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it's our business

newspad of the Employee Share Ownership Centre

Study employee shareholders' wider rights, urges chairman

The wider rights of employee shareholders must be considered if the share schemes industry is to treat them as real people, chairman **Malcolm Hurlston CBE** told a black-tie audience at the Esop Centre's glittering 2015 Eso awards ceremony and dinner in the Reform Club, in London's Pall Mall.

Speaking after the pre-dinner champagne reception, Mr Hurlston lamented the fact that not one of all the entries for this year's Centre Awards for *Best employee share schemes 2015* had even mentioned the voting rights of employee shareholders.

He told 85 diners: "When the judges were considering tonight's awards - and this is an opportunity to say thank you to **Damian Carnell** of **Towers Watson** and **Robert Head** - what struck me was that not one single submission mentioned the democratic rights of employee shareholders.

"I know our emphasis has always been about the spreading of capital wealth in addition to wages and in that we are still ahead of the game as wealth disparities hinder progress round the world, but still - no mention at all of voting or encouraging democratic interest?

"Are we not like marketing people for whom the consumer is a target not a partner in conversation? Are employee shareholders real people if we do not concern ourselves with their wider rights?" he asked.

"It will be healthy for all investors if shareholders understand and use their rights, and that is why I am pleased to welcome **John Hunter** this evening, as guest of honour, to tell us about the **UK Shareholders Association** and about how employee shareholders among other shareholders, including no doubt all of us in a private capacity, can make things better," added Mr Hurlston.

"Under John's leadership the volunteers of UKSA stand up for the rights of individual shareholders, which are too easily forgotten by the big battalions. I have joined UKSA and I would encourage you to join too. Perhaps next year we should have an award for progress in helping employee shareholders use their rights."

Mr Hurlston said that for the privilege of holding the event in the Reform Club, the Centre was indebted to **Prof Rachel Jenkins**, an old friend, a director of the Collaborative Centre of the World Health Organisation and a member of the Reform.

"Thank you for hosting us Rachel and thank you too for making the dash from Bogota today, just in time to be with us tonight. Rachel is a world expert on mental health and with her help when I was chairing Britain's leading debt charity, the Foundation for Credit Counselling we introduced free online treatment for people in debt, using cognitive behavioural therapy."

Sadly, Malcolm's visits to the Reform Club are rather rare as: "Although - thanks to a misspent youth - I am ace at tying a bow tie, even drunk and without a mirror - I gave up ties in general fifteen years ago and fall foul of the Club rules."

Guest of Honour John Hunter, chairman of the UK Shareholders Association, said: "The spur for UKSA goes back to the agm of British Gas when trade unionists brought a 20 stone pig called Cedric - named

From the Chairman

The awards dinner at the Reform was an outstanding occasion with the cream of the industry marking great achievements by Spanish, UK and Anglo-Dutch companies. We lifted our eyes too, looking at our future role and examining the need for a stronger democratic dimension. In fact, one of our winners, Shell, already has a strong pro-voting programme and we are taking steps to learn more about it. For readers of newspad there is also an opportunity this month to join members of the Centre at a high table dinner: we are hosting Representative Paul W Mark from Massachusetts at the RAF Club on November 25. His draft Bill in the state legislature would establish the rights of employees to buy the business where they work. There are only a couple of places left so apply soon. For details see page 12 of this newspad.

Malcolm Hurlston CBE

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2015 award winners with Professor Rachel Jenkins

after BG chairman Cedric Browne - which was refused entry to the meeting presumably because he wasn't a shareholder."

UKSA was critical of corporate excess in all its forms but preferred to work with companies, business associations and regulators, rather than indulge in rabble-rousing, he said. The message which needed hammering home was that most investors' shares, including those of some employee shareholders, were held in pooled nominee accounts controlled by the brokers.

"What this means is that these millions of individual shareholders have no right to vote at agms, no right to receive company reports or company notices," said Mr Hunter. "They may not know about the risk of financial loss in certain situations and will only know about these things if the broker bothers to tell them, which is clearly wrong."

He concluded by saying that UKSA and the Centre, despite having not known of each other's presence for some years, could now work together to improve shareholders rights on a number of fronts.

After dinner Centre international director Fred Hackworth read out the names of the finalists and winners in each award category and Prof Jenkins presented the winners' certificates.

The Esop Centre 2015 Awards for *Best Employee Share Ownership Plans*

Best international all-employee share plan in a company with more than 1,500 employees in at least three countries

Finalists

- Amadeus IT Holding SA
- Royal Dutch Shell, nominated by Computershare
- Imagination Technologies Group plc

Judges' comments:

- The judges appreciated that share plans are "clearly in **Imagination**'s DNA"

- Looking at **Shell**, they were impressed by the scale of the plan, with a 50 percent participation rate across 50 countries.

- The winning plan achieved a 56 percent participation rate, which is very high for a Share Incentive Plan that normally requires employee contributions from pre-tax salary - It was designed with company objectives first in mind and consideration of the tax implications second (*which is surely the right way round)* - The winner knew the importance of word-of-mouth communication and employee testimony in making a success of the plan - This entrant achieved board level support for the plan and communicated this to employees

The winner : Amadeus IT Holding

Daniel Valldejuli Ynzenga and **Ana Gonzales** collected the winner's certificate on behalf of **Amadeus IT Holding**.

Best all-employee share plan in a company with fewer than 1,500 employees

Finalists

- Abzena, nominated by MM&K
- Henderson Global Investors

Judges' comments:

- The entrant Henderson achieved high participation levels: 52 percent in the SIP, and 67 percent in the SAYE - The judges liked its Easter themed Sharesave launch, with the team dressing up in bunny ears and handing out eggs while promoting the scheme. - They liked too the company's five year cake and champagne SIP party for employees who remained five years in the plan - celebrating their shares becoming tax free

Commended: Henderson Global Investors

Shelly Ribbons and **Alex Goodrich** collected the commendation certificate on behalf of Henderson Global Investors.

- The winner of this award is a rapidly expanding Cambridge UK based company which provides services to the £200bn biopharmaceutical sector. It has shown a commitment to an **all-employee** EMI, and which intends to extend EMI options to those employees who have joined since the first round of option awards. This is testing because it already employs 130 people and recently acquired a manufacturing facility in San Diego, US.

The winner: Abzena

Nigel Mills of **MM & K** and **Diana Crisp** of **Imperial Innovations Group** collected the winner's certificate on behalf of **Abzena**.

Best all-employee share plan communications

Finalists

- Royal Dutch Shell, nominated by Computershare
- Amadeus IT Holding SA
- Close Brothers, nominated by Equiniti
- Henderson Global Investors

Judges' comments:

- The winning company showed an appreciation that long standing share plans can become stale. It rejuvenated its communications and tied them into the company's corporate messages. The plan has a global reach, 37,000 participating employees in 50 countries and quality communications are central to the success of that

The winner: Royal Dutch Shell

Pam Roffe of **Shell** and **Martyn Drake** of **Computershare** collected the winner's certificate

Best in financial education for employees

Finalists

- Auto Trader, nominated by Capita
- Henderson Global Investors

Judges' comments:

- The winner showed good focus on what happens at the end of a plan

- It arranged 1:1 guidance for employees

-We expected that an investment bank would be good at financial education and this one is – if this entry is anything to go by.

The judges added: *The companies who entered are particularly commended for engaging in financial education. It's a difficult space to enter - having to stay on the right side of the education/advice line. We encourage companies to see what else they can do in this area.*

The winner: Henderson Global Investors

Shelly Ribbons and **Alex Goodrich** collected the winner's certificate on behalf of **Henderson Global Investors.**

Best integration of an all-employee share plan into a wider programme of employee engagement

No award is made this year

Employee engagement is a highly desirable end and one the Centre is keen to advance, as share plans work best in a high engagement environment. Judges' comments in detail: *We got some response, having opened up a category to the IPA (Involvement and Participation Association) for the first time. As this is a new award, some entrants weren't entirely sure what was expected of them and so the Centre wants to ensure that next year's award criteria are better understood, namely - evidence of changed behaviour among participating employees and evidence of general and collaborative behaviour. This is a difficult area to judge thoroughly and objectively. Nevertheless, it is important that companies keep pushing forward with employee engagement and we are encouraged to learn that the Centre intends to repeat this new Award category next year.*

Best use of video in share plan communications

Finalists

- Home Retail Group
- Amadeus IT Holding SA
- Telefonica

Judges' comments

- The judges found that the winner's videos were slick and professional and featured support for the plan from the ceo, chairman and directors. Despite two other strong entries, there was a clear winner.

The winner: Telefonica

Juan Manuel Alvarez Zabala and **Miguel Benzal** collected **Telefonica's** certificate.

Best employee equity intervention by a major company chairman or ceo

Finalists

- Sacha Romanovitch, ceo Grant Thornton
- Cesar Alierta, chairman Telefonica

The winner: Sacha Romanovitch, ceo Grant Thornton

On the announcement that Grant Thornton was to move to a shared enterprise model she said, "My ambition is for all of our people to have a stake in Grant Thornton becoming the go-to firm for growth. The only way we can fully harness the potential of all 4,500 of our people is through shared enterprise - a sense that we are all in this together sharing our thinking and ideas, sharing the responsibility to drive the business forward and sharing in the resulting rewards.

"Businesses with shared ownership structures significantly outperform other businesses. In fact, £100 invested in the Esop index (FTSE-calculated UK Employee Ownership Index) on January 1 2003 was worth £749 last July, compared to £277 if invested in the FTSE All-Share. In some cases, they are recording 55 percent improvements in productivity and 70 percent improvements in quality, and performed better in the recession, growing their sales by 11 percent compared to under one percent for non-employee owned businesses."

The Centre liked that fact that the winner says her pay will be limited to 20 times the firm's average salary — compared to the average FTSE 100 ceo on 149 times average salary. Her certificate was collected by **Sarah Bell** of **Grant Thornton**.

Online ERS returns still in the wars

HMRC still faced a major challenge this month to resolve two separate IT glitches which have bedevilled the launch of its new online employee share schemes annual registration service.

The first, affecting 3,400 UK share scheme returns, meant that HMRC staff could not read the data attached to them. As a result, HMRC sent letters to all the companies, asking them to re-submit their annual returns before New Year's Day. It apologised to the companies and/or their advisers for the inconvenience of having to ask them to resubmit their share scheme returns – separately for each scheme the company uses.

None of the data given on their returns has been compromised on the security front, companies have been told. Under the new rules, all **Employment Related Securities (ERS)** transactions have to be reported online at least once a year - e.g. all option, share or deferred share awards to employees, whether in approved, or non-approved, schemes.

Quite separately, by mid-October, 3,200 companies still either had not filed their returns, or had incorrectly registered schemes, owing to failures by some share plan sponsors to understand the new procedure. In these cases, the new IT systems failed to distinguish between incorrectly registered share plan returns and those who had not sent in their returns at all. Furthermore, *newspad* understands that there was no 'delete' option available to those who found they had incorrectly submitted their share scheme details. HMRC has asked these companies to register an artificial end date to their scheme(s) and then re-submit the original registration info in the desired manner.

HMRC decided not to impose automatic financial penalties to companies in almost all of these cases, in order not to inflame an already difficult situation. However, if a nil return is not submitted when one is required for the fiscal year 2015/16, a penalty notice may well be issued.

Bedding in the online process at HMRC has proved difficult, not least due to complaints in the margins that the co-ordination between the contracted IT consultants, who set up the new system, and the HMRC share schemes staff who operate it had not been as comprehensive as had been hoped (*see previous issue*).

HMRC is determined to make the best of the software it has been given and technical staff are looking at the possibility, longer-term, of creating system-to-system 'conversations' between its computers and those of employee share scheme sponsor companies, in order to prevent any recurrence of the 2015 ERS returns fiasco.

Sajid posts more free shares

The government gifted a further one percent shareholding in the **Royal Mail** to 143,000 eligible UK postal employees - taking their total stake in the business up to 12 percent – the highest level of employee share ownership in a FTSE100 company.

Qualifying Royal Mail (**RM**) staff each gained **103** extra free shares, which was more than initially expected. Most of the new free shares emanated from the government, but these were supplemented by a significant award of surplus shares from their employer's SIP trust.

When RM was privatised in October 2013, ten percent of the shares were set aside as free shares for eligible employees - in the collective Share Incentive Plan (SIP) 2013 and the SIP 2014 Free Shares award – when they were given the balance of what they had been offered originally. During the two years since the free shares were first awarded, some employee shareholders have left RM, mostly to take up other jobs. Under SIP rules, so-called '*bad'* leavers have had to give up their shares – *unless they were forced to retire through ill health etc*. This led to a build up of **surplus shares**, which have been distributed to eligible employees via their SIP trust. As well as these surplus shares, the Government gave the extra one percent of company shares, equal to more than *ten million* shares, to eligible employees. The surplus shares and extra shares together made up the SIP 2015 free shares offer.

On top of the 729 free shares postal employees held already, the extra shares gave most of those who had remained throughout at RM 832 free shares each in total, worth around **£3,703** at the recent closing price of £4.44 per share.

As per previous free share awards, under the terms of the SIP, they will have to wait at least three years before they can cash them in, though they should wait the full five years to ensure that their share sales will be income tax and NICs free.

Full-time and part-time employees in the UK who were continuously employed by Royal Mail Group from **June 1 2015** and who were still employed by RM at August 31 were eligible for the SIP 2015 Free Shares distribution.

Eligible part-time employees were given a proportionate (pro-rata) number of SIP 2015 Free Shares, based on their paid hours between June 1 and August 30. Part-time eligible employees on paid or unpaid leave (including those on maternity, paternity or adoption leave) during all or part of the period between June 1 and August 30 had their SIP 2015 Free Shares award based on their standard contractual hours. Full-time eligible employees on paid or unpaid leave during all or part of that period were treated as eligible full-time employees for the whole period.

On September 17 these shares were transferred to the RM Share Incentive Plan and were then allocated to employees on October 5, said the **Department for Business, Innovation & Skills (BIS).**

BIS Secretary of State, **Sajid Javid MP**, for whom the free shares award was almost a personal crusade, said: "*This is a truly historic day for Royal Mail with the workers gaining a share of this history. We have delivered on our promise to sell the government's entire remaining stake which means that for the very first time the company is now wholly owned by its employees and private investors. This is the right step for the Royal Mail, its customers and the taxpayer. Proceeds will go to help pay off the national debt – a crucial part of our long term plan to provide economic security for working people.*"

Furthermore, the more than 35,000 RM employees who joined the company's SAYE scheme last year are currently in the money, as their options were granted at £3.60 each – a 20 percent discount from the then prevailing market price.

The Treasury said that taking the latest free share award into account, it had raised £591m from selling its final 13 percent stake in RM at 455p a share, a discount of 3.6 percent to the previous day's close of 472p. Once again, the sale modus operandi was through City institutional investors, with investing members of the public shut out. Three US-owned banks handled the sale on behalf of the government for zero fees. The banks say they do such deals for the government for reasons of prestige and to build up their franchises.

Proceeds from sales of all the government's shares in Royal Mail topped £3.3 bn.

Chancellor George Osborne said: "Once again, we are going to recognise the hard work of the staff who have done a great job in turning the company around, and give them a one percent stake to share between them."

Since its listing, Royal Mail has been in good financial health — in no small part aided by the taxpayer assuming responsibility for its estimated £10bn pension deficit before the flotation, said the *FT*. Adjusted pre-tax profit increased to £569m in the 12 months to the end of March, up from £304m two years earlier, while net debt has been slashed by more than two-thirds to £275m over the same period.

In the run-up to the additional free shares award, RM had said on its share schemes website: "We expect that all eligible full-time employees will each be given around 90 SIP 2015 free shares, regardless of their grade." So even RM management under-estimated the size of the final free shares award.

However, the **Communication Workers Union,** which represents the overwhelming majority of postal employees, said the sale by the government of its final slice of RM equity was a "disgrace." CWU general secretary **Dave Ward** said: "The remaining government share in this profitable company should have been used to safeguard the public's voice in Royal Mail and ensure the continuation of daily deliveries to every address in the country."

The government plans to sell a £13bn portfolio of Northern Rock mortgage assets and a chunk of the student loan book. The sale of these types of assets is most likely to appeal to other financial institutions or trade buyers. Other assets, such as **Channel 4** or **Ordnance Survey,** are possibilities for disposal too.

Share schemes stats provoke wide debate

The latest published HMRC share scheme statistics, which registered a decline in the number of employees participating in some all-employee share plans, as compared to the late 1990s, has sparked off a major debate over how best to rejuvenate UK employee share ownership.

The 'freeze frame' statistics recording the number of companies operating UK employee share plans during the fiscal yr April 6, 2013 - April 5, 2014 showed that declines in the use of both **SAYE-Sharesave** and the **Company Share Option Plan (CSOP)** plans. SAYE usage in that year went down to **440** (companies) and CSOP down to **1050.** Even the previously rising star **Share Incentive Plan (SIP**) apparently ran out of steam, as the number of companies using it remained static at **820.**

One tax-advantaged all-employee scheme bucked the dismal trend - the share options based **Enterprise Management Incentive (EMI),** which continues to steam ahead. EMI was being used by an impressive **9820** companies **–** an increase of 1,230 companies, or 14 percent from the previous year. Around 20,000 'key' employees, by no means all of them directors, were granted *fresh* EMI options last year, to add to the many thousands of other key employees who were granted EMI options in the two previous years.

Only 280 of the registered 1050 companies which use the CSOP made option awards to employees last year and worse still, only 25,000 people received them, evidence of its further decline. The Centre is lobbying ministers about the plight of CSOP, which can be used effectively to help increase the earnings of the lower-paid, in retail and other sectors, as no employee participants' up-front investment is required.

Although the number of SAYE option grants to employees rose slightly to 450,000 nationwide, the number of options they exercised during the year to last April fell to 170,000.

SIP trends are more difficult to read, not least because employee participants in some schemes can buy their partnership shares every month (which smooths out high share price volatility) or every six months in other schemes. One estimate is that between 800,000 and one million employees received either partnership, matching or free shares during the last fiscal year.

The total cost to the Treasury of employee share schemes Income Tax & NICs relief combined for the first time exceeded £1bn in fiscal year 2013-4. The Income Tax loss to taxpayers was £620m and the loss of NICs cost taxpayers a further £440m, bringing the total tax loss to £1060m.

First out of the blocks with suggested remedies was **Mike Landon** of remuneration consultants **MM & K.** In the latest issue of its client bulletin *Board Walk*, Mike said: "The UK has perhaps the best employee share plan legislation in the world but companies are not taking full advantage of the tax exemptions which these plans offer. Plans can be made simple." He said the falls in usage of some tax-advantaged Esos was "surprising at a time when companies have to keep costs tightly under control and could be expected to take full advantage of this tax-efficient form of remuneration, which is fully endorsed by the government.

"One reason for the decline is that the all-employee plans, in particular, are often seen as complicated to set up and administer. However, even a SIP can be made very simple, for example:

*By offering Partnership Shares only, employees can buy up to £1,800 worth of shares each year out of their earnings before income tax and NICs. The taxman is effectively giving a discount of between 32% and 47%, depending on the employee's marginal tax rate.

*Moreover, the savings in employer's NICs are often enough to more than cover the full running costs of the SIP.

*By offering Free Shares only, each employee can benefit from up to £3,600 worth of shares tax free every year. To ensure ability to pay, the size of the Free Share award can be linked to performance – either of the group as a whole or of each participant's business unit.

*On the other hand, if full advantage is taken of the SIP, each employee can acquire up to £9,000 worth of shares tax effectively every year, including £3,600 worth of Matching Shares if the full two for one match is offered. Alternatively, the matching ratio can itself be linked to performance."

He added: "The main reason for the decline in Company Share Option Plan (CSOP) options has been a general trend away from market-priced share options, partly due to changes in the accounting treatment in 2005. However, the CSOP legislation can still be used to make tax-advantaged Performance Share awards up to £30,000 worth of shares to each participant. Although an amount equivalent to the value of the shares on the date of grant will become subject to income tax when the options are exercised, the increase in value over this period will be subject to capital gains tax, at 18 or 28 percent and then only when the shares are actually sold."

Then journalist **Phil Aldrick** lamented in *The Times:* "It was 30 years ago that Mrs Thatcher set out her aspiration for a Britain "where three out of four families own their home, where owning shares is as common as having a car". As *ResPublica,* the think tank, noted in a recent paper, it hasn't quite turned out as planned. While 76 per cent of households own a car, only 19 percent of adults own shares. After the great privatisations of the 1980s, individuals owned 20 percent of UK-listed companies. Today, it is 12 percent.

"The Tories today are paying little more than lip-service to her vision. For such a meaty goal, the Lloyds sale and right-to-buy extension were thin gruel. The Royal Mail placing two years ago was handled disastrously, with too many retail investors cut out of the deal. Lessons have been learnt for Lloyds, which will be the biggest privatisation in more than 20 years, but it is a one-off."

He added: "Broader employee ownership models have not gained traction. Tax breaks for share-based payments have been used to line managements' pockets rather than turn the country into a nation of stakeholders. Mrs Thatcher was convinced that employee share ownership was an economic good. In a letter to the late **US senator Russell Long**, she explained: "*By increasing the commitment of employees to the financial wellbeing of their company, employee share ownership can make a significant contribution to improving productivity and consequent profitability. Clearly, if these improvements were to be reflected across the whole of industry, the impact on the economy would, I am sure, be substantial.*"

Centre chairman **Malcolm Hurlston** told Mr Aldrick: "You hit the nail on the head. The Conservatives have not delivered the goods on Mrs Thatcher's vision of employee share ownership. Strip out EMI (invented by Gordon Brown) from the HMRC statistics and the decline is radical. Under the Coalition effort was wasted on the John Lewis model, which cannot be applied to quoted companies. The Chancellor introduced 'Shares for Rights', with no all-employee impact. CSOP has been allowed to wither on the vine. It allows all employees to receive options at low cost, but it suffers uniquely from under-intermediation, so needs state oomph. SAYE-Sharesave too needs a radical rethink to reflect shorter economic perspectives and the collapse of pensions. Here Thatcherism needs a rethink: she was adamant about clean separation between esops and pensions, but then was then. Some of the best brains in the sector are looking at this for the Centre and I shall keep you informed."

A recent **ResPublica/Co-operatives UK** report said: "It didn't have to be this way. The weakness of the 1985 ownership agenda was not necessarily in its conception but perhaps in its delivery."

"Governments, politicians lost sight of it. They certainly didn't measure it, but they did little to address the obstacles and opportunities that arose over time. One example would be employee share ownership. From the 1990s, tax concessions, in essence costly state subsidies, were eaten up by senior executive employees and their stock options, fuelling pay at the top and concentrating ownership and control in the hands of the few, rather than spread more co-operatively across staff more widely.

"The country with the widest shareholder ownership across its population is Japan. Despite its economic challenges, Japan has a strong record in terms of inclusive ownership. The proportion of the population owning shares, now at 31 percent, has doubled since 1980."

The Centre is backing a plan launched by employee share schemes guru **David Pett** to introduce a Charter, whereby all larger privately-owned companies would be encouraged to make available to all qualifying employees the opportunity to acquire collectively at least five percent of the total equity in shares, through tax-advantaged schemes. Mr Pett, partner at **Pett, Franklin & Co**. told *newspad:* "Under such a 'Charter', a threshold target of five percent of issued share capital (in issue from time to time) should be the level of shareholding which independent companies with, say, more than 200 employees should aspire to putting in the hands of employees (on an 'all-employee' basis) through tax-favoured schemes. For their employees, this would present the opportunity to 'benefit from the growth in [capital] value to which they contribute by their labours' through collective beneficial ownership.

"We should promote the idea that all independently owned employer companies/groups should publicly commit - by subscribing to a charter, which would put 'clear blue water ' between this and the EOA/John Lewis-type of 'employee ownership'. Given the nascent public debate on growing inequality and wealth levels in the UK, this would be one element of a political response. We should first seek the support of George Osborne's team. It is different from the policy pursued by the Coalition and should surely warrant their support."

Mr Pett added: "The other initiative/proposal/recommendation to government I suggest is: to amend s1035 CTA 2010 (required period of ownership to secure capital treatment of a sale back of shares to the issuing company) so as to allow employees and directors who have ceased to hold office or employment with a company or group, to sell back their shares to the issuing company (being the employer or its holding company) without incurring the 'dividend tax treatment' of any part of the proceeds.

"This would allow many SMEs to operate share plans without the expense of an employees' trust. As it stands – and with the notable exception of 'employee shareholder shares' – if shares held for less than five years are sold back to the issuing company, any amount of the proceeds in excess of nominal and any premium on issue is taxed as a dividend."

CONFERENCES

VIENNA: European conference June 2 & 3 2016

Members are rapidly reserving speaker slots for the Centre's 28th annual international employee share schemes conference, which takes place in Vienna on **Thursday/Friday June 2 & 3** next year.

The elegant five-star **Steigenberger Herrenhof Hotel,** in central **Vienna,** will host this showpiece event, which will feature presentation topics from Austrian & German companies, organisations and advisers, as well as from the UK and the US. To date, we have outline speaker commitments from **Baker & McKenzie**, **Pett Franklin, Strategic Remuneration** and **Butcher Joseph**, the US investment bank. In addition, several Centre trustee members are offering their support to our Vienna conference, where trustee and company panels will be key attractions.

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

If you would like to deliver a presentation during our Vienna conference, you will benefit from a significant price reduction on the package fee, subject to agreed topic content. Practitioner **speakers**, who are Centre members, pay only **£915** and plan issuer **speakers** will pay just **£525**. (No sales tax is chargeable on delegate/speaker fees).

If you plan to either speak, or attend as a delegate, at this event on **Thursday/Friday June 2 & 3 2016**, please send an e-mail **without delay** to international director Fred Hackworth at fhackworth@esopcentre.com, as getting more rooms at a similar price will be difficult, once our pre-booked allocation is exhausted.

The Centre has decided to move its **17th world conference**, which was to have taken place in Davos Thursday January 28 and Friday January 29 2016. It will now take place February 9 or 10 in **London**. Complaints from members about sky-high refreshment and dining prices on the Davos pistes and in local hotels during this event last February weighed heavily on the conference planning committee, which decided to take 'Davos' on the road. Hold these dates for further details.

CENTRE/ STEP Guernsey report

Centre chairman **Malcolm Hurlston CBE** told an audience of trustee delegates in Guernsey that more must be done to capitalise on “the new reality” in Guernsey and Jersey, the regulated jurisdictions of the near-offshore. “FATCA led to an intergovernmental agreement signed between Guernsey and the United States and the brouhaha around disguised remuneration created a new clarity about the purpose of employee benefit trusts,” he said.

More than 30 people attended the annual **Centre – Society of Trust & Estate Practitioners (STEP)** ‘*Share schemes for trustees’* networking and learning event, accredited by the **Law Society**. The conference was chaired by **David Pett**, of **Pett Franklin,** as arranged after fears arose that the Centre chairman would be delayed by severe flooding in the south of France, in which 20 people were drowned.

Gavin St Pier, States of Guernsey minister for treasury & resources and former member of the Centre steering committee, speaking at the **Pierre Park Hotel, St. Peter Port**, asked whether Guernsey needed a UK style tax-advantaged employee share scheme. Could an SAYE type arrangement promote broad-based employee share ownership on the island, and in so doing support secondary pension provision? he asked. He recognised that more needed to be done, as only 40 percent of the Guernsey population had sufficient pension provision.

David Craddock, of **David Craddock Consultancy Services**, presented evidence that employee share ownership boosts economic growth. He emphasised the conclusions of three US studies that showed employee share ownership works best, in terms of productivity, when combined with employee involvement in decision making. David described the 2001 *Shared modes of compensation and firm performance* study by Richard Freeman and Martin Conyon as “the foremost UK study of the last 25 years.” It showed a 17 percent average increase in ‘added value’ in 300 UK companies following the introduction of a free shares or profit sharing arrangement. Amongst the findings of other studies were that there is at least a correlation between the presence of employee share schemes and higher levels of employee retention, greater employee affinity with the business, greater resilience during recessions and lower levels of absenteeism. David Pett added that the Esop Index, maintained by Capital Strategies, is a further piece of live evidence showing that firms with employee share ownership outperform those without, while recognising the difficulties of demonstrating causal relationships. Given this, might we focus on the moral case for sharing with employees the growth in value to which they contribute? he asked.

Mahesh Varia, of **Travers Smith,** addressed the disguised remuneration rules, introduced to tackle the use of family benefit trusts to avoid or defer tax on employment related income. As the legislation was complex and best approached methodically, Mahesh broke it down into the five piece disguised remuneration puzzle: Was there an arrangement for reward, recognition or loan? Was there a relevant step? Was there a relevant third person? Did an exclusion apply? Could the charge be reduced? The first three established whether a case was in the rules, the second if an exclusion applied. Mahesh advised that the best approach is to avoid coming under the rules at all – by ensuring that payments into trusts in shares or cash are not earmarked for any particular employee – rather than relying on the exemptions in the disguised remuneration rules. While it is companies, rather than trusts, whose actions will leave them liable to a disguised remuneration charge, trustees should be vigilant and alert their clients if they are likely to incur a charge, Mahesh concluded.

Stephen Woodhouse, of **Pett Franklin** presented on the alternatives to options for rewarding growth. Not all companies qualify for tax-advantaged option schemes, and there are limitations on the amounts that can be awarded. With non-tax-advantaged options there can be a dry tax charge if there’s no immediate ability to sell shares. Through growth shares and JSOPs firms can reward employees when the business grows. Growth shares are most often used in private companies where owners can usually pass the necessary special resolutions to change company articles of association as required. JSOPs are favoured by listed companies as no changes to the articles are required. HMRC’s recent survey report was broadly supportive of growth interests, including JSOPs and growth shares, recognising their importance in aligning interests and rewarding employees for growing company value. HMRC’s approach to valuation, however, is developing and now looks towards the ‘expected value’ of a growth interest rather than taking the value to be marginally above nominal value.

Jeremy Mindell of **Primondell** delivered a UK tax update. He summarised Chancellor George Osborne’s approach as seeking to raise more tax without raising the rate of tax by tackling evasion and avoidance. Looking in detail at the changes to dividend taxation Jeremy highlighted the amount of dividend income on which each type of taxpayer will now pay more tax under the changes: £5,000, £21,666 and £25,265 for basic rate, higher rate and additional rate taxpayers respectively. Looking forward, he identified the new criminal sanctions for offshore tax evasion and the growing number of international agreements to automatically share information on taxpayers, quoting **Financial Secretary to the Treasury David Gauke**, who said recently: “Time’s up for people who don’t pay their fair share of tax by hiding their money offshore.” Trustees should be aware of the effects of this emerging picture on their clients.

Alison MacKrill of **Carey Olsen** and **STEP Guernsey** branch secretary, provided a legal update for trustees, looking at some recent Channel Island cases relevant to the administration of EBTs and ESOPs. Alison looked at five trust cases from 2015 which saw issues arising including gross negligence, wilful misconduct, and restitution on the making of a mistake. The final case looked at was described as a "momentous decision" in Guernsey. A trustee was put in a situation where a choice would benefit one group of beneficiaries over another, such that it couldn't fulfil its fiduciary duty to all beneficiaries. The trustee deferred their decision to the court, who made it still bound by the terms of the trust on the trust's behalf. This laid the ground for a remedy available to trustees when they've a conflict of interests leaving them unable to fulfil their fiduciary duty, she explained.

Ethics abound in EO management, report claims

Centre legal member **Fieldfisher** and the **Eaga Trust** supported the **Chartered Management Institute** and **MoralDNA** in the preparation of a new report entitled: *"The MoralDNA of Employee-Owned Companies"* It suggested that managers in employee-owned companies were more likely to apply personal ethics to their professional lives than their counterparts working for companies with other forms of ownership. According to a survey of 1,019 employees in employee-owned companies, managers were less likely to make business decisions based on 'blind' obedience to corporate rules and were more likely to take into account the interests of their colleagues, customers and communities, it said. The report claimed that a 'culture of equals' resulted in more consistent decision making by all workers in employee -owned companies. Managers and non-managers were more likely to share the same ethical considerations in their decision making at work compared to employees in companies with other forms of ownership. Workers were more likely to rate the leadership of employee-owned companies more favourably. Nine in ten experienced high-performing, 'democratic, visionary, associative, and coaching' leadership styles, compared to barely half the workers in non-employee-owned businesses, it added. The report was launched at a management industry gathering at Fieldfisher, long-term supporters of employee ownership. It compared the experiences of managers and non-managers working for employee-owned companies to similar level employees in a cross-section of companies with other forms of ownership. **Graeme Nuttall** OBE, Fieldfisher partner and author of *Sharing Success*: *The Nuttall Review of Employee Ownership*, said: "This important report on the MoralDNA of employee-owned companies sends a strong signal to other businesses: employee ownership helps develop and sustain strong employee engagement, encourages long -term decision making and promotes a commitment to customer satisfaction. What's more, employee owned businesses are in a strong position to attract, and retain, committed staff. In short, adopting the employee ownership model is a step towards long term success for your business, regardless of industry." In other findings, 95 percent of workers in employee-owned companies reported the ownership model having a positive effect on the workforce's commitment to their company; 91 percent said it had a positive impact on their organisation's performance and 87 percent said that it enhanced their company's ability to attract new talent.

COMPANY NEWS

***BAE** has launched its first international employee share purchase plan available for non-UK taxpayers. The aerospace and security company has recorded a six percent employee uptake since the international Share Incentive Plan called InSIP was launched in July. About 5,500 employees in seven locations in Saudi Arabia - 300 of whom are expatriates - are eligible for the scheme, which mirrors BAE's UK SIP in terms of structure, minimum, maximum limits of partnership shares and maximum value of matching shares available. Employees can buy partnership shares with a monthly contribution of up to £150 per month which must be held in the scheme for three years. Shares are converted from Saudi riyals into pounds sterling then converted back if sold, said *Workplace Savings & Benefits.* To keep the UK and Saudi Arabian SIPs identical the company holds regular comparisons between the two schemes. Workshops were held with HR and payroll teams which ran alongside conferencing in Bristol. BAE Systems, Saudi Arabia, head of HR Maria Catterall said: *"One of the reasons we wanted to introduce the InSIP was to encourage the transfer of employees between companies so that they could retain this benefit when they changed jobs and what we want to see is whether this is acting as a lever to encourage the transfer of people. Certainly from early employee engagement on the reason for their transfer, employees were citing their benefits and in particular a SIP was one of the main reasons why they wish to transfer."* Details of new share plan submissions to the country's capital markets authority (CMA) were done through an authorised individual based in Saudi Arabia. Company representatives had to comply with Saudi Arabia's Islamic legal system, as well as currency issues, when implementing the scheme - including employment propositions and communications. As 60 percent of BAE's workforce in the country are Saudi nationals and working across the kingdom without access to company email accounts, communications had to be in hardcopy in both Arabic and English. BAE HR staff known as 'HR Champions' interacted with employees through workshops to inform company staff about the plan, introduce them to the online portal and explain how to complete share plan application forms. A series of FAQs were distributed to HR Champions in hard copy. More than half of those participating in the plan were Saudi nationals and the rest - 42 percent - expatriates. More than 80 percent chose to participate using the English-only online portal to complete submissions. The Centre is discussing with business magazine Blue Chip a possible event on the sharia Esop.

*Most staff at **Facebook'**s UK arm raked in share bonuses worth almost £100,000 on average last year, reported *The Guardian*. At the close of the reporting period, Facebook had one active stock-based employee compensation plan, known as the 2012 Equity Incentive Plan, within which, Facebook's UK employees were granted restricted ordinary shares. As a result, the social media giant set aside £35.4m for 362 participants in its employee share-based payment plans in 2014, compared to £15.5m in the previous year. The share scheme was worth an average of more than £96,000 to each qualifying member of staff. All told, Facebook UK employees took home an average of more than £210,000 last year in pay and bonuses. The organisation's wage and salary bill reached £40.8m in 2014, up from £21.9m the previous year. At the end of 2014, Facebook had 494 staff in the UK, with an average monthly headcount of 362 throughout the year Facebook UK spent £1.2m on contributions to its defined contribution pension scheme last year, according to its annual report for the calendar year 2014. It made an accounting loss of £28.5m in 2014

***Massey Energy** was one of a handful of US based mining and energy companies that tied its ceo's bonus to safety performance in 2010. Now former ceo Donald Blankenship is to trial on charges stemming from a West Virginia mine explosion that killed 29 workers, the US industry's deadliest in almost four decades. Blankenship had his bonus cut by about $150,000 that year for failing to meet safety goals. He still got a $669,000 award because only ten percent of his annual bonus was tied to safety. "If 90 percent of your bonus can be achieved with full disregard to health and safety, that's an underwhelming link," Anne Simpson, director of corporate governance at the **California Public Employees' Retirement System (CALPERS)**, the largest US employee pension fund, said of typical executive-compensation practices; "*Particularly in an industry where health and safety is absolutely the foundation of the company's license to operate, its reputation, its operational risk and, of course, ultimately financial success."* However, Massey's worker-safety pay incentives at the time were more stringent than two-thirds of the 41 energy and mining companies in the current Standard & Poor's 500 Index that disclosed ceo bonus criteria in 2010, according to data compiled by *Bloomberg*. Since 2009, the number of companies in the group that link a portion of their ceo's bonus to a specific safety goal has almost tripled, to 56 percent from 20 percent.

***Nokia'**s board of directors awarded the maximum amount of 141,581 Nokia shares held by the company to Nokia employees participating in the Employee Share Purchase Plan (ESPP) 2014. The one-year cycle of the ESPP 2014 ended on July 31 2015. Nokia offered one matching share for every two shares purchased under the plan which the participant still held, as at July 31 2015. The shares were issued free of charge. As the issued shares are held by the company, the total number of the company's outstanding shares does not change as a result of the share issue. The shares were delivered to the employees last month. The directors approved the launch of the ESPP 2014 as part of the Nokia Equity Programme 2014 on February 14 2014 to encourage employee share ownership, commitment and engagement.

*German engineering conglomerate **Siemens** has been working hard to expand the level of ownership among its employees, said the California based **National Centre for Employee Ownership.** Currently, five percent of Siemens' shares are held by 144,000 of its 360,000 employees worldwide and in October the company announced a formula-driven employee ownership policy that would distribute shares to nearly all employees. The magazine *Handelsblatt* said that under the programme "the net profit above the company's internal forecast is divided roughly into thirds: one-third for investment, one-third for shareholders, and one-third for employees. The employees' share goes into a pot. Once it reaches €400m, the pot is converted into free shares for distribution in varying numbers, based on individual employee salaries at the time." Siemens has been invited to take part in the Centre's European conference.

*Software reseller **Softcat** announced plans for a float that is expected to value it at around £500m. The Buckinghamshire-based company's initial IPO will result in huge windfalls for key figures who own large stakes. Peter Kelly, its founder, owns 52 percent of the equity, while Martin Hellawell, its ceo, owns 12 percent. The entire company is owned by 180 staff and founders and the float will be achieved by selling existing equity. John Nash, a former director who invested in Softcat in its early days, has an 11 percent stake, expected to be worth more than £50m. Softcat, which resells software from **Microsoft, Apple, Cisco** and others to businesses, as well as providing its own data centre infrastructure, has grown rapidly since Mr Kelly founded it in 1993 and recently celebrated a decade of uninterrupted quarterly revenue growth. Softcat's flotation, expected in November, is the latest technology company listing, following Sophos and Worldpay. Under rules for premium listings, at least 25 percent of the company will be floated, meaning a minimum of around £125m being sold. The company will not be able to issue new shares for at least 180 days after the listing.

***Twitter**'s ceo and co-founder **Jack Dorsey** is gifting a third of his shares to the social media organisation's staff. This represents one percent of the organisation and is estimated to be worth around £130m. The stock will be placed into the firm's employee equity pool. Dorsey tweeted: "I'm giving [around a third] of my Twitter stock (exactly one third of the company) to our employee equity pool to reinvest directly in our people." As for me, I'd rather have a smaller part of something big than a bigger part of something small. I'm confident that we can make Twitter big." Twitter had already topped up the salaries of its 126 UK staff with £14m in shares last year, worth an average £110,000 stock-based payments per head. Dr Sotirios Paroutis, of **Warwick Business School**, said: "After the stick, we now have the carrot. After the decision to lay off eight percent of staff, Jack Dorsey now sends a motivational signal inside the firm that he is also taking steps to retain Twitter's talent pool."

*French multinational **Veolia** is launching a global share scheme for its 120,000 employees in 20 countries worldwide. The scheme will be operated as a Share

Incentive Plan (SIP) in the UK where it has more than 10,000 staff. Veolia has previously run other SIP schemes within the UK.

Eso companies most resilient

The tough third quarter for the stock market in 2015 took its toll on shares qualifying for the **Esop Index** (the FTSE-calculated Employee Ownership Index) which was down by 4.6 percent over the three months from July to September.

Nonetheless it outperformed its comparator, the FTSE All Share (Total Return version) which was down 5.7 percent over the same period. For both indices it was the worst quarter for four years. At the end of the quarter, the Esop Index stood at 960 versus 269 for the FTSE All Share (100 = January 2003). This was equivalent to a compound annual return of 19.4 percent for the Index *by value* versus 8.1 percent for FTSE All Share. The worst performer in the Esop Index was troubled miner **Glencore** which, at minus 64.1 percent, lost nearly two thirds of its value. The best performer in the quarter was **Benchmark** (who presented at a recent Centre seminar for the Index). The AIM-listed animal health business announced a breakthrough in genetically modified disease-resistant salmon.

Esop Centre chairman **Malcolm Hurlston**, who announced the quarterly results, said: "The Esop Index is based on shares in companies where employees other than directors own three percent or more of the stock. We aim to capture the effect of all-employee share schemes. This should send a powerful message to UK plc at a time when figures from HMRC disclose a waning attention to all-employee share schemes. Companies should refresh their all-employee schemes if they want to reward their investors as well as their top brass."

Nigel Mason of **Capital Strategies**, which compiles the index, added: "It is no surprise that, in such a quarter, the outperformance of employee share ownership companies could not entirely nullify market effects. Nonetheless the Index once again did better than the FTSE All-Share which indicates that Esops are resilient through thick and thin."

Equiniti flotation

Share registrar **Equiniti** made its stock market debut at the bottom of its target price range, amid slowing demand for new shares. The company, which owns the Selftrade share dealing service, said it would raise £315m at 165p per share, in a flotation that gives it a market capitalisation of almost £500m. Equiniti is owned by private equity group **Advent** after bailed-out bank **Lloyds TSB** sold it in 2007. Since then, the company has expanded its pensions administration arm, now the second largest provider in the UK, with 8m pension scheme members.

Last year Equiniti purchased a controlling stake in **MyCSP** the administrator of civil service pensions, a sale which the Cabinet Office said resulted in "an excellent return for the taxpayer." The deal made it the largest administrator of public sector pensions, which includes provision to the armed forces and the NHS.

The Global Offer will provide the executive directors of the company and other employees an opportunity for a partial realisation of their investment in the Company.

Guy Wakeley, Equiniti ceo, said: "Equiniti is ideally suited to life as a listed company. Our highly scalable proprietary technology platforms sit at the heart of the UK's financial and capital markets, providing complex administration and payment services to half of the economically active population."

The company provides solutions supported by leading technology platforms to around 70 of the companies in the FTSE 100. It is the UK's leading provider of share registration and associated investor services, and has market leading positions in administration of employee share plans, pensions administration and software, and employee benefit schemes. It had revenues of £350m for the twelve months to June 2015 with an EBITDA of £82m.

Savings gap a financial time bomb

Almost two-thirds (63 percent) of respondents have made no financial provision for the future, according to research by **Equiniti Employee Services.** Its survey of 1,189 UK employees found that less than a third of respondents save regularly. More than a quarter try to save, but monthly financial commitments make this difficult. Two-thirds said that by joining an employee share scheme they would take a greater interest in their financial personal planning. Forty-one percent of 18-24 year old respondents and 36 percent of 24-35 year old respondents said an employee share scheme would make them save regularly for the future.

Phil Ainsley, md of employee services at Equiniti, said: "The economic downturn contributed to a long-term savings gap, which threatens to become a financial time bomb. Our experience shows that on a day-to-day basis people find it difficult to save, however, when saving is structured, for instance as part of an employee share scheme, it is much easier. We see much greater engagement among younger employees where such plans exist. This suggests that the government could incentivise the introduction of share schemes, encouraging employers to make it a more attractive option to foster a savings culture that supports existing pension policy".

In depth, the findings were:

*Of the respondents who said that a workplace share scheme would change their attitude towards their employer, 46 percent believed it would increase their interest in the business, 30 percent say they would be more loyal, 26 percent would speak well of the organisation outside of work and 22 percent would be more productive.

*Of the 72 percent of 18-25 year old respondents who said their attitude would shift as a result of having an employee share scheme, 25 percent would be more loyal and be prepared to work longer hours, while 58 percent would look for opportunities to grow the business.

*Fifteen percent of respondents said a share option scheme would influence their decision to stay with their current employer or move jobs.

On the move

The Investment Association's (IA) ceo has stepped down. *Wealth Manager* said that **Daniel Godfrey** took the decision to leave by mutual consent. He was a guest at the Centre's *high table on February 19 this year. His position came into question after key members, such as **Schroders** and **M&G**, had threatened to leave. They had privately raised concerns that the association was acting more like a regulator than a trade body. The IA has more than 200 members with a combined £5.5tn of assets under management. Privately, some member firms had questioned the trade body's strategy. They suggested the IA's initiatives were pushing it into territory already covered by the regulator, being too consumer, rather than industry, focused. Only 25 fund groups signed up to the IA's ten-point statement of principles and the organisation came under fire earlier this year after it brought out its new fund charges disclosure proposals at a time when firms were getting to grips with the upcoming Mifid II regime. An md of a medium-sized fund management business said: "People are disenchanted with the situation. The organisation has no teeth and there is a feeling that it is finding it very difficult to govern. Fund managers wanted more campaigning on issues such as pensions, the decline in defined benefit schemes and the implications this change has for savers in old age and other important issues on industry competition in Europe."

*Our next high table guest will be **Representative Paul W Mark** of Massachusetts on November 25 2015 at the Royal Air Force Club, London.

Paul W. Mark, a Democrat representative in the Massachusetts state house, is currently sponsoring Bill H.1740 'An Act relative to job creation through employee ownership' through the Massachusetts state house. Paul's constituency in Massachusetts has a particularly high percentage of workers in ESOP owned companies and coops, including Ocean Spray which makes cranberry juice amongst other things. His bill proposes requiring companies to notify employees of plans to sell and to give them first refusal in buying it. I hope you will be able to join us for his timely perspective. It is a feature of the US Esop landscape that state measures add to federal support . Please apply to Juliet Wigzell at jwigzell@esopcentre.com.

Centre member **Peter Mossop,** director of Channel Islands based **SANNE Group,** told *newspad:* "I wanted to send out a huge *thank you* in response to the phenomenal support that we received for our fundraising for **Children in Crisis (www.childrenincrisis.org)** over the summer. We raised an amazing £11,450 which smashed our target and is a fantastic boost for a really great charity which Sanne have supported for a couple of years now. I can't thank everyone enough for their support which has been utterly amazing, once again. I completed the **2015 Prudential Surrey** 100 mile ride with my wife, which was the formal fundraising event but then went on to cycle from Buckingham Palace to the Eiffel Tower in 20 hours, door to door, as a top up a week later with friends **Julian Roberts** from **Sharegift** (who happens to be a professional endurance athlete) and Sean Conway (who ran, swam and cycled the length of Britain in what has been called the ultimate triathlon, for fun). It seemed like a good idea at the time! Anyhow, as fellow office workers you will be pleased to hear I held up the end for the office guy!"

Congratulations to **Maoiliosa O'Culachain** for being listed among the 25 key people influencing Ireland's *fintech* revolution. A shrewd bet on the location of the International Financial Services Centre (IFSC) in the 1990s resulted in it taking root in the heart of Dublin. Today, more than 35,000 people are directly employed in IFSC companies across Ireland from Donegal to Kerry. Now the financial prowess of the IFSC can be allied with a technology pedigree to create a whole new scalable sector called *fintech,* and Irish and Irish-based minds are driving it.

Maoiliosa O'Culachain, an accomplished share scheme practitioner, is business development director for NASDAQ Private Markets, where he has a Europe-wide remit. He is is an entrepreneur with a track record of setting up businesses and a strong network of contacts around the world and was a co-founder of Centre member **Global Shares**, an independent employee share plan administration services company, in December 2005. Prior to that, he was the Esop manager at Eircom (now **Eir)** until 2004.

Linklaters' Employee Incentives team together with **Towers Watson** hosted a conference looking at executive pay and the challenges facing companies for 2016. The conference was attended by more than 80 companies and identified key challenges for 2016:
*More disclosure of performance targets for payouts, particularly for annual bonuses, to support evidence of pay for performance

*Increased clarity of board pay and the way it is presented to shareholders

*The need for continued engagement with investors.

As this year's public company reporting season comes to a close, certain trends in executive remuneration across various industries stand out, said lawyers *Seyfarth Shaw:*

*Modest or nil increases in fixed remuneration for executives with some companies electing not to increase fixed remuneration for the third consecutive year;

*Increases in short term incentive deferral practices and/ or other changes to Short Term Incentive (STI) structure and

*Significant changes to terms of long term incentives, for example, by lengthening performance testing periods and mechanisms for rating performance for the purposes of initial Long Term Incentive (LTI) allocation or grant. Unsurprisingly, organisations continue to review and monitor their remuneration structures, with several opting to decrease weighting towards STI and increase weighting of LTI, they added.

High banking bonuses cost jobs

Barclays' chairman **John McFarlane** believes investment bankers should not get huge bonuses, as they encourage bad behaviour and short-term thinking. In an ideal world he would like to see the current situation abolished and replaced with a longer-term system. However, as that is unlikely to happen, he said Barclays will instead have to save money by working with as small a number of investment bankers as possible. "I used to run the markets side of various institutions and I was never paid anything close to anything people get paid in these areas now," Mr McFarlane said, speaking at the British Bankers' Association annual conference. "If I had my own way - and this can never happen - I would reward people at the end, once you know the results sometimes three or five years down the road. At least you are then rewarding them for what you know in terms of the value they have created." As the industry is dominated by high-paying US banks, however, he expects to keep paying bonuses in the current model. As a result, Barclays will have to cut jobs rather than pay as it tries to save money: "I don't think we can pay people less than the market price, and that implies that if you want to control costs, you want to operate with as few people as possible," he said.

Banking share sales & taxes

The **Treasury** sale took the public stake in **Lloyds Banking Group** down below ten percent. The Government now owns 9.97 percent of the company, down from 11.98 percent on September 25 and from almost 25 percent a year ago, according to stock market announcements. Investment bankers at **Morgan Stanley** have been selling the shares on behalf of **UK Financial investments**, the state agency which manages shareholdings in the bailed out banks for the Treasury. The sell-off to institutions will continue until the end of the year, before ordinary investors, including the employees, can buy up to £2bn of discounted shares to conclude the bank's seven-and-a-half years of Government support. *More than 250,000 people have registered to buy the last batch of publicly -owned Lloyds shares in a retail sale offering an immediate five percent discount to market price and a share bonus of one for every ten held for more than one year*. Separately, the Treasury gave Royal Bank of Scotland (RBS) notice that it wants to convert 51bn 'B' shares issued during the bailout into five billion new ordinary shares, removing another hurdle to the bank's move into full private ownership. The first batch of the state's RBS shares was returned to private hands in August when the Treasury sold a 5.4 percent holding at a £1bn loss to take its economic ownership down from 78.3 percent to 72.9 percent.

*Total tax contributions by the UK banking sector in 2014 were estimated as £31.3bn, said the BBA For the six main UK banks, this represented a 55 percent rise between 2010 and 2014. £15.3bn was paid by UK-headquartered banks and £16bn by foreign headquartered banks. Corporation Tax accounted for £1.6bn in 2013/14 – with new data from HMRC showing it rose to £2.3 bn (up 44 percent) in 2014/15. This is expected to climb further in coming years. For the sector as a whole, irrecoverable VAT paid by banks now stands at £4 bn. The Bank Levy has jumped 85 percent since it was first introduced in January 2011, now accounting for £2.2 bn of total taxes paid by the sector. Following the 2015 Summer Budget, an additional **eight percent** Bank Corporation Tax Surcharge will be payable, meaning the banking sector will pay Corporation Tax at a rate higher than other industries.

Deutsche Bank may cut the bonus pool for its investment bank by as much as €500m, or almost a third, as co-ceo **John Cryan** seeks to slash costs in the securities unit, claimed insiders. No decision has been taken, but the biggest reductions are likely to involve employees in the fixed-income business. Some Deutsche mds may have their entire bonus scrapped. Deutsche Bank paid staff at the securities unit €1.7 bn of variable compensation for 2014, the Frankfurt-based firm's filings show. Cryan, 54, who took over from Anshu Jain last July, indicated that bonuses may be cut after saying the company will report a third-quarter loss of €6.2 bn after writing down the value of the investment bank and other assets.

Financial advice gap

Mick McAteer, founder and director of the **Financial Inclusion Centre**, took issue with aspects of an **HM Treasury** and the **Financial Conduct Authority (FCA)** report on the so-called *financial advice gap*, which affects millions of UK employees and other consumers. The government had published the **Financial Advice Market Review (FAMR)** to address concerns that large numbers of consumers do not have access to good quality financial advice.

However, Mr McAteer (himself a member of the FCA board) said that although FIC welcomed the review's publication, the real causes of the financial advice gap were that growing numbers of consumers could not afford to pay for fee-based advice and that the financial service industry wasn't interested in those who could not pay for advice. "In our new paper, we explain how claims that the advice gap is caused by or has emerged because of over-regulation are wrong – or disingenuous and used to try to reduce much needed consumer protection. Remedies based on false analysis would exacerbate rather than improve the situation," he said. A more accurate assessment is that robust, better regulation has *exposed* a long established advice gap. Many lower-medium income consumers were 'advised' about and sold insurance, investment and personal pension products in the past. As we know from the litany of mis-selling scandals, these products were all too often unsuitable and offered poor value for consumers due to high charges and commission payments to advisers/ intermediaries. Consumers were cross-subsidising the sale and distribution of these poor value products.

"Good advice is critical for promoting financial inclusion, financial resilience and security amongst households – particularly lower-medium income households which are the focus of our work at the Financial Inclusion Centre. "So, we welcome the FAMR but it is important that we understand the real causes of the advice gap which, in our view are: growing numbers of consumers simply cannot afford to save and invest, or pay for for-profit advice and large numbers of consumers are 'underserved' by the financial services industry because the industry is still too inefficient to meet their needs. In other words, the advice gap can be explained by the economics of access and distribution, not over-regulation." The **Esop Centre** is ready to work with administrators, companies and unions – particularly the **Communications Workers Union** - to establish appropriate service for low income employee shareholders.

The paper can be found at: http://tinyurl.com/nhl7v3j

OECD's new info exchange portal

The OECD launched its new portal on automatic exchange of information, where site visitors can find general information about AEOI, CRS, implementation, monitoring, among others. There are a few items yet to be completed (e.g. the section on country implementation), but it will be completed by late October, said **David Corredor Velasquez,** tax policy consultant to the OECD's Business and Industry Advisory Committee (BIAC). The **Automatic Exchange of Information (AEOI)** portal provides a comprehensive overview of the work the **OECD** and the **Global Forum on Transparency and Exchange of Information for Tax Purposes i**n the area of the automatic exchange of information**,** in particular with respect to the **Common Reporting Standard**. As the world becomes increasingly globalised and cross-border activities become the norm, tax administrations need to work together to ensure that taxpayers pay the right amount of tax to the right jurisdiction. A key aspect for making tax administrations ready for the challenges of the 21st century is equipping them with the necessary legal, administrative and IT tools for verifying compliance of their taxpayers. Against that background, the enhanced co-operation between tax authorities through AEOI is crucial in bringing national tax administration in line with the globalised economy. The Centre is a member of the OECD Business Advisory Committee.

Share plan woes in China

The employee stock ownership plan was once regarded as visible welfare for senior and core staff of listed companies in China until this year, when the stock market turned bearish. The **China Securities Regulatory Commission** published guidelines for Esop test spots in June 2014. Since then, several listed companies in the A-share market had launched Esops, based on the idea of sharing company earnings with staff. When stock prices began to slump, however, the idea of sharing palled. Statistics show that as of mid-September, 101 listed companies had implemented Esops. So far, the Esops of 64 companies have been trapped in the downturn of the securities market. The firms are mostly start-ups and SMEs, but include some blue-chip businesses such as **Ping An Insurance** and the **Midea Group**. A report on cnstock.com said that among the trapped Esop employees, those at Shanghai -based **Wonders Information** have suffered the heaviest losses. They bought Wonders stock at a price of 137.26 yuan (US$21.50) per share, but recently the value of the stock had plummeted to 24 yuan (US$3.80), the report said.

The risk of leveraged investment-based ESOPs was even greater, the report added, citing Xiangxue Pharmaceutical, which had completed the first-stage stock sale to its employees under its Esop last June. These employees bought 7.81m shares at 30.84 yuan (US$4.80) per share. On September 2, the Xiangxue stock price dropped to 13 yuan (US$2). Xiangxue employees had bought the stocks with a combined investment of 80m yuan (US$12.5m), which they leveraged to 240m yuan (US$37.6m) in funds. Although some companies withdrew their Esops amid the downturn, other companies are still presenting their own employee stock ownership plans, cnstock.com reported, noting that since August, several listed companies had brought out their own versions of Esops, which involve funds worth almost four billion yuan ($626 m).

France

On August 7 2015 the Loi Macron introduced changes to French qualified restricted stock units (RSUs) reported lawyers **Euan Fergusson** and **Kate Russell** of Centre member **White & Case LLP**. Macron has introduced a more favourable regime; however, in order to benefit from it companies would have to obtain shareholder approval. "RSUs granted after August 7 2015 will not automatically benefit from the new regime. Overseas parent companies that grant French qualified RSUs will now face a hurdle in that they must get shareholder approval before they can grant RSUs."

Vesting and holding periods - Under the old regime, there was a minimum cumulative vesting and holding period of four years, which has now been reduced to just two years. The minimum vesting period has fallen from two years to one year from the date of grant. There is now more freedom in how companies can structure their vesting and holding periods – you can now include: a minimum one year vesting period followed by a minimum one-year holding period; or a minimum vesting period of two years with no holding period

Tax treatment: Employer social contribution has been reduced from 30 percent under the old regime to 20 percent and is now only payable at vesting. European SMEs can benefit from a rate of zero percent if certain conditions are met, provided they had never distributed dividends since their inception.

Employees will still be taxed and subject to social contributions upon sale of the shares. However, the new regime is more favourable to restricted stock awards as tax levied on the gain at vesting can be reduced by 50 percent where shares are held for between two and eight years, or by 65 percent if the shares are held for more than eight years. Further, the employee social tax at ten percent no longer applies to RSUs. The social contributions payable on salary at an eight percent rate have been replaced by the contributions applicable to income on wealth at a rate of 15.5 percent under the new regime, with 5.1 percent of this rate being deductible. The gain at sale (i.e. incremental gain) is still subject to income tax, with the 50 percent and 65 percent reduction in rates, as above, and the social contributions with a rate of 15.5 percent apply too.

"We have created a table illustrating the differences between the old and new qualifying regimes and the current non-qualifying regime. Please contact us if you would like to see a copy," added **White & Case**.

It is unclear what the position is under the new regime regarding foreign issuers who grant RSUs under a sub -plan to a shareholder-approved plan. Under the old regime, it was possible for French-qualified RSUs to be granted under a sub-plan adopted by the Board or Compensation Committee. The French tax authorities have not issued any official guidance on this point yet but they may require a new shareholder approval.

French qualified options will not be affected by the changes introduced by the Loi Macron.

Last year's ESS Law introduced an obligation for certain companies with less than 250 employees to inform them prior to a sale of the business or a controlling stake. The aim was to make it possible for them to make an offer for the business or the shares. This obligation was highly criticised and has been relaxed by the new Macron Law:

*the sanction of nullity of the transfer (already declared unconstitutional by the Conseil Constitutionnel) has been replaced by a fine of two percent of the purchase price;

*applicable only to sales (instead of transfers); *clarification of the methods of providing the information to the employees;

*not applicable if, in the 12 months prior to the sale, the employees have already been informed as part of the employer's general three yearly information obligation. These changes should come into effect by the end of 2015 following publication of a decree (décret d'application).

In addition, the Macron Law relating to social dialogue and employment ***changed*** the criteria for which directors representing the employees must be appointed in large public companies (whether listed or not):

*reduction of the thresholds relating to number of employees (1 000 employees in France instead of 5 000; 5 000 employees worldwide instead of 10 000); *deletion of the condition requiring there to be a works council;

*introduction of an exception for companies whose principal activity is to acquire and manage subsidiaries and interests, provided that (i) this company has no obligation to have a works council and (ii) at least one of its French subsidiaries is obliged to appoint directors representing the employees.

Gaming fat cat Swiss reward rules

Swiss companies are circumventing the spirit of new fat-cat rules by getting shareholder approval for executives' bonuses before annual results are known, according to a study by corporate governance group **Ethos.** The practice, applied by 72 percent of firms in the study of companies in the Swiss Performance Index, is "tantamount to a blank cheque," Ethos Chairman Dominique Biedermann said in Zurich at the presentation of the report. What's more, too few companies spell out in detail the performance conditions that must be met to trigger executive bonuses, which are passed with average support of around 90 percent, Ethos says. It advised its members to vote against a majority of companies' remuneration proposals at shareholder meetings this year. "At **Nestle,** this year's agm voted on 2016 bonuses --but one doesn't even know the goals yet," he said. Ethos supports a revision of the law to prevent this procedure, according to the study. "Thank goodness there are a few companies, like **UBS,** that voted on variable compensation retrospectively," added Biedermann. Swiss voters approved the so-called fat-cat initiative in March 2013, with the main provision that investors get a binding vote on the pay packages of the board and top executives. One of the deciding factors in the referendum victory was public outrage over executive compensation, as Switzerland's top executives rank among Europe's highest-paid ceos. In 2014, Cie. **Richemont**'s co-ceo Richard Lepeu was the best-paid manager at a Switzerland-listed company, earning more than CHF14m ($14.3m), Ethos said. He was followed by **Transocean**'s Steven Newman, who stepped down in February, and Joe Jimenez of **Novartis.** Ceo compensation in top Swiss companies rose to an average CHF8.2m in 2014, an increase of six percent, according to the study. High ceo salaries "remain big question marks for us," Biedermann said. "We don't understand why managers need such a big motivation to be good managers."

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