Strings attached

Clawback arrangements have become more prevalent in the wake of the credit crunch. But do they actually tackle the problem they were designed to address?

In any discussion of the current economic woes in both the UK and US, it is unlikely to be long before someone mentions the commonly held view that, in the financial sector at least, the bonus culture contributed to, and sometimes rewarded, risky behaviour.

This perception has lead regulators and companies to look at ways of deferring and/or clawing back bonus awards, both to change employees' behaviour and to counter perceptions they are rewarding failure.

In 2009 the engineering company IMI passed a resolution at its AGM that allowed bonuses to be clawed back in the event of either a restatement of accounts showing that bonuses had been overpaid or serious criminal activity by employees. Companies as diverse as publishing house Reed Elsevier and pharmaceutical giant GlaxoSmithKline have also revealed clawback arrangements for senior executives.

According to PwC partner, Jon Terry, clawback should be seen as a "small but emotional subset of the wider regulatory issues" driving reform in the financial sector and of executive remuneration more generally.

He believes the concept of clawback is about to go much further: the Financial Services Authority (FSA) has recently finished consultation of the incorporation of the rules of the European Commissions' latest Capital Requirements Directive (CRD3) into its Remuneration Code, which recommends that at least 40% of a bonus must be deferred over a period of at least three years for all relevant staff.

You can read the full version of this article in the December issue of *Hourglass*, which will be available next month.