

Brexit & share plans – the latest position

Irish Sharesave

The Withdrawal Agreement negotiated between the UK Government and the EU focusses on manufacturing rather than services, despite the latter forming 70% of our economic output. This poses an existential challenge to UK-based financial services entities currently offering savings carriership to Irish sharesave participants as, post-Brexit, they would cease to be authorised institutions. Any regulatory equivalency agreement, designed to resolve this and other issues, would take time and would not necessarily be completed during the post-Brexit implementation period.

Currently there are just three Irish SAYE savings carriers: Ulster Bank in Ireland, YBS and Barclays in the UK.

Whilst a 'hard' Brexit i.e. no deal exit from the EU would be worse than a managed withdrawal (for many reasons aside from the impact on Irish Sharesave), the Irish government stands ready to enact emergency legislation should the UK leave EU under these circumstances.

The legislation will allow current savings carriers to continue providing this service for the purposes of supporting existing savings contracts. This means that existing participants, especially those with above-water options – will be able to continue participating until the normal maturity date. They will then be able to exercise their options in the normal fashion, without instead having to accept the return of their savings and lapse of potentially valuable options on Brexit date. It's not clear yet on what may happen to facilitate post-Brexit Irish Sharesave plans.

Another important benefit of the Irish Government's approach here is that it buys time for a regulatory equivalence declaration. It doesn't solve the longer term issued posed by having so few savings carriers in the Irish Sharesave market, however.

EU Prospectus Regulation

With the UK's original Brexit date set for 31 March 2019, there would have been an unhelpful if relatively short-lived hiatus period between that date and the effective date for the new Prospectus Regulation, 20 July 2019. During this period companies may have found it difficult - if not impossible - to continue offering certain types of all-employee share plan to EU based employees.

Various entreaties have been made to the EU and to the FCA (as the national competent body/authority) to avoid or alleviate the disruption potentially arising from the hiatus, by ProShare and other bodies including the QCA.

However, if we assume that the UK may not now leave the EU until the extended Brexit date of 31 October 2019, it looks like this hiatus issue won't now arise.