

Impact on relevant EU legislation post Brexit – Alexy Armitage, Global Equity Manager, AVEVA Group plc, and Chair Global Focus Group, ProShare.

ProShare held a Brexit Group Zoom conference call on Tuesday 14th July. As part of these discussions, issues were raised on the EU Prospectus Regulations (“EUPR”) and EU Data Protection (“GDPR”). It would be really helpful if ProShare members would share their experiences of these.

For the EUPR it was noted that the employee share plan (“ESP”) exemption is now in place and it can continue to be relied on by UK companies post-Brexit as the exemption extends to cover all company offers. As many of you are aware, as well as this exemption, companies have also relied on excluded offers such as the “less than 150 person” limit or the overall financial offer limit. It is clear that although the ESP exemption should be harmonised across all EU members states, some states require additional information to be included in the short form document and some require an additional step. ProShare would like to bring together general information on EU member states which have specific requirements for a company to rely on the ESP exemption. Also, it would be good to be able to highlight EU members states which require something additional to be provided or filed where an exemption is relied on. Please let Nikki Powell from ProShare (nikki@proshare.org) know if you are happy to share your experience on what you have seen in practice for compliance with the EUPR. This will not be used as advice but only to assist us as members to understand what requirements need to be considered for the EUPR when considering making an offer to EU employees.

For GDPR it is not yet clear what happens post-Brexit as the form of Brexit is not yet clear. Like many EU/UK requirements, this depends on whether an EU/UK treaty is agreed or not. The Withdrawal Agreement covers GDPR requirements post-Brexit so if the treaty is concluded the position should be clearer. On a hard Brexit the position is unclear as, for example, the UK would need to agree with the EU that it is in compliance with the EU’s strict data protection requirements and that similar rules are and will remain in place equivalent to those under GDPR. This could take some time to agree. Please could ProShare members again let Nikki know what they are doing to take this into account or if they have any insights on what may be acceptable. Again, no details provided will be used as advice.

It would be great if ProShare members would share their experiences as noted above on the EUPR and GDPR. As mentioned, these are only being sought as anecdotal and general information. Any details that ProShare includes in a future Newsletter will be anonymised and not credited to any particular member.