



# GMS Flash Alert



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## European Union - Social Security Contingency Measures if No-Deal Brexit

The European Council has approved the European Commission's set of contingency proposals in the field of social security in the event that the United Kingdom leaves the European Union without an agreement ("no-deal Brexit").<sup>1</sup> The legislative acts adopted today include a Regulation that states EU member state authorities will continue to take into account periods of insurance, employment, self-employment, and residence in the United Kingdom before Brexit, when calculating social security benefits, e.g., pensions.

The Regulation fosters the continuing application by EU member states of the core principles of EU social security coordination, namely the principles of equality of treatment, assimilation, and aggregation. However, the Regulation, as adopted, does not replicate the significant advantages of the Brexit Withdrawal Agreement<sup>2</sup> and it does not cover rights accumulated after Brexit, nor does it cover the exportability of cash benefits, the continuous provision of sickness benefits-in-kind, or the rules on applicable legislation.

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### WHY THIS MATTERS

After Brexit, the U.K. becomes a "third country" in terms of its relationship with the EU, and U.K. nationals therefore become "third-country nationals." One of the unresolved questions is what will happen with the insurance periods earned in the U.K. before Brexit.

The Regulation aims to ensure, with a no-deal Brexit, the safeguarding of the entitlements of those people who exercised their right to free movement before the U.K.'s withdrawal from the EU without an agreement. These entitlements include periods of insurance, (self) employment, or residence in the U.K. before withdrawal. For example, this means that if an "EU27" citizen worked for 10 years in the United Kingdom before Brexit, this period should be taken into account when his/her pension rights are calculated by the competent authorities in the EU member state where he/she retires.

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## KPMG NOTE

### Effects of the Regulation: What They Are Meant to Do and Not Meant to Do

It is important to note that these measures will not mitigate the overall impact of a no-deal Brexit. Moreover, they do not compensate for any lack of preparedness or replicate the full benefits of EU membership or the Brexit Withdrawal Agreement. The contingency measures in the field of social security are temporary in nature, limited in scope, and will be adopted unilaterally by the EU.

#### At This Stage....

The date for Brexit is set for 29 March 2019. Currently, the Brexit Withdrawal Agreement has not been approved by the U.K. parliament. It is possible that the date for Brexit may be postponed by at least three months. The U.K. House of Commons voted on 14 March 2019, in favor of delaying the U.K.'s departure from the EU beyond 29 March 2019,<sup>3</sup> but there have been no decisions taken at the EU level in this regard.

Businesses and people affected by Brexit should (continue to) prepare for a no-deal Brexit.

In order to foster the smooth processing of social security rights – e.g., pension, unemployment, etc. – assignees, business travelers, and cross-border workers (amongst others) should be equipped with proper EU documentation for social security (A1 certificate) up through Brexit.

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## FOOTNOTES:

1 See the 19 March 2019 European Council press release, "[Brexit: Council adopts a series of contingency measures for a "no-deal" scenario.](#)"

Also, see the proposal ([6480/19 ADD 1 REV 1 EXT 1](#)) dated 27 February 2019 (in English).

2 See "[Draft Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, as agreed at negotiators' level on 14 November 2018,](#)" on the website for the European Commission.

3 For news on votes and other business in the U.K. House of Commons, see "Commons News" on the website for the House of Commons at: <https://www.parliament.uk/business/commons/>.

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional or the following professional with the KPMG International member firm in Denmark:



### **Daida Hadzic**

Tel. +45 5077 0929

[Daida.Hadzic@kpmg.com](mailto:Daida.Hadzic@kpmg.com)

**The information contained in this newsletter was submitted by the KPMG International member firm in Denmark.**

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