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it's our business

newspad of the Employee Share Ownership Centre

Centre chairman launches Eso fight back in Barcelona

Centre chairman **Malcolm Hurlston CBE** is urging UK quoted companies to put employee share ownership at the heart of their corporate responsibility programmes and annual reporting.

Opening the Centre's 25th annual conference at Le Meridien Hotel, Barcelona, Mr Hurlston bemoaned the fact that few major UK companies bother to outline their internal all-employee share ownership (Eso) programmes in the main part of their annual reports.

Instead, corporate references to Eso are mostly confined to the financial footnotes – citing how much equity they were awarded, types of share scheme used, prices at which the awards were made - and so on.

"I can scarcely think of a single FTSE 100 company ceo who actively lends his or her name to employee share schemes," he told delegates from seven nations.

"We have the evidence from the UK and the US that share schemes bring benefits not only to the employees, but also to the companies who decide to install such schemes on a broad basis.

"Can we now get employee share ownership into the centre of quoted companies' corporate responsibility programmes? We believe that companies should report fully in the main part of their annual corporate responsibility reports on the employee share schemes they operate.

If they did so, they would demonstrate their commitment to employee share ownership and their shareholders and the world at large could see what exactly they do to promote share schemes internally, instead of hiding it away in the margins of their financial reporting. Customers could see how companies ensure employees can share in the success of the company," he added.

The Centre is launching a lobbying campaign, targeting business leaders and representative organisations as well as the regulators and Whitehall, in order to win over hearts and minds on the issue, to give more much-needed oxygen to employee share ownership, the chairman announced.

"I don't want to lead employee share schemes into a technical backwater, so the Centre is looking at creating a series of events to help lift the moral profile of employee financial participation in the businesses of their employers," he said.

As part of the campaign, attention would be focused on elements within the UK civil service who appeared to think that employee owned co-operatives were the answer to the UK's economic problems, explained Mr Hurlston.

"The answer does not lie in co-operative businesses, though they have their place in modern economies worldwide," he said. "We ought to turn Whitehall's attention to employee share ownership as we know it – and this does not mean that broad swathes of UK plc should be taken over by their employees.

"It's hard to reconcile the many benefits which share schemes can bring – greater staff loyalty, better motivation, higher productivity and a more cohesive, involved workforce – with the dismissive attitude sometimes displayed towards employee share ownership at the Department for Business, Innovation and Skills, where the focus is too centred on the John Lewis model.

"Somehow, we've lost the high social mission of

From the Chairman

We hosted Jo Swinson, esop and women's minister, this week at JP Morgan (courtesy of Michael Sleet). The lunch occasion gave our women members and supporters an opportunity to acquaint her with the massive and powerful reality of employee share ownership. A new strand can now be added to the work to be marked on Employee Ownership Day (July 4): I thank Centre members Linklaters for hosting that multi-ministerial event. Our work already widespread and effective can be far more transformational than the hundred new flowers currently blooming (some like co-operation at risk from the invisible worm.)

Malcolm Hurlston CBE

The ESOP Centre Ltd, 65 Kings Cross Road, London WC1X 9LW
tel: 020 7239 4971 fax: 080 8280 1938 e-mail: esop@esopcentre.com
www.esopcentre.com

employee share ownership in recent years as pointed out in Jersey by former regulator, Helen Hatton; we have got disjointed in our policy-making and promotional work on its behalf. There's been far too much emphasis on executive reward, especially 'excessive' bonuses, which haven't helped.

"Now is the time to start getting things refocused: UK business needs more employee share ownership than it has currently. Too often, both in the UK and within the EU generally, government agencies have been either 'too busy' to promote Eso or they do not know enough about it to be able to help companies adopt it," continued Mr Hurlston.

"Most smaller UK companies, both in the quoted and privately held sectors, have little or no idea how to install a broad-based employee share ownership scheme and nor do their counterparts in, for example, Germany, Italy or Spain.

"The Centre believes that only a co-ordinated series of national employee share ownership promotional campaigns can effectively reach out to the great mass of companies who, in some cases, are too small to hire special advisers to inform them about the nuts and bolts of these key schemes" added the chairman.

Leslie Moss of **Aon Hewitt** told delegates that, despite the media concentration on *Shareholder Spring,* the average shareholder vote last year against company remuneration reports was not so much higher than in the previous year – 30 percent, compared to 26 percent in 2011. A few senior directors had taken a pay cut to recognise the changed atmosphere vis-à-vis huge reward packages, he said. "Behind the scenes there is a growing change in perception. In the public sector there is now guidance moving towards pay freezes in the civil service and criticism of large termination packages at the BBC. Our consultancy is having a lot of discussions with employers regarding what to do about CRDIV. The debate is shifting from 'pay for performance' to absolute levels of pay. So do you just double people's salaries to avoid the aggro, or is that too provocative?" asked Leslie. "We expect to see a reaction. Clawbacks of bonuses could extend beyond the financial sector quite soon and career shares will arrive – in which directors will be expected to hold onto their share awards for 15-20 years or more"

Even the director-general of the Institute of Directors had said recently that big FTSE companies should recognise that, in absolute terms, executive remuneration was now excessive, Mr Moss reminded delegates. However, companies in the FTSE 250 had had fewer problems with *Shareholder Spring* than the FTSE big boys. "Most FTSE 250 companies have a less public profile and are substantially more profitable," he said. The overall trends in executive remuneration were salary rises around the level of retail price inflation, or less and a further move away from direct benefit pensions, even for directors. Bonus payments were reflecting internal budgets and not historically competitive performance. In the top half of the FTSE 350, total directors' annual reward was typically £1.5m and in the bottom half £1.2m, compared to £3m in the FTSE100 companies.

Joe Saburn of US employment lawyers **Ogletree Deakins** discussed executive reward in the US financial sector. In what was a major change for Wall Street, Morgan Stanley was paying its staff annual bonuses, half in stock, in three-year tranches with clawback, said Joe. Pressure over reward levels was being felt from management, shareholders, the media and politicians. "Something is going on round here, but we're not exactly sure what," Joe told delegates. Occidental Oil's shareholders had finally revolted by throwing out former ceo Ray Irani's proposed $22m going-away present. Between 1994-2012, during which time Irani had run Occidental, he had amassed $1.1bn (correct) in 'compensation' reward, he added.

Major shareholders were more involved with pay issues and now discussed them with management, said Joe. Shareholder advisory groups were in on the issue as was the Securities & Exchange Commission (SEC), which demanded independent advice be given to compensation committees. More than 850 public companies had held Say On Pay shareholder meetings and 98 percent of them had won approval for the board's proposals, with an average support level of 91 percent. However, some claimed that executive compensation disclosures subject to shareholder votes were inadequate, because shareholder needed extra info before they could take an informed decision. "My personal view is that there is structural complacency – there is an assumption that companies themselves know better than others how senior executives should be rewarded," said Joe. "There is a slow awakening – this is about who should run companies – the board or shareholders." At UBS, top executive bonuses were paid in deferred bonds last year, using debt-based instruments which discouraged excessive risk taking. If times got tough, the bond bonuses could always be written off.

Joe brought home the true extent of the massive inflation in US executive reward levels by comparing the 'class' of the ten highest paid ceos who had earned between them a total $58m in 1986. By 2012, the then ten highest paid ceos earned collectively a staggering $616m – ten times more than the class of 1986. Had the class of 2012 been forced to keep up, but not exceed, the annual rate of price inflation during those 26 years, they would have earned 'only' $117.5m in total, he explained. In reality, most US ceos of large businesses were 'caretakers' of solid and successful enterprises, but they earned *entrepreneurial* pay for *management* behaviour: "So why are they being paid so much for little or no risk?" he demanded.

Ray Coe and **Ian Murphie** from remuneration advisers **MM & K** gave a case study about what happens when an executive reward plan design gets uncoupled from the awards themselves. The client concerned had turned to MM & K after it had been sold by another adviser a 'tax efficient' long-term incentive plan (LTIP), hitched up to a Company Share Option Plan (CSOP) structure which it did not really understand. "The adviser said it would be best to link the LTIP to the CSOP using a mirror plan – it looked a very clever arrangement," said Ian. The trouble was that the concept behind this 'tax efficient' plan the company had bought was "inaccurate." More shares vested under this plan than the company had bargained for and it became concerned. Furthermore, the implications of the new plan had required a restatement of the directors' remuneration terms, because it looked as though they were in for a 150 percent increase in their bonus payments. Although this client is a FTSE quoted company, its shares are not very liquid, said Ray. The brokers were not sure whether they could use a cashless exercise, something upon which the 'tax efficient' plan had depended. "In fact the employees concerned would have been worse off had we not taken remedial action," said Ian. The plan rules had to be amended and HMRC permission sought for the changes. Clarification had to be given over achievement of the performance rules. An EBT was being installed to take the strain and communication had commenced with the employees. "What was wrong was that the previous advisers had seen a quick way to sell the reward scheme without being much concerned about the way in which it would be implemented," added Ian.

Richard Nelson of **Howells Associates** and **Brian Symcox** of **Payroll Analytics** discussed how to make company board reward disclosure easy in increasingly complicated times. The regulations governing directors' total reward packages would be changing later this year and so most companies were trying to get all the required info together in good time, explained Richard. "It's going to be hugely risky for a companies if they get it wrong. Directors' reward arrangements will get more and more challenging," he said. The disclosure regimes for a UK listed company were, typically: UK Companies Act, Listing Rules and International Accounting Standards/UK GAAP, but in certain cases, there were others, including the European Banking Authority, Sarbanes Oxley (US) and any overseas stock exchanges on which the company may be listed. The Financial Conduct Authority was demanding "an enormous amount of detail" and other regulators would be the same, added Richard. Disclosure would cover share schemes, pensions, wages and salary costs and even health & safety records, but this presentation would focus solely on the directors.

Co-presenter Brian Symcox said that there were three key changes to directors' reward regulations: a new single remuneration figure for each director, focus on variable pay awards for future years and flexibility on how variable pay awards made in previous years are disclosed. Remuneration reports were often 20 pages long, but soon they would be longer still. A lot of time would be needed to design the new remuneration committee report, to establish a new system for data collection and to obtain the necessary internal approvals, plus any external sign-offs, said Brian. A clear, straightforward and authentic narrative was key.

Patrick Neave, of the **Association of British Insurers,** who reviews 150+ executive remuneration proposals every year on behalf of the City investment institutions, said that the pay boom was now over for UK company chiefs. The ABI's league of 'Red Top' warnings on excessive reward packages (giving City institutions carte blanche to vote against them) had been stable during the past year – running at less than 12 percent of the awards reviewed. By contrast, 'Amber' warnings (the second level in the ABI's traffic light system of pay alerts) – bestowed when some elements in the reward package were OK, but others not, had gone up from the previous year. LTIPs, an acronym which, some claimed, really stood for '*Let's Tip Incompetent People*,' were sometimes a source of trouble, said Patrick. The ABI wanted to work with other groups, who monitored executive reward, to form a 'collective engagement' group in order to promote best practice – including longer performance periods, holding periods following vesting, performance on grant and career shares, transparency on severance and recruitment and no reward for failure, he said.

Anne Walsh of **Smith & Nephew** and **John Daughtrey** of **Equiniti** delivered a case study based on Smith & Nephew's innovative international Sharesave plan. Anne, who is share plans manager at the global medical technology company, said that Smith & Nephew had wanted to strengthen its corporate identity and rolling out a new international Sharesave plan, offered to all qualifying employees on its 11,000 strong payroll, was an important means of achieving this. The plan proposals had been translated into 20 languages, which was no surprise as Smith & Nephew had been keen to extend Sharesave into emerging markets. She and advisers Equiniti had to compile a tax guide for employee participants in each country. Issues had arisen, such as: did they need an intermediary to help develop the plan in Italy? There had been emphasis on clearly set out concise information about the plan in employee communications. Local co-ordinators were playing a key role in the success of the plan. Online access featured screen roundels, each containing the outline of a particular national flag (countries in which Smith & Nephew has employees), allowing participants worldwide to click on to their particular offer. The result was a "Fantastic" level of take-up in the new plan - 47 percent of those asked are taking part in the 2012 plan, way above the normal average take-up for international share/share option plans. Furthermore, 70 percent of Smith & Nephew's UK participating employees had chosen to keep their shares at maturity – a very high retention rate indeed. "The results demonstrated that our key objectives were well targeted and have been achieved," said John. Last year average savings within the company on the Sharesave plan totalled £171, compared to an industry average of £107, he added. Smith & Nephew is extending the plan into China this year and is focussing on India too.

Jim Wilson of **Ernst & Young** explained HMRC's 'Settlement Opportunity' regarding the misguided use of EBTs by certain companies seeking Corporation Tax deductions. Basically, you cannot get a CT deduction unless or until there is a PAYE/NICs charge. "Sadly, HMRC has been unable to deliver a knock-out blow so far in various court cases it has pursued over what it believes has been improper use of EBTs, exclusively for tax reasons," said Jim. "They have 5,000 on-going cases, which would take years and years to settle and hence the settlement opportunity, though so far there have not been many takers," he added. The most prominent case involves the Murray family and Glasgow Rangers FC – which had awarded players very large loans though EBTs, with no stipulation about when the loans were to be repaid. In this way, NICs payments were avoided, yet the lower court ruled against HMRC, which is appealing against the judgement. However, a "significant" number of companies were now looking at possible settlement, due to the advantageous terms for them, said Jim. Around £1.7bn of tax revenue is at risk from 3,400 SME companies, according to a National Audit Office report. Two years ago, HMRC tried to close the door by introducing Disguised Remuneration legislation via the 2011 Finance Act. Jim said he was working with clients, many of whom were unaware of the benefits that could be won by settling with HMRC. By coming forward and discussing their situation with HMRC, on a 'no names' basis if need be, Ernst & Young clients had achieved no surcharge or penalty settlements, whereas a company which had run its EBT without paying any tax on 15 year UK income, was under attack from HMRC which sought tax, interest and penalties over the full 15 years, added Jim.

Grant Barbour of **Bedell Group** chaired the trustee panel session by adroitly focusing on the growing media and political controversy over what European governments and the EU should do about the growing list of multinational companies who pay little or no tax in some of the countries in which they operate. Examples included Apple, Amazon and Starbucks, despite its franchise structure in the UK. "Does what I call the moral and legal tax debate affect us as trustees and the entire share schemes industry too?" Grant asked delegates.

Apple had pushed $74bn thorough offshore subsidiaries. Countries like Ireland competed for corporate HQs and the jobs they bring by having an ultra-competitive 12 percent Corporation Tax rate. Google confessed to a House of Commons committee that it had paid only £10.2m in tax to HMRC between 2006-11, despite clocking up revenues of $18bn, because its sales were allegedly conducted in the Republic of Ireland, a claim that MPs said was "deeply unconvincing." Justin King, ceo of J. Sainsbury supermarket group, is urging the UK government to copy President Obama's administration by taxing online retailers via the *Marketplace Fairness Act of 2013* which allows US states to force web retailers to collect a tax on the sale of online products or services, which attract hardly any bricks and mortar taxes, unlike high street retailers.

On top of that there was a shareholder issue because if Starbucks suddenly handed over $10m to HMRC, then the company dividend would have to be cut. Grant said that offshore jurisdictions, especially the Channel Islands, had "cleaned up" their act, so that nowadays most money laundering was done onshore instead. Assisting Grant were: **Davinia Smith** of **Alter Domus, Paul Jeanne** of **Appleby Global** and **Tom Hill** of **Sanne Group.**

Next up at the podium was **Mike Pewton** of **GlobalSharePlans,** who set guidelines for making the most of employee communications in share scheme offers. "Communications are absolutely fundamental to successful share plans, not just the initial messages, but also the follow-up after the initial offer," said Mike. There was such a lot to arrange and then disseminate: award agreements, grant letters, country specific documentation, tax guides, employee brochures, FAQs, video presentations and plan rules. Then there were the legal obligations to comply with and marketing in order to encourage plan take-up. Employees needed education about the plan benefits and risks and the short and long-term aims, Mike said. Employees needed to be told when and how much tax they would have to pay, so tax guides were necessary. "Data transfer is becoming more and more important as you need to get employee consent for transfer and that can take time," he warned. Permissions too were needed to withhold taxes, transfer funds, make employee savings and so on. "Some of this stuff can get lost; it has to be there, but sometimes it isn't," he added. One day, most share scheme info for employees would be relayed onto the screens of their mobile phones: "This is the way things are moving. However, how many countries are there in which many employees still don't understand the meaning of the word 'shares' or the phrase 'share schemes'?" Mr Pewton concluded.

Alasdair Friend and **Narendra Acharya** from **Baker & McKenzie** tackled the management of employee equity plans during cross-border takeovers. Why do the transaction structures matter, they asked? For a start, employees needed to know whether they still worked for the same company after a takeover, or not. They needed to know too what would happen to their employee share plans and, if they were to be scrapped, what would replace them. Even if some employees were not part of 'Newco' following a takeover, the share price would have been affected, so there was an important issue about how to deal with that, said Alasdair. Where employment ends after a takeover, unvested awards were usually forfeited, but a possible counter to this might be accelerated vesting. Some plans allowed for awards to continue after the transaction, particularly in spin-offs, but if not, Newco might make compensatory awards under TUPE, even when employment ended, he added. Cashing out of all outstanding awards was another answer, but even this method gave rise to problems – how much tax would be paid on payment, were social payments due too; in which currency should it be and at what exchange rate? Acquiring companies faced problems when deciding what to do about outstanding equity awards. "How do you deal with performance issues mid-stream?" asked Alasdair. Due diligence would have to be done by the acquirers – for example, there would be loss of tax-preferential status of tax-advantaged equity awards after takeover in France, Israel and the UK.

In re-domiciliation transactions, typically from the US to UK jurisdiction, the challenge was to enable a US-style employee share plan, where treasury stock was used, to operate under UK company law, which was different, said Narendra.

Bob Grayson of **Tapestry Compliance** covered the key global hot spots where recent regulatory changes were in place, or about to kick in. Expatriates had been caught out in China where the 'SAFE' equity plan filing requirements could be arduous. In South Africa, there was now a choice – either you complied with the share plan safe harbour, or you relied on the fact that there was no public offer. In Japan, the securities laws were the main issue and expensive filing requirements could be triggered. After pressure from multinational companies, the Japanese were saying that companies could use the SEC filing system instead.

In Turkey by contrast, filing was never a big issue, said Bob, but there were very heavy fines for little breaches of data collection and processing reporting rules. In Saudi Arabia, you had to employ an authorised person to help you get regulatory consent to your proposed equity awards and this is expensive, he said.

Data privacy was now a major element in global due diligence: "So much data is washing around the globe," said Bob. On the issue of claw-backs, many companies had ticked the box, but only some were really interested in enforcement.

Bob criticised those among the investment institutions who failed to vote against remuneration reports, which outlined senior executive reward packages, even though the proposals had been red-topped by the ABI. "The argument is – the more transparency you have out there, the greater chance of better corporate behaviour," he explained.

"Since the onset of the banking crisis and government bail-outs, we are all of us creditors now – they owe us. Politicians have brought in new rules to govern reward in the financial services and the theory is that the way people were paid was a key reason for the great crash," said Mr Grayson. "I have never had a bonus of more than 70 percent of my pay throughout my career, yet some clients get bonuses equivalent to 38 times their basic pay! This is a huge issue and it's set to spread outside the financial sector to the rest of business and commerce."

Delegate **Claudia Yanez** of Texas based **Freescale Semi-Conductors Inc.** warned that more regulation sometimes brought about unintended consequences: "In the US, regulators acted against golden parachute payments to departing chief and senior executives by capping the maximum payments at three times salary," she said. "Suddenly the average level of golden parachutes handed our in the US went up, not down" (because many companies had been paying well *below* this level before the new rule came into force).

Kay Ballard of **Kingfisher** and **Peter Leach** of **Killik Employee Services** gave a joint presentation on how a major UK based company could bring its French share plan administration back in-house. Kay explained that out of 78,000 employees worldwide in the Kingfisher Group, 18000 full time equivalents worked in 207 stores across France. Killik was brought in to bring the French share plans back home. Kingfisher grants options under two discretionary schemes in France – a performance share plan, *with qualified shares for senior executives, non-qualified shares and accrued dividends*, plus a deferred bonus plan, which is a incentive plan in which participants must hold their shares for three years before maturity. Kay told delegates that the service level provided by the previous French administrators had been "not good enough." Accuracy in maintenance of dual databases had failed; there were delays in uploading data on the secondary database; no online share exercise request facility and ineffectual reporting of French leavers. "Our French plan participants were not getting a good deal – they could not do any online transactions," Kay said. By contrast, Killik is providing a single administration brokerage platform; an employee portal, including online exercises; automated tax calculators; a nominee account through a single brokerage and a 'bat phone' on Kay's desk, so that she can ring up if any problem arises, said Peter. Kingfisher wanted to get the French involved in the process and they did all the translations.

The final switchover has been delayed until this October to avoid any mistakes and to ensure adequate time for compliance of French regulations and reporting, portal translation, French support team training and employee education, added Kay. This was work in progress.

Sara Cohen of **Lewis Silkin** and **Grant Barbour** of **Bedell Group** asked whether this was a historic moment for UK employee share schemes. Referring to the Office of Tax Simplification reports on approved and unapproved share schemes, the words 'simplification' and 'tax' were mutually exclusive. The UK share schemes tax code was already huge and could even get bigger, despite the best efforts of the OTS, said Sara. Looking at the OTS report on approved schemes, there were a few wrinkles, such as lack of definition of the key word 'retirement,' but it contained welcome changes, such as urging HMRC to allow the main tax-advantaged schemes to use restricted shares under certain conditions. A move to self-certification would also help. At present, it takes "weeks and weeks" to get share schemes approved by HMRC, said Sara. "I think they are down to two inspectors." She said that she wasn't sure whether Chancellor George Osborne's *Employee Shareholder* status project would be good for small start-ups. "In practice, I think bigger companies, perhaps private equity houses and closed companies may want to use this, though it's totally open to abuse."

The government had accepted online filing of Form 42 by 2014 and was consulting on the rollover of restricted and nil/partly-paid shares on a takeover. Under Treasury consideration too was the proposed new Employee Shareholding Vehicle (ESV) – a type of safe harbour EBT with model rules. Grant said that *if* ESV did see the light of day, it would "muddy the waters and complicate the situation." He added: "The idea that EBTs have a bad name has been slightly over-egged in the OTS report because the vast majority of EBTs are not set up for tax avoidance reasons. Yet we are supposed to tool up in readiness for this new entity. Note that an ESV trustee would have to operate onshore, whereas all the expertise in this type of trust work is offshore. The irony is that it would be easy for us to operate in the UK, because UK trusts are not regulated, but ours are," warned Grant.

David Craddock of the eponymous share schemes consultancy addressed the central issue of whether employee share ownership really worked or not, in terms of impact on employee motivation, using company results, productivity & profitability and employee loyalty. The social implication of Eso was the bringing together of a team of employees for the common good of the company. "Employee share ownership combines the individual with the corporate and assists social cohesion," he said.

South Africa was the only country in the world to date in which Eso was compulsory in the workplace, where it is tied to the political agenda of *Black Economic Empowerment*. "At some time in the future, they will probably get to the same situation as we have in the UK and US," said David.

Employee share ownership was the new fashion when politicians talked about economic redistribution. Paradoxically, Socialist ex-Chancellor Gordon Brown had introduced Enterprise Management Incentive (EMI), the most successful employee share scheme (stock options based) of all time, he said. But broad-based employee share ownership depended upon employee engagement in order for the motivation factor to work and that meant that employees had to have a say in how the business operated. Meaningful communication between employer and employees was the ultimate key to the success of such schemes, he added.

David showed that a slew of academic studies conducted in both the UK and the US had shown beyond doubt that the rate of absenteeism in companies was much reduced over the long-term after the introduction of Eso. These studies had shown too that to get the best results, Eso had to be combined with progressive human resource management that supported people involvement and development. The Hewitt US study, involving 382 quoted companies who had installed Eso, showed a seven percent higher Return On Assets over four years in total than in peer group companies which did not have Eso. A UK study of 300 companies which had introduced Eso concluded that added value rose by 17 percent following employee participation in HMRC tax-approved free share schemes. "The evidence that Eso works is formidable," added Mr Craddock.

The final speaker was chartered accountant **William Franklin** of **Pett, Franklin & Co. LLP** who told delegates about the Mondragon umbrella of 120 co-operative businesses in the Gipuzkoa region of the Basque country in northern Spain. Most were surprised to learn that these co-ops between them employ 83,000 'worker members' plus tens of thousands of other employees.

Collectively, Mondragon is the seventh largest business in Spain and has resisted the economic recession better than most other businesses. These co-ops have conventional management structures, which are answerable to the 'worker members,' who elect a board, which appoints the managers, William explained. Key decisions were taken at assemblies at which each member had one vote, *regardless of the amount of capital each had invested in their co-op.* To become a worker member, applicants had to invest €15,000 each and were then entitled to the proceeds of an annual profit share, pro-rata to the level of their investment and annual dividends on accumulated capital. Essentially, each worker

member is self-employed in a quasi partnership. They are non-unionised and pay reduced social contributions because they have to fund sick pay and health care privately. Research and development plays a key role in Mondragon: no fewer than 14 of the co-ops are research centres employing 2000 scientists and engineers. They hold 716 patents between them.
These co-ops had reacted to hard times by, when necessary, sacking non-member workers first and by reducing base pay, he said. They had even started clawing back some deferred bonuses of certain managers. However, it was proving difficult to sack under-performing worker members.
Mondragon had embraced a radically different view of capitalism, Mr Franklin said: "Power resides in the workers, as opposed to the capital, as in 'normal' western companies, so the conventional model is turned on its head." Mondragon is international too – it owns 93 production plants outside Spain, including 13 in China and 16 in France – and is expanding into Africa.
The chairman later thanked those Centre members who had helped finance such a successful event – conference brochure logo co-sponsors, Channel Islands based trustees **Appleby Global** and **Bedell Trust;** delegate handbook co-sponsor, **Computershare** and pre-conference cocktail jazz evening, co-sponsors **GlobalSharePlans** and **Solium Capital UK.**
International director Fred Hackworth told delegates that speaking slots were now open to members for the Centre's next global employee equity forum in Davos, Switzerland, on **Thursday/Friday February 6 & 7** and that those interested in speaking should contact him asap at: fhackworth@esopecentre.com with copy to esop@esopcentre.com.

Finalists for the ESOP Centre Awards 2013
The winners of each of the Centre's three main employee share scheme award categories for 2013 will be announced at the Centre's black-tie annual champagne reception ad awards dinner on **Wednesday November 6** at a new venue - the **RAF Club** - on Piccadilly, central London. "We are having to change the venue from the Oriental Club, which looked after us very well indeed, because of capacity restraints," explained Centre chairman Malcolm Hurlston CBE. "Last year, we had more than 100 diners and we expect the same, if not more, this year." Contact Centre UK director David Poole Tel +44 20 7239 4971 or email: dpoole@esopcentre.com for more information on the awards evening. Ticket prices:
member: £160 each or £1,500 for table of 10
non-member issuer: £175 each or £1,600 for table
non-member practitioner: £210 each or £1,900 table
In addition this year, the chairman will bestow awards upon the *Best Student* from the ESOP Institute's first term of the new Certificate course (sponsorship of this award is available) and to the Centre's *Share Plan Personality of the Year.*
The entries for this year's awards maintained the high standard set in previous years:
Best International Share Ownership Plan (over 1,500 employees)
The finalists for this year's main award are, in alphabetical order: **ARM Holdings**, nominated by **YBS Share Plans**; **Edwards Group**, nominated by **Equiniti**, and **Rio Tinto**, nominated by **Computershare**.
Fast-growing **ARM**, a world-leading semiconductor IP supplier, employs more than 2,500 people globally and has 28 offices in 14 countries. Its chips are incorporated into smart phones, tablets and other consumer electronic devices. ARM offers three share plans globally and ensures that every employee has access to at least one of those schemes, of which the jewel in the crown is an international Sharesave, in which 38 percent of staff participate.
Edwards is a leading manufacturer of vacuum products and a leading provider of related value-added services for the manufacture of semiconductors, flat panel displays, LEDs and solar cells. Edwards Group Ltd is a Cayman Islands incorporated company (but UK tax resident and headquartered) with a main listing of American Depositary Shares on the US NASDAQ global select market, under the symbol EVAC, which complicated the legal position. Its Sharesave scheme was designed as part of an IPO, having previously enjoyed a similar scheme as part of BOC Group. The results were astonishing for a first launch, with more than half of eligible employees signing up – a testament to the communications work done, all within an eight-week project timeframe.
Rio Tinto, the global commodities company, employs 54,585 people. It has offered employee share plans for more than 20 years. It launched a global share purchase plan '*myShare'* in October last year, partly as a positive reaction to employee engagement survey responses. To date there are almost 15,000 participants (a 27 percent take-up rate). Matching shares are offered at a 1:1 ratio to encourage plan participation, and purchases are made on a quarterly basis rather than annual in order to shelter employees as much as possible from share price and foreign exchange fluctuations up to $5,000 pa. Rio Tinto faced challenges including a complex corporate structure, and launching a plan in 36 countries to an employee base of 55,000 individuals speaking many different languages.
Best Employee Share Ownership Plan (fewer than 1,500 employees)
This year two entries have been selected as finalists in this category. Again in alphabetical order, these are:

ASOS, nominated by **Capita,** and **IGas**, nominated by **Equiniti**.

ASOS, the online fashion retailer, offers both a Sharesave and a SIP to its 1,000 staff in the UK. Around 40 percent of these employees currently participate in the Sharesave. Participants who contributed the full £250 a month in the first launch in 2008 made a profit of more than £72,000. Underlining its commitment to share ownership, the company added a SIP in 2012, offering free shares with no performance conditions to all its full-time employees. Almost 80 percent took up the offer, with the objective being to reach 100 percent participation in future years. In a unique element to the ASOS SIP, approval was obtained from HMRC to make larger awards to lower level employees, with smaller awards being made working up the organisation. This request was made by ASOS specifically to help increase share ownership at a deeper level in the company.

IGas explores and develops gas and oil reserves at onshore locations in England and Wales. IGas launched a SIP in 2013. Of the 160 employees 136 are eligible to join the scheme. The basis of IGas's SIP is to incentivise employees on a quarterly basis to meet their oil barrel production targets. The scheme accumulates employee's contributions over three months and the matching share ratio per quarter is award at a '1 for 1' standard rate, which is increased to a '2 for 1' rate if the targets were met. 75 percent of employees elected to save monthly from April 2013.

Best all-employee share plan communications

Following a successful baptism of this award last year, the Centre is pleased to announce three finalists. These are: **Morrisons**, nominated by **YBS Share Plans**, **Pearson**, and **Telefonica**, nominated by **Global Shares**.

Morrison's, the UK's fourth largest food retailer, tackled the problem of lack of understanding of share plans among its large and diverse workforce using a multi-pronged approach, including: a segmented communications strategy; opportunities to address technical questions and incorporating the Sharesave into the '*Save your dough'* financial education website. Now 26 percent of the workforce participates in the scheme.

Pearson celebrated its Sharesave's 30th anniversary last year. However, familiarity with a product breeds its own set of communication challenges. For the 2013 plan launch, the team decided to revisit its initial strategy with outstanding results.

Telefonica, listed on the Madrid Stock Exchange, has 130,000 employees worldwide with 315m customers in 25 countries. The company's stock purchase plan allows employees to purchase shares worth between €25 and €100 each month, with each share purchased being matched by the company if the shares are then held for one year. The communications materials used included a dedicated website and an explanatory video.

The judging panel has been agreed and it will be chaired by the Centre chairman, non-voting other than on communications.

Share plan personality of the year award

Although the award will be made at the sole discretion of Centre staff nominations are welcome. Two nominations have been received to date for this new individual award. Any further nominations should be made asap to the Centre's UK director, David Poole.

Computershare acquires MS global stock plan admin

Morgan Stanley's Global Stock Plan Services business (GSPS EMEA) has been acquired by **Computershare.** The software and professional services firm has taken control of the Europe, Middle-East and Africa-based portion of Morgan Stanley's business and will provide employee share plan administration in more than 130 countries covering almost four million employee shareholders. "We're pleased that the acquisition has closed as planned and that we can get on with integrating the two businesses," said Computershare president and ceo Stuart Crosby. "We have a proven track record of successful integrations and I am confident that clients on both sides will see benefits in the near future."

Equiniti, the leading share registrar and financial services outsourcing specialist, is set to launch a new technology platform to provide a centralised pooling of custody and business processes as well as a customer interface. The new platform, the first of its kind, is designed to improve client relationships and reduce the cost of processing for wealth managers and stockbrokers.

On the move

Centre member **Cytec Solutions** announced that **Richard Nelson** had joined the company as a director with responsibility for strategy and business development. This appointment signalled Cytec's intention to increase sales of *Sharetrack*, its web-based share plans software. Richard told *newspad*: "The time is right for change in the share plans market as companies are demanding superior products and service. Sharetrack is a brilliant match of the finest technical excellence and world-class technology and can transform the way companies manage their executive share plans. I can't wait to work with the team to raise the game in the market place." **Nick Chinn**, Cytec ceo, said: "I am delighted that Richard has chosen to join the team at Cytec. Sharetrack is the most advanced and flexible share plan administration platform on the market, leveraging cutting edge technologies to deliver an intuitive and high quality user experience for both administrators and share plan participants. It provides a wide range of integrated functionality, designed to address the requirements of multiple stakeholders and aimed primarily at

companies administering share plans in-house or through co-sourced arrangements. With Richard's experience and knowledge of the market we will be able to build on recent successes and ensure that Sharetrack becomes the premier software brand for share plans in the UK."
Richard joins Cytec from **Howells Associates**, having worked for more than 20 years in the share plan market with HBOS, Lloyds and Computershare. Cytec Solutions is an innovative software application development and information systems consultancy, focusing primarily on delivering high quality, bespoke software for the management of executive share plans. Contact Richard on 07831 408698 or richard. nelson@sharetrack.net or visit the Sharetrack web site at www.sharetrack.net.

Kevin Lim, formerly of **RBC Cees**, is now UK Channel Relationship Director for **Solium UK** at its Croydon offices**.** His new co-ordinates are**:** kevin.lim@solium. com Corinthian House, 4th floor, 17 Lansdowne Road, Croydon, CR0 2BX. Tel +44 (0)203 4757117, Mob +44 (0)7827 316573, www.solium.co.uk **Mike Baker,** formerly of **Accurate Equity UK**, joined the **Solium UK** team as EMEA sales director - a week after Kevin. Mike's new co-ordinates are: mike.baker@solium.com tel +44 (0) 203 4757118 or mob +44 (0) 7789 919293

Mitan Patel is now head of business development at **Computershare,** having performed a similar job at Morgan Stanley until very recently.

Former Centre director **Susie Hughes** has been appointed vice-chairman of the English Table Tennis Association, with special responsibility for communications. During her time at the Centre she won national women's doubles championships.

New member

The Centre welcomes into membership Swiss based **Actelion Pharmaceuticals Ltd,** which has a 2,500 strong workforce in 30 countries worldwide. The company has a large R & D operation aimed at developing new medicines for rare diseases. Michael Stevens, who is associate director for global compensation and benefits at Actelion, is the Centre's main contact. The company has two full-time share plan managers. Michael is leading a project on cross-border tax issues, implementing a share tracking system and group mobility policy. His company recently introduced a performance share unit plan. Contact co-ordinates: Actelion Pharmaceuticals Ltd. Gewerbestrasse 16. CH-4123 Allschwil Switzerland H95.05.B.27 phone +41 61 565 5499 mobile +41 79 359 9989 fax +41 61 565 6503 michael.stevens@actelion.com . www.actelion.com

YBS wins share scheme award

YBS Share Plans, part of the Yorkshire Building Society Group and one of the UK's largest share plan service providers, celebrated with its client Home Retail Group at the Royal Artillery Garden, London, when winning the *Employee Benefits* magazine 2013 award for *Best Employee Share Scheme*. **Jill Evans**, Head of Centre member YBS Share Plans, said: "We are delighted that Home Retail Group achieved success at the Employee Benefits Awards. To be credited as a top performer in the industry is testimony to the teams that have been involved in the planning and execution of their invitation communication strategy. The awards are a fantastic opportunity to celebrate the hard work of the past 12 months that has gone into developing and implementing a successful Share Plan." Debbie Cam, Colleague Services Manager at Home Retail Group, said: "We are thrilled to have won this year's award for *Best Employee Share Scheme*. Here at Home Retail Group we strongly believe that Sharesave (SAYE) is a great way of saving with the added benefit of being able to buy shares at a discount in the future. "

Union poll hitch for posties' share plan

Members of the main postal workers union have voted overwhelming against the government's plan to privatise the Royal Mail and give at least ten percent of the equity to postal workers, via a huge employee share scheme. Of the 74 percent (112,000) of members who voted, 96 percent voted against privatisation, the CWU communications workers' union told *Labour Research Department*.

Billy Hayes, general secretary of the CWU, said: "The workforce does not support the government or Royal Mail on selling the company. This company is flourishing in public ownership, as the recent doubling of profits proves. It's becoming less clear what this policy is about."

However, the result of this internal union-run ballot is unlikely to persuade the government to abandon the privatisation, which is expected some time between late Autumn and early Spring.

An overwhelming number of members voted in the same poll in favour of a boycott of competitors' mail and a policy of non co-operation, the union said, but the company is seeking a High Court injunction against the CWU boycott threat. Royal Mail said it is "fully committed to seeking an agreement with the CWU", but added that it would be "unlawful" for the CWU to direct workers to refuse to handle rival post.

Eso plan for loss of pension benefits?

Independent News and Media (INM) was in talks with journalists and other staff about establishing an employee share ownership scheme in return for almost halving benefits due from the company pension scheme. The proposal is to give employees a five percent stake in the company. INM is working on a plan to address a €162m hole in the scheme and tackling this is part of a restructuring plan, which shareholders will vote. An earlier pension proposal had included a €20m 'sweetener' to get staff and deferred pension scheme members to accept the sizeable reduction in entitlements. However, it is understood that there is no longer a pot of money set aside as an inducement. This is largely because the €170m sale of the South African business brought in less money than originally expected. The employee share plan is an alternative inducement that does not involve delivering additional cash. Talks are underway with the pension trustees and the average pension paid to employees will be reduced from €40,000 to around €20,000. The pension restructuring should be finalised by October. It is hoped the share price will increase after the restructuring, increasing the value of the employee stake. Shareholders are expected to support the plan, the largest of whom is Denis O'Brien (29.9 per cent), followed by Tony O'Reilly (13.3 per cent).

EBT tax avoidance scheme shot down

A tax avoidance scheme, which routed profits of a tax advisory business through employee benefit trusts (EBTs), has been closed by a tribunal. The scheme was operated by a tax advisor named as John Dryburgh, revealed an HMRC media release. The Tribunal said in its ruling: "There is no doubt that Mr Dryburgh not only lied to the Tribunal in a material way, but he appeared also to have fabricated evidence, forged documents and thrown away a memory stick in order to destroy evidence.*"* HMRC challenged tax deductions of almost £9m which Mr Dryburgh's companies, Scotts Atlantic Management Ltd and Scotts Film Management Ltd, paid into EBTs. The payments came out of profits earned by selling tax avoidance film schemes. The tribunal decision, which denied the claimed deduction, has protected £2.4m in tax. Although Mr Dryburgh is in bankruptcy and Scotts Atlantic Management is in liquidation, HMRC believes that the cash can be recovered. The Treasury Exchequer Secretary, David Gauke, said: "This scheme – like so many others – was not worth buying into. The Government has made almost £1bn available to HMRC to tackle the issues of avoidance and evasion and to ensure that the minority who try to avoid their responsibilities pay the tax due. HMRC will always challenge this type of planning and the tribunal decision should send a clear message to anyone thinking they can get away with tax dodging – HMRC will pursue you and you will have to pay the tax due as well as interest, on top of the promoter's fees." The tax avoidance involved trying to extract profits from companies while at the same time securing Corporation Tax deductions. Employers paid money into an EBT and claimed corporation tax deductions. The EBT gave undervalued shares in a new company, causing a loss to the employer. HMRC said it had protected more than £1bn since the beginning of the year in a series of successful challenges to tax avoidance schemes at the First Tier Tribunal and Supreme Court.

CONFERENCES

GUERNSEY October 11

The Centre invites applications for speaker slots at its next joint share schemes conference with the Society of Trust and Estate Practitioners (STEP) Guernsey on **Friday October 11** at St Pierre Park Hotel, St Peter Port. The Centre seeks a selection of expert speakers willing to present topics of interest to employee share trust practitioners and their clients. This will be the latest in a series of successful Channel Islands conferences allowing an audience made up, mainly, of trustees, trust lawyers and administrators to learn and share knowledge about issues relating to the use of trusts in employee share ownership.

To register your interest in presenting at this event, email dpoole@esopcentre.com, outlining the topic of your proposed paper and three bullet points to flesh out the main topics to be covered. Speakers benefit from our flexible speaker offer: ***Either*** speakers are exempt from the delegate fee (£295) but must pay their own travel/accommodation expenses ***or*** speakers can pay the delegate fee, and the Centre will reimburse travel and accommodation expenses.

Speakers at previous ESOP Centre/STEP Guernsey conferences have benefited from many opportunities to initiate and develop ongoing business relationships. The Centre's conferences are highly regarded and well attended, and are accredited by the Law Society. Please note that there is a limited number of speaking slots available so it is advisable to register your interest as soon as possible.

DAVOS February 6 & 7: why pay more?

Member service providers can save almost £200 on their package deal admission fee to the Centre's 15th annual global employee equity schemes conference, which takes place in Davos, Switzerland, next February if they opt to fill one of the 16 speaking slots on offer. Plan issuers can make a similar saving if they commit to a speaker presentation too.

This popular event will again take place at the five-star Steigenberger Belvedere Hotel, Davos Platz, on **Thursday & Friday, February 6 & 7.** The accommodation + conference speaker fee for member practitioners is **£995**, whereas the same person will pay **£1150** as a delegate.

The programme is likely to include many of the following topics:

- Latest legislation and regulatory developments impacting employee equity
- Case studies on recent global and international broad-based employee equity plans
- Case studies on recent executive equity incentive programmes in multinational companies
- Delegates' open debate on the key issues
- The reconstruction of executive incentives: Institutional investors, media reaction and remuneration committees
- Cross-border equity award taxation issues for highly mobile employees and their employers
- Corporate governance issues in US employee equity plans
- Corporate governance issues in European employee equity plans
- Employee share ownership developments in Europe
- Offshore trustees: what can they bring to the party now?
- Communicating equity plans to employees in the recession

However, speakers may wish to propose other issues.

Early speaker commitments have been received from: **Alan Judes** of **Strategic Remuneration, Mike Landon** of **MM & K, David Pett** of **Pett, Franklin & Co. LLP, Mike Pewton** of **GlobalSharePlans** and **Fred Whittlesey** of **Compensation Venture Group (US)**

Speakers - Centre member practitioners (service providers) **£955;** Eso plan issuer speakers **£695**.

Delegates - Centre member practitioners (service providers) **£1150;** Plan issuer members **£695**. Equivalent delegate rates for **non-members** are **£1,495** for practitioners and **£895** for plan issuers. No VAT is payable on these prices.

Please email your Davos speaker proposals or delegate registrations asap to fhackworth@esopcentre.com with copy to esop@esopcentre.com

Lloyds TSB & RBS state share sale imminent

UK taxpayers would have the opportunity to receive a no risk stake in RBS and Lloyds, under a new plan that would lead to the largest privatisation ever seen in the UK. The Policy Exchange launched a new report entitled: *Privatising the Banks: Creating a new generation of shareholders*. Under this plan, up to £34bn of the government's £48bn of shares in RBS and Lloyds (70 percent) would end up in taxpayer hands. Every British resident over the age of 18 who has a NI number and who is registered on the electoral roll, could apply for a share worth as much as £1,650 if the government put RBS and Lloyds back into the hands of the private sector. The report, written by James Barty, formerly head of global equity strategy at Deutsche Bank, examines the options available to the government and concludes that a distribution of shares in both banks to taxpayers be repaid on sale, combined with an institutional and retail placing, is the best solution. The proposal: 50-55 percent of shares in RBS and 30 percent of shares in Lloyds would be distributed to taxpayers who would be able to apply for them at no initial cost. They would be paid for at the time of sale. For taxpayers, this could mean between £1,100 and £1,650 worth of shares being allocated, depending on the number of applicants (between 20m and 30m people could apply for shares). A floor price is established at the original level the shares are sold. If the share price falls under the floor then no one will want to sell. As a result, taxpayers would take the profits from any rise in the share price above the floor price but would not lose any money if the share price dropped below the floor price. If the share price never exceeds the floor price, the shares would be returned to government ownership after ten years. This would give taxpayers confidence in taking on shares as there is no downside or up front cost. The shares would be held in a nominee account. Individuals could then transfer their shareholding into a personal account should they wish, providing they had paid the government the floor price.

MM & K / Manifest Total Remuneration Survey 2013

Pay for performance is still not working, probably because it is too dependent upon share price movements, concludes the 2013 *Total Executive Remuneration Survey,* published by remuneration consultancy **MM & K** and **Manifest,** the proxy voting agency**.**

The UK's Top 100 ceos were paid £425m in 2012, up £45m, or ten percent from the previous year. Increased total remuneration realised has been almost entirely due to: Long-Term Incentive Plan (LTIP) payouts realised **-** up 40 percent from 2011; a general increase in all share prices; and LTIP awards that vested in 2012 paid out 67 percent of maximum, compared to 42 percent in 2011.

Furthermore, the complexity of consistently valuing deferred bonuses hides and understates the reality of the total remuneration realised inflation, said the MM & K survey report. "Underlying Top 100 ceo increases in total remuneration realised are consequently running about eight percent (£300,000) higher than figures quoted above."

The traditional model of executive remuneration was now “broken,” said Manifest’s ceo Sarah Wilson. “However, there are some signs that boards are trying to rein in executives’ pay,” said MM & K. “Basic salaries for new appointees are lower. Cash bonuses have been reduced by 19 percent, and the median increase in total remuneration awarded to FTSE 100 ceos - measured by the expected value of *awards*, as opposed to actual payouts - was only one per cent, though not too much should be read into one year’s figures,” the survey report said. The long-term trends were clear: increased bonus maximum, easier targets and more deferred pay.

The significant sums paid to the FTSE 100 ceos were not reflected in what was paid elsewhere where payments tended to be much more modest, the survey report said. In smaller companies often the challenge is to have more performance-related pay as there was evidence of insufficient alignment of executives and shareholder value creation.

“In my view, the traditional model of remuneration is broken. It is too short term, delivers insufficient equity, encourages volatility and risk rather than progressive long-term growth and payments for failure and modest performance are too high,” said Sarah Wilson ceo of Manifest “The search for the nirvana of a single figure has created fuzzy thinking, which makes objective judgement and analysis more, not less, complex. The Business, Innovation & Skills department’s proposal to value deferred bonuses when awarded on the basis of the share price at the award date is, according to both MM&K and Manifest, quite wrong. Why? Because you do not know how much a deferred bonus is worth until it vests, usually three years later when share prices may have changed dramatically. For that reason we continue to include deferred bonuses as part of Long-Term Incentives when deferred in shares.” Sarah Wilson said that quantitative easing (QE), by boosting share prices, was like “printing money for ceos”. She said bosses were benefiting from a general market effect because pay schemes were poorly linked to an individual company’s performance. “We should balance our euphoria about the stock market bull-run and note the $7 trillion of QE, the supply of extra money and the search for yield may have fuelled the stock markets. Designing effective incentive schemes is ever more complex in the current environment.”

The annual Manifest-MM&K Total Remuneration Survey revealed the latest trends in UK director pay across the board. The survey costs £500 (ring MM&K on 020 7283 7200 to order it) or download a free copy of the launch presentation, which summaries the key results at www.mm-k.com

Bonus Corner: the worm turns

The health minister of **Alberta** sacked the entire board of the Canadian province’s health services after it refused to cancel planned executive bonuses. Health Minister Fred Horne said in a statement: “At a time when we’ve asked our front-line providers, including doctors, teachers, and support workers to take freezes in pay, the unwillingness of the Alberta Health Service (AHS) board to reconsider its decision on pay-at-risk is completely out-of-step with the government’s priorities - and more importantly, the priorities of Albertans.” He said that AHS needed to be closer to the people. Horne continued: “Regrettably, the premier, my cabinet colleagues and I were forced to consider whether Albertans can continue to have confidence in their ongoing ability to direct change in our health system. Earlier this morning, I informed the AHS board chair and the members of the AHS board that I am terminating their appointments, effective immediately.”

But not in the UK…Network Rail’s top five executives have been awarded bonuses equivalent to 17 percent of their annual salaries. Ceo David Higgins will get an extra £99,082 on top of his salary of £577,000. The executives could have got maximum bonuses worth 60 percent of their salary, but missing punctuality targets - at least 92 percent of all trains arriving on time - meant that they did not get the full amount. They only achieved punctuality of 90.9 percent. All five waived their annual bonus last year after a fierce political row. Elsewhere, Network Rail met its passenger satisfaction bonus target of 84.3 percent, but the company failed to reach its financial efficiency and asset stewardship targets too.

Not a single remuneration report of a FTSE 100 company has been really threatened by a major shareholder revolt, even though 70 percent have held their agms already this year. ‘No’ votes have been running at 6.6 percent on average, down from 7.6 percent for the same companies a year ago, when a majority of shareholders voted against ‘excessive’ pay deals at both **Aviva** and advertising giant **WPP.** Shareholders came close to voting down the remuneration reports at half a dozen other large quoted companies during *Shareholder Spring.*

Angela Ahrendts, the ceo of luxury fashion brand **Burberry,** has become the first woman to top the list of highest paid ceos in Britain, according to a survey of the UK’s largest listed companies. Ahrendts took home a £16.9m pay package last year, which included benefits, bonuses and the sale of bonus shares, research by proxy voting agency **Manifest** and remuneration consultancy **MM&K** revealed. Her pay was almost £5m more than the next highest paid boss, Angus Russell, the outgoing ceo of pharmaceutical company **Shire**, who earned £12.1m in 2012. Former boss of brewer **SAB Miller**, Graham Mackay, was the third highest paid, with a package worth £9.7m

Kieran Prior, the man who has invested £400,000 in

Glasgow Rangers soccer club, has hit out at the "ludicrous" and "astonishing" sums being paid to members of the Ibrox board. Executive pay at the Scottish Third Division champions is believed to total £1.5m a year, a sum that shocked City investor Prior. He singled out finance director Brian Stockbridge for criticism. Prior told the *Daily Record* newspaper: "I find it astonishing a club in the Third Division has paid that amount of money to members of staff, including Mr Stockbridge. He is earning in excess of £200,000, which is overvaluing your fd - and when bonuses match your salary, that seems ludicrous. I can see the argument for a ceo getting a bonus, but why the hell should a bonus be paid to the finance director for winning the Third Division?" Bonuses for Stockbridge and former ceo Charles Green are thought to total more than £500,000, and Prior told the *Record* that a clear-out of Green's former colleagues may be necessary.

Senior directors at **Tesco** and **Marks & Spencer** faced fury over 'excessive' payouts as both retail giants suffer falling profits. Tesco ceo Phil Clarke is set to suffer an investor revolt over pay plans and M&S ceo Marc Bolland can expect attacks over bonus payments. Shareholder watchdog Pirc issued a warning to investors that payoffs agreed with two of **Tesco**'s departing executives were excessive and should not be paid. It urged investors to vote against Tesco's remuneration report at the company's agm. Tesco made the decision to shelve its US business in April after mounting losses. However, the supermarket group's former US boss, Tim Mason, was the highest paid director on the board, taking home £1.7m in 'liquidated damages' and an extra £100,000 to help him pay for the cost of moving back to the UK. Tesco's former UK ceo, Richard Brasher, who stepped down last year as sales slipped and the company lost market share to rivals, will receive £1.3m under similar contractual terms. "Neither of these executives appear to have suffered a loss caused by the company," analysts at Pirc said in a report to investors.

Meanwhile, **M&S** was expected to face criticism over Bolland's pay at its agm at Wembley Stadium on July 9. After two years of declining profits, Bolland was paid £2.1m, more than twice his base salary. It took his package over three years to about £10.2m, including share options. One investor said the issue of Bolland's pay would send temperatures soaring at the meeting. Pirc attacked the complexity of executives' pay schemes: "The company operates a number of incentive arrangements. The resulting complexity in disclosure acts as a barrier to proper accountability to shareholders via the vote on remuneration policy," it said. Bolland agreed a generous package when he arrived at Marks & Spencer in 2010. Part of this was to compensate him for loss of bonuses and options when he left his former job at Morrisons. M&S's profit in the year to March fell six per cent to £665m, the lowest since his arrival. Investors said Bolland's strategic plan to revive clothing must be working by autumn or he will be under pressure to go.

New law on directors' pay

The new legislative regime on directors' reward, which starts to take effect from October 1 this year, will have a significant impact on the way in which quoted UK companies formulate their policy on executive remuneration and report upon it to shareholders, said Centre member **Clifford Chance**. For the first time, shareholders will have the power, by way of a binding shareholder vote, to approve - or reject - a company's executive remuneration policy. The final form of the regulations, published by the Department of Business, Innovation and Skills (BIS) as part of the Enterprise and Regulatory Reform Act 2013, have been approved by Parliament. The application of the new regime will depend on the end date of the company's financial year. Once the changes take effect, remuneration reports will be split into two parts:

*A forward-looking pay policy report, which will be subject to a binding shareholder vote, and a report on how that policy was implemented over the previous year. The implementation report must include details of actual payments made by the company, set out as a single figure for the total pay directors received in the year. Companies will be able to provide additional information about how this figure was calculated, both as part of the single figure remuneration table and elsewhere in the report. Payments to former directors must also be included.

*A separate pay policy report must set out every element of pay that a director could be entitled to, including any entitlement to an exit payment, and what performance measures will be applied. Each element should include a maximum potential value, however under the latest draft of the regulations this may now be expressed as a percentage of salary. It will no longer be necessary for employers to set out a maximum potential value for salary or other fixed pay, or when describing the company's policy on buy-out awards. However, companies will no longer be able to use the existing flexibility contained in the Listing Rules to grant equity awards above normal limits without shareholder approval.

In addition, the company is prohibited from making a remuneration or loss of office payment to a current, former or future director, unless it is consistent with the most recently approved remuneration policy. Under new rules, any payment that is inconsistent with an approved policy will be held by the recipient in trust and can be recovered by way of legal action. Directors who approve payments outside the scope of the approved remuneration policy will be liable to jointly and severally indemnify the company against any loss resulting from the payment.

Share plans and remuneration expert Matthew Findley of Centre member **Pinsent Masons**, said: "The requirement to disclose performance conditions on a forward-looking basis has been considerably watered down from the original BIS proposals. This will be welcomed by businesses as it was going to provide a significant challenge. It could have led companies towards an annual policy vote, something which both the ABI and BIS were keen to avoid. The fact that companies will now not have to disclose performance targets or outcomes, prospectively or retrospectively, if the information is 'commercially sensitive' is helpful. There may, however, be a tension between the desire of companies to maintain confidentiality and the desire of shareholders to fully understand the link between pay and performance," he added. Listed companies have been required to produce a directors' remuneration report as part of their annual reporting requirements since 2002, but the changes have been proposed in order to streamline the information that companies must disclose and clarify the link between pay and performance.

*The EU's Council of Ministers has formally approved the proposal to cap bankers' bonuses at a maximum of double their base salary.

Jail for errant bankers?

British banking bosses may end up in prison if a new law to jail top executives for "reckless misconduct" is passed. The *Changing Banking for Good* report has called on Chancellor George Osborne to clamp down on the country's banking system. The authors of the 571-page report recommend the creation of a new category of criminal offence to be used in future banking collapses. The study took a year of work and evidence from 250 witnesses. The **Commission on Banking Standards** (CBS), which was launched in the wake of the LIBOR rigging scandal, proposes making it a criminal offence for senior bankers to act with "reckless misconduct" in carrying out their duties. Its report examined the collapse of HBOS, which led to the bank's former ceo James Crosby being forced to give up his knighthood.

"Where the standards of individuals, especially those in senior roles, have fallen short, clear lines of accountability and enforceable sanctions are needed," CBS Chair Andrew Tyrie MP told the *Telegraph.* He went on to warn that drastic reforms are the only way to restore trust in banks. Ceos could be stripped of their exuberant golden parachute bonuses if their banks are bailed out directly by taxpayers. The report called the City of London's bonus culture "thoroughly dysfunctional," and urged that a set of new remuneration rules be established to allow bonuses to be deferred over ten years. It is essential that dramatic changes be made to the way hefty bonuses - and banking profits - are calculated, the report stressed: "Many of the so-called profits reported by banks in the boom years turned to dust when markets went into reverse. However, for some individual bankers they had served their purpose, having been used in calculation leading to huge bonuses which could not be recouped." According to the Commission, the UK's financial sector is not responding to the "public demand for retribution" after the 2008 banking crisis, and new laws are needed to "correct the unbalanced incentives that pervade banking."

Eso awards Down Under

Employee Ownership Australia and New Zealand (EOA), extended congratulations to a strong field of nominees and the winners of its awards. One of Australia's top ten largest companies **Telstra** took two of the six awards handed out annually by the EOA. For its strong position in improving and encouraging share ownership it received both the award for *Best Performance and Fostering Share Ownership (more than 1000 employees)* as well as the *Best International Plan.* Telstra's employee engagement strategy has which has seen employee share ownership increase from more than 15 per cent globally to nearly 90 per cent. The Australian mining and exploration sector which has an historically strong employee ownership record was strongly represented. The long-time Australian gold and copper miner **Newcrest Mining** drew the attention of judges for its new employee share plan and was thus awarded the *Best New Employee Share Plan*. For the *Best Performance in Fostering Share Ownership (less than 1000 employees)* **Mutiny Gold** – a Perth-based gold company with gold assets in Western Australia and Victoria - was selected. And the *Best SME/Succession Plan* was awarded to **Deswik Mining Consultants,** based in Brisbane and has been operating in Australia and internationally for two decades. The *Most Effective and Innovative Communications* programme went to **Yum! Restaurants,** owner of the KFC and Pizza Hut brands.

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