



# Brexit & Immigration

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# SETTING THE SCENE



Lots of uncertainty and very little time

## Possible outcomes:



Revised Deal  
agreed



Brexit delayed  
(again)

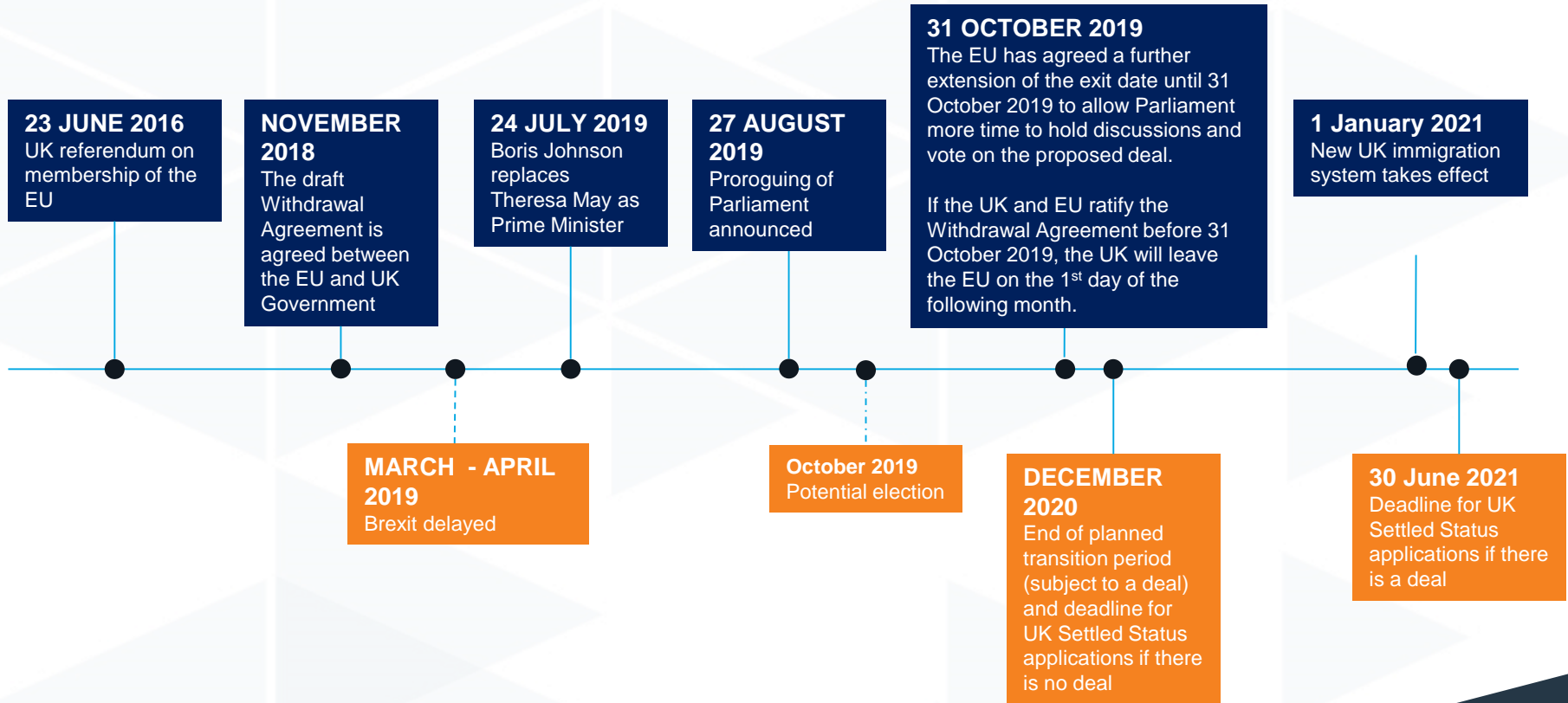


No Deal



Second  
referendum with  
potential No Brexit

# KEY DATES



# IF A DEAL IS AGREED



The UK will leave the EU on the date the deal is agreed



A Brexit transition period will run until 31 December 2020, during which time EEA / Swiss nationals retain free movement rights in UK



Irish aside, EEA / Swiss nationals in UK before end of transition period will need to make an application under the EU Settlement Scheme by 30 June 2021 - online and straightforward



5 years residence will lead to settled status with a bridging pre-settled status for new arrivals



Applicants who do not want to be without their passport will be able to submit biometrics using an app



Similar policy will apply to UK nationals in Europe, with processes varying between Member States

# IF THERE IS A NO DEAL BREXIT



## UK

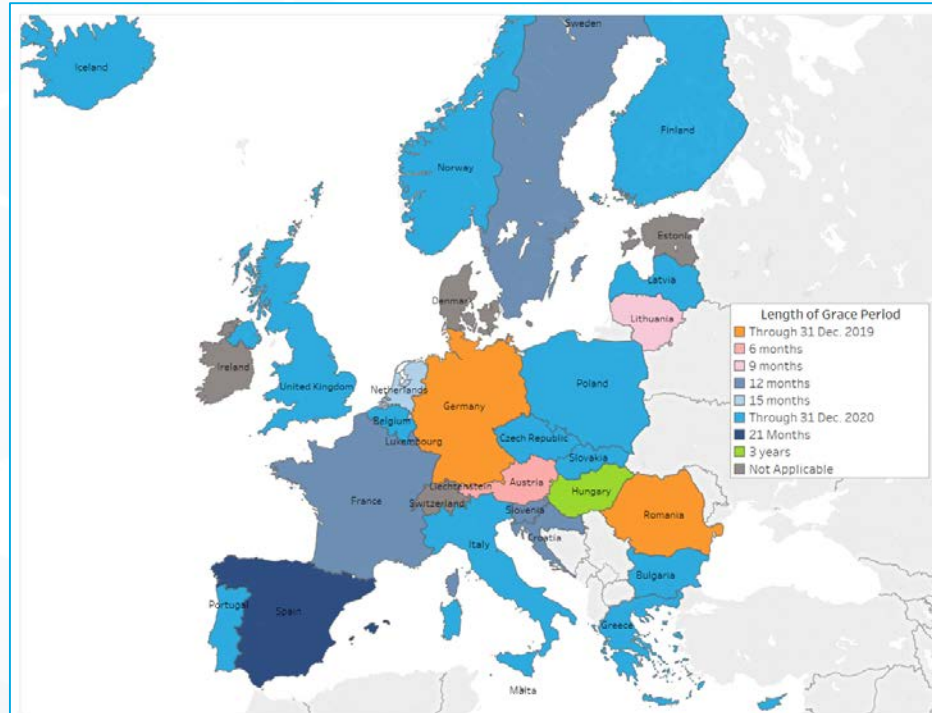
- EU nationals already residing in the UK **would not be required to leave** the UK even if there is “No Deal” and those here before Brexit will be able to apply under the settlement scheme
- We do not expect **free movement** to end immediately on Brexit, although it will soon after
- Europeans should be able to enter up until 31 December 2020 and work
- If they wish to stay beyond 31 December 2020, they must hold European Temporary Leave to Remain (36 month permission)
- When European Temporary Leave expires, the individual will need to qualify and apply under the new immigration regime or leave the UK



## EU

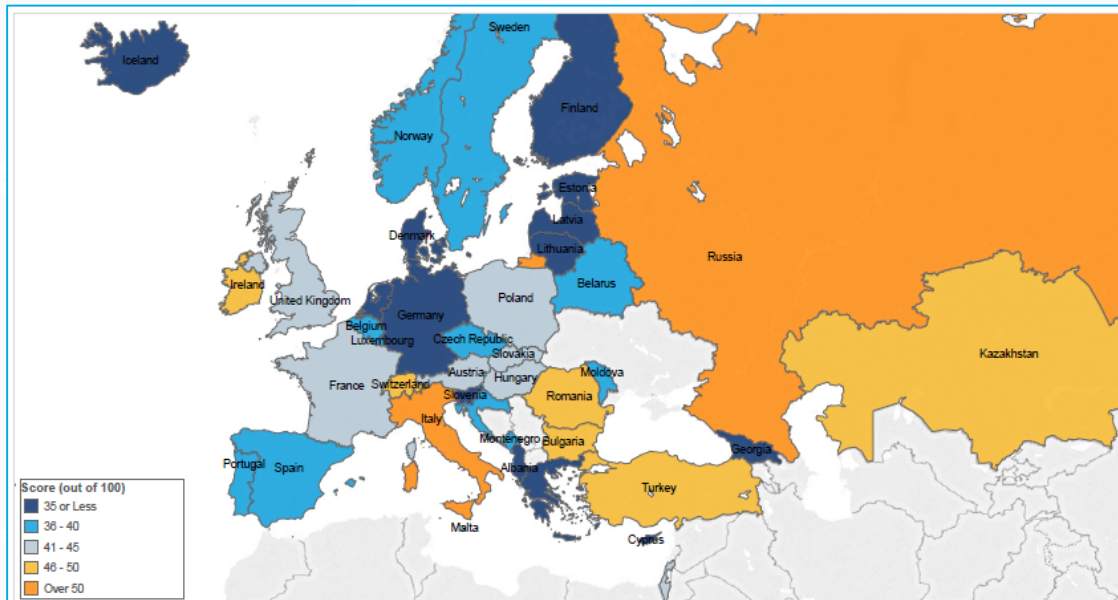
- UK nationals already in Europe will need to confirm their status, but relatively little policy has been released
- The EU adopted a regulation on 9 April confirming that UK nationals will be able to enter the Schengen area for tourism and business trips without a visa after Brexit for stays up to 90 days in a 180-day period, in either a deal or no-deal scenario
- UK nationals **working in the Schengen area after Brexit will require a work permit**. Securing a work permit for Europe tends to take between 1-6 months at present.

# YOU WILL NEED TO MOVE QUICKLY IN EUROPE



If the UK leaves the EU without a deal, each EU Member State would set its own policy for UK nationals residing and working within their borders after Brexit. Most jurisdictions have released proposed no-deal arrangements, and we can see that most provide a 'grace period' within which individuals and employers can make necessary arrangements. The map above shows the duration of each EU Member State's proposed grace period.

# AND ACCOUNT FOR TIME AND COMPLEXITY



The Restrictive Practices Heat Map is designed to give you a bird's eye view of the world of immigration rules.

The scores provide a comparative measure of the extent to which different countries restrict a company's ability to transfer or hire a foreign national to work temporarily. It is not an attempt to objectively define which countries are open versus which are restrictive; it just compares countries with each other for illustrative purposes. The higher the indicated score, the more restrictive a country is, comparatively speaking.

Factors include: eligibility requirements on the company and the foreign national, limitations on the types of positions, the degree of certainty that authorization will be approved, government processing time and fees, the complexity of the process, the rights attached to the authorization including the length of stay and hidden costs or risks such as penalties and the level of corruption.

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# FOCUS LUXEMBOURG IN CASE OF NO DEAL

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### BREXIT NO-DEAL SCENARIO: TRANSITIONAL REGULATIONS FOR BRITISH CITIZENS LIVING IN LUXEMBOURG



#### 31.10.2019 NO DEAL BREXIT

**Grace period of 12 months after Brexit:** where UK citizens and their family members already living in Luxembourg will retain the right to reside and work in Luxembourg.



**Registration attestation received as EU citizens will remain valid until 31.10.2020.**



#### 31.10.2020 END OF GRACE PERIOD

UK nationals need to apply for a work and residence permit as Third Country nationals at the latest 3 months before the end of the Grace period (by 31.07.2020 at the latest).

The Luxembourg Government has decided to simplify the formalities for issuing residence permits to British citizens residing in Luxembourg when Brexit occurs. The details of these simplified procedures and applicable conditions will be announced at a later date.



Applies to all British citizens and their family members, who are already residing in Luxembourg when Brexit takes place.



Approval of Ministry of Foreign Affairs required, labor market test may apply depending on the work permit category.

**After the end of the transition period of overall 12 months:** British citizens are treated like all other third country nationals, and they will need to apply for combined work and residence permits

**Facilitation:** simplified procedures to issue residence permits will apply to both UK citizens and their family members. Applicable conditions are yet to be announced by the Luxembourg government.

#### RECOMMENDATIONS:

- UK nationals should arrive before Brexit Day and register as EU nationals to benefit from the right of free movement and grace period of 12 months
- UK citizens and their family members should apply for the Luxembourgish citizenship if they have been residing in Luxembourg for at least 5 years.



# BUSINESS TRAVEL WILL ADD COMPLEXITY



Meetings



Training



Productive work



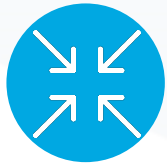
# BUSINESS TRAVELLERS IN A NO DEAL



EEA/Swiss national business travellers to the UK will be able to enter the UK and work for up to 3 months until 31 December 2020



EEA/Swiss nationals travellers to the UK from 1 January 2021 must restrict activities to what is permitted under the business visitor rules in the UK



UK national travellers to the EEA/Switzerland must restrict activities to what is permitted under the business visitor rules in their destination country

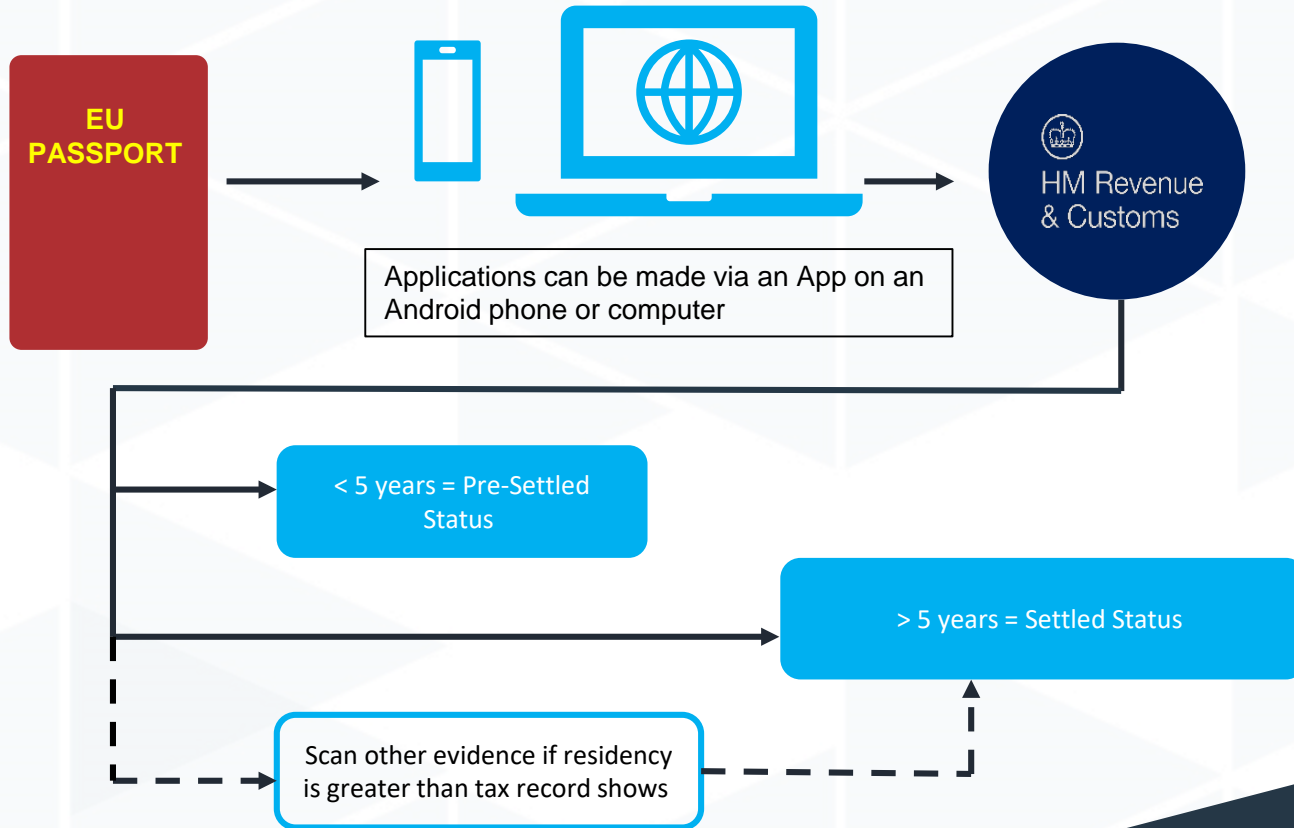


Message to the business:

- Identify UK national travellers to the EEA/Switzerland from 1 November 2019
- Consider if travel can be brought forward
- Consider whether their activities are that of a business visitor in a destination country

# THE SETTLEMENT SCHEME PROCESS IS REASONABLY EASY

Applications open until 30 June 2021 (31 December 2020 in a no-deal).



# DOCUMENTS FOR UK APPLICATIONS?

## EU NATIONALS



Mobile phone with access to emails



Original valid biometric passport



National Insurance number



Individuals may also need to provide proof of residence (e.g. P60s, bank statements, utility bills)

## Non-EU national family members



Mobile phone with access to emails



Valid passport details



Original Biometric Residence Permit



National Insurance number



Evidence of relationship to EU sponsor who is residing in the UK (e.g. birth certificate, marriage certificate, evidence of cohabitation)



Individuals may also need to provide proof of residence (e.g. P60s, bank statements, utility bills)

# NON-EU NATIONAL FAMILY MEMBERS OF EU NATIONALS

## Deal

- ▶ Will qualify under the EU Settlement Scheme provided:
  - ▶ Relationship to qualifying EU National existed by 31 December 2020 regardless to whether individual was in the UK by that point
  - ▶ Meet the criminality threshold
- ▶ Can apply at any time
- ▶ If the relationship to the qualifying EU national did not exist by 31 December 2020, individual can apply under the Immigration Rules
- ▶ Exception is children born after 31 December 2020

## No Deal

- ▶ Will qualify under the EU Settlement Scheme provided the individual fits into one of the below scenarios:
  - ▶ In the UK by 31 October 2019;
  - ▶ Can apply until 29 March 2022 if:
    - ▶ Not residing in the UK by 31 October 2019
    - ▶ Relationship to qualifying EU national existed by 31 October 2019
    - ▶ EU national holds status under the EU Settlement Scheme
  - ▶ Can apply until 31 December 2020:
    - ▶ Not residing in the UK by 31 October 2019
    - ▶ Relationship to qualifying EU national formed 31 October 2019 – 31 December 2020
    - ▶ EU national holds status under the EU Settlement Scheme

# THE IMMIGRATION WHITE PAPER



Single Immigration System for all nationalities



Not all nationalities will be treated the same. The UK Government will differentiate according to perceived risk or trade deals



Limited visa options for lower skilled workers (even with the new Short Term Temporary visa category)



Possible minimum salary requirement of £30,000 for visas for highly skilled



No mandatory labour check



No Cap on Migration

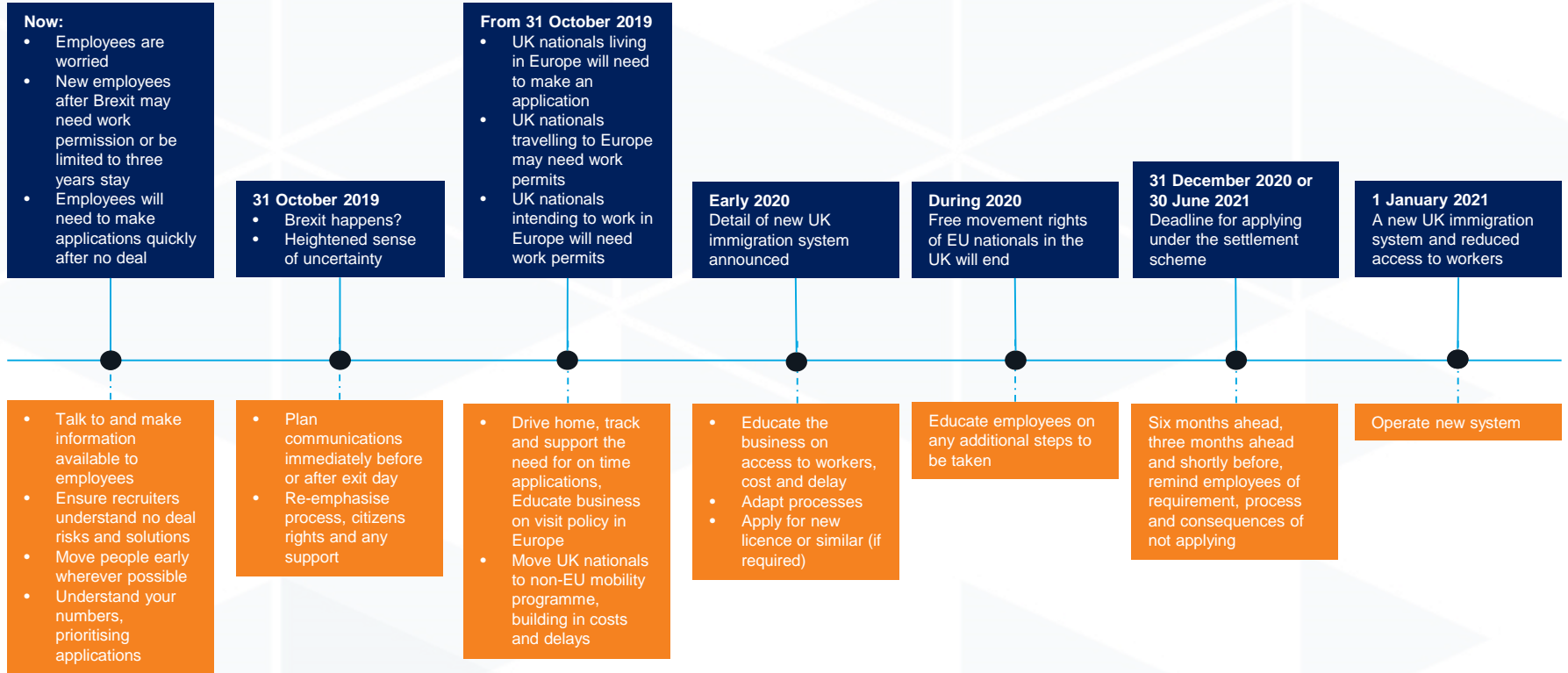


Emphasis on digital systems



Joined up Government (eg Home office and HMRC sharing data)

# SO WHAT DOES THIS MEAN IN PRACTICE?







# Brexit & Social Security

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# KEY PRINCIPLES OF EU SOCIAL SECURITY

- ▶ Equal treatment or non-discrimination based on nationality;
- ▶ Rules to determine the applicable legislation
- ▶ Aggregation of social insurance or residence periods for entitlement to benefits
- ▶ Exportability of social security benefits
- ▶ Administrative cooperation between social security institutions

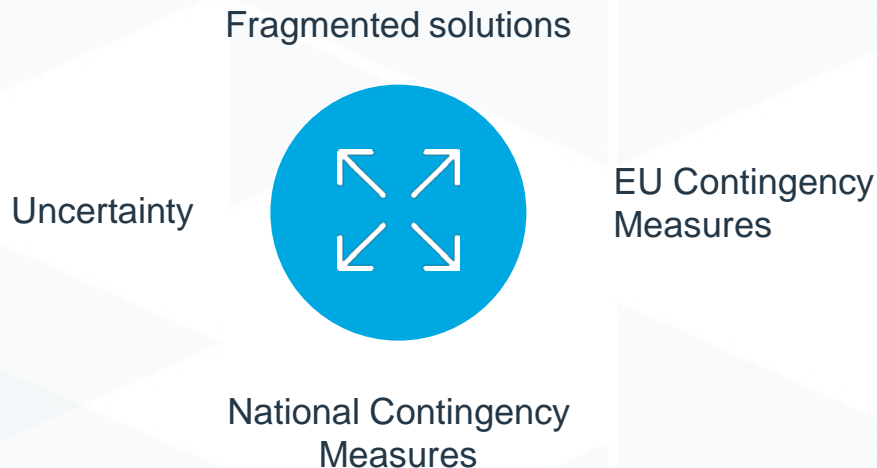
# IF A DEAL IS AGREED



**A transition period until 31 December 2020, during which EU Regulations on social security coordination continue to apply to all effects**

# IF THERE IS A NO DEAL BREXIT

In the absence of a Withdrawal Agreement (or an extension), the EU Regulations on social security coordination will cease to apply to and in the UK as from Brexit day (currently **01.11.2019**)



# EU CONTINGENCY MEASURES

Social Security contingency measures were adopted by the European Parliament and the Council on 25 March 2019:

- ▶ Protects accrual of social security benefits
- ▶ For social insurance or residence periods *up to* Brexit

HOWEVER:

- ▶ does not cover any periods of insurance or events occurring *after* Brexit;
- ▶ does not automatically guarantee payment of benefits (pensions) abroad;
- ▶ does not rule on the applicable legislation after Brexit (validity of A1 forms? Double liabilities?);
- ▶ does not automatically ensure continued provision of medical care;
- ▶ does not cover cross-border workers that are third country nationals.

# NATIONAL CONTINGENCY MEASURES

Many EU Member States have developed national contingency measures to manage the social security consequences of a 'Hard' Brexit (*Germany, Belgium, France, Italy, The Netherlands, Spain, Portugal, Greece, Latvia, Lithuania,...*)

However, the approach taken by each Member State differs considerably

## **Some common trends:**

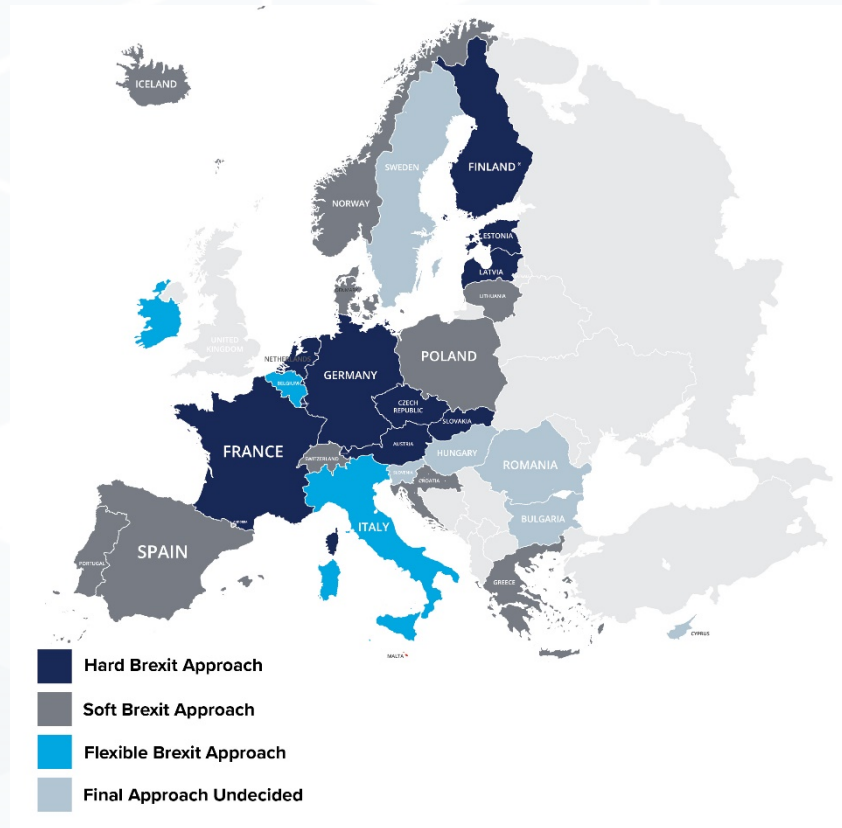
- ▶ Some sort of grace period (until the end of 2020);
- ▶ Protection of rights/situations occurred before Brexit;
- ▶ Exportability of benefits (e.g. pensions).

## **Differences:**

- ▶ Rules on the applicable legislation (A1 forms);
- ▶ Protection of rights/situations occurring after Brexit;
- ▶ Access to healthcare (EHIC cards).

**Luxembourg:** in principle, Luxembourgish social security legislation will apply

# THE VALIDITY OF UK ISSUED A1 CERTIFICATES





# BREXIT: SOCIAL SECURITY COST IMPACT\*

## Level of Social Security Cost in Europe

Average social security cost calculated on annual salary of 100.000 EUR



\*The social security system is financed to a large extent also from taxes.

**UK**

Employer: 13.8%

Employee: 12%

<b>GERMANY</b>	Employer: 19.83%	Employee: 20.08%
<b>BELGIUM</b>	Employer: 27.5%	Employee: 13.07%
<b>FRANCE</b>	Employer: 45%	Employee: 23%
<b>LUXEMBOURG</b>	Employer: 14.73%	Employee: 12.45%

\* Different thresholds/caps and/or additional conditions may apply depending on the jurisdiction.

# WHAT SHOULD (UK) EMPLOYERS DO ?

Businesses should not underestimate the social security implications of (No Deal) Brexit and plan ahead to minimise risk:

- ▶ Assess the position of the EU Member States
- ▶ Plan strategically to manage the social security cost impact (e.g. double liabilities, multi-State workers, business travellers...)
- ▶ Communicate timely with business lines and employees

QUESTIONS / COMMENTS?



**THANK YOU!**

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