# Irish Save-As-You-Earn & Brexit UPDATE

Our regular readers will be aware of the potential for a 'No Deal' Brexit to scupper Irish SAYE, as we covered this in our January 2019 issue, not to mention at our Annual Conference in October 2018. What follows here is a recap of the key issues and an update on the extensive behind-the-scenes lobbying that has been taking place between Gill Brennan, CEO of IPSA, Barclays and YBS Share Plans and the Irish Finance Minister, in a bid to protect and preserve the rights of current Irish SAYE plan participants and those who should have the opportunity to participate in the plan in the future.

**To recap**

There currently exist just three financial institutions who are authorised and licensed to hold Irish SAYE scheme savings on behalf of around 10,000 current participants: Ulster Bank, Barclays, and Yorkshire Building Society.

Without the current system of 'passporting', or regulatory equivalence agreements on financial services in place from the expiry of the Article 50 notice period at 11pm on Friday 29 March 2019 (or whenever the UK might exit the EU – be that 12 April, 22 May, or another yet-to-be-determined date), the number of Irish SAYE savings carriers will be reduced from three to just one – Ulster Bank. Barclays and YBS both being UK-headquartered institutions, they would no longer be able to hold savings on behalf of Irish SAYE participants without new Irish/EU savings carrier licenses.

This would mean that in the event of a 'Hard' or 'No Deal' Brexit, the existing participating employees holding their Irish SAYE savings with Barclays and YBS would have to accept the return of their savings and, crucially, the lapse of their options. This would be regardless of whether these options are 'in the money' or not, and participants won't be permitted to exercise their options early as the plan rules and legislation don't provide for this under such hitherto unforeseen circumstances.

The impact of this Irish SAYE issue will be felt in the UK as well as in the Irish Republic. Several UK listed firms, including Halfords, B&Q, Next, Sage and Kingfisher have written to the Irish Govt, along with their Irish Savings carrier YBS, to emphasise the impact of Brexit upon their Irish employees' SAYE schemes. ProShare wrote to the UK Brexit Minister, Stephen Barclay MP, to make him aware of the issue, too.

**Update on potential solutions**

One of the solutions initially explored was a change to Irish legislation to allow affected savings carriers to transfer their book of Irish SAYE clients' savings to another licensed provider, but this was eventually ruled out for legal reasons. Whilst it might have helped prevent current optionholder employees from losing out on valuable options, it wouldn't have solved the longer term issues for any new grants of options.

The most viable current solution would be for the Irish Government to issue what is called a 'Ministerial Order' ('MO') prescribing Barclays and YBS as qualified institutions **and** for the Central Bank of Ireland to waive provisions within Section 9 of the 1971 Central Bank Act. These two steps taken together would allow existing Irish SAYE participants to continue saving for the remaining life of their options, which would in turn then allow them to exercise their options fully at maturity. The MO and the waiver would only need to be issued/given effect in the event that the UK leaves the EU without a withdrawal deal in place.

Having spoken to our Gold Members YBS Share Plans and Barclays, we know both are working hard on the solution with the various government departments in Ireland.

Ashley Price, Head of YBS Share Plans says: “We’ve been working hard with the Irish ProShare Association (IPSA) to lobby both the Irish Ministry of Finance and the Central Bank of Ireland (CBoI) to find a solution that allows all existing Irish employees to see their SAYE plans run until maturity, in the event of ‘no deal’. Whilst we’ve had positive noises, we have nothing official that can be relied upon at this stage. No doubt, part of the reason for this is the lack of certainty they’re getting from the UK, but we will continue doing everything we can to find a solution that serves the best interests of our clients and their employees. Thereafter, we’ll turn our attention to new invitations so as not to leave Ulster Bank as the only SAYE deposit-taker in the market.”

ProShare remains committed to keeping its members up-to-date on all Brexit-related developments with an impact on employee share ownership.

NB: Whilst this matter has been covered several times in ProShare publications and at events including our focus groups and our Annual Conference, this is general information only and should not be construed, relied or acted upon as advice. Plan issuers with concerns regarding this matter should seek guidance from their legal advisors.