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it's our business

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Cable hesitates over top pay

Efforts by Business Secretary Vince Cable to put the lid on senior executive reward packages in public companies began a tortuous path through Parliament with the first reading of the Enterprise and Regulatory Reform Bill.

Much to the surprise of many, the 224 page Bill contained just one sentence about directors' remuneration, which, if ratified in law, would make shareholders' votes at the annual general meeting binding on top pay awards.

Buried among the acres of text about the proposed establishment of the controversial Competition and Markets Authority (CMA), improving the employment tribunal system and explaining the proposed UK Green Investment Bank, was this:

Clause 439 - Quoted companies: members' approval of directors' remuneration report.

"In section 439 of the Companies Act 2006 (quoted companies: approval of directors' remuneration report), omit subsection (5)." This sub-section, currently in force, says: "No entitlement of a person to remuneration is made conditional on the resolution being passed by reason only of the provision made by this section."

In other words, company boards may legally ignore agm shareholder votes against senior reward packages, as encapsulated in annual remuneration reports, if they so choose. This would no longer be the case if the Bill become law. For if the rem. report were voted down, the board and its remuneration consultants would be forced back to the drawing board.

However, the board of William Hill (see inside) would still be free to ignore (as it has done) the protests of 49.9 percent of its voting shareholders who tried to overturn a £1.2m 'retention package' and an 8.3 percent salary rise for ceo Ralph Topping.

The UK was the forerunner in mandating public companies to allow shareholders a *non-binding*, or advisory, vote on pay. Section 439 of the Companies Act 2006 orders a vote on director pay at the yearly accounts meeting. Directors are expected to have disclosed their remuneration package in a 'Remuneration Report' (section 420). Failure to do this leads to fines.

It remains to be seen whether Mr Cable will introduce later on during the legislative process a new shareholder voting approval hurdle – say two-thirds of voting shareholders, or even 75 percent, as some argue – before senior executive remuneration awards can lawfully stay in being.

In the Bill's preamble, Mr Cable spoke of: "Addressing the disconnect between directors' pay and long-term company performance by giving shareholders of UK quoted companies binding votes on directors' remuneration. This will encourage shareholders to be more engaged and companies to listen to what they say.

"The Government recently consulted on proposals to give shareholders binding votes on directors' pay.

From the Chairman

Norman Lamb, employment affairs minister at the Department of Business, took a welcome initiative in placing employee ownership at the centre of his concerns; and followed it by speaking at our successful joint event with the Institute of Directors; now David Gauke, from the Treasury, has been quick to introduce a doubled EMI ceiling. David is a former speaker at our annual dinner. These are important steps. It is now important that the two departments of state and the two parties in the Coalition government, work together - and with us - to transform the significance of employee share ownership in national life. This can be achieved by greater concern for social justice (the wages of capital for rank and file employees) and for entrepreneurship.

Malcolm Hurlston

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Following consideration of the consultation responses, the Government aims to bring forward further detail on how this will work later in the legislative process."

Introduced in the House of Commons on May 23, the Bill faces its crucial second reading on June 11. Owing to its complexity and not least City reservations about the CMA proposals, the Bill faces many months of detailed debate and Opposition amendment.

So the inevitable delay will give the Cabinet minister more time in which to introduce his own amendments to the proposed legislation – in order to bring in further changes to the senior executive reward regulatory regime.

This means that in practice nothing much is likely to change on the executive reward front while the draft legislation grinds its way through Parliament.

The Department for Business (BIS) consultation followed claims that executive pay-outs sometimes did not match company performance and that the issue could harm not only the corporate sector, but the UK's economic prospects as a whole. A BIS paper said that median total ceo remuneration in FTSE 100 companies had risen four-fold – from £1m to £4.2m – between 2008 and 2010. BIS criticised the scale of the increases, which it said were far, far higher than FTSE 100 share price rises, retail price increases, or average pay over the same period.

It was early this year, as reported by *newspad,* that Mr Cable announced wide-ranging proposals to put the lid on UK executive reward.

These were:

- Company pay reports to be made clearer and more detailed, with information outlining how pay decisions had been reached and how future pay policy had been set out.
- Shareholders would be given a binding vote on executive pay, notice periods and exit packages above one year's salary, rather than the advisory role shareholders have currently.
- The plans would require firms to bring in "clawback" policies which would mean bonuses could be recouped where later performance shows they were not merited.
- Businesses will be required to explain how they have consulted with employees when making pay decisions and be expected to provide evidence of how executive pay is related to business performance.
- In addition, there will be a review of what level of shareholder support is required in order for pay proposals to be accepted. Cable suggested that there might be a threshold of 75 percent agreement required for a vote to be considered successful.
- More diverse remuneration committees, which in turn would help to achieve greater boardroom diversity as a whole. He said that the Government would be looking further at the fact that a number of remuneration committee members are executives of other FTSE companies, which results in a situation where individuals have an interest in 'maintaining the status quo in pay-setting culture and pay levels.'

So far, Mr Cable has ticked just half of one box (these proposals) though he has placed responsibility for 'excessive' senior director reward packages firmly in the hands of shareholders, but he could add one or more of these other changes to the Bill later on.

Company chiefs claim that the BIS proposals would put UK companies at a competitive disadvantage if they were enacted, unless every other developed economy worldwide did the same thing.

Labour thinks that Cable has not gone nearly far enough in the Bill to tackle the problem. A Private Members' Bill introduced in the Lords by Labour Peer Lord Gavron, a major contributor to Tony Blair's general election campaigns, would extend the binding shareholder vote to cover not only the directors' remuneration but also that of the five most highly paid employees. The vote would have to pre-date the actual pay/bonus rises. All the company employees would have the right to vote on top pay within the company by secret ballot, but the result of that would be advisory only. In addition, his Bill would force companies to feature prominently in their annual reports details of the reward ratio between the highest paid director or employee and the average pay of the lowest remunerated ten percent of employees.

Shareholder spring continued when the remuneration report of Centamin, a FTSE 250 gold mining company, was voted down by investors at its agm - threatening to make 2012 a record year for major shareholder rebellions over executive reward.

Almost two-thirds of investors who voted were against the remuneration report after the company overrode one of the criteria for awarding bonuses - based on share price performance. It was the fifth quoted company to have its pay policies rejected by shareholders this year. A spokeswoman for Centamin said that the criteria that linked bonuses to share prices probably would be removed in future, in an attempt to head off further revolts over compensation for its senior executives.

Some remuneration consultants are seriously concerned that their next set of recommendations to a FTSE remuneration committee could, if adopted, morph into a death sentence for the client's chairman or ceo. This issue will be thrashed out by speakers and delegates at the Centre's annual conference in Paris on June 21 and 22.

EMI limits double from June 16

D-Day for the launch of the new individual share options award limit of £250,000 under the Enterprise Management Incentive (EMI) scheme is **June 16**, the Treasury announced.

The big disappointment, however, is that the government has *not* increased the overall limit of £3m worth of options which can be awarded and left outstanding (not cashed in) in any one company at any one time. This means that from June 16, companies wanting to award the new maximum EMI options grant can only incentivise up to 12 people within the business in this way.

Furthermore, the qualifying bar for inclusion in the EMI scheme - gross asset value (GAV) of £30m or less – has not been raised either, despite the fact that it has remained at this level for more than a decade.

The announcement by Treasury Secretary David Gauke - who spoke at the Centre's awards dinner in 2010 - follows the Budget announcement that the individual limit for the grant of EMI options would be increased from £120,000 to £250,000, though no date was given (at that time) from which the change would take effect. The date of June 16 is welcome and earlier than expected..

The Coalition government is hoping that this huge increase in the award options limit will stimulate renewed effort by key individuals in SME companies, so growth in the economy can resume.

Curiously, the average value of shares over which EMI options have been issued was only £9,200 in 2009-10, but awards are often made in successive years to the same people and initial valuations of small companies are often quite low.

Companies which want to increase an existing EMI options award to a key employee may do so, up to the new maximum, provided there is nothing in the company scheme rules which restricts awards to the old limit of £120,000.

However, the government's refusal to raise either the maximum company-wide options award limit or the GAV limit to, say, £50m, suggests that ministers are under severe pressure not to undermine the UK tax revenue base.

An unhappy if unintended outcome is that the opportunity to use EMI as an *all-employee* options incentive scheme in gazelle-type small high tech companies may be eroded over time. This is because EMI options will become even more popular among executives owing to the proposed changes to Entrepreneurs' Relief. Key individuals with less than a five percent shareholding in a company may be in a better position if they can acquire shares through an EMI option rather than subscribe for shares directly. The more EMI options are awarded to key individuals, the less the chances of extending the scheme further down the feeding chain.

This and other reforms to EMI will be included in Finance Bill 2013, again subject to State Aid approval, so that gains made on shares acquired through exercising EMI options on or after April 6 2012 will be eligible for CGT entrepreneurs' relief.

EMI options were introduced by the Finance Act 2000 and around 11,000 companies to date have taken part in this successful management incentive options based scheme, which has won strong support from the Centre.

EMI options are intended to help smaller companies with growth potential to recruit and retain the best employees, and offer generous tax advantages to employees of those companies which qualify. Nil cost and discounted options can be used too in the awards.

"The increased limit for EMI options is to be welcomed" said **Lynette Jacobs**, an expert in employee share incentives at **Pinsent Masons**, the Centre member law firm. "Together with the future change to allow gains stemming from EMI options to qualify for entrepreneur's relief will allow smaller companies to offer increasingly attractive incentives to new and existing employees".

Centre member Postlethwaite, the employee ownership lawyers, said: "An employee holding EMI options over shares with a value at grant of £100,000 will be eligible to be granted further EMI options over shares with a value at grant of up to £150,000. There is, however, no further news as yet on the status of the proposal to extend entrepreneurs' relief to shares acquired on the exercise of EMI options and to relax the five percent shareholding limit."

Assistance sought by the Office of Tax Simplification

The Office of Tax Simplification wants Centre member share plan issuers and contacts to tell it about their experiences in the use of unapproved employee share incentive schemes, said Centre member **Mike Landon** of **MM & K**. The OTS has produced a questionnaire, which it ask companies to complete and return by Friday 8 June. The survey is available on the OTS website and can be accessed via this link: http://www.hm-treasury.gov.uk/ots_essreview.htm.

OTS spokesman Anish Mehta said: "The information gleaned from users will better inform the work of the OTS in making recommendations to the Government for the simplification of the tax laws relating to unapproved share schemes. We would recommend that, if you can do so, you take this opportunity to inform the process by responding to the questionnaire. The Government will be more easily persuaded of the need for change if recommendations are backed up with hard evidence of the experiences of companies."

Please send completed questionnaires direct to: Office of Tax Simplification, Room G/41, 1 Horse Guards

Road, London SW1A 2HQ and tel: 020 7270 4458. Please send copies to the Centre so we can assess and collate responses and make key points more strongly - dpoole@esopcentre.com.

Plans annual reporting requirements

Pett, Franklin & Co. LLP says that companies should now consider share scheme filings for the 2011-12 tax year, including Form 42 (for Unapproved Schemes including joint share ownership schemes (JSOP). Separate forms are required for options granted/awards made under HMRC approved plans including SIP, CSOP, EMI or SAYE. The forms for the old tax year can be found at: http://www.hmrc.gov.uk/ shareschemes/ann-app-schemes.htm

Transactions in "employment-related securities" and "employment-related securities options" which occurred between April 6 2011 and April 5 2012 should be reported on Form 42. HMRC's definition of an employment-related security is wide and Pett Franklin can help you identify any "employment-related securities" your company may have awarded.

If you have any current or former employees or directors, including non-executive directors, (or persons associated with employees or directors) who:

- have either been granted or exercised options;
- have received compensation for any options that have lapse or be cancelled;
- have acquired or disposed of any employment-related securities;
- hold shares where the rights and/or restrictions were changed or removed; or
- have otherwise received a benefit in connection with shares or securities.

during the 2011/12 tax year, then these events are likely to require reporting on Form 42. If a corporate transaction involved the acquisition or disposal of shares by employees or directors (including non-executive directors), then it may need to be reported on Form 42.

Guidance on completing Form 42 is to be found on HMRC's website at http://www.hmrc.gov.uk/shareschemes/form42-guidance-2007.pdf.

There are penalties for failing to complete the form, or getting it wrong, or filing it late so it's important to take the time to get it right. "For joint share ownership awards we would recommend the use of a particular form of wording on the forms. Please contact us if you have queries on whether you need to complete any of the year-end share plans returns or if you want us to review your forms or complete then on your behalf," said David Pett.

Eso useful foil to irresponsible capitalism, minister tells conference

Having economic diversity in the economy, like employee ownership, is an important counter-point to irresponsible behaviour in capitalism, **Norman Lamb**, the 'minister for Eso' told the joint Centre-Institute of Directors conference in London.

Mr Lamb, the Minister for Employment Relations, Postal and Consumer Affairs, said that he had long been an advocate of employee ownership, because he felt the idea fitted within the Liberal tradition of John Stuart Mill. His vision was that this should be the decade of wider employee share ownership, just as the 80s had been the decade of wider share ownership.

Despite having a broad portfolio, employee ownership was his number one priority as a Coalition government minister, Mr Lamb told an audience of 100 delegates.

Employee ownership, of course, was not a silver bullet, but the evidence showed that it could play an important role in encouraging growth, which was one of the reasons that the DPM, Nick Clegg, had asked him to champion the idea.

Eso might currently represent only a small part of the economy, but studies showed that this sector had been more resilient and had even grown during the economic downturn. For this reason alone, Mr Lamb suggested, Eso and employee ownership should be examined further and encouraged in more companies leading to "engaged economic citizens" an idea which sat at the heart of responsible capitalism.

If Eso were combined with effective engagement strategies, then productivity increased, absenteeisim was lowered and innovative ideas were allowed to come to the fore, alongside its powerful attraction as a tool for recruitment, retention and motivation.

The minister thanked Centre chairman Malcolm Hurlston for doing so much for the employee share schemes industry over so many years and thanked the ESOP Centre for its impulse, ideas and effort. He was grateful to the Centre and the IoD for organising the conference. He said he hoped that if BIS were successful in its aims, Eso would become a concept, which many more intermediaries knew about and could advise clients on, which in turn would allow awareness to spread very rapidly.

These days, when there was so much concern about irresponsible behaviour in capitalism, having diversity in our economy in terms of ownership was surely a good thing, Mr Lamb said. When in Opposition, he had devised a Lib Dem blueprint for the future of the Royal Mail and Post Office, which included mutualisation and so he was delighted to be able to see this through in his new role. Both partners in the Coalition were receptive to the idea and he applauded the work being done by Francis Maude in the Cabinet Office on mutualisation.

Malcolm Hurlston reminded delegates – overwhelmingly from small and medium enterprises (SMEs) - that allowing employees to share the wages of capital should be the overarching goal of all employee share schemes. Owners of shares had not been vocal enough during the global economic downturn, despite the recent series of shareholder spring uprisings, but employees - when they had a significant stake in the business - were able to provide a check on what they saw as policies too risky for their business.

The idea of employee share ownership had enjoyed cross-party support since Mr Hurlston introduced the idea of an ESOP to the UK following a trip to the US in 1985, where he was impressed by its use in companies following the model Louis Kelso had designed to solve the business succession conundrum at his friend's company, Peninsula Newspapers.

Following the introduction of Eso under the Lib-Lab pact, its greatest champions (though not always popular) had been Margaret Thatcher, who used Eso as a way of spreading individual ownership, and Gordon Brown, who wanted to encourage smaller companies to spread their capital among their employees. Now the Coalition aspired to outdo these predecessors, he said. Already it had been agreed that at least ten percent of the future Royal Mail would be used for an employee share scheme; MyCSP and other public services have been part-mutualised; the Office of Tax Simplification had reviewed approved share schemes and the Treasury was undertaking its own review of tax arrangements around the plans.

Mr Hurlston said "I am delighted that in Norman Lamb, we now have a minister who is a true believer in Eso, who has already moved to spread the concept through his work with Centre member Graeme Nuttall, partner at Field Fisher & Waterhouse."

Mr Nuttall will publish his report in July to which the government would respond. So far, Mr Nuttall's research showed that there had been a complete lack of awareness of the model and its benefits, a lack of resources – both financial and other, guidance and expertise was lacking from professional advisers and there was a perception that the whole area was too complex to engage.

Conferences like the ESOP Centre and IoD's joint event therefore played an important role in bringing these ideas to new audiences. One measure which was being considered was a flexible and 'light touch' *Right to Request* which would mean that companies would have to consider introducing a share scheme if its employees asked for one. There would be an equal right to say no if this was felt not to be in the company's commercial interests, but these rights would encourage the idea to be discussed openly and frankly. Another idea Mr Nuttall was considering was an off-the-shelf solution, flexible to suit business needs, but which would provide a starting block for companies which were interested in the idea without knowing where to look first.

Dr Roger Barker, head of Corporate Governance at the IoD said that employee share ownership was "an idea whose time had come." Eso schemes could work as corporate governance tools, not just for the ceo and the board, but right the way down to the lowest-paid employee.

Ian Murphie of MM&K introduced delegates to the concepts they would have to bear in mind throughout the day and afterwards when considering what type of plan would suit their business. Ian advised that from day one, directors should have a good idea of what they wanted to achieve with the share plan. The more thought was given to each aspect before the scheme was designed, the better it would run in future, Ian said. **Matthew Findley,** of New Bridge Street, took up Ian's theme by setting out four main design considerations for a share plan – structure, currency (ie shares or cash) vesting date and tax. Matthew gave the delegates a checklist of areas to address at each stage of the design process and said that companies should try to foresee the unexpected. For example, in the case of exit only options – how would staff be incentivised if a sale were not forthcoming?

David Pett, who helped the government to write the rules for Enterprise Management Incentives in 1999, took to the stage next to outline how this incredibly tax efficient share option plan can provide incentives to staff in SMEs. He explained the basic rules of how tax for employee shares works and showed how EMI allows employees to move into the CGT regime rather than paying income tax and NICs. David warned that although EMI was designed to be flexible once qualification is met, there were many potential pitfalls for the unwary, including the 92 day limit for reporting an EMI option grant to HMRC. Employee share schemes should be seen as a business solution tool, rather than just a tool for incentivising staff, said **David Craddock**. His four case studies showed delegates how they could use the flexibility of EMI to help their businesses to overcome various challenges, including: motivation towards a sale; long-term incentives; creating an employee-controlled company and helping succession or owner diversification. **Amanda Flint's** first words confirmed what many delegates were thinking – if you qualify for EMI, it must surely be your first port of call and be used to its limits as the most effective scheme for SMEs. However, some companies failed on the strict qualification hurdles for EMI. But Amanda, of BDO Human Capita, said there were other ways to achieve their aims – whether through share subscription, partly paid shares, flowering shares, growth shares or a joint ownership structure. Amanda said that she was an admirer of the JSOP as it allowed for the growth to be charged to CGT while leaving the flexibility for the initial value of the share to be attached as an unapproved option if desired.

Peter Matthews, of BaxiPatnership/RM2, said the best way to get commitment from staff was to share as much information with them as possible. His case studies showed that letting people influence the business and asking for ideas on strategy could lead to increased innovation in products and business processes.

Catherine Gannon, of the eponymous employment legal firm, warned that without due care, share plans could come back to bite companies in the future. She gave a comprehensive list to delegates of information they would need to gather and compile for their advisers when preparing the scheme documentation and what provisions to take to ensure that their employee share plan did not give rise to any future headaches, such as drag-along and tag-along or power of attorney provisions.

Colin Kendon, of Bird & Bird, gave a blow-by-blow account of how to achieve the best bang for your buck when looking at an exit, depending on circumstances. Clearly, the best result would be to qualify for Entrepreneurs' Relief on the whole amount, but as this was not always possible due to the specifics of the deal in hand, thought had to be given to how much tax each director would pay and when it would be paid.

Opening the final session, **William Franklin,** of Pett, Franklin & Co. LLP, explained the accounting provisions for share schemes. He succinctly explained the current position under FRS20/IFRS2 and UITF38 (for EBTs), stating that share options caused more headaches here than share awards and relied on a complex mathematical formula designed to value financial derivatives – Black Scholes. For those companies small enough to qualify, William recommended looking at FRSSE.

The last two presentations presented more case studies for the delegates to see how the theory could be applied in different contexts to achieve different results. **Robert Postlethwaite,** of Postlethwaite & Co, outlined different ways to structure a succession using an EBT so that either shares were held in the trust in perpetuity or, using a SIP, delivered into the hands of employees. In a popular conclusion **Ron Forrest**, chairman of Perkins Slade , told how he had used a combination of EMI, SIP and direct share purchase to solve a succession problem in his business. He had laid a solid basis to keep his insurance business independent but nothing was forever. To download the conference papers – visit http://www.esopcentre.com/employee-share-schemes-for-smes-conference-material.

PARIS: June 21 & 22

A top expert from the Organisation for Economic Co-operation and Development, the UN of the world's civil servants, will speak on the tax treatment of internationally mobile employees at the Centre's 24th annual conference in Paris on **Thursday 21 June and Friday 22 June.**

Jacques Sasseville, the OECD's Head of Tax Treaty Unit, will address the tax treaty aspects of cross-border secondment of employees, including consequences for employers and employees; cross-border aspects of award and exercise of stock-options and the tax treatment of other forms of incentive-based remuneration.

Delegates will study the worldwide Eso plan installed by Schneider Electric, one of the world's energy giants – with a payroll of 130,000 employees in more than 100 countries. Schneider Electric's global reward equity director **Caroline Labregere**, will deliver this key case study.

Delegates will doorstep final proposals being drawn up by the UK government for major legislative and regulatory reform in the employee ownership sector. Speaker **Graeme Nuttall**, share scheme adviser to the Coalition Government, is working with minister Norman Lamb (see IoD story). Graeme's audience will include a senior civil servant from the Business Department (BIS), who will monitor closely the reactions of delegates to the plans, which Graeme will outline. His slot title is: *Driving employee share ownership into the mainstream British economy.*

Leslie Moss, practice leader, human capital consulting, Aon Hewitt, will launch the executive reward segment by discussing: '*What's happening to executive pay?'* He will be followed by **Joe Saburn**, of New York law firm Norris McLaughlin & Marcus, with his slot entitled: '*Shareholders finally get to speak - the practical impact of 'Say On Pay' in the US'* while **Patrick Neave** of the investment directorate, Association of British Insurers, will explain: *The new parameters of executive remuneration.* Centre international director **Fred Hackworth** will moderate a delegate debate on key issues*, including executive reward, tax incentives and whether the more widespread use of Eso can help fuel the economic recovery.*

Sami Toutounji and **Katia Zaboussova** of US lawyers Shearman & Sterling, Paris office**,** will deliver a presentation entitled *'The French exception in stock plan design.*'

In all, this conference offers 16 expert topic presentations, which represents superb value for money. The hotel is in Boulevard Haussmann, a stone's throw from the Place de L'Opera (see hotel website at**:** http://www.millenniumhotels.com/fr/fr/millenniumparis/gallery/index.html)

There is a reduced price **conference-only** option this year, which may appeal to those who do not require accommodation during the conference. If you plan to attend as a delegate, please contact international director Fred Hackworth at: fhackworth@hurlstons.com asap. Two-day delegate tickets, without

accommodation but including lunches, are offered to Centre members at **£425** for plan issuers and **£525** for practitioners (service providers). More than 35 people have already registered for this event.
The conference e-brochure is co-sponsored by **RBC Corporate Employee & Executive Services** and by Jersey based trustee and wealth manager **Appleby Global.** The conference cocktail party on Thursday evening is sponsored by **Sharetrack,** which offers software solutions for employee share plans. Sharetrack is developed, maintained and supported by **Cytec Solutions Ltd**, a specialist web application development company founded in 2000 and based at offices in Canary Wharf, London.

Centre Awards 2012 entries deadline approaches
The deadline for entries for this year's Centre's Awards for Best Employee Share Ownership Plan 2012 is at hand, so please get your submissions sent by bike or email to Centre HQ **at once –** esop@esopcentre.com**.**
There are three main award categories this year – the usual separate awards for both large and smaller companies (employing more or less than 1500 people) and a new award, Best Communications supporting an all-employee share plan.
Would-be entrants and/or their advisers should contact the Centre immediately at + 44 (0) 20 7239 4906.
Chairman Malcolm Hurlston will announce the names of the finalists during the 24th annual conference in Paris (see above). This fiercely contested annual competition is now in its eleventh year. The winners will be decided by a panel of three impartial judges who are experts in the field of employee equity. The winners and runners-up will be announced - and presented - during the Centre's celebrated annual black-tie Awards Dinner at the Oriental Club, London W1, in the Autumn.
Centre national director Dave Poole will announce more details shortly.

DAVOS 2013: Call for papers**:** The Centre's 14th Global Employee Equity Forum will take place on **Thursday Feb 7 and Friday Feb 8** at the five-star Belvedere Hotel, in Davos Platz. The Centre would like to hear from members who want to present at this prestigious event. Please contact international director Fred Hackworth: fhackworth@hurlstons.com in order to discuss your ideas for speaker topics. The Steigenberger Group's MD for Switzerland, Conrad Meier, has assured the Centre that service standards at the Belvedere will be impeccable. Mark these dates in your diaries and get sign-off to attend from your purseholder.

Shareholder Spring claims top City scalps
The Shareholder Spring rebellion, led by City institutions, claimed the heads of three major companies within a fortnight.
The biggest scalp claimed by irate investors was that of Andrew Moss, the now ex group chief executive of the UK's second biggest insurance company – **Aviva.** Sly Bailey, the boss of newspaper publisher **Trinity Mirror**, and David Brennan, the head of drugs group **AstraZeneca** had to stand down too after shareholders expressed their discontent over the poor alignment of reward, measured against company performance.
The mood of rebellion was stoked up by public and media resentment that executives appeared to be receiving ever more lavish pay awards while the rest of the country suffered from the economic downturn.
Shareholder Spring kicked off at **Barclays Bank,** where the board saw nearly a third of shareholder votes fail to back its remuneration report, after it emerged boss Bob Diamond had received around £17.7m in pay, bonuses and vested long-term shares awards in 2011.
The biggest shock came at Aviva**,** where almost 60 percent of shareholders failed to back executive payouts – putting Mr Moss in an impossible situation. Excluding abstentions, 54 percent voted against the remuneration report. Shareholders were angry about the amount the new UK ceo, Trevor Matthews, was paid when he joined the firm. Mr Matthews, on a basic salary of £720,000 a year, joined Aviva on 2 December, so the remuneration report only covered his first month in the job. He received a bonus of £45,000 for that month's work; he was given a £470,000 cash payment and £2.02m worth of shares to make up for shares and bonuses that he would have received had he stayed with his previous employer. On top of all that, a long-term incentive plan was drawn up for him which, if Aviva shares go up, will give him a cash payment equivalent to the amount extra that £1.62m of shares would be worth; plus £35,280 to pay his legal fees and a £1,309 car allowance. Shareholders were annoyed too about falling share prices and dividends. Aviva shares have fallen by more than a quarter over the past 12 months. Earlier, in a futile attempt to head off the rebellion, Mr Moss had agreed not to take a pay rise, which would have taken him up to the £1m basic salary mark. Counting abstentions, Aviva shareholders voted 50 percent against the remuneration report, with only 41 percent in favour and the remaining nine percent abstaining.
Pendragon, the UK's largest car dealer, scrapped its executive pay plan after becoming the latest victim of shareholder spring. Two-thirds of investors voted against the remuneration report – one of the biggest shareholder rebellions so far this year – while 26 percent voted against the re-election of chairman Mike Davies and 14 percent against ceo Trevor Finn.
The **Association of British Insurers,** whose members control about 15 percent of the stock

market, had issued a red top warning about Pendragon's remuneration report before the agm took place.

In response to the vote, Mr Davies announced that Pendragon would scrap proposed changes to its executive pay. Pendragon had proposed increasing the bonuses available to its executives from 100 percent to 150 percent of base salary to provide a "more market-competitive bonus." He said: "I would like, on behalf of the board, to take this opportunity to reassure all shareholders that we have taken their objections about short term and long term incentive plans seriously. The company therefore announces that it is withdrawing all changes announced in the remuneration report, pending consultation with shareholders. We will endeavour to address this swiftly and entirely, and with the help of independent professional advice. The board, with close shareholder consultation, will immediately undertake a full review of all remuneration policies, including newly proposed policies which would have impacted this and subsequent years."

However, **William Hill,** Britain's biggest bookmaker, struck back against the investor backlash, dismissing an attempt to overturn a £1.2m 'retention package' and an 8.3 percent salary rise for ceo Ralph Topping - after it was passed at the agm by the narrowest possible majority of 50.1 percent. Chairman Gareth Davis said it was in the shareholders' interests to "ensure that Ralph remains with William Hill at a critical time in the group's evolution". William Hill suffered a shareholder rebellion at its agm last year too - over a 56 percent increase in Mr Topping's compensation package to £1.6m.

There were other serious shareholder revolts over executive reward at:

- **Xstrata** – where 40 percent opposed the mining group's remuneration report
- **Premier Foods** – where more than 30 percent failed to back the remuneration report
- **Citigroup** - where 55 percent of voting investors rejected a £9.3m reward package for ceo Vikram Pandit, as well as some other other rewards for senior executives overseeing day-to-day operations.

Xstrata immediately walked into another shareholder row when it emerged that its ceo Mick Davis – already one of the FTSE's best paid bosses – will receive a hefty retention package just to stay on as chief executive when it merges with **Glencore**. Documents sent to shareholders revealed the pay plans for the merged group's management, amid reports that Mr Davis's three-year retention package will be worth tens of millions of pounds and will not be linked to performance. Last year he was paid £3.4m. Jane Coffey, head of equities at Royal London Asset Management and an Xstrata shareholder, said the group would be unhappy if Mr Davis's package is not 'incentivising.' "If it is going to be a pure retention package, then we'd definitely vote against things like that," she said. "What we don't like voting for is money for showing up."

In all, five companies faced remuneration protest votes on the same day and three more – engineering company **IMI, Avocet Mining** and promotional products company **4imprint** – faced shareholder rebellions too on the following day.

The vote at Aviva was replicated at London-listed mining house, **Central Rand Gold**, where 75 percent of its investors rebelled. This was only the eighteenth time that such reports have been voted down since the procedure was introduced a decade ago. Remuneration in some cases has just been a smokescreen for other concerns, according to some shareholders. "A lot of these pay revolts have [really] been about bad strategy," said one.

Despite announcing her departure from the Trinity Mirror board before its agm, Ms Bailey's scalp didn't stop 46 percent of its voting shareholders rejecting the group's remuneration report.

"The departures are a response to criticism by shareholders of what they see as the poor performance of the relevant companies," said BBC business editor Robert Peston. "In these circumstances, executive rewards often become the specific object of shareholder unhappiness, because of the perceived unfairness that top executives should be handsomely rewarded when their respective businesses are performing in average way or worse. Shareholders are saying that if they're not being enriched, executives should not be sleeping on huge piles of cash. In other words, the trend is of growing activism by shareholders to prevent unmerited rewards, or excessive pay relative to how the business is doing. It is not a campaign against big pay per se," he added.

Unilever shareholders defied the revolt by overwhelmingly backing ceo Paul Polman's six percent rise in salary, taking him close to £1m at a time when group profits rose by only one percent, and his new long-term incentive scheme which could involve payouts of up to almost 400 percent of Polman's salary. Shareholders at **Centrica**, where the boss, Sam Laidlaw, accumulated a £4.3m remuneration package on the back of flat corporate earnings, nevertheless gave the rem report 88 percent backing.

WPP's agm was not being held until June 13 but anger was already brewing among some shareholders over the pay deal awarded to founder and ceo Sir Martin Sorrell, who received almost £13m in salary, bonuses and benefits in 2011.

Business secretary Vince Cable, who is looking at proposals to give shareholders binding votes over executive pay, met institutional investors. Cable urged shareholders to keep up the pressure on boardroom pay as he pledged to press ahead with his plans to hand investors new powers to clamp down on excessive bonus deals.

After a fortnight of big protests about pay at underperforming companies, Cable welcomed the "very healthy" signs that shareholders were finally taking control of the companies they owned. He said: "There is a broader movement. It's about reacting to extremes. We've seen ludicrous levels of payments unrelated to performance." Cable met institutional investors to discuss his proposals for binding votes on remuneration pay policy. It is understood that some big shareholders believe the threshold for acceptance should be as high as 75 percent but the Confederation of British Industry wants it as low as 50 percent.

Chuka Umunna, the Shadow business secretary, said he believed the threshold needed to be pegged at the higher limit. "There is no point in having a binding vote if it does not have teeth," he argued, pointing out this was a vote on policy, not individual remuneration packages

Alan MacDougall, md of **Pensions and Investment Research Consultants** (Pirc), backed Cable's proposals and said they should be enacted: "At present only a small minority of companies run the risk of serious challenge from shareholders over remuneration, and investors' powers are relatively limited. If we want a market-based system of oversight of executive remuneration then shareholders must have the right tools to do the job.

Philip Clarke, ceo of **Tesco,** declined his annual bonus after the company posted its first drop in UK profits for at least 30 years. Other board directors also saw their bonuses cut. Last year Mr Clarke received a bonus of £1.39m. The figures were published in Tesco's annual report just a week after Mr Clarke wrote to 5,000 senior staff, including most supermarket managers, telling them that their annual bonuses were being slashed from about £10,000 to about £2,000. He said: "I decided at the beginning of the year that I would decline my annual bonus for 2012. I wasn't satisfied with the performance in the UK and I won't take the bonus. I'm confident that we're tackling the right issues and building a better Tesco for customers, colleagues, shareholders." Clarke, who took control of the UK division at the start of this year after announcing a shock profit warning, was paid £1.15m, way down from £2.26m the previous year, when his bonus had been £1.39m. Other senior directors saw their bonuses cut to 13.5 percent of the maximum possible. This was a slightly harsher cut that the one suffered by the 5,000 senior staff. In the previous year these staff had received 100 percent of their bonus pot entitlement with the longer-servings staff receiving about £12,000, but this year it dropped to 16.9 percent the equivalent of between £2,000 and £3,000. The total bonus pot for staff was £110m. However, some large US corporations seemed determined to ignore the media fuss. **Pfizer's** former ceo Henry A McKinnell was forced into early retirement after the company's stock price fell, but still managed to leave with a golden parachute payment worth a mere $180m. **Mattel** boss Jill Barad received $50m in severance pay after a disastrous internet investment at the peak of the tech bubble, which saw Mattel's stock price fall by 50 percent, wiping out $2.5bn in shareholder value.

On the move

The **Employee Ownership Association** now has a new chief executive, Iain Hasdell, who arrived last month from KPMG, where he was a senior partner.

Centre member **Pinsent Masons** has merged with McGrigors, giving clients access to the combined knowledge of over 2,500 staff in 15 international locations. "We maximise the benefits of both firms by retaining our focus on the sectors in which both have a strong record," said Pinsent Masons. Its combined reach extends to market-leading coverage across the UK's three legal jurisdictions, four offices in Asia Pacific and two in the Gulf. The combined law firm is opening new office in Europe this year.

Finance (No 4) Bill

There has been no further progress on the Finance Bill since Clause 6 (charge and main rate of corporation tax for financial year 2013) was passed in the Public Bill Committee, said Centre member **Deloitte**. Parliament prorogued on 1 May without further considering the Bill. The next Parliamentary session began after the Queen's Speech on May 9, but the Public Bill Committee did not meet again until May 22. It met again on May 24 immediately before the Whitsun recess and meets finally from June 12 to 26. Parliamentary sessions will run from May to the May in future, so it will be the norm for Finance Bills to be spread across two sessions. New legislation ensures the Bill does not lapse at the end of a session, as was previously the case. The Treasury Select Committee in its report on the 2012 Budget recommended that the Government look at the timings for future years and that future Budgets should take place earlier.

COMPANIES

BHP Billiton's 'SharePlus' employee share plan took the top gong for *Best International Share Plan* at Employee Ownership Australia Awards night, a testament to the company's dedication to offering its people this additional remuneration opportunity since 2007. **Fletcher Building** was recognised for *Best New Employee Share Plan*, adding another piece of silverware to the growing collection for its

FBuShare plan. Matthew Garvan, md of **Computershare** Plan Managers, said it was just reward to both companies for offering their employees the opportunity to share in growth and profits. "Both Fletcher Building and BHP Billiton made a conscious effort to recognise their employees and support investment in their plans through various levels of purchase matching. The outstanding take-up rates for both plans are testament to these companies delivering products perfect for their respective workforces," he said. Computershare worked side-by-side with BHP Billiton to support almost 25,000 participants, based in 35 countries, manage their investments and realise the benefits of employee share ownership.

BT employees are to receive an average payout of £8,000 as a three-year SAYE- Sharesave scheme matures. In addition, BT will pay a £250 bonus to all UK employees to recognise the achievements of the business over the last three years. The Sharesave scheme was launched in 2009 with shares available to BT's staff at a ten percent discount. Around 20,000 employee participants will benefit from the scheme. More than 1,000 BT employees will benefit too from the payout from an incentive share plan, the first time it has paid out in full.

More than 14,000 current and former staff of **Eircom** are set to share a tax-free windfall of about €125m following a decision by its employee share ownership trust (Esot) to wind it up after the company recently emerged from examinership, reported The Irish Times. This means an average tax-free payout to Esot scheme members of almost €9,000. Since the establishment of the Esot in late 1998, members have received, on average, about €62,500 each, depending on when they joined the trust. The Esot will distribute €85m in Eircom protected preference shares - segregated from the general assets of Eircom - to members within a month. In addition, the Eircom Esot holds about €40m of Vodafone shares, which will be distributed to members within the next 12 months. These trust held shares date back to the sale of Eircom's former mobile phone arm, Eircell, to BT more than a decade ago.

During the first quarter, **Hermès International** continued to buy back shares for its employee share ownership plans. The company bought back 89,482 of its own shares for €21m. At March 31, it held 1,476,895 shares worth a total of €311m, not including shares covered by a liquidity contract. These shares have been purchased to satisfy the eventual maturity of bonus share plans allocated to employees.

Shop-fitting business **Simpson** (York) increased turnover by about £13m to £73.5m, compared to 2010. Pre-tax profit increased from £871,478 to £1.33m. The business, which employs about 200 people and is 25 percent owned by its employees, through an ESOT, said its growth was based on repeat work for clients including Nestlé and Marks and Spencer, as well as new corporate clients.

Black empowerment via Eso

Zimbabwe plans to complete the transfer of majority stakes in foreign-owned mining companies to local black investors shortly, a state official said. To date, 260 companies had submitted transfer plans to the government, with 69 approved, 14 rejected and 177 still pending, Zwelibanzi Lunga, general manager for compliance at the National Indigenisation and Economic Empowerment Board, said in an interview in Harare. "The majority of the companies in the mining sector who are fully complying are Chinese and Asian companies," he said. "The government will invoke penalty provisions such as cancellation of operating licences if companies don't comply," he said. Zimbabwe, which with South Africa, holds more than three-quarters of the world's platinum, published a law two years ago that compels foreign-owned companies to cede or sell 51 percent of their shares to black nationals or State-approved agencies. Impala Platinum Holdings, the world's second-largest producer of the metal, in March agreed in principle to sell 31 percent of its Zimplats unit to a State agency and 20 percent to employees and communities. Impala owns 87 percent of Zimplats. Aquarius Platinum, which owned Mimosa platinum mine with Impala, in March submitted a proposal to hand control of the operation to Zimbabwe, which accepted the plan. Lunga said 15 companies had been given approval for community share ownership trusts and employee share ownership plans, which result in mining firms ceding ten percent each to local communities and employees. The empowerment board expects foreign companies in the manufacturing industry to transfer majority stakes to locals by September next year, Lunga said. Of the 256 manufacturing firms that have applied, 128 have been approved, 125 are pending and three have been declined. British American Tobacco Zimbabwe Holdings and Pretoria Portland Cement Co.'s unit in the Southern African country complied with equity laws that seek to give a majority shareholding to locals.

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