Arne Peder Blix, ceo and founder of Norse Solutions. Almost 40 people have registered for Davos to date.

The speakers will be**:** Alasdair Friend **of Baker & McKenzie LLP;** Professor Jens Lowitzsch **of Berlin University;** Justin Cooper **of Capita Registrars;** Ivo Jarofke of the **Committee of European Banking Supervisors;** Iain Wilson & Martyn Drake **of Computershare;** Pam Roffe **of Shell International;** Maoiliosa O'Culachain **of Global Shares;** Jeremy Mindell **of Henderson Global Investors;** Michael Sterchi **of KPMG (Zurich);** Martin Osborne-Shaw **of Killik Employee Services;** Mike Landon **of MM & K;** Arne Peder Blix **of Norse Solutions;** David Pett **of Pett, Franklin & Co. LLP;** Kevin Lim **of RBC Corporate Employee & Executive Services;** Alan Judes **of Strategic Remuneration;** John Pymm **of Towers Watson;** Julie Withnall **of Britvic plc;** Adrian O'Shannessy **of Greenwoods & Freehills Ltd (Australia) and** Malcolm Hurlston**, chairman, Esop Centre,** who will deliver the welcome address and introduction. Please review the topic slot titles and logistical info about Davos 2011, including the hotel and sponsorship opportunities, in the 'events' section of the Centre website: **www.hurlstons.com/esop** The brochure, which contains the full programme, can be downloaded from the adjacent box. Delegates can book their seats by clicking onto the 'book now' box. The practitioner (service provider) Centre member delegate price for the two nights (Feb 2 & 3) in the five-star Belvedere Hotel (on a half-board basis) + conference package deal is an unbeatable **£899** and no VAT charged. Non-member practitioners pay £1250 for the same package deal. Delegates from plan issuer companies will pay either **£475** if Centre members, or £615 if not. All enquiries to Fred Hackworth, please, at: **fhackworth@hurlstons.com.**

SMEs in Birmingham March 10

A conference is being staged on **March 10** next year for those small and medium-sized enterprises (SMEs) who are either considering the installation of a share scheme, or who have recently implemented one. The Centre is organising this event in association with the Birmingham Chamber of Commerce.

Centre chairman Malcolm Hurlston said he was delighted to announce that the major sponsor for this conference will be **Pett, Franklin & Co. LLP**, the Birmingham-based employee shares schemes specialist. At the conference, entitled: "Improving your business through employee share plans," speakers will run through the choices, implementation process and results of having an employee share scheme in smaller businesses. Succession planning and recent changes in legislation will also be covered. The programme will serve as an excellent refresher course, or a great introduction, for new members of staff.

Tickets for the event will be **£250 & VAT** for Esop Centre/Birmingham Chamber Members and £350 & VAT for non-members. Email **esop@hurlstons.com** to reserve your place.

Confirmed speakers include: Malcolm Hurlston, Esop Centre Chairman; David Pett of Pett, Franklin & Co. LLP; William Franklin of Pett, Franklin & Co LLP; Ian Murphie of MM&K; Colin Kendon of Bird & Bird; Guy Abbiss of Abbiss Cadres; Catherine Gannon of Gannons Solicitors; Amanda Flint of BDO and Mahesh Varia of Travers Smith. There are still some speaking slots available for this event **- contact David Poole on 0207 239 4971 –** to discuss potential topics.

National Eso week in October to be celebrated Europe-wide

The Centre will play a key role in 2011 in the European Economic & Social Committee project to promote all employee share ownership throughout the 27 EU member states.

The Centre is tasked with organising UK celebrations, which will include a major national Eso conference and associated workshops in London in the Autumn.

Simultaneously, similar national conferences and workshops aimed at raising the profile of employee financial participation (Eso) will take place in Europe's other major capital cities between **October 11-13** (awaiting confirmation).

Members will be invited to participate in the UK events and offers to co-sponsor, speak and/or provide venues will be greatly appreciated.

The Centre will be disseminating various forms of information and discussion documents UK-wide to tie in with the other national planned Eso activities and members might want to co-sponsor these communication initiatives.

International director Fred Hackworth will represent the Centre at the first planning meeting for this major Europe-wide project at EcoSoc headquarters in Brussels later this month.

All initial enquiries about involvement in these planned UK events must be emailed to Fred Hackworth and David Poole at: fhackworth@hurlstons.com and dpoole@hurlstons.com.

COMPANIES

Flybe set 295p as its share price in the airline's IPO, representing a market cap of around £215m. The company was raising around £68m on its floatation of 20.3m shares. During the initial trading period, the share price was up to 338p, creating a mini bonanza for its employee shareholders. The airline said half of the proceeds will finance its fleet expansion plans and the other half is aimed at funding potential acquisitions.

Vallourec's supervisory board has co-opted Mrs Pascale Chargrasse to represent its employee shareholders. Take-up of the Vallourec employee shareholder plan has enabled participants collectively to own more than three percent of its share capital. Mrs Chargrasse on the board of one of the corporate mutual funds (*Fonds Communs de Placement d'Entreprise*) invested in Vallourec shares. Her appointment is subject to approval at the June agm. Jean-Paul Parayre, chairman of Vallourec's supervisory board said: *"The board is pleased to see a growing employee participation in Vallourec's share capital and is delighted that employees will now be contributing to the board's discussions."* Philippe Crouzet, chairman of the management board, added: *"Close to 70 percent of Group employees subscribed to Value 10, the third employee shareholder programme in three years. Employee share ownership in Vallourec has thereby reached a significant level. This success demonstrates the confidence of Vallourec's people in the future of the company."* Vallourec, listed on the NYSE Euronext in Paris, is a world leader in premium tubular solutions primarily serving the energy markets, as well as other industrial applications. It has 18,600 employees, integrated manufacturing facilities, advanced R&D, and operates in more than 20 countries.

End game for final salary pensions

The head of the pensions regulator warned of "the end game" for final salary schemes as latest statistics showed the number of schemes closed to existing members had doubled in the past four years. Speaking at a pensions conference in London, David Norgrove, the outgoing chair of The Pensions Regulator warned about the challenges facing the survival of so-called gold-plated schemes and the risks facing those in less generous alternative schemes. Talking about final salary schemes, he said: “The market is certainly in transition….We are in the end game for these schemes and this has a range of implications”. Many schemes are now closed to new members: 58 percent in 2010, compared to 44 percent four years ago. The high cost means companies cannot afford to continue to run them in the economic downturn. The number closed to future accrual has jumped in the past four years from 12 percent to 21 percent, as more and more current employees are being prevented from making further contributions to their final salary pension plan. The number of such employees is up a further two percent this year. There are around 7,000 schemes. Mr Norgrove explained: “We need to bear in mind that these liabilities will be on company balance sheets for decades to come.” Once defined benefit schemes are closed, employees may be given the option of joining an alternative defined contribution scheme, which relies on the performance of the stock market.

Bonus corner

European regulators have confirmed tough restrictions on the bonuses that banks can pay their staff. Only 20-30 percent of bonuses can be paid in upfront cash, according to new guidelines announced by the Committee of European Banking Supervisors (CEBS). The rules are much tougher than those agreed by the G20 countries, raising fears that bankers may emigrate to more lightly-regulated countries. The British Bankers' Association (BBA) called it a "dramatic" change. Although the guidelines for European national financial regulators are not obligatory, a spokesman for the Financial Services Authority (FSA) confirmed that the UK bank watchdog and its European counterparts intend to implement them in detail. FSA ceo, Hector Sants, voiced support for the EU's clampdown on bank bonuses. Agreed by the CEBS on December 10th, the new rules amount to the world's toughest restrictions on pay in the financial services industry. Speaking to *Reuters Insider*, Mr Sants described the measures as a "sensible package" for aligning risk-taking with remuneration at banks. "The FSA will be publishing its guidelines shortly before the end of the month to broadly be in line with the CEBS framework," he added. Michel Barnier, the EU's financial services chief, told the Treasury Select Committee that he does not expect the bonus curbs to cause executive recruitment problems for banks in the City. He claimed that fears the clampdown could prompt a ‘flight of talent towards Asia or elsewhere’ will prove to be unfounded. Due to apply from **January 1st**, the rules state that bankers should receive no more than 30 percent of their bonuses in upfront cash payments.

The guidelines could mark a profound change in the City bonus culture. In the past, star performers have been able to negotiate big pay deals by threatening to quit and work for a rival bank, but the new rules mean that any banker who leaves in future would forfeit years-worth of deferred bonus payments.

"The CEBS announcement, on top of the FSA rules, changes dramatically the bonus landscape," said the BBA. "We maintain that reform of the remuneration system in financial services must be globally coordinated. We need other jurisdictions, notably the USA and emerging markets, to coordinate their reforms with the EU rules."

The finalised CEBS guidelines for national financial regulators are virtually unchanged from the draft rules circulated in October. They recommend requiring that banks:

- appoint an independent remuneration committee
- defer 40-60 percent of bonuses for three to five years, and pay 50 percent of bonuses in shares (rather than cash)
- set a maximum bonus level as a percentage of an individual's basic pay
- exclude any ‘reward for failure’ from severance pay packages
- publish pay details of senior management and risk takers.

The rules would mean that bankers receive only 20-30 percent of their bonuses in immediate cash. The new rules will affect bonuses for the current year, to be paid out in January-February. The bonus limits will apply to the entire global staff of European banks.

However, *non*-European banks will only face restrictions on what they pay staff working for subsidiaries based in the European Economic Area (the European Union plus Norway and Iceland). Some European banks had warned that the rules create an added incentive for their employees to relocate to Asian cities such as Singapore that have looser bonus rules, as well as lower tax rates and access to Asia's booming economies. Moreover, according to the BBC's business editor, Robert Peston, British banks HSBC and Standard Chartered have voiced concerns that they might lose Asian staff to non-European competitors because the bonus rules apply to their worldwide staff - including those in Asia. Although they have made no such threat, the rules may encourage such banks to move their headquarters to Asia in order to avoid having to apply the rules to employees located outside Europe. Statistics from the Centre for Economic and Business Research suggest bankers' bonuses will be down by five percent to £7bn this year and will be 13 percent lower after the impact of higher taxes. The total predicted bonus pot is 45 percent lower than its pre-recession peak in 2007.

Enterprise Inn's ceo Ted Tuppen was criticised in a parliamentary motion for having taken an allegedly "unjustified" 50 percent increase in his annual reward in the year ending last September, despite the company's large decline in pre-tax profit (down from £208m to £175m) Mr Tuppen received £1.22m in total reward last year, compared to £811,000 in the previous year. MP for Leeds North West Greg Mulholland tabled the early day motion "condemning excessive remuneration and bonus packages, in light of the situation the company finds itself in."

Ireland: Taoiseach Brian Cowen has said that bonuses paid to senior public servants should not be equated with discretionary bonuses that were paid to bankers. He was responding to concerns raised by Fine Gael TD Fergus O'Dowd about such payments in the public service. Mr O'Dowd noted a circular had been issued by Minister for Finance, Brian Lenihan, in 2008 calling for an end to the bonus culture in the public and semi-State sectors. He said most Government departments had complied, but there were key exceptions. News of the bonuses paid to public servants was "staggering" at a time of unprecedented national austerity, Mr O'Dowd said. The former ceo of the National Treasury Management Agency, Michael Somers, was paid a bonus of €200,000 and the ceo of the Personal Injuries Assessment Board received €31,395. In all, bonuses totalling €55,670 were paid to 27 staff members in the Department of Finance last year, with a further €53,394 paid out to 19 staff in 2008. "This year some 52 principal and assistant principal officers in the Department received seniority allowances totalling €115,395," he added.

Book Review: *Tolley's Guide to Employee Share Schemes,* by David Craddock, published by LexisNexis, Halsbury House, 35 Chancery Lane, London WC2A 1EL Tel + 44 (0) 20 7400 2500. Price: £89.95 Long-term Centre member David, who is the proprietor of David Craddock Consultancy services, has hardly missed a blade of grass in this comprehensive 600 page Eso schemes guide. The fact that David is as interested in the economic, sociological and philosophical roots of Eso, as much as in the technical detail, certainly shows through. He walks us through the key issues: why do companies install these plans; do they work; what does share ownership really mean; which plans are tax-efficient; are option plans better than share awards and so on. He gives plenty of worked examples and case histories to show us what actually happens when Eso comes in at the coalface. He's not afraid to confront the awkward questions too: what happens when share options go 'underwater'? and the growing complexity of the tax and regulatory frameworks which threaten to engulf the employee equity industry. He pays generous tribute to the leading role played by chairman Malcolm Hurlston in the introduction and development of Eso in the UK, including the legal establishment of Eso trusts and the tax-approved all-employee share/option schemes and the Eso Centre's continuing lobbying role.

It's all here: institutional investor guidelines vis-à-vis executive reward plans; the European Prospectus Directive; the meaning of Treasury shares; checklist for an Esot; options pricing models; the tax treatment of overseas equity awards and some very useful contact names and co-ordinates within the various sectors of the industry. This is an essential handbook for anyone wanting an across the board understanding of how best employee equity can be adopted within a company and the pitfalls to look out for. As with all such guides, my one caveat is that the relevant info changes so quickly that it is better to avoid the phrase *'latest statistics tell us..'* because the show inevitably has moved on since publication, even though the numbers were accurately quoted when he wrote the text. (FH)

US filing requirements update

Corporations must, annually beginning with 2010, file returns with the Internal Revenue Service (IRS) and provide statements to employees reporting exercises of incentive stock options (ISOs) and transfers of stock purchased under employee stock purchase plans (ESPPs).

Consultation on PAYE real-time information

Following the responses to the discussion document 'Improving the Operation of Pay As You Earn' published last July, the Government announced that it intends to develop a real time PAYE information system, said Centre member Deloitte. It is to be piloted starting in April 2012, and the intention is that all employers will be using the new system by October 2013.

HMRC have published a further consultation paper, which explains how real time information will work and invites comment on the proposals. In particular, views are invited on the information items employers would be required to send to HMRC and the channels to be used to send it.

The intention is that the new system would involve only data already collected and recorded by employers for PAYE purposes or to satisfy other existing legislative requirements. Comments are invited by 28 February. For the Consultation document and Impact Assessment see http://tinyurl.com/24rx3lq

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