



# **POSSIBLE BREXIT IMPACT ON EMPLOYEE FINANCIAL PARTICIPATION**

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# DECLARING MY INTEREST



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- ❑ Family living in
  - Belfast; Glasgow; all over England
- ❑ Many close friends and colleagues in England
- ❑ The English have contributed so much to science, the arts, culture, sports, etc.
- ❑ However, there is a dark side to the English character

# **700 YEARS OF 'INTERACTION' BETWEEN IRELAND AND BRITAIN**

- **A bitter relationship, even after Irish independence in 1922**
- **Relations were at their best in 700 years after the State visits of Queen Elizabeth to Ireland in 2011 and President Higgins to UK in 2014**

**THEN A BOMBSHELL - BREXIT**

# THE BORDER

208 formal crossings

Over 300 other crossings

30,000 cross every day



504 Km

# CITIZENSHIP

- Anyone born on the island of Ireland are entitled to Irish citizenship
- Therefore entitled to EU citizenship

## UNIQUE WITHIN EU

- Common Travel Area – free movement of people on the island of Ireland and between the two islands

# IRISH / UK TRADE (2017)

- ❖ **€16.4 billion exports from Ireland to UK**
  - 24% agri/food **Ireland produces enough to feed 33 million people**
  - 22% wholesale/retail
  - 22% manufacturing and construction
- ❖ **€17.5 billion imports from UK**
  - 59% wholesale/retail
  - 14% services
  - 13% manufacturing and construction



# NORTHERN IRELAND TRADE (2017)

- Total NI Exports: £6.3 bn (€7.2 bn)
- Total Imports: £6.1 bn (€6.9 bn)
- To Republic: £1.1 bn (€1.3 bn)
- From Republic: £1.7 bn (€1.9 bn)
  
- UK subvention to NI: £10 bn (€11.4 bn)

# GOOD FRIDAY AGREEMENT 1998

- ❖ International Treaty between Ireland and UK
  - Both countries co-guarantors
- ❖ Presupposed that Ireland and UK would be members of EU
- ❖ EU and UK identified protecting the GFA *in all its parts* as an objective of the BREXIT negotiations
  - Including no hard border / no controls on border

# BORDER DOWN THE IRISH SEA?

- ❑ DUP don't want a border between Northern Ireland and GB
- ❑ Border already exists for many items and laws
- ❑ **NO HARD BORDER** is built into the Dec 2017 agreement between EU and UK
- ❑ Tory government now trying to renege on this agreement

# Chequers, Salzburg, Birmingham

- **Chequers Document reads like an application for EU membership!**
- **At European Council meeting in Salzburg the UK PM's '*take-it-or-leave-it*' attitude irritated other EU leaders**
- **Comments after Salzburg and at Tory Party conference disgraceful**



# **BREXIT AND FINANCIAL PARTICIPATION**

**SPECULATIVE!!**

**HEALTH WARNING**

**EVEN AS THE EUROPEAN COUNCIL  
MEETS TODAY WE STILL DON'T  
KNOW WHAT THE OUTCOME OF THE  
BREXIT NEGOTIATIONS WILL BE  
AND WHAT IMPACT, AFTER NEXT  
MARCH, BREXIT WILL HAVE ON  
EMPLOYEE FINANCIAL  
PARTICIPATION**

# ***'BREXIT MEANS BREXIT'***

## **Complex Negotiations on:**

- Single Market**
- Customs Union**
- Role of ECJ**
- Citizens' rights**

## **Also:**

- CAP**
- CFP**
- Energy**
- Open-skies**
- Financial Services**

**etc., etc., etc., etc., etc., etc., etc., etc., etc., etc.**

# ***‘BREXIT MEANS BREXIT’***

## **Financial Markets and Services**

- **Post-crisis – new Directives/Regulations and the establishment of three new supervisory authorities to co-ordinate the financial markets:**
  - **European Banking Authority (EBA)**
  - **European Securities and Markets Authority (ESMA)**
  - **European Insurance and Occupational Pensions Authority (EIOPA)**



# ***'BREXIT MEANS BREXIT'***

Resulting in a range of legislation covering:

- ❖ Banking Union
- ❖ Insurance / Reinsurance
- ❖ Pensions
- ❖ Capital Markets Union
- ❖ Securities
- ❖ Accountancy / Auditing
- ❖ Financial markets
- ❖ Fund management

**No Passporting After BREXIT**

# BANKING UNION

- ❑ **Financial supervision by ECB**
  - Took effect in 2014
- ❑ **Single Resolution Board (SRB)**
  - Single Resolution Mechanism – SRB can order the restructuring or winding up of a ‘failing’ bank
  - In force since January 2016
- ❑ **Deposit Insurance Scheme**
  - Not yet in place!!

# BREXIT AND EMPLOYEE FINANCIAL PARTICIPATION

What will happen to EU-level legislation relevant to **transnational** employee financial participation plans after Brexit?



Will the UK keep, amend or repeal these Directives/Regulations?

**REGULATORY ALIGNMENT**

# Some relevant EFP EU Legislation

- ❖ Capital Requirements (2012/78)
- ❖ Shareholder Rights (2017/828)
- ❖ Transfer of Undertakings (2001/23)
- ❖ Prospectus Regulation (2017/1129)
- ❖ Financial Services (2002/65)
- ❖ Market Abuse (Regulation 596/2014)
- ❖ General Data Protection (GDPR) (Regulation 2016/679)
- ❖ Working time (2003/88)
- ❖ Equal Rights (2006/54 & 2000/78)
- ❖ Various legislation on e-commerce

## Focus on four of these -

- ❖ **Shareholder Rights Directive (2017/828/EU):**
  - To be transposed by June 2019
- ❖ **Prospectus Regulation (2017/1129)**
  - Comes into effect July 2019
- ❖ **Markets in Financial Instruments –**
  - MiFI Directive II – 2014/65/EU
  - Regulation 600/2014
- ❖ **GDPR (Regulation 2016/679)**
  - Came into effect May 2018

# Shareholder Rights - Proposed Revision (2019)

- Stronger shareholder rights to cross-border and to electronic voting
- Long-term engagement of institutional investors and asset managers
- Transparency of 'proxy' advisors
- 'Say on Pay':
  - More transparency on directors' pay
  - Link between pay and performance!
- **Regulation of transactions that may create risk for minority shareholders**

NO REFERENCE  
TO EMPLOYEE  
SHAREHOLDING

# Prospectus Regulation – June 2017

- ❑ Simplified process for drafting a prospectus
- ❑ Requirement that a prospectus be in an ***easily, analysable, succinct and comprehensible*** format
- ❑ Existing listed companies can also benefit from the simplified prospectus process
- ❑ Easier for SMEs to access Capital Market - €100,000 threshold is removed
- ❑ European Securities and Market Authority (ESMA) will be the single access point for all EU prospectuses

# Markets in Financial Instruments Directive and Regulation

- ❖ **MiFID II (2014/65/EC) and**
- ❖ **Regulation 600/2014**
- ❖ **Replaces Directive 2004/39/EC**
- ❖ **Both Directive and Regulation came into force from January 2018**



# Markets in Financial Instruments Directive and Regulation

The MiFID II Directive covers:

- **Buying**
- **Selling**
- **Organised trading of:**
  - **Shares**
  - **Bonds**
  - **Units of investment schemes**
  - **Derivatives**
  - **Other financial products**

# Markets in Financial Instruments Directive and Regulation

Regulation 600/2014 deals with reporting and transparency, such as:

- Public disclosure of data on trading activity
- Disclosure of transaction data to Regulators
- Will apply to all Member States – EU wide consistency **(UK?)**

# General Data Protection Regulation

- Replaces the Data Protection Directive 95/46/EC
- Regulation applies to
  - All Member States from May 2018
  - Controllers and processors of personal data
- Impacts on ALL global enterprises with electronic data on EU citizens or residents
  - no more 'light-touch' national regulations*
  - The GDPR has been transposed into UK legislation and came into force May 2018**

# **'BREXIT MEANS BREXIT'**

## ***Future Regulatory Alignment***

UK Reform Bill 2017 states that

*The Government's overall approach is to convert the body of existing EU law into domestic law, after which Parliament (and, where appropriate, the devolved legislatures) will be able to decide which elements of that law to keep, amend or repeal once we have left the EU. This ensures that, as a general rule, the same rules and laws will apply after we leave the EU as they did before.*

**No medium to long-term commitment to keep key EU legislation that could impact on EFP**



**THE BIG UNKNOWN  
IS HOW LONG WILL  
REGULATORY ALIGNMENT  
BETWEEN THE EU AND UK  
LAST?**



**THANK YOU**  
**GO RAIBH MAITH**  
**AGAT**