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it's our business

newspad of the Employee Share Ownership Centre

UK employee shareholders may be awarded loyalty shares

The obligatory award of 'loyalty' shares to UK shareholders, including employees, who hold their shares for at least two years is now a possibility after a key committee of the European Parliament voted in favour of increasing shareholder powers in listed companies.

The Parliament's Legal Affairs Committee of MEPs, who debated changes to the **European Shareholders Rights Directive** of 2007, backed a proposal to force all EU member states to take at least one of four steps to reward investors who hold shares in a company for at least two years: *extra voting rights, *tax incentives, *loyalty dividends or *loyalty shares. MEPs said that these loyalty rewards would promote long-term shareholding in European businesses. It would be up to member states to define 'long term' but it should not mean less than two years.

Assuming that this is passed by the European Commission and the Council of Ministers, this shareholder loyalty reward plan enshrined in a new European Shareholders Rights Directive, will land on the desks of the Treasury and BIS mandarins later this year.

The move came as battle rages over shareholder voting rights in French companies, especially those in which the French state still holds shares. The *Florange Law* compels French companies to grant double voting rights to investors who have held registered shares for at least two years – unless two-thirds of shareholders vote against double votes at agms or egms. The idea is to force companies to think about the longer-term future by encouraging more loyalty to the company by investors, who include employees and other individuals. However, the French government's sudden enthusiasm for shareholder double voting rights looked more cynical, for it enables the cash-strapped government to sell some of its shares in prestigious companies like **Engie** (formerly GDF-Suez), **Orange, Renault** and **Veolia** while preserving its hold on them via its 'double share' voting rights.

Almost unnoticed by the UK media, the loyalty shares awards issue potentially opens a *Pandora's box* for the employee shareholder movement, because in most cases employee shareholdings are pooled together in nominee accounts. Unless they have CREST (the Central Securities Depository and Settlement system) accounts, their names *do not appear on the register of shareholders*. So there's no guarantee that employee shareholders will receive annual reports, the right to vote on questions put to shareholders and attend agms and egms, direct notification of corporate actions, direct credit of dividends to selected bank accounts and the right to any shareholder perks the firm offers.

Leading plan administrators are well aware of this and have developed online strategies to ensure that all employee shareholders are not only kept informed, but can pose questions about their voting rights, shareholder perks, company meetings and employment policy. However, problems may arise in smaller quoted companies which may not use well known plan administrators to manage their employee shareholder accounts.

Owners of shares held in nominee accounts depend on their stockbroker to pass these rights on and not all brokers pass on all rights.

The UK Shareholders' Association said: "Some nominee account providers give additional services

From the Chairman

David Cameron's bold move to freeze ministerial salaries, in addition to the clampdown on golden goodbyes for Civil servants, may prove a key turning point. Only social pressure can change the culture in which unexceptional business leaders receive kings' ransoms. In Scandinavia and the Netherlands opprobrium already attaches to the over rewarded. A similar culture can change the mindset of UK remcoms. An impressive start from One Nation conservatism!

Malcolm Hurlston CBE

Special two nights half-board accommodation package offer to plan issuers who would like to attend our annual conference in Rome on Thursday/Friday June 4 & 5: See inside pages for details.

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which go some way towards compensating investors for the shareholder rights they do not have, but these are not the legal rights enjoyed by investors who have their own names and addresses on the relevant share registers."

Employee shareholders can get their brokers to assign their voting rights to them or, use a mechanism established by some brokers by which employee shareholders notify them how they wish to vote and the broker then submits a proxy form to the meeting's chairman instructing him how to vote the shares.

Centre chairman Malcolm Hurlston says in his welcome address to the Centre's annual conference in Rome: "We would like to see employee shareholders have and use voting rights. Partly, it is an employee share ownership issue, but it also affects vast swathes of small shareholders who are prevented by indifferent brokers from enjoying their full democratic, as well as economic, rights to the detriment of good corporate governance"

Furthermore, the alarming prospect hoves into view employee shareholders being denied their right to future loyalty share awards because they are not, legally speaking, the owners of their employee shares.

A serious and additional complication is whether or not employee share option holders in SAYE-Sharesave schemes would be just as entitled to loyalty shares as would their counterparts who had invested in *share-based* plans, like the SIP.

Were the UK government to support the granting of 'loyalty shares' as the best method of encouraging more long-term corporate thinking, then the whole structure of nominee accounts might have to be examined in order to facilitate the receipt of loyalty bonus shares by employee shareholders.

Increasingly, the views of employee shareholders are being sought as trade unions and others begin to realise just how valuable employee votes could be in tight agm votes on key corporate policy issues.

The new general secretary of the **Communication Workers Union, Dave Ward**, who will address Centre delegates in Rome, wants 150,000 **Royal Mail** employee shareholders to be given the opportunity of expressing a voice at company agms and egms.

Centre member **Aon Hewitt** said that on September 8, the European Parliament is due to vote on the amendments to the Directive (as recommended by the Legal Affairs Committee). If approved, the amendments must then be approved by the Council of Ministers before adoption. So the earliest the new Directive could come into force would be the end of this year, with member states being given a maximum two years thereafter to implement the changes within their own jurisdictions.

The draft new European Shareholders Rights Directive empowers shareholders to vote on directors' remuneration, so as to ensure proper transparency and tie their pay more closely to their performance. A clause enabling shareholders to vote at least every three years on a company's remuneration policy for directors was backed by the committee. The policy on director's remuneration should state clear criteria for awarding fixed and variable remuneration, including all bonuses and benefits, as well as the main contract terms, including details of supplementary pension or early retirement schemes, said the amended text. The policy should explain how the pay and employment conditions of employees are taken into account and how it contributes to the long-term interests of the company. 'Relevant stakeholders,' in particular employees, should be entitled to express their views, via their representatives, on the remuneration policy, it added.

Some large companies should be required to disclose, country by country, information on tax rulings, taxes paid and public subsidies received. Companies with more than 500 employees and a balance sheet total of €86m or a net turnover of €100m should disclose information on tax rulings, said MEPs.

Will the government promote all-employee plans?

The Tory electoral triumph, coupled with Labour's heavy defeat and the rout of the Lib-Dems, has left some in the UK employee shareholder movement wondering whether they can expect more help from the new government during the next five years.

As said in the previous issue of *newspad,* the Conservative manifesto did not specifically mention employee share ownership (Eso) and is not pledged to do anything more about it in the near future.

After all, Chancellor of the Exchequer **George Osborne** may feel that he has already earned his spurs in the broad-based Eso industry, having doubled employee participants' monthly investment limit for SAYE-Sharesave to £500 and for having raised the annual employee investment limit in Share Incentive Plans too during the last parliament. What with so many pressing pledges and problems for him to attend to, why do more now?

However, there could be sunny days yet for Eso because four factors may work to the advantage of broad-based employee share ownership during the next five years:

*The government *is* committed to helping to improve the UK's worryingly **low productivity levels** in the workplace - up to 25 percent worse than some of our continental rivals. Gordon Brown, when he had Mr Osborne's job, made Eso a central element in his drive to improve the UK's dire productivity levels. This was the rationale behind Mr Brown's decision in the year 2000 to bring into being two entirely new approved share schemes – the all-employee share ownership plan (originally called AESOP), now known as the Share Incentive Plan (SIP) and the stock options based Enterprise Management

Incentive (EMI), aimed at incentivising key employees (not necessarily executives) in small gazelle-type high technology companies. Both have made it easier for companies, both large and small, to reward employees who helped their companies achieve exceptional performance. Sometimes SIP and EMI achieve the desired results and productivity goes up in the plants and offices where these plans have been installed. So will Mr Osborne find himself forced to look again at Eso – as a means of trying to improve UK employees' productivity? Centre chairman Malcolm Hurlston intends to write separately to the Chancellor on this very point shortly.

*There is growing pressure on business margins as the **soaring value of sterling,** vis-à-vis most other currencies, reduces orders from the Euro zone and elsewhere. Over time, that reduces the ability of businesses to continue awarding annual pay rises to employees. For companies in that situation, having broad-based Eso plans can be a medicinal balm because employees have the prospect of getting at least something extra in their pockets, if not a direct pay rise, if the company's share price goes up.

* UK **retail price inflation** recently went negative and if it remains at near zero or worse, many companies will not be able to justify paying their rank-and-file staff annual pay rises. So once again, Eso can help out, if properly applied in the workplace.

*Eso fits well into PM David Cameron's *mood music* of 'governing for the working man,' because it dilutes the old '*us and them'* attitude in the workplace – as employees become more involved in their work and the company they work for – in the knowledge that their efforts can produce better results through share scheme participation for them as individuals, rather than just for the company and investors.

Paradoxically, the failure of former Business, Innovation & Skills (BIS) Secretary of State, **Vince Cable**, to hold his Twickenham seat in the Lib-Dem debacle is by no means a reverse for *broad-based* employee share ownership. For although Mr Cable was and is supportive of employees holding shares in the enterprise for which they work, he much preferred, while in office, employee *majority* ownership of the business, which is only realistically possible in a handful of privately-held companies and not in public quoted ones. Cable studiously ignored broad-based Eso, so much so that he left it to his then BIS Tory deputy **Michael Fallon,** now re-appointed as Defence Secretary, to steer the SIP free share offer to 150,000 postal workers through the hoops as a key element in the part-privatisation of Royal Mail.

It is greatly to be hoped that Bromsgrove MP **Sajid Javid**, Cable's successor as BIS Secretary of State, will be more enthusiastic about helping to promote broad-based Eso in *both* quoted and non-quoted businesses. Rochdale-born Javid, son of a bus driver, served in the Coalition government as Treasury Economic Secretary from 2012 to 2013 and as Financial Secretary from 2013 to 2014. Before that, he enjoyed a successful investment banking career firstly at Chase Manhattan Bank in New York and then at Deutsche Bank, reaching board level before he resigned in order to pursue a political career.

His minister of state for business & enterprise, **Anna Soubry MP,** should be a good contact point for the Eso industry. Her responsibilities include: competitiveness and economic growth, including economic opportunities; the Business Bank and access to finance; deregulation and better regulation; the **Royal Mail** and overseeing the **Shareholder Executive** and its portfolios.

As *newspad* reported in May, published days before the polling stations opened, Tory Centre Office refused to say whether the Treasury would give **Lloyds Banking Group** employees a priority offer to buy its shares at a discount when the final tranches of taxpayer-owned shares are sold off, probably later this year.

None of the Treasury ministers has employee share ownership listed among their responsibilities, though Economic Secretary **Harriett Baldwin MP** and possibly Commercial Secretary **Lord Deighton** may become involved.

Centre friend Financial Secretary **David Gauke MP** remains in charge of **HMRC**, which runs all the 'Approved' share schemes which qualify for tax relief. In addition, Mr Gauke, will oversee the **Office of Tax Simplification,** which – working with the Centre - overhauled share scheme tax and regulatory structures with great success during the last parliament.

Another port of call for Eso could be **Matthew Hancock MP,** who replaced Francis Maude as Minister for the Cabinet Office and Paymaster General. His responsibilities include: public sector efficiency and reform and 'civil service issues,' notably a projected £13bn worth of cuts in Whitehall - by axing up to 100,000 civil service jobs – partly by getting them off the State's books. Part of this drive will comprise him persuading more civil servants to mutualise their departmental jobs by agreeing to become the backbone of new co-owned equity based companies, which would create more work for the Eso industry. The best example of this from the late Coalition Government is the former civil servants who work for MyCSP and who own 25 percent of the company, now majority owned by Centre member **Equiniti.** The chairman has written to **Oliver Letwin MP** who has overall responsibility and who has long been highly influential in Tory policy making.

Raised share scheme investment limits bear fruit

SAYE-Sharesave is enjoying a come-back in the popularity stakes – at least partly on the back of the

new raised investment limits in key approved employee share schemes.
For employees are ploughing in more of their wages and salaries into SAYE and employee participation rates have risen too, according to the latest **YBS** newsletter.
Share plan administrators are reporting that up to 75 percent of their clients have already changed their SAYE-Sharesave employee invitations to take account of the doubled monthly investment limit – now £500 per month - which came into being in April last year.
Other clients, who haven't yet moved on this, have made recommendations to their corporate remuneration committees to change their Sharesave invitations next time round.
Many clients were themselves able to change the investment limits to reflect the increases but some couldn't follow suit because their SAYE-Sharesave plan rules were not linked to the current state of legislation and contained fixed limits which required a formal change to their plan rules.
The more modest investment limit increases for the Share Incentive Plan (SIP), introduced by **Chancellor George Osborne**, were taken up quickly by industry clients. The maximum value of shares an employee can acquire with tax advantages through SIPs has risen by £300 a year to £1,800 for partnership shares and to £3,600 a year for free shares.
Although high earners have gained most from the increased savings limits, more than 20 percent of those earning between 20K-25K were already saving the maximum allowed under the old limits, reported a survey by YBS and Prof Andrew Pendleton of Durham University Business School (at York University at the time of the survey). Almost 30 percent of surveyed SAYE participants saving at the then maximum £250 monthly limit **made no other regular savings**, the survey revealed two years ago.
"The positive impact has been seen both in terms of levels of engagement and increased average savings," said YBS Share Plans national sales manager **Louise Drake**. During the past year, 136 clients renewed their SAYE-Sharesave schemes and the average amount saved rose by 41 percent to £128 monthly.

Accountancy firm considers "iconic paradigm"

Grant Thornton UK LLP is the first major accountancy firm to launch an all-employee consultation on a model for shared enterprise, which should see all 4,500 employees having a stake in the firm. Almost all the company's 185 partners backed a proposal by the leadership team, led by ceo **Sacha Romanovitch,** to launch a consultation on the implementation of a shared enterprise model.
In a radical departure from the traditional partner owned and run structure - which dominates professional services - Centre member Grant Thornton (GT) is set to become a firm run by all its employees and anticipates that the first stages of this new model will be in place by July 1 this year. However, changing a big professional partnership into a shared ownership entity is not easy, given the large sums, often funded by personal loans, which, typically, partners have invested in their business. Hence GT may have to propose a change in the funding structure, possibly involving third-party debt. If not, how are the partners going to be rewarded for risk in future?
Other options could be to install a cash-based all-employee profit-sharing mechanism, similar to the one operated by the John Lewis Partnership, or to convert itself into a public quoted company, as Channel Islands based trustee member **Sanne** did recently.
Senior Grant Thornton employees will ask themselves whether a move towards shared ownership in accountancy, consulting and legal partnerships might deflect attention from the key question of how to increase profitability within the existing business? If rank-and-file employees think that this new approach is a substitute for competitive pay awards, they will soon become cynical about the exercise. A lot of extra profit is needed to deliver an additional layer of reward to 4,500 employees and expectations will be high.
Ms Romanovitch, who has spent her professional life in GT since gaining a chemistry degree at Oxford, said: "My ambition is for all of our people to have a stake in Grant Thornton becoming the go-to firm for growth. The only way we can fully harness the potential of all 4,500 of us is through shared enterprise - a sense that we are all in this together sharing our thinking and ideas, sharing the responsibility to drive the business forward and sharing in the resulting rewards."
Doffing her cap to the **Esop Centre**, Ms Romanovitch added: "Businesses with shared ownership structures significantly outperform other businesses. If you had invested £100 in the Esop index (FTSE-calculated **UK Employee Ownership Index**) on January 1 2003, that would now be worth £749, compared to £277 if invested in the FTSE All-Share. These businesses are recording 55 percent improvements in productivity and 70 percent improvements in quality, and have performed better in the recession, growing their sales by 11 percent compared to less than one percent for non-employee owned businesses." The Centre publishes this index every quarter.
The internal consultation focuses on three specific proposals; shared ideas (including crowd-sourcing the business plan), shared responsibility (including employee representatives on its oversight board), and opening up profits to all employees.
GT is now ranked fifth among the UK accountancy practices, with revenues exceeding £500m a year. If the shared ownership move goes well and increases

profitability in the short term, this radical departure from convention could be an iconic paradigm in professional services. Equally there is a risk that employees and partners become disengaged and disillusioned if the projected profit improvements are not forthcoming.

Performance shares bonanza at BT

More than 1,000 **BT Group** managers and other senior employees have received collectively around 16.7m shares worth £4.69 each, under a long-term incentive plan (LTIP). In all, the telecoms group paid out £78m to eligible staff, based on their performance over a three-year period from 2012. BT's ceo received the largest allocation of shares at 416,719, followed by its finance director who received 391,131 - equivalent to £1.8m.

Last year, more than 22,000 employees benefited from a share payout of £1.1bn in August after BT's five-year Sharesave plan matured.

A BT spokesman said: "More than a thousand employees have received LTIP performance-based shares after helping transform the company over the past three years. BT is a much better and stronger organisation than it was three years ago and this is reflected in the share price. It is generating strong cash flow and delivering higher profits and dividends at the same time as making substantial investments for the future."

Final reminder: share plans HMRC registration

All companies operating employee share plans in which UK employees participate must register the share plans with HMRC by **July 6** this year. Where UK employees participate in share plans, the company operating them must make an annual filing to HMRC of events, such as the grant or vesting of awards. The filing must be made for each tax year (April 6 – April 5), by July 6 after the end of the tax year for which the filing is made. Hitherto, this filing has been made in hardcopy form. However, filings for the tax year ending April 6 2015 and subsequently *have* to be made **online.**

In order to be able to submit filings using the online system, the employee share plans must first be **registered.** So, in order for the annual filing to be able to be made by July 6, it must be registered *before* that date. In addition, any UK tax-advantaged share plans – Share Incentive Plans, Sharesave (SAYE) schemes and Company Share Option Plans (CSOPs) must be **self-certified** as being in compliance with the relevant UK tax legislation. This self-certification is part of the online registration for these types of share plans, and must be completed too by **July 6. Phil Ainsley Equiniti** employee services md said: "Everyone understands the importance of registering their share plans, but with so much else going on, including reviewing plan rules, registration may still be outstanding. I am concerned that by leaving things to the last minute, some companies may not allow themselves a margin of time to act and so jeopardise the tax advantaged status of their plans" Failure to self-certify a UK tax-advantaged share plan (including tax-advantaged plans which operate over shares in a non-UK company) by July 6 can lead to a loss of the tax-advantaged status, which could prejudice the tax treatment of awards under the share plan and can lead to penalties for the UK employing company.

On the move

Centre member **Linklaters** has elected London-based **Alex Beidas** as partner in the firm's employment and incentives practice, as of May 1 this year. Alex joined Linklaters in 2006 and is an expert in employee incentives and a market leader in financial services remuneration regulation. In 2014, she was recognised by *Financial News* as one of '40 under 40 rising stars in the legal profession'. She is a frequent speaker and commentator on such issues, has co-chaired the City Remuneration Summit over the last three years and edits Linklaters' Global Remuneration Guide which is a definitive guide to global remuneration rules around the world. She is a non-executive director of the children's literacy social enterprise Pop Up Projects CIC.

Eso supporter **Henry Englehart** is stepping down after 24 years at the helm of insurance giant **Admiral.** Mr Englehart, who has served as ceo since the company was founded in June 1991, will make way for Admiral's co-founder and current chief operating officer David Stevens. Englehart floated Admiral in 2004 at 275p per share and though it is off its peak of £17.48, it still trades at around £14.50 per share. Most of the 7,000 employees have considerable share -holdings in the company, which sports the Churchill brand, among others.

Amanda Flint has joined **Mercer** from Grant Thornton to consolidate and expand her remuneration practice as part of the Mercer executive compensation team, operating in 130 countries worldwide. She advises companies of all sizes on pay and remuneration, including advice to remcoms on structuring executive pay, working with companies on the design and implementation of stock incentives, bonus arrangements and all employee incentives both in the UK and internationally. She advises on corporate governance involving remuneration and executive pay, including presentation to key stakeholders. You can contact Amanda on: E: amanda.flint@mercer.com
T: +44 20 7178 3276

Former UBS md **Oliver Freigang** is *"open to new experiences"* having left Zurich-based **Equatex,** which now owns **Accurate Equity**, in April. Wayne Story is the interim ceo, Frank Juhre, coo and Lisa Sennhauser, cfo.

Centre friend **Chris Leslie MP** has become Shadow Chancellor replacing Ed Balls, who is spending more time with his family. Chris is a former guest of

honour at the Centre Awards Dinner and takes a keen interest in employee share ownership as a former Gordon Brown protégé. While out of office he was on the board of the world-leading debt charity Consumer Credit Counselling Service (also founded and chaired by the Centre's chairman).
John Meehan is now managing director at Centre member **Global Shares**

CONFERENCES & EVENTS
ROME: June 4 & 5
Last call for the Centre's 27th annual European employee equity plans conference, which takes place in central Rome at the four-star **Residenza Di Ripetta Hotel** on **Thursday June 4 and Friday June 5**. There's plenty of time for you to register – *see below.*
KPMG head of reward services, David Ellis, will explore the recent executive remuneration landscape when he speaks. **Imagination Technologies** company secretary **Tony Llewellyn** will explain how this British-based semi-conductor, RD and licensing FTSE250 company remains dedicated to employee share ownership. Delegates will have a unique opportunity to lift the carpet on **Roadchef** - the tarnished ex-poster boy of the Esop movement. **Chris Nott** of **Capital Law** and **Ann Tyler** will recount how employee shares were moved en masse into a quite separate trust - and the court-imposed solution. **Dave Ward**, newly elected general secretary of the **Communications Workers' Union (CWU)**, will discuss how postal workers are adapting to the introduction of the UK's largest employee share ownership scheme, a Share Incentive Plan (SIP), which has almost 150,000 member participants. In addition, 35,000 of these posties signed up to an SAYE, which is a first for **Royal Mail.**
More than 30 people have registered for this Centre showpiece event, which opens with an informal pre-conference dinner on Wednesday June 3 at **Alfredo's**.
Our speakers represent: **Avanzi, Capital Law, CWU, Equatex, Imagination Technologies, Investment Association, KPMG, Pett, Franklin & Co., Primondell, Solium, Strategic Remuneration, Tapestry Compliance, Western Union** and international lawyers **White & Case.** Centre trustee members **Appleby Global** and **Bedell Group** are logo co-sponsors of the conference e-brochure, which can be downloaded from the event page of the Centre's website www.esopcentre.com Centre member **Computershare** is producing the classy and informative Rome delegate handbook.
*Two delegate places are offered to plan issuer companies for the bargain basement price of **£525** (no VAT payable) **-** to include two nights half-board accommodation (*June 3 & 4*) in the Residenza di Ripetta Hotel, admission to all working sessions, coffee break refreshments, invitation to our cocktail party (partners welcome) and a bound handbook.
*Practitioner members can send trainees as delegates for **£765,** obtaining the same package. Delegate fees:
Centre members:
Practitioners: £1,135 plan issuers: £675.
Non-members:
Practitioners: £1,750 plan issuers: £765.
*Group rate prices are available to those upgrading their rooms or extending their stay (subject to availability). Attendees pay only c €250 = £181(at current exchange rates) per night for extra nights. Supplements charged for room sharing are only €26 extra per night. For more info, including the updated Rome e-brochure, please visit the event page on our website. Your Centre conference contact is Fred Hackworth. To book your delegate place, please email fhackworth@esopcentre.com **now** with a copy to: esop@esopcentre.com.

Centre - IoD September 3
The Centre's next joint share schemes conference with the **Institute of Directors** takes place on **Thursday September 3** at the Pall Mall HQ of the IoD. This all-day event focuses on SMEs and historically attracts their ceos, directors, fds, HR specialists and other key decision makers in such companies. Speakers from Centre member firms will help them decide whether to introduce an employee share scheme and/or to deepen existing employee share ownership in their business. Confirmed speakers are **Paul Malin**, partner, **Haines Watts**; **Mike Landon**, director, **MM & K**; **Mike Gearing**, partner, **FieldFisher**; **David Craddock**, founder, **David Craddock Consultancy Services**; **David Pett**, partner, **Pett, Franklin & Co**; **Nigel Mason**, director, **RM2 Partnership**; **Stephen Woodhouse**, partner**, Pett Franklin & Co**., **Robert Head,** director, **Pearson** and a valuation official from **HMRC.**
Speaking slots at this event are fully booked but if you are a Centre member and would like to be on the reserve list, please contact Jacob Boult at Centre HQ – email jboult@esopcentre.com or phone him at **+44 20 7239 4971.** Look out for further details, including how to buy tickets.

Centre Awards Dinner & Reception
The Centre is finalising a new venue for the awards dinner. You will receive a save the day before the end of the month.

DAVOS 2016: A bargain in Switzerland!
Reserve your place now for Centre's 17th winter conference, which will be held in **Davos** on **Thursday January 28 and Friday January 29,** days after the closure of the World Economic Forum**. Prospective Centre speakers are invited to suggest ideas now on what themes and slot topics our Davos 2016 programme should contain. Mike Landon,** a director of **MM & K** has already offered to help compile the conference agenda and others will join him. The Centre has obtained a remarkably favourable deal with the four-star **Seehof Hotel** in

Davos Dorf, allowing us to **reduce all attendance fees by at least £100** compared to last February. Our *Early Bird* charges for the two nights half-board accommodation + conference + cocktail party package in the Seehof are: **Speakers**: practitioners **£825;** plan issuers **£399; Delegates:** member practitioners **£945;** plan issuers **£495,** non member practitioners **£1450.** *No VAT is charged as the event tales place outside the UK.* Email Fred Hackworth now to reserve your speaker or delegate place and/or to suggest topic themes for this key annual Centre event: fhackworth@esopcentre.com, with copy to the Esop Centre at:esop@esopcentre.com

Pett Franklin's share schemes guide

Share Schemes at a Glance is a free guide for 2014-16, which saves you from hunting government websites for information about a particular tax rate or time limit for a certain type of employee share scheme. The team at **Pett Franklin** has collated all the key facts and figures for the tax years 2014-15 and 2015-16 into a handy guide, *Pett Franklin's 2014-2016 guide to the key facts, figures and tax rates for share schemes*, which may be downloaded for free from: http://tinyurl.com/p9d6wkl With any share scheme it is important to keep up-to-date with the latest changes in tax, regulatory issues and employment law. The guide has been designed to give those considering an employee share scheme, all the facts, figures and must-have information for the upcoming year relating to: Enterprise Management Incentives (EMIs), Company Share Option Plans (CSOPs), Save as you Earn (SAYE), Share Incentive Plans (SIPs), Employee Shareholder Status (ESS also called Shares for Rights) and Employee Ownership Trusts. The guide provides key information on: participation limits; key requirements; bonus rates; income tax; NICs; capital gains tax; grossing up; loan criteria; and key dates. For further info, please contact David Pett, William Franklin or Stephen Woodhouse at Pett Franklin on +44 121 348 7878

Send your share plan news stories to newspad

newspad is happy to receive your share schemes news, so don't hesitate to send us snippets about both broad-based and executive equity remuneration schemes in your company. Examples of what we would want to publicise in *newspad* are: profitable share scheme vestings, new plans your company is about to install and why; extensions to existing plans and new types of plans you have installed or are about to do so. You might have an interesting story about the problems of putting share plans into Mongolia – or wherever. Contact newspad editor Fred Hackworth at: fhackworth@esopcentre.com. You do not have to send your information in polished prose – that's my job – just supply the basic facts. You can send us a personal quote (perhaps giving anecdotal experience about your scheme) to go with your share scheme information, or you can choose not to have your name mentioned in the story.

Bonus corner – allowances killed off

Attempts to avoid the bankers' bonus cap by paying monthly 'allowances' is now officially over. The Bank of England has stipulated that employment contracts should be amended to reflect the European Banking Authority's (EBA's) ruling that they are attempting to circumvent the rules, said **Amanda Flint** of **Mercer**. Malus and clawback cannot be applied as the allowances must be treated as fixed pay. Despite this ruling the Bank of England remains opposed to the bonus cap and is concerned that it will push up salaries and make pay structures inflexible. The UK's banks need to rewrite the employment contracts of hundreds of staff receiving top-up payments alongside their salaries to get round the EU bonus cap. Andrew Bailey, deputy governor of the Bank of England, said the contracts must be amended to comply with a ruling from the EBA, which said that many of the attempts by major banks in the UK to sidestep the restrictions on bonuses were breaching the spirit of the rules.

Since last year – when the EU imposed a limit on bonuses to 100 percent of salary, or 200 percent if shareholders give their approval – banks have been looking for ways to prevent the pay of their top bankers from falling. Many started paying 'allowances' but the EBA concluded in October that these were effectively variable pay – with characteristics like bonuses – and in breach of the ratio imposed by the EU. Antony Jenkins, boss of Barclays, and his counterpart at Lloyds Banking Group, António Horta-Osório, received around £1m each in allowances. Stuart Gulliver, HSBC's ceo, has been given £1.7m.

The ruling is expected to be enforced for the 2015 bonus year – and have an impact on payouts next April, said *The Guardian*. According to the EBA's analysis, 39 banks in six EU states are paying allowances following the introduction of the bonus cap, although it is not clear how many of these top-up payments were regarded as being variable rather than fixed pay. Bailey has responded to the EBA's findings and told banks to make sure that any allowance – also known as role-based pay – cannot be withdrawn or clawed back as a bonus might be. Interviewed at the **Reuters** financial regulation summit, Bailey said: "Many of them don't need to rip them [the contracts] up. They need to amend the terms. The effect is to make the allowances more fixed and the scope to withdraw them is that much more limited."

Executive reward model broken, say directors

A majority of UK board members believe the executive pay model is broken, and not closely aligned with companies' strategy, according to a survey by Mercer, the global consultancy. Of 40 directors surveyed — most of whom sit on the boards

of FTSE 100 companies — nine percent said the top pay system was 'very much' broken and 45 percent said it was 'somewhat' broken. Their responses came in the wake of shareholder protests over executive pay at companies such as **HSBC** and **BP**. Asked whether board and remuneration committees would limit increases in top managers' pay when the economy picked up, 50 percent replied 'not really.' Only 31 percent of non-executives said their company's remuneration policy 'very much' reflected their corporate strategy, with 54 percent saying it did so 'somewhat.'

Simon Walker, director-general of the **Institute of Directors**, said he was both unsurprised that so many non-executives felt the pay system was not working and pleased that criticisms he had made seemed to be getting through. He told *The Financial Times* that the survey results reflected the "excess that things have got to" and the publication of directors' pay in annual reports had "ratcheted things up". Mr Walker suggested one remedy for unjustifiably high executive pay was to broaden the base of people from which companies selected their directors. "The narrowness of boards and remuneration committees has contributed to [the problem]," he said. At many companies, he argued, there was a belief that anyone who had served as ceo or fd at a FTSE 350 company was suitable to join another group's board. This meant they came to the boardroom already accustomed to the outsize rewards that top executives can receive. "They think this is normal life," he said. Walker proposed that companies review the age profile of their boards. "There are just four directors in the FTSE 100 under 40," Mr Walker said. "That's an extraordinary statistic." Failing to address wider concerns over excessive pay may prove dangerous, he suggested, as the subject had seized the public imagination. "Unless boards show some propriety and restraint, the government might feel it has to legislate."

Dominic Rossi, chief investment officer of fund manager Fidelity Worldwide Investment, has been pressuring quoted companies in which Fidelity has a stake to tighten up on how they pay their bosses. Rossi's focus is on long-term incentive plans (LTIPs), under which senior executives are given large volumes of shares in their own company, provided it meets certain performance criteria set by the remuneration committee. Two years ago Rossi drew attention to the fact that most company executives could sell these shares as soon as they vested - typically after just three years. This made a mockery of the notion that they represented a reward based on a company's long-term performance. Rossi told all the UK's big quoted companies that Fidelity would vote against their remuneration reports at shareholder meetings unless they extended the minimum holding period for any shares granted under an LTIP to *five years*. "We have had some very interesting dialogues," said Rossi - "some very supportive, others, frankly, quite hostile". Fidelity has found itself forced to vote against the remuneration reports at 56 percent of agms over the past year. But the fund manager, which has £191bn under management, hailed progress. It reported that the proportion of FTSE 100 companies that have changed their rules to comply with its five-year requirement has hit 42 percent. That's up from 27 percent last year and just four percent in 2013. Companies that have joined the *list of virtue* in the past year include the insurer **Aviva**, caterer **Compass Group** and **Imperial Tobacco**. "We know that changes have happened as a direct consequence of this campaign," Rossi said. However, progress in getting FTSE 350 companies to tighten up has been rather slower, with just a quarter signed up to the five -year principle. However, other large fund managers have failed to join forces with Fidelity in pushing for reform, possibly because their own pay structures are unreformed. Of all the financial companies with fund management operations that are themselves listed on the FTSE 100, only two - Aviva and **Standard Life** - have signed up to the five-year LTIP holding period. **Old Mutual, Prudential, Legal & General, Aberdeen Asset Management** and **Schroders** all fail to make the Fidelity list. "If their own holding period is less than five years obviously they're going to find our proposal problematic," Rossi said.

The left-leaning **High Pay Centre** think-tank recently called for LTIPs to be abolished, pointing out that share payments to FTSE 350 directors had increased by more than 250 percent between 2000 and 2013, which is almost five times as fast as returns to shareholders, undermining the link between this form of remuneration and performance. However, Rossi believes abolition would be going too far. While he accepts there is a case for requiring an even longer holding period, he chose five years because it would be more likely to be accepted by businesses. "I believe in pragmatism over perfection," he explained. Rossi stressed that he had no problem with large rewards for executives per se. "We all have a vested interest in these companies being successful. If these rewards reflect that, why would that be a problem? We want to raise confidence levels that when we see these rewards, we can point to success". Rossi accepts the argument of remuneration consultants that one cannot buck the global pay market for talent without causing economic damage. He suggests the media should focus on the structure of executives' pay and issues of corporate governance, rather than the size of the awards: "I can understand why the press focus on quantum [of pay]. It gives good headlines, but if we're going to deal with this issue, we have to think about how we're going to succeed, rather than protest. If we're going to succeed, we are going to have to focus more on governance and structure." A

new line of attack, he added, is making the case for reform to the pay consultants that companies call in to advise how to reward their executives.

Six-figure *golden goodbyes* for **town hall** bosses, **NHS** chiefs and top **civil servants** will be axed under **Government** plans outlined by Chancellor George Osborne. Legislation to cap redundancy payments at £95,000 was promised in the Tory election manifesto, as a small element in the plan to cut £13bn from Whitehall spending. The Chancellor said: "It is not right that working people should have to fork out for golden parachutes worth hundreds of thousands of pounds for public sector workers when they are made redundant. That's why we are delivering on our pledge to end six-figure pay offs for the best-paid public sector workers, ensuring fairness and value for money for the taxpayer." In 2013, 1,838 public sector chiefs got £100,000-plus payouts with many moving straight into lucrative taxpayer-funded jobs elsewhere, including Whitehall. The biggest pay-off so far went to former Kent County Council chief Katherine Kerswell, who left with £420,000 on top of her £140,000 salary after just 20 months in the job. She then became the Cabinet Office's director of civil service reform on £142,000 a year. Another case involved a controversial child protection chief who quit her job with a six-figure payoff – only to be immediately rehired on almost £1,000 a day. They illustrate the **revolving door** culture in Whitehall, the NHS and local councils in which employees quit their jobs and receive large pay offs, only to be taken back on – often by the same organisation. Deputy children's commissioner Sue Berelowitz, who was criticised for failing to speak out about sexual abuse by British Pakistani gangs, took voluntary redundancy from her £99,000 per year post on April 30. She received a pay-off worth £134,000. The next day she was rehired as a consultant, leading an inquiry into family child abuse that she had been in charge of in her former role. The 61-year-old will be paid £960 a day under the new deal and will work for up to nine days a month. MPs and victims' groups described the deal as scandalous and the Treasury launched an inquiry into how it was agreed.

The **Church Commissioners'** annual report revealed that they had opposed two-thirds of the executive pay deals in companies in which they have a holding. The Commissioners manage an investment fund of £6.7bn on behalf of the Church of England. Their report shows that they voted in favour of remuneration packages at only 34 percent of agms in 2014.

Man Group, the world's largest listed hedge fund firm, became the latest company to feel the ire of investors over director pay, with bonus plans of executives drawing particular dissent. From **Sanofi** to **Barrick Gold Corp**, companies in different sectors around the globe have seen pushback from shareholders, particularly over financial perks. More than 40 percent of the agm votes were cast against Man Group's remuneration policy, which details the pay and bonus plans for the executive directors. The company sought to increase the maximum short-term cash incentive available to executives to 300 percent of base salary from 250 percent and boost the potential long-term deferred incentive plan to 525 percent of base salary from 350 percent. Some 43 percent of votes were cast against the policy with a further 35 percent of votes rejecting the remuneration report of the London-listed firm, which deals with previous payouts. Just 3.5 percent of votes were cast against these policies during last year's meeting. While noting the 'significant' number of votes cast against both resolutions, Man said it had conducted an "extensive period of engagement" with top shareholders and the majority were supportive, noting future bonuses were tied to performance. "Without this change, the Board is very concerned that it will not be able to award the compensation appropriate to reward higher levels of performance and ensure that our remuneration remains competitive in the market place, a highly undesirable outcome for all shareholders with all its attendant risks." Ceo Manny Roman, who has led Man Group on an acquisition drive, earned about $5m in 2014, the company's annual report showed - up almost 50 percent on the previous year. While both resolutions were passed, Man Group said investors could express their views on pay through consultation and, ultimately, at next year's agm, adding it would continue to engage with its shareholders and take account of their views.

Tesco said that it would **claw-back** former ceo Philip Clarke's £1.2m pay-off if new evidence revealed that there was gross misconduct during his leadership. The supermarket chain revealed in its annual report that it had "explicitly reserved the company's rights to pursue recovery of these payments" should new information arise that shows gross misconduct occurred on his watch. Mr Clarke's three year tenure as ceo ended in tatters last July following a stark profit warning, having presided over declining sales. Two months later Tesco uncovered a major accounting error which revealed that profits for the previous six months had been overstated by at least £250m. The accounting scandal rocked Tesco's shares and led to an investigation by the Serious Fraud Office. Potentially, Tesco could claw back up to £2.2m of *golden goodbye* payments made to Clarke and cfo Laurie McIlwee, who left Tesco last year before its accounting scandal, Tesco tried to withhold the payments due to Philip Clarke and McIlwee after the discovery of a shortfall in profits. However, in February the retailer said that it was contractually committed to pay up unless it could establish a case of gross misconduct.

Tax Transparency
The European Commission announced a package of measures aimed at increasing tax transparency between member states. The central focus of the measures is the automatic exchange of cross-border tax rulings given by tax authorities. Under current rules, member states are obliged to provide details on their tax rulings to another member state only if it is 'of relevance' and, as a result, very little information is shared. The proposed package completely removes this discretion and requires member states to automatically exchange information on their advanced cross-border tax rulings and transfer pricing arrangements, said Brian Duffy of *Taxand.* National tax authorities will have to send a quarterly report to all other member states on any cross-border tax rulings that they have issued. The report must contain the following information: identity of the taxpayer; identity of any people in the other member state who are likely to be affected by the ruling; content of the cross-border ruling; In the case of advanced pricing arrangements, a description of the set of criteria used to make the transfer pricing determination The recipients will have the right to request more detailed information where relevant. The legislative proposals contained in this package have been submitted to the European Parliament and Council. It is expected that agreement will be reached by the EU legislators by the end of this year with the legislation coming into force early in 2016.
Amazon became the first technology company to abandon controversial corporate structures that divert sales and profits away from the UK in the face of a clampdown imposed by the UK government. From May 1, the online retailer started booking its sales through the UK, meaning resulting profits will be taxed by HMRC. The group made £5.3bn worldwide sales from British online shoppers, but for 11 years all these internet transactions have been booked in Luxembourg. A spokesman said Amazon was "now recording retail sales made to customers in the UK through the UK branch. Previously, these sales were recorded in Luxembourg". The move will allow Amazon to avoid being caught by Chancellor George Osborne's new diverted profits tax, which came into law from April. It imposes a punitive 25 percent tax on groups deemed to be artificially routing profits overseas

Buying unexercised US stock made easier
Pinterest recently made a landmark move by giving employees much more time to buy any un-exercised stock options. Start-up employees often choose to take stock instead of higher salaries. However, if they leave the company before all those options have vested, they traditionally only have a few months — often 90 days — to buy the rest. Pinterest has extended that window to seven years for any employee who's worked there for at least two years. This longer time window is rare in the start-up world and is a huge boon for any Pinterest employee — and could potentially lead other companies to follow suit. Now the company wants everyone to know exactly *why* it made such a big, potentially risky decision.
Michael DeAngelo, Pinterest's HR chief, said that it all came down to wanting to remove employees' golden handcuffs. The traditional 90 day window forces some employees end up staying at a company longer than they want, he says, because they can't *afford* to leave. "Many companies who face this situation decide not to do anything about it, because they believe 'locking people in' is good for business," DeAngelo said. "At Pinterest, we think about things a little differently. When employees don't have to worry about losing all their stock if they leave, they stay at a company for the right reasons. They're willing to take bigger, bolder risks. If people are worried about getting fired and losing all their stock, they aren't going to be as willing to make the kind of bets that help a young company like ours succeed," DeAngelo said. He acknowledged that even though Pinterest had made it much easier for people to leave in one of the "most competitive recruiting environments of all time," people often have important reasons for leaving the company, like the opportunity to go back to school, the need to support an ailing family member, or to incubate their own start-up – and they shouldn't be punished for making those decisions, he added.

France
Three years after the UK's *Shareholder Spring* inspired a rash of investor protests against excessive executive reward, the largest companies in France are facing their own activist revolution. In past weeks, French minority shareholders have made dramatic use of new *Say On Pay votes* to express their frustrations over high fixed remuneration – as well as a perceived lack of transparency about the way bonuses are calculated. It's quite a revolt," said Loïc Dessaint, ceo of Proxinvest, the French proxy adviser. "Companies are going to have to realise that shareholders care about this issue and enact some change." Last year was the first in which shareholders were allowed a non-binding vote on executive pay in France. On average, 92 percent of votes were cast in favour of the board proposal, according to an analysis by Proxinvest. One year on, however, and the mood is very different. Last

month, 47 percent of shareholders in **Danone** voted against the pay package of Franck Riboud, the food group's chairman, while 42 percent voted against the package of **Renault** ceo Carlos Ghosn. More than a third of voters at **Vinci, Veolia**, and **Schneider Electric** have now voted against resolutions on management remuneration – and these are all companies where management pay packages won more than 90 percent support last year. As a result, the average level of shareholder support for resolutions at 350 of the largest French companies is expected to fall to 80 percent, Proxinvest says — highlighting growing dissent halfway through the agm season. "Shareholders are becoming much more demanding on this issue," said Denis Branche, partner at Paris-based PhiTrust Active Investors. "For the average French person, salaries are decreasing, so why are they always rising for executives?" A €4m one-off golden handshake for Olivier Brandicourt, new ceo of pharma company **Sanofi,** in addition to a pay package of up to €4.2m a year, caused a stir in the public domain, with the French government calling it "incomprehensible." More than one third of shareholders opposed parts of the package, but there was no vote on the golden handshake payment.

France (2)

The Social and Solidarity Economy law dated July 31 2014 created, as of November 1 2014, a new prior employee information procedure in companies which qualify as SMEs with fewer than 250 employees. This procedure applies in particular in case of a planned sale of a going concern or of shares, of equity, or of securities giving access to the majority of the company's capital, reported Baker & McKenzie. Now, in addition to the prior consultation with the Works Council in these circumstances, employers must inform their employees of the planned sale in order to allow all employees of the selling company to make an offer to buy the business. When the company employs less than 50 employees (or does not have any employee representatives), the information given to employees must take place at least two months before the date of the sale. In other cases, employees must be informed in parallel with the employee representatives' consultation.
Owing to criticisms and uncertainties regarding this obligation, a commission was appointed by the Prime Minister to assess this new process and to find solutions in particular to protect the confidentiality of the proposed sales. Following discussions with key stakeholders (business representative organisations, employees' unions, banking institutions, etc.), the commission's report recommended maintaining this new right, whilst making some adjustments:
*in case of violation of the employees' right to information, the penalty would no longer be the cancellation of the sale, but a fine proportionate to the sale price;
*in order to simplify the notification requirements to each employee, the date of the first delivery of the registered letter, including when an employee is absent, should be considered as sufficient;
*limit the right of prior information to external business sales, which are the only ones that can lead to the transfer of employees (contrary to partial or intra-group sales).
The Minister of Economy stated that these recommendations would be subject to an amendment from the government to the draft Macron Law being discussed in the Senate.

Spain

Taxation on up to €12,000 ($13,700) annually of realised gains from equity compensation plans had been tax-exempt provided that the same stock plan was available to all employees within the same category or grade of the company. The new law provides this exemption only if the plan is available on the same *terms* to all employees of the company, including their subsidiaries, thereby encouraging broad-based equity compensation.

South Africa

Faced by a wave of intense criticism, the SA Department of Trade and Industry retreated on its downgrading of broad-based and employee ownership schemes on the Black Economic Empowerment (BEE) scorecard, noted *Legalbrief.* Minister Rob Davies has 'decided to appoint a task team that will look at the right balance between direct ownership and broad-based scheme ownership'. That task team will report back to Davies with recommendations within 30 days. He will then make an announcement on how broad-based schemes would be treated in the future. Meanwhile, the old rules will still apply.
The Centre is being kept up-to-date on this important story by long-time SA based Eso supporter **Theo van Wyk.**
A storm broke over the heads of the DTI after it issued a surprise 'clarification notice,' stating that broad-based empowerment vehicles and employee share ownership schemes could no longer be counted as part of a company's black ownership and would contribute only three points on the BEE scorecard, instead of up to 20 as is the case now.
Business Times quoted Webber Wentzel partner Safiyya Patel as saying the notice violated several legal requirements and was done without consulting stakeholders. 'By referring to this notice as a 'clarification', the DTI has sought to avoid the provisions of the BEE Act, which requires that any amendments to the (codes) must

first be published in draft form and be open for public comment for 60 days,' Patel reportedly said.
However, the Department still wants to reduce the weighting that broad-based and employee share ownership schemes will have on the scorecard in the future**.** The department's DG Lionel October added the motivation behind the changes was to encourage a greater active shareholding by individual black people in order to promote the government's vision of a new class of black industrialists.
The National Union of Mineworkers (NUM) said that the downgrading of broad-based and employee ownership schemes on the black economic empowerment scorecard by the DTI was "regressive and backward" and would derail the fight against poverty, inequality and unemployment. The move would have the effect of slashing BEE ratings of hundreds, if not thousands, of firms and remove the incentive for companies to involve employees and communities in ownership beneficiary schemes. The NUM said that limiting broad-based ownership scores to 'a lousy maximum of three points' would 'neither encourage nor compel industries to advance and promote broad-based economic empowerment with workers and communities in mind.' Almost all mining companies have included some form of community and employee ownership as part of their black ownership.
"Ownership of the economy cannot be focused on individual wealth, but societal wealth through co-operatives and employees. What is ironic is that the same DTI is mandated to promote and support these co-operatives and as the NUM, we are not going to allow workers to continue enriching monopoly capital and DTI-sanctioned few black elites," the miners' union said in a statement. The NUM has campaigned for ten percent shareholding for workers across the mining sector. The union said it would continue to do so and called on the ANC to "rein in" government officials "who are diverting the strategic direction towards economic transformation".

OECD toughens up on tax info
Short cuts, loopholes and skulduggery will not be tolerated when the automatic exchange of tax information comes into force, a top official from the **Organisation for Economic Co-operation and Development** (OECD) has promised Swiss bankers. **Grace Perez-Navarro**, second in command at the OECD's tax policy division and Centre collocutor, sought to placate doubters at a meeting in Zurich. Switzerland signed up to the anti-tax dodging system last year, but only after insisting on rules that ensure a level playing field for everyone. However, fears persist that some countries may seek to move the goal posts in their favour in the way they implement the system. Delivering poor information (failing to track down beneficial owners of trusts, for example) and leaking Swiss data to the media or other agencies top the list of concerns in Switzerland.
Perez-Navarro said the peer reviews carried out by the OECD's *Global Forum on Transparency and Exchange of Information for Tax Purposes,* to ensure that countries are fully compliant with new standards, should weed out any sharp practices. Continued reviews will measure actual performance of different countries against a set of global rules on collecting and sharing tax data called the Common Reporting Standard (CRS). "It is true that at the moment there is not a level playing field," she told journalists. "[But] the peer pressure of the Global Forum process will, at the end of the day, work to achieve a level playing field for all. No country wants to share information with another country that cannot protect information or use it only for the right purposes. One breach will undermine the whole exchange of information system," she said. "I think the error of leaks will subside once automatic exchange of information is introduced. The leaked information […] came about from the current frustration at the lack of transparency that prevents tax authorities from doing their jobs."
At present, only a handful of jurisdictions are still resisting the OECD, including Panama, the Cook Islands and Bahrain. The Swiss parliament will start debating the domestic legal framework required for implementing automatic exchange of tax information to other countries later this year. Switzerland aims to start exchanging data with selected countries from 2018, but this could be challenged by both parliament and a possible national referendum. The Swiss Bankers Association (SBA) and the Association of Foreign Banks in Switzerland (AFBS) broadly welcomed the automatic exchange of tax information, despite both arguing against the proposal when it was mooted in 2008.

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