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Brexit and the Future of European Immigration: Expert Analysis Through a UK, EU and US Lens



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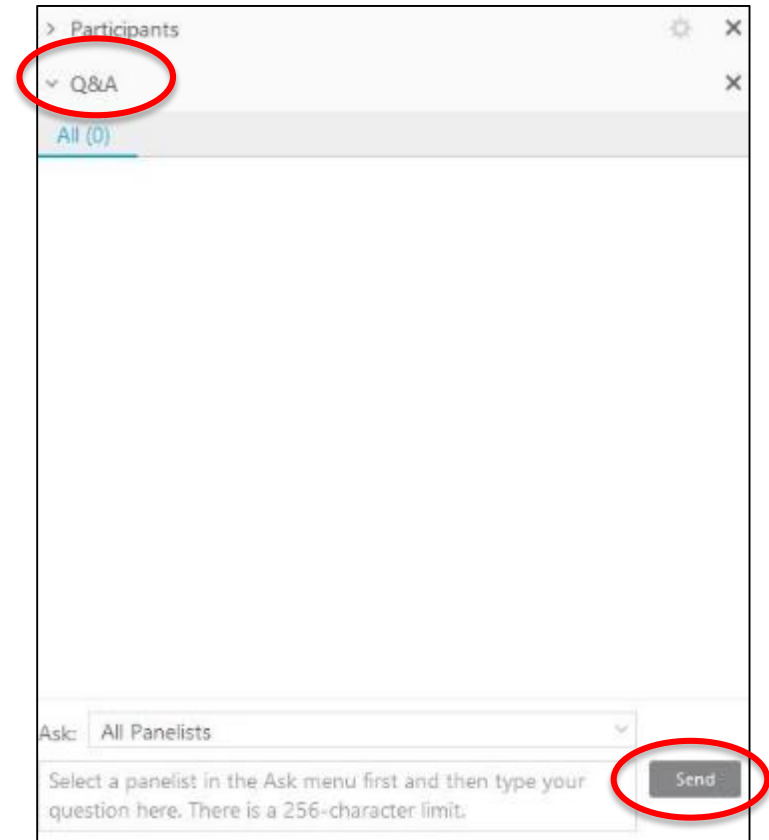
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Today's Presenters



Jeffrey Gorsky
Senior Counsel
**Berry Appleman &
Leiden LLP**

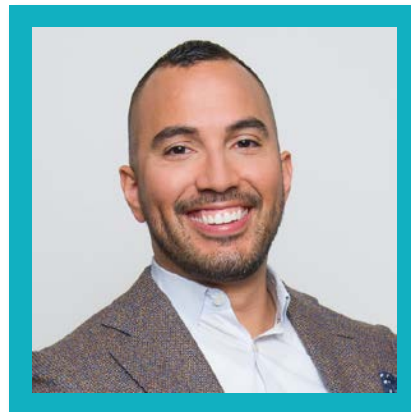


Matthias Lommers
Senior Director, Global
Employer Services
Deloitte Brussels



Jurga McCluskey
Partner, Head of
Immigration
Deloitte UK

Moderated By:



Roberto Caballero
Partner
Berry Appleman & Leiden LLP

Our Approach

We aim to unpack the political jargon surrounding Brexit and fast-track you through the current and future immigration landscape in Europe from our various national perspectives.

Our Speakers:

- **Jurga McCluskey** on UK immigration policy and outcomes following a soft, hard or no-deal Brexit, planned transitional arrangements and EU settlement scheme to protect EU nationals in UK after March 2019, ways for business to manage workforce disruption and challenges posed by current Points Based System.
- **Matthias Lommers** on EU's progress towards a harmonised immigration position across mainland Europe, including new ICT Permit Directive and EU borders arrangements
- **Jeffrey Gorsky** on US government and corporate responses to the opportunity and challenge of Brexit, focusing on practical steps to protect your business.

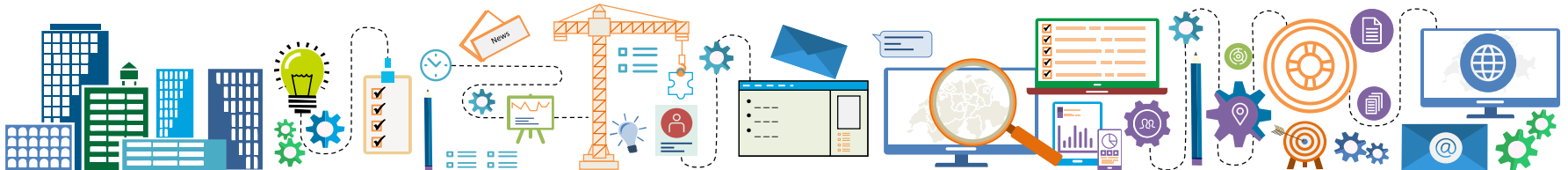
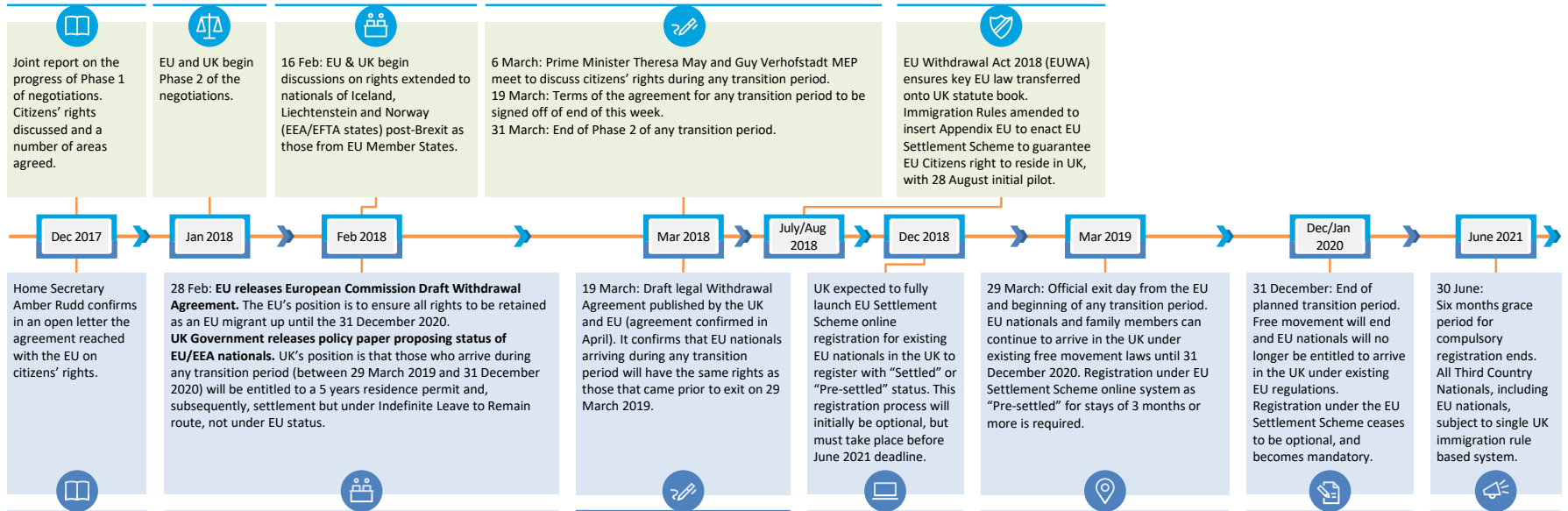


UK - Report from London

- Government seeking to finalise Withdrawal Agreement based on “Chequers plan” = “soft Brexit” = free trade area for goods, common rulebook, consistency with ECJ rules, end of free movement but with mobility framework for travel
- Strong political opposition both from “hard” Brexiteers rejecting level of ongoing connection, and from EU.
- Government publishing guidance on possibility of “no deal” Brexit
- Stated commitment to protect citizens’ rights for 3.5 million EEA nationals already in the UK, and new arrivals during any transition period via EU Settlement Scheme



Brexit Timeline



UK - Immigration Timeline

Pre 29 March 2019:

- Continue to arrive in the UK & work, study and be self-sufficient etc.
- Registration scheme pilot from 28 August pending expected launch March 2019.
- Entitled to Settled Status after 5 years' continuous residence; and
- Family members can join and be eligible for Settled Status after 5 years.

29 Mar 2019:
UK leaves EU
"Brexit"

- New arrivals must register for Pre-Settled Status if staying longer than 3 months
- Those with less than 5 years residence entitled to register as Pre-Settled Status but not yet mandatory
- Entitled to Settled Status after 5 years' continuous residence in the UK
- Family members able to join on same terms.

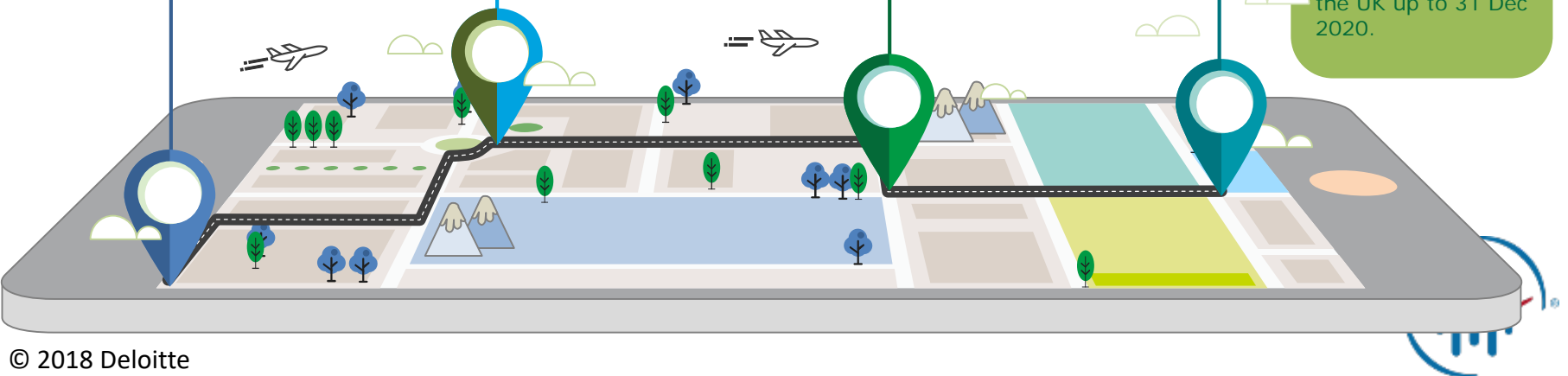
1 January 2021:
end of free movement

- End of free movement for new arrivals
- UK immigration rules categories e.g. Points Based System Tier 2 for skilled workers, Tier 4 for students, more stringent rules for family based applications
- Possibility of changes to immigration rules or wholly revised system

21 June 2021:
registration deadline

- Deadline for EU migrants to have registered as Settled Status or Pre-Settled Status
- Deadline for those with Permanent Residence to convert to Settled Status

If the agreement with the EU on citizens' rights is ratified, it will provide certainty for those arriving in the UK up to 31 Dec 2020.



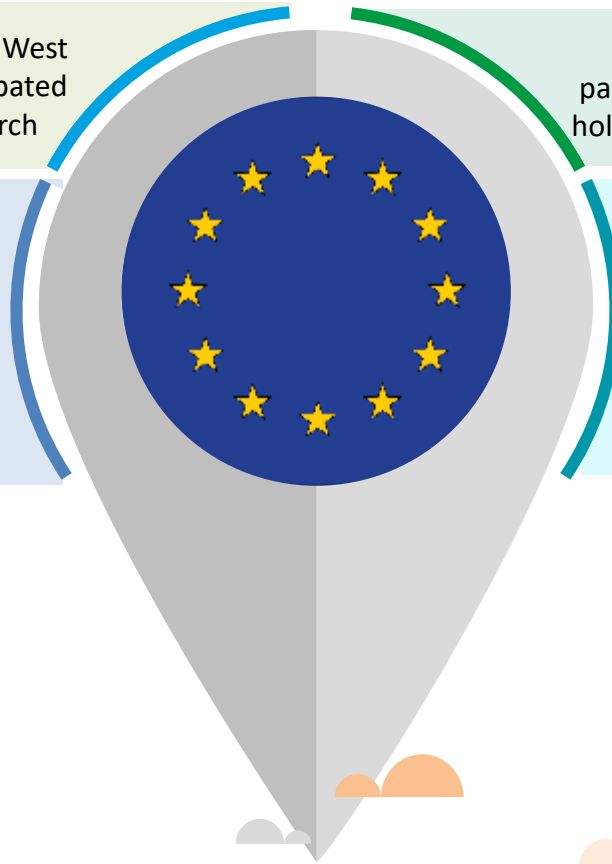
UK – EU Settlement Scheme

Announced in June 2018, piloted in North West NHS and university from 28 August, anticipated go live December 2018, deadline is 29 March

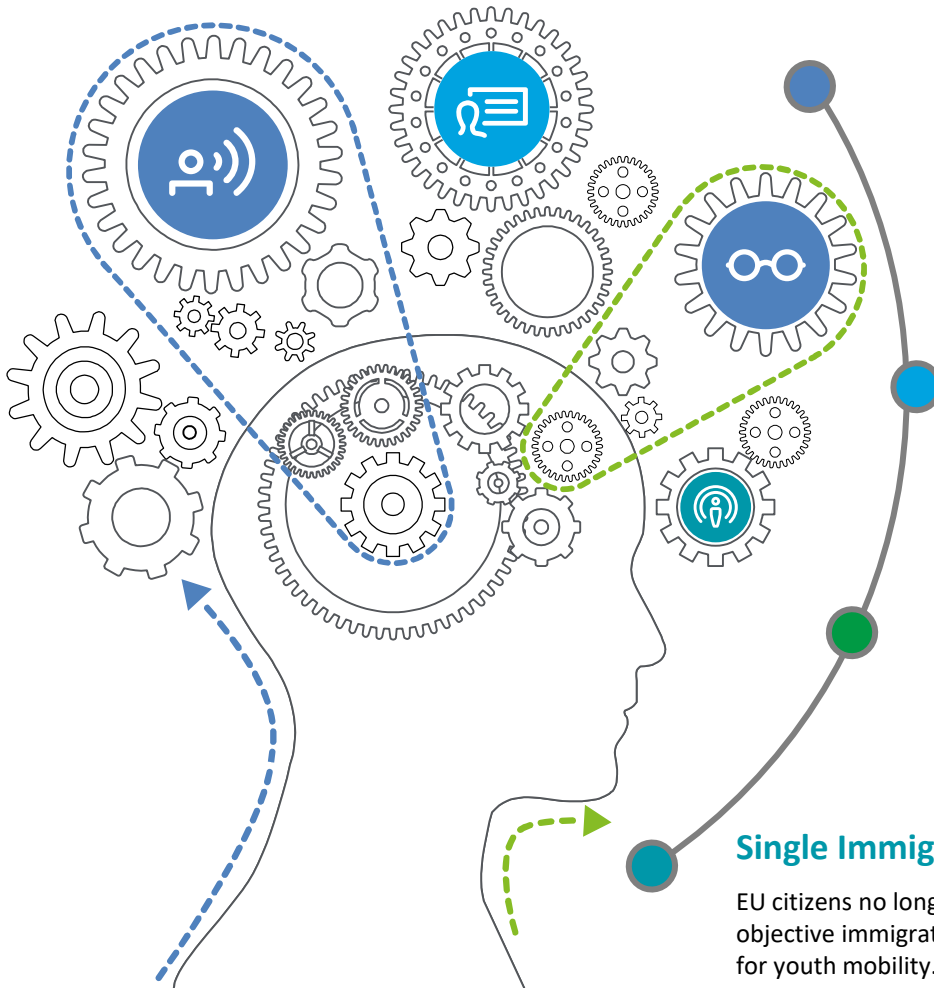
Light touch registration process using online interface and app to upload documents. Commitment to focus on approval: should seek additional documents rather than refuse

Registration costs 65 GBP in line with British passport. Free of charge to those who already hold EEA Permanent Residence card/certificate

Qualification based on proof of identity to show EU national or family member, proof of residency, and no serious criminal convictions. Five years continuous residence means qualify as “Settled”. If less than five years residence, qualify as “Pre-Settled” (with “Settled” registration possible at five year point).



UK – Looking past Brexit



UKVI Transformation

Large-scale “onshoring” exercise. Consular processing overseas closed e.g. New York decision making centre closes 31 Oct. Replaced by scanned applications case-worked by specialised, centralised teams working in “thematic” groups - PBS in Sheffield, visit in Croydon. Self-upload being trialled with commercial partners. Visa4UK replaced by Access UK

Border Experience

Business and leisure travel into UK eased by continued roll out of electronic passport scanning at border (e-borders). Additional bureaucracy inevitable as introduce visa-free travel registration steps e.g. ETIAS

Sector and Skill Shortages

Pilot scheme for 2,500 non-EU work permit for farm labour to run from 19 April 2019 to 31 Dec 2019 is a response to the anticipated 35,000 farm labour shortage once EU free movement ends. Existing and anticipated skills shortages across many sectors (e.g. health, care, retail, hospitality, construction) may require specific measures.

Single Immigration Rules System

EU citizens no longer treated separately from 2020 – migration only possible within objective immigration rules/PBS routes inc. Tier 2 skilled workers, Tier 4 students, Tier 5 for youth mobility. Tier 3 provides capacity for lower skilled migration BUT will still be pressure to keep numbers low/sustainable/within net targets.

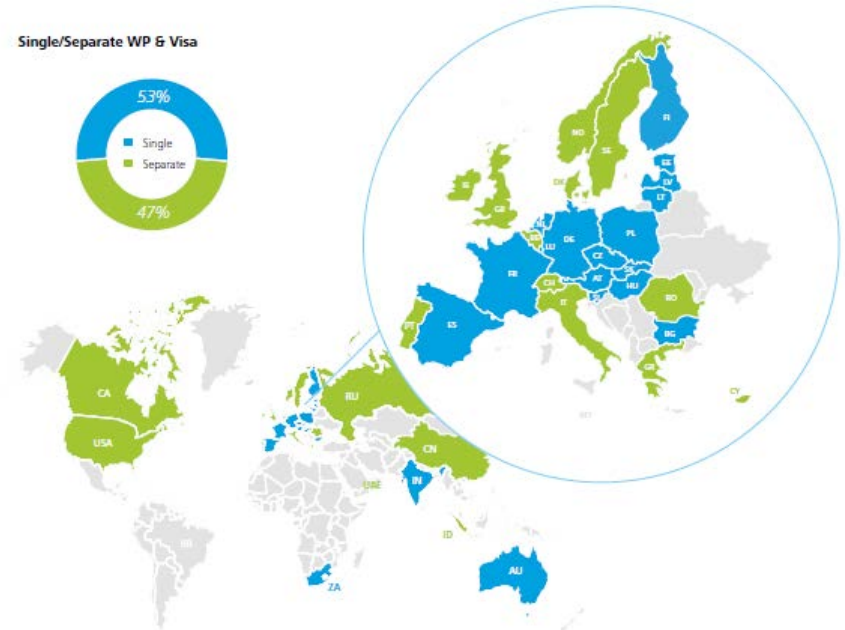
EU - Report from Brussels

- 1.3 million British citizens in Europe but no equivalent unilateral arrangements made by any EU27 country. All focus on securing a Withdrawal Agreement and avoiding “no deal”
- Greater harmonization of immigration rules for work within the 27MS, including with social security and labour law rules – UK already opted out
 - Single Permit Directive
 - ICT Directive and Posted Worker Directive
 - Blue Card Directive
- Greater harmonization of EU Borders
 - Entry-exit system
 - Smart Borders
 - Frequent Traveler System
 - ETIAS



EU – Single Permit Directive

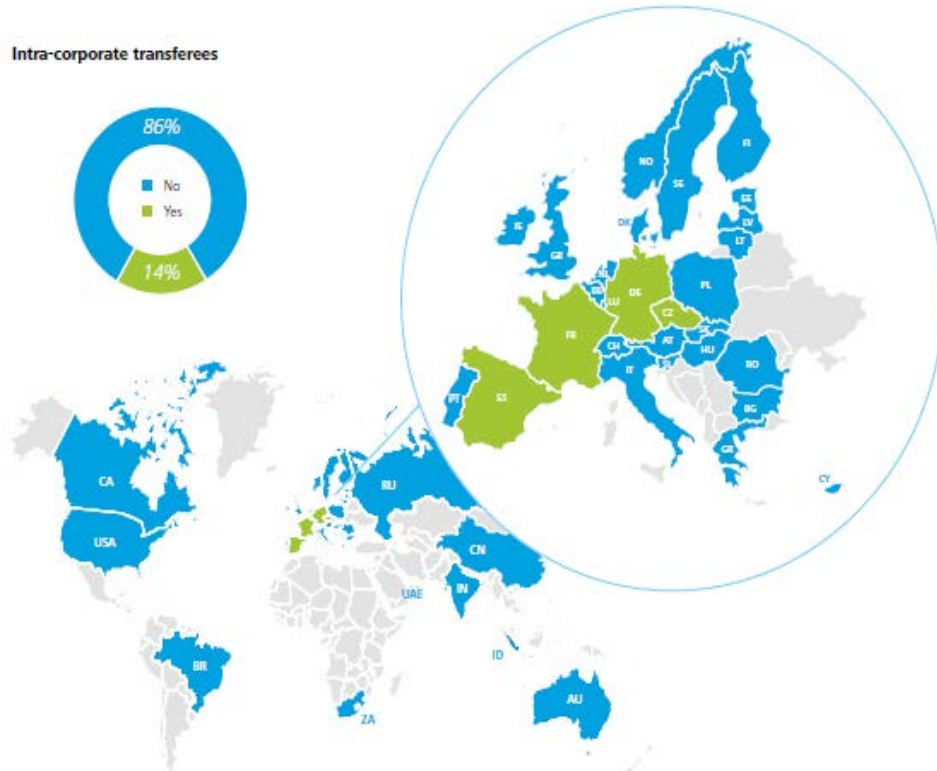
- Implemented in all EU countries, but not across necessarily for high skilled categories
- Easing measure – reduces red tape for third country nationals by combining the work permit with the visa/residence permit in a single application
- Necessary to consider on a country basis whether a single procedure is in place



EU - ICT Permit Directive

- Implemented in all EU countries, except UK, Ireland and Denmark.
- Easing measure - European-wide permit, enabling Intra-Corporate Transferees to work in more than one country
- Schengen rules allows movement for business visits, this permit allows work
- ICTs can be at executive, specialist or trainee level.
- ICT permit issued in 1 country allows temporary activities in another EU country without additional immigration formalities
- Close link with Posted Workers Directive.
- Deloitte's ICT Permit Study gives deep dive into implementation and member state variables including seniority, income requirements, dependents, working at client site, intra-EU mobility notifications and cooling off requirements.

Intra-corporate transferees



EU – Posted Worker Directive

- Rules aim to protect rights and working conditions for workers and prevent abuse
- A posted worker is one who is required to work temporarily in another member state, either for employer, customer or client.
- Schengen rules cover business travel, but PWD cover work and must be considered alongside ICT Permit rules.
- Implementation has taken place to varying degrees. Some countries (e.g. Belgium, Spain, Italy and Poland) have applied provisions to workers from non-EU countries as well as intra-EU posted workers. Most member states have not applied “de minimis” threshold for days presents so just one day can trigger PWD rules.



US - Report from Washington DC

- U.S. is biggest single investor in Great Britain.
- Scale = \$588 billion across various sectors inc banking, manufacturing, real estate
- Up to 2 million U.S./British jobs (unknown exactly how many are held by U.S. citizens)
- Uncertainty has already dampened growth but relocation costly
- Financial markets and value pound reflect loss of investor confidence
- Any new immigration scheme will put non-E.U. nationals on more even playing field with E.U. nationals = more opportunities for U.S. workers
- If the Trump administration continues to impose protectionist tariffs on U.K./E.U. goods, U.S. firms may begin to move investments out of the U.K., and back to the U.S.
- Since many U.S. companies use the U.K. as the gateway to free trade with the 28 EU nations, Brexit restrictions on trade with the E.U. would provide additional incentives for U.S. firms to reconsider the value of their UK investments.



Practical Considerations

Free movement of people between UK and mainland Europe is set to end, but at the same time the EU27 are achieving ever greater harmonization between each country's immigration rules. Individuals will have to navigate their way through the new registration requirements. Businesses/HR will need to understand and respond to both workforce needs, compliance requirements and the cost impact.

Data

Affected workforce, residency requirements, profile of positions, timelines



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Documentation

Registration requirements and right to work



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Costs

HR capacity & Government fees

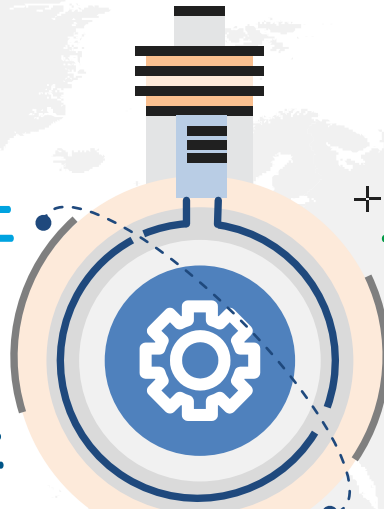


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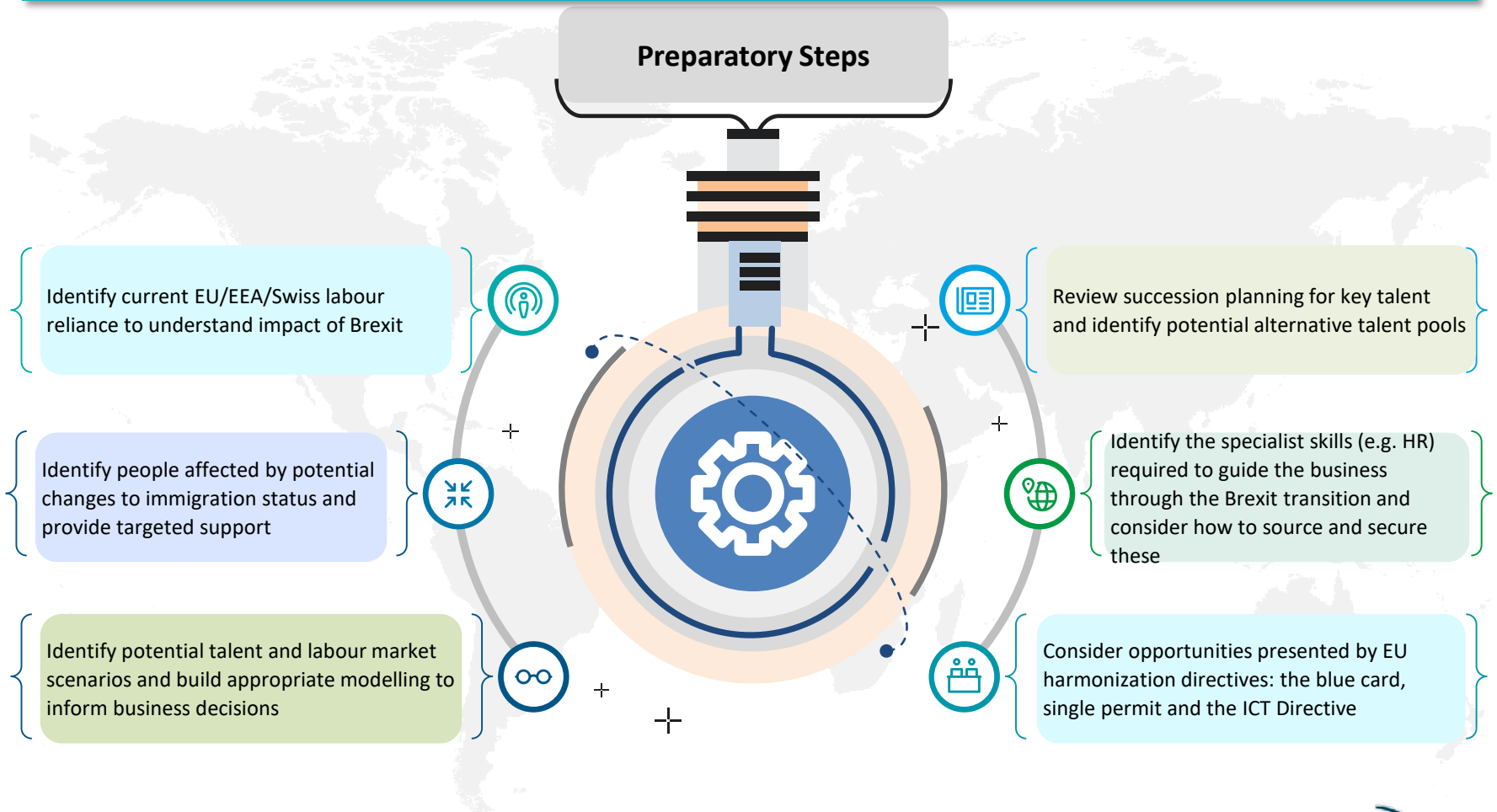
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Process

Timing, transition, compliance, tracking



Practical Actions





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