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it's our business

newspad of the Employee Share Ownership Centre

Z/Yen Group Limited t/a The ESOP Centre

1 King William Street, London EC4N 7AF

tel: 020 7562 0586 e-mail: esop@esopcentre.com www.esopcentre.com

In this issue

From the life president

This time I can bring a personal note to the column with Esop news from my son Ed and from former Hurlstons staffer Tim Read.

Tim is the York-based Northern director of Camargue the communications company which has just become an EOT. Thirty years ago he worked with a variety of Hurlstons clients, including the Esop Centre (all staff had to spend at least one day a week on good works). You will hear more about Camargue both here and in the world at large.

My son Ed received a note from his ceo - "As I am sure everyone is more than aware, the global economy is currently experiencing very high levels of inflation, placing unprecedented pressure on the cost of living. One of the benefits of our status as an employee owned company is that we have the ability to self-determine in exceptional circumstances; therefore and in recognition of the contribution, hard work and loyalty of all employees, on behalf of the board, I am pleased to announce the decision to increase employee salaries by 10 percent. This will apply to all employees worldwide and will be effective from the October 1 2022".

Double whammy.

Malcolm Hurlston CBE

Webinar : Why employee share ownership matters.

On November 16 at 15:00(GMT), Professor Michael Mainelli and Simon Mills will set out the case for "*Why Employee Share Ownership Matters*".

Big concepts can be unfairly pigeonholed in small boxes. The concept of employee share ownership ought to start from a moral perspective, not least sharing risks and benefits with fellow economic agents. The benefits attach to a number of levels, from the micro to the macro.

At a micro level, employee share ownership seems fair, encourages cohesion, promotes productivity and provides financial security. At a macro level, employee share ownership encourages longer-term thinking, promotes national productivity and aids moves to sustainability. At an international level, anyone promoting various forms of 'caring', 'compassionate', or 'stakeholder' capitalism or 'third ways' should take a long, hard look at providing more fervent support for employee share ownership: and then there is UN Sustainable Development Goal 10 – 'Reduced Inequalities'.

Yet too often the employee share ownership pigeonhole becomes 'tax'. Employee share ownership is a good thing to promote even if you don't believe that tax is a necessary promotional tool. If you do believe that employee share ownership is deserving of tax advantages, then don't lose sight of the wider goals.

Their report for the Esop Centre attempts to restate the widest case for employee share ownership regardless of national boundaries. It aims to re-connect the employee share ownership movement with its deeper benefits, connecting open market economies with environmental, social and governance standards, in turn linked to long-term sustainability goals.

Finally, the report sets out areas for renewed and further research.

The Centre hopes to remind people deep in some thicket of government policies, accounting rules, tax advice or human relations issues, that their work is part of a big and noble attempt to use that innovative feature of joint-stock companies, the ability to share ownership for social good. Registration is open.

Hold the day for Guernsey & BI Symposium 2023

Guernsey 2023

The Centre is set to resume its programme of annual conferences on **Esops and trustees** in Guernsey in the New Year.

Held in conjunction with STEP Guernsey, it will mark our first return to the Crown Dependency since 2019, the success of which we look to emulate, building on the achievements of this industry-leading networking and learning opportunity.

The seminar will be on the morning of **January 27 2023** at the Old Government House Hotel, St Peter Port, and will conclude with a networking lunch.

Guest of honour will be Hon. Tasha Ebanks-Garcia, Representative of the Cayman Islands in the UK.

Our expert speakers will address the key issues and new opportunities now facing trustees and employee share scheme professionals.

Book early to secure discounted ticket prices:

Esop Centre/STEP members: **£380**/each (if booked before December 23 2022. £420 thereafter)

Non-members: **£485**/each (if booked before December 23 2022. £538 thereafter)

Multi-booking discount**: 50% off** cost of ticket for your **third delegate.**

To reserve your place(s) email esop@esopcentre.com or call the team on 020 7562 0586.

Symposium 2023

The Centre's annual British Isles Share Plans Symposium is set for Thursday **March 30 2023** at Macfarlanes' central London offices.

It will be a hybrid event with speakers' presentations available to view before an afternoon of interactive panel debates, followed by a networking reception at which the 2022 newspad awards will be presented.

Please contact esop@esopcentre.com to reserve a delegate place, or, if you are a Centre member, wish to make or suggest a presentation.

Thank you to our Esop Centre British Isles Employee Share Plan Symposium 2023 host:

MACFARLANES

Report: International share schemes - exporting the vision

Many international businesses struggle to keep their corporate identity and cohesion amid the cultural, financial and legal complexities? In a Centre webinar, share schemes expert David Craddock examined the challenges to international share schemes, including language, legislation, currency and technology; how employee share schemes can promote inclusivity and act as 'corporate glue', holding together the various subsidiaries into a global whole; and the role of an international employee share trust.

Mr Craddock told the Esop Centre/FS Club audience that the objective of the international employee share scheme is to meet the on-going challenge for *global goal congruence*. The scheme can form an 'umbilical cord' between incentive and objective by ensuring the compatibility for employees between the all-embracing *company* culture and the *country* culture of each individual overseas subsidiary.

He explained the history of the global share scheme initiative, from development out of the UK initiative and the reinforcement of the trend, encouraged by – though not dependent on - the globalisation of world markets; and identified the drivers for the development of *the company* into the different parts of the world, through six case studies. David guided listeners through the next steps of deciding on the type of share scheme; management of the exchange rate; introduction of phantom savings-related share option schemes; and the employee share trust, which he described as a very powerful mechanism.

Talking about the economic and political factors to support a home government's support for international employee share schemes, David said that they contribute to healthy relations with other countries through assisting with employment creation and reducing inequalities by wealth creation in those countries in accordance with UN Sustainable Development Goals. He emphasised the importance of communication and the need to be sensitive and respectful of cultural difference in attitudes to emotional distance; individualism or collectivism; gender; risk; and timescale. He added that particular attention should be paid to use of language where migrant populations bring about varied levels of fluency in the language of country of residence; and where choice of vocabulary can lead to cultural misunderstandings such as the negative connotations of the word 'scheme' in American English.

Summing up, David said that the good international employee share scheme is a global "win-win" solution, delivering benefits to the micro-economic objectives of the international worldwide group of companies and the employees of the group; and the macro-economic objectives of the government of the mother country *and* of the governments of the countries in which the subsidiaries are based.

Questions came from the audience on whether, when putting an international share scheme in place, companies pick and choose in which jurisdictions within the international group they will offer the

International share schemes - exporting the vision

scheme, leaving others out; and what are the implications of setting up a global scheme that is not then truly global?

David reminded us that the first goal of an international plan is corporate unity across all countries, so ideally you would want the scheme to run over all jurisdictions, but some companies will want to reward only senior management though senior management might not exist in some countries. He suggested that it would be best not to isolate management for equity reward, but reward all employees wherever possible. Difficulties in including the whole workforce into any one scheme may be overcome by ‘phantom’ arrangements to ensure inclusion. It can backfire if employees or subsidiary companies in some jurisdictions feel left out.

Several listeners asked about how to manage the differing tax regimes? In his reply David said that the first consideration is always the design of the plan; it must incorporate strong motivation. The scheme should be attractive in itself and provide strong ties to the corporate identity of the business. Look at design, *then* look at tax implications. A tax advantage is often the bait that attracts attention to the scheme, but fundamentally you should be seeking a design imperative which is linked to the structure of the business. Secondly, tax will be different in different countries. The US and UK are similar, but in others tax can be all over the place – deferred, obliterated, or awkward e.g. may trigger when options are granted (the priority would be to avoid tax as someone *enters* the scheme).

In response to the question, whether there are certain places where this type of scheme rolls out well and others where it doesn’t, David said, “yes, as we know, in the UK and US these schemes work well and employees have come to expect some sort of share scheme to be offered, as they do in Canada, Australia and New Zealand. Among European countries, Germany is one where although one would expect share schemes to be popular, experience has taught us that there is rarely a good response. This could be because many German companies are family businesses and there is not such an emphasis on employee share schemes. In Latin countries, popularity depends on how the concept is presented – emphasise the community aspect and you will get a good response. Esops are popular in France as it has a tradition of Eso. Schemes in South Africa e.g. in mining companies, work but with relatively low take up. In Tech companies though, there is an awareness and popularity of Eso among the employees, regardless of jurisdiction.”

A final questioner asked: to what extent are volatile exchange rates an impediment? David answered in two parts: 1) The main exposure of exchange volatility is to savings related schemes. If there is volatility between date of grant and date of exercise, so there is substantial deficiency or excess of funds. 2) Volatility in the exchange rate often accompanies volatility in the stock market. If you have volatility in the stock market, and therefore in share price, this will produce a higher value for tax purposes, of the option. The governmental perspective of the exchange rate is very important – what sort of money can be achieved in terms of inflow into companies will flavour the way governments view international share schemes.

The webinar was chaired by Z/Yen Group managing director Ian Harris. Video and audio recordings, along with David’s comprehensive presentation slides, are available from https://fsclub.zyen.com/events/esopcentre-events/international-share-schemes-exporting-the-vision

Newspad 2022 Awards: celebrate your achievements

Nominations are open for the ***2022* newspad *all-employee share plan awards.***

The award categories this year are:

★ **Best all-employee share plan in a large company** (more than 2,500 employees)

★ **Best all-employee share plan in a mid range company** (500-2500 employees)

★ **Best all-employee share plan in an SME** (fewer than 500 employees)

★ **Best executive/managerial equity plan** (involving more than 100 employees)

★ **Best share plan communications**

★ **Best use of technology, AI , or behavioural science**

★ **Best share plan response to significant changes or challenging situations**

★ **Best employee share plan team leader**

★ **Outstanding company leader**

The awards recognise the achievements of companies which offer employee share plans and hold up best practice models for other companies to follow.

If your company or client has made a notable contribution to employee share ownership, issued an inspirational share plan, or showed excellence in its communication and presentation; been creative in using share plans to overcome significant changes or challenging situations, increasing participation or using technology; or maybe its chairman, ceo, or share plan team leader has upped the game with enthusiasm for employee share ownership; Then why not tell the world about it?

Companies can nominate themselves or advisers can make submissions on behalf of clients. Entrants can apply for awards in more than one category. Submitting nominations is free and simple. *Nominations should be proposed by Centre practitioner members,* though their clients, whose share plans are proposed, need not be members. If you are a plan issuer, you may enter your own plan for an award whether or not you are a member of the Centre.

Required information is kept to a minimum. The deadline for nominations is 17:00, **Friday December 16 2022**.

Category descriptions and rules of entry can be viewed on the Awards 2022 webpage: https://esopcentre.com/about/awards. To submit an application for the newspad all-employee share plan awards, please complete both stages:

***Online application form** -complete all sections of the online form, providing as much detail as possible. (Alternatively, entries can be made by one or two explanatory documents)

***Supporting documentation** - where appropriate, please back up your application with supporting documentation. Either upload the files at the end of the form, or email them to esop@esopcentre.com.

Please read the rules and terms of entry.

The winners will be decided by two impartial judges, experts in the use of employee equities, plus Malcolm Hurlston CBE, founder of the Esop Centre. The finalists will be announced in newspad and award certificates will be presented during the Centre's **British Isles Symposium 2023**.

For queries, please contact esop@esopcentre.com or call +44 (0)20 7562 0586.

We look forward to receiving your nominations.

New member: Tapestry Compliance joins the Centre

Tapestry Compliance is a multi-award winning specialist law firm, focusing on all aspects of global executive and employee share and incentive plans. The team is one of the largest specialist UK and European incentives teams and advises many of the world's leading companies on a range of share incentive arrangements. The firm works with clients on design, implementation and operation of plans on a truly global basis, and for clients in financial services, can assist on a broad range of remuneration topics, including share, cash and fund-based incentive arrangements, as well as compliance with remuneration regulations globally.

Tapestry's use of technology to provide additional legal services has always been a key strength of the firm. Global compliance is more efficient and cost-effective though the use of *OnTap*, its innovative online database. The firm continues to develop *OnTap*, providing legal and tax information in over 150 countries.

Tapestry provides the professional qualification, 'Certificate in Employee Share Plans' (accredited by the Chartered Governance Institute).

Tapestry promotes the benefits of Employee Ownership in practice - In October 2020 the firm became fully employee-owned through an Employee Ownership Trust (EOT).

Esop Centre contact for Tapestry Compliance is Centre Steering Committee member Suzannah Crookes. Contact her on +44 (0)203 432 2556 or email suzannah.crookes@tapestrycompliance.com

On the move

Zedra – Congratulations to Centre steering committee member Elaine Kennedy (previously Graham). Elaine has been appointed managing director of Zedra's Guernsey office. Nick Shinn has been promoted to deputy managing director and Nicola Brown will assume overall responsibility for its share incentive business.

Pinsent Masons – Partner Christine Yuill praised her colleagues as she left her workplace of 19 years for the last time. "It seems apt that in the break before starting the next chapter, I am heading to the other side of the world to visit two fabulous friends, with whom I started my traineeship at McGrigors in September 2003".

MM&K – HR professional Yolanda Roach joined MM&K as a senior consultant in October. Yolanda's experience includes remuneration and benefits management, people and change management, business development, talent acquisition and performance management.

EQ – On the launch of EQ's annual shareholder report, ceo - Shareholder Services (UK), Thera Prins said "Employee share schemes are a vital tool to help solve some of the most pressing challenges that companies face worldwide. This year's EQ Shareholder Voice survey reveals that employee shareholders want support from their employers to deal with the cost-of-living crisis, and many say shares would help. During the pandemic, giving shares to employees worked well for many companies wanting to thank staff for their hard work without impacting cash flows. It could work again, alongside other measures, during the cost-of-living crisis. In our first article, we discuss efficient ways to do this that include using management information to target the hardest-hit; and supporting vulnerable employees - something EQ has invested much in recently. We even discuss how companies could auto-enrol staff into share schemes to maximise the huge potential benefits for staff, companies and society."

HMRC updated guidance on discretion in EMI

On October 14 HM Revenue & Customs updated the Enterprise Management Incentives (EMI) - Requirements relating to options: Discretion - of its Employee Tax Advantaged Share Scheme User Manual.

Key points:

1) Options exercised pursuant to the operation of a general discretion (e.g. to allow exercise ahead of an exit whenever the board allows, rather than if specified events occur) will likely not attract beneficial tax treatment. Don't worry, simply having a general discretion in your rules is fine – just be careful how you use it.
2) HMRC seems far more concerned about discretions which bring forward the time an option can be exercised than the number of shares the holder receives. HMRC will generally treat the operation of a discretion to allow exercise of an option to a greater extent than vested as not being a change to the fundamental terms of the option, provided that the discretion was provided for from the outset.
3) Who is a "good leaver" can be at the board's discretion.

The guidance is quite technical and not crystal clear – get advice before operating a discretion.

HMRC has admitted that some companies who sought its confirmation on the use of discretion clauses were given advice which was not in line with the updated guidance. Any incorrectly paid tax can be reclaimed – but note the time limits.

Government announcement on the CSOP

Following publication of the Growth Plan, HMRC issued Employment Related Securities Bulletin 45 (September 2022), which gives details of changes to the Company Share Option Plan (CSOP) scheme and an update on the Save As You Earn (SAYE) bonus rate mechanism.

Continuing anticipation of SAYE Bonus rate change

Since 2014 SAYE accounts have not received an interest bonus linked to the amount saved. The recent rise in interest rates has led to an anticipation that accounts will soon be paid a bonus, indeed if the usual method of determining the level of bonus paid was still in place a bonus payment would have already been introduced. In June ERS Bulletin 43 stated that the previous method of calculating the bonus rate was being reviewed as it was considered to be overly complicated. This was updated recently in ERS Bulletin 45 where it was confirmed "*We have been considering options to simplify the mechanism (to calculate the bonus rate). We will engage with industry experts to understand their views on the options and provide a further update once we have held these discussions*" The outcome will be eagerly awaited by SAYE plan administrators as the bonus paid has historically formed part of the assessment of how profitable it is for SAYE plans to be supported. With the potential for an announcement of what a new bonus rate will be, companies who are planning in to offer a new SAYE invitation are recommended to review their usual employee communication materials plans as well as taking into account the impact paying a bonus may have on the number of shares that they will need to make available for the plan

Can employers reduce or suspend share option awards?

An increasing number of companies are exploring whether they can suspend or reduce vesting of employee share options if an employee starts to work reduced hours or is away from work for specified categories of leave (including parental leave or sabbaticals), according to lawyers *Osborne Clarke*. Some are considering whether the size of the award (whether a cash sum or number of shares) can be similarly reduced if an employee reduces the number of hours they work. Although such provisions are occasionally included in overseas plans, they are not typical in UK plans. Suspension of vesting or reducing the quantum of awards can carry risks. The drafting of the rules of the plan and award documentation will need to be considered. When do awards vest in normal and special circumstances? Any proposed exercises of discretion should be carefully considered, particularly in relation to tax-advantaged plans such as enterprise management incentive (EMI) options or company share option plans. From an employment law perspective, there is a risk that including these types of provisions in UK plans could lead to discrimination claims. Suspension of vesting during periods of leave (for example maternity, parental or paternity) or a reduction in quantum in response to working reduced hours may amount to discrimination. With sabbaticals, much will depend on the reason for the absence. If the sabbatical is linked to a protected characteristic, then there is again the risk of discrimination claims. If it is for other reasons (such as an extended holiday for travelling), then it may be possible to suspend vesting. The drafting of the plan documentation is key, and it is important that the employer ensures that all employees are treated fairly and consistently.

Crackdown looms as workers' rights bill vanishes

The Business Secretary faces a high court battle with trade union leaders over plans to allow agency workers to replace strikers. Alleged guidance from within No.10 implied that former PM Liz Truss planned to chip away at current *workers' rights* by repealing EU laws introduced under Agency Workers Regulations a decade ago. The unions claim that the Business Secretary was required to pre-consult them, under the Employment Agencies Act of 1973.

Yet, though largely forgotten, it was less than three years ago that Boris Johnson's incoming government had promised the reverse – namely to ***improve*** employees' rights. Flexible working rights, protections against pregnancy discrimination and rights for staff to keep all tips had been expected in an *Employment Bill*, plans for which were first announced by Mr Johnson's government in the 2019 Queen's Speech, but no firm legalisation was ever brought forward. There had been concerns that employees' rights could be watered down after the UK left the EU, and worries about treatment of employees in the gig economy had led to calls for reform. So, the outline Bill had promised:

- the creation of a single enforcement body, offering greater protections for employees
- making sure that tips left for workers go to them in full
- all employees would have the right to ask for a more predictable contract
- redundancy protections would be extended to prevent pregnancy and maternity discrimination
- parents allowed to take extended leave for neonatal care
- entitlement to one week's leave for unpaid carers
- subject to consultation, the Bill proposed making flexible working the default unless employers have good reason not to

One of the few Johnson proposals which may survive is for setting minimum service levels for the public during transport strikes, as is the case in France and several others EU states. Ben Willmott, head of policy for the CIPD, which represents HR professionals, said the Bill's vanishing act had left the government with "*very little time to meet its promises to protect and enhance workers' rights.*"

No U-turn on scrapping the bankers bonus cap

Chancellor Jeremy Hunt, made no mention of bankers' bonuses in his economic update but Treasury sources confirm that he will go ahead with the controversial move. *The Guardian* highlighted some of the biggest banker bonus jackpot winners in recent years, starting with **Bill Winters**, a former investment banker at **JP Morgan**, who was paid *£8.4m* in his first year at emerging markets-focused lender **Standard Chartered**. The figure was bolstered by a share-based buyout award, *meant to compensate him for quitting Renshaw Bay, the hedge fund he was previously running*. He had otherwise negotiated an annual salary of £1.15m alongside benefits of £35,000 and another £460,000 worth of annual pension pay. Winters joined the bank just as it was launching a turn-around plan, after a damaging Iran sanction-busting scandal and a series of profit warnings.

In 2014: Lloyds Banking Group's **António Horta-Osório** was paid £11.5m He saved Lloyds from collapse and it subsequently accepted a £20bn state bailout in 2008. Mr Horta-Osario, in a package, which included a £7.5m bonus linked to a three-year pay scheme, attracted criticism from the TUC, which said his allegedly excessive pay was an *"outrage*" for taxpayers who had footed the bail-out bill. Another bonus winner was former investment banker turned ceo **Bob Diamond** who sparked controversy after he received a bumper pay packet worth £11m in 2011. He had been granted a £1.35m salary, but also received a £2.7m share bonus, as well as £474,000 worth of perks including personal financial advice and chauffeurs. That was on top of share payouts and deferred share payments pre-dating the financial crisis. Diamond – who only led the bank for a year – was ousted as a result of the Libor rigging scandal. Barclays was the first bank to settle with the authorities over the controversy, paying £290m in 2012.

Luke Hildyard, executive director of the **High Pay Centre** think-tank, said removing the cap on bankers' bonuses would be an "ideological measure" that favoured the rich. He said: "*The bonus cap has probably helped to contain bankers' pay awards but they've still reached record highs this year while the rest of the country has undergone an epic cost-of-living crisis and profound economic hardship.*

"Bonuses in the financial services sector have helped the richest one percent of the population to capture an increasing share of total UK incomes. Removing the cap would be a pro-rich ideological measure that sends a depressing message about who policymakers listen to and think about when making economic policy."

Mick McAteer, former board member at the Financial Conduct Authority and founder director of The Financial Inclusion Centre, said scrapping the bankers' bonus cap was a "bad idea" that would "*encourage aggressive risk taking, socially useless market behaviours we don't really want. If that's not bad enough, looks like the government intends to give itself 'call in' powers to override regulators' decisions. So much scope for City lobbyists to get what they want. Regulatory independence is under serious threat from political expediency and industry lobbies now,"* he added. However, **Julian Jessop**, economics fellow at the Institute of Economic Affairs, a free market think-tank, said lifting the cap on bankers' bonuses would send a "positive signal" to the City.

"*The problem that global banks like Goldman have always had with the European bonus cap rules is that it builds in a high level of fixed cost; if you want to keep total compensation competitive for a senior person, you need to set their basic salary (plus "role based allowances) at a high level*," said the online magazine *e-financialcareers*. "*That means that very senior bankers end up getting really large amounts of cash every month; their compensation is much less variable and has a much lower long term or equity component than their US counterparts. With uncertainty about revenues, Wall Street firms might be more than happy to cut salaries and redress the balance with bonuses that can be massaged lower in difficult years. We could even see a few heads of trading desks, particularly in rates and FX, moved across the Atlantic, which is precisely the effect that [former Chancellor] Kwasi Kwarteng intended. However, bankers who have got used to a chunky salary might be less keen. Even if, over the cycle, uncapped bonuses are better (total comp is about 30 percent higher in New York, adjusted for currency), the immediate effect of changing the system might be a considerable sticker shock. However, US banks that are free to pay high bonuses will attract people at the other end of the spectrum. Equally, though, if the UK goes through with this, the European legislators will be under pressure to review whether the bonus cap is worth having,"* added the magazine.

Double budgeted deficit for 22/23

The monthly public-sector finances for September 2022 released on Friday October 21 reported a provisional deficit for the month of £20bn, bringing the total for the first six months to £73bn. This was in line with the Office for Budget Responsibility's (OBR) March budget forecast for the deficit for the first half of the year, with higher receipts, the energy profits levy and lower capital investment than budgeted offsetting debt interest that is much higher than forecast.

Unfortunately, the costs of the energy price guarantee for households and businesses from October to March, the national insurance cut from November and even higher interest charges over the second half are expected to result in the deficit being close to double the budgeted deficit of £99bn for the full financial year ending March 31 2023.

OTS shutdown queried

The government announced that the Office of Tax Simplification would be replaced with a general mandate to the Treasury and HMRC to focus on simplifying the tax code, Centre member **Travers Smith** told the website *Lexology*. "*The former Chancellor made clear his aim to reduce the compliance and regulatory burden on businesses, however, it remains to be seen whether the loss of an independent body tasked with promoting tax simplification will improve or impede progress*" said Laura Jackson and Elena Rowlands.

Employee Ownership Trusts

Your Equipment Solutions (YES) a Falkirk based equipment hire company has placed the majority of shares into an Employee Ownership Trust. Founder David Johnstone who also acts as managing director has had the goal of retiring by the age of 55 while securing the long - term future of the company and its employees: *"As clichéd as it sounds, we are one big family at YES and when looking into my succession plan, employee ownership was the perfect option,"* Johnstone *commented. "I've always had the view that if the company does well, the staff should do well too – and this is just one of the ways I can repay their hard work*."

Photo by Alex Lvrs on Unsplash

Thank you to our hosts of the Esop Centre British Isles Employee Share Plan Symposium

Baker McKenzie.

TRAVERS SMITH

WHITE & CASE

Other companies which recently sold to EOTs include:

- ◊ architecture practices JDDK Architects and DAY;
- ◊ Lyneal Group, which operates employee benefits firms mystaffshop.com and myhealthxtras.co.uk;
- ◊ research company Belbin;
- ◊ IT consultancy Intech Systems;
- ◊ hospital bed manufacturer Medstrom;
- ◊ urban design and landscape architecture practice Planit-IE;
- ◊ recruitment firm Linear Recruitment;
- ◊ CloudStack technologies integrator ShapeBlue;
- ◊ and manufacturing group, the Challenger Group, which comprises Challenger Hydraulics Ltd, Challenger Manufacturing Ltd (trading as Comet Fluid Power), Challenger Handling Ltd and CFP Hydraulic Systems Ltd.

How much equity should you expect from an early-stage start-up?

Early-stage start-up employees are often given equity in the business when they join. But how much should you expect to be offered? According to a recent article from *Sifted,* "The co-founders might have 30 percent of the company each and then they've got some investors who'll often be mates of theirs who are punters," said David Reuben, director of London-based law firm Postlethwaite Partners, "And then you have what's called 'the employee pool' and that will be a number of shares that are basically reserved for employees." Reuben says that it's typical for employee stock option pools to account for 10 to 15 percent of the company's overall available equity — though in some cases it can be as high as 20 percent.

Data from SeedLegals, a UK platform for seed and pre -seed stage founders and investors, shows that the vast majority of startups in the UK reserve between 10 and 11 percent of equity for their employee pool. The amount of equity you'll be given as an employee of an early-stage start-up will depend on how senior you are when you join.

Hugo Fdez Mardomingo, co-managing partner at Bilbao-based VC firm All Iron Ventures, lays out what he sees as a standard offer for start-up employees: "Let's say one percent for non-founder C-suite roles, 0.5 percent for senior vp roles and from then on it comes down to the profile of the candidates and their experience."

Luckily for employees today, a good amount of benchmarking data is available to show how much equity you should expect. One of those comes from London-based VC firm Index Ventures, which has published an equity calculator that shows what founders should be offering. Erin Nixon, vp of strategy at workplace mental health company Oliva, said that this was the tool she used for working out her company's option allocation package when she joined the company. "There's a lot of good benchmarks out there so I don't think that it's something that founders or employees need to figure out on their own," she said. "When I came in and was like, 'Alright, let's sort this out', [the Index Ventures calculator] is what I used to gut check what we already had, and there's a few others that you can also use to click around and triangulate."

Job offers won't always contain all of the information about the equity deal you'd be getting upon joining. Sometimes they'll just share the value of the stock options being offered, without saying what percentage of the company's value that represents.

Yoko Spirig is founder and ceo of Ledgy, an equity management platform for start-ups, and says that employees should ask for transparency from potential employers. "As an employee, I would really encourage you to ask 'what share of the company that would be?' 'What is their value today, based on the valuation that came from the latest fundraising round?'" she said. It's unlikely that a start-up will be making many hires before an angel or pre-seed round, but employees coming in pre-valuation should still ask what percentage of the company their equity offer represents, and check that it's in line with industry benchmarks. There's one stock option term employees should be aware of, Spirig says, which can leave them with few options for turning their equity into cash: "I was [recently] chatting with an employee of a well-known European scale-up. The person received stock options but now he's thinking about leaving," she says. "But the company only offers three months for the employee to exercise stock options. And now the employee is in a situation where he actually needs to pay about €100k to buy them."

This time period is called the "exercise window", which refers to the amount of time you have to exercise your options after leaving the company. In the example that Spirig gave, the employee is being forced to pay for the equity very quickly, and perhaps years before it might become worth anything at a liquidity event. Spirig says that start-ups should give an exercise window of at least five years, to allow employees the best chance of being able to get value out of their stock options.

Another potential pitfall that employees of early-stage start-ups need to look out for is "buyback rights", which allow companies to buy equity back from employees without their say so. "Sometimes there are cases where companies have a right to buy back shares, which is not great at all," added Spirig. "I would really pay attention to these buyback rights as an employee and I would want to understand: what is the thinking behind those kinds of clauses?"

Esops can boost productivity amid UK cost-of-living crisis

Centre member **Pinsent Masons** believes that employee share schemes can play an integral role in combating inflation and the enormous burden it is placing on individuals.

Writing in the firm's Out-law blog, partner Lynette Jacobs said that the unique reasons for the current rising inflation means interest rate hikes, which usually help reduce inflationary pressure, are unlikely to be as effective. The current pressures include an unusual increase in the supply of money being paid directly to consumers, such as stay-at-home orders that paid people not to work during the pandemic. There is also pent-up demand as a result of Covid-19 lockdowns and a reduction in supply caused by both the pandemic and the war in Ukraine.

These combined factors, which have created demand-pull and cost-push inflation, have created the highest rate of inflation in the UK for over 40 years. To combat this, we need to keep demand at a high level while increasing productivity.

Employee share schemes can play a very important role in achieving this balance. Share schemes under which the benefits only crystallise on achievement of specified performance targets can facilitate business improvement by effectively offering increased pay in accordance with the level of productivity.

The key principle here is that the reward is gained after the actual productivity is achieved and the level of that reward is based on the actual productivity. This additional incentive to improve productivity can also help to restore levels of supply, easing the level of excess demand within the economy.

Effective open communication is key and will improve employee confidence in the performance of the company and encourage employees to retain any shares they have in the company and continue to invest in relevant company share plans, even when the company experiences a short-term downturn. For employees to have the best opportunity of benefiting from the schemes offered by their employer, they should continue to contribute to their company share schemes if they are financially able to.

In the current economic climate, a save-as-you-earn (SAYE) scheme may be the most effective type of all-employee share scheme for firms. SAYE schemes allow employees to pause their contributions into the scheme up to 12 months – a possible benefit given potential strains on household finances.

Alternatively, a share incentive plan (SIP) is another potential choice. Rising inflation creates additional demand for pay rises, but since the tax allowances are currently frozen, widespread pay increases – in line with, or even below, inflation – are pushing record numbers of employees into the additional and higher rate tax bands. SIPs are an efficient way to combat this, as employees required to pay these higher tax rates will achieve greater income tax savings as a result of contributing to a SIP rather than an SAYE scheme. The contributions they make into the SIP will come out of gross pre-tax salary.

Employee share schemes will not fix the rise of inflation and cost-of-living crisis on their own. But their effective use and implementation can be used to help increase productivity levels in the economy, easing the current supply issues and addressing pent-up demand. This can help to reduce both the demand-pull and cost-push inflationary pressures the UK is currently battling.

UK CORNER

Esops can boost productivity amid UK cost-of-living crisis

In a recent Z/Yen Long Finance Pamphleteers blog - "*Enhancing Productivity And Reducing Inflation Through Employee Share Schemes"* - share schemes expert and Centre steering committee member **David Craddock** wrote that *the empirical evidence indicates that by fostering good and improved industrial relations, productivity improves, employees enter into a deeper understanding of how businesses work through their employee share scheme involvement and, most importantly, they reap personal rewards – "The Wages of Capital" – through dividend payments and capital gains, the cash from which contributes to enabling payment for goods and services at prices that are commensurate with their productivity and pay outcomes.*

The full article can be viewed at "Enhancing Productivity And Reducing Inflation Through Employee Share Schemes - Long Finance".

PENSIONS

Can trustees help raise pension scheme pay-outs with revaluations?

The rapid rise in inflation means that members of defined benefit pension schemes are likely to see their benefits fall in real terms, lawyers *Stephenson Harwood* told *Lexology.* For those schemes which are still open to accrual, the pay rises of employees which feed into their pension calculations are unlikely to be keeping up with the recent levels of inflation.

- For closed schemes, deferred pensions are re-valued in order to help protect them from the effects of inflation, although the level of revaluation is unlikely to be close to the levels of inflation.
- Pensioners benefit from increases to pensions in payment, again as a protection from inflationary erosion. These increases have not, however, kept pace with recent inflation.

The levels of re-valuation and increases that a scheme provides are subject to a statutory minimum and will be set out in the scheme rules. In the current climate this statutory minimum is not currently keeping pace with inflation. Most rules typically provide a maximum revaluation or increase of either *only 2.5 percent or five percent maximum per annum* (dependent upon various factors, including periods of service). While such a scheme cap will limit the effects of inflation on the cost of benefits for employers, it means that members' benefits are falling in real terms.

As a result, we have seen trustees question whether their fiduciary obligations require them to consider if they have discretionary powers to increase the amount of deferred pension revaluation or pension increases. Any such discretion would be subject to the rules of the scheme. Trustees would need to consider the wider funding position of the scheme as well as their fiduciary obligations. *Employers and trustees may wish to consider the discretionary increase powers within their rules and whether it would be appropriate to exercise that discretion against the backdrop of scheme funding levels and employer covenant.*

EU hires external VC to revive stalled start-up financing scheme

The EU has appointed an external fund manager, Alter Domus, to lead its flagship deeptech investment scheme, after start-ups promised funding have been waiting on it for months, according to *Sifted*.

This means that Alter Domus, a Luxembourg-based firm — not an individual investor — which specialises in private equity and real estate and infrastructure investments, will decide which start-ups receive equity funding.

Since 2021, the European Innovation Council (EIC), an EU body, has been offering grants, blended finance and equity investments to Europe's deeptech start-ups. It stresses that such investment is strategic for the EU's so-called "technological sovereignty" — a grand push to shore up the continent's role in cutting-edge tech like microchips, quantum computing and ground-breaking climate solutions.

It offers grants of up to €2.5m and equity investments of up to €15m per company, for a maximum stake of 10 to 20 percent. Over seven years, it wants to invest €3.5bn in around 500 to 700 deeptech companies. So far in 2022, it has been Europe's most active deeptech investor by number of deals.

The problem is that many of the selected companies, especially those that qualified for equity investment, have waited months to receive funding, which has put some on the brink of bankruptcy. While the EIC has been slowly moving forward with the payments of grants, only one company has received equity backing since the launch of the programme, out of more than 100 selected for such payout.

The Commission says that the delays were caused by "restructuring" the fund — and the lengthy, bureaucratic process of recruiting an external fund manager. But people familiar with the matter say the main issue is that some Brussels officials have started to doubt that the Commission has the relevant experience and resources to convincingly pull off this new VC role.

Alter Domus will now make the final decision on investments in high-risk start-ups, while the selection process will still be done by the EIC and due diligence will be carried out by the European Investment Bank.

The EIC will remain responsible for providing grant support and business acceleration services to the selected companies.

The first investment decisions are expected to have been taken during October with other investment decisions completed in the following months.

Photo by Christian Lue on Unsplash

LuxSE introduces simplified admission process

The Luxembourg Stock Exchange has introduced a simplified new admission process for trading on its EuroMTF market.

As the name of this new service suggests, 'FastLane' creates a time-efficient admission process in which eligible issuers are now granted an exemption from the mandatory requirement to prepare a prospectus to be reviewed and approved by the Luxembourg Stock Exchange (LuxSE).

FastLane was introduced on October 10 2022 after the LuxSE published a revised version of its rules and regulations.

The EuroMTF is an attractive listing venue for issuers seeking a listing of their securities in Europe as it benefits from less costly and less stringent financial reporting obligations.

Centre member Ogier has published an on-line guide to the admission process.

Michelin launches new Esop

French tyre company Michelin has launched a new all employee share plan to its 120,000 employees in 46 countries. "*Employee share ownership serves two important purposes. First, it demonstrates our confidence in and commitment to our Group. Second, it helps strengthen a core group of shareholders and further stabilises the company's capital*" said Yves Chapot, general manager and chief financial officer of Michelin. *"For these two reasons, we hope that employee share ownership will develop significantly in the coming years."* Each employee may acquire up to 2,000 Michelin shares under the plan with the number of matched shares linked to the number of shares acquired.

Four factors that could make the 2020s 'the decade of the Esop'

In a piece for *Forbes*, Mary Josephs writes "As an advocate and adviser on employee stock ownership plans and other forms of employee ownership for nearly a quarter-century, I have seen their positive impact on business owners, company performance and, especially, employees' wealth creation. Given the renewed interest in Esops, I've even predicted that this will be the 'Decade of the Esop.'

"That explains why I was excited to talk with my long-time friend Corey Rosen, who founded the National Center for Employee Ownership in 1981, about his just-published book, "*Ownership: Reinventing Companies, Capitalism and Who Owns What*," co-authored with John Case. Would he, I wondered, echo my prediction?

"Rosen considers employee ownership a powerful tool to address inequitable wealth distribution. He notes it is a solution supported by both sides of the political aisle. And as he is an astute campaigner, I was interested in his views on how employee ownership can grow further in the US.

"Despite the challenges, Rosen cites four factors that encourage him that, yes, the 2020s will be the "Decade of the Esop." Here's his list.

- Growth of State-level Centers for Employee Ownership
- Supportive Federal Legislation
- Growth in Acquisitions by ESOPs
- Embrace of Employee Ownership by PE Firms"

Equity compensation is effective strategy, survey shows

Morgan Stanley at Work has released the results of a survey of 1,000 US employed adults and 600 US HR leaders that forms its second annual "*State of the Workplace Financial Benefits Study*". The key findings relating to equity incentives showed that the perceived importance of equity compensation has increased from 2021: 95 percent of HR leaders (up from 92 percent in 2021) and 80 percent of employees (up from 75 percent in 2021) agree that equity compensation and stock ownership is the most effective way to motivate employees and keep them engaged. HR leaders identified the greatest benefit of equity compensation being helping employees meet long-term goals such as retirement whilst employees equally chose "It helps meet my long-term investing goals" and "It gives me a stake in the company" as the top benefit of equity compensation.

"We're seeing that many employees are increasingly paying closer attention to their benefits, especially with labour and expertise in high demand," said Scott Whatley, md & global head of equity solutions at Morgan Stanley at Work. "Our study shows that equity compensation continues to be an effective strategy for employers to attract highly mobile talent in this labour market. It's encouraging to see that the views of equity compensation have evolved dramatically from being thought of as simply a bonus, to now being viewed as a key input in planning for and meeting long-term financial goals like retirement."

The Z/yen Group

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