Brexit: Key readiness questions for business

June 2020

Building a better working world

Why now?

Brexit has returned to the headlines. The UK has left the EU and will begin its new economic relationship with the EU at the end of the transition period, expected to be effective from 1 January 2021.

Businesses may be hoping for either an extension to the transition period, or a ‘deal’ which means that they can continue with current operations unchanged. However, there has been limited progress on trade negotiations, making a comprehensive UK-EU Free Trade Agreement (FTA) seem increasingly unlikely. The UK Government has said it will not request an extension to the transition period under any circumstances.

In the event of no FTA being reached, there may be fewer ‘easements’ to mitigate ‘no deal’ than were announced prior to previous Brexit deadlines, on the grounds that businesses have had more time to plan and prepare. However, the Government has announced a phased approach to UK import controls, with some deferrals to July 2021. There is no suggestion of any such deferral on EU import controls.

Even if an FTA is agreed, there is a real risk that ambitious and comprehensive provisions will not be included. Impacted businesses may need to take action despite an FTA between the UK and EU.

Despite the unique challenges that the COVID-19 pandemic has wrought on the global economy, now is the time to be reengaging with Brexit planning across all business functions, including those responsible for:

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Supply chain

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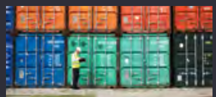

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While, understandably, many businesses are dedicating significant time and resource to managing their response to the COVID-19 crisis, they should now revisit their Brexit contingency planning, recognising that COVID-19 may have adversely impacted some or all previous mitigation strategies.

Current situation

We know now, for planning purposes, the limitations on the scope of any FTA. The published UK and EU draft texts set clear boundaries for the scope of what can, and crucially what can't, be achieved through negotiations.

We also know what 'no-deal' might look like and when it might happen.

Businesses should prepare accordingly. The time for scenario analysis has passed, as focus turns to practical, commercial, no-regret solutions that mitigate negative impacts of change.

Every company needs to ask and answer four key questions:

1. What's going to change for us?
2. How much will change cost us?
3. What should we do about it?
4. What opportunities are now available to us?

23 January 2020
Royal Accession for 'Withdrawal Agreement Bill'

29 January 2020
EU Parliament ratifies 'Withdrawal Agreement'

31 January 2020
UK leaves the EU, transition period begins

2 March 2020
First round of 'Future Relationship' negotiations begins

19 May 2020
UK publishes UK Global Tariff and Draft Negotiating Text

20 May 2020
UK releases 'Approach to the Northern Ireland Protocol'

30 June 2020
Deadline for agreement on transition period extension

15 October 2020
Key EU Council meeting

26 November 2020
Deadline for deal to be presented to the European Parliament

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31 December 2020
Transition period ends

Summary of what Brexit means for business

- At border barriers – customs compliance and immigration: Businesses can and should start planning now for the changes that are coming, as most of the new procedures will apply from 1 January 2021 irrespective of the direction that the negotiations take. Implementation of new systems and procedures can take months rather than weeks.
- For companies primarily concerned with goods movements: There is now a reasonably complete idea of what the UK/EU FTA will look like. Preparing for additional customs formalities is crucial. Modelling how operations would change under an equivalent of the Canada or Japan EU deals should guide our response.
- For services and regulated companies: Services companies will enjoy considerably less access to the EU Single Market under an FTA. Assessing the impact is critical and should be done sooner rather than later to give time to adjust.
- There is still some uncertainty regarding what 'behind border' trade barriers might be erected between the UK and the EU once the transition period ends: For example, new regulatory requirements, licensing obligations, type approvals, labelling and marking, conformity assessments, and so forth – and what unilateral measures the UK and EU might take to manage cliff-edge changes short term.
- For businesses in Northern Ireland: Now is the time to understand what the Protocol on Ireland/Northern Ireland means for business. Organisations need to prepare to comply with the new administrative requirements, formalities and procedures around customs, VAT and regulations, which will align with the EU as well as the UK in many regards.
- With the exception of Northern Ireland, if no trade deal is reached this would mean that the trading terms between Great Britain and the EU would revert to World Trade Organisation (WTO) – terms from 1 January 2021, and the tariffs that would be applied to goods coming from the EU would be those set out in the UK Global Tariff regime.
- In any case, even if the UK and EU negotiated the most ambitious and comprehensive FTA in history, any FTA would still fall considerably below the provisions of Single Market membership. Companies can't rely on an FTA between the UK and EU to solve their Brexit-related concerns.

How can EY support organisations?

- Understanding what change will mean for each business, identifying red line issues.
- Updating existing Brexit preparations, particularly in light of the COVID-19 pandemic.
- Identifying mitigations and no-regret actions.
- C-suite support on monitoring Brexit developments.
- Implementation of Brexit-related operational/structural changes.

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Supply chain

Key supply chain challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- **Border delays:** As a result of the UK leaving the EU Customs Union, there will be additional customs formalities and checks. The new documentation requirements and checks may lead to border delays. This could impact on all goods coming into the UK, not just from the EU, as well as goods entering the EU from the UK.
- **Additional obligations:** Businesses which were previously straightforward distributors or suppliers will become the importer and exporter of record for customs purposes and product safety purposes. This comes with a number of additional regulatory and legal obligations. Those that are not prepared for customs and regulatory requirements may cause additional cost and delays along the supply chain.
- **Trading with third countries:** The UK is also seeking to replicate the EU's trading arrangements with third-countries. There are several countries with whom this has yet to happen including Canada, Japan, Mexico, and Turkey. Companies with supply chains in these countries could face additional costs and regulatory requirements.
- **Up- and down-stream disruption:** No matter how ready an organisation is, it may still face disruption if its own suppliers, broader supply chain, and customers are not themselves prepared.

Businesses most impacted

- Just-in-time manufacturing (e.g., automotive).
- Perishable products (e.g., foodstuffs, pharmaceutical).
- Low-margin retail producers (e.g., clothing and textiles).
- All businesses with raw materials and finished goods that cross the UK EU border and or rely on existing EU trade agreements.

What businesses should do to prepare

Collect internal data	‣ Map supply chain – raw materials, intermediate goods, finished products, and identify transport routes used. ‣ Identify critical suppliers and products, and implement steps to assess their readiness and if necessary support them. ‣ Identify Intrastat codes to understand exposure to potential tariffs and products potentially affected by regulatory compliance challenges to free movement across UK-EU border. ‣ Identify reliance upon third party logistics/distribution companies for in and outbound logistics and on non-EU internal staff in SC roles, e.g., logistics and manufacturing roles, where exposure to EU nationals in workforce exists.
Assess what's changing	‣ Assess which parts of the supply chain and transport routes (e.g., Dover) are most at risk. ‣ Assess knock-on impacts on manufacturing processes and supply to customers. If necessary, prioritise delivery to key customers.
Conduct a gap analysis in Brexit preparations	‣ Identify where there is limited visibility over supply chain, a supply risk for critical components, and the products most at risk from delays.
Plan mitigating actions	‣ Engage with upstream suppliers to obtain visibility over supply chain and their preparedness. ‣ Engage with customs and logistics providers – customs brokers, freight forwarders, and couriers – to understand contingency planning, particularly in COVID-19 pandemic context. ‣ Review feasibility/availability of alternative suppliers. ‣ Engage with customers and manage expectations. ‣ Review contractual arrangements on INCOTERMS (or alternate delivery/risk arrangements), exclusivity, customs duties, delay penalties and payment terms, particularly any 'time is of the essence' clauses or other KPIs that allow for termination. Address any additional costs arising from new tariffs and currency changes. ‣ Identify planned shipments, both inbound and outbound, around Brexit cut-over dates and implement planning changes and contingency plans to mitigate potential distress around cut-over time. Implement Brexit 'control tower' to oversee operations around Brexit cutover.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Appoint new suppliers for intermediate goods and/or services. ‣ Update contractual terms with suppliers and customers. ‣ Implement planning, scheduling and supply chain changes to mitigate stress around cutover period.

How EY can support

We can help by:

- Providing global visibility through mapping out the physical flows of goods from country of origin through to the final destination country, from raw materials to finished goods.
- Reviewing likely impacts on production, cost, and revenues from delays and/or changes in the supply chain.
- Supply chain planning and optimisation to maximise the efficiency of commercial operations, taking into account potential tariff and non-tariff barriers.
- Assessing supplier risk and readiness, contract terms and conditions, and defining and implementing mitigating actions.
- Advising on current contract terms (including volume contract review), supply chain performance, risk and liability, implementing renegotiated terms, or new contracts.

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Trade in goods and customs

Key trade in goods and customs challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- **Additional formalities and documentation:** As a result of the UK leaving the EU Customs Union, there will be additional customs formalities and checks. This will impact on all goods coming into the UK, not just from the EU, as well as goods entering the EU from the UK.
- **Regulatory requirements:** Businesses which were previously straightforward distributors or suppliers will become the importer and exporter of record for customs purposes. This comes with a number of additional regulatory and legal obligations. Those that are not prepared for customs and regulatory requirements may cause additional cost and delays along the supply chain.
- **Ireland:** New documentary and administrative requirements for trade between Great Britain and Northern Ireland.
- **New tariffs with third countries:** Applicable customs duties on trade with third countries will also change, in line with the UK Global Tariff.

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- **New tariffs with the EU:** Customs duties could apply on movements of goods between the UK and the EU.
- **Non-tariff barriers:** Further non-tariff barriers such as additional administrative/compliance requirements and import/export licences may apply for certain sectors, such as agricultural products and chemicals.
- **Trade remedies:** There is the possibility of divergent trade remedy regimes between the UK and EU, where anti-dumping duties and countervailing measures are implemented on different products and/or at different rates.

Businesses most impacted

- All businesses with goods movements between UK and EU (including Turkey).
- Businesses with movements of goods in and out of Northern Ireland.

What businesses should do to prepare

Collect internal data	‣ Ensure customs master data (classifications codes, valuation, etc.) are of sufficient quality to sustain compliance obligations. ‣ Conduct flow analysis to understood sources and destinations of goods. ‣ Understand obligations attached to movements of goods (e.g., INCOTERMS).
Assess what's changing	‣ Review information and processes required for customs declarations and clearances at the border, including to demonstrate origin of products and additional approvals required for certain products. ‣ Calculate changes in customs duty liabilities based on the UK Global Tariff (for UK imports) and EU Common External Tariff (for EU imports). ‣ Review suitability of available customs special procedures (such as Inward Processing) and trade facilitations (such as CFSP) which can reduce process or duty costs and, in some places, supply chain risk.
Conduct a gap analysis in Brexit preparations	‣ Identify any systems changes required to update and use the relevant master data for customs declarations. ‣ Review authorisations and registrations required for any customs special procedures, and for import/export of certain products subject to additional approvals.
Plan mitigating actions	‣ Review use of global trade management or other technology solutions to ease administrative burden. ‣ Apply for relevant customs special procedures and/or trade facilitations. ‣ Review opportunities to optimise supply chain to minimise customs duty liabilities and landed cost. ‣ Assess supply and customer contracts to identify contract exposures relating to increased costs resulting from new tariffs and currency fluctuation to mitigate against unplanned cost increases. ‣ Engage with customers and suppliers to ensure end-to-end customs effectiveness and process/duty cost efficiency, as well as reduce supply chain disruption.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Invest in systems upgrades and global trade management solution. ‣ Appoint new suppliers or trade routes to minimise customs duties. ‣ Invest in people, processes, data, and technology to deliver a set of low disruption, low cost trade flows.

How EY can support

We can help by:

- Optimising the landed cost of goods, particularly from a duty mitigation perspective.
- Customs data analytics, which helps companies assess key drivers of cost, identify their obligations in the international trade process, assess whether products meet rules of origin requirements, and assess optimisation opportunities based both upon landed cost calculation and scenario planning.
- Support with classifications, customs valuation, master data improvement, origin management, and relief applications, and advise on applications for customs special procedures.
- Where businesses are looking to invest in or upgrade Global Trade Management systems or other technology solutions, we can both advise upon and assist with the implementation of these.

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Trade in services

Key trade in services challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- **Limits to business activities performed abroad:** Limits will be placed on the activities which can be covered under short-term business visit rules, and many companies may have to apply for work visas to deliver services.

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- **Restrictions on establishment:** UK firms could face restrictions on setting up or maintaining offices in certain services sectors and certain Member States, including equity caps and nationality requirements for ownership.
- **Regulatory changes:** Regulated firms – such as those in financial services, accountancy, law and broadcast – may face additional barriers and restrictions unique to their industries.
- **Professional qualifications:** Businesses that rely on professional qualifications could find their employees' qualifications are no longer recognised as valid.
- **Data flows:** The potential restrictions for cross border transfer of personal data from EU/EEA to UK.

Businesses most impacted

- Regulated service industries, e.g., legal, audit, financial services.
- Service firms that rely on the movement of people and data to deliver services such as tourism, hospitality, education, and aircraft repair and maintenance.

What businesses should do to prepare

Collect internal data	‣ Map out locations where and how services are being traded and key data flows. ‣ Identify key staff who might be impacted by regulatory requirements, and travel restrictions. ‣ Identify critical services inbound and outbound most at risk. ‣ If in a regulated industry, understanding additional regulatory requirements.
Assess what's changing	‣ Assess critical services against identified restrictions, e.g., on establishment, and future requirements, e.g., additional professional qualifications obtained in country of service provision. ‣ Model identified cost impacts. ‣ Identify additional staff and technology resources required to support mitigation plans.
Conduct a gap analysis in Brexit preparations	‣ Identify where there is limited reach to continue provision of service.
Plan mitigating actions	‣ Engage with customers to understand priority concerns on continuity of service provision and manage expectations. ‣ Plan for any operating/legal structure changes required for establishment in relevant countries (including transfer or recruitment of staff, acquisition of premises, and additional technology). ‣ Plan cost and time required for employees to obtain any new relevant professional qualifications and certifications. ‣ Review EU member state work requirements and line up visa applications where relevant. ‣ Map out timelines for key decision points.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Set up/review governance and processes that can stand ready to action mitigation plans and to respond and triage 'day one' issues. ‣ Communicate plan and purpose with organisation to ensure staff know their part in the plan, as well as customers and key stakeholders.

How EY can support

We can help by:

- Reviewing how market access will change after the end of the transition period, to map changing requirements and restrictions on the provision of services across different countries.
- Working with key functions to create a dynamic trade strategy that will optimise where/how services are provided, based on identifying and costing trade barriers across different countries.
- Legal restructuring of businesses including feasibility studies, due diligence and implementation.

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Talent – workforce and people

Key talent challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- **Retaining talent:** EU and EEA citizens resident in the UK before 31 December 2020 will have the right to settlement but will need to apply to EU Settlement Scheme before 30 June 2021.
- **Attracting talent:** The UK is introducing a new points-based immigration system for all nationals (including EU nationals) entering the UK from January 2021. The system includes a salary threshold and skills requirement that will impact on recruitment and will involve significant cost to business.
- **Travelling and working in Europe:** Depending on the terms of the trading relationship between the UK and EU, there may be restrictions on employment and movement of EU citizens in the UK, and UK citizens in the EU. Businesses should prepare for restricted rights of work and more stringent rules around business travel.
- **Social security:** If the UK is unable to agree new coordination rules on social security contributions with the EU as a whole, it is possible some Member States will agree on new rules with the UK while others will not. This could lead to increased cost and add complexity to ensuring compliance.

Businesses most impacted

- All businesses with EU/EEA nationals permanently located in the UK (and vice versa).
- Businesses with UK employees travelling to EU for business purposes (and vice versa).

What businesses should do to prepare

Collect internal data	‣ Identify the number and nature of EU/EEA nationals in the business, any UK nationals working in EU/EEA and those in critical roles. ‣ Identify patterns for most visited and priority EU/EEA locations for business travel. ‣ Identify roles which require recognition of professional qualifications.
Assess what's changing	‣ Assess workforce data against new government immigration criteria and requirements, and cost the impact. ‣ Assess if critical roles will be impacted and future recruitment constraints, including on HR IT systems.
Conduct a gap analysis in Brexit preparations	‣ Identify how and when the future recruitment pipeline may be affected. ‣ Confirm social security implications for mobile employees.
Plan mitigating actions	‣ Form mobility policy to support EU/EEA nationals and families to gain Settled Status and towards any relocation planning. ‣ Review talent strategy, engage with prospective new EU/EEA joiners, and review processes required to meet future immigration system requirements such as right to work checks. ‣ Confirm priority locations and criteria for overseas business visits and assess technology requirements and feasibility to substitute. ‣ Ensure sufficient resources to allow for increased immigration costs and implementing new systems.
Implement plan	‣ Communicate and engage with EU/EEA staff, sharing key facts from the UK Government's EU Settlement scheme and key UK/EU updates. ‣ Determine system and process for future travel requirements and permissions. ‣ Work with individuals with required professional qualifications to seek EU recognition and vice versa.

How EY can support

We can help by:

- Supporting immigration and visa processes for personnel moving across the UK/EU borders.
- Reviewing trade strategy and workforce planning to optimise where and how employees are deployed across Europe.
- Assisting manage and mitigate social security and other remuneration costs.
- Devising best-in-class communication strategies to manage workforce fears and concerns and to mitigate against individual and corporate regulatory risk.

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Regulation, authorisations and compliance

Key regulation and compliance challenges

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- **Regulatory changes:** Operations in heavily-regulated industries – both services and goods – may need additional authorisations, approvals and licences to continue selling products and services in UK and EU, including potentially requiring changes to operational and/or legal structures.
- **Duplication:** Businesses will need to comply with two sets of regulatory requirements for UK and for EU, and whilst many regimes are likely to initially be mirrored by the UK, there are sectors where the UK intends to immediately set up its own regulatory framework, e.g., for chemicals.
- **Third countries:** Businesses may be subject to additional regulatory requirements in non-EU countries where currently benefitting from EU agreements.
- **Standards and conformity:** Goods will need to continue meeting EU standards for trade into EU but may require additional conformity assessments by EU-notified bodies for certain EU destined products.
- **Labelling:** Product labelling may need to be updated, e.g., for a new UK conformity mark, to accommodate a registered UK/EU address, a new importer address or changes to product origin reporting.

Businesses most impacted

- Financial services.
- Pharmaceutical, cosmetics and life sciences sector.
- Food, drink and agricultural companies.
- Automotive industry.
- Chemicals industry or businesses subject to the REACH regime.
- Industrial products subject to EU product safety harmonisation rules.
- Regulated professional and business services firms.
- All business moving goods across UK/EU/EEA border where there are controlled substance regulations, e.g., transportation of chemicals, flammable gases.

What businesses should do to prepare

Collect internal data	‣ Review applicable regulations for products in all relevant markets – UK, EU (potentially country-specific), and also non-EU markets – and review any relevant regulators.
Assess what's changing	‣ Identify the specific regulatory requirements for each market, e.g., authorisations, licences, product testing, marketing approvals, and movement of controlled goods/substances. ‣ Engage with current regulatory bodies and conformity assessment bodies to understand whether their approvals will remain valid/sufficient in other markets.
Conduct a gap analysis in Brexit preparations	‣ Identify additional authorisations, licences, certifications, approvals, etc. required to sell goods in the UK, EU, and non-EU markets. ‣ Review whether current legal, operational and regulatory structures will be sufficient to satisfy the relevant regulatory requirements.
Plan mitigating actions	‣ Engage with new regulatory bodies as required. ‣ Review application processes and timelines to ensure relevant regulatory requirements are in place for the end of the transition period. ‣ Review options for setting up new legal entities and implementing new contractual arrangements for their operation/transferring relevant authorisations. ‣ Plan changes to production processes to update product labelling.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Apply for relevant regulatory approvals/authorisation transfers. ‣ Engage any newly required authorised representatives or notified bodies in UK/EU. ‣ Set up new legal entities as required and implement operational/contractual processes.

How EY can support

We can help by:

- Evaluating sector and product/service specific regulatory changes associated with new and altered compliance regimes.
- Quantifying the associated impact, including safety harmonisation and conformity checks, labelling, professional qualifications, importer/distributor obligations, notified bodies, and authorised representatives.
- Optimising supply chains.
- Transforming business models post-Brexit.
- Identifying alternative locations in which to perform activities.
- Compliance and governance when setting up of new entities and operations.

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Tax and finance

Key tax and finance challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- Movements of goods between UK and EU will become subject to import VAT.
- Intrastat and European Sales Lists recording supplies between the EU and the UK will change, resulting in systems and reporting changes.
- EU VAT simplifications will no longer apply in UK, and UK businesses will have to use the non-EU VAT refund scheme.
- UK companies will lose the benefit of the EU Parent/Subsidiary and EU Interest and Royalties Directives on payments to the UK. Not all of the UK's tax treaties with EU Member States reduce withholding tax to zero.
- There may be other withholding tax implications (such as in interpreting treaties with the US) of the UK no longer being a part of the EU.
- Businesses will need to assess the future implications for disclosures to be made under the Mandatory Disclosure Rules (DAC 6).
- Development of UK case law based on EU principles will also need to be monitored.
- Brexit needs to be reflected in companies' financial statements.
- Foreign exchange volatility and its impact on cash and economic positions of the company will need to be mitigated.
- Reorganisations put in place to mitigate commercial issues could trigger negative tax consequences.

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- UK businesses may need to register for VAT and/or appoint fiscal representatives in the EU for certain filing obligations.
- Implementation of Brexit mitigation actions and customs duty liabilities may impose additional cash flow constraints on top of COVID-19 crisis impact.
- The scope and design of UK tax incentives may be affected by commitments to apply a 'level playing field' in respect of tax or measures taken within the EU in respect of 'third country' governments (of which the UK will be one) providing support to businesses operating in the EU.

Businesses most impacted

- All businesses which trade between the UK and the EU.
- In the absence of any continuation of the provisions of the EU Interest and Royalties Directive, businesses which receive dividends, interest and royalty payments from certain EU Member States (notably dividends from Italy and Germany).

What businesses should do to prepare

Collect internal data	‣ Review supply chains and where VAT registrations in EU may be required.
Assess what's changing	‣ Assess potential VAT implications, e.g., for registrations and reporting. ‣ Analyse short and medium-term cash flow and working capital requirements. ‣ Review data requirements for zero-rating exports. ‣ Assess future withholding tax costs arising from dividends, interest or royalties payable. ‣ Identify any UK tax positions taken which are dependent on an application of EU law (whether or not supported by UK case law). ‣ Assess changes to tax compliance processes (including tax disclosures) that may be necessary. ‣ Review of any tax implications of wider changes in legal entities, operating model and locations.
Conduct a gap analysis in Brexit preparations	‣ Review any systems changes required with change in applicable VAT and direct tax rules. ‣ Identify any alternative funding or ownership arrangements that may minimise any withholding tax costs.
Plan mitigating actions	‣ Review any changes to pricing required in light of cost changes. ‣ Consider whether changes to group structure may be appropriate. ‣ Engage with financial services provider on any potential impacts for Corporate Treasury on access to capital, continuity of services, and any additional regulatory requirements. ‣ Update the foreign exchange strategy based on potential for increased foreign exchange volatility.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Apply for relevant VAT registrations. ‣ Update pricing schedules and any longstanding client contracts.

How EY can support

We can help by:

- Providing tax advice on restructurings and other changes that impact on a business's tax profile.
- Modelling of cash flow and working capital for impact assessments.
- Identifying cash optimisation strategies.
- Data analytics to help model pinch points and opportunities.

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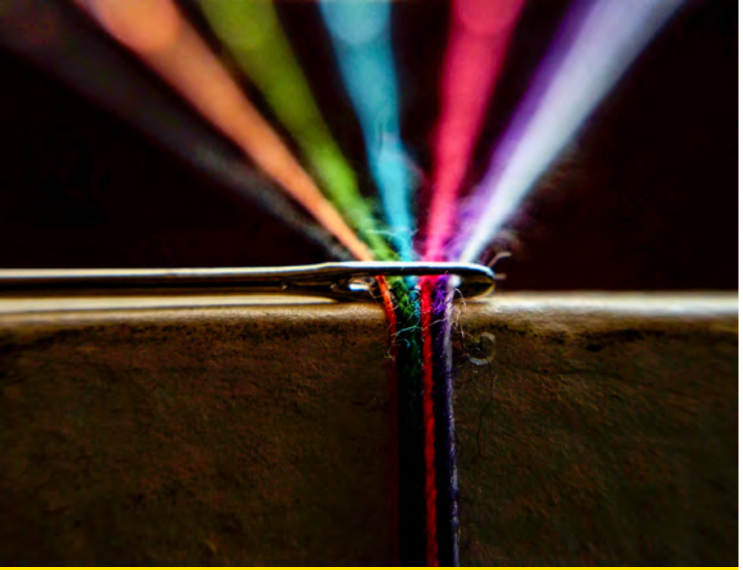

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Legal and contracts

Key legal and contractual challenges

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- **Changes to contract terms:** Contractual protections may be changed by Brexit, including pricing implications, INCOTERMS, currency fluctuation risk, customs duties, legal compliance and applicable laws, jurisdiction and enforcement, and territorial extent.
- **Intellectual property (IP) rights:** The legal protections enjoyed by cross-EU rights such as EU trademarks and registered community designs, database and similar rights and .eu domain names, may reduce.
- **Lost legal reliefs:** Groups may lose the ability to undertake cross border mergers, branch recognition and increased compliance.
- **New UK legal regime:** The UK will need new legal regimes in key areas, which may diverge from the equivalent EU regimes e.g., State Aid, competition law, UKREACH.
- **Government procurement:** Access to the EU procurement market will be impacted and will be dependent on the WTO's Government Procurement Agreement.

Businesses most impacted

- All businesses with EU operations, customers, and suppliers.

What businesses should do to prepare

Collect internal data	‣ Identify critical contracts that require priority review. ‣ Identify potentially impacted IP rights – pending EU Trade Mark (EUTM)/Registered Community Design (RCD) applications, copyright, database rights and .eu domains and where they are owned. ‣ Identify any cross border corporate obligations and which jurisdictions are impacted. ‣ Identify whether the UK exit will impact any EU grant funding of State Aid.
Assess what's changing	‣ Identify any impacted provisions in material contracts and assess the liabilities and risk that may arise from UK exit. ‣ Understand grandfathering requirements of UK Intellectual Property Office (IPO) for EUTMs and RCDs pending on exit day and of EURid on .eu domain name transfer. ‣ Assess cost of parallel registrations for trademarks/RCDs with UK IPO and EU IPO for currently pending or future applications. ‣ Identify key commercial terms that could have adverse impact on commercial and financial performance. ‣ Assess parallel import risk. ‣ Ensure all cross-border mergers are completed before the end of the transition period. ‣ Identify any new company compliance/filing/reporting requirements which will apply in either the UK or EU27 as a result of the UK becoming a third country.
Conduct a gap analysis in Brexit preparations	‣ Identify trademarks/RCDs that will require re-filing with the UK IPO. ‣ Verify whether any .eu domain names are used and if so, who owns them.
Plan mitigating actions	‣ Discuss and confirm with relevant contractual counterparties timelines for contract changes. ‣ Assess if new contractual arrangements permit scope for opportunities. ‣ Prepare forms for IP refiling and timing for transfer of any .eu domains. ‣ Assess UK and EU guidance on cross border business and corporate entities. ‣ Identify whether nationality rules require changes at board level in EU Member States.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Update contractual terms with relevant counterparties. ‣ Refile trademarks and designs with UK IPO and EU IPO. ‣ Initiate any new changes to structures and board appointments. ‣ Transfer any UK held .eu domains.

How EY can support

We can help by:

- Performing contract reviews to identify Brexit-impacted terms.
- Advising on and supporting contract renegotiations.
- Providing guidance on how existing IP protections might change, and identifying mitigations.
- Assessing the impact of new UK legal regimes and regulations, including in relation to State Aid and competition law.
- Supporting any corporate restructuring and/or M&A activities.

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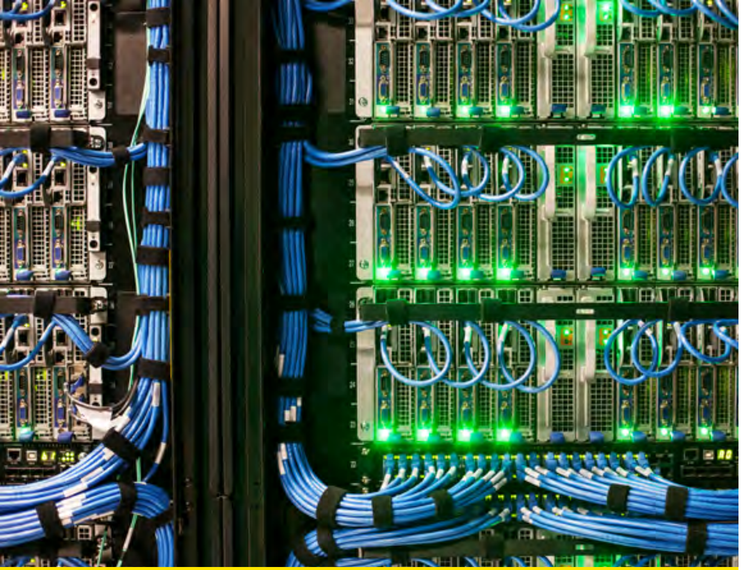

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IT, systems and data

Key IT, systems and data challenges

These challenges will apply irrespective of the nature of any FTA agreed between the UK and the EU:

- **Hardware:** Replacement parts for IT and IoT equipment including standalone hardware (e.g., servers) may not be available on a timely basis, and may increase in cost.
- **Personnel:** Resourcing for IT roles may be more difficult. Historically, large numbers of these roles have been filled by EU staff who now may be harder to obtain.
- **Supervisory authorities:** The ICO will no longer be the 'one stop shop' lead supervisory authority for UK businesses in respect of any breach in the EU. If a business does not have a 'main' establishment in the EU, it must deal with each individual Member State's supervisory authority on any data incident.

The exact nature and extent of these challenges will depend on the provisions in any FTA:

- **Business processes (and the associated IT systems):** Processes may need to change to accommodate the new post Brexit business landscape, across both the parent organisation, but all in-scope subsidiaries as well.
- **Cross border personal data flows:** Unless a data adequacy ruling is granted for the UK from the EU (or some other separate legal agreement is reached), additional safeguards will be needed to protect the continuity of cross-border flow of personal data from the EU into the UK, including non-digital data forms such as paper archives.
- **Compliance:** Data requirements may change, leaving companies at risk of penalties for data compliance breaches, significantly increasing the financial consequences. Where UK companies process the personal data of EU27 based data subjects, they may need to appoint a representative in the EU (and vice versa for EU businesses).
- **Third country data flows:** Companies with third country data flows need to be aware of potential changes to requirements in this area, such as the existing EU/US Privacy Shield which may not apply going into 2021.
- **Own products:** Products which collect customer information may be subject to new data requirements.
- **IT suppliers:** Some services from European suppliers may not be available outside the EU.

Businesses most impacted

- Organisations heavily reliant on the collection and processings of cross border personal data (i.e., online consumer sales).
- Large in-house IT or support requirements, especially if they suffer reduced access to upgrade and services offered by ERP software providers.
- Cross-border HR functions or who use cloud-hosting outside their jurisdiction for personal data.
- Pan-European critical infrastructure and B2C businesses or businesses that will continue to sell services into Europe.

What businesses should do to prepare

Collect internal data	‣ Map existing and planned data flows within the business as well as current alignment with existing UK and EU regulations in relation to cyber and data compliance.
Assess what's changing	‣ Liaise with business functions, suppliers, and appropriate regulators to identify potential business process and systems changes, due to changes in customs clearances and applicable VAT rules. ‣ Identify any critical IT system infrastructure updates that may coincide with Brexit. ‣ Assess which parts system infrastructures are most at risk. ‣ Assess appropriate data safeguards and how existing regulations may change post-December 2020, e.g., Privacy Shield. ‣ Review suppliers and assess their plans to mitigate post Brexit effects on their businesses. ‣ Assess whether a business can claim a 'main' establishment in EU27 and retain rights to the one stop shop approach within the EU.
Conduct a gap analysis in Brexit preparations	‣ Perform a gap analysis across all affected identified areas. ‣ Verify for any software licence restrictions that may now apply to a non-EU member state. ‣ Check for contractual restrictions on data transfer outside EU/EEA. ‣ For those EU27/EEA countries where personal data is collected from data subjects, review any differences between the implementation of the GDPR rules so compliance can be maintained across all Member States.
Plan mitigating actions	‣ Establish prioritised plan and timeline for remediation activities. ‣ Identify and apply for any business support or IT improvement grants for training. ‣ Understand timelines required to adopt critical legal changes. ‣ Engage with third party service data providers in relation to required changes in services and/or contracts. ‣ Identify EU/UK data representative if required.
Implement plan	‣ Implement mitigating actions as set out above. ‣ Complete any additional training for new systems upgrades. ‣ Implement and adopt any identified changes and any required systems upgrades. ‣ Adopt any new data protection clauses into contracts and or alter BCRs. ‣ Appoint EU/UK data representative if required.

How EY can support

We can help by:

- Reviewing IT system readiness, to identify and implement changes required, including any bespoke tax and customs solutions.
- Providing end-to-end transformation support and management – strategy, gap analysis, planning and implementation for IT and cyber issues/changes related to Brexit.
- Data flow assessments, including updating data protection agreements to enable cross-border flows of data and drafting the appointment of a data representative.

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