



# BEYOND BREXIT: EU-UK SOCIAL SECURITY CONTRIBUTION RULES

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Webinar

Wednesday 24 February 2021 11:00am

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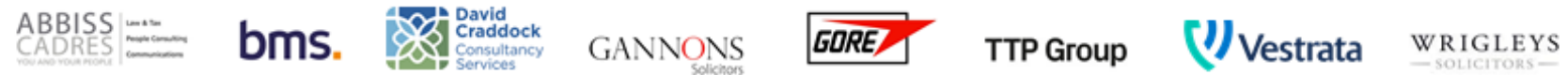
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# Today's Agenda



- 11:00 – 11:05 Chairman's Introduction
- 11:05 – 11:25 Keynote Address
- 11:25 – 11:45 Questions & Answers

# Today's Speaker



**Jeremy Edwards**

Partner

Baker & McKenzie LLP London



**Don-Tobias Jol**

Partner

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**Baker  
McKenzie.**

# **Beyond Brexit- EU-UK Social Security Contribution Rules**

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Wednesday, 24 February 2021

# Introduction



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Jeremy Edwards is a partner and the head of the Employee Benefits Group in Baker McKenzie's London office. He advises on all aspects of employee share plans and employee taxation. Jeremy has over 24 years' experience as a share plan lawyer and two years' experience as a corporate lawyer. He is currently serving on the advisory panel of ProShare and is a regular speaker at share plan conferences held in the United Kingdom.

Jeremy has substantial UK experience, including implementing plans for UK-listed companies and dealing with issues arising for UK-listed companies, including advising on executive remuneration developments, UK tax issues and the position on cessation of employment and dealing with share plans in the context of corporate transactions. He has extensive experience in connection with the implementation of share plans globally and working with multinational clients.



# Introduction



Don-Tobias Jol is a partner within the Amsterdam Tax practice with over 20 years of experience. His key area of expertise is global compensation and benefits, and he focuses on the fields of executive, equity and broad-based compensation.

Within executive compensation, Don-Tobias assists multinational corporations in creating strategically aligned reward packages that comply with the relevant tax, legal and corporate governance rules. In the field of equity compensation, he designs share-based remuneration plans, and also advises on remuneration in case of mergers, acquisitions, IPOs and private equity transactions. When consulting on broad-based compensation, he offers wage and income tax as well as social security advisory for both local and expatriate employees, including issues such as salary splits, severance payments, corresponding pension approvals, immigration law et cetera.

Don-Tobias is a frequent author and speaker on a variety of international remuneration issues, and currently serves on the Board of Directors of the Global Equity Organization (GEO). He is a member of Baker McKenzie's Global Employment & Compensation Practice Group, and heads the Firm's Dutch Compensation & Benefits advisory team.

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# First Poll

Does your company know what it needs to do when sending an employee over to the Netherlands or other EU jurisdiction on a secondment?

A) Yes

B) No

C) Not Sure

# Overview of the new Social Security Protocol

The overall aim is to prevent the worker from having to pay double social security contributions. The Protocol specifies that affected workers will be subject to the legislation of only one state, determined in accordance with the Protocol



# What the new Social Security Protocol achieves

Original Concerns	Achievement
No social security agreement between the UK and the EU, leading to double social security contribution liability	Framework agreement achieved so that existing position of no double social security contributions
Reliance on old archaic agreements	One agreement with the EU- and now all EU member states have signed up to the detached worker rules
New procedures for secondments not known in time	By February 2021, procedures are largely sorted
Exportability of benefits/ aggregation of benefits	Both aspects are covered- but some benefits not covered

# Multi State Workers

## The new rules

- Largely, continue the existing EU Social Security Regulations
- Base rule under the Social Security Protocol- a person pursuing an activity as an employed or self-employed person in a state shall be subject to the legislation of that state
- But under the multi state rules, the applicable legislation will depend on the specific facts of the individual including residence, where the work activity is substantially carried out and the location of the registered office/place of business of the relevant undertaking/employer.,

1

State of residence:  
substantial activity if more  
than 25%

2

if not substantial work in  
state of residence, look  
where the employer is  
located

3

Project forward 12 months

# Detached Workers

## Social Security Protocol

For temporary postings for up to 2 years

Remain subject to home country (not host country) social security

No ability to extend (but what if “pop in” UK after 2 years?)

# Transitional Provisions

All assignments to and from the UK which started pre-1 January 2021 can still be covered with an A1 Certificate as long as the underlying working pattern does not change.

Protocol applies to assignments starting after 1 January 2021, or existing assignments that have changed sufficiently to no longer be covered under an existing A1 Certificate.

See Practical Planning Points section below.



# Practical Planning Points

UK HMRC Guidance for temporary moves to the UK updated 12 February 2021:  
<https://www.gov.uk/guidance/social-security-contributions-for-workers-coming-to-the-uk-from-the-eea-or-switzerland?email=&source=updateemail#history>

Consider if the assignment can be for less than 2 years



Impact of COVUK HMRC Guidance for moves from the UK updated 12 February 2021:  
<https://www.gov.uk/guidance/national-insurance-for-workers-from-the-uk-working-in-the-eea-or-switzerland?email=&source=updateemail#history>

Reassess costs implications

# Practical Planning Points

What about UK-based employees employed by EU companies? Will such companies be subject to UK employer National Insurance contributions?

- Yes. An employer with a registered office or place of business outside a state shall comply with all obligations as if it had a registered office or place of business in that state, i.e., effectively deeming them to have a registered office or place of business for social security contribution purposes. Therefore:
  - Where an EU company has employees in the UK, it will still be liable to pay employer National Insurance contributions and account for employee National Insurance contributions.
  - Conversely, UK companies will have to pay employer social security contributions and account for employee social security contributions for any of its EU-based employees, even if the UK company is not resident in the EU.

# Norway, Switzerland and Iceland

## Separate social security agreements

Periods of  
postings:

Norway- up to 3  
years

Switzerland- up  
to 2 years



Iceland- up to 1  
year (but  
extendable)

# Second Poll

You are faced with a scenario where a UK citizen is sent to the Netherlands for 2.5 years after 1 January 2021? Would you shorten the secondment to 2 years?

- A) Yes
- B) Not Sure
- C) Would Look Into It
- D) No

# Netherlands

## Example of benefit application

The Free Trade Agreement (FTA) includes a Protocol on social security coordination, which broadly replicates the existing rules on social security coordination in EU Regulation 883/2004. As a result, social security payments should still only be due in one state at a time.

The material scope of the social security section in the Free Trade Agreement is almost identical to the scope of EU Reg. 883/2004, with a slight difference. Family benefits are not in the scope of this agreement.

For the Netherlands this means that **child benefits** (Dutch: 'AKW' or 'Algemene Kinderbijslagwet') are excluded. Dutch **Long Term Care** (Dutch: 'Wlz' or 'Wet Langdurige Zorg') and **Health Care** (Dutch: 'Zvw' or 'Zorgverzekeringswet') are included, but some limitation to receiving benefits may apply.

Analysis on a case by case basis is needed, specifically as every Member State has indicated what is in and outside scope in this Protocol.

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# Questions And Answers



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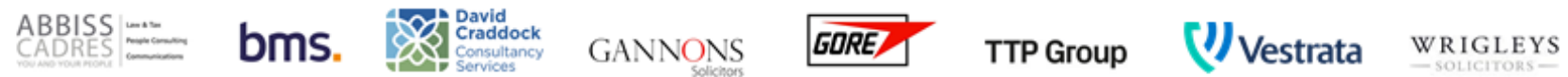
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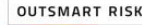
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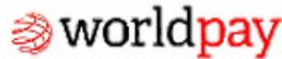
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### newspad

The Esop Centre's *newspad*, edited by Fred Hackworth, is a monthly publication providing in-depth coverage of the main international news in the employee share ownership field.

NB Reminder: The email address of Fred Hackworth, editor of *newspad*, has now changed to: fred\_hackworth@zyen.com (please note the under-score). Please send all press releases, company bulletins and news items for *newspad* to the above address. Thank you.

### February 2021

In this month's edition:

- Don't punish employee shareholders, Chancellor told
- BA to regain its independence?
- Register now for the Centre's online symposium – March 23-25
- Farah Ballands to step down from Ocorian
- Companies: AO World, Arcadia, BBC, Cineworld, Countrywide, Credit Suisse, Deliveroo, Dr Martens, Ferguson, Future, Informa, JP Morgan, Lookers, Tesco, Share Soc & The Hut Group
- CMS and new share compliance app
- Covid and the economy
- Executive bonuses to be targeted by proxy advisors



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## FS Club Bulletins



From 43,000 curated sources, you get a machine summary of the key point(s) from forward-looking articles, not just article titles:



**(LF.10) Reduced Inequalities**

In September 2015, 193 world leaders agreed to 17 Global Goals for Sustainable Development. If these Goals are completed, it would mean an end to extreme poverty, inequality and climate change by 2030.

- If the distribution of income, assets owned, and talent stays below CBO's projections, **income inequality** will be greater in 2030 than it was in 2010.
- **High growth** over the past decade has been based on unsustainable resource exploitation, allowing the **existing growth in inequality** and environmental cost will be critical to ensure social stability and to ensure **strong sustainable growth** in the coming decade.
- The increase in **inequality** observed in the last 20 years is a warning to future's social system.
- America's **glove-grip** product is providing a role that will further increase **income inequality** at a time when **income** and **wealth** gaps are already widening.
- A failure to give the world's **poorest women control** over their bodies would **widen inequality** in **developing countries** and **threaten progress** towards global goals aimed at ending poverty by 2030.
- Under French leadership the G7 group of the 7 largest advanced economies plus the European Union will have to stop on **fighting inequality**, including **poverty** induced by **climate change**.
- Leadership might require companies to take **profitable and** **achieve** for **change on global inequality** including **to work** **poverty**.
- Addressing the 17 **Sustainable Development Goals**, which include **clean water**, **clean energy**, **sustainable cities**, **climate action**, **responsible consumption**, **reduced inequality** and **more** - could open a market opportunity of **100 trillion** by 2030.
- The next decades offer an opportunity to address **Africa's urban poverty** and **inequality** and shape development priorities to ensure that urbanisation helps **lower** **well-being**, **livable** and **sustainable cities**.
- In Africa and in the LDCs, **reducing poverty** by 2030 will require **both double-digit GDP growth** and **decade declines in inequality**, **showing** the **scale** of the **current challenges** faced.
- The **economic** **catch-up** of **late** will be **the** **most** **will** **continue** in the coming decades - **benefit** **reducing** **global** **inequality** **among** **countries** and **among** **world** **citizens**.

**(FS.3.05) Employee Share Ownership**

Considering 75 percent of the 2021 global workforce will be Millennials and Generation Z, it's critical that organizations keep a pulse on **employee engagement** and in a way that's consistent with how the emerging generation communicates.

- They will see a **continued** **emphasis** on **designers'** **understanding** of **workplace** **optimization** with **designs** that **boost** **office** **acoustic** and **employee** **wellness** while **facilitating** a **remote** **work** **environment**.
- By 2026, **Customer** **Profile** **Index** as **Index**, **Employee** **Brand** **Index**, **Cost** **of** **Work** **as** **Extension** **Cost** **Index**, **W3B** **proposed** **criteria** for the **ESG** **Corporate** **Governance** **Club**, **three** **new**, **emerging** will be required to report on **employee engagement**, as announced earlier this year by **Financial Reporting Council**.
- For HR leaders looking to better demonstrate the attitudes that drive employee turnover and increase retention, using AI to provide **digital** **into** **employee engagement** will be critical.
- By 2025, **Artificial** **Intelligence** **AI** will allow the rate of innovation to **flow** **double** **to** **double**. **Employee productivity** **gains** are expected to increase 1.5 times.
- **Artificial** **Intelligence** will double the rate of **innovative** **improvements** and **improve** **employee** **productivity** **gains** by 1.5 times in New Zealand by 2025.
- US health benefits costs per employee will increase 4.7% next year - slightly higher than inflation and less than the double-digit increases seen in prior years.
- With a tight labor pool, small businesses will find 2021 to be hard on **employee engagement** and **loyalty**.
- Nearly 20 percent of respondents also expect that automation will lead to some reductions in their **full-time workforce** by 2025, based on the job profiles of their **employee base** today.
- **Employee** **wellness** has been on trend for years, but expect to see some high-tech changes in 2021.
- By 2026, **automation** and **artificial** **intelligence** will reduce **employee** **requirements** in **business** **shared-service** **centers** by 15 percent, which says the B2B market will top \$1 trillion by 2026.
- This year, **many** **organizations** will look to **employee** **scheduling** software to **reduce** **problems** around **creating**, **publishing** and **managing** **employee** **schedules** that include **options** to **cover** **shifts** to **reduce** **stress** and **improve** **flex** as well as **help** **identify** **customer** **traffic** **patterns** to **optimize** **worker** **rotas**.

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- Monday 1 Mar (15:00) Money For Nothing - The Making & Unmaking Of Modern Finance
- Tuesday 2 Mar (10:00) A Fresh Approach To Risk Management
- Thursday 4 Mar (10:00) Switzerland's Wealth Management Industry: Winning Or Losing Ground In Times Of Covid?
- Friday 5 Mar (11:00) How To Be Happy
- Tuesday 9 Mar (09:00) Achieving Sustainability In Developing Markets: A Case Study With Serious Shea & Cleo Organics

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