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it's our business

newspad of the Employee Share Ownership Centre

Safe Harbour trust proposal kicked into touch

Chancellor of the Exchequer George Osborne confirmed in his Autumn Statement that the government will not proceed with proposals to launch a new employee shareholding vehicle, promoted as a *Safe Harbour Trust.*

The Office of Tax Simplification (OTS) last January recommended significant reform of the "tangle of complexity" involved in taxing and using unapproved employee shares. The OTS proposals included the creation of an employee shareholding vehicle (ESV) which would act as a simpler version of the current employees' trust, with a view to encouraging wider employee share ownership in smaller private companies.

In addition, the OTS had recommended the creation of a 'marketable security' - whereby employees would be given the option of whether to pay tax on acquisition, or when the security could be sold for cash, instead of being taxed on the value of shares before they could sell them – but this proposal too was rejected.

The government highlighted a lack of demand from businesses as one of the main reasons for not introducing an ESV. In publishing the responses to its consultation into the proposed ESV, the Treasury highlighted the fact that there did **not** appear to be "significant demand from those identified by the OTS as most likely to use and benefit from the employee shareholding vehicle".

The Treasury said that advisers responding were generally sceptical about whether the new vehicle would significantly reduce the need for specialist tax advice or necessarily increase employee share ownership. The government's proposed additional safeguards proved a sticking point. While the Treasury acknowledged that not all of them would be necessary, responses suggested that any one of these measures would significantly reduce the likelihood of the vehicle being used.

The Treasury/HMRC said in its detailed response: "Although responses were generally positive, the government has decided not to proceed with the proposal for the following reasons:

*The responses indicated support for all of the tax exemptions recommended by the OTS, with capital gains tax, the loans to participator rules, and the disguised remuneration rules all featuring particularly heavily. Responses indicated that the new vehicle would need to address all of these key issues to make it attractive and the government, as outlined in the discussion paper, believes it is unlikely to be able to do this in a way that satisfies advisers and businesses.

*The responses indicated support for the safeguards against abuse suggested by the OTS, but not the potential additional safeguards set out in the government's discussion document. The government recognises the desire for commercial flexibility to ensure the vehicle remains attractive and, though it agrees all of the potential additional safeguards set out in its discussion document may not be necessary, the balance of opinion suggested that any of these measures would significantly reduce the likelihood of the vehicle being used.

*The number of responses received, notably from businesses and their representative organisations, did not indicate there is significant demand from those identified by the OTS as most likely to use and benefit from the employee shareholding vehicle. Moreover, advisers were generally sceptical about whether the new vehicle would significantly reduce the need for specialist tax advice or necessarily increase employee share ownership."

Centre chairman **Malcolm Hurlston CBE** who helped trustee members put their case, said: "Any new vehicle in the trustee sector creates a new opportunity for mischief as well as the answer to a problem. Our success depends on generous tax breaks being properly used. The case was not strong enough to override a history which includes the QUEST (billions lost to the taxpayer) and Roadchef, which illustrated the hazard of the unregulated trust.

"It is timely too for the UK to recognise the advances made in the regulated jurisdictions."

From the Chairman

2015 is piecrust time as the political parties craft their promises for an unconvinced electorate. Our focus will be on employee share ownership for the millions combined with a stronger shareholder role in corporate governance. We shall remind parties from SNP to UKIP that all-employee share ownership is part of the answer to both inequality and long term provision, whereas localised employee ownership can strengthen the national fabric. If you haven't overeaten over Christmas, consider too that this year you may be getting two bites of the electoral cherry.

Malcolm Hurlston CBE

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HMRC explained: “The Government issued discussion papers over the summer on the OTS’ proposals for a new employee shareholding vehicle and the marketable security. These were creative and far-reaching proposals, where the Government wanted to test the level of demand from businesses and the likelihood that we could implement the ideas in a way that remained attractive to them. Your responses helped us to better understand the key issues that companies face and the potential impact of the proposals.

“However, the volume of responses, particularly from business, to both discussion papers did not indicate that there is sufficient demand for either of the proposed changes, either from those already benefiting from employee share schemes or those considering whether or not to introduce a scheme.

“***Taken together with the significant challenges of implementation and risks of abuse, the Government has decided to not proceed with either proposal.”***

Acknowledging that the decision would be disappointing for some, HMRC’s Colin Strudwick, of the Savings and Share Schemes Policy division, pointed out that the Government had implemented many other recommendations from OTS reviews of share schemes which represented “the most significant package of reform to the tax rules for employee share schemes for many years.” The Centre advocated tax simplification and has been delighted by the OTS track record of success.

Background

The OTS had reported a number of tax issues for companies when they establish an EBT and recommended, as a remedy, the creation of a vehicle aimed at those companies wishing to make arrangements purely for the purpose of genuine equity based rewards and remuneration for employees, as opposed to the tax planning activity. The key tax issues were:

*the risk of inheritance tax charges under certain circumstances unless certain rules are followed

*the risk of charging capital gains tax on trustees’ gains and income tax on shares received by an employee encourages offshore EBTs, which are considered more costly to administer than onshore equivalents

*tax on loans to finance EBTs

*the transaction in securities rules

*stamp duty reserve tax on the purchase of shares by the trustees of an EBT, or by employees when they purchase shares from the trustees;

*access to other tax-advantaged schemes under certain circumstances

*the recently introduced arrangements to tackle the deferral or avoidance of income tax or national insurance contributions through disguised remuneration

However, crucially, the OTS admitted that anything short of all (or most) of these points being addressed would not provide companies with a practicable proposition for wishing to use a new vehicle for employee shares.

The OTS recommendation was: “We recommend the introduction of a simple vehicle to enable companies (mostly, but not exclusively unquoted) to manage their employee share arrangements and create a market for employees’ shares. This could be a statutory ‘safe harbour’ employee benefit trust (EBT). However, EBTs have acquired something of a bad name of late because of their use for tax avoidance purposes and we have no wish to create new avoidance opportunities. There is, though, a real need to create a vehicle – some form of entity that might be a form of EBT – which can be used safely and easily by private companies wishing to establish employee share schemes. Companies need such a vehicle to provide a marketplace for employee shares and to allow such shares to be warehoused until allocated to individuals. Accordingly, we recommend an ‘Employee Shareholding Vehicle’; this may be a trust but in this report we use ‘vehicle’ so as not to prejudice reactions to this recommendation. The aim is to provide companies with protection from some of the tax traps which exist in the extremely complex anti-avoidance legislation but at the same time ensure protection for HMRC by restricting carefully what this vehicle can be used for. This recommendation is of particular importance if government policy is to encourage wider employee ownership in private companies.”

ROME: June 4 & 5

The Centre urges members who wish to speak at its 27th European conference, at the **Residenza Di Ripetta,** in central **Rome,** on **Thursday June 4** and **Friday June 5** next year, to contact international director **Fred Hackworth** asap at: fhackworth@esopcentre.com in order to stake their claim to a speaker slot. A two nights’ half-board accommodation + conference package deal rate is available to speakers for **GBP 995 and no VAT** - the same terms as for last June’s highly successful event in the same four star hotel, which is part of the **Niquesa Luxury Hotel** group. Practitioner member *delegates* will pay **GBP 1135 and no VAT** for the same package. The Centre has been given **40 rooms**, which will be allocated on a *first-come, first served* basis, so do not delay, register yourself and friends now.

Rome co-sponsorship packages are available, notably lead sponsorship of the entire conference, which is offered to Centre members for **GBP 5,750**. The lead sponsor, who can share the overall cost with a client/ partner firm, is awarded two free speaker places, plus a free place for an issuer client, either as a speaker or delegate. For more details contact Juliet Wigzell at: jwigzell@esopcentre.com

Boost Esos in corporate annual reports, EU urged

Centre chairman Malcolm Hurlston CBE urged the European Commission’s corporate governance division to encourage quoted EU based companies to detail their all-employee share ownership plans in the main body of annual reports.

Mr Hurlston proposed action when he met the Commission’s corporate responsibility chief, Jeroen Hooijer, in Brussels.

“For too long, company reports have downplayed Eso plans by tucking the details away in the financial appendices or footnotes of their annual reports, but the Centre wants to see the information incorporated into the main body of annual reports,” Mr Hurlston told Mr Hooijer.

“We believe companies should demonstrate pride in their Eso plans by permitting all shareholders to judge whether or not their company is taking all-employee share ownership seriously or not.

"This is a clear issue of corporate governance and it would be timely for the new European Commission to steer the corporate sector towards getting its house in order.

"Regular reports about the extent of broad-based Eso plans in companies are not *dry-as-dust* items for the accountants, nor should such plans be treated as fashion accessories.

"City institutions may be powerful investors in companies, but it is salutory for them to be reminded that millions of employees are fellow shareholders too and that they can exercise their voting powers through their plan trustees."

Accompanying the chairman on the lobbying mission was Centre steering committee member David Pett, who is a pro-bono adviser on share schemes to successive UK governments. Mr Pett, who founded the multi-disciplinary firm **Pett, Franklin & Co**, explained to Hooijer and his Brussels colleagues how joint share ownership works in the UK and discussed its potential in other member states.

Mr Hurlston updated the officials on the Centre-organised London workshop - ***Shares into Ploughshares*** - held one month ago at Centre member **Linklaters,** on behalf of the European Commission. The workshop completed the year long Pro Employee Financial Participation (Eso) project in the EU Semester. The Centre has just handed over the report to date to the project leader, Marco Cilento, who is lead adviser to the European Trade Union Confederation.

The workshop, which attracted top-level speakers from all over western Europe, concluded that broad-based employee share schemes can beef up economic democracy and create economic growth, especially at local and community levels.

There was interest too in a workshop panel discussion as to whether trade unions, such as the Communications Workers Union, could organise a collective voice over employee shareholding members' voting shares at future Royal Mail and other agms.

The Centre put forward the latest evidence of the positive EFP/Eso and employee ownership effects on UK businesses – more staff engagement in the enterprise, less jobs attrition; less clock-watching; using Eso schemes in business succession to secure local jobs; and better productivity in some Eso companies. The highlight was research by the London School of Economics for Centre member **Computershare**, outlined by **Martyn Drake**, a study which more companies would do well to replicate. **David Craddock** reviewed expertly the academic evidence from the United States and elsewhere.

"At a time when inequality and long term provision are at the top of national agendas we advocate concentration on esop plans which can effect millions of employees through multinational companies and their use of share plans, rather than the valid but narrow area of employee majority ownership of small companies," Mr Hurlston told *newspad.*

"We are presenting plans for measures within the Commission's competence: for example, encouraging companies to award their low-paid and part-time employees free share options as well as considering the David Pett plan for joint ownership."

Mr Hooijer confirmed that while his unit had retained corporate governance and high pay within the new Justice portfolio, most mainstream employee share ownership policy in future would be taken up either by the Employment and/or Growth directorate-generals, depending on content.

SMEs unaware of looming reporting penalties

Many UK SMEs are unaware of the penalties involved for failing to file online the required employee share scheme information, according to *TaxAssist Accountants*. From July 6 2015, UK firms will be required to have registered all employee share schemes with HM Revenue and Customs (HMRC) and to have filed all related online returns. At present, businesses are only required to report employee share schemes to HMRC in the event of statutory tax advantages or a taxable event – such as the grant of a share option or acquisition of shares by an employee – during the relevant tax year. However, following changes in the Finance Act 2014 any employee rights over shares in their employer must now be registered online with HMRC, with returns filed each year even if there has been no taxable event. This includes shares that were in existence before these changes came into force. The penalties for late returns are severe, with fines of up to £700, with an additional £10 per day if the return remains outstanding for more than nine months. HMRC may impose further penalties of up to £5,000 for material inaccuracies in filing returns that are not corrected without delay. The new legislation potentially covers all types of employee share incentive schemes, even those that are not part of HMRC's tax-advantaged schemes or where there has been no activity in the previous tax year. Employers must submit annual return information relating to each scheme – including those with nil returns – to HMRC by July 6, 2015, otherwise automatic penalties will apply. Businesses must first register with HMRC Online Services to submit online share scheme returns and then register each individual share scheme with HMRC. Whatever view one may take of the principle, compliance clearly makes sense.

Axa worldwide share scheme

More than 21,000 **AXA** employees in 36 countries, representing 19 percent of the eligible employees, subscribed to *SharePlan 2014*. Late last August, AXA announced the launch of its 2014 employee share offering, a capital increase reserved to its employees worldwide. The aggregate proceeds from the offering amounted to €314m, for a total of 19m newly-issued shares, subscribed at a price of €14.75 each for the classic plan and €16.44 for the leveraged plan. The new shares created have full rights. This offering increased the total number of outstanding AXA shares to 2.44bn on December 5. Following *SharePlan 2014,* AXA's employees hold 6.75 percent of the issued share capital and 8.41 percent of the voting rights.

Autumn Statement: No major changes

Chancellor of the Exchequer George Osborne chose to give the employee share ownership industry a break in his Autumn Statement of government fiscal policy in the run-up to the General Election next May. There were no new major policy initiatives in the Eso sector. Nicholas Stretch, of *CMS Cameron McKenna*, said: "After successive years of announcements of significant anti-avoidance or structural changes, there are no notable employee share schemes amendments proposed to the relevant UK tax system this year. Given the considerable changes in recent years, which have been liberating and disruptive in equal measure, it is difficult not to feel a sense of relief!"

On the move

The highlight of the pre Xmas receptions was undoubtedly that hosted by **Michael Sleet,** md of corporate broking at **Numis Securities**, who sensibly reserved the entire downstairs bar area of fashionable eatery and winery **Steam and Rye** in Leadenhall Street, to celebrate the season with his many Eso industry guests. Your *newspad* '*Man About Town'* correspondent greeted, while still relatively sober: **Davinia Smith** of **Alter Domus; Rachel Barrett** of **Howells Associates; Anna Watch** of **BT; Kay Ballard** of **Kingfisher; Julia Foo** of **Halma**; queen of the Davos ski slopes **Tamara Murray** of **Markettaxess; Peter Mossop** of **Sanne Group; Rob Collard** of **Macfarlanes; Ian Murphie** of **Shareplanpartners; Justin Cooper** of **Capita Asset Services; Patrick Jones** of **Appleby Global; Richard Nelson** of **Sharetrack; Martyn Drake** of **Computershare; John Roundhill** of **Ingen Partners; Centre chairman Malcolm Hurlston CBE** and many others. Thanks to Mr Sleet's kind offices, your correspondent was safely decanted onto the Piccadilly Line in time for his Heathrow flight back to the Cote d'Azur.

Newcastle-upon-Tyne based **eaga Trust** has recruited accountant and former finance director Richard Marr to the position of chief operating officer. Richard, who joined the eaga Trust from Narec, the National Renewable Energy Centre, at Blyth will be responsible for the day-to-day running of the trust and driving the ways in which its purposes are expressed and actioned. The eaga Trust exists to promote employment, employee ownership and engagement in the workplace and supports the 7,500 people across the UK who have worked for eaga from January 2000, until April 21, 2011, when it was sold to **Carillion**. It does this through training grants and business loans for registered members who wish to start their own business; while there are a variety of benefits for members, including holiday homes in the UK, Europe and America which members can book. All registered trust members are able to use the trust's Skill-Builder fund, to pay for training, skills and education with a view to improving their employment prospects. In addition there is a wider remit to promote employee ownership at large. Richard was welcomed to the Esop Centre in London on December 16, joined by **Maoiliosa O'Culachain**, who is on the eaga board and a research fellow of the Esop Institute.

Ross Crick has joined **Sanne** as an associate director and will complement its team of 28, who provide professional, independent trusteeship of employees' trusts and associated plan administration. Ross, previously with Appleby, has 14 years of direct experience in this specialist field. He will take an active role in the management of Sanne's increasingly diverse customer base with a focus on FTSE 100 clients.

Centre member **YBS Share Plans** has launched its new branding. The makeover involves a new logo, a completely rewritten website and new look communications. "Not only has our website had a revamp as part of the rebrand, but it has received a total rewrite as part of a significant investment in our strategic initiatives," said YBS Share Plans. "Why not take a look at the first phase of our new branded website at www.ybsshareplans.co.uk . We've built our business by helping thousands of people to save for the future." Its first release delivers a format-friendly website enabling full client branding across both static and transactional pages together with enhanced customer functionality with incremental builds being deployed over the coming months. The website is fully responsive, which means the site automatically resizes to suit all screen sizes (from phone through to tablets and laptops).

Ceo total reward falls, shock

Total UK chief executive reward has gone down on average by 11 percent on an annualised basis, Cliff Weight, director and remuneration consultant at Centre member **MM & K**, told *newspad*.

Yet only six weeks ago, an influential report claimed that directors of FTSE 100 companies had seen their total median earnings rise by 21 percent over the last year. Incomes Data Services (IDS), an employment information and research service, explained that overall earnings growth for FTSE 100 directors had been driven by a 44 percent increase in vested long term incentive share awards and by a 12 percent increase in bonuses.

Directors' base salary rises, however, had remained muted, increasing by just 2.5 percent during the year, admitted IDS. The median total earnings of a FTSE 100 director had risen to £2,433,000, it added.

Mr Weight castigated the media for allegedly having decided what the story was, then looking for data or press releases that supported their view.

"The widely-reported 21 percent figure in the IDS report, was derived from a sample of data relating to ceos who had survived in post for two or more years," said Mr Weight. When all ceos were included, the picture was different.

"There is a lot of rubbish talked about executive pay, he said. "The Financial Times story on December 7 which alleges 50 percent pay increases for directors is an example of this tripe. In fact, remuneration committees are being pushed from pillar to post."

"Our survey data is showing that ceo total remuneration awarded is going down. The latest annualised rate of decrease appears to be 11 percent," Mr Weight added.

Other remuneration experts among the Centre's membership too are reportedly unhappy about the recent spate of potentially misleading reports on executive reward increases.

The latest MM&K/Manifest Remuneration Survey aims to put advisers and corporate remuneration committees in the picture about what is really happening to directors' pay. The survey includes all companies in the FTSE All Share and many AIM companies and reports in detail the actual data. MM &K's survey is authoritative, the BIS government department having

quoted the data in several of its consultations.
FTS350 companies can buy the survey for £750 for and it is only £500 for others. Buy it now by sending an email, or online at www.manifest.co.uk/shop/. You can ring Cliff on 020 7283 7200.

Bonus corner
*An MP called for bonuses to be stripped from a top boss after an unprecedented systems failure at the UK's **National Air Traffic Control Centre (NATS)**. The problem, involving computer code written a quarter of a century ago, was responsible for widespread disruption at British airports. Richard Deakin, ceo of NATS, the company responsible for controlling British airspace, said the software glitch was buried among millions of lines of code at the site in Swanwick, Hampshire. Analysis of NATS accounts shows Deakin's total pay jumped by 46 percent to £1.05m in the year to March 2014, including a £272,000 performance-related bonus and £325,000 for the maturity a long term incentive plan (LTIP). Quite what a public sector executive is doing with total bonus awards easily exceeding his annual salary in the last financial year is another matter. *NATS is a public private partnership between the Airline Group, which holds 42 percent, NATS staff who hold five percent, UK airport operator LHR Airports Limited with four percent, and the government which holds 49 percent and a golden share.* Labour MP Paul Flynn spoke out about Mr Deakin's role. He told *The Sunday Times*: "I hope after the chaos, which was dreadful, though a rare event, he will have his bonuses stripped from him." Nigel Fotherby, NATS' finance director, saw his total pay increase by 39 percent to £546,000, including a £130,000 performance related bonus and £133,000 on an LTIP, while Martin Rolfe, the operations director who started at NATS at the beginning of the financial year, received £404,000.
*Pressure from shareholders forced oil & gas firm **BG Group** to revise its remuneration package for incoming ceo Helge Lund by reducing his share awards from £10m to £4.7m. The company admitted that a significant number of shareholders had questioned the structure of the original proposed pay package, in particular asking whether it was appropriate to go outside the remuneration policy approved by shareholders earlier this year. Lund was initially offered a conditional share award, which did not fall within BG's existing policy.
BG had agreed to pay Mr Lund a basic salary of £1.5m, plus £450,000 a year in lieu of pension contributions. He was granted up to £480,000 to relocate to the UK from Norway, where he was ceo of oil firm Statoil. In addition to his basic salary, Mr Lund's contract included two different bonuses: one in cash up to a value of £3m a year, and one in shares, up to a value of six times his basic salary, equal to £9m. In total, Mr Lund could have earned up to £12m a year in bonus awards, on top of the £12m initial shares bonus he would have received on taking up his post as chief executive in March 2015 and base annual salary of £1.95m. It could have meant a potential pay package in Mr Lund's first year of almost £26m.
The company said it welcomed "the active and constructive role played by Lund in revising the remuneration package". Unsurprisingly, the firm faced shareholder anger over the pay package, with **Legal & General Investment Management** (LGIM), one of BG's top 10 shareholders, going public with its disapproval. Sacha Sadan, director of corporate governance at LGIM, commented: "We are encouraged to see BG responding positively to shareholders concerns. As long-term engaged investors we look forward to the new ceo joining and creating shareholder value for all." Simon Walker, director-general of the **Institute of Directors**, said he welcomed the revisions to the proposed payment. He added: "While substantial, the total remuneration is reduced and now falls within proper limits for a company of BG's size and international importance. We continue to welcome Helge Lund's appointment and wish him and BG well in the challenges they face."
***Easyjet** boss Carolyn McCall received pay and bonuses worth £7.7m despite deteriorating levels of customer satisfaction and punctuality, the airline's annual report revealed. Ms McCall oversaw a fourth year in a row of record financial results as pre-tax profits soared 21.5 percent to £581m for the year to the end of September. However, the profits increase was not quite as stellar as the 51 percent rise achieved the year before, meaning her annual bonus element of pay was lower. This was hit by on-time performance being slightly worse - with only 85 percent of arrivals within 15 minutes compared to 87.4 percent a year before - as well as customer satisfaction - down from 82.7 percent to 78 percent. The airline did better at keeping a lid on costs this time after it was hit by adverse weather conditions in the previous financial year. Ms McCall received £677,000 in salary, up from £665,000 a year ago, plus pension and benefits worth £52,000. Her annual bonus was £1.03m, down from £1.15m. Her total pay package included a long-term bonus share award worth £5.92m. The report showed that the ceo's total pay package for last year was £7.8m, higher than the £6.4m reported at the time. This was because last year's sum included a share award that vested in 2014 with the share price higher than it was when the figures were published. In addition to this year's £7.7m total for Ms McCall, she was granted long-term performance-linked share awards worth up to almost £2m - to be paid out following the end of the 2015/16 financial year.
*Supervising the supervisers: Several senior executives at a City watchdog will be stripped of their bonuses over its botched handling of market-sensitive information about an insurance industry probe. The news emerged hours after the **Financial Conduct Authority (FCA)** announced the resignation of Clive Adamson, its director of supervision. Confirmation of the lost bonus punishment came just two days before the publication of a report into the debacle. Adamson was expected to leave within days. The FCA leaked information about a probe into life insurance policies last April, which wiped billions of pounds off insurance company shares. The report, the culmination of an independent investigation by Clifford Chance partner Simon Davis, was expected to single out five executives for criticism, including chief executive Martin Wheatley. The FCA announced that two other executives – Victoria Raffe, director of authorisations, and communications chief Zitah McMillan – were leaving too.
Three **Lothian Buses** directors at the centre of a bitter

boardroom row with their boss offered to sacrifice hundreds of thousands of pounds from their total annual reward in a deal to oust him. The so-called 'Annandale Three' had agreed to waive their annual bonuses and slash notice periods by a year to help fund a £400,000 pay-off for under-fire ceo Ian Craig. The trio – operations director Bill Campbell, engineering director Bill Devlin and finance director Norman Strachan – were said to have been desperate to unseat the Lothian Buses boss after filing complaints against him for an alleged abrasive management style and failure to consult on major decisions. With bonuses worth £42,900 on top of £145,000 salaries, the directors – who all work at the firm's Annandale Street offices – faced losing a significant income in exchange for their boss' dismissal. It emerged that Mr Craig had been given an ultimatum to accept the £400,000 pay-off to leave Lothian Buses voluntarily or face the sack. Neither deal was followed through.

*Energy watchdog **Ofgem** rewarded staff with record bonuses last year - despite households reeling from a surge in bills. Civil servants at the regulator shared just under £856,000 in payouts just for doing their job. Details released under a Freedom of Information request show that the bonus pot had leaped by 66 percent in the past three years alone. Yet while staff and big bosses earned extra, households had to cope with sky high gas and electricity bills.

Some of Ofgem's top brass, including head Dermot Nolan, earn more than the Prime Minister. Mr Nolan, who joined in March this year, is on a salary of £190,000. His predecessor, Andrew Wright, got a £280,000 a year package, including a £15,000 bonus and £71,000 paid into his pension. Nolan has vowed to get tough with energy firms. He said "at least" two big providers should have cut prices by now because of a slump in wholesale costs. According to the Freedom of Information request, 659 of the quango's staff who qualified for a bonus payment took home an average of £1,298 each, while the average Ofgem employee's total pay packet was £38,326 last year. Many of the organisation's top bosses are being paid huge salaries, often leapfrogging from one highly paid quango to another. Ofgem's chairman, David Gray, took office in October last year on a £160,000 annual salary. He previously worked at the Civil Aviation Authority, as well as leading a review at the water regulator Ofwat. Jonathan Isaby, ceo of the **TaxPayers' Alliance**, said: "Ofgem has been much criticised in recent years and the organisation must demonstrate why these high salaries and bonuses are justified. High pay for public sector bosses - especially the four employees at Ofgem taking home more than the Prime Minister - will clearly raise eyebrows. Ofgem's job is to ensure consumers get a fair deal in the energy market, and if that's not the case then taxpayers will demand an end to bloated salaries and bonuses when finances are so tight."

An Ofgem spokesman said: "Ofgem has a strong track record in standing up for consumers having enforced over £150million of penalties on the industry since 2010. We have also radically shaped the retail market to make it simpler, clearer and fairer for consumers and used our powers to refer the energy market to the **Competition and Markets Authority** to make sure there are no barriers to prevent competition from bearing down as hard as possible on prices. All of Ofgem's pay awards, including non-consolidated performance related awards, are set in line with Cabinet Office and HM Treasury guidance. Staff at Ofgem had their pay frozen for two years from April 2011 and since then pay increases have been set at one percent per year. Pay for Ofgem's ceo and chairman has been cut compared to their predecessors."

***Tesco's** new ceo said his bonus was under review as he tried to turn the ailing retailer around. Dave Lewis said pay deals for senior executives too were under review as part of a shake-up of the business, which has been rocked by a £263m accounting black hole and a 92 percent drop in half-year profits. In financial reports it was revealed Britain's biggest supermarket had suffered worsening sales compared to its competitors and the poor results caused the share price to slump by seven percent, wiping £1n off its value. Mr Lewis, who took over recently with a £1.25m basic salary and a £525,000 *Golden Hello* in lieu of his Unilever bonus, admitted the revelations had been "a body blow" and said outgoing chairman Sir Richard Broadbent had asked him to look at executive bonuses. "In fairness, one of the things that the chairman and remuneration committee are doing, and have asked me to look at, is reviewing what the long -term plan and long-term incentives should be. If you are doing a turnaround then maybe you'd want some shorter -term targets for the leadership team."

CONFERENCES

DAVOS: Feb 5 & 6

Global Shares completes the speaker line-up, with a presentation about employee share ownership in large US private companies, at the Centre's **16th Global Employee Equity Forum,** which takes place at the **Hotel Seehof** in **Davos Dorf** on **Thursday February 5** and **Friday February 6.** US investment bank **ButcherJoseph** joined international oil and gas services giant **Petrofac,** which employs 18,000 staff worldwide, in registering too.

Almost 40 places at this popular event have been taken and only two hotel rooms remain unallocated, so please register **now**.

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To review the programme in depth, please access the Centre website at: www.esopcentre.com. The Davos 2015 package includes two nights' accommodation (February 4 & 5), with breakfasts and lunches provided, in the Hotel Seehof (www.seehofdavos.ch) plus admission to all conference sessions, the annual cocktail party and a bound delegate handbook. There will be an optional pre-conference informal delegates' dinner in a Davos restaurant on Wednesday evening. Contact Fred to register as a delegate at:
fhackworth@esopcentre.com.

Working beyond 65 on reduced pensions

A majority of UK employees now expect to keep working beyond the age of 65, a new poll revealed. More than half of the 2,000 members of defined contribution (DC) schemes, interviewed in a nationwide survey conducted by **YouGov, Aon Hewitt and Cass Business School**, conceded that they will work past the age of 65. Almost one in ten claimed they will work into their 70s, while one in 50 said they will never retire. Most workers expect to draw a pension of less than half their salary, as compared to previous expectation of two-thirds. The greatest number of respondents – almost half - believed their pension pot will be between 21 and 50 percent of their salary. The shift in employee attitudes showed a new sense of realism among employees about their retirement prospects.

"Members of employer sponsored DC schemes have grasped the harsh realities of the 21st century pensions world," said the report's co-author, Professor Andrew Clare of Cass Business School. "A greater number of people now expect to work beyond 65 than those who say they will retire before this age. Britons have waved goodbye to the 'golden generation' of early retirees with many considering working beyond 65 as the new norm."

Kevin Wesbroom, senior partner at Aon Hewitt, said: "There is a new found realism among employees in terms of the level of pension they can expect. For private sector DC members, the old expectation of two-thirds of pre-retirement income is now consigned to history."

The poll indicates employees are reconsidering their approach to giving up work, with a large number intending to glide into retirement. One third of survey respondents expect to make a phased transition by gradually reducing their working hours.

Clawback case

Centre member **Deloitte** said that HMRC is still considering the implications of the Upper Tribunal decision in the case of Julian Martin on so-called 'negative earnings'. The case broadly affects employers and employees who pay or receive bonuses which are repayable if the 'exceptional performance' proves later not to be the case. Employers should note:

*It is vital to ensure that claw-back is not exercised in a way that overrides the contractual provisions, 'transforming' the clawback into a payment of damages.

*Employers should not offset negative payments through PAYE. Employees should claim relief through self assessment.

*The legislation does not allow negative National Insurance Contributions or negative specific income (e.g. termination or most share scheme payments).

*Where current contractual provisions limit claw-back to the employee's net of tax amount (e.g. £60, where the gross income was £100) it is unclear whether HMRC will accept that the net amount (£60) can be treated as a partial repayment of the corresponding gross income amount, such that HMRC would make a partial repayment of tax previously paid (e.g. £60 x 40 percent = £24).

*Employees who have suffered clawback since April 5 2010 may make overpayment relief claims in respect of negative earnings that can be offset against positive earnings. A claim to relieve a net loss for 2012/13 must be made by January 31 2015.

Cayman rejects company ownership disclosure

Britain's Caribbean dependencies, led by the Cayman Islands, rejected the UK's attempts to force them to create publicly accessible registries of private companies' beneficial owners. The rejection was delivered by the territories' finance ministers at a Joint Ministerial Council meeting, in response to a request by the UK to commit to the registry plan. Cayman Islands' Premier Alden McLaughlin later told the Cayman parliament that he and his Finance Minister Wayne Panton had 'remained firm and re-stated our position', which is that any move to public registries must be implemented by the G20 countries first. "I am pleased to say that so far the overseas territories and crown dependencies stand united on this issue," McLaughlin said. In the meantime, he added, the Cayman Islands would retain the status quo under which companies must record their beneficial ownership information and make it available to the proper authorities, but there is no publicly available central registry. A survey conducted by the Cayman Islands' government found that most businesses consider a central registry to be unnecessary, while a public registry "would spell disaster for our financial services business," said McLaughlin. He pointed out that none of the G20 countries have a public registry, and that, aside from the UK, none is likely to implement one. "Unless such registers become the new global standard and are being used by all major players – including the UK – then neither we nor any other OT or CD intend to go first and have our economies experimented with and potentially damaged," he said. "We see no need for a central registry that would increase cost to business and the country and also create a potential single data source, which motivated and skilled individuals could hack into for gain." Bermuda has previously expressed the same view, although the BVI government is taking a less outspoken position. Its Premier and Minister of Finance, Orlando Smith, said the jurisdiction had not taken an official position on beneficial ownership, although it too is resisting pressure from the UK.

France: Employees get chance to buy their companies
The controversial law of July 2014, forcing small and mid-size companies to inform employees in advance of an intention to sell 50 percent of the assets or shares (and to give the employees the opportunity to make an offer to buy), is now confirmed, said lawyers *Herbert Smith Freehills*. The French Parliament had taken a further look at this obligation in the light of the widespread criticism of the measure and the passing of an amendment by the Senate, aimed at extinguishing the obligation. A mixed commission made up of representatives from both the upper and lower chamber of the French Parliament was then appointed to seek to agree a text on this issue to be passed by both chambers. All to no avail, as the commission decided to delete article 12A of the draft law on the Simplification of the Life of Businesses, which would have suppressed this obligation to inform the employees in advance. The obligation to inform the employees therefore is still in force and must be complied with.

South Africa Impala Platinum (Implats) put in place a Rand 1.1bn transaction to give 30,000 of its employees a four percent stake in the share capital of the world's second-biggest platinum producer. The share ownership scheme will lift Implats' empowerment levels above the 26 percent stipulated in the Mining Charter for the end of this year. The miner believed the transaction would take its empowerment to about 30 percent, said Johan Theron, group executive in charge of corporate relations. It would issue shares in just its South African assets. Implats has an existing employee share ownership scheme and two years ago beneficiaries sold 40 percent of the shares to which they were entitled. In three years they can sell the remaining 60 percent of the shares. Implats wants to ensure that there is no chance of it falling short of its empowerment criteria if the Department of Mineral Resources disregards the shares already sold is offset by the new scheme. Mr Theron said the unions had yet to agree to the scheme and the expectation was this would be done early next year. The scheme, which could be seen as a profit-sharing plan, comes after a five-month stoppage at the Rustenburg mines in the first half of this year. "This transaction provides a meaningful way of aligning employees' interests with the future profitability of Impala, while also increasing the ownership of historically disadvantaged South Africans to well above the 26 percent level," said ceo Terence Goodlace. The interest-free R1.1bn loan will be repaid from a third of the dividend flows accruing to the trust holding the shares. The remaining two thirds of the dividend flow will be paid to beneficiaries of the trust. There is no time limit for repayment of the loan.

Book review:
***The Citizen's Share: Reducing Inequality in the 21st Century* by Joseph Blasi, Richard Freeman and Douglas Kruse**
In their new book, Blasi, Freeman and Kruse argue that "the best way – and possibly the only way – to break the trend toward greater inequality and to direct our society away from the road to economic feudalism is to increase the citizen's share of the business capital of the country. The result would be a more efficient market capitalism that spreads rewards to the 99 percent." (pp xi-xii)
"The book is at its most interesting and original when demonstrating how American an idea employee share ownership is," said **Jacob Boult** of the **Esop Centre**. "There is sustained argument that the idea was central to the founding fathers vision of a sustainable, democratic and just United States. This is an important message to spread; assuaging any worries that spreading capital ownership more equally in this way is un-American can only help the employee share ownership cause in the world's largest national economy."
In offering a history of the idea and practice of employee share ownership in the US the book covers in some detail the work of Louis Kelso, the inventor and pioneer of the employee share ownership plan whose mantle Malcolm Hurlston assumed in Britain. Some of Kelso's ideas have become standard practice. He was instrumental in influencing legislation that incentivised the spreading of employee share ownership ever wider: plans had to be offered to all employees to qualify for tax advantages. While some of his ideas and practices have become commonplace, others must still be defended. Kelso was adamant that worker's wages – the wages of labour – were for living; employee ownership must not be funded out of those. The stock market crash of 1929 had taught Kelso that. He championed, and practised, the principle that workers' ownership should be funded by the techniques other owners used to expand their own ownership: the use of profits, bank loans and bond issues. It is in this tradition that the Centre campaigns for the wider use of the Company Share Option Plan (CSOP), and lobbies government not to abandon it. In the last chapter, the authors put forward some of their own ideas for how employee share ownership can be promoted. Perhaps the most interesting of these is using the power of government procurement – the government could favour employee owned companies when awarding contracts.
"Much of the book covers well-trodden ground: its presentation of the benefits of employee share ownership is fairly standard. It is however more innovative in making the strong case that giving workers direct ownership shares in the companies they work for is as American an idea as there is," added Mr Boult.

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