Vol 21 No 8 May 2010

it's our business

newspad of the Employee Share Ownership Centre

Post election agenda to feature in Jersey trustees' Eso conference

More than 40 people to date have registered for the Centre's next extended half-day share schemes conference for trustees in Jersey on Friday May 14 – just one week after the General Election.

The Centre and STEP Jersey (Society of Trust and Estate Practitioners) have put together a programme to inform trustees and other employee share scheme practitioners about all the relevant recent legislative, regulatory, tax and technical developments affecting employee share schemes.

The conference will present a great opportunity for delegates to discuss any impending government-led changes in the Eso industry – before they happen - and what else might change or remain in the legislative and regulatory frameworks governing the Eso industry in the longer term.

Predictably, all three major political parties say that they are in favour of seeing more employee share ownership schemes adopted in the UK, but are all short on detail. The scale of the debt crisis is such that they are all reluctant to add to the estimated £900m Treasury tax relief bill, which approved plans – like Sharesave and the Share Incentive Plan – generate.

There has been unparalleled growth in the use of employee benefit trusts (EBTs) during the last five years. Many Jersey trustee companies have extensive experience in the establishment and administration of a wide variety of bespoke incentive arrangements for FTSE 100, 250, 350 and AIM listed companies, global corporations and private companies.

As Centre Jersey member Volaw points out: "Following the introduction of the annual and lifetime caps for UK approved schemes, the use of unapproved or unregistered retirement benefit schemes has increased considerably. In addition, such unregistered arrangements have significant flexibility which make them very attractive. This attraction has been further enhanced since the announcement of the 50 percent tax rate and the restrictions on tax relief for pension contributions to registered schemes that have already commenced."

Former Tory frontbencher Howard Flight, who sits on the board of the Guernsey Financial Services Commission, will deliver the keynote speech exploring what the future holds for the Channel Islands in the post-election landscape.

Rosemary Marr, vice-president of STEP International and the Esop Institute's International Research Fellow, will update delegates on the latest offshore issues, including: What makes an offshore centre fit for purpose and finding the right trustee for employee benefit arrangements?

This event is at the Royal Yacht Hotel, St Helier.

From the Chairman

It is heartening to see all the major party manifestoes giving backing to employee ownership. But then it manifests itself more in blue skies stuff than practical development of what has already been achieved. John Lewis for example is an inspiration but not a model. I would rather see commitments to making EMI easier and raising Sharesave limits than new ways of circumventing local government (which are the subtext of much third sector waffle). Still the likely departure of Gordon Brown will be a loss - he has been the most reliable advocate of employee ownership we have ever enjoyed in UK government and it will be interesting to see who (if anyone) steps up to the plate. I have sympathy with him for his gaffe too - his granny reminded me of Bessie Braddock whom Churchill dealt with more robustly.

Malcolm Hurlston

Amanda Flint of BDO will speak on how to beat the new 50 percent income tax rate; Gary Hill of Collins Stewart Wealth Management will discuss diversification across portfolios; Karen Cooper of Osborne Clarke and Kevin Lim of RBC CEES will examine the impact of the recent Budget on Jersey trusts and UK share plans, looking at EBTs and EFRBS.

David Craddock of David Craddock Consultancy Services will share his expertise on succession planning using Esos/ EBTs in small businesses; and William Franklin of Pett, Franklin & Co (from May 1) will examine share valuation matters, including a look at the controversial Grays Timber Case.

Go to our website at: www.hurlstons.com/esop/esop and click onto 'events' to review the programme and speaker details in depth. This extended half-day conference will allow delegates to learn and share knowledge about issues concerning the use of trusts in Eso plans. This event carries three and a half hours of credits under the Law Society CPD scheme.

Centre members can attend for only £295; the non-members' delegate fee is £425. The admission fee includes a quality lunch in the Royal Yacht, served after the sessions end. To register please contact Dave Poole at: +44(0) 20 7239 4971 or: dpoole@hurlstons.com.

The conference handbook features a painting by Jersey-born artist Alastair Best.

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SAYE-Sharesave bonus lowest ever

Fears rose within the Eso industry that employees may be less inclined in future to participate in SAYE-Sharesave schemes as bonus rates on three-year contracts were set to plunge to zero for the first time ever. Bonus rates on some SAYE-Sharesave schemes are to be cut to zero percent from May 14, the Treasury will announce. The bonus rates, which track money market interest rates, are set by the Treasury and are automatically adjusted every June. Bonuses are normally a good employee incentive because they are paid out when the Sharesave scheme matures, after three, five or seven years. However, early leaver rates - for participants who stop saving for whatever reason - will be hit from May 14. The existing and future Sharesave bonus rates are listed below:

Bonus Rate (Previous rates in brackets)	AER
3 year 0.0 x monthly payments (0.3)	0 percent (0.54)
5 year 1.8 x monthly payments (2.2)	1.16 percent (1.42)
7 year 4.9 x monthly payments (5.2)	1.74 percent (1.84)

The Early Leavers' Rate will be changed from 0.36 percent to 0.

Iain Wilson, Client Relationship Director at Computershare Plan Managers said: "Despite bonus rate reductions, we still expect SAYE to remain popular with employees. SAYE comes with a money back guarantee and with option prices discounted by up to 20 percent you would be hard pushed to find a better way to invest."

Malcolm Hurlston, chairman of the Esop Centre, told the Financial Times that employees should not be put off the schemes. "A zero rate may make headlines but SAYE continues to be a risk-free saving scheme in uncertain times," he said. "Even where no gains are possible, savers can walk away with all of their money. The fundamental benefits have not changed"

Late PAYE payers warned

As a part of HM Revenue & Customs long-running review of powers and safeguards, from this month onwards, a stricter penalty regime for the late payment of PAYE will take effect where monthly or quarterly PAYE is not paid by the statutory due date (19th of the month), **Deloitte** warned. This applies to bonuses, share-based payments and payments made abroad by a non-UK employer. From now on, you may have to pay a penalty if more than one of the in-year PAYE payments due is late in any tax year and if any payment is very late. HMRC will work out the penalties as a proportion of the amount that is late. This penalty regime will even apply to payments made a few days late. It is therefore critical that payments of PAYE are made on time. A valid excuse for late payment removes the penalty but will only be accepted where there are exceptional factors that prevent you complying in time. You will have to pay a penalty of five percent of any amount that is late if you still have not paid after six months, and a further penalty of five percent if you still have not paid after 12 months. Unless you are over six months late with the in-year payment, the amount of the penalty will depend on two things: how much is late and how many times payments are late in a tax year.

If monthly and quarterly payments are made late, then the penalty will start at one percent of the late amount and increase to four percent depending on how many times payment is made late.

Eso injustice

Whereas the annual ISA allowance was raised in the Budget from £7,200 to £10,200, once again nothing was done to raise the £250 per month maximum savings limit allowed to employees who participate in SAYE-Sharesave plans. Around half of the one million plus savers who invest in a Sharesave scheme are frustrated by the monthly savings limit, which has not been raised in almost 20 years. The price employees pay for company shares in a Sharesave plan is the strike price offered (often 20 percent below the prevailing market rate) at the time the plan commenced. This means employees can often make large gains, as was the case with a £144m payout to Tesco employees. Even if the share price falls, employees still have all their savings plus a tax-free bonus. The Centre has discussed the issue with all three political parties and want to see the £250 limit raised in line with backdated inflation for every year since 1991 to a new level of £400 a month.

Eso political football

All three major UK political parties endorsed the idea of converting the NHS, and possibly other social services the government provides, into employee and stakeholder-owned businesses along the lines of the John Lewis Partnership. The company has been widely praised by politicians, customers, and the media for exceptional customer service and business efficiency, leading to its current highly publicised role as a potential model for social services. That model is already being put into effect privately. The first in a chain of John Lewis-style private hospitals and clinics has recently been launched. Circle Health has plans to expand to 30 hospitals and 10,000 employees. Led by prominent London financier, Ali Parsa, Circle Health will be 49 percent owned by an employee trust. Parsa told the Guardian newspaper: "Employee ownership works. It was the model we used as partners at Goldman Sachs. Most law firms operate as partnerships; GPs are partnerships. Healthcare is a professional anomaly in not being a partnership. There's no reason why we can't run NHS hospitals and give control back to our staff." See **NHS Mutual**, a study into the scope for engaging and motivating health service staff using employee ownership and other social ownership models. The report, on which the UK Employee Ownership Association advised, concludes that employee ownership of the kind already pioneered by Central Surrey Health has a valuable role to play in the NHS but needs support from policy makers. The report can be found at: **www.employeeownership.co.uk/publications.asp.**

On the move

Christine Baker has left Capita Share Plan Services to pursue a new avenue. Having been the operations manager of the discretionary plans team she has extensive skills in this area and is looking for an opportunity in a corporate environment. Should you

wish to contact Christine, she can be contacted at cbaker_13@hotmail.com.
As of May 1, Birmingham based **David Pett & Co.** changed its name to **Pett, Franklin and Co.** Regulatory approval has been obtained. **Louise McCloskey** has joined the Pett-Franklin team as a para-legal, having successfully completed the LPC at The College of Law, Chester, last year.
Sarah Long has left Santander Tel: 07578841215 Email:slong4@googlemail.com.

Nursery chain pays out employee bonus
Employees of nursery group Childbase, the UK's sixth largest nursery group, have shared more than half a million pounds of a profit-related bonus. The payout - the company's largest ever - was distributed among all of the company's 1,200 staff and was equivalent to 20 percent of the company's pre-tax profit for the year. Childbase, which owns 38 nurseries across south-east England and has a £30m turnover, is the only private nursery operator to offer its staff this kind of employee share scheme. Sixty percent of the company is now owned by Childbase employees and held in a share trust. Staff are represented at board level and involved in financial and operational decisions as well as in deciding how the bonus is distributed.
The annual bonus is usually made up in shares, but this year, for the first time, employees were given the option to take their bonus in cash, equivalent to around 2.5 percent of salaries, or double the cash value in shares. Mike Thompson, ceo of Childbase, told Nursery World, "It's important that people know how much they're valued. The company is successful because of what people do. It's imperative to us that everybody's incredible efforts are recognised. Our teams work together, our success is mutually dependent on each other and everyone should share the rewards. It's simple - we all contribute, we all benefit."

FASB updates accounting rules for stock compensation
This applies to employee share-based payment awards with an exercise price denominated in the currency of a market in which a substantial portion of the entity's equity securities trades that differs from the functional currency of the employer entity or payroll currency of the employee. The amendments clarify that a share-based payment award with an exercise price denominated in the currency of a market in which a substantial portion of the entity's equity securities trades should not be considered to contain a condition that is not a market, performance or service condition. Such an award should not be classified as a liability if it otherwise qualifies as equity. The amendments to Topic 718 will be effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15 2010.

EUROPEAN CONFERENCE
Cannes July 8 & 9: The Centre's 22nd annual conference has attracted an impressive array of international speaker talent: Sarah Pickering - Alvarez & Marsal Taxand; Patrick Neave - Association of British Insurers; Amanda Flint – BDO Human Capital with Jon Hather of Barchester Healthcare Homes, Justin Cooper - Capita Registrars; Mick McAteer, adviser to the Committee of European Securities Regulators; Dave Coleman - Equiniti; Mark Gearing and Pierre-Philippe Hendrickx - London/Brussels offices of Field Fisher Waterhouse LLP; Quentin Digby - Freehills (Australia); Leslie Moss – Hewitt Associates; Peter Leach - Killik Employee Services and Joe Saburn – Squire Sanders & Dempsey (US). Delegates from plan issuer companies are starting to register. To register online for this event, go to our website at: **www.hurlstons.com/esop/esop** and click onto 'events' for more details. You can also register by email to Fred Hackworth: **fhackworth@hurlstons.com** simply stating the name(s) of your delegate(s). In addition this year, the programme will cover aspects of private client wealth management and if you wish to speak on this subject, contact Fred asap. As this event takes place on **Thursday and Friday, July 8 & 9**, the package deal accommodation nights in the five star conference hotel, the Majestic, on the Cannes seafront, are July 7 & 8. The conference brochure is co-sponsored by **Appleby Global** and by the **Sanne Group**. Other elements can be co-sponsored too: such as the cocktail party, or one of the conference lunches, or even the entire event. Contact Fred for further information.

Aliens executive reward row
RBS, which is majority owned by the taxpayer, has bowed to shareholder pressure over its new executive bonus scheme, which it had planned to put to the vote at its agm. Institutional shareholders were unhappy about the original proposals, arguing that recent rises in the bank's share price would make it too easy for executives to net the bonus. Under the three-year plan, RBS' ceo, Stephen Hester, could have scooped up almost £5m. RBS is now expected to set a higher share price target for executives. It will consult with shareholders over the revised incentive scheme in the next few weeks. This means that they will get the opportunity to vote only on the structure of the scheme, and not on the finalised version.
UK Financial Investments (UKFI), which manages the government's 83 percent stake in the bank, is pleased that RBS is revising the terms. The bank unveiled its long-term executive bonus scheme after lengthy consultations with UKFI and other shareholders. With a share price that was then just over 40p, it set a target of 50p a share in three years' time for part of the bonus to be paid out. But since then, shares in the bank have surged to 55p. The price would have to hit 75p for the bonus scheme to pay out in full. RBS is now prepared to lift the new base trigger point to up to 55p per share. The bank argues that the share price is volatile and that maintaining this level three years from now would still represent a success.
An RBS spokesman said: "The share price has been hugely volatile in the last year and that needs to be taken account of in a way that ensures the incentive scheme is both motivating and exacting in performance terms. "This is the board's intent, and the committee will

endeavour to align all interests in the matter." RBS is extremely sensitive about becoming embroiled in another bonus scandal. Its former chief executive Sir Fred Goodwin - widely blamed for its near-collapse - was held up as an example of "rewards for failure" by critics when he left the bank. After a public outcry, he waived his £2m payoff and some of his pension top-ups, but still pocketed a £2.7m lump sum and an annual pension of £342,500. Investors in RBS had been warned by the Association of British Insurers that they need to make a "careful considered judgment" before voting on the pay plans, which included bonus arrangements for ceo Stephen Hester. Shareholders in Lloyds Banking Group and HSBC were also weighing up remuneration reports. Lloyds faces controversy over bonus awards to senior executives while HSBC is facing questions about a relocation package for ceo Michael Geoghegan, who has moved from London to Hong Kong. Decisions on how to vote at the agms will be made in coming weeks and follow a warning by the ABI that it expects more rebellions over pay deals this year after five companies had their pay plans voted down in 2009. It issued an amber top alert over RBS, which was one of the companies to have its annual report thrown out by investors last year, in a protest about the pension paid to former chief executive Sir Fred Goodwin. "We have amber-topped the report, which means that shareholders have to make a careful considered judgment around the proposed long-term incentive plan," an ABI spokesman said. RBS said: "A key theme in how we have approached the reform of our remuneration policy is 'no reward for failure' ... We have done more than all our peers to reform our approach to remuneration."

The ABI is yet to publish reports on Lloyds and HSBC, but investors are known to be concerned about some aspects of their pay plans. Reflecting this, Wolfgang Berndt, chairman of the remuneration committee at Lloyds, resigned after pressure from the government over a £2.3m bonus he awarded to ceo Eric Daniels. Berndt had consulted widely with Lloyds shareholders on the bank's pay plans. Daniels's four boardroom colleagues accepted the bonuses they were awarded, worth a combined £3m. Hester's new deal was linked to profits and the share price - a more intricate set of measures than his current arrangement, linked to share price movements alone. Investors have been urged by the City minister, Lord Myners, to explain how they intend to keep bankers' pay under control and had argued that HSBC should not push through a planned pay rise for its chief executive. Even so, Geoghegan was offered a pay rise. This he decided to refuse but was handed an estimated £800,000 in addition to his £1m salary as part of a relocation package linked to his move to Hong Kong. Frank Chapman, ceo of BG, the oil and gas group, took home £28m in cash, shares and pension contributions last year, making him one of the best-paid executives in the FTSE 100. Disclosure of the bumper package - which does not include another £19.3m in shares and options he has received but not cashed in -fuelled the debate raging over levels of executive pay. Richard Lambert, head of the CBI, the business lobby group, warned executives they risked being viewed as "aliens" because of the widening pay gap between executives and rank-and-file workers. Chapman's package included £1.1m base salary, a cash bonus of £1.6m - down a fifth from the previous year - and a £4.6m pension top-up. He received £5.2m in shares under an incentive scheme. The biggest payment, however, came from £15.5m share options he exercised in September. BG shares have gained 69 percent in the past three years. In spite of the big payday, Chapman is still not in the same league as Mick Davis, ceo of Xstrata, the mining group, who was paid £58m that year. Bart Becht, head of Reckitt Benckiser, maker of Nurofen, Vanish and Cillit Bang, took home £38m in 2008. Details of the pair's 2009 packages have yet to be disclosed. Tidjane Thiam, chief executive of Prudential, Britain's biggest insurer, is in line for a bonus worth more than £1m.

Bart Becht, the Dutchman at the helm of Cillit Bang manufacturer Reckitt Benckiser took home more than £90m last year. The payout follows the £36.8m he received in 2008. According to the company's annual report Becht made £74m from exercising share options he had been granted as long ago as 2001 and a further £13m from cashing in performance-related shares he had received in 1999 and 2005. In addition to crystallising the long-term schemes, Becht received a salary of £987,000, a cash bonus of £3.5m and had £296,000 as a contribution to his pension fund. Becht was granted a further 900,000 options and share-related awards in 2009, which will pay out in future years. Reckitt's finance director, Colin Day, topped up his £1.7m salary and cash bonus package by making gains on options and performance-related share schemes of £6m. The £90m of rewards is likely to catapult Becht to the top of the FTSE 100 pay league for 2009, although the company said he had handed shares worth £110m to his charitable trust.

Goldman Sachs announced £3.5bn worth of bonuses for its staff in the week that it was sued for fraud by the Securities and Exchange Commission. Goldman Sachs's profits and bonuses wouldn't matter a fig if the US Government were prepared to let it go bust. But that will not happen, because when it did with Lehman Brothers in 2008 it caused such havoc that governments effectively underwrote all banks. Goldman Sachs's staff know full well that, however great the risks they take with other people's money, the taxpayer will always bail them out. It is now 18 months since the banking crisis. In that time there has been a complete lack of reforms to prevent practices of the kind of which Goldman Sachs is accused. By this stage of the 1930s banking crisis the US had passed the Glass-Steagall Act, separating retail banking from investment banking. It was a major reform that ensured ordinary depositors were not at risk from speculative activities, and was not repealed by Bill Clinton until 1999 - about the time that the banking industry again began to spin out of control.

COMPANIES

The Board of **Hays plc** confirmed that that on April 9 it transferred 147,327 ordinary shares of 1p each held in Treasury to the Hays plc Employee Share Trust at 115p per share, being the closing middle market quotation on April 8, in connection with the Hays plc UK Sharesave Scheme. Following this transfer, Hays holds 80,227,930 ordinary shares of 1p each in Treasury.

ING banking group announced that it had bought 13,670,000 (depositary receipts for) ordinary shares for its delta hedge portfolio, which is used to hedge employee options and facilitate employee share programmes. The hedge book currently holds 49.7m (depositary receipts for) ordinary ING shares, representing 1.3 percent of the 3,832m shares outstanding.

Foggy definition at IASB

There was more evidence at the March meeting of the International Accounting Standards Board that IFRS2 is the ugly sister of accounting standards. The IASB is working towards issuing a new standard to give a consistent basis for the definition of "Fair Value" across accounting standards. However, the IASB decided to exclude IFRS2 Share Based Payment from the scope of the proposed Fair Value standard. This was to avoid unintended consequences that might have arisen from an amendment to IFRS2 that would have been necessary to distinguish between fair value and fair value-based measures.

The IASB's reasoning was that: "in some situations, IFRS 2 requires that vesting conditions, other than market conditions, and reload features are not be taken into account when measuring the value of share-based payment transactions. This means that fair value in some contexts in IFRS 2 is actually fair value based. To amend IFRS 2 to distinguish between measures that are fair value and those that are fair-value-based, new measurement guidance would need to be created for the fair-value-based measures. Such measurement guidance might result in an unintended change in practice with regard to measuring the value of share-based payment transactions." Phew! For more information please contact William Franklin on 0121 262 4034

Eso in Saudi Arabia

Following up on the Centre's Dubai seminar in 2008 Al Tamimi & Co, legal consultants, in association with KPMG Al Fozan & Al Sadhan and Mercer Consultancy held a seminar on employee share programmes in March at the Four Seasons Hotel, Riyadh. The seminar emphasised that the granting of share incentives for employees is a cost effective alternative to salary increases, to motivate employees. However it is a concept that has not yet been developed in Saudi Arabia. The seminar, attended by senior executives and HR managers from major Saudi companies, discussed the procedure for establishing share plans for staff, the mechanisms for granting such incentives, the management, the structures, and the financial and accounting implications. In the first session, Gary Watts of Al Tamimi presented an overview, followed by Richard Lamptey and Paulo Machado of Mercer, commenting on long-term incentive programmes for staff and how these help develop businesses to achieve the best results. The second session was presented by Mr. Marcus Wallman and Mr. Muhammad Arif Saeed of Al Tamimi & Company, who discussed the structure and regulatory procedures. The third session, presented by Mr. Khalil Ibrahim Al-Sedais and Mr. Kashif Zafar of KPMG Al Fozan & Al Sadhan, considered the accounting treatment for the incentives and practical steps for registration.

Centre Employee Benefits Awards 2010 Among the finalists are:

Most effective all-employee share scheme strategy

Cadbury - Sharesave 2009 Entered by Computershare Plan Managers (formally HBOS Employee Equity Solutions)

Centrica - Sharesave and Share Incentive Plan Entered by Equiniti

Childbase - Childbase All Employee Share Plan (CASP) and **First Group**

IMF bank tax plan horror

In a paper entitled "A Fair and Substantial Contribution by the Financial Sector", the IMF argues the case for two new taxes to be applied to banks in as many countries as possible: 1) A "financial stability contribution" to pay for "the fiscal cost of any future government support to the sector". The levy would be paid by all financial institutions, not just banks, initially at a flat rate but eventually refined so that riskier institutions paid more. 2) A "financial activities tax", which would be levied on the sum of financial institutions' profits and the remuneration they pay. The proposals horrify banks, especially the proposed tax on pay. They are politically explosive, both domestically and internationally. The IMF paper says that international co-operation would be beneficial and that unilateral actions by governments risk being undermined by tax and regulatory arbitrage (the danger that banks will relocate to countries where the tax does not apply).

Hundreds of ceos, departmental directors and board members of hospitals and other NHS organisations have received extra payments of as much as £32,000 - the largest single year's bonus unearthed by freedom of information requests submitted by the Liberal Democrats. The £32,000 bonus went in 2008-09 to Beccy Fenton, deputy ceo of the Heart of England hospital trust, who already earns £170,000 a year. She received it after generating almost £1m of consultancy work for her employers, including private sector contracts. The trust stressed last night that the £32,000 was a one-off sum for consultancy work.

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