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it's our business

newspad of the Employee Share Ownership Centre

Sponsors pile in for Centre's November Dubai conference

The Centre's first ever Esops conference in Dubai in November has already attracted four co-sponsorships, with other potential sponsors waiting in the wings. Three companies, all Centre members, have agreed to become senior co-sponsors of the two-day event – the Emirates National Bank of Dubai, the global professional consultancy Towers Perrin and top legal group White & Case.

Emirates National Bank of Dubai is a Dubai-based banking group resulting from the merger of Emirates Bank Group and National Bank of Dubai Group. It is the biggest banking group in the GCC by assets and the biggest banking group in the UAE by market capitalization. The Group has a leading retail banking franchise in the UAE, with over 100 branches and over 430 ATMs. It is a major player in the UAE corporate banking arena, with a combined market share of almost a fifth of corporate loans. It also has strong Islamic banking, investment banking, private banking, asset management, and brokerage operations.

Towers Perrin is a global leader in all aspects of executive and non-employee director compensation programmes, providing advice to more clients than any other firm. The discipline of determining how — and how much — to pay senior executives is undergoing a fundamental shift, propelled by increased scrutiny and various financial and regulatory pressures in the business environment. Increasingly, organisations recognise that they need to consider a wide array of emerging best practices in order to identify those that constitute a best fit for their particular situation. Effective programme design builds from a rigorous assessment of financial, strategic and competitive needs and objectives to establish an appropriate framework and focus for management decision making.

White & Case is a leading global law firm with more than 2,300 lawyers in 37 offices in 25 countries. One of the first law firms to establish a truly global presence, it provides legal advice and representation in virtually every area of law that affects cross-border business. As a global law firm, White & Case is uniquely equipped to advise on human resources issues on a global basis. With offices located in all the key financial jurisdictions and technology centres worldwide, it is able to effectively assist clients with human resources issues anywhere in the world. The global team consists of more than 100 specialist employment, executive compensation and benefits lawyers, working alongside specialists in IP/IT, dispute resolution, corporate and tax, White & Case provides comprehensive advice to employers, whether based in the UK or elsewhere. The Global Equity Based Compensation practice, led by Oliver Brettle and Nicholas Greenacre out of its London office, has worked with more than 100 multinational companies in the design, implementation and maintenance of equity-based compensation plans.

A fourth company has agreed standard co-sponsorship terms with the Centre – Jersey based member **Appleby Global**, which offers employee benefit trust and share plan administration services to the industry. The Appleby Group is one of the largest and most well respected offshore legal, fiduciary and administration service providers, with offices in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Jersey and Mauritius, as well as the international financial centres of London and Hong Kong. Through Appleby Trust (Jersey) Ltd it provides trustee and administration services for the full range of executive incentive arrangements, for leading FTSE and AIM listed companies, together with global corporations and private companies.

From the Chairman

Lady Vadera's welcome for this year's positive EMI stats may seem like one small step but it is a huge leap for us. This is the first time that a minister has welcomed the progress of the most successful share plan, minted in the Brown era with expert support. Now the door is open we are reforming our expert group under David Pett to proffer practical advice on improvements which will hit the target. If you want to take part, get in touch with me or David. We have had an open response from the Treasury on improving the chances of employee ownership in private equity. We shall be calling on members for evidence of detriment - hard to pin down but gold dust if you have examples.

Malcolm Hurlston

The conference entitled: ‘The prospects for employee equity plans in the United Arab Emirates and in the Middle East’ will take place on Monday November 17 and Tuesday November 18, 2008 at the luxurious **Palace Hotel**, Old Town Island, Burj Dubai. The event, the first of its kind to be held within the UAE, will enable Western world employee equity plan practitioners (service providers) to meet locally based businesses who are interested in the concept of employee share/stock ownership (Eso) and discuss with them how best the concept can be adapted and used in the UAE and in the wider region generally. Between 150 and 200 delegates are expected to attend.

The UAE/Middle East is attracting multinational companies - and in turn UAE companies are gaining a world presence. Thus the value of attracting and keeping staff in the Gulf region is paramount. The programme will cover the benefits of Eso for both employees and employers; present obstacles to its adoption in the UAE/Middle East; the international regulation of trusts and the context of Sharia finance. There will be key topic presentations from leading employee equity practitioners, including Damian Carnell of Towers Perrin on Executive Compensation, Nicholas Greenacre and Oliver Brettle of White & Case on Choosing the right law for international incentive plans and a Case history of an employee equity plan launched in the UAE by Emirates NBD. Mark McGinness of the Dubai Financial Services Authority, will address delegates on Regulatory issues in the UAE and Malcolm Hurlston, chairman of the Esop Centre will discuss the Wider benefits of Eso.

EMI POWERS AHEAD

The number of small companies who awarded share options to key employees under the government’s Enterprise Management Incentive scheme rose by 240 - almost ten percent - to 2,790 in the financial year ended April 5 2007. But the number of employees overall to whom EMI options were granted – 27,000 - was 500 lower than in the previous financial year, according to the newly published HMRC statistics. Nevertheless, the initial value of the EMI share options granted in 2006-7 rose again, from £280m to £300m, while the average award per employee jumped from £10K to £11K.

Between 6,000 and 7,000 SMEs are now using EMI, the most successful UK approved employee share scheme ever, though it is difficult to give a precise number as some participating companies award EMI options to either the same or other employees in successive years, creating a risk of double counting. As predicted in previous issues of newspad, the cost of EMI to the Treasury in terms of income tax and NICs relief has risen sharply – up 50 percent in 2006-7 to £210m in all, of which £160m was income tax relief. During 06-07 more than 7,300 employees exercised their EMI options. These statistics offer strong evidence that EMI is achieving the results that it was created to achieve. While the number of employees exercising options increased by 20 percent last year, the increased income tax and NIC relief on the option exercises suggests that companies using EMI experienced a significant growth in share value and that both employees and SMEs are reaping the benefits.

Welcoming these figures Centre chairman Malcolm Hurlston said that EMI had rapidly become an essential tool for SMEs, enabling them to present an attractive staff retention alternative to the cash offers made by bigger, wealthier competitors. Although EMI had been wounded by the abolition of taper relief on CGT, with which EMI was deliberately designed to work in tandem, it remained a highly attractive and efficient way for gazelle-like companies to share the potentially high rewards of turning a start-up company into a successful and lasting business. Mr Hurlston said “Times are testing for SMEs at the moment, and as business incentives go, EMI is the goose that lays golden eggs for struggling start-ups. Carving it up would benefit no-one – rather, now is the perfect time to look at how the scheme can be better promoted and better aligned with other schemes .We welcome the recognition of EMI’s importance in this year’s Budget, which introduced a much needed increase to the individual award limit – but there are still too many companies who simply do not realise that they could be using this extremely effective scheme. HMRC’s own research in February showed that the scheme is most valued by employers for its capacity to improve retention. In the current choppy economic climate, this will be a priority consideration for small businesses, who will need all the means at their disposal to ensure they can continue to motivate and reward employees effectively. It is therefore essential that the EMI good news is disseminated far and wide.” **Business minister Shriti Vadera said:** "Record numbers of companies are granting EMI options, and record numbers of employees are exercising them. This shows the scheme is succeeding in helping smaller, higher-risk companies to attract or retain talented people who help their businesses grow. Our ambition is for the UK to become the most enterprising economy in the world. To achieve this, we need more businesses to reach out to key employees, and for our most entrepreneurial individuals to be engaged in, and rewarded for, business success. The Government is committed to helping business achieve this through the EMI scheme."

CENTRE MEETS MINISTRY

Centre chairman Malcolm Hurlston and associate director Joel Lewis briefed the Department for Business, Enterprise & Regulatory Reform (BERR) on the Centre’s activities and its current campaigns. They met Mostaque Ahmed (Director of Strategic Relations, BERR) Jenny Coffin (Assistant Director, BERR) and Jamshed Malik (Tax Adviser, BERR - seconded from HMRC) BERR has the lead responsibility in Whitehall for championing the interests of employees. The minister taking most interest in the Centre’s lobbying is undersecretary Shriti Vadera, a former adviser to Gordon Brown at the Treasury and former investment banker at UBS Warburg. During the meeting the participants discussed: *The issue of the control test block for private equity owned companies wishing to install Esops, about which Centre member

Clifford Chance has produced a Centre paper, *Raising the £250 per month savings limit for SAYE-Sharesave, *Cleaning up the Company Share Option Plan, *The promotion of EMI and the potential for a minister to issue a statement alongside EMI statistics (see above), *The cost burden of valuations, particularly on small business, when implementing an employee share scheme

STATISTICAL BOOBS ADMITTED

HMRC has owned up to botched statistical analysis, stretching back over several years, in recording the numbers of and values of employee awards under government approved Eso schemes. This was revealed in an unprecedented online statement to the share schemes industry late last month: "Following a comprehensive review of employee share schemes National Statistics, revisions have been made to some previously published figures for: Company Share Option Plan and Discretionary Share Option Schemes (CSOP) - revisions from 2004/05 onwards; EMI - revisions, previously published in October 2007, from 2000/01 onwards; Share Incentive Plans (SIP) - revisions from 2001/02 onwards. These revisions result mainly from improved data validation and improved methods of estimation. The most significant revisions are: *For CSOP, the estimated initial value of options granted in 2004/05 has been reduced from £760m to £600m, and in 2005/06 from £760m to £590m, with commensurate reductions in average grants per employee *For EMI, the estimated initial value of options granted during 2005/06 has been reduced from £430m to £280m, and the estimated cost of Income Tax relief in 2005/06 has been reduced from £130m to £110m; *For SIP, the estimated Income Tax/NICs costs each year from 2001/02 have been reduced, the largest reduction being the Income Tax cost in 2004/05, from £210m to £170m; and in 2005/06 the number of live plans at the year end has been increased from 830 to 880, while the estimated number of plans appropriating SIP shares has been reduced from 600 to 520. Asked about the adjusted EMI statistics, HMRC replied: "An internal review of the methodology identified an error in interpreting the variables which record the values of options granted in any one year. Previously published figures had shown, for employees granted options in a given year, the total values granted to those employees over all years, and the average such value per employee. The revised table shows the total values of options granted to employees during the course of each year, and the average value. The largest impact is to reduce the initial value of options granted in 2005/06 from £430m to £280m, and the average value from £16k to £10k per employee. The review also introduced improved data validation procedures to correct significant errors in a small number of individual returns recording the market values of shares at grant and at exercise."

YELL, OR SCREAM?

Yell's board defended its management as it emerged that senior executives had received bonuses worth 110 percent of their salaries in spite of the plunge in the beleaguered Yellow Pages publisher's shares. Bob Scott, chairman, used the group's annual report to declare his support for its "experienced management team." Concerns about Yell's £3.8bn debt load contributed to a 74 per cent dive in the group's shares in the financial year to March 31. The share price hit a new low, taking the fall to 83 per cent over the past 12 months. However, John Condron, ceo, received a performance-related bonus of £935,000 for the year to March 31, on top of an £850,000 salary and £1.5m in accrued pension benefits.John Davis, cfo, received a £555,000 bonus, on top of £505,000 in basic pay, and both men were granted double-digit salary increases. The bonuses, down from £1.43m and £855,000 respectively a year earlier, were calculated on targets tied to revenue, cash flow and Earnings before Interest, Tax, Depreciation and Amortisation (EBITDA), the company said. "The bonuses reflect the operating performance of the business," it said. Yell reported a 6.9 per cent rise in revenue to £2.2bn in the year, below its original guidance, and a 9.1 per cent rise in adjusted EBITDA to £739m. Mr Scott blamed "changing attitudes to debt arising during the credit crunch" for Yell's share price performance. Mr Davis defended the decision to halve Yell's dividend, rather than pursue a rights issue or other financial injection.

ON THE MOVE

Dr. David McConville of Loughborough University Business School is being sponsored by BT & PwC to carry out academic research on employee ownership.

Sarah Pickering has left E&Y and is taking a three month break before joining the UK team at **Alvarez & Marsal Taxand UK LLP** in October. Once she has settled in, she intends to make A&M a member of the Centre. **Sophie Black** replaced Sarah on the academic board of the Esop Institute and will be the Centre's main contact at E & Y from now on.

RM2 is moving to larger offices. Its new address is Sycamore House, 86-88 Coombe Road, New Malden, Surrey KT3 4QS. Other contact details remain unchanged: Tel: 020 8949 552 Email: mail@rm2.co.uk Geoff Bond, Colin Paterson and the team send clients their best wishes.

CONFERENCES

The next Centre-STEP Channel Islands conference, held in association with the Society of Trust & Estate Practitioners, will take place on Friday, July 11 at the Royal Yacht Hotel, St Helier, Jersey. This conference will focus on: the impact of recent and upcoming regulatory/legislative changes on Eso trustees (e.g. IASB, CGT, Jersey company law etc) and other issues for trustees of EBTs of private equity owned companies. With the regulation of trusts on the agenda in the UK too in the light of MIFID, a quick visit to one of the leading trust jurisdictions could pay dividends. Speakers include William Franklin of Pinsent Masons (new ICAEW Guidance on Distributable Reserves, Employee Benefit Trusts and Treasury Shares); Rashree Chhatrisha of MM & K (Company case study: Administering global employee L-TIP awards from an EBT); Helen Hatton, deputy director general of the Jersey Financial Services Commission (The precious reputation of trustees); David Craddock of David Craddock Consultancy Services (Long Term Incentive Plans: Structure and Design) and Heidi Wilson of HBOS EES. Malcolm Hurlston will update on the progress of the Esop Institute. It is not too late to register – do so now. All enquiries about this conference and registration to Joel Lewis or Holly Bruce at Centre head office: Tel 020 7436 9936 and by email to jlewis@hurlstons.com with copy to hbruce@hurlstons.com.

The annual Centre-Institute Of Directors conference for SMEs will take place on Wednesday, September 17 at One Whitehall Place SW1. This event, entitled 'Transforming your business through employee share ownership,' features a strong line-up of Centre member speakers who will cover tax and accounting issues, the range of choices, exit planning, employee benefit trusts and relevant legislative/regulatory changes. The brochure is available from the Centre and the IoD conferences department

Davos 2009: The tenth annual Global Equity Forum will take place in the Steigenberger Belvedere Hotel on Thursday February 5 and Friday February 6 next year. The organiser Fred Hackworth would like to receive presentation topic offers from prospective speakers, initially by email to: fhackworth@hurlstons.com

COMPANIES

Extract from the 2007 annual report of Centre member Cyril Sweett plc: "Over 58 percent of our colleagues are shareholders, which we believe aligns the interests of both our internal and external shareholders to deliver a common goal. Following the flotation, 200 new employees joined the group and the percentage of employee shareholders is targeted to grow markedly. We achieved recognition when we won the 2007 Award for Best Share Ownership Plan (in the category of fewer than 1,500 employees) from the European Centre for Employee Ownership." Its pre-tax profit rose 28 percent and earnings per share rose by 12 percent during the year ended last April. The chairman writes: *Cyril Sweett celebrated its 80th anniversary with a party at Gibson Hall in the City on July 2. Under the watchful eye of many buildings, which had been sweettened in different ways, chairman Francis Ives paid tribute before 300 guests to the part employee ownership played in the success of the company. The culture had successfully carried through the flotation on LSE last year and impressive interims had been presented the previous day by finance director Mike Kemsley. Mike was co-hosting the party along with more than 100 employee owners.*

Natixis Interépargne is a subsidiary of Natixis, which is owned by French banks Banque Populaire and Caisse d'Epargne. Interépargne is a leading manager of employee savings and maintained its rate of growth in 2007. The number of client companies climbed by 15 percent to more than 35,000. All in all, Natixis Interépargne managed 2.9m employee accounts at year-end and held 27.5 percent of the French market.

Law firms representing RoadChef beneficiaries of the staff Esop claimed way back in December 1999 that they had grounds to launch a class action against the motorway service company's ex chairman, owner and ceo, Tim Ingram Hill. The disgruntled employees were led by former company secretary Tim Warwick. They alleged that £56m due to them after the £139m sale of RoadChef to Nikko had been transferred from their Esop into a second trust for senior executives. This second trust was apparently controlled by Ingram Hill, who, with family members, made £75m collectively from the sale. Rank and file employees said they had been expecting up to £85,000 each after the sale of the company, but some received as little as £2,300. Even the larger payouts were still in the low thousands. Discontent still rumbles on.

Lehman Brothers has issued shares to all employees, representing about 20 per cent of their equity compensation for the year, inside sources revealed. The early partial payment of annual bonuses follows demands from employees who believe the stock, hammered this year during the credit crunch, is likely to rise significantly in value, the person said. It is also meant to boost morale and encourage employees to stay at the investment bank.

ESO MEASURES IN OZ

The 2008/09 Australian federal budget may have given clarity around employee share plans but PricewaterhouseCoopers partner John Fauvet said, "This is still a complex area that would benefit from a 'root and branch' review". While there has been clarification around the amendment of returns to achieve a better outcome, Mr Fauvet said this could only have been done appropriately in rare circumstance anyway. "This year's Budget removed a technical anomaly. No longer will there be a situation where double tax could arise." Michael Whalley of Minter Ellison said double taxation of capital gains within employee share schemes has been abolished. Currently, there is no capital gains tax relief for the trustee of an employee share trust. Double taxation happens because the capital gain made while the shares are held in trust is assessable for the trust and when it is transferred to the employee. A loophole that governs the taxation of executive share schemes will also be closed. This has involved the post-dated revision of tax returns if it appeared that making an election at a certain time in the past would have been beneficial.

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