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it's our business

newspad of the Employee Share Ownership Centre

Tidal wave of MBOs engulfs C.I. trust companies

The wave of private equity backed MBOs being announced by Channel Islands based trust companies continued this spring with **Bedell Trust** becoming the latest fiduciary business to renounce the traditional trustee ownership structure in favour of an independent model. Bedell, the leading award-winning provider of corporate and fiduciary services, announced on April 6 the sale of its business via an MBO for an undisclosed sum. The MBO is backed by **Inflexion**, a leading private equity firm and completion of the deal is subject to the usual regulatory approvals. Bedell Trust management will retain full operational control of the business.
Bedell's move followed hard on the heels of offshore legal, fiduciary and administration service provider Appleby Fiduciary, now renamed Estera, which announced the completion of its MBO, backed by London-based private equity firm **Bridgepoint** on December 31 last year for an undisclosed sum, which may have been around £240m - £250m, according to media speculation. Estera provides trust and corporate services, administering more than 10,000 structures for 6,000 clients from nine locations. It creates holding companies and special purpose vehicles and counts some of the largest multinationals and wealthiest individuals among its clients. It has a strong position in niche markets such as employee benefit trusts in Jersey, the insurance market in Bermuda and collateral loan obligations in the Cayman Islands.
Earlier, another Centre trustee member, **Sanne Group**, raised £141.6m through a London IPO. In so doing, **Inflexion Private Equity** reduced its holding in the group to 11 percent, with the directors and senior management owning a collective 23.5 percent stake. Sanne's shares, initially listed at 200p each, were trading at 427p as this issue went to press, having more than doubled since listing.
Vistra Group was sold to **Baring Private Equity (Asia)** for an undisclosed sum, while in 2014, **Electra Partners**, a UK buyout firm, purchased the fiduciary services arm (now called **Elian**) of the Jersey -based law firm **Ogier**, which like **Estera,** is a Centre member.
The trustee sector is now flush with private equity cash, which could spark off a global bidding war among the biggest players to buy up trustee companies in the Far East, the Caribbean and elsewhere, including smaller competitors in the Channel Islands themselves.
The rapid move away from the old law firm or accountancy owned trust company structures to the new independent model will dominate the trustee panel session at the Centre's 28th international employee equity plans conference in **Vienna on Thursday/Friday June 2 & 3**. Senior trustee members, including **Claire Drummond** of **Bedell** and **Patrick Jones** of **Estera,** will lead the delegates' discussion and debate (*see Vienna story on inside pages*). The panel will examine the likely impacts of this changed ownership model on the work trustees undertake in employee equity and how

From the Chairman

At last the tide seems to be turning on the excesses of top pay, with the Norwegian state oil fund adding its weight to the concerns of investors in US and UK.
In the last century I was an amused bystander when people began to take amazing sums for themselves out of company pension funds; today I identify as an outraged shareholder keen to see a private gaol built for errant ceos (at their personal expense).
In our world, "perverse rewards" has long been a byword for executive plunder and many of those consultants were sick at heart who saw first what was going on.
Laws are not necessary to stop excess. We may all have been slow to react but the rising tide of social revulsion, visible first in Scandinavia and the Netherlands, should serve best in future to keep thieving hands out of the pockets of employee and other shareholders.
Exceptional reward should only be on offer when an executive's performance has been exceptional. Even then, if the company's profitability has fallen and shareholders have suffered, then total executive reward for that year should fall in step. As they say: 'We're all in this together!"

Malcolm Hurlston CBE

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these new look trusts might affect the future shape of offshore financial centres, like Guernsey and Jersey. The Bedell Trust MBO will give it additional funding with which it will accelerate its growth plans and pursue market opportunities as they occur. Last September Bedell Trust acquired a majority stake in Singapore Trust Company (STC) as part of its strategic growth plan. The company will focus and expand its services and invest heavily in its people, teams, infrastructure and evolving technology with backing from Inflexion, while committed to the highest levels of client service. Currently employing more than 200 people, with a lower staff turnover than the majority of its competitors, Bedell Trust is well placed to build and develop its business lines across all of its international locations over the next five years. Ceo Nick Cawley, together with Michael Richardson as executive chairman, will continue to lead Bedell Trust through this development alongside the existing management team, ensuring that clients receive the outstanding levels of service for which the company has a strong reputation. Nick Cawley said: "Bedell Trust has doubled in size over the last five years and given our strategic aspirations and pipeline of opportunities we feel it is the right time to drive our growth through this partnership with Inflexion. We believe that the team at Inflexion is uniquely placed as the most experienced and knowledgeable mid-market private equity firm in the financial services sector and we are excited about working with them to help us realise our aspirations and to continue to deliver strong growth." Florencia Kassai, partner at Inflexion said*:* "Bedell Trust has a fantastic reputation for quality and great client service. We are delighted to have the opportunity to partner with Bedell Trust's management team to help them continue to build a top-quality administration business supported by strong organic growth, complemented by strategic acquisitions. Leveraging on Inflexion's sector expertise, capital and ambition to accelerate its expansion, we see Bedell Trust emerging as the leading player in the trust and fund administration sector in the Channel Islands."

Advisers involved in the transaction included: For Bedell Trust - Macfarlanes and Bedell Cristin (Legal), Wyvern (M&A), Alex Picot (Structuring, Tax), KPMG (Compliance Due Diligence), Cooper Gay (Insurance) For Inflexion - KWM and Mourant Ozannes (Legal), Deloitte (Financial Due Diligence), Jardine Lloyd Thompson (Insurance).

Estera – what's in a name? - Centre member Appleby Fiduciary, which has converted itself into an independent company, changed its name to Estera in a major rebranding. The name Estera, which has biblical undertones, was inspired by internal staff consultation. Estera is a world-leading provider of offshore fiduciary and administration services with more than 350 professionals working in ten jurisdictions. Estera's global footprint includes the jurisdictions of Bermuda, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Mauritius, Seychelles and the onshore financial centres of Hong Kong and Shanghai. These provide clients with the most appropriate jurisdiction, product and service mix aligned with their individual requirements. Farah Ballands, ceo of Estera, said: "Appleby Fiduciary Business launched its new brand name and identity, Estera, on April 16, following the successful management buyout from the Appleby Group in December 2015. Our rebrand presents a unique opportunity to build on the strong reputation we have already achieved in each of our ten jurisdictions. Our independence will enable Estera to chart new markets and territories as part of our well-funded growth strategy, which includes the development of our four core service lines in corporate, trust, funds and accounting services. The name change was effective from April 18 and our related entities have adopted our new corporate identity. Our email addresses have changed to the domain firstname.surname@estera.com and our website homepage becomes estera.com. All of our direct telephone numbers and the addresses for the majority of our office locations remain unchanged. For revised details please visit our new website estera.com. "Whilst our brand and identity may have changed, our commitment to client care and service standards has not. I will continue to lead the team as ceo and your client service team will remain unchanged," added Farah.

Jersey helped by Panama Papers scandal, says Centre chairman

Introducing the latest joint **Esop Centre** and the **Society of Trust & Estate Practitioners (STEP) Jersey's** employee share schemes conference in St Helier on April 15, Centre chairman **Malcolm Hurlston** told almost 50 trustees that the *Panama Papers* leak highlighted the good measures Jersey had introduced in recent years.

The half-day conference was held in the wake of heightened scrutiny for offshore trusts following the leak of millions of files and transaction notes from Panama-based law firm Mossack Fonseca. Mr Hurlston pointed to recent inter-governmental agreements such as the Foreign Accounts Tax Compliance Act (FATCA) to demonstrate Jersey's commitment to greater transparency.

He announced that the Centre would be hosting its inaugural British Isles symposium on employee share schemes and trusteeship in November this year to help the UK and the Crown dependencies understand each other's roles and work closer together.

Share schemes doyen **David Pett** of **Pett Franklin** guided delegates through the joint share ownership plan (JSOP) his firm had devised in the early 2000s. He began by highlighting the recent Supreme Court judgement which ruled that executive bonus schemes operated by **UBS** and **Deutsche Bank** were not exempt from income tax. With the legislation unclear, the judges had relied on the presumed intention of parliament. Mr Pett warned that this could have important implications elsewhere. While explaining *growth shares* and JSOPs themselves, he raised his concern that **HMRC**'s withdrawal of the post transaction valuation check would hinder the take up of share schemes in unquoted companies.

Graham Muir of **Nabarro** turned to the controversial **Employee Shareholder Status (ESS),** introduced out of the blue at the Conservative party conference in 2012 and recently capped by **Chancellor George Osborne** in the 2016 budget. Following the introduction of a lifetime limit of £100,000 on the capital gains tax exemption, Mr Muir asked whether the ESS would become the 'James Dean' of share incentives given its popularity up to now.

The inaugural EOT panel rounded off the first session. **Sara Cohen** and **Ann Tyler** of lawyers **Lewis Silkin** were joined by David Pett of the Centre's EOT Group. The panellists wanted to know what made professional trustee firms reluctant to become EOT trustees. Delegates participating in the discussion emphasised that there was no simple answer since all opportunities were examined on a case-by-case basis. Many problems were identified, such as the need to train trustees, the liability of trustees should the company perform badly, and the relationship between trustees and management teams.

In the second session, **Paul Malin** of **Haines Watts** gave an update on the automatic exchange of financial information being introduced in most major economies and offshore centres over next couple of years. While *the - who, what, and when*? were easy to answer, the *why?* was much more difficult. The reasons ranged from an increasingly internationally mobile society, to '9/11', the global recession, and FATCA. Mr Malin suggested it was part of the general shift from privacy to transparency, which had only sharpened since the Panama leak.

David Craddock of **David Craddock Consultancy Services**, tackled the complex topic of share valuation. He made the point, based on case law, that the share valuation process was a feat of imagination and often the valuer had to rely on tried and tested methodologies.

The conference concluded with the trustee panel featuring **Helen Hatton** of **Sator** and **Tania** Bearryman of **Elian**. The discussion considered the **Jersey** Financial Services Commission's view on aggressive schemes and legacy schemes which may no longer be in compliance with current regulations, and how practitioners handle them. They questioned what fiduciary responsibility trustees really had for such schemes.

VIENNA: June 2 & 3

The future of the Channel Islands based trust companies will dominate the panel session at the Centre's 28th annual conference, being held in the five-star Steigenberger Herrenhof Hotel**,** in central **Vienna,** on **Thursday/Friday, June 2 & 3**, this year. C.I. based trustees will discuss the wave of recent private equity backed MBOs announced by Estera (Appleby), Elian, Sanne (IPO) and now Bedell Trust. This panel will be led by **Claire Drummond, Bedell Group** and **Patrick Jones, Estera**.

The second panel – of employee equity plan issuers – promises to be equally interesting: **Mark Higgins**, head of share plans at **Xerox HR Services**, formerly share plan manager at **Vodafone**, **Claudia Yanez**, director, executive & equity compensation at **SunPower** and **Robert Head**, reward consultant and former director, executive reward and global share plans, at **Pearson** will discuss key issues, such as:

- The purpose and objectives of all-employee plans, articulating the business case for employee equity participation and all-employee versus discretionary plans
- Strategy and deployment; plan design; performance measures and periods; share-holding and behaviour of senior executives; complexity and simplification
- Communication and managing globally; plan communication, partnership with service providers
- They will give delegates examples of equity plans from Vodafone, SunPower and Pearson.

Member delegate fees for the two night half-board accommodation in the Herrenhof Hotel plus conference package deal have been reduced from £1050 to **£875** for practitioners. The conference package comprises: two nights (June 1 & 2) half-board accommodation in the Herrenhof Hotel, entry to all conference sessions, invitation to the conference cocktail party Thursday evening (partners welcome), lunches and coffee/tea break refreshments and a bound delegate handbook.

The Centre's informal delegates' dinner will be held at the famous Café Central in Vienna on **Wednesday June 1**, the night before the conference begins. If you want to join the diners, please inform us now, as few places remain.

Attendance at this event qualifies delegates for 11 hours of valuable credits under the Law Society's CPD programme.

If two member practitioners from the same company register as delegates, their conference fees are reduced to **£750 each**. However, the non-member practitioner rate remains unchanged at £1,750. Plan issuer delegate prices on the same basis have been reduced from £745 to **£625**.

No VAT is charged on these fees.

Centre international director, **Fred Hackworth,** said: "These reduced Vienna attendance fees offer a very good deal for members, especially when you consider that the it costs us almost £500 per person. We have a first-class programme and you should not miss the opportunity to participate in the topic sessions, network with leading figures in the industry and enjoy the ambiance of old Vienna. ***To avoid disappointment, you should register now, as the Centre holds a fixed number of bedrooms for delegates and only two remain.***"

The programme features presentations from Austrian & German companies, as well as from the UK and the US - such as **Willis Towers Watson**, **Pett Franklin**, **Solium**, **Strategic Remuneration**, **SunPower Corporation**, **Tapestry Compliance**, **Voestalpine**, **White & Case**, **Lewis Silkin** and **ButcherJoseph**, the US Esop investment bank. **Dr Barbara Kolm**, Director of the **Austrian Economics Centre**, will moderate a panel discussion on employee share ownership in Austria and Germany.

Three major case studies are in the programme:

- Maintaining Employee Ownership While Achieving Growth, which features the global development company, **DAI Global**, which aims to maintain its employee-owned status while positioning itself for continued international expansion. Highlights include corporate restructuring considerations with a worldwide workforce of 2,700, designing management incentives, and improvements to its balance sheet. DAI was founded by three graduates of Harvard University's Kennedy School of Management. It works not only in the fields of water & natural resource management but also in crisis mitigation and financial services. This double-header will be delivered by Keith Butcher, managing partner, ButcherJoseph and DAI's ceo, Dr. Jim Boomgard and company secretary Helle Weeke.
- How **SunPower**, a California-based energy company, which employs 6,300 people worldwide, introduced new performance-based executive equity rewards. Claudia Yanez explains how SunPower operates its broad-based and executive equity incentives.
- Bundled employee shareholder rights at **Voestalpine**, an Austrian steel company. More than 24,000 employee shareholders are involved in a structure which gives them voting rights in a collective voice via a foundation. Max Stelzer, member of the executive board which administers the company's Eso foundation, will explain how this works in practice.

Sponsorship opportunities include whole event sponsorship (£2,750), with full branding rights & free seats – partial sponsorship offers - for the conference cocktail party (£1,000) and our Vienna e-brochure logo (£500), with repeat mentions in both *newspad* and on the Centre events news website until August in all instances. To register or sponsor, please e-mail Fred Hackworth at: fhackworth@esopcentre.com, with copy to esop@esopcentre.com.

The 100 year old Herrenhof is on **Herrengasse,** near the Kohlmarkt and Golden Quarter in the city centre - a few minutes' walk away from historic landmarks, such as the Hofburg Imperial Palace, Café Central, the Spanish Riding School, the Sisi Museum, the state opera house, Burgtheater (Imperial Court Theatre) and gothic St. Stephen's Cathedral.

The conference e-brochure is co-sponsored by **Estera,** formerly *Appleby Fiduciaries*, and by **Bedell Group**, both Centre Channel Islands-based trustee members for many years.

New Shareholder Spring menaces executive reward

Investor anger over perceived executive reward excesses boiled over once more as shareholders tore into their directors' executive reward reports and recommendations as the 2016 agm reporting season got under way.

Just when the so-called 2012 Shareholder Spring – *in which several major FTSE ceos were humiliated by shareholder votes* — seemed a distant memory, a new mass revolt by shareholders was triggered after heavy agm votes at **BP** and **Smith & Nephew** against either actual or proposed senior executive reward packages. Leading the rebellion over the allegedly 'broken system of executive reward' is a group of powerful city institutions.

*The majority of investors at Shire pharmaceuticals later failed to support a 25 percent pay rise for its ceo, Flemming Ørnskov. The increase in his salary to £1.2m means Ørnskov's bonuses are going up too, a move which shareholders had been urged to protest against before the agm. The advisory pay vote squeezed through, as holders of 50.5 percent of the shares in the Dublin-based but London-listed FTSE 100 company voted in favour – but if deliberate abstentions were included, support for the board fell just below 50 percent. Since Ørnskov took charge three years ago, Shire's stock has risen 119 per cent compared with a slight fall in London's FTSE 100 index. The group's status as one of the fastest-growing companies in the pharmaceuticals sector was reinforced by first-quarter results which showed a 15 percent increase in sales to $1.71bn and a 15 percent jump in operating profits to $544m. Performance-related incentives and bonuses helped fuel a fivefold increase in Ørnskov's total pay last year, but it was the 25 per cent increase in his fixed salary which most upset critics. Shire's board said the raise was needed to bring Mr Ørnskov's pay into line with peers in the pharma and biotech sectors "to ensure the ceo's retention given his attractiveness as a potential recruitment target".

*There was a huge upset at the agm of FTSE 250 engineering group **Weir** with a *72.4 percent* shareholder vote against a proposed remuneration policy. The Glasgow engineer had two votes on pay and the policy vote was going to be subject to close scrutiny given it included a share award which was not linked to performance. Weir had argued it had used this policy for US directors and said the pay for the ceo was down last year. Weir had to abandon plans to issue shares to its directors after its catastrophic defeat at the hands of its shareholders. Ahead of the vote, Hermes, representing pension funds, had said: "We are recommending to clients that they vote against, due to the proposed award of restricted shares which are not tied to performance targets."

*At the **Schroders** agm, shareholders registered their frustration with the elevation of former ceo Michael Dobson to chairman.

*There was a pay protest too at FTSE 100 building materials business **CRH**'s agm.

*The revolt spread across the Channel, as investors holding 54 percent of the voting rights opposed **Renault**'s decision to pay ceo Carlos Ghosn €7.2m for last year's work. The 18 percent of Renault's equity which is owned by the French State was voted against Ghosn's pay deal - on the orders of the Socialist government of Francois Hollande. However, an emergency meeting of Renault's board defied the vote by endorsing the pay-out, which comprised €1.23m in fixed salary, €1.78m in variable pay and a further €4.18m in deferred bonuses and stock.

***Norway**'s $870bn sovereign wealth fund announced that it is focusing on executive pay, targeting high salaries at companies around the world as it seeks to exert more influence on this issue. The world's largest wealth fund is looking for a first company to target and plans to publicise what it considers to be very bad remuneration schemes for senior executives. "We have so far looked at this in a way that has focused on pay structures rather than pay levels," Yngve Slyngstad, ceo of the fund, told the *Financial Times*. "We think, due to the way the issue of executive remuneration has developed, that we will have to look at what an appropriate level of executive remuneration is as well". Norway's fund has been pushing to be more active in corporate governance matters such as the election of directors and board composition. The fund believes executive compensation has become a global issue and is looking for an example of bad pay for it to launch what it calls a position paper, laying out its principles for what it expects on a subject, the report said.

"This agm season is shaping up to be the most raucous on record," said Simon Walker, director general of the Institute of Directors. "I welcome the fact that shareholders are finding their voice."

In 2013 the corporate reporting system changed, with the advisory vote on remuneration reports covering that year's pay now supplemented by a second vote on remuneration policy for the upcoming three years. Crucially, that vote is binding.

Walker said: "Investors are still getting used to their new binding vote, and have seemed cautious about using it so far, perhaps waiting to see whether boards pre-emptively addressed concerns on executive pay. It is vital that boards do this. The binding vote has not yet had the desired effect and shareholders are making their displeasure clear."

*A £23m pay deal for **Reckitt Benckiser**'s ceo was under the spotlight as the Dettol/Durex maker was putting its remuneration plans to the vote at its agm. Rakesh Kapoor's package – twice what he received the year before – was described by one shareholder as a mis-judgment of the mood of investors, who are now prepared to say no to exorbitant executive reward deals. Reckitt's new remuneration policy reduced the maximum number of shares that could be awarded to Kapoor but still meant he could get multiples of his salary in shares. The company hoped to head off a revolt by emphasising its performance – its stock market value is up £21bn in three years. Other companies holding agms include **Standard Chartered**, **Royal Bank of Scotland**, **Glaxo** and **Aviva**, whose chief executive, Andrew Moss, was forced out in the 2012 revolt.

Only weeks before these agm shareholder imposed routs, two FTSE100 companies faced the embarrassment of losing their remuneration report votes at their respective agms, whilst a third came within a hair's breadth of losing its executive reward report vote too.

***BP** shareholders rejected – by a 59-41 percent vote margin — a pay package of almost £14m for ceo Bob Dudley at the oil company's agm. Only 41 percent of participating investors approved Mr Dudley's 20 percent total reward increase, which was awarded despite a fall in profits and thousands of job cuts at the oil giant. The vote is non-binding on BP, but earlier, chairman Carl-Henric Svanberg promised to review future pay terms. Corporate governance adviser Manifest said it was the fifth-largest vote in the UK to date against a boardroom remuneration deal.

*Hours later, 53 percent of participating investors voted down **Smith & Nephew**'s 2015 remuneration report in a split about how the company had awarded bonuses. The medical-device maker then said that the nonbinding vote wouldn't affect last year's management pay packages. The rebellion centered on the remuneration committee's decision to award a combined £2.1m in bonus payments to Smith & Nephew's top 60 executives, even though the company's total shareholder return lagged behind the median of its peer group. That decision overrode the company's own pay policy, which stipulated that management would receive a bonus only if total shareholder return was at or above that benchmark. Joseph Papa, chairman of the Smith & Nephew remuneration committee, said in the annual report that the decision was "not taken lightly," and reflected volatility within the peer group. Of the 18 companies in Smith & Nephew's peer group at the start of the period, three were acquired, resulting in share-price spikes for those companies. Mr. Papa said that Smith & Nephew's total shareholder return over the previous three years, at 80 percent, was significantly ahead of broad market indexes, both in the UK and US. "Ultimately, we have made a decision that we believe to be in the best interests of shareholders, reflecting the corporate performance delivered, while continuing to engage and incentivize the company's senior management," he said.

*Mining company **Anglo American** reiterated it was "mindful" of shareholder concerns over executive pay, and pledged to consult them on a revised remuneration policy to ensure it was "both appropriate and motivational." Anglo was the latest FTSE 100 firm to face a major protest over boardroom excess at its agm, where almost 42 percent of participating investors voted against its remuneration report, including the £3.4m pay package of its ceo, Mark Cutifani. Releasing the vote result, the company said: "Anglo American is mindful of the concerns expressed by a large number of shareholders in relation to executive remuneration in 2015, which have led to the remuneration report not receiving the same high level of support compared to previous years." Anglo said the dialogue it had with many major shareholders leading up to the agm had helped clarify the issues, and it would continue to sound out shareholders in the next six months ahead of the 2017 meeting, when a revised remuneration policy will be put to the vote. "Setting executive remuneration in a volatile industry such as mining can be challenging and the remuneration committee intends to again engage with shareholders in order to refine the policy to ensure that it is both appropriate and motivational," it said. Sir Philip Hampton, who chairs Anglo's remuneration committee, will lead the group's efforts to get feedback from institutional shareholders. At the

agm in London, the Anglo chairman, John Parker, blamed a "very frenzied" wage debate going on in society at large, but said the group was listening to shareholders.
*However, the revolt failed at mega bank **HSBC**, despite the investor advisory group **Pirc** urging shareholders to reject HSBC's bonus plans for its top staff, more than 90 percent of voting shareholders supported last year's remuneration report, while 96 percent backed future policy. Last year, almost one in four investors who voted had opposed HSBC's remuneration report for 2014. Ceo Stuart Gulliver's overall pay fell from £3.4m to £3m for the past year, with his bonus representing 45 percent of the maximum amount, a result of the bank responding to shareholder feedback. In future, the maximum payment for directors will be seven percent lower, and pension payments will be capped at 30 percent of salary, down from 50 percent.
Back at BP, in his opening address to the shareholders' meeting, before the vote had been formally announced, Mr Svanberg said: "Let me be clear. We hear you." He continued: "We will sit down with our largest shareholders to make sure we understand their concerns and return to seek your support for a renewed policy. We know already from the proxies received and conversations with our institutional investors that there is real concern over the directors' pay in this challenging year for our shareholders. On remuneration, the shareholders' reactions are very strong. They are seeking change in the way we should approach this in the future," he said. Though much of his increase was due to UK reporting requirements, which inflated the rise in Mr. Dudley's pension, the oil executive's cash bonus increased to $1.4m from $1m in 2014. His total bonus for the year, including a portion paid in deferred BP shares, amounted to $4.2m. That was the maximum amount he was eligible to receive for the year and was up from $3m in 2014. Cfo Brian Gilvary received 100 percent of his possible bonus. The awards follow a year in which the company lost $5.2 bn as oil prices plummeted. Last year, BP made a £3.6bn loss and announced that thousands more jobs would be cut.
Shareholders who criticised the pay deals included **Aberdeen Asset Management** and **Royal London Asset Management**. Investor group **Sharesoc** branded the pay deal "simply too high", while **Glass Lewis**, Pirc and **Institutional Shareholder Services** expressed their opposition too. The Institute of Directors had warned the day before the vote that the pay increase risked sending "the wrong message to other companies". IoD director-general Simon Walker said the "pay package will seem unjustified to many shareholders, considering the performance of the company over the past 12 months".

NICs election may be axed
A consultation on whether companies with non tax-advantaged share schemes require the continued availability of a National Insurance Contribution (NIC) election was published on April 20. This HMRC, Employee Shares & Securities Unit, consultation closes on July 13 this year. Access the consultation document on Gov.uk – http://tinyurl.com/jp9rlcc
The Centre is asking members for their reactions to this implied proposal. An NIC election is the means of legally transferring to the employee the employer's Class 1 NIC obligation on the occasion of chargeable events concerning employment-related securities options and restricted or convertible employment-related securities. When an employee makes a gain on exercise of an employment-related securities option, or realises some other chargeable event under section 479 Income Tax (Earnings and Pensions) Act 2003 (ITEPA), this is treated as earnings liable for Class 1 NICs. There will be a liability to pay both a primary and secondary Class 1 NIC. A primary Class 1 contribution is payable by the employee with a secondary Class 1 contribution payable by the employer. There are occasions however, when the employee meets the secondary Class 1 NICs liability, said *CCH* e-magazine.
At present, under section 481 ITEPA there are two routes for the secondary Class 1 NICs liability to be met by the employee. These are either an NIC agreement (which is not the subject of the current consultation and will remain as an option), or an NIC election. Unlike an NIC agreement, an NIC election constitutes the legal transfer of liability for payment of secondary Class 1 NICs from the employer to the employee, and must be approved by HMRC.
The aim of HMRC's consultation is to gather views and evidence as to whether there is still a need for NIC elections and the potential consequences of removing the ability to make NIC elections. HMRC currently reviews around three elections per week using a paper-based process. If it was decided that NIC elections were no longer necessary this would mean a saving of HMRC staff resource, equating to 225 person hours per year, since it is uneconomical to develop a digital process to approve NIC elections.
The key issue for the consultation is the question of whether current accounting rules for companies that operate in the UK mean that there is a case for retaining NIC elections; or if there are other reasons which would justify their retention. If there are no longer any accounting or other benefits, then HMRC says it is hard to see the justification for their continued retention, provided NIC agreements continue to be available. Removal would represent a minor simplification of the complex rules which govern the tax treatment of employee shares and share options, said HMRC which pointed out that in theory NIC elections provide companies with more certainty than NIC agreements, because NIC elections legally transfer the secondary Class 1 NICs liability to the employee. In contrast, if the employee, following a NIC agreement does not pay the secondary Class 1 NICs, then HMRC will continue to enforce payment from the person legally due to pay the NICs – the employer. However, HMRC says legislation at Schedule 1 paragraph 3A(2) & (2B) Social Security Contributions and Benefits Act 1992

(SSCBA) would allow the employer to recover the secondary Class 1 NICs from the employee's earnings through the payroll where the employee agrees.

New member

Postlethwaite Solicitors Ltd, the employee-owned law firm which specialises exclusively in employee ownership and employee share schemes, has re-joined the Esop Centre. Ranked in both *Chambers* and *Legal 500*, it is probably unique in that all four of its qualified lawyers appear in the individual rankings.

The firm is based in Staple Inn, near Chancery Lane in central London and it has clients both throughout the UK and elsewhere. In April 2016, Postlethwaite expanded its practice by adding to its team three further employee ownership and share scheme specialists, namely Emma Wise, a chartered tax adviser, Kirsty Lawson and Jo Nicholas. The firm has for many years had a philosophy of wider ownership in its own business and is in the process of applying to the Solicitors Regulation Authority to become an alternative business structure. This will enable it to involve non-lawyers in its ownership and its senior management. Members of the Postlethwaite team have wide experience of delivering employee share ownership plans for both private and listed companies, from start-ups to major international companies. They work both directly with companies and with advisers who either lack the relevant expertise, or who value a second expert opinion. Postlethwaite can be contacted by phone on +44 (0) 20 3818 9420 and by email at info@postlethwaiteco.com

Online Eso schemes reporting templates

The updated templates that employers should use to make their mandatory annual returns regarding employment-related shares and securities for tax year 2015/16 were published by HMRC on March 31, reported Centre member **Deloitte**.

Share scheme annual returns: In an effort to avoid a repeat of technical difficulties in the submission of share scheme returns encountered last year – as reported extensively in *newspad* - the returns service is being released in stages for the filing of 2015-16 returns. HMRC is prioritising the returns for schemes most commonly used. It expects the impact of this phasing in of submission dates to be minimal as most returns are filed towards the end of the filing period. Templates for 2014-15 have now been withdrawn. Any companies that still need to submit a 2014-15 return can do so on the 2015-16 template, selecting the relevant return year within the service. Further information can be found in HMRC's latest ERS Bulletin http://deloi.tt/1UKrVSN. HMRC announced its plans to make changes to the existing forms some time ago, so publication puts an end to any worries that there would not be sufficient time left to prepare to use the new forms ahead of the July 6 2016 submission deadline. Companies and scheme administrators will be relieved that the templates show few changes from last year's versions, although some aspects of the changes are rather unclear. Companies that operate employee share schemes or award employees with shares or securities will use these templates, or their own versions of them, to make their mandatory annual returns. The new templates and guidance notes can be downloaded from HMRC's website.

Suzannah Crookes and **Graeme Standen** share plans and incentives experts at **Pinsent Masons**, the Centre member law firm, analysed the changes in detail: "Significant changes have been made to aspects of the Enterprise Management Incentive (EMI) template; and to the 'Other ERS' template, which collects the information formerly returned on 'Form 42'," they said.

"HMRC apparently now intends that the EMI 'Options Adjusted' worksheet should only be completed if the EMI options were amended in tax year 2015/16 following an adjustment of the relevant company's share capital - a return to the position which applied before tax year 2014/15. Although the removal of a reporting requirement for other option adjustments would be a welcome change, inconsistent aspects of the worksheet's drafting - and that of the accompanying guidance - raises some doubts, which hopefully HMRC can readily clarify," said Pinsent Masons.

The amendments to this template relate to three aspects of share schemes:

the **unrestricted market value** of securities at the time of acquisition is now required, even if the securities are neither restricted nor convertible (see the 'other acquisition' worksheet). This is an important change for employers to note, given that they may now need to return information that they did not need to report last year, but **actual market value**, i.e. the restricted value, of restricted securities at the time of acquisition is no longer required if a section 431(1) joint election has been made by the employee and employer, which is sensible (again, see the 'other acquisition' worksheet);

internationally mobile employees (IMEs). Questions on seven of the eight worksheets that previously asked whether pay as you earn (PAYE) had been adjusted for amounts subject to the remittance basis now refer to PAYE adjustment for amounts subject to apportionment for residence or duties outside the UK. This reflects the changes to IME taxation that came into effect from the start of tax year 2015/16.

"HMRC may have missed a chance to help employers with IMEs cope with these changes. The template and associated guidance seem to lack any prominent reminder that the IME changes will bring some employee shares and share awards into the scope of these annual returns for the first time in 2015/16. Employers who may be affected should bear this in mind. HMRC's guidance and technical notes have been expanded for all types of share scheme. The technical notes are also more readily accessible for this year as they can be downloaded, rather than needing to be requested from HMRC. In addition, they take the form of a specific note for each type of return," added Ms Crookes and Mr Standen.

Employers should not overlook the technical notes, even if they plan to use HMRC's templates rather than made their own. Although the notes are expressly aimed at helping technical staff create bespoke return templates, they include information that could be very helpful when completing the HMRC templates. Despite improvements, aspects of the notes may not be thought as helpful or as clear as they could be.

"For all types of return, there remain a couple of practical issues that template users would have liked to have seen improved. There is still no HMRC template for scheme participating company details, so large groups will need either to enter them all on the online return screen or create their own attachment for the purpose - or to re-use a file or files that they created last year, amended as necessary. In addition, there is still no capacity to submit Excel template files without first converting these to the .ods format used by the free spreadsheet software that HMRC prefers to use. In the Bulletin, HMRC notes that if a company has any Enterprise Management Incentives (EMI) or (old Form 42) annual returns for 2014 to 2015 that are still outstanding, it will now need to use the templates provided for the 2015 to 2016 tax year (version 3) as the previous forms can no longer be used. It will not be possible to submit annual returns using the new ODS templates for Company Share Option Plans (CSOPs), SAYE and Share Incentive Plans (SIPs) for both the 2014 to 2015 and 2015 to 2016 tax years until around the end of April 2016. For companies creating their own CSV files (recommended for companies with large amounts of data), the returns will not be accepted online until the end of May 2016. The online checking service is still available in the meantime and nil returns can also be made at present. All companies that registered a share plan online for the tax year 2014 to 2015 should now have submitted an online annual return for that tax year. The Bulletin sets out the procedure for checking whether a return has been submitted by logging into the HMRC online service.

The Bulletin sets out the procedure for closing a registered plan (for example, where a plan comes to an end or if it has been registered incorrectly), by entering a "date of final event". This process can only be completed online, via the HMRC online service, by the company and not by an ERS agent. Note that the company must complete an online annual return for the tax year in which the date of final event falls to fully close the scheme.

HMRC no longer provides copies or confirmation of EMI options notified online and recommends that companies/agents keep a detailed record of the EMI options notified. This can be done by printing the summary, confirmation and acknowledgement pages produced during the online notification process. **Tapestry Comment:** *Companies will shortly be starting to turn their attention to their online ERS year end returns for the 2015 to 2016 tax year. It appears that HMRC is introducing a staged filing process for the different returns this time, perhaps to try to avoid the system becoming overwhelmed and crashing, as it did last year. Companies should read the latest HMRC guidance on completing the returns and consider the additional points raised in the Bulletin before attempting to file their returns.*

COMPANIES:

Staff at US yoghurt maker **Chobani** will receive a share of a ten percent stake in the yoghurt maker, the company's founder announced. While shares are commonly granted to staff in start-up technology firms, it is an unusual move for a food company. The shares will be distributed among Chobani's 2,000 employees worldwide. The award will be based on how long an employee has been at the firm. Staff will not know how exactly much their shares are worth until the company is given a value, which would happen if it is sold, or sells shares on the stock market. Chobani would not comment on whether it is considering either of those options. However, the company is estimated to have a value of several billion dollars. **Hamdi Ulukaya**, who founded the company in 2005, made the announcement at Chobani's plant in upstate New York. "This isn't a gift. It's a mutual promise to work together with a shared purpose and responsibility. To continue to create something special and of lasting value," he told staff. Investment firm TPG Capital is due to buy a 20 percent stake in Chobani and has loaned it $750m. TPG's stake will be allocated after employees are given their ten percent share of the company.

Next's ceo, **Lord Wolfson**, had his bonus halved last year as tough high street trading conditions caught up with the retailer. The peer still earned a cash and shares package worth £4.8m, but collected a cash bonus of £503,000 compared with £1.1m the year before, after Next missed targets linked to profits and earnings per share. He banked shares worth £3.1m on top of his £751,000 salary. Profits at the high street giant rose five percent to £821.3m in the year to January. In 2014 Wolfson earned £6.2m, but that figure was reduced to £4.7m due to the company's then policy – subsequently dropped - of capping the value of share-based payouts at £2.5m. Next axed a lucrative share-matching bonus scheme two years ago. Wolfson had promised to share his bonuses with staff if the company could not find the extra cash needed to fund an improved five percent shop-floor pay rise through sales or productivity gains. The company said that there had been no funding shortfall so no sacrifice was required on Wolfson's part.

Saverglass, the 120 year old manufacturer of luxury glass bottles for perfumery, cosmetics, spirits, still and sparkling wines and the food industry, is expanding its employee financial participation (Eso) in a major way. Based in northern France, Saverglass has 2,500 employees and an annual turnover of €392m, of which 50 percent is for export.

Financing employee ownership

RM2 Partnership announced the launch of a new associate business - **RM2 Corporate Finance** - focused on structuring and financing transitions of businesses to employee ownership. **Nigel Mason**, director at RM2 Partnership, said: "We are very pleased to announce the launch of a new business dedicated to the financing of business conversion into the employee ownership model. Our team of corporate finance employee ownership professionals has 175 years of collective experience in the UK and US and has closed 150+ transactions with total value exceeding £750m. We focus upon: • Upfront Feasibility Analysis to determine whether a change of control Employee Ownership Trust (EOT) transaction can work from a corporate finance perspective, given the objectives of the selling shareholder(s); • The Feasibility Analysis is done at no charge to the potential client, as we want to ensure there is a "real" transaction before we ask the client to retain us; • Modelling EOT transactions from a capital markets perspective. We believe all EOT transactions should be structured on market terms unless the client directs us otherwise; • Structuring a transaction on market terms provides our clients with greater flexibility regarding financing in the future," he added.

On the move

*Ex Army officer **Euan Fergusson**, is no longer a direct employee at **White & Case LLP -** where he was a counsel for eight years. He is now an independent share schemes consultant and a director at **Abel Grant Consulting Ltd** and on that basis has hired himself back to White & Case as a consultant**,** but has the freedom to take on other share schemes work. Euan's new business email is: euan.fergusson@abelgrantconsulting.com.

*The **Financial Conduct Authority (FCA)** announced that **Tracey McDermott**, acting ceo of FCA, is to leave the organisation on July 1. This follows **Andrew Bailey**'s appointment as the new ceo, a role he is due to take up on the same day. Previous FCA ceo **Martin Wheatley** was ousted last July when **Chancellor George Osborne** decided not to renew Wheatley's contract. **Bailey** is the outgoing ceo of the **Prudential Regulation Authority (PRA),** a fact which sparked criticism that his appointment was part of a regulatory top jobs merry-go-round. He in turn will be replaced by **Bank of England** deputy governor (prudential regulation), **Sam Woods**, an enforcer, whose job will be to keep the UK's financial services sector safe during the next five years.

*****Sheffield-based **Tapestry Compliance** has found a new Art Deco home in the heart of **Leeds** with easy access to Leeds station. Tapestry co-founder **Janet Cooper**, former **Linklaters** senior share schemes partner, said: "Our team continues to expand and now, with 18 lawyers specialising in this field, we are the largest employee shares and incentives team in any European law firm."

***Sator Regulatory Consulting** and its sister companies **KYC Worldwide** and **Sator Fidelis**, recently moved offices to First Floor, Windward House, Route de la Liberation, St Helier JE2 3BQ following a strong 2015 which saw Sator awarded *'Fund Consulting & Restructuring Firm of the Year,' 'Best Financial Services Consulting Firm, Jersey,' 'Best in Offshore Financial Service Advisory Services'* and *'Best Regulatory Consultants – Channel Islands'*. In response to the developing governance, risk and compliance agenda, Centre member Sator has steadily grown during seven years to its current staffing level of 15, which – according to Helen Hatton – makes it the Channel Island's largest specialist dedicated regulatory and compliance advisory services firm. Contacts: **Sator Regulatory Consulting** +44 (0)1534 617298 **KYC Worldwide** +44 (0)1534 630888 **Helen Hatton -** h.hatton@sator.je

Company ownership taskforce:

The **Prime Minister** announced the formation of a new 'taskforce' in the wake of the so-called 'Panama papers' scandal. It will be jointly led by **HMRC** and the National Crime Agency and will report its progress to the chancellor and home secretary later this year. Mr Cameron further announced that Crown dependencies and overseas territories that function as financial centres, which had already agreed to exchange taxpayer financial account information automatically from this September, have now agreed that they will provide UK law enforcement and tax agencies with full access to information on the true ownership of companies. The UK has finalised arrangements with all of them except for Anguilla and Guernsey, both of which are expected to follow shortly.

Chancellor George Osborne announced that the UK, Germany, France, Italy and Spain have agreed that their tax and law enforcement agencies will automatically share information on company beneficial ownership registers and new registers of 'trusts with consequences.' The UK has already confirmed its register of company beneficial ownership will be in place from June 2016, and the information will be public, and free to access. As of April 6 this year, UK companies and LLPs are required to hold a register of *People with Significant Control (PSC).* The register is to be held in addition to existing registers, such as the register of directors and register of members. The PSC register will include information about the individuals who own or control companies, including their name, month and year of birth, nationality and details of their interest in the company or LLP. From June 30 this year, UK companies (except listed companies) and LLPs will need to declare this information when issuing their annual statement to **Companies House**. *A person with significant control* is someone who holds more than 25 percent of shares or voting rights in a company, or who has the right to appoint or remove the majority of the board of directors, said Centre member **Deloitte.**

Mr Osborne hailed the international expansion of a UK-led deal to share information automatically on the ultimate owners of companies as more than 20 jurisdictions, including British crown dependencies, overseas territories and EU member states sign up. Gibraltar, Isle of Man and Montserrat are among those joining the pilot initiated by the UK and launched with Germany, France, Italy and Spain at the G20. As such, their tax and law enforcement agencies will now exchange data on company ownership registers and new registers of trusts enabling more effective investigation of financial wrongdoing and tax-dodging. Mr Osborne said: "Only a week after Britain launched this initiative with some of our closest European partners, it's gaining the international support that will be vital to make it truly effective. I welcome the early commitment made by Gibraltar, Isle of Man and Montserrat to participate and call on all of the remaining overseas territories and crown dependencies to do likewise. It should be clear to all countries and tax jurisdictions that the world is moving firmly in the direction of greater tax transparency and the UK will continue to push for an internationally agreed blacklist for those that refuse to do the right thing. The pilot will begin to explore the best way for countries to share this information, with a view to developing a truly global common standard in a two-step process leading to the interlinking of national registries. To date, since the launch 19 additional European countries have joined the pilot, the Netherlands, Romania, Sweden, Finland, Slovakia, Latvia, Croatia, Belgium, Ireland, Slovenia , Denmark, Malta, Lithuania, Cyprus, Bulgaria, Portugal, Estonia, Greece and Czech Republic. On April 14, finance ministers from the five European countries launching the pilot wrote to their G20 counterparts urging progress towards a fully global exchange of beneficial ownership information. The letter recommended that the OECD, alongside the Financial Action Task Force should take a lead role in developing new single global standard for such exchange and for the interlinking of registers. At the G20 meetings, Mr Osborne called on the OECD to develop proposals for the listing of non-cooperative tax jurisdictions which do not meet international tax transparency standards, as well as options for coordinated counter-measures. “In this parliament alone the government will legislate for over 25 measures to make sure people do not get out of taxes due, together raising £16bn by 2021,” he claimed.

WATG gets employee ownership

The award winning US architectural & hospitality consultancy **WATG** – the acronym for **Wimberly, Allison, Tong & Goo –** won an accolade at the annual conference of the **National Center for Employee Ownership** for having adopted employee ownership via a perpetual trust based on the John Lewis Partnership model. The firm’s 365 employees work in nine offices around the world on high-profile projects from hotels and resorts to business districts and an urban forest in Istanbul. Prior to becoming employee-owned, the company was owned by members of its senior leadership, who had each bought shares in the business. Their individual ownership stake ranged from less than tiny fractions of the company’s shares to almost ten percent. The owners had buy-sell agreements giving them the right to sell shares back to the company, so WATG was buying back up to seven percent of its equity each year. In addition, the company’s success caused the price of shares, determined as adjusted book value, to continue rising, making it harder for employees to buy shares. WATG found a possible solution - an opportunity to sell the company. The company’s leaders looked hard at the buyer’s offer, which was for more than three times the most recent book value, but decided to reject it. As company president Mike Seyle noted: “Our decision criteria included many things that went beyond just the commercial deal. None of us wanted WATG to be dissolved, and we had all seen what happens to a firm’s culture and identity when businesses are acquired.” The company weighed the possibility of a sale to an ESOP too, but decided against it. Its leaders wanted to avoid replacing their repurchase obligation from the buy-sell agreements with an ESOP repurchase obligation.

Some of WATG’s London employees had worked at the UK John Lewis Partnership (JLP) and they introduced the employee ownership trust idea to management. The company invited **Graeme Nuttall** of Centre member **FieldFisher,** the author of the UK government report which has served as the blueprint for employee ownership policy in the UK, to speak to the company’s board of directors, where he presented the case for ownership through a perpetual trust modeled after the JLP. Nuttall helped WATG create its new ownership structure, in which a UK-based trust was established to buy shares in WATG, a Delaware-based holding company. WATG took a bank loan, which it used to make a gift to the trust, allowing the trust to buy 60 percent of the company shares from the owners at a price determined using an adjusted book value. The company’s goal is to have 100 percent of the shares owned by the trust. When WATG’s board decides to facilitate the purchase of more shares, the company will set a sale price and allow its existing shareholders to decide how many shares they wish to sell to the trust. The trust’s founding document notes that its purpose is to hold shares of WATG “as a permanent part of [WATG’s] ownership and governance arrangements.” Employees are beneficiaries, regardless of where in the world they are based, and if the trust ever liquidates its assets or dissolves, employees will receive their share of the value of the trust. Since the intent is that the trust endures permanently, however, in practice the employees benefit from the success of the company not by being owners of an asset that increases in value, but by receiving a share of the company’s annual profits. The company’s board determines each year what the *bonus percentage* will be, and every employee, from the receptionists to the ceo, receives the same percentage.

Mr Nuttall said: “Mike Seyle and I attended the NCEO conference and gave a presentation on WATG’s move to EO. We were really pleased with the positive interest shown in the UK’s perpetual trust model and an award was given to WATG for its vision in becoming the first US company to adopt this tried and tested UK model of employee ownership).” Loren Rodgers, of the NCEO, mentioned the conversations on this topic as a conference highlight. NCEO founder Corey Rosen will feature in the next edition of Centre members’ publication *newsbrief*.

Share dividend income bonanza

One-off special dividends brought a welcome boost to shareholder income in early 2016 but payouts will go downhill from here, a new study suggests. Dividends from UK stocks rose 6.4 percent to £14.2bn between January and March due to supercharged special payouts from **Next**, **Johnson Matthey**, **Mediclinic, Beazley** and others. However, this record will not be sustained, with the announcement of £6.1bn worth of dividend cuts to date set to make this the most dismal year for income investors since 2010, according to the latest forecasts from data compiler **Capita Asset Services**. **Justin Cooper** said: 'It's obviously disappointing to see UK dividends in decline this year, but investors should not to be too gloomy. The cuts are focused in a handful of large sectors, and so are relatively easy to avoid. If anything the risks are now finally on the upside. We are unlikely to see much more in the way of big cuts. What's more, the first quarter figures show that growth is very broadly based with the vast majority of sectors seeing payouts rise, and with sterling so weak, we may see bigger exchange rate gains over the course of the year.

'Moreover, the yield on UK equities is relatively high, as share prices have already factored in where cuts were likely to occur, and in some cases have been pricing expectations of dividend cuts where none are likely. Finally, the volatility of the stock market over the first quarter served to remind investors how important dividends are to their overall return. The absolute level of dividends will be 30 percent higher this year than in 2007, a real increase of 4.2 percent, despite the intervening financial crisis and recession. The level of share prices may have changed little since the beginning of the century, but by the end of this year, the UK's listed companies will have paid their shareholders around £1 trillion in dividends," added Mr Cooper.

Bonus corner

*The ceo of the **Co-operative Group** asked for a 60 percent pay cut because the job has become easier. **Richard Pennycook** said the business is now back "in calmer waters" and the reduction reflects the revised demands of the current job. He told the **BBC** that his pay cut was "by no means the main news", which was the Co-op's recovery, for which he credited his 70,000 staff's dedication. His base salary will fall from £1,250,000 to £750,000. Mr Pennycook was fd of the group, but took over as ceo in 2014 when the former boss, Euan Sutherland, resigned after 10 months in the job. His pay package was reported to be £3m.

In 2013, the Co-op was rocked by news that its bank had a £1.5bn hole in its capital. That was rescued by a group of investors and the Group retains a small stake in the bank. The Co-operative Group, which comprises 2,800 food stores, 1,000 funeral homes and financial services, said it had made progress this year, with sales at both its food and funeral home businesses growing. Profit was £23m for the year, down from £124m last year, when the figure was boosted by a one-off gain of £121m from selling parts of its business. Sales in its 2,800 food stores grew 1.6 percent, to give a £250m profit.

***Aviva's** top management were awarded bumper payouts last year as the UK insurer sealed the £5.6bn acquisition of rival **Friends Life**. Ceo Mark Wilson's annual bonus rose 40 percent to £1.8m, while cfo Tom Stoddard's bonus jumped two-thirds to £877,000. Both men benefited from a decision last year to increase their maximum potential bonuses. Andy Briggs, the former Friends Life ceo who now runs Aviva's UK life business, received only five percent bonus increase - raised to £670,000, pro rata, for the eight months he worked at Aviva compared to his 2014 bonus at Friends Life. That is partly down to a cut in his potential maximum bonus — from 165 percent of salary to 150 percent. Aviva completed the acquisition of its UK rival last April. The annual report said: "The synergies associated with the acquisition are being realised ahead of schedule; a testament to the hard work undertaken by our management team on the integration."

Wilson's overall pay more than doubled to £5.7m as he received his first payout from the long-term incentive plan, created when he became ceo in January 2013. The LTIP paid out £2.6m last year. The potential for future LTIP payouts was scaled back in 2015 after a clash with shareholders. Aviva had wanted the future LTIP to pay Mr Wilson up to 350 percent of his base salary. But that was cut to 300 percent after a report from shareholder proxy agency ISS. The potential payout under Mr Stoddard's LTIP was cut too.

*He might have just axed 2,000 jobs – many in London - but that didn't stop **Credit Suisse** boss Tidjane Thiam pocketing a £13.7m pay-cheque for 2015, the firm's annual report revealed. The former **Prudential** ceo announced a cost-cutting programme within months of taking the reins at the beleaguered bank, which lost £2.1bn last year. He was forced to reveal a new wave of cuts after admitting his own staff had concealed risky trades from senior management. Thiam, 53, said he would slash bonuses by 36 percent and asked for a 40 percent cut himself in a show of solidarity. He nonetheless pocketed £2.1m in bonuses, a £1.2m salary and £95,000 pension payment for 2015. The bulk of Thiam's pay award came from £10.4m worth of shares to compensate for shares cancelled when he left the Prudential.

*2015 was far from a vintage year for the Prudential insurer's top folk, reported *The Guardian.* The nine board-room executives received £40.7m between them, a sharp reduction from the previous year's £53.3m. Ex ceo Tidjane Thiam came top with £48m in earnings over the course of his six-year stay. The Pru is a large and successful company – and its level of disclosure on pay is excellent – but these are substantial sums. The going-rate for a ceo of a FTSE 100 firm is £5m-a-year these days once salary, benefits, bonuses, incentives and pension payments are totted up. In addition, three employees outside the boardroom – probably fund managers at **M&G** – earned £5m-plus last year. "*Have we reached the point where an executive who might earn £10m a year can put his mortgage interest payments on the company's tab*?" asked one commentator. A point the **High Pay Centre** has making for ages is that perks are the hidden inflator in boardroom pay and the executive class lives by different rules.

***US** department store **Macy**'s board of directors has cut performance bonuses to the bone after the retailer missed on revenue, cash flow, earnings and expenses goals in 2015, according to a filing at the **Securities and Exchange Commission**. The board awarded zero in bonuses to executives. Ceo Terry Lundgren received \$11.6m last year, an 8.6 percent decrease from the \$12.7m he received in 2014. In 2012 his compensation package was similarly cut 22 percent from the previous year, as Macy's battled the lasting effects of the 2007-8 recession. Macy's has continued to struggle, recently shaking up a few executive spots and yielding to pressure from activist investors to unlock value from its real estate holdings. Retail futurist Doug Stephens told *Retail Dive* that investors often expect double-digit returns, and that leaves retail companies little wiggle room to thrive. "The notion of building a business that really is a great business that serves a defined customer set—I think we have lost sight of that," he said. "*We're seduced by this notion if I'm an investor and I'm not getting double digits, I'm not happy. When did five percent growth become a bad thing? It's greed on the part of markets and the companies and leads smart people away from making good decisions*."

***Pearson** did not pay bonuses to its senior management following a "below-threshold performance" by the world's largest education company last year. The company, which sold the *Financial Times* to focus on its core education business, announced plans to cut a tenth of its workforce last January following a fourth profit warning in three years. As a result, the company did not pay annual bonuses to any senior executives in 2015, which it said reflected "below-threshold performance in a tough trading environment". Base salary levels for executive directors will be frozen in 2016, according to Pearson's annual report. **John Fallon,** ceo, received a salary of £776,000 in the 2015 financial year but missed out on a maximum payment that could have risen as high as £5.7m if targets had been met. He received a long-term incentive award of £54,000, allowances of £62,000 and retirement benefits of £371,000, which took his overall 2015 pay to almost £1.3m. Pearson changed its fd last July, when Coram Williams took over from Robin Freestone, but neither received an annual bonus. Last year was the third consecutive year of no long-term incentive payments, Pearson said, reflecting the "below-threshold performance" against the three-year targets for earnings per share growth, return on invested capital and relative total shareholder return. Pearson said it would reinstate the bonus programme worth £110m for 2016, given the need to incentivise and retain staff and - "to implement a significant programme of change within the company".

***Volkswagen'**s management board should volunteer to cut their bonus payments, the company's powerful union chief Bernd Osterloh told German daily *Handelsblatt.* The carmaker should look beyond contractual obligations as it finalises remuneration packages for senior managers this week. "It is also about morals," said Osterloh. Volkswagen has been considering cuts to bonuses for senior managers in an attempt to resolve an internal dispute over executive pay following the diesel emissions scandal. But current proposals for partial cuts do not go far enough, Handelsblatt said.

Lower Saxony, VW's second-largest shareholder, has already called for executive bonuses to be scrapped or cut as Europe's largest automaker counts the multi-billion-euro costs of 'Dieselgate'. Volkswagen, which faces numerous legal and regulatory fines after admitting it cheated on diesel emissions tests, did not comment.

Longer wait for bonuses on Wall Street

Financial regulators are working on an update to financial-crisis-era compensation rules for Wall Street, which could mean financial executives will have to wait longer to collect their full bonuses. The update, which is expected next month, could require big banks to hold off on doling out a large chunk of executives' bonuses for even longer than the three-year period many banks already observe, according to the *Wall Street Journal*. It notes that the exact period of time has yet to be determined as well as the portion of the deferments. However, rules dating back five years call for as much as half of each bonus to be withheld for a long period of time so that banks could conceivably hold onto that money indefinitely in the event that an executive takes on exorbitant risk or otherwise causes financial harm for the bank's investors. Thus, theoretically, executives would have even more incentive to avoid some of the perilous behaviour that plagued the industry in the lead-up to the 2008 financial collapse. The rules on withholding portions of Wall Street executives' bonuses were first drafted in 2011, a year after President Obama signed Dodd-Frank's Wall Street reform into law. Obama is pushing regulators to finish those rules to keep executive compensation in check—a priority for his administration in terms of tighter regulations on the financial industry.

National Living Wage arrives

The **National Living Wage** (NLW) of £7.20 per hour for all adult employees came into force on April 1 this year, putting tens of thousands of jobs at risk in the retail and hospitality industries. The new higher rate of pay for employees aged 25 and over creates many pitfalls for employers. Get it wrong and companies could end up with very significant financial, employment law and reputational liabilities, warned lawyers *Berwin Leighton Paisner.* Employers face age discrimination and other employment law risks if they operate the regime wrongly, they said. It will be dangerous to preferentially recruit under-25s because they're cheaper: this is likely to be unjustified age discrimination; Avoid firing someone or making them redundant just because they're 25 and so are entitled to the NLW: this is again likely to be age discrimination and automatically unfair dismissal. Large fines for non-compliance will apply: in addition to having to make good any NLW underpayment to affected workers,

HMRC can fine employers for getting it wrong - up to 200 percent of the underpayment (capped at £20,000 per affected employee). The government has stepped up its programme of 'naming and shaming' employers who flout minimum wage laws. This is likely to continue under the NLW regime. The government plans to increase the NLW progressively to £9 per hour by 2020. Employers have to ensure that they have in place a proper strategy for managing the new regime and mitigating its progressively increasing costs.
From October 1 this year, the rates for the **national minimum wage** will rise as follows (figures in brackets show the current rate): Employees aged 21 to 24 over: **£6.95** (£6.70) employees aged 18 to 20: **£5.55** (£5.30) and employees aged under 19 but above compulsory school age, who are not apprentices: **£4.00** (£3.87)

More than 9,000 US ESOP owned companies
Nina Hale is a grateful capitalist. A veteran marketer for years at other companies, Hale, 49, launched her eponymous digital-marketing agency, **Nina Hale Inc**., in 2005. She invested $2,700 in a computer, phone and a month's rent for a small office in south Minneapolis. This year, the downtown agency of 60 employees expects revenue of $9m-plus. It has grown 30 percent by revenue in each of the last two years. Hale, the sole owner until 2014, is not the only one making out of this deal. It's proving good so far for the troops, the new owners. "I wanted to pass the value of the company to the employees who made it work," Hale said. "I never thought we were going to get this big." For she decided to sell her agency for "several million dollars" to the employees through an ESOP, an ownership structure that has enabled ***15m US employees to become owners of 9,323 companies.***
So far, the Nina Hale deal is working well. The employees will become the 100 percent owners of the agency within a few years. Hale was paid by an ESOP trust, which borrowed the money to pay her off. By financing the deal at five percent, Hale avoided third-party finance costs that could be up to 15 percent. The employees make their payments to the ownership trust through the firm's cash flow. Nothing out-of-pocket from employees. Hale and the employees have separate advisers to keep ESOP matters at arm's length. Hale, who worked 60-hour weeks as ceo and sole owner for eight years, has cut back to less than 20 hours a week. She turned the ceo job over to her hand-picked successor, Donna Robinson, in 2014. Hale remains board chairman. "Nina is the fairy godmother of all this," Robinson said. "We used to just work here. Now we own a piece of the company. I have to keep us growing."
The value of the company has grown from $2 per share to $47 per share since 2013, based on the most recent audit by an independent valuation firm. Last year, the value of the stock given to employees, proportionate to their pay, amounted to a 24 percent non-cash bonus on top of salaries, cash bonuses, and a 401(k) match. Employees vest in ownership after three years and cash out when they leave or retire by selling their shares back to the ESOP trust.
Not every ESOP works as slickly out of the gate as Nina Hale's. To be successful, ESOPs require an arms-length multiyear commitment from the selling owner and employees. Hale could have sold the company for more to a marketing-industry consolidator. But she didn't want to sign a binding, multiyear contract and she didn't want to lose the entrepreneurial small-firm culture and benefits for employees. "I made enough money,'' she said. ESOPs work best for profitable companies that don't have to go deep into debt to finance a buyout of the owner. They may include minority ownership for employees through modified stock-ownership plans and, if managed well, experts say they can be a significant way to help boost the earned wealth of workers whose wages have stagnated for 30 years.
"Wealth has increased only for people who have capital shares, a share of ownership," **Joseph Blasi**, a national ESOP expert, co-author of "The Citizen's Share: Reducing Inequality in the 21st Century" and professor at **Rutgers University** said. "The solution is to broaden the pool of people who have access to shares of profits and their company stock. We're not talking about a 401 (k) retirement plan where employees use their own wages. We're talking about ownership grants on top of fixed wages. The founders of the US believed that broad property shares were the primary solution to economic inequality … The political debate is polarised between those who are for tax cuts on everything and those who see tax increases as the solution to our problems. There is a fertile middle ground, namely tax cuts for those businesses and individuals who implement broad-based share plans that help reduce economic inequality."

South Africa: Independent nongovernmental organisation (NGO) **Bench Marks Foundation** said the revised South African Mining Charter would fall short of its intentions of addressing shortcomings in broad-based black economic empowerment (BBBEE). The NGO added that, despite its intention of reducing deficiencies in the current Mining Charter, the updated version failed to adequately deal with the "drastic" imbalance between local ownership and foreign ownership and ignored the negative impact that mining had on communities. The revised charter, which was gazetted on April 15, brought to the fore several concerns for the Bench Marks Foundation. "BBBEE ownership . . . still stands only at 26 percent . . . local ownership of enterprises is restricted to 26 percent and foreign ownership by law is 74 percent. Of the 26 percent BBBEE ownership, five percent must now go to an employee share ownership scheme and five percent to the community on whose land the mine is located," said Bench Marks Foundation executive director John Capel. Raising his concerns about the new charter, he said many communities did not trust the chief through whom that share was realised. Further, the inclusion of a five percent workers' stake would be realised through union representation on a trust, which the NGO did not believe would benefit individual workers, but would rather enrich the trade union bureaucracy. Capel said communities should be compensated for the loss of now-unrecoverable land owing to mining, including fields for cultivation and grazing. Compensation valued at a percentage of the value of the minerals mined should be allocated to the community, the NGO said. The sale of shares to BBBEE shareholders meant that the employees and the communities needed to obtain bank loans to afford these shares. "Bench Marks believe that the shares should be donated to communities as compensation for the loss of land and not sold," Capel added. "We encourage others who have concerns to use the invitation by the Department of Mineral Resources to submit their inputs and comments by May 31."

***Namibia: The International Financial Corporation (IFC),** a member of the World Bank Group, announced a five-year loan of US$12m to **Purros Investments**, a special purpose vehicle created to support employee share ownership in **Standard Bank Namibia Holdings** Purros acquired *ten percent* of Standard Bank Namibia from its parent, Standard Bank Group, for the benefit of the bank's employees in Namibia classified as historically disadvantaged, in line with the *Financial Sector Charter* of 2008. "Standard Bank Group is committed to playing its part in addressing the historical inequalities in Namibia and creating new opportunities in a sustainable manner. We look forward to ensuring our employees have a long-term stake in the success of our business and the economy of Namibia," said Vetumbuavi Junius Mungunda, ceo of Standard Bank Namibia. IFC director for Southern and Eastern Africa, Oumar Seydi noted that: "Standard Bank has developed a fair and transparent process to expand share ownership among its employees in Namibia. IFC is committed to ensuring the success of projects that promote shared prosperity in Africa, help to increase the capacity of local financial institutions, and encourage the development of robust capital markets."

***Zimbabwe**'s Indigenisation minister Patrick Zhuwao said his ministry approached the Treasury after it emerged that amendments to Zimbabwe's black empowerment laws would, in the long run, force empowered employees to sell off their shares to meet tax obligations. Speaking on the sidelines of a meeting with stakeholders in the capital last week, Zhuwao said the matter had been referred to the minister of finance Patrick Chinamasa. "Of course, we have looked into the issue of the tax loophole and have referred it to the ministry of Finance as we do not have the powers to solve the issue," he told the *DailyNews.* However, in light of the Indigenisation compliance deadline lapse last week the minister said he was unaware when the matter would be resolved. The majority of foreign-owned companies had scrambled to submit compliance plans which will see the shares being transferred to black Zimbabweans despite the glaring loophole. "I cannot tell Chinamasa how to do his job, we left it in his hands and now we wait for the final position," Zhuwao said.

The Bankers Association of Zimbabwe legal counsel Neeta Joshi told delegates at an indigenisation meeting that amendments to the piece of legislation, which has been blamed for repealing Foreign Direct Investment, had failed to address a crucial taxation loophole: "We have noticed that the Indigenisation laws and tax laws are not aligned. The current regime provides that when shares are allocated to indigenous Zimbabweans they have to start paying tax obligations, as soon as the shares are allocated. However, most of these employees are unable to pay the taxes so in the end they are forced to sell off the shares, this will diminish their shareholding and compromise the company's indigenisation threshold at the same time," Joshi said.

In the end, employees were going to end up selling their shares to the company that originally gave them the shares thus defeating the purpose of the empowerment law, which compels foreign-owned companies to sell majority shareholding to black Zimbabweans, was recently amended with all foreign-owned companies initially being given up to April 1 to submit compliance documents to their various line ministries.

The advocate said that the people who were supposed to be empowered were "being forced" by the law to sell their shares in the end. "It makes very little sense for the workers empowered under ESOTs to have to sell their shares to pay tax obligations that come with the shares. Rather it makes more sense for the tax to come into play when the shareholder chooses to sell," she said.

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